

**REGULAR MEETING MINUTES
CITY COMMISSION**

February 12, 2004

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, Theo Graham, and Mildred Dixon

ABSENT: Commissioner Rees

Also Present: City Manager Hollis Holden, City Attorney Dykes Everett, City Clerk Kathy Montoya, Assistant to the City Manager Marshall Robertson, Police Chief Jimmie Yawn, City Planner Mark Cechman, Utilities Director Charlie Tinch, Public Works Director Bob Smith, Deputy Fire Chief Tom Berrios, Finance Director Mike Bollhoefer, Senior Planner Kelly Randall and West Orange Times reporter Michael Laval

1. **APPROVAL OF MINUTES**

Regular Meeting Minutes of January 22, 2004. **Motion by Commissioner Graham to approve the minutes as submitted. Seconded by Commissioner Harriman and carried unanimously 4-0.**

PRESENTATION

Bill Cowles, Orange County Supervisor of Elections, stated that every four years the City's election is held at the same time as the Presidential Preference Primary and in order to make it easiest for the voters, both ballots will be sent in the same envelope and be allowed to be returned in one envelope. That makes canvassing the absentee ballots unique and by the City allowing the County to canvass the absentees, it will expedite the process. The County has adopted their criteria for accepting, rejecting, case-by-case handling, and provisional ballots, with a copy provided to the City Commission. The absentee ballots mailed will include a City notice regarding the restriction of the number of absentee ballots returned by any one person. He also asked for direction in any instance where more ballots are returned than are allowed and suggested that the votes be counted, which will not penalize the voter. The County would label those envelopes, identify who returned them, and forward the information to the City to hold the person delivering the ballots responsible. Commissioner Graham asked about having the person delivering too many ballots, sign a statement as to their knowledge of the rule that could be used in case of any action taken because the person could otherwise be an innocent unknowledgeable person making the delivery. The County Canvassing Board has finalized their schedule, which is Monday, March 8, 2004 at 4 p.m.

(Mr. Cowles suggested that the City Clerk review the absentee ballots on Monday afternoon to review the ballots before they are opened, just as an “extra” set of eyes for compliance); Tuesday, March 9, 2004 at 3 or 4 p.m.; and Wednesday, March 10 at noon. Therefore, the City Commission should have their unofficial results by Thursday to certify the results. *It was the consensus of the City Commission to accept Mr. Cowles’ recommendations for the 2004 election.*

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

A. **Ordinance 04-02: AMENDING THE CODE OF ORDINANCES, CHAPTER 26 CEMETERIES, ARTICLE II; AUTHORIZED TO EXECUTE EASEMENTS; REMOVING “DEED” AND REPLACING IT WITH “USE OF EASEMENT CERTIFICATE”;** ADDING DAUGHTER-IN-LAW AND SON-IN-LAW AS IMMEDIATE FAMILY; RESIDENCY REQUIREMENTS FOR PURCHASING AT THE RESIDENT RATE; HOURS CITY PERSONNEL ARE TO BE ON CEMETERY SITE; ESTABLISHING REGULATIONS AND FEES FOR COLUMBARIUM NICHES

City Attorney Everett read Ordinance 04-02 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. Public Works Director Smith stated the recommended changes are administrative changes. **Motion by Commissioner Harriman to approve Ordinance 04-02. Seconded by Commissioner Dixon and carried unanimously 4-0.**

B. **Ordinance 04-03: AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE LAND USE DESIGNATION OF PROPERTY GENERALLY DESCRIBED AS 2.00 ACRES OF LAND LOCATED AT 700 WEST PLANT STREET FROM LOW DENSITY RESIDENTIAL TO NEIGHBORHOOD COMMERCIAL**

City Attorney Everett read Ordinance 04-03 by title only. City Planner Cechman stated that the Planning and Zoning Board reviewed the application on December 8, 2003, and recommended approval. The board approved a Special Exception Permit, with very strict conditions as stated in the agenda package, to allow professional offices, contingent upon the City Commission’s approval. The current R-2 zoning potentially could allow up to three duplexes (6 units), in addition to the existing house, or even a rooming house. There will not be vehicle access from Meljane Drive, only from Plant Street.

Mayor Quesinberry opened the public hearing.

Christina Gurley, 206 Meljane Drive, Winter Garden, Florida, stated that she faces this property and initially she and her neighbors were upset about the proposed rezoning. Since then, she has met with staff and the applicants and she now accepts the proposed property use, as opposed to the alternative uses identified by staff. They trust staff as evidenced by the downtown improvements.

Polly Cappuccio (applicant), 1511 Crestline Street, Orlando, Florida, stated that she takes great pride in this project and has proposed significant improvements to the property to make it an attractive professional office building that will not be an eyesore.

Janice Wigginton, 200 Meljane Drive, Winter Garden, Florida, stated that she lives in the first house across from the site and she has no problem with the proposed usage based upon the information provided by the applicants.

Sharon Lambert, 749 Stevelynn Circle, Winter Garden, Florida, stated that the look of the house is not so much her concern, but the fact that it would be commercial property next to R-1 and the only entrance/exit to their subdivision. Additionally, there are three parcels immediately across the street that is also R-2 and in the future may significantly impact their accessibility. She does not want her subdivision to be an island in the middle of commercial. City Manager Holden pointed out that the proposed zoning is not commercial but R-NC, which is the most restrictive zoning that allows a commercial use. The applicants have done an excellent job working with the residents and staff. Ms. Lambert asked about restricting the parking on Meljane Drive and the right-of-way. Mr. Holden stated staff will review the options.

K. Anette Luck, 230 Clacyn Court, Winter Garden, Florida, asked if there was a timeframe for completing the improvements before anyone moves in. City Planner Cechman stated that staff is working with the applicant on meeting the conditions of approval.

Commissioner Graham stated that the agenda package included a petition signed by the residents objecting to the proposed Ordinances. However, some of those same residents have spoken in favor of changing the existing R-2 zoning to R-NC. He did have some concern about the street being the only divider between the two zonings.

Hearing no other comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 04-03. Seconded by Commissioner Dixon and carried unanimously 4-0.**

C. **Ordinance 04-04: REZONING A 2.00-ACRE LOT LOCATED AT 700 WEST PLANT STREET MORE SPECIFICALLY DESCRIBED HEREIN FROM CITY R-2 TO CITY R-NC**

City Attorney Everett read Ordinance 04-04 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 04-04. Seconded by Commissioner Dixon and carried unanimously 4-0.**

3. **REGULAR BUSINESS**

THIS IS THE SECOND PUBLIC HEARING

A. **Resolution 04-05: EXPANDING THE WINTER GARDEN DOWNTOWN BROWNFIELD AREA; AUTHORIZING THE CITY PLANNER TO NOTIFY THE**

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION OF SAID BROWNFIELD AREA EXPANSION

City Attorney Everett read Resolution 04-05 by title only. Senior Planner Randall stated this is the second advertised public hearing to expand the Brownfields area to include the northern part of Britt Industrial Park and staff recommends approval. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Graham to approve Resolution 04-05. Seconded by Commissioner Harriman and carried unanimously 4-0.**

B. Request to conduct four open-air/tent auto sales in 2004, in the Winter Garden Regional Plaza next to the AmSouth Bank

Scott Thompson, Air Power Marketing, 10301 Lehman Road, Orlando, Florida, stated that on behalf of Orange Auto Sales, he is requesting approval of four sale dates, but since the application was submitted, there has been a change. He is now requesting that the first sale be in the Winter Garden Regional Shopping Center next to the AmSouth Bank, who is one of their indirect lenders and are a sponsor of the sale, and the other three sale dates would be located in the K-Mart plaza, for a total of 24 days. In addition to conducting the sales, it allows them to give back to the community. An example would be the tent sale they had in Lake County whereby they were able to make a donation to the Sheriff's D.A.R.E. Program. In the past, they have also provided Little League sponsorships and made improvements to the ball fields. They have allocated a donation for the Winter Garden area, as long as they know where the donation would be most beneficial, which is \$10,000 for the four sale dates. City Attorney Everett read staff's reasons for denial. Mayor Quesinberry asked how old are the vehicles being offered for sale because local dealers offer older models. Mr. Thompson stated that their vehicles are 2003 and older. Commissioner Harriman asked how tall the proposed balloons are and Mr. Thompson responded that they are 25 feet high. Commissioner Harriman stated that at 25 feet high, they would be in violation of the sign overlay ordinance for State Road 50. Mayor Quesinberry suggested that the first two sale dates be considered and after those sales have taken place, the City Commission could evaluate the events and consider the other two dates requested. City Manager Holden verified that the donation for two events would be \$5,000 and Mr. Thompson indicated that was correct. **Motion by Commissioner Harriman to approve two sale dates: March 23 through 28, 2004 in the Winter Garden Regional Shopping Center next to AmSouth Bank and June 8 through 13, 2004 in the K-Mart Shopping Center with compliance with the State Road 50 Overlay Ordinance, with the subsequent sale dates being reviewed after the first two events have been held. Seconded by Commissioner Dixon and carried unanimously 4-0.**

C. Resolution 04-01: APPROVING A STREET NAME CHANGE FOR THE EAST-WEST PORTION OF DANIELS ROAD, LOCATED 1400 FEET EAST OF WINTER GARDEN-VINELAND ROAD, FROM DANIELS ROAD TO ROPER ROAD; AUTHORIZING THE RECORDING OF SAID RESOLUTION IN PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Everett read Resolution 04-01 by title only. **Motion by Commissioner Graham to approve Resolution 04-01. Seconded by Commissioner Dixon and carried unanimously 4-0.**

- D. **Resolution 04-02: APPROVING "TILDENVUE ROAD" AS THE NAME FOR THE EAST-WEST STREET ROAD LOCATED SOUTH OF LAKEVIEW MIDDLE SCHOOL FROM TILDENVILLE SCHOOL ROAD TO LAKEVIEW ROAD; AUTHORIZING THE RECORDING OF SAID RESOLUTION IN PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE**

City Attorney Everett read Resolution 04-02 by title only. **Motion by Commissioner Harriman to approve Resolution 04-02. Seconded by Commissioner Graham and carried unanimously 4-0.**

- E. **Recommendation to reappoint Terri Slack and Jerry Carris to a 3-year term on the Code Enforcement Board**

City Clerk Montoya indicated that both members have expressed their desire to serve another term. **Motion by Commissioner Graham to reappoint Code Enforcement Board members Terri Slack and Jerry Carris to another 3-year term. Seconded by Commissioner Dixon and carried unanimously 4-0.**

- F. **Recommendation to approve a one-year extension of the tax incentive to Advanced Drainage Systems (ADS)**

Finance Director Bollhoefer stated that in 1999 the City Commission approved financial aid to ADS providing they created 50 new jobs over 60 years and the state would give them \$4,000 and the City would give \$1,000 incentive for every job created. Economic problems did not allow ADS to meet their deadlines and they have requested an extension from the state and should still meet the requirements. Commissioner Graham asked if ADS has to comply before the City makes any payment. Mr. Bollhoefer stated yes and even after they comply, the state has to request the funds from the City. **Motion by Commissioner Graham to authorize a one-year extension of tax incentive to Advanced Drainage Systems. Seconded by Commissioner Harriman and carried unanimously 4-0.**

- G. **Recommendation to approve the expenditure of State Forfeiture Funds**

Police Chief Yawn stated that the request is to purchase a digital camera, extra memory card, and a tripod for a total \$ 879.97 for the City's match in a Federal Grant to expedite traffic accident investigations. **Motion by Commissioner Graham to authorize the expenditure of State Forfeiture Funds as requested by staff. Seconded by Commissioner Dixon and carried unanimously 4-0.**

- H. **Recommendation to approve the Final Plat for Glynwood-Phase 2 (Stone Crest Village 1)**

City Planner Cechman stated this plat is for an 87-unit subdivision that has been reviewed by the Planning and Zoning Board who recommends approval. Staff has also reviewed the plat and recommends approval with the conditions provided by the City Engineer and

Surveyor. City Manager Holden asked the applicant if they are advising potential owners that there is a 4-lane road continuing south. The applicant stated yes. **Motion by Commissioner Dixon to approve the Final Plat for Glynwood-Phase 2 (Stone Crest Village 1), with staff's recommendations (see attached). Seconded by Commissioner Harriman and carried unanimously 4-0.**

4. MATTERS OF CONCERN FROM CITIZENS

Shirley Smith, 21 Crest Avenue, Winter Garden, Florida, stated that she owns Shirley's Antiques, built in 1912, located at 12 W. Plant Street, which sustained damage during the downtown renovation by Gomez Construction, who was under contract with the City. For the past two years, she has brought this to the attention of the City and she was led to believe by staff that the contractor, prior to the City making their final contract payment, would repair the damages to her building. Just last week, Marshall Robertson advised her that Mr. Gomez's contractual agreement with the City has been satisfied and that any damages to her building are a matter between her and the contractor. She is extremely upset that it took so long for anyone to tell her and she believed the City was looking out for her when the staff made inspections of the damage and checked on the progress. Mr. Gomez did make some repairs to her building, which leads her to believe that he accepted responsibility for the damages. She stated that she cannot understand why the Crocker Building was repaired and hers was not finished. She asked why she has to file a lawsuit in order to get her building repaired. City Attorney Everett stated that staff has made the decision that Mr. Gomez has complied with the contractual terms with the City.

5. MATTERS FROM CITY ATTORNEY - None

6. MATTERS FROM CITY MANAGER

A. Lobbying assessment pledge request from the Florida Redevelopment Association

The Florida Redevelopment Association has been instrumental in lobbying to defend current local control over the Community Redevelopment Area and they have requested a voluntary assessment. The average amount pledged by other members has been \$1,000. **Motion by Commissioner Harriman to pledge \$1,000 to the Florida Redevelopment Association for lobbying fees in the 2004 legislative session. Seconded by Commissioner Graham and carried unanimously 4-0.**

West Orange Transportation Task Force

Stated that the dues have not been paid because he wanted to first review the contributions and expenses before recommending the City Commission approve payment. He has since met with task force representatives, Town of Oakland Mayor VanderLey and John Terrell, and the majority of the budget goes to the lobbyist in Tallahassee (\$25,000), who has done a good job with regard to lobbying for funding of the State Road 50 improvements. The recommendation is to authorize a payment of \$8,000 (\$4,000 per year) that will bring the City up-to-date on the dues. **Motion by Commissioner Harriman to approve payment of \$8,000 in dues to the West Orange Transportation Task Force. Seconded by Commissioner Graham and carried unanimously 4-0.**

Special Assessment liens filed against 210 E. Lafayette

Advised that a family received this property as part of an estate and they are selling the property. The sale revealed the mowing liens that the City filed in 1993 and 1994. One of the liens included an interest charge that now totals \$443 for a total of \$763. Staff is recommending that the liens be satisfied for the mowing costs of \$320. **Motion by Commissioner Harriman to satisfy the two mowing liens for total payment of \$320. Seconded by Commissioner Dixon and carried unanimously 4-0.**

Excess funds in the Community Redevelopment Agency

Stated that two reimbursements are expected; one from DOT for \$165,000 and one from Sprint for \$65,000. The CRA will have excess funds of \$300,000 and staff is requesting authorization to transfer those funds to the general fund to repay a portion of the \$1.3 million loan. **Motion by Commissioner Graham to authorize the transfer of excess funds in the amount of \$300,000 to the general fund to reduce the CRA debt. Seconded by Commissioner Dixon and carried unanimously 4-0.**

North Boyd Street Improvements

Stated that the scheduled completion date is May 25, 2004.

Stray dogs

Shared that there were three stray dogs that attacked and killed a pet cat. Code Enforcement Manager Johnny Clark has been working with Orange County Animal Control to do a sweep of stray animals. This past week there were three trucks brought in and they caught nine or ten strays and another is planned in a few weeks. He asked the Commission to report any strays seen in their neighborhood to Mr. Clark.

Reception area security

Advised that there was an incident in the City Hall reception area last week whereby an individual leaned across the counter, was physically threatening to staff, and harassed others. The Police intervened during the encounter and removed the individual. Therefore, he has authorized the installation of a glass partition to protect staff.

Financial condition of the Community Redevelopment Agency (CRA)

Provided a copy of a letter from Orange County Property Appraiser Bill Donegan to Maitland's Mayor that basically states that Winter Garden's CRA is a failure and in financial trouble. Finance Director Bollhoefer has made a presentation to Maitland on the soundness of Winter Garden's CRA. A financial analysis has been provided to each Commissioner and if anything else is needed, please let him know.

Sales tax

Advised that the Council of Mayors has voted to initiate a study to confirm the need for revisiting the sales tax issue and it was directed that the issue would be a staff effort. He has accepted the challenge to chair that process with the first meeting to be on February 25, 2004, and each city is giving it the highest level of attention. There will be a citizen component to the task force and for Winter Garden, he has approached Jerry Chicone about serving and he

has agreed if the City Commission will designate him. **Motion by Commissioner Graham to designate Jerry Chicone as the Citizen Task Force member in the Sales Tax Study. Seconded by Commissioner Harriman and carried unanimously 4-0.**

7. MATTERS FROM MAYOR AND COMMISSIONERS

Mayor Quesinberry:

Announced that he and Commissioner Harriman attended a workshop conducted by the State Attorney's office regarding the Sunshine laws, which was very informative.

Stated that he has heard objections about naming the new high school in Ocoee to Ocoee High School and he advised everyone to voice their opinions to the Orange County School Board representatives for the area, Karen Ardaman and Bert Carrier.

Commissioner Harriman:

Stated that he watched the School Board meeting for naming the new high school and based upon the discussions, he can't see them approving the name of Ocoee High School.

Announced that an update on the State Road 50 construction project will be held on February 25, 2004, at 6:30 p.m. in Oakland Town Hall.

Commissioner Dixon:

Announced that there is no more Greater Orlando Area League of Services, Legal Aid Society, and Rural League Society because they have reorganized and they cover a large area. She will be providing maps of the area they represent. They will be having their first meeting on February 20, 2004 in downtown Orlando.

The meeting was adjourned at 8:55 p.m.