

**REGULAR MEETING MINUTES  
CITY COMMISSION**

July 8, 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, and John Harriman

**Also Present:** City Manager Hollis Holden, Assistant City Attorney Lionel Rubio, City Clerk Kathy Golden, 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, and West Orange Times reporter Michael Laval

1. **APPROVAL OF MINUTES**

Regular Meeting Minutes of June 24, 2004. **Motion by Commissioner Harriman to approve the minutes as submitted. Seconded by Commissioner Dixon and carried unanimously 5-0.**

2. **CEREMONIAL**

Police Chief Brennan administered the Oath of Office to Sara Campbell and Paula Fambrough and introduced the City's newest police officers.

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

A. **Ordinance 04-21: VACATING THE 60 FEET OF RIGHT-OF-WAY OF WOFFORD ROAD FROM STORY ROAD TO THE INTERSECTION OF STATE ROAD 429**

Assistant City Attorney Rubio read Ordinance 04-21 by title only. City Planner Cechman announced that the applicant has agreed to postpone this item and the next until July 22, 2004 to resolve some related issues. **Motion by Commissioner Harriman to postpone the public hearing of Ordinance 04-21 until July 22, 2004. Seconded by Commissioner Dixon and carried unanimously 5-0.**

B. **Ordinance 04-26: VACATING THE EASTERLY FIVE FEET OF THE TEN FOOT DRAINAGE AND UTILITY EASEMENT LOCATED ADJACENT TO THE WESTERNMOST PROPERTY LINE OF 302 FOREST HAVEN DRIVE**

Assistant City Attorney Rubio read Ordinance 04-26 by title only. Mayor Quesinberry opened the public hearing. City Planner Cechman stated there has been one small change in the legal description to add "less the south twelve feet" to remove any ambiguity that we are touching the drainage and utility easements along Courtlea Oaks Boulevard. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to adopt Ordinance 04-26 and amend the legal description to include**

**“LESS the south twelve feet”. Seconded by Commissioner Thompson and carried unanimously 5-0.**

4. **REGULAR BUSINESS**

A. **Recommendation for the tentative Millage Rate for Fiscal Year 2004-2005**

City Manager Holden stated that this is his standard request and he is recommending the City retain the current millage rate of 4.304 for the tenth year in a row of no increase. **Motion by Commissioner Dixon to retain the Millage Rate of 4.304 for Fiscal Year 2004/05. Seconded by Commissioner Harriman.** Commissioner Graham emphasized, as he did last year, that it will show an increase of 6.18 percent; therefore, the advertisement should explain the TRIM Act as much as possible. Mr. Holden agreed. **Motion carried unanimously 5-0.**

B. **Recommendation to approve an extension to the existing agreement with Professional Engineering Consultants (PEC) to perform a study on the realignment of Story, Plant and Ninth Streets**

Assistant to the City Manager Robertson reported that the City Commission approved this study as part of the interim budget as PEC was already under contract for Daniels Road. Therefore, staff recommends approving an extended agreement for the alignment study. Commissioner Graham asked if the fees would come from Impact Fees and Mr. Robertson replied yes. **Motion by Commission Graham to approve an extended contract with PEC to for an alignment study related to Daniels Road. Seconded by Commissioner Harriman and carried unanimously 5-0.**

C. **Recommendation to elevate the Information Technology Division to a separate department and confirm appointment of the current Division Manager as the Department Head**

City Manager Holden stated that eleven years ago the City had but one computer and maybe a couple of typewriters. Since that time, computers have been integrated citywide and now have a staff of three. He noted that most cities at this level maintain a separate Information Technology Department and department head. In accordance with the City Charter in order to establish this as a new department, an ordinance is required. Therefore, he recommends direction to staff to draft an ordinance establishing the Information Technology Division as a new department. **Motion by Commissioner Harriman to elevate the current manager to department head status and direct staff to draft an Ordinance establishing the Information Technology Department. Seconded by Commissioner Dixon and carried unanimously 5-0.**

## 5. MATTERS OF CONCERN FROM CITIZENS

**Andy Bruns**, 6 Laurel Drive, Trailer City, stated that he is somewhat confused about the motion at the last Commission meeting. The citizens have spoken and he is not sure they have been heard. The current organizational chart for the City starts with the citizens at the top, then the Mayor and Commission, then the City Manager but for some reason the chart does not flow properly because the citizens are not being heard. The system should work the way the chart indicates. A comment in the newspaper, by city staff, bothers him a little bit because it stated something to the effect that some of the northerners living in Trailer City are having their second homes subsidized by the City of Winter Garden. He would like to see where in any given year Trailer City has not returned a profit to the City. Another statement that was made about how Trailer City is being used today is not what the intent was years ago. He does not know how anybody living today can say what the intent was all those years ago. Mr. Bruns then read campaign statements of District 1 Commissioner and stated that he feels let down. The West Orange Times poll, which is still being conducted, is one method by which the citizens can let the elected officials and City Manager know what they would like to see happen with Trailer City. He hopes the task force will first go to Ocoee and look at how bad those trailer parks are. He thanked the Commission for listening to him and asked them to think about what he has said.

**Richard Napotnik**, 1633 Fullers Cross Road, Winter Garden, Florida, stated he would like to know how much was rolled over from the 2003 budget. **City Manager Holden** stated he would get back with him on that figure. **Mr. Napotnik** stated that at the Tanner Hall meeting a comment was made that taxpayers are subsidizing Trailer City and he is curious about any rollover money from the prior year and why taxpayers would be subsidizing Trailer City. He would like an answer to this question. He also asked how he is actually subsidizing, through his tax bill. **Mr. Holden** stated he would have the Finance Director provide that information. **Mr. Napotnik** asked Commissioner Thompson if there had been any study done regarding the cost to improve Trailer City so it is brought up to Code. **Commissioner Thompson** stated none that he was aware. **Mr. Napotnik** asked that since there will be a committee setup to study transitioning the residents out, could there also be a committee to determine what the costs to the taxpayers would be to bring it up to Code. Also, could the study include all the costs involved with pulling the plumbing, water, gas, electric, leveling the ground and sod. **Mayor Quesinberry** advised Mr. Napotnik he could contact the Finance Director regarding these issues.

**Elwin Washburn**, 22 Orange Drive, Trailer City, stated the citizens of Trailer City like living here and he would like both parties to get together and find out what it takes to put it back together again and let's keep Trailer City alive.

6. MATTERS FROM ASSISTANT CITY ATTORNEY – Nothing to report.

## 7. MATTERS FROM CITY MANAGER

A. Designation of a Voting Delegate for the Florida League of Cities Annual Conference (Continued from June 24, 2004)

Mr. Holden stated this is the annual request for designation of a voting member from the City if someone is attending the conference. **Commissioner Harriman moved to appoint Commissioner Dixon.** Commissioner Dixon stated she was not yet positive she would be able to attend, but she would know in a couple of days. Mr. Holden pointed out that the notification deadline is July 20. **Motion died for the lack of a second.** Consensus of the Commission was that Commissioner Dixon would be the voting delegate if she attends the conference.

▪ **Proposed Budget schedule for FY 2004/05**

Mr. Holden stated that staff is recommending the following schedule because the City cannot conflict with the County or School Board budget hearings:

Workshop after the regular meeting of August 26, 2004

First Public Hearing on September 8, 2004 at 6:00 p.m.

Second Public Hearing on September 22, 2004 at 6:00 p.m.

The Regular City Commission meeting at 6:30 p.m. would follow both hearings.

Hearing no objections, staff will proceed in this direction.

8. **MATTERS FROM MAYOR AND COMMISSIONERS**

**Commissioner Graham:**

Stated he is responding directly to the City Manager regarding his two letters to the editor section of the West Orange Times, in the proper setting, which is during a Commission meeting. He takes exception to two printed statements that his remarks are critical of City Commission's past decisions. In his entire 17 plus years that he has had the pleasure of serving this City, there has never been a time that he has criticized, undermined, or subordinated any Commissioner. Mr. Holden's statement is flatly untrue. (For clarification, "you" refers to City Manager Holden.)

**Cemetery:** As to your letter to the editor on June 24 regarding the cemetery and my comments, they were severely edited and some very important details were omitted, which would imply that only you had the full and complete story. Your versions are faulty, incomplete, and misleading. Having the full benefit of a tape of the June 10 Commission meeting, he took advantage of quoting my words at length. However, while I was working from memory of a meeting that took place ten years ago, your reply was taken from the minutes of those meetings and from articles in the local paper. In the early summer of 1994, Charles Kirkpatrick contacted the City with an offer to purchase the cemetery. This matter was brought to the City Commission on July 28 of that year according to the minutes he picked up at City Hall. Although the discussion was not in favor of selling the cemetery, the general consensus was at least find out what Mr. Kilpatrick has to offer. Commission meeting minutes rarely reflect verbatim discussion from individual Commissioners. Only your comments were in quotes, however every Commissioner in attendance had something to say on the matter. In your June 24 letter, you state, "this is five months after I became City Manager. Graham had been a Commissioner for 10 of the past 12 years and was present." I was not only present, but actively involved in the discussion. My suggestion, at that time, was to contact the owner of Woodlawn to find out how to make Winter Garden's work better. If someone is interested enough to buy a cemetery, they knew that it could be

operated at a profit. We needed to find out how to make the cemetery operate in the black rather than sell it. City Commission minutes of August 11, 1994, record that Mr. Kirkpatrick was asking the City to quote a price but the Commission felt they should make the offer. The note states: "Graham was a Commissioner and present but did not comment." How can you say I did not comment when in fact I expressed I was not in favor of selling the cemetery, so why should we continue to negotiate with Mr. Kirkpatrick? On August 25, 1994, Commission meeting minutes, you asked for approval to let Mr. Kirkpatrick know that his purchase offer was not acceptable and the City was not ready to spend money on an appraisal. However, Mr. Kirkpatrick could pay for an appraisal if he wanted to, with the motion being made, seconded and carrying 4-1 with myself voting no. In your letter to the editor on June 24, you noted, "I was confused by Graham's no vote. By voting no, did it mean he approved of the offer and/or the City getting an appraisal? He did not elaborate." How do you know I did not elaborate when the minutes do not reflect what the discussion was before the vote was made? I find it interesting that you can recall your confusion yet forget that you had full opportunity to ask me for a clarification but chose not to. The reason I voted no was that I was not in favor of selling the cemetery at all so why should I vote to continue to negotiate. Commission meeting of September 8, 1994, I was out of town and therefore could not make any comments during that meeting. Commission meeting of November 9, 1995, you reported that the City cemetery was costing the City \$70,000 above revenues and said we need to find a way to get out of the business and look at alternatives. Now you state in the June 24, 2004 newspaper, you meant the business of losing money. It was decided at the November 9, 1995 Commission meeting to hold a town meeting at Tanner Auditorium where all the citizens could share their opinions and make suggestions. Commission meeting of December 12, 1995 (this part was not in the paper or commented on by you): the following citizens addressed the Commission in opposition of the City selling the cemetery (he read the list of speakers which included himself) after which you explained we were not at the meeting to sell the cemetery, but to look at options, etc. In your letter to the editor on June 24, 2004, you included a note "Graham was at the meeting as a citizen and had played no role in staff's development of options 1-5. The cemetery had lost money and been subsidized by tax revenues by as much as \$81,307 every year for at least the previous 15 years." This is interesting because during the November 9, 1995 meeting you had stated that overruns were \$70,000 a year, so how did it grow by \$11,000 in less than a month. What you failed to mention was that I spoke at that meeting in opposition of the sale but in favor of operating the cemetery on a paid basis and I suggested we get advice on how to run it properly. The discussion got heated and my remarks didn't go over well with you. You made some very critical remarks to me and when I tried to respond, the Mayor denied my request to refute the criticisms you made. Several other citizens were irritated by your remarks and one man even offered to step outside with you to settle the issue. Where you said I played no role in the staff development of the options is not completely true. My earliest suggestion had been to run the business to make money, which is exactly what option 3 was, and option 3 is the one that was chosen. I am sure there were citizens present at the meeting that would be happy to recall what took place. Since you left all this out of the record, you make me wonder how many items have been left out of the minutes that have been approved by you. Commission meeting of June 26, 1996, Mr. Kirkpatrick sent a letter to the City regarding his interest in purchasing a different portion of the cemetery including the area known as the "black" cemetery and you asked the Commission to give you direction

and a motion was made to move forward with negotiations for the sale. The motion carried 4-0 and you added a note "No further contacts with Mr. Kirkpatrick occurred, and the City still owns the property he desired to purchase." Since there was no further contact with Mr. Kirkpatrick, what happened to the motion? Something had to be done in furtherance of the motion since the Commission directed you to proceed. Surely, Mr. Kirkpatrick was contacted in some manner since you were directed to do so. This matter would not have been left hanging or you would have been neglectful of your duties. There is no place in the minutes from that time forward where this item was brought up. Why wouldn't a motion be handled sometime thereafter?

**Properties purchased by the City as referred to in Mr. Holden's letter to the editor on**

**July 1, 2004:** You stated I agreed the City is in private enterprise with the Trailer City operations but should not be. You failed to give any explanation as to why I believe the City should continue Trailer City as private enterprise and did not explain how you have the authority to make a decision like that. Instead, you chose to change the subject by launching into a lengthy description of the City properties purchased. You said, "every city owns property, but that does not mean they are in the real estate business, whatever that phrase means." My meaning is quite clear, the City is already in the real estate speculation business of buying property and reselling it at a higher price, which is what we have been doing. That is what I mean by saying the City is in the real estate business and I explained that each parcel of land in your letter was purchased with full approval of the City Commission, including myself because the intended language used was acceptable to the Commission at the time. The property at 252 West Plant Street, across from City Hall, was purchased in 2003 for parking area for a new City Hall that was to have been built on that side of the street and that is why I voted to purchase that parcel. The City has since sold that parcel at a profit. At 160 W. Plant Street, where the old theatre is located, was purchased as part of the restoration of the downtown historical district and I voted in favor because I felt it would be good for the City to have a place for people to come to see the old theater with plays or movies. The City just recently gave the property to the Heritage Foundation as well as a loan for restoration purposes. It is my understanding that the Dr. Phillips Foundation is going to donate a million dollars, so whatever is borrowed can be repaid with interest. Regarding 114 East Plant Street, old Thriftway/Rainbow grocery store was purchased and I voted in favor because Community Redevelopment Agency (CRA) funds were used and was not out of City funds. Property at 848 East Plant Street, across from the new library was purchased in December 2000 and I voted in favor because it was purchased with CRA funds, not out of the reserve, as you call fund balance. You failed to mention that the fund balance was recently used to purchase both 114 E. Plant and 848 E. Plant Street from the CRA in order to return the funds to the CRA. Now the City owns those properties, not the CRA. I only voted to purchase those properties because they were being paid for by CRA funds. It was my understanding that the purchases made along Plant Street were done using CRA money because it was to beautify the area along Plant Street all the way out to 429. Those properties just purchased amount to \$1,070,000. The property at 970 East Plant Street was purchased on November 12, 2002, for right-of-way and retention area with the balance being a park with benches. I voted in favor because it was going to be a park if not used for a retention pond. For 971 and 979 East Plant Street they were also purchased for future right-of-way and stormwater retention but it seems strange to me that there would be such a need for that

much right-of-way and retention ponds at this location. The property was purchased with impact fees, which are separate and did not come from the general fund, and that this is why he voted in favor. I spoke with Mr. Jim Clark with DOT in DeLand yesterday and I spoke today with Mr. John Moore in Orlando, and was told the City is not even on the 5-year priority plan yet so the City would probably hold the properties for at least another five years. I feel the properties were not purchased solely for the reason you stated, but purchased to tear down the old building in order to sell the land for new building or to control construction along Plant Street. This is buying property for profit, the City is therefore in the buying and selling business and that is why he calls it private enterprise. There may be a difference in what we think, but it is my opinion that the City is competing with people that are in the business of buying and reselling property. Therefore, the City is in the real estate business. At the end of your, you made the statement that you trust the above will serve to explain the motivation of the City Commission. It is not the City Manager's job to make explanations for the actions or the motivations of the City Commission.

**Other issues:**

Stormwater: In November 2002, the City Commission was informed that a \$600,000 slate for the Lulu Creek project had been withdrawn because the plan had not been adhered to. However, you neglected to advise the City Commission of this turn of events until later when I questioned you in December 2003. Not only did the City lose out on \$600,000, the City also lost \$140,000 that had already been spent on the engineering study. I believe most of the Commissioners received a letter from the Florida Stormwater Association along with the EPA brochure and read a portion of that material that states the total maximum daily load (TMDL) of the federally required TMDL Program will establish new service water quality targets and will impact most water bodies in Florida. It is the last major component of the 1972 Clear Water Act that is yet to be implemented. Lake Apopka is one of the lakes and that is why the State and Federal governments have spent over \$105 million dollars. The brochure also identifies personnel and resources and how to learn how your jurisdiction can be better prepared as the program moves forward. The FMDL Program should be taken very seriously.

Alcohol: At the Centennial celebration in Veteran's Park, you granted permission to a private party to sell alcohol beverages when only the City Commission can grant this permission. The Commission received complaints about the drunken behavior displayed at the park.

There have been numerous items written in the local paper and letters complaining of your rudeness at various meetings, which brings embarrassment to the City and the Commission.

Trailer City: During the Commission meeting of March 25, 2004, you stated that staff and the community have indicated a desire to convert Trailer City to a public park for the good of all citizens. This is a very interesting choice of words and who exactly are the staff and the community you referenced? Your letter to the editor on April 22, 2004 you wrote, "Prior to the announcement that we would investigate/evaluate the possible closure of Trailer City, no developer had approached any City official with a request to have Trailer City closed and

make the City-owned property available for development. The only way you could make such a statement is you would have had to contact each official. That was not done because I had not been contacted and he knows that another Commissioner had not been contacted so he would like to know if any other Commissioner was contacted. You further state that after the announcement a developer contacted you to ask if the City was interested in selling the property and you told him no. Who gave you the authority to speak on behalf of the City Commission? The City Commissioners are the only ones with the authority to buy or sell property or make that decision. You stated in the newspaper that you cannot see how the cemetery and Trailer City are related. I do not know how you cannot see the comparison because both the cemetery and Trailer City are both businesses in direct competition with private enterprise, both are operated by the City, and both are here to be used by the citizens of the City. In the June 17<sup>th</sup> edition of the West Orange Times you were quoted as saying "When I have listened to the tapes and heard his (Graham's) comments, I will respond at the next Commission meeting", but you didn't wait, instead you wrote to the Times editor again to air the supposed clarifications and denials outside of these chambers. In your first promise of a future series of letters, printed on June 24, you state you "now have and will cover each issue in the order he (Graham) raised them in future letters to you (newspaper)." It is clearly your intent to continue to publish your personal opinions and perceived grievance outside of chambers. It is Mr. Laval's job to publish your comments in the newspaper as he has done mine. Mr. Laval has full access to all meetings and minutes of those meetings, which contain all subject matter pertaining to comments made, and he should write his story as he has done with all prior matters. The proper place for you to make your remarks is in chambers as I have. "Hollis, if you can stand the heat from the City of Winter Garden or the Commissioners, you need to get out of the kitchen." You exhibit unacceptable behavior in these chambers, have been rude, quick tempered and arrogant. Your attitude of disdain for members of this Commission and citizens who come to address this body and you frequently interrupt people with barely concealed disgust saying "you don't understand, let me explain it to you" in a superior manner as if you were speaking to an errant child. You have sent people out of this City and out of these chambers with tears from your callous remarks. You have shown disrespect and utter disregard for the members of this Commission and people of the City. You have continued to criticize and undermine the works of this Commission and individuals in an attempt to bring dissension among us. If you make statements that are incomplete, only partial truth in order to make your opinion appear to be fact, you twist the truth and mislead the public. You have withheld information from this Commission and the citizens of this community. You have also presumed to speak for the Commission, which is out of your authority. It is not your job to interpret the actions or the motivations of this Commission to the citizens of this City. You have acted and spoken in a way that would imply that you are the City of Winter Garden and that you have the final word. You have forgotten your place. You have forgotten you are an employee of the City of Winter Garden and a servant of the citizens. You have acted egotistical and self-important in a smug manner. You have written, spoken, and acted with an authority you do not hold and you are overstepping your bounds. You do not represent the City except as a City Manager working under the direction and supervision of this Commission or as a private citizen. Your actions are improper and ill advised. You have brought shame and embarrassment to the City. Your own words hang you. I would strongly suggest that you carefully consider your next course of action before you take another step. I know I was a little strong at the end, but I think it

was time something should be said of how we act in these chambers. I have had to catch myself with my anger but we should act properly because we represent the City of Winter Garden.

**Commissioner Thompson:**

Announced that Ocoee is trying to get the new high school named "Ocoee High School" and anyone in disagreement should send a letter to the School Board. Mayor Quesinberry stated the Commission has already sent letters to the School Board in response to citizens' complaints on the proposed name.

Announced that Mike Armbruster, who was the Principal of West Orange High School, will become the principal of the new high school and Dan Buckman will become the new principal of West Orange High School and he will do an excellent job.

Stated that the recently released school grades don't really mean much, based on the way they are determined. So don't worry about sending your children to another school with a higher grade.

**Commissioner Dixon:**

Stated we can still be proud of Maxey Elementary School's improved grade. They will now have Reading Reindeer year-around because they have received funding. They are seeking to find at least two part-time positions to assist.

Kids need to get off the street corners and one way to accomplish this is to get more street lighting on Eleventh Street coming out of the apartments. Another dark spot is on Center Street near the Baptist Academy. We need to get them back to Center Street whether it is a game room or whatever on the east side. Children are congregating on the corners in the dark and we need to curtail their activities by getting them into local activities on the east side. Volunteers continue to work with the youth and now have about 10 ball teams.

Advised that a leader of National Faith-Based Organization, Arnelious Crenshaw from Oklahoma City, will be speaking on Friday, July 30 at 10:45 a.m. at the Rosen Centre Hotel and she has made an invitation for them to meet with local churches and groups to address potential funding sources.

**Mayor Quesinberry** stated that it has been difficult to maintain the lighting in the area Commissioner Dixon has mentioned because the lights have been vandalized by shots being fired and someone even took out a surveillance camera the County installed at cost of about \$30,000. The City has increased the wattage in an effort to keep the area brighter.

**Mayor Quesinberry** stated that it would be appropriate for the City of Winter Garden to recognize the accomplishment of Maxey Elementary School. **Commissioner Dixon** stated that students have already been awarded 150 certificates and it would be nice to have a Student Day or something of that nature. **Commissioner Harriman** stated he would try to get the Auto Auction and others involved.

The meeting was adjourned at 7:53 p.m.