

REGULAR MEETING MINUTES

CITY COMMISSION

August 14, 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, John Harriman, and John Rees, City Manager Hollis Holden, City Attorney Dykes Everett, City Clerk Kathy Montoya, Assistant to the City Manager Marshall Robertson, Planning Director Mark Cechman, Utilities Director Charlie Tinch, Police Chief Jimmie Yawn, Fire Chief John Williamson, Recreation Director Larry Caskey, Public Works Director Bob Smith, Finance Director Mike Bollhoefer, Assistant Finance Director Brian Strobeck, Code Enforcement Manager Johnny Clark and Michael Laval of the West Orange Times

Absent: Commissioner Mildred Dixon

1. **APPROVAL OF MINUTES**

Regular Meeting Minutes of July 24, 2003. **Motion by Commissioner Harriman to approve the minutes as submitted. Seconded by Commissioner Rees and carried unanimously 4-0.**

2. **PRESENTATIONS**

A. Edward DeAguilera presented the Mayor and Commissioners with the following awards from the Florida Festival and Event Association:

- Best Newspaper Special Section
- Best Commemorative Poster for the Centennial Celebration
- Best Commemorative Poster for the Spring Fever in the Garden Celebrating 100 Years

B. Mayor and Commissioners recognized Police Olympic Medal winners Officer Jason Pearson for receiving three Bronze Medals for toughest cop alive, shot put, and 100 meter free style swim and Lt. Jon Johnson for receiving five Gold Medals for 10 mile criterium race, 1000 meter individual time trial, 10 mile road race, 10 mile individual time trial, and overall points leader for cycling tour.

3. **REGULAR BUSINESS**

A. **Acceptance of a \$2,500 donation from the Bloom 'N Grow Garden Society for the improvements to the new oval-about on West Plant Street**

Ms. Bev Walker presented the Mayor and Commissioners with a donation for \$2,500. The donation was accepted and appreciated by the City Commission.

B. **Request from West Orange High School to place an advertisement in their yearbook**

Ms. Shanna Clayton, 9200 Trout Lake Road, Orlando, Florida, stated that she was present to request that the City support the high school by placing an advertisement in the yearbook as the City has done in previous years. **Motion by Commissioner Rees to approve the purchase of a full-page advertisement for \$300 in the West Orange High School yearbook. Seconded by Commissioner Harriman and carried unanimously 4-0.**

C. **Request to conduct a music festival in Veterans Park on September 14, 2003**

Mr. Jose Lopez, 421 Pennsylvania Avenue, Winter Garden, Florida, (Radio La Ley) stated he is requesting approval of a Mexican music festival with the same conditions approved for the prior applicant. City Manager Holden stated that Mr. Lopez has been made aware of all the requirements and he has agreed to comply. As the event gets closer, the Department Heads will monitor for compliance. Mayor Quesinberry asked about the certificate of insurance. City Clerk Montoya stated that she has received the certificate. Mr. Lopez stated that he has made arrangements for parking at Westside Vocational Tech with shuttle service. Commissioner Graham asked how they will advertise the festival when the application states they cannot reference the City of Winter Garden. Mr. Holden replied that for directional purposes, Winter Garden may be used, but there can be no reference to City sponsorship. **Motion by Commissioner Graham to approve the music festival on September 14, 2003 at Veterans Park, with staff's recommendations (see attached). Seconded by Commissioner Rees and carried unanimously 4-0.**

D. **Recommendation to approve the Final Plat for Woodbridge Commerce Center**

City Planner Cechman stated that the plat is for three commercial lots located just south of the Winn Dixie across from the Cemetery on CR535. The Planning and Zoning Board

has reviewed the plat and recommends approval. Staff recommends approval with the conditions stated in the memos from the City Engineer and City Attorney. **Motion by Commissioner Harriman to approve the Final Plat for Woodbridge Commerce Center with staff's recommendations (see attached). Seconded by Commissioner Rees and carried unanimously 4-0.**

E. Recommendation to approve the Final Plat for Fullers Crossing Phase III

City Planner Cechman stated that the plat is for an 88-unit single-family subdivision located on Fullers Cross Road. The Planning and Zoning Board has reviewed the plat and recommends approval. Staff recommends approval with the conditions stated in the memo from the City Engineer. Mayor Quesinberry asked about the 30 feet for Tracts B and C. City Attorney Dykes stated that the referenced Tracts are part of the dedication. City Manager Holden stated that Tracts B and C are for open space and drainage easements. Commissioner Graham stated that there may be some confusion with the street names. Burland Circle is "U" shaped and connects at the top with a street named Juniper Hammock Street that runs circular around Tract "A" open space. As a retired postal worker, he believes the current street names will be difficult to deliver mail to and for emergency vehicles to locate a house. He recommended that south half of the circle around Tract "A" be renamed. The applicant, Mr. Ed Hampden, stated that Juniper Hammock Street is a continuation of a street from the first two phases and the area around Tract "A" is considered a two-sided street with a small island in between. Burland Circle derived its name from its horseshoe shape. **Motion by Commissioner Rees to approve the Final Plat for Woodbridge Commerce Center with staff's recommendations (see attached). Seconded by Commissioner Graham and carried unanimously 4-0.**

F. Recommendation to approve the purchase of additional right-of-way on Daniels Road

Assistant to the City Manager Robertson stated that the recommended purchase is part of the widening project. **Motion by Commissioner Harriman to approve the purchase of additional right-of-way on Daniels Road from the Diocese of Orlando. Seconded by Commissioner Graham and carried unanimously 4-0.**

G. Recommendation to approve the purchase of right-of-way on Pamela Avenue

Assistant to the City Manager Robertson stated that this recommended purchase is related to the 1999 Community Block Grant funds for the last 300 feet of right-of-way needed for Pamela Avenue adjacent to Hyde Park for drainage, sidewalk, and curbing. **Motion by Commissioner Harriman to approve the purchase of right-of-way on Pamela Avenue. Seconded by Commissioner Rees and carried unanimously 4-0.**

H. Recommendation to surplus and sell a 1994 Chevrolet Caprice #37 (Parks & Recreation Department)

Motion by Commissioner Rees to surplus and sell Recreation vehicle #37, a 1994 Chevrolet. Seconded by Commissioner Graham and carried unanimously 4-0.

I. Recommendation to approve Interlocal Agreements for Fire/Rescue Emergency Response and Dispatch Communications with Orange County

Fire Chief Williamson stated that staff is only recommending approval on the Mutual Aid Agreement for Fire Protection and Rescue Services with Orange County because the Dispatch Agreement is not yet ready. City Manager Holden stated that the agreement covers standard items as accountability and payment for services provided. **Motion by Commissioner Graham to approve a Mutual Aid Agreement for Fire Protection and Rescue Services with Orange County. Seconded by Commissioner Harriman and carried unanimously 4-0.**

J. Recommendation to approve an Emergency Response Interlocal Agreement with the City of Apopka

Fire Chief Williamson stated that this agreement is much the same as the one with Orange County except that Winter Garden is not located geographically next to Apopka, and it will allow for assistance should something large happen, and for training with Apopka. **Motion by Commissioner Graham to approve an Interlocal Agreement with the City of Apopka for Emergency Responses. Seconded by Commissioner Rees and carried unanimously 4-0.**

K. Recommendation to award a contract for Stoneybrook West Parkway Expansion (East End)

Public Works Director Smith stated that this project runs from Reaves Road to Windermere Road and staff recommends that the contract be awarded to Dewitt Excavating in an amount not to exceed \$762,562.19. City Manager Holden stated that this expense is from the grant the City received two years ago. **Motion by Commissioner Harriman to approve the contract for Stoneybrook West Parkway expansion with Dewitt Excavating in an amount not to exceed \$762,562.19. Seconded by Commissioner Rees and carried unanimously 4-0.**

L. Recommendation to award a contract to install a traffic signal at Avalon Road and Plant Street

Public Works Director Smith stated that staff recommends that the contract be awarded to Chinchor Electric in an amount not to exceed \$51,113.62. City Manager Holden stated that the Town of Oakland has agreed to participate in the cost of the signal installation in an amount to be determined. **Motion by Commissioner Graham to approve the**

contract with Chinchor Electric in an amount not to exceed \$51,113.62. Seconded by Commissioner Harriman and carried unanimously 4-0.

M. Recommendation to reject the bid for Trunk Line “C” Phases 1 and 2

Utility Director Tinch stated that one bid was received that far exceeded the budgeted amount. Therefore, staff recommends that the bid be rejected and rebidding be authorized. **Motion by Commissioner Rees to reject the single bid for trunk line “C” Phases 1 and 2. Seconded by Commissioner Harriman and carried unanimously 4-0.**

Motion by Commissioner Rees to authorize the Utility Director to commence the rebid process for trunk line “C” Phases 1 and 2. Seconded by Commissioner Graham and carried unanimously 4-0.

N. Resolution 03-09: Authorizing a loan of \$1.2 million to the Community Redevelopment Agency (CRA) for the completion of the downtown improvements

City Attorney Everett read Resolution 03-09 by title only. **Motion by Commissioner Harriman to approve Resolution 03-09. Seconded by Commissioner Rees.** Commissioner Graham asked how the interest “not to exceed 5 percent” was arrived at for a 19-year loan. Finance Director Bollhoefer stated that very often when one government agency loans to another government agency, they are given a friendlier interest rate to help out that agency. The 5 percent rate is recommended in order for the general fund to help the CRA in case interest rates do become extremely high. **Motion carried unanimously 4-0.**

Mayor Quesinberry dispensed with the City Commission Agenda and convened as the Community Redevelopment Agency (CRA) at 7:05 p.m.

Members Present: Jack Quesinberry, Chairman; Theo Graham, John Harriman, and John Rees

Members Absent: Larry Cappleman, Mildred Dixon, and Teresa Jacobs

O. Recommendation to accept a loan from the City of Winter Garden to complete the downtown improvements

City Manager Holden stated that on behalf of the Community Redevelopment Agency Advisory Board Chairman Cappleman, the Board met and reviewed the proposed loan and unanimously recommend approval. **Motion by Agency Member Rees to accept the loan of \$1.2 million in accordance with Resolution 03-09. Seconded by Agency Member Harriman and carried 4-0.**

City Manager Holden stated that the Community Redevelopment Agency Advisory Board also reviewed three requests for appointment to the seat vacated by Mr. Nicholson. They unanimously recommend to the CRA the appointment of Ms. Cora Fulmore who has previously served on this Board. **Motion by Agency Member Graham to appoint Cora Fulmore to fill the unexpired term of Mr. Nicholson. Seconded by Agency Member Harriman and carried unanimously 4-0.**

Mayor Quesinberry adjourned the CRA meeting and reconvened the City Commission meeting at 7:07 p.m.

4. **FIRST READING OF PROPOSED ORDINANCES**

- A. **Ordinance 03-28: AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY INCLUDING PROPERTY GENERALLY DESCRIBED AS 9.5 ACRES OF LAND LOCATED AT 607 AVALON ROAD AS CITY LOW DENSITY RESIDENTIAL; PROVIDING FOR AN EFFECTIVE DATE (Oasis Community Church)**

City Attorney Everett read Ordinance 03-28 by title only. **Motion by Commissioner Harriman to approve Ordinance 03-28 and to schedule the second reading and public hearing for September 3, 2003. Seconded by Commissioner Graham and carried unanimously 4-0.**

- B. **Ordinance 03-29: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING A 9.5 ACRE LOT LOCATED AT 607 AVALON ROAD MORE SPECIFICALLY DESCRIBED HEREIN FROM ORANGE COUNTY A-1 TO CITY R-1; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Oasis Community Church)**

City Attorney Everett read Ordinance 03-29 by title only. **Motion by Commissioner Graham to approve Ordinance 03-29 and to schedule the second reading and public hearing for September 3, 2003. Seconded by Commissioner Harriman and carried unanimously 4-0.**

- C. **Ordinance 03-31: AN ORDINANCE OF THE CITY OF WINTER GARDEN AMENDING CHAPTER 54, PENSIONS AND RETIREMENT, ARTICLE II, PENSION PLAN FOR GENERAL EMPLOYEES, OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN; AMENDING SECTION 54-27, MEMBERSHIP; AMENDING SECTION 54-28, BOARD OF TRUSTEES; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE**

Attorney Everett read Ordinance 03-31 by title only. Commissioner Rees asked if there has been any difficulty in getting residents to participate. Pension Board Chairman Robertson stated that according to the pension bylaws, the appointment made by the City Commission of an original board member that retired must be a City resident. **Motion by Commissioner Graham to approve Ordinance 03-31 and to schedule the second reading and public hearing for September 3, 2003. Seconded by Commissioner Rees and the motion carried unanimously 4-0.**

D. **Ordinance 03-32: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING THE BUDGET FOR FISCAL YEAR 2002-2003; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE**

City Attorney Everett read Ordinance 03-32 by and stated the Revenue and Expenses for the funds equals \$3,000,000. **Motion by Commissioner Harriman to approve Ordinance 03-32 and to schedule the second reading and public hearing for September 3, 2003. Seconded by Commissioner Graham and the motion carried unanimously 4-0.**

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

A. **Ordinance 03-27: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, GRANTING AN ADDITIONAL HOMESTEAD EXEMPTION FOR PERSONS AGE 65 OR OLDER; ALLOWING FOR AN ANNUAL ADJUSTMENT TO THE HOUSEHOLD INCOME LIMITATION BEGINNING JANUARY 1, 2004; STATING THE APPLICABILITY OF THE ADDITIONAL HOMESTEAD EXEMPTION TO TAX LEVIES OF DEPENDENT SPECIAL DISTRICTS AND MUNICIPAL SERVICE TAXING UNITS WITHIN THE CITY LIMITS; REQUIRING A SWORN STATEMENT OF HOUSEHOLD INCOME; PROVIDING SUCH OTHER CONDITIONS SET FORTH HEREIN; DEMANDING THE ORDINANCE BE DELIVERED TO PROPERTY APPRAISER BEFORE DECEMBER 1, 2003 AND REQUIRING NOTICE TO THE PROPERTY APPRAISER IN THE EVENT THE ORDINANCE IS REPEALED; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE**

City Attorney Everett read Ordinance 03-27 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 03-27. Seconded by Commissioner Rees.** Commissioner Graham asked about Section 6, Applicability to Dependent Special Districts and MSTU's for those that live within the Community Redevelopment Agency District and whether they would be eligible. City Attorney Everett stated that under the definition of a dependent special district, it would seem to include the CRA, unless there was a special provision in the legislation. Commissioner Graham stated that if the ordinance excludes the CRA district, the east side of town would be significantly impacted by not allowing them to participate. City Manager Holden stated that if staff finds that the provision in the Ordinance excludes the residents of the CRA, an amended Ordinance would be brought back for consideration. **Motion carried unanimously 4-0.**

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

Ms. Sharon Lambert, 749 Stevelynn Circle, Winter Garden, Florida, stated that she was present to address the Winter Oaks Subdivision, which is immediately behind her property and about the pledge that was made by the Greater Homes President at the time the property was rezoned to a PUD to save the trees. Instead, they are doing damage to the oak trees that will eventually kill them. They have bludgeoned and disturbed the root system on the lot where they have already installed the footer for a two-story house and cut some large branches. She asked for the City's assistance to protect the trees and make the developer abide by their pledge and leave it alone. City Manager Holden thanked Ms. Lambert for her calls and stated that the development was named Winter Oaks because they intend to save the oak trees. Staff has discussed these issues with the contractor and they have agreed to saw the branches. Mr. Jerry Carris, who assists the City in matters relating to trees, has made some recommendations and all that remains to be completed is the mulching. Staff is checking on the tree daily. Ms. Lambert stated that she has done some research regarding what damages an oak tree and according to the University of Florida, no weight should be put on the root system nor should the soil be disturbed along the branch drip lines. Commissioner Rees asked what recourse the City has in this matter. Mr. Holden stated that the developer redesigned their original plans in order to save the oak trees and the contractors will be monitored. Mayor Quesinberry stated that the builder is doing what he can to save the tree. Commissioner Rees stated that if the house footer is in, they have already cut the roots. Ms. Lambert asked if the developer would be putting additional trees along the border since they have removed trees and because two years ago they agreed to add trees for buffering. City Manager Holden stated that staff will look at what the developer is doing with regard to additional landscaping when they get to that point. Two trees per lot are required. Commissioner Graham asked the City Attorney what could be done if they don't meet the City's requirements. City Attorney Everett stated that the developer has to comply with the conditions of approval or they will not receive their certificate of completion. They also could be cited through the City's citation program. Ms. Lambert summarized her concerns about the tree roots being cut that will kill the tree and the size of the house that has caused a third of the tree to be cut and how these actions could be considered as living up to their original pledge.

Mr. Jerry Carris, 347 Bayside Avenue, Winter Garden, Florida, stated that he believes that when they cleared the lot, they did all the damage to the tree that they are going to do. The next phase to watch will be the landscaping when they scrape off the topsoil to put in grass. Most of the roots are in Ms. Lambert's yard and if she takes good care of her yard, she is helping the tree to survive. The developer is cooperative and is working with staff.

Shirley Smith, 21 W. Crest Avenue, Winter Garden, Florida, stated that during the last City Commission meeting the Highway 50 Overlay was discussed and defeated by a vote of 3-2 and Mr. Holden stated that he would not work on the Highway 50 Overlay any further unless the Commission told him to do so. She stated that she would like to know if all the Commissioners have advised Mr. Holden to do so because in the West Orange Times, Mr. Holden stated Highway 50 is going to be revised. She asked if this was true and she would

like to know who advised the City Manager to do this. She stated that Commissioner Harriman has said it was a dead issue with him.

Commissioner Rees stated that he thinks Highway 50 will be revised and that we all agree that something needs to be done on Highway 50. It is not a dead issue and it will not die.

Commissioner Graham stated that after Ms. Smith left towards the end of the meeting and the Commission felt like something needed to be done about the zoning and the new properties that may come in, so the Commission did ask the City Manager to revise or put some of their thinking in it. Mr. Holden has done that and he has a copy as well as everybody else. He stated that he thinks it is something that they can live with and Ms. Smith can obtain a copy if she likes.

Ms. Smith asked why they haven't been notified.

Commissioner Graham stated that he tried to call Ms. Smith twice and couldn't reach her. He did contact the President of her group, Mr. Gerald Jowers, and gave him a copy.

7. **MATTERS FROM CITY ATTORNEY DYKES EVERETT - None**

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

- Stated that Human Resources Director Victoria Ward is in the hospital after suffering a life-threatening allergic reaction and asked everyone to keep her in his or her prayers as she recovers.
- Announced that there will be a breakfast program on August 28, 2003 from 7:30 a.m. to 9:00 a.m. at Windermere Town Hall to discuss the West Orange Visioning Survey and each City will be addressing their items.
- Stated that some dynamic developments are occurring for State Road 50 and it now looks like the design will be done by the year 2007.
- Announced that McCree Inc. is sponsoring a BBQ for topping off the new Oakland Town Center on August 26th at 4:00 p.m.
- Stated that there may be some issues regarding sidewalks for children walking to the new Oakland Charter School.

9. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Harriman:

Stated that the West Orange Chamber of Commerce has discussed Mobility 20/20 and he would like to see it in writing since it involves matching funds.

Commissioner Graham:

Advised that a palmetto bush at the southwest corner of 9th and Story still needs to be trimmed.

Stated that the City's advertisement in the annual conference brochure did not appear again this year. City Manager Holden stated that his Executive Assistant is checking on why because she sent them everything they needed.

Commissioner Rees:

Asked when the intersection at Dillard and Plant Streets would be open. City Manager Holden stated that the north and south directions should be open no later than this Saturday and Plant Street to the east will be open in October. Commissioner Rees asked about any decorative brick in the intersection. Assistant to the City Manager Robertson stated that DOT would not allow them to install the brick so for the time being, it will be paved. There will be brick placed in the cross walk on the west side of Plant Street and the other three will be asphalt. Mr. Robertson stated that Plant Street to the east will not be open until sometime in October.

Mayor Quesinberry:

Reported that there have been incidents of people driving on the trail at the trailhead on the north side of SR 438.

The meeting was adjourned at 8:00 p.m.