

**REGULAR MEETING MINUTES
CITY COMMISSION**

July 22, 2004

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

PRESENT: Mayor Pro Tem John Harriman, Commissioners Bill Thompson, Theo Graham, and Mildred Dixon

ABSENT: Mayor Jack Quesinberry

Also Present: City Manager Hollis Holden, City Attorney Dykes Everett, City Clerk Kathy Golden, Assistant to the City Manager Marshall Robertson, Police Chief George Brennan, City Planner Mark Cechman, Utilities Director Fernand Tiblier, 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 July 8, 2004. **Motion by Commissioner Dixon to approve the minutes as submitted. Seconded by Commissioner Graham and carried unanimously 4-0.**

At this time, Mayor Pro Tem Harriman amended the agenda to address a request regarding public hearing items J, K, and L for Ordinances 04-37, 04-38, and 04-39 for postponement.

City Planner Cechman stated that there are additional issues to be resolved between the applicant and the surrounding communities and therefore they have requested a postponement of Ordinances 04-37, 04-38, and 04-39 until August 26, 2004. **Mr. Charlie Madden**, representative for the contract purchaser Mr. Bob Zlatkiss, stated that during the neighborhood meetings, concerns have been raised regarding the traffic on Hennis Road and what will be done during the interim. Therefore, they are going to have a traffic light warrant study done and then meet with FDOT, who controls Plant Street, to get some definitive answers on what can be done about a traffic light prior to August 26, and that is why they have requested a postponement. **Commissioner Graham** asked if a study would be done at both Hennis and West Crown Point Road. **City Manager Holden** stated that there have been ongoing discussions with FDOT to get four lanes through this particular section and three lanes from Ninth to Dillard. There have been numerous meetings regarding a Congestion Management Study (CMS) and priority intersections have been identified with the first being Ninth Street. The City has acquired property at Hennis, which requires some corner clips to improve the intersection under the CMS plans. Discussions have included traffic lights eventually at Ninth Street and at West Crown Point Road. It is our hope that the study will validate this, and it will allow more traffic out of Hennis by not having a light with a right turn lane because synchronization has a built-in gap. It has been several years since a study has been done, therefore staff will want to review the latest study also. The City

has tried to divert and design the road to put all the industrial traffic coming out onto West Crown Point Road and not off Hennis Road as much as possible. **Commissioner Dixon** stated that for years, she has been trying to get a traffic light at Ninth Street and there is significant congestion at West Crown Point Road. Therefore, she is in favor of any progress towards installing traffic lights at these congested intersections. **Motion by Commissioner Graham to postpone the second reading and public hearing of Ordinances 04-37, 04-38, and 04-39 until August 26, 2004. Seconded by Commissioner Thompson and carried unanimously 4-0.**

2. FIRST READING OF PROPOSED ORDINANCES

A. Ordinance 04-47: AMENDING CHAPTER 2, ARTICLE III, PROVIDING FOR CREATION OF AN INFORMATION TECHNOLOGY DEPARTMENT, PROVIDING FOR A DIRECTOR OF THE INFORMATION TECHNOLOGY DEPARTMENT, APPOINTMENT AND DISCHARGE, COMPENSATION, DUTIES GENERALLY, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE

City Attorney Everett read Ordinance 04-47 by title only. **Motion by Commissioner Thompson to approve Ordinance 04-47 and to schedule the second reading and public hearing on August 12, 2004. Motion seconded by Commissioner Graham and carried unanimously 4-0.**

B. Ordinance 04-48: VACATING THE EASTERLY 7 FEET OF THE TWELVE FOOT DRAINAGE AND UTILITY EASEMENT LOCATED ADJACENT TO THE WESTERNMOST PROPERTY LINE, LESS 6 FEET ON THE NORTHERN AND SOUTHERN PROPERTY LINES OF 13181 LAKESHORE GROVE DRIVE, WINTER GARDEN, FLORIDA; PROVIDING AN EFFECTIVE DATE

City Attorney Everett read Ordinance 04-48 by title only. **Motion by Commissioner Thompson to approve Ordinance 04-48 and to schedule the second reading and public hearing on August 26, 2004. Motion seconded by Commissioner Dixon.** Commissioner Graham asked why vacate seven feet when the pool will be within five feet of their property line. City Manager Holden stated that the twelve-foot drainage easement is within the owner's property line and by vacating seven feet, the owner's pool would then be within five feet of his property line. **Motion carried unanimously 4-0.**

C. Ordinance 04-49: VACATING THE NORTHERLY 5 FEET OF THE TEN FOOT DRAINAGE AND UTILITY EASEMENT LOCATED ADJACENT TO THE SOUTHERNMOST PROPERTY LINE, LESS 5 FEET ON THE WESTERN AND EASTERN PROPERTY LINES OF 1144 BRANDY LAKEVIEW CIRCLE, WINTER GARDEN, FLORIDA; PROVIDING AN EFFECTIVE DATE

City Attorney Everett read Ordinance 04-49 by title only. **Motion by Commissioner Thompson to approve Ordinance 04-49 and to schedule the second reading and public hearing on August 26, 2004. Motion seconded by Commissioner Graham and carried unanimously 4-0.**

D. **Ordinance 04-50: VACATING 190 FEET OF FIRST AVENUE OF THE PLAT OF THE TOWN OF CROWN POINT; PROVIDING AN EFFECTIVE DATE**

City Attorney Everett read Ordinance 04-50 by title only. Commissioner Thompson asked where exactly this avenue is located. City Manager Holden stated that it is actually a "paper only" street that cannot be seen. Ms. Sandra Rice, 1181 West Crown Point Road, Winter Garden, Florida, stated she is the applicant and the adjacent landowner who has been maintaining the property. Her first step to acquiring the property is to request the vacation. **Motion by Commissioner Thompson to approve Ordinance 04-50 and to schedule the second reading and public hearing on August 26, 2004. Motion seconded by Commissioner Dixon.** Commissioner Graham asked if recording a new deed would be notification to the County Property Appraiser that the property has increased in value because her lot would be increased by 40 feet x 190 feet. City Attorney Everett stated yes, the new deed would initiate a new assessment. **Motion carried unanimously 4-0.**

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

A. **Ordinance 04-27: ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS .93 ACRES LOCATED NORTH OF STATE ROAD 50 AND APPROXIMATELY 1,920 FEET WEST OF AVALON ROAD, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN, FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; AND AN EFFECTIVE DATE** (Marker)

City Attorney Everett read Ordinance 04-27 by title only. Mayor Pro Tem Harriman opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Graham to adopt Ordinance 04-27. Seconded by Commissioner Thompson and carried unanimously 4-0.**

B. **Ordinance 04-28: AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY INCLUDING PROPERTY GENERALLY DESCRIBED AS .93 ACRES OF LAND LOCATED NORTH OF STATE ROAD 50 AND APPROXIMATELY 1,920 FEET WEST OF AVALON ROAD AS COMMERCIAL: PROVIDING FOR AN EFFECTIVE DATE** (Marker)

City Attorney Everett read Ordinance 04-28 by title only. Mayor Pro Tem Harriman opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Graham to adopt Ordinance 04-28. Seconded by Commissioner Thompson and carried unanimously 4-0.**

C. **Ordinance 04-29: REZONING .93 ACRES LOCATED NORTH OF STATE ROAD 50 AND APPROXIMATELY 1,920 FEET WEST OF AVALON ROAD, MORE SPECIFICALLY DESCRIBED HEREIN FROM ORANGE COUNTY CITRUS RURAL TO CITY C-2; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE** (Marker)

City Attorney Everett read Ordinance 04-29 by title only. Mayor Pro Tem Harriman opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Graham to adopt Ordinance 04-29. Seconded by Commissioner Thompson and carried unanimously 4-0.**

- D. **Ordinance 04-30: ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 8.46 ACRES LOCATED AT 15401 W. COLONIAL DRIVE, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN, FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE** (Sadler)

City Attorney Everett read Ordinance 04-30 by title only. Mayor Pro Tem Harriman opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Dixon to adopt Ordinance 04-30. Seconded by Commissioner Graham and carried unanimously 4-0.**

- E. **Ordinance 04-31: AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY INCLUDING PROPERTY GENERALLY DESCRIBED AS 8.46 ACRES OF LAND LOCATED AT 15401 W. COLONIAL DRIVE AS COMMERCIAL WITH CONSERVATION OVERLAY; PROVIDING FOR AN EFFECTIVE DATE** (Sadler)

City Attorney Everett read Ordinance 04-31 by title only. Mayor Pro Tem Harriman opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Dixon to adopt Ordinance 04-31. Seconded by Commissioner Graham and carried unanimously 4-0.**

- F. **Ordinance 04-32: REZONING A 8.46 ACRE LOT LOCATED AT 15401 W. COLONIAL DRIVE, MORE SPECIFICALLY DESCRIBED HEREIN FROM ORANGE COUNTY CITRUS RURAL TO CITY C-2; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE** (Sadler)

City Attorney Everett read Ordinance 04-32 by title only. Mayor Pro Tem Harriman opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Graham to adopt Ordinance 04-32. Seconded by Commissioner Thompson and carried unanimously 4-0.**

- G. **Ordinance 04-33: AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING PROPERTY GENERALLY DESCRIBED AS 9.902 ACRES OF LAND LOCATED APPROXIMATELY 500 FEET SOUTH OF SR 50 AND 2,300 FEET WEST OF CR 545 FROM COMMERCIAL TO MEDIUM DENSITY RESIDENTIAL; PROVIDING FOR AN EFFECTIVE DATE** (Tucker north)

City Attorney Everett read Ordinance 04-33 by title only. City Planner Cechman stated this is the first of three Ordinances dealing with the northern side of the Turnpike. Mayor Pro Tem Harriman opened the public hearing.

Mr. Don McIntosh, 2200 Park Avenue North, Winter Park, Florida, representing the applicants, stated they have coordinated with the area residents and all agencies with jurisdiction over said property and reported that the FDOT is planning to four lane State Road 50 in 2006-2007, which will be after this project is completed. Therefore, there will be interim lane improvements required to provide safe and adequate access. They have coordinated with the Thomases, who reside in the southwest corner of this property and their access has been preserved and buffers have been provided as requested, so the development has as little impact as possible. Commissioner Dixon asked about the 10-year plan for a park. City Manager Holden responded that this is not the same parcel and advised that staff has not given up working with the County to try and convert the Tucker South property into a park. The City was turned down on the prior grant, but something else has come up with the County that staff is trying to pursue in order to preserve that whole area as a park.

Jim Thomas, 15668 W. Colonial Drive, Winter Garden, Florida, (Orange County), stated he is not opposing the project but has a couple of questions. First, they have a problem at their driveway because they have no left turn-lane, but an open, dangerous highway. He asked if there be a requirement that they have to improve the left turn-lane situation before they begin developing as commercial at their driveway entrance. **Mr. McIntosh** responded that they are committed to installing a left hand turn-lane with the first units because there is no other way to provide safe access on State Road 50. **Mr. Thomas** also asked about how this development will work with the proposed widening of the Turnpike whose plans include a very large retention pond just to the east side of his house. Currently, to the west of his property contains the only outfall from Johns Lake to Lake Apopka. They have had problems in the past, and he wants to make sure there is enough right-of-way to provide enough outfalls. **Mayor Pro Tem Harriman** stated that he believes the outfall is in County area. **Mr. Thomas** stated that it is his understanding that the County does not have all the right-of-way it needs to provide the improvements needed. **City Manager Holden** responded that staff has been emphasizing regularly the need to obtain the right-of-way and they are moving quite quickly by acquiring retention ponds and clips all the way down to Beulah. He is not sure if the early designs were not just options and if the final design is going to put the pond to the east of Mr. Thomas' home. **Mr. McIntosh** responded that they have coordinated first with the Turnpike Authority and have done a concept plan without final calculations, so they have exaggerated the area of need. This project's stormwater management system has been sized to incorporate what the Turnpike is doing so they will not have to condemn houses as well as coordinate with FDOT who has identified four ponds along that area. Related to the drainage outfall, there are a series of box culverts underneath the Turnpike that are a major outfall for this area and this project has preserved the area west of the pond, which is west of Mr. Thomas' home.

Hearing no other comments, the public hearing was closed. **Motion by Commissioner Graham to adopt Ordinance 04-33 with staff recommendations (see attached). Seconded by Commissioner Dixon and carried unanimously 4-0.**

H. **Ordinance 04-34: REZONING APPROXIMATELY 78.5 ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED ON THE SOUTHWEST CORNER OF SR50 AND CR545 AND SOUTHWEST OF COUNTRY GARDENS APARTMENTS FROM COUNTY A-1 TO CITY PUD; PROVIDING FOR CERTAIN PUD REQUIREMENTS; PROVIDING FOR SEVERABILITY; AND AN EFFECTIVE DATE** (Tucker north)

City Attorney Everett read Ordinance 04-34 by title only. City Planner Cechman stated that staff has reviewed the PUD and recommends approval. The Planning and Zoning Board met on June 7, 2004 and also recommended approval. Staff has included some recommended conditions as provided in the agenda package. Mayor Pro Tem Harriman opened the public hearing.

Mr. Don McIntosh, 2200 Park Avenue North, Winter Park, Florida, stated he agrees with staff conditions and embraces them as part of the approval. **Commissioner Graham** referred to the City Engineer's report in bold on page 3 "Response implies that the SJRWMD Lake Apopka Rule will somehow affect this requirement, but it will not. Reuse mains, services, and meters shall be required with the initial infrastructure as required by Code." and asked Mr. McIntosh for a response. **Mr. McIntosh** stated that with the total retention that is proposed within the development, they will meet the Apopka Rule and intend to meet every rule that governs the development of the property. He thinks the Engineer attempted to clarify that regardless, reclaimed water lines are going to be required as part of this development, and they understand that is the City's standard operating procedure.

Hearing no other comments, the public hearing was closed. **Motion by Commissioner Thompsen to adopt Ordinance 04-34 with staff recommendations (see attached). Seconded by Commissioner Dixon and carried unanimously 4-0.**

I. **Ordinance 04-35: REZONING A 18.707 ACRE LOT LOCATED ON SR 50 APPROXIMATELY 2,300 FEET WEST OF CR 545 MORE SPECIFICALLY DESCRIBED HEREIN FROM ORANGE COUNTY A-1 TO CITY C-2; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE** (Tucker north)

City Attorney Everett read Ordinance 04-35 by title only. City Planner Cechman stated that this item is the remaining northern piece of the Tucker North property abutting State Road 50. There are no developments proposed at this time. The request is for rezoning and that will become part of the State Road 50 overlay requirements. Mayor Pro Tem Harriman opened the public hearing. **Mr. Don McIntosh**, 2200 Park Avenue North, Winter Park, Florida, stated he is in favor. Hearing no other comments, the public hearing was closed. **Motion by Commissioner Graham to adopt Ordinance 04-35. Seconded by Commissioner Dixon and carried unanimously 4-0.**

J. **Ordinance 04-37: ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 9.12 ACRES LOCATED AT 602 HENNIS ROAD, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN, FLORIDA; REDEFINING THE CITY BOUNDARIES TO**

GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE (Youngblood/Roper) *This item was acted upon at the beginning of this meeting.*

K. Ordinance 04-38: AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY INCLUDING PROPERTY GENERALLY DESCRIBED AS 9.12 ACRES OF LAND LOCATED AT 602 HENNIS ROAD AS LOW-DENSITY RESIDENTIAL; PROVIDING FOR AN EFFECTIVE DATE (Youngblood/Roper) *This item was acted upon at the beginning of the meeting.*

L. Ordinance 04-39: REZONING APPROXIMATELY 114.86 ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED ON THE NORTHWEST CORNER OF HENNIS ROAD AND EAST DIVISION STREET FROM CITY R-1 AND R-2 AND COUNTY CITRUS RURAL TO CITY PUD; PROVIDING FOR CERTAIN PUD REQUIREMENTS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE (Youngblood/Roper) *This item was acted upon at the beginning of the meeting.*

M. Ordinance 04-21: VACATING THE 60 FEET OF RIGHT-OF-WAY OF WOFFORD ROAD, FROM STORY ROAD TO THE INTERESECTION OF STATE ROAD 429 (Postponed from July 8, 2004)

City Attorney Everett read Ordinance 04-21 by title only. City Planner Cechman stated that staff is requesting postponement of the public hearing until August 12, 2004 to rectify issues related to the legal description. **Motion by Commissioner Thompson to postpone second reading and public hearing of Ordinance 04-21 until August 12, 2004. Seconded by Commissioner Graham and carried unanimously 4-0.**

N. 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

Finance Director Bollhoefer stated that staff is requesting postponement of the public hearing until August 12, 2004 due to legal advertising errors by the newspaper. **Motion by Commissioner Thompson to postpone second reading and public hearing of Ordinance 04-17 until August 12, 2004. Seconded by Commissioner Dixon and carried unanimously 4-0.**

4. **REGULAR BUSINESS**

- A. **Request from West Orange High School to place an advertisement in their yearbook**
Mayor Pro Tem Harriman stated this request is submitted annually and last year the Commission purchased a full-page ad. **Motion by Commissioner Graham to approve a full-page advertisement in the West Orange High School yearbook for \$400 from the special donation account. Seconded by Commissioner Dixon and carried unanimously 4-0.**

- B. **Request for approval to conduct an open-air auto tent sale by Clermont Chrysler Jeep; August 4 – 10, 2004 on W. Colonial next to AmSouth Bank; Request for approval to conduct an open-air auto tent sale by Nations Truck and SUV Center; August 18 – 24, 2004 on Colonial next to AmSouth Bank**

Mayor Pro Tem Harriman stated that he contacted AmSouth Bank and they informed him that they rarely finance the cars sold and asked if anyone has had any complaints from other dealers regarding temporary auto sales. City Planner Cechman stated that Code Enforcement frequently deals with cars being sold on open lots and tells them they cannot sell in this manner, in accordance with our code. Staff has reviewed both requests and asked for guidance regarding a policy because these sales detract from the intent of the State Road 50 Overlay Ordinance. Staff also believes that these sales make the playing field unequal as previously stated. Therefore, staff is recommending denial of these two requests. **Commissioner Dixon** stated that the shopping center next to AmSouth is largely vacant since the departure of Publix and she favors someone bringing business to the center. **Mayor Pro Tem Harriman** stated he agrees with staff. **Commissioner Graham** suggested that an ordinance be drafted with a fee that will cover the City's cost. **City Attorney Everett** stated that the Commission has a legitimate basis for setting a fee because other merchants are paying their "freight" and these dealerships are coming into the City and deriving benefit from the citizens, while creating a burden to the City and impacting the infrastructure, etc. **Mayor Pro Tem Harriman** agreed with the City Attorney. **Kim Cutting** with Clermont Chrysler Jeep stated that they are a brand new quality dealership and want to bring attention to their new business. They would not have big balloons and are doing everything to comply with City regulations. **Ronnie Day**, 207 Shady Oak Lane, Lady Lake, Florida, stated his sale will also bring business to the shopping center. **Motion by Commissioner Dixon to approve both open-air auto tent sales as requested and for staff to draft an ordinance regarding the application process and fees for future requests. Seconded by Commissioner Graham. Motion failed by virtue of a 2-2 tie vote; Dixon and Graham in favor, Harriman and Thompson opposed.**

- C. **Recommendation to purchase 208 Center Street**

Assistant to the City Manager Robertson stated that the son of Clara Manuel, David Manuel, called him and offered to sell this parcel to the City. The negotiated contract has been provided in the agenda package. This parcel is 100 by 50 feet and is adjacent to the pocket park on Tenth Street. It also abuts the property on Tenth Street that was just

condemned and demolished, which will be foreclosed on. Purchasing this parcel potentially allows the three parcels to connect and could be combined into one parcel. Potential uses could be for parking, enlarging the park or assembled to a larger parcel for redevelopment. **City Manager Holden** added that when redevelopment was looked at in East Winter Garden for commercial and improved housing, one problem was the complexity of all of the small lots owned by different owners. Therefore, when opportunities arise such as this to make larger lots, he feels it is important to make use of the opportunity. **Commissioner Dixon** stated that a bathroom facility for the pocket park would be beneficial and would reduce the amount of people using the Maxey Center bathrooms. **Commissioner Graham** asked if this parcel could be purchased with recreation impact fees. **City Manager Holden** stated not without specifically designating it as a park, recommended purchasing the parcel from general funds, and if the parcel is improved as a park, impact fees could be used to reimburse the general fund. It has the greatest potential for a very nice park that is in the center of activity near Maxey. **Motion by Commissioner Dixon to approve and authorize the purchase of 208 Center Street for \$6,000. Seconded by Commissioner Thompson and carried unanimously 4-0.**

5. MATTERS OF CONCERN FROM CITIZENS

Don Miller, 1073 Woodson Hammock, Winter Garden, Florida, first addressed Commissioner Thompson's previous statements regarding his motion to close Trailer City and that the park could not be used by the citizens of Winter Garden which is not true because anyone meeting certain criteria can buy a trailer and live there. Any citizen can use a public building in Winter Garden if they meet certain conditions. But he doesn't believe anyone can use the old Rainbow Market, old trucking company property, or any other property purchased by the City even under certain conditions. These properties have been removed from the tax rolls and taxes have not been collected for several years. It is his hope that he can change Commissioner Thompson's way of thinking. Mr. Miller complimented City Manager Holden on being a good City Manager for the City of Winter Garden who has accomplished several things and is well qualified. However, during the past three years of the Commission meetings, he has attended (99.5%), he has noticed a change whereby people leave the meetings angry, women leave with tears, and it is not right for that to happen in the City of Winter Garden Commission Chambers. The City Commission is the City Manager's boss and should be making corrections as needed. The real problem is there is no accountability required of the City Manager or Police Chief, who is a very good man and doing the job right. He doesn't understand how the Commission was able to select the Police Chief they never met and approve the appointment only on someone else's say so. A city the size of Winter Garden, of almost 22,000 residents, has a City Manager with no contract, the Police Chief has no contract, and department heads have no contract. Therefore, the Commission may be giving them a job to do but they sometimes are overstepping their bounds all because there is no accountability. There needs to be a job description and it needs to be spelled out in a contract. The Town of Oakland has a contract with the City Manager and Police Chief; Ocoee has a contract with the City Manager, Police Chief, and all other Department Heads and this should happen in Winter Garden. A contract spells out their job responsibilities, the duration, renewal options, and keeps the department heads from

assuming responsibilities that is not their job. It gives the Commission a way to evaluate and hold them responsible for their actions. As Chairman of the Homeowners' Association, he is asking the Commission to discuss this problem tonight and make a motion to instruct the City Attorney to draft a contract for the City Manager and all department heads. Additionally, appoint the Mayor and two Commissioners to work with the City Attorney to bring it back to the Commission for action. There is no reason this can't be done at this part of the agenda tonight. **Commissioner Dixon** pointed out that the Commissioners are elected by District and they voted in as single-member Districts. The Mayor presides over the meetings and has a vote, which prevents ties as happened earlier in the meeting. The Commissioners are supposed to take care of their districts and come together to discuss what affects the City as a whole. The City Manager's job is to manage the City day-to-day and presents department heads to the Commission for approval as he did with the Police Chief and Fire Chiefs. If the Commission doesn't want to hire a department head based upon the City Manager's recommendation, they don't have to because they can vote against it. The City Commission can't take any action referred to by Mr. Miller without first changing the Charter and/or Code. If anyone tries to make a change, she will have the League of Services and the NAACP involved immediately. The City Commission runs the City and staff makes recommendations. If a Commissioner doesn't agree with a recommendation, they just vote against it. **Mayor Pro Tem Harriman** stated that a full Commission, including the Mayor, should be present to address the issues raised. **Commissioner Graham** stated that in order to have contracts, the City Charter would have to be amended because it already states how the City Manager, Auditor, and Judge are appointed. Other than that, the City Manager controls all the Department Heads and recommends appointment to the City Commission. Any change to the Charter would have to be voted on by the residents. **City Manager Holden** stated that the City Commission also appoints the City Clerk. **Mr. Miller** then asked that a Charter Review Committee be established to get accountability and that he hopes some action will be taken in this direction instead of forgetting about it. He asked for comments from the City Attorney. **City Attorney Everett** stated that it is not his role to address inquiries from citizens during a Commission meeting unless he is directed to do so by the City Commission. He is the legal counsel for the City Commission and renders advice as directed. **Commissioner Thompson** asked Mr. Miller why he wants contracts when it would serve to protect the City Manager more than it would the City. **City Manager Holden** stated yes. **Mr. Miller** stated that a contract would protect the City and those holding the position would have their responsibilities spelled out. Presently, there seems to be no accountability. Things have been done that they know of that the Commission has never reprimanded anybody about. **Commissioner Thompson** asked why a contract would make a difference because it is already in the City Charter. **Mr. Miller** stated that when someone is elected by a majority vote, they are voted in to represent the residents and if they want something done the elected official is supposed to see that it gets done. **Commissioner Thompson** disagreed. **Mr. Miller** also stated that a Commissioner should vote the direction the majority of what the people want regardless of how a Commissioner feels about the issue. **Commissioner Thompson** disagreed.

Andy Bruns, 6 Laurel Drive, Winter Garden, Florida, (Trailer City), stated he is speaking to the two requests for auto tent sales that were denied earlier on a tie vote and asked how much a previous tent sale brought into the City. **City Manager Holden** stated that there was a

voluntary donation made by the business of \$5,000, which the Commission has been using to award donations requested. Mr. Bruns stated he is sure the two applicants would like to do the same and as a citizen, he has a problem with his own District Commissioner turning down a potential donation. The shopping center is empty and could use the business. The City Manager has indicated staff will be working on a draft ordinance so these sales can be held and noted that there were no local business owners here tonight speaking in opposition of these requests. There does not seem to be a good reason behind his District Commissioner's vote against the sales event. Mr. Bruns referenced Mr. Miller's comments earlier about a contract for the City Manager. He also commented about pay raises for the City Manager and city employees without a contract, and asked if the City has a policy on what is given. Does the Commission go by a contract or give them just whatever they want. The raises are given with tax dollars and he thinks that what Mr. Miller is saying is someone should be held accountable for it. The citizens have the right to know what the City Manager and people under him are being paid as well as some accountability. He would like some further consideration with regard to the tent sale requests.

June Osborne, 7 Laurel Drive, Winter Garden, Florida, (Trailer City), asked if there are so many fire hazards in Trailer City why would the Commission vote to leave them there for eight years. **Commissioner Thompson** stated that he voted to giving them up to eight years, but they can get out tomorrow to relocate to a safe place. During the eight years, they are going to be working on the Fire Code hazards. **City Manager Holden** stated that staff is in the process of developing a plan to bring to the Commission to address these very issues. Florida State Statute 723 requires the City to find and make available suitable alternate living accommodations. There has been no vote taken regarding the eight years, so he can't say at this point.

Elwin Washburn, 22 Orange Drive, Winter Garden, Florida, (Trailer City), stated a good word has come across this evening and that is "accountability". He disagrees with his District Commissioner because when he comes to their door asking for support to vote them into office, he thinks they should say, "If you vote me into office it doesn't mean I'm going to do what you want me to do". He thinks the Commissioners should redeem their offices and reverse their idea of closing Trailer City. Keep it there. The property is not needed for anything. We don't need another park. Just make Trailer City a more beautiful place than what it already is and let's work together to keep it there.

Kim Cutting, 11217 Crescent Bay Boulevard, Clermont, Florida, representing Clermont Chrysler Jeep dealership stated that had they known about the opportunity to make a donation, they would have done so up front. Ken Wesenberg, General Manager, is excited about having an open-air tent sale in Winter Garden and she just phoned him and respectfully offered a donation of \$1,000. Competition is something that America is built on and is a good thing. It will not hurt others on Highway 50 and she thanked the Commission for their time. **City Manager Holden** asked if they would be selling new cars or relatively newer used cars. **Ms. Cutting** stated they would be pre-owned vehicles all within a few years of being new and a few new vehicles.

Ronnie Day, 207 Shady Oak Lane, Lady Lake, Florida, stated he understands the Commission's concerns about other car dealerships in the area; however, they are not present to express their concerns. He stated that he has just started his own business and has invested \$10,000 and would be willing to donate \$1,000 if the decision could be reversed. He has already invested \$2,000 that he cannot get back advertising the sale, which will hurt him. His vehicles are a year or two old and have a warranty. He has spoken to someone else who held two vehicle sales at the K-Mart Plaza without any complications. **City Manager Holden** clarified that the party involved with the K-Mart Plaza sales made a donation offer from the beginning. **Mayor Pro Tem Harriman** stated that the Commission could reconsider these requests in contemplation of an ordinance being drafted to address the issues discussed. **Motion by Commissioner Dixon to reconsider Regular Business Item "B" two-air auto tent sales requests. Seconded by Commissioner Graham and carried 3-1; Commissioner Thompson opposed.**

Motion by Commissioner Dixon to approve two open-air auto tent sales; one by Clermont Chrysler Jeep from August 4 – 10, 2004 and one by Nations Truck and SUV Center from August 18 – 24, 2004 on West Colonial next to AmSouth Bank; and for staff to draft an Ordinance regarding the application process and fees for future requests. Seconded by Commissioner Graham. Commissioner Thompson stated that he would not be against these auto sales if the businesses conducting the sale were from Winter Garden. He would also be against trucks parking across from Publix selling groceries. City Attorney Everett clarified that both applicants have each amended their presentations to include a \$1,000 donation, which has been taken into consideration as part of the motion made by Commissioner Dixon. **Motion carried 3-1; Commissioner Thompson opposed.**

Charlene Wright, 1763 Christopher Street, Winter Garden, Florida, stated her concern regarding her application to operate a convenience store and game room on Center Street that has been closed a year in September. Twice the City Planner has denied her application and she wants to know why they can't have recreation for the kids in the neighborhood. **City Planner Cechman** stated that an application for occupational license has been received for the property, which is zoned R-NC, and the "R" references predominantly residential. Staff has worked with the applicant regarding the convenience store portion, but there are issues related to the game room/pool hall that is not allowed by right or by special exception. Pool halls are allowed in C-2 zoning. **Ms. Wright** said there are two pool tables. **City Manager Holden** stated that the current R-NC zoning has clear restrictions that were previously passed by the City Commission, which does not even allow the applicant to make a request to the Planning and Zoning Board. **Ms. Wright** stated that when she came into the business it already had an occupational license, which was valid through September of last year. She was told that she could continue the business if it had not been closed for six consecutive months, which when she first came to the City it had not been closed for six months. **Commissioner Dixon** asked about when Center Street was rezoned because since she was born on Center Street that had 18 businesses that included a game room. She asked who changed the zoning and were they out of compliance all those years. **City Planner Cechman** stated that he can't speak to what prior staff did, but there are things that went on in East Winter Garden that he doesn't believe were strictly enforced such as boarding houses not having an occupational license. **Commissioner Dixon** asked what happened to the

businesses on Center Street to say they can only have a grocery store and no other kind of recreation because it presents a problem to her because the young people hanging around the corner need something to do. She wants them back on Center Street, which was good enough for her and they had the poolroom back then. Ms. Wright has retained a lawyer, Ralph Armstead, who has written a letter to Mr. Cechman and he has not yet responded. **City Planner Cechman** stated that Mr. Armstead's letter has been referred to Assistant City Attorney Lionel Rubio, who has been trying to reach him to discuss this issue. **Commissioner Dixon** stated that there needs to be a happy medium reached about Center Street and they need to be zoned to allow them to have a game room. **City Attorney Everett** stated that there have been repeated attempts to contact Mr. Armstead and that the burden is on the property owner and applicant to make sure Mr. Armstead contacts them. **Commissioner Dixon** stated she will see to the matter.

6. **MATTERS FROM CITY ATTORNEY** – Dykes Everett had nothing to report.

7. **MATTERS FROM CITY MANAGER**

Introduced the new Utilities Director Fernand “Tib” Tiblier who is a registered engineer and about to become the President of the Volusia Chapter of Engineers. He was previously the Public Works Director for Deltona and Longwood, and then in private industry for about four years. The City Manager and staff are delighted to have him. Utilities Director Tiblier thanked the City Manager for the introduction and stated he is pleased to serve the citizens of Winter Garden. Everyone welcomed him to Winter Garden.

A. **Financial Statement for June 2004**

Stated that the statement submitted is for the third quarter and the City remains in excellent financial condition.

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

Stated that Winter Garden participated last year as a “Friend” for \$100. **Motion by Commissioner Dixon to participate this year as a “Friend of Founders Day” in Ocoee for \$100. Seconded by Commissioner Graham and carried 3-1; Commissioner Thompson opposed.**

C. **Request for sponsorship by the Health Central Foundation for the School Nurse Program**

City Clerk Golden reported that last year, through the Centennial Program, the City participated and that is why the request was received this year. **Motion by Commissioner Graham to purchase five (5) individual tickets at \$160 each. Seconded by Commissioner Dixon and carried unanimously 4-0.**

8. **MATTERS FROM MAYOR PRO TEM AND COMMISSIONERS** - None

The meeting was adjourned at 8:50 p.m.