

**REGULAR MEETING MINUTES
CITY COMMISSION**

May 13, 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 Quesinberry, Commissioners Bill Thompson, Theo Graham, Mildred Dixon (arrived at 6:33 p.m.), and John Harriman

Also Present: City Manager Hollis Holden, City Attorney Dykes Everett, City Clerk Kathy Montoya, Assistant to the City Manager Marshall Robertson, Police Chief George Brennan, Fire Chief John Williamson, City Planner Mark Cechman, Utilities Director Charlie Tinch, Public Works Director Bob Smith, Trailer City Manager Hughlan Martin, Finance Director Mike Bollhoefer, City Engineer Art Miller and West Orange Times reporter Michael Laval

1. **APPROVAL OF MINUTES**

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

Commissioner Dixon arrived at 6:33 p.m.

2. **PRESENTATION OF DROP SAVER AWARDS**

Utility Director Tinch stated that 350 students participated in the program and there were four local schools who participated in the Sixth Annual National Drop Savers Contest. Mayor Quesinberry and Jeannette Black, Water Conservation Officer, presented the awards to the following students:

Elliot Burch, 4th Grade, Tildenville Elementary

Sally Fowler, 3rd, and Monica Rex, 4th Grade, (accepted by her teacher) Foundation Academy

Deloris Pizutti, 3rd, and Martha Michelle Davis, 4th Grade, Calvary Christian

Donovan Villagran, 4th Grade, Dillard Elementary

3. **FIRST READING OF PROPOSED ORDINANCES**

A. **Ordinance 04-19:** AMENDING CHAPTER 110 (“SUBDIVISIONS”) OF THE WINTER GARDEN CODE OF ORDINANCES, BY AMENDING ARTICLE III OF CHAPTER 118 PERTAINING TO PROCEDURES; PROVIDING FOR AND REVISING UNIFORM STANDARDS AND REGULATIONS FOR THE PLATTING AND SUBDIVISION OF LAND WITHIN THE JURISDICTION OF THE CITY OF WINTER GARDEN, FLORIDA, UNDER DIVISIONS 1, 2, 3, AND 4 OF ARTICLE III; CREATING DIVISION 5 UNDER ARTICLE III TO PROVIDE HOMEOWNERS’ ASSOCIATION AND COMMUNITY SUBDIVISION INFRASTRUCTURE RESPONSIBILITY; CREATING DIVISION 6 UNDER ARTICLE III TO PROVIDE FOR GATED COMMUNITIES; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE

City Attorney Everett read Ordinance 04-19 by title only. **Motion by Commissioner Harriman to approve Ordinance 04-19 and schedule the second reading and public hearing on June 10, 2004. Seconded by Commissioner Thompson and carried unanimously 5-0.**

B. Ordinance 04-20: VACATING THE WESTERNLY FIVE (5) FEET OF THE TEN FOOT DRAINAGE AND UTILITY EASEMENT LOCATED ADJACENT TO THE EASTERNMOST PROPERTY LINE OF 1631 MALCOLM POINTE DRIVE; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Everett read Ordinance 04-20 by title only. **Motion by Commissioner Harriman to approve Ordinance 04-20 and schedule the second reading and public hearing on June 10, 2004. Seconded by Commissioner Dixon and carried unanimously 5-0.**

C. Ordinance 04-22: REZONING APPROXIMATELY 11.82 ACRES OF CERTAIN REAL PROPERTY LOCATED AT 1216 WINTER GARDEN-VINELAND ROAD AND MORE SPECIFICALLY DESCRIBED HEREIN FROM CITY C-2 TO CITY PCD; PROVIDING FOR CERTAIN PCD REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Winter Garden Business Park)

City Attorney Everett read Ordinance 04-22 by title only. **Motion by Commissioner Dixon to approve Ordinance 04-22 and schedule the second reading and public hearing on May 27, 2004. Seconded by Commissioner Harriman.** Commissioner Graham asked if the subject property was located north of Lake Apopka Natural Gas. City Planner Cechman stated that it is actually directly behind the new Publix center. **Motion carried unanimously 5-0.** City Planner Cechman asked for action regarding the preliminary plat that was also on the agenda. **Motion by Commissioner Dixon to approve the preliminary plat with staff's recommendations (see attached). Seconded by Commissioner Harriman and carried unanimously 5-0.**

3. SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCES

A. Ordinance 04-16: VACATING AND ABANDONING A PORTION OF RAILROAD STREET EAST OF DILLARD STREET AND WEST OF FIRST STREET; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Everett read Ordinance 04-16 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Dixon to approve Ordinance 04-16. Motion was seconded by Commissioner Harriman and carried unanimously 5-0.**

B. Ordinance 04-17: ADJUSTING THE MUNICIPAL IMPACT FEES IN CHAPTER 42, ARTICLE II, CHANGING THE REQUIREMENTS FOR THE ALTERNATIVE ROAD IMPACT FEE, CHANGING THE REQUIREMENTS FOR THE ALTERNATIVE RECREATION IMPACT FEE; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE

City Attorney Everett read Ordinance 04-17 by title only. Finance Director Bollhoefer stated that staff recommends tabling the public hearing until May 27, 2004. **Motion by**

**Commissioner Graham to table action on Ordinance 04-17 until May 27, 2004.
Motion was seconded by Commissioner Dixon and carried unanimously 5-0.**

4. **REGULAR BUSINESS**

A. **Report on Lulu Creek Grants**

Assistant to the City Manager Robertson reported that the City Engineer at the time, Mr. Kirby, originally applied for a grant in 1994, which was turned down because there was not enough money. Then we had the rains of 1994 and 1995, and that is when the railroad trestles started to fall in. We did emergency repairs to save the railroad trestle and save our pipe because our main sewer trunk main goes through the bank and it was coming off the side where our trunk main was. We reapplied for another grant through DEP, which was also turned down. We then entered into an agreement with FDOT and Orange County to rebuild the headwall where the water came across and we built the structures that are there now that actually drop the elevation about 20 feet in two tiers, bringing it down to what it is now. Taking the trestle out and putting a railroad bed across got rid of the trestle completely. We then submitted to St. John a cost share grant application, which was the first study of Lulu Creek under Phase I; we were awarded the grant, which studied the northern and southern half of Lulu Creek. That study was done and we then applied for a Phase II grant, which progressed the study into the design of the retention pond on the northern end. It was revealed during the sampling process that the phosphate problem that they thought was there was not there, and the size of the acreage of the area going through the creek was nearly 400 acres. According to the engineering, it would take a 50 or 60 acre pond and there was not that much land there, it was very expensive, and it did no treatment. So we went back to St Johns, after we had the mitigation grant, and talked with them about doing the check-dams, which was in Phase III to try to stop the erosion of the southern part from Division St back to Plant St, where it is gutted out. In the meantime, St. Johns spent the mitigation money on another project, but did not tell us. In conclusion, what we have now is a design for the check-dam system on the southern end, but in order to apply for the grant, we must own the property and as you all well know, we do not own the property through that area. We have spoken with the owner and we have not had great results in obtaining the property to build the check-dam part on the southern end.

Commissioner Graham stated that this item was generated as the result of a difference of opinion and therefore, has researched this issue with the St. Johns River Water Management District (SJRWMD) by contacting Ray Bunton, Nancy Christman and Robert Christinson, who are with SJRWMD. Mr. Christinson told him that the grant was for the retention pond, which was originally granted because of increasing the water quality going into Lake Apopka. As he stated in the last meeting, any grant for Lulu Creek through the Surface Water Improvement and Management (SWIM) program will have to increase the water quality. When staff tried to use the funds for upper erosion by building two dams to stop sediments into the lake, SJRWMD saw that it was not going to increase the water quality by any significant amount SJRWMD had other higher priorities that would and for that reason, SJRWMD reallocated the funds elsewhere. Commissioner Graham stated that he was a little concerned that the City Manger took it

upon himself to make the decision to not build a pond that included a retention area for sediments in front and went over into a pond that would have vegetation to take out sediments before it went back into Lulu Creek, which was not brought before the City Commission nor was the Commission kept abreast of Lulu Creek activities. Commissioner Graham stated that he is on the Board of Directors of Friends of Lake Apopka (FOLA) and they strongly advocate for cleaning up Lake Apopka. He stated that the City can work with FOLA to obtain grants. Commissioner Graham apologized to Dr. Earley for being wrong in believing the proposed pond was on the west side when in fact it is on the east side. However, had he known and been kept abreast of what was going on, he would have brought up the fact when he gave permission on the east side. Commissioner Graham then read directly from his research notes (**see attached**). Commissioner Graham also read various related e-mails (**see attached**). In conclusion, he stated that his honesty was being questioned when he made his statements at the last meeting and he believes he was being truthful, as verified by what he has just read. He was relaying a message from FOLA, who had asked the City Manager how they can help.

B. Request to amend the tabled action of April 22, 2004 regarding the preliminary plat for Division Street Subdivision

Commissioner Graham stated that the issue regarding which side the proposed pond would be located on has been resolved and he has no problem with rescheduling this item. **Motion was made by Commissioner Dixon to set this item on the May 27, 2004 agenda. Seconded by Commissioner Thompson and carried unanimously 5-0.**

C. Approval of bid award for Stoneybrook West Parkway Water Main Project

Utilities Director Tinch reported that nine contractors picked up bid packages and four were returned. The Engineer's project estimate was \$365,857. T. D. Thomson Construction placed the low bid at \$379,947. Therefore, staff recommends awarding the contract to T. D. Thomson Construction in an amount not to exceed \$398,944.35, which equals the base bid and a 5 percent contingency. **Motion by Commissioner Graham to award the Stoneybrook West Parkway Water Main Project to T. D. Thompson in an amount not to exceed \$398,944.35. Seconded by Commissioner Dixon and carried unanimously 5-0.**

D. Recommendation to approve an Interlocal Agreement with Orange County to transfer the title and jurisdiction of a portion of Daniels Road to the City of Winter Garden

Assistant to the City Manager Robertson stated that this agreement is for Daniels Road south of the Bridge to the road renamed Roper Road, which runs westerly to CR 535. The City currently holds a letter from Orange County that states they would not maintain the road. Therefore, staff requested a deed that includes the 60-foot right-of-way. The County has agreed and staff recommends approval of the interlocal agreement transferring title and jurisdiction to the City of Winter Garden. **Motion by Commissioner Graham to approve the Interlocal Agreement with Orange County to transfer jurisdiction of a portion of Daniels Road south of the bridge. Seconded by Commissioner Dixon and carried unanimously 5-0.**

E. **Recommendation to approve an operating agreement with the Winter Garden Heritage Foundation Inc. for the Old Winter Garden Theater**

City Manager Holden stated there have been numerous discussions to move this project forward and as a result, an operating agreement with the Winter Garden Heritage Foundation has been prepared and provided to the City Commission. Staff recommends approval of the proposed agreement. The second part of this request is to authorize the City Manager to work with the City Attorney to draft a letter regarding the City's commitment to transfer ownership of the theater to the Heritage Foundation. **Motion by Commissioner Dixon to approve the operating agreement and authorize staff to prepare documents for transferring ownership of 160 W. Plant Street. Seconded by Commissioner Harriman and carried unanimously 5-0.**

F. **Request by the City of Ocoee for event sponsorship for officially unveiling a highway marker on State Road 50 designated as Dr. Martin Luther King, Jr. Drive**

Ms. Gequita Cowan, Administrative Assistant to Ocoee Mayor Vandergrift, stated that she was present on behalf of the City of Ocoee to ask the City of Winter Garden to participate in this historical event on June 17, 2004 at 10 a.m. directly across from the Florida Auto Auction. City Manager Holden asked how the funds are going to be used. Ms. Cowan stated that the funds will be used to cover the costs related to the reception, marketing, and arrangements for Martin Luther King, III to attend. If there are any remaining funds, the money will go to the Majicity Foundation to benefit children. **Motion by Commissioner Dixon to approve \$1,500 from the designated donation account to sponsor the unveiling of a highway marker for Dr. Martin Luther King, Jr. Seconded by Commissioner Harriman and carried unanimously 5-0.**

6. **MATTERS OF CONCERN FROM CITIZENS**

Barbara Dudley, 3 Holly Drive, Winter Garden, Florida, stated that she is the Secretary of the newly formed Trailer City Homeowner's Association while handing out the list of officers and a copy of the recorded "Notice of Mobile Homeowner's Association Right to Purchase the Park" known as the first right of refusal in the event the City ever decides to sell the park. She stated that these documents would have been provided to the City Manager if a meeting could have been arranged, but according to Mr. Bruns, his calls were not returned through Mr. Bollhoefer. She noted that in the City Commission meeting minutes of March 25, 2004 under the City Manager, the City Commission did not vote on the matter. Beginning on May 3, 2004, Andy Bruns has been requesting records from Mr. Bollhoefer and he has yet to receive any documents. Due to the fact that the City has not been forthcoming with the tenant records request in a timely manner, she requested that the entire issue about the possible closure of Trailer City be tabled indefinitely. If the issue were not tabled indefinitely, she then asked that it be tabled for six weeks after they receive the requested documents so they may adequately study the records the same as the City has.

City Manager Holden stated that if someone gives him information about a meeting, he would meet any place, any time and with anybody. A meeting was never confirmed and staff is in the process of compiling the records requested, some of which the City does not maintain. The City has nothing to hide.

Commissioner Dixon stated that until the matter comes before the City Commission, what she hears she considers as nothing more than gossip. As far as she knows, only the study has been done and until it comes before them (the Commission), don't accuse them of anything.

Sharon Teddy, 23 Aspen Road, Winter Garden, Florida, read an e-mail from Mr. Wayne Parker, 36 Junellen, Winter Garden, Florida to District 1 Commissioner Thompson that referenced 200 plus citizens in the trailer park who would not be properly represented by a "yes" vote to close Trailer City, which is in District 1 and especially to close a park with voters in District 1. Mr. Parker requested a "no" vote to closing Trailer City by his elected official.

Lynn Cole, 24 Temple Drive, Winter Garden, Florida, read Commissioner Thompson's e-mailed response to Mr. Parker's e-mail.

Eleanor Vonk, 19 Aspen Road, Winter Garden, Florida, stated that many residents of Trailer City have made contributions to America and as seniors, they have asked to be left to live out their remaining days in peace. Contrary to the statement made on May 6, 2004 that there are no plans for the park, they have a letter saying the City does have plans. With regard to the matter of the park being out of compliance with the Code, when the additions were put on the mobile homes, the City gave out the permits. Regarding the statement about the streets not being safe for fire trucks, it appears that the one that just came out tonight didn't have any trouble getting through and other large vehicles that are in the park frequently have no problems with the road.

Bob Cole, 24 Temple Drive, Winter Garden, Florida, read a letter from Barbara Dudley, 3 Holley Drive, Winter Garden, Florida, [who was seated in the audience]. Ms. Dudley's letter pointed out the contradicting message being sent by the City which just celebrated its 100th birthday with the slogan "Celebrating 100 Years of Traditions" yet the City's web site has information about tearing down Trailer City that demonstrates otherwise. The History Center documents that Trailer City has been at its present location as far back as 1936 and she has personally lived in Trailer City for more than 40 years. Ms. Dudley states that an article in the Orlando Sentinel dated October 6, 1985 quotes City Officials as stating, "The lot sizes forced the mobile homes to be close together, but this enhances the security in the park. Crime is almost non-existent." Residents continue to enjoy that closeness and security today. It's unfair to single them out with regard to fire, because a fire can happen anywhere. The City has owned Trailer City for the past 23 years and instead of the City accepting the responsibility of righting the wrongs created by the municipality and instead of doing the right thing for the residents of Trailer City, you are contemplating doing the wrong thing by closing the park and putting residents on the streets. The profits from Trailer City have been used for a number of non-park capital improvements over the past several years when they should have been put back into improving Trailer City. She closed by stating that the City can't build history nor buy happiness. Please vote to save Trailer City and take whatever action is necessary to correct the problems uncovered by the study and consider applying for the first historic mobile home park in the state. The residents welcome a lakeside extension of the trail, but should not have to be displaced by it. Mr. Cole added that he thinks that the

main breakdown was in the original letter and the posting that stated the City is looking at closing the park, not that the City was looking to address problems in the park, but close the park. They have only been loosely told about what is wrong.

Elwin Washburn, 22 Orange Drive, Winter Garden, Florida, stated he appreciated the May 6, 2004 meeting to help them understand what is going on. While staff compiles their information, the residents are still trying to give the Commission information which allows both sides to be heard.

Annabel Closson, 749 E. Palm Valley Drive, Oviedo, Florida, referred and read to the City Commission Florida State Statutes Section 723.025, "Park owner's access to mobile home and mobile home lot". A mobile home park owner has no right of access to a mobile home unless the mobile home owner's prior written consent has been obtained or unless to prevent imminent danger to an occupant of the mobile home or to the mobile home. Such consent may be revoked in writing by the mobile home owner at any time. The park owner has, however, the right of entry onto the lot for purposes of repair and replacement of utilities and protection of the mobile home park at all reasonable times, but not in such manner or at such time as to interfere unreasonably with the mobile home owner's quiet enjoyment of the lot." Ms. Closson stated that the inspectors were out on the lots without proper notice to the residents and pulled off skirting without replacing it, which is a violation of their rights under the statute.

June Osborne, 17 Laurel Drive, Winter Garden, Florida, stated that this is a fight she doesn't understand and asked why it couldn't have been done in a more diplomatic fashion. She would have preferred the City first decide what was going to be done before she got the letter.

7. **MATTERS FROM CITY ATTORNEY**

A. **Public Records Law regarding electronically mailed communications**

Mr. Everett stated that he wanted to make the Commission aware of some recent changes in the public records law in particular regard to e-mailed communications. E-mails sent or received about city business are public records. As an e-mail or attachment enters the public domain, they are public record. The Florida Supreme Court has taken up the issue and provided an exemption for e-mails into the public domain that are deemed personal. His counsel to the City Commission is that if it is written and you don't intend for it to be a public record out in the public domain, don't write it and don't send it. If the Commission has specific questions, he is available.

8. MATTERS FROM CITY MANAGER

A. Approval of advertising agreement with West Orange Chamber of Commerce

Stated that this is a request to renew the City's advertisement on the back cover that includes a quarter-page advertisement inside the Community Profile and Business Directory for \$3,995. **Motion by Commissioner Harriman to approve the advertising agreement with the West Orange Chamber of Commerce as requested. Seconded by Commissioner Thompson and carried unanimously 5-0.**

▪ Little League Fields

A \$90,000 grant has been awarded and the Mayor and Commissioners have been asked to attend a check presentation ceremony this Saturday at 10 a.m.

9. MATTERS FROM MAYOR AND COMMISSIONERS

A. Participation in the West Orange Chamber of Commerce exposition on May 13, 2004 – This item was withdrawn by Commissioner Harriman.

Commissioner Dixon

- Commended Commissioner Harriman for his involvement in contributions made to the Maxey Elementary School and she wanted everyone to know that the students' grades have come up by 95 percent. Commissioner Dixon also stated that she will be asking that the area around the school be closed on May 20th for a student recognition event.
- Stated that she is pleased that the Police Department has control of Crown Point Road, which is behind her home and she will be asking the County to put in a sidewalk and finish the sports field. There are activities being planned this summer for the children and she looks forward to working with the new Police Chief in this regard.
- Invited everyone to attend a morning program at the Maxey Center on May 27, 2004 by various program participants who will display and model their creations. She will be providing more information in their mailboxes.

Commissioner Thompson

Stated that Trailer City is in his district and he has talked to a lot of the residents and corresponded by numerous e-mails, but his position has not changed. He stated that the residents are not helping themselves by coming to every meeting and saying the same thing each time. It is his understanding that the residents believe the land to be worth millions of dollars and that is why the City is taking it. He pointed out that if 260 people are living on land that is worth all these millions of dollars and 22,000 aren't getting anything from it, the City should take it and would be derelict if they didn't.

Mayor Quesinberry announced that the meeting of May 27, 2004 would be held at Tanner Hall to accommodate everyone for the Trailer City item.

The meeting was adjourned at 8:13 p.m.