

**REGULAR MEETING MINUTES
CITY COMMISSION**

August 12, 2004

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Jack Quesinberry at 6:30 p.m. in City Hall Commission Chambers. The invocation and Pledge of Allegiance were given (Commissioner Dixon arrived at 6:32 p.m.).

Present: Mayor Quesinberry, Commissioners Bill Thompson, Mildred Dixon, and John Harriman

Absent: Commissioner Theo Graham

Also Present: City Manager Hollis Holden, City Attorney Dykes Everett, City Clerk Kathy Golden, 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, Information Technology Manager Bob Reilly, Assistant Finance Director Brian Strobeck, and West Orange Times reporter Michael Laval

1. **APPROVAL OF MINUTES**

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

2. **FIRST READING OF PROPOSED ORDINANCES**

A. **Ordinance 04-43:** PROVIDING FOR THE ANNEXATION OF 0.4 ACRES LOCATED AT 905 9th STREET, 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

City Attorney Everett read Ordinance 04-43 by title only. **Motion by Commissioner Harriman to approve Ordinance 04-43 and schedule the second reading and public hearing on September 8, 2004. Seconded by Commissioner Dixon and carried unanimously 4-0.**

B. **Ordinance 04-44:** AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY INCLUDING PROPERTY GENERALLY DESCRIBED AS 0.4 ACRES OF LAND LOCATED AT 905 9th STREET AS COMMERCIAL; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Everett read Ordinance 04-44 by title only. **Motion by Commissioner Harriman to approve Ordinance 04-44 and schedule the second reading and public hearing on September 8, 2004. Seconded by Commissioner Dixon and carried unanimously 4-0.**

- C. **Ordinance 04-45:** REZONING A 0.4 ACRE LOT LOCATED AT 905 9th STREET MORE SPECIFICALLY DESCRIBED HEREIN FROM ORANGE COUNTY RESIDENTIAL DISTRICT TO CITY C-2; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE
City Attorney Everett read Ordinance 04-45 by title only. **Motion by Commissioner Dixon to approve Ordinance 04-45 and schedule the second reading and public hearing on September 8, 2004. Seconded by Commissioner Harriman and carried unanimously 4-0.**
- D. **Ordinance 04-46:** AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY INCLUDING PROPERTY GENERALLY DESCRIBED AS 1.93 ACRES OF LAND LOCATED AT THE NORTHEAST CORNER OF ROPER ROAD AND DANIELS ROAD AS NEIGHBORHOOD COMMERCIAL; PROVIDING FOR AN EFFECTIVE DATE
City Attorney Everett read Ordinance 04-46 by title only. **Motion by Commissioner Dixon to approve Ordinance 04-46 and schedule the second reading and public hearing on September 8, 2004. Seconded by Commissioner Harriman and carried unanimously 4-0.**
- E. **Ordinance 04-51:** ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS .18 ACRES LOCATED AT 1236 EDGEWAY 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 AND AN EFFECTIVE DATE
City Attorney Everett read Ordinance 04-51 by title only. **Motion by Commissioner Harriman to approve Ordinance 04-51 and schedule the second reading and public hearing on September 8, 2004. Seconded by Commissioner Dixon and carried unanimously 4-0.**
- F. **Ordinance 04-52:** AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY INCLUDING PROPERTY GENERALLY DESCRIBED AS .18 ACRES OF LAND LOCATED AT 1236 EDGEWAY DRIVE AS LOW-DENSITY RESIDENTIAL; PROVIDING FOR AN EFFECTIVE DATE
City Attorney Everett read Ordinance 04-52 by title only. **Motion by Commissioner Thompson to approve Ordinance 04-52 and schedule the second reading and public hearing on September 8, 2004. Seconded by Commissioner Harriman and carried unanimously 4-0.**
- G. **Ordinance 04-53:** REZONING .18 ACRES LOCATED AT 1236 EDGEWAY DRIVE, MORE SPECIFICALLY DESCRIBED HEREIN FROM ORANGE COUNTY RESIDENTIAL DISTRICT TO CITY R-1B; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE
City Attorney Everett read Ordinance 04-53 by title only. **Motion by Commissioner Dixon to approve Ordinance 04-53 and schedule the second reading and public**

hearing on September 8, 2004. Seconded by Commissioner Harriman. Commissioner Dixon asked about the intentions of the property owner for the rezoning because she thought he was going to install a swimming pool. City Planner Cechman stated the owner has indicated that he will use the land for a driveway and possibly a small utility shed. The owner has indicated no desire to build a house or a swimming pool on the parcel. **Motion carried unanimously 4-0.**

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

- A. **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 (**Postponed from July 22, 2004**)

City Attorney Everett read Ordinance 04-17 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to adopt Ordinance 04-17. Seconded by Commissioner Thompson.** Commissioner Dixon asked about recreation impact fees versus the fees charged for programs. City Manager Holden stated that impact fees can only be used in association with growth such as the need for more parks, etc. and can't be used for programs. **Motion carried unanimously 4-0.**

- B. **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 and July 22, 2004**)

City Attorney Everett read Ordinance 04-21 by title only. City Planner Cechman stated that this Ordinance was previously postponed because 40 feet along Wofford Road needed to be excluded and the applicant has accomplished this by submitting a new survey as an attachment to the proposed Ordinance. A scrivener's error on the proposed Ordinance that states "less out the north 40 feet" should be removed because the new survey reflects this change. Mayor Quesinberry opened the public hearing. Dan Langley, attorney for the applicant Florida Auto Auction, stated that they are in agreement with staff's recommendation to remove the language indicated by Mr. Cechman. Hearing no other comments, the public hearing was closed. Commissioner Thompson asked where Wofford Road is located. City Planner Cechman stated that it is actually on the Ocoee side of the Western Beltway (State Road 429) and is nothing more than a dirt road that for the most part was removed by the Beltway except for this sliver. **Motion by Commissioner Thompson to adopt Ordinance 04-21. Seconded by Commissioner Harriman. Motion carried unanimously 4-0.**

- C. **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. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to adopt Ordinance 04-47. Seconded by Commissioner Thompson. Motion carried unanimously 4-0.**

4. **REGULAR BUSINESS**

A. **Recommendation to reject the single bid submitted for improvements to Crown Point Cross Road between West Crown Point Road and East Crown Point Road, and authorize the City to award subcontracts not to exceed \$647,742.82**

Public Works Director Smith stated that five contractors requested plans and four attended the pre-bid meeting but only a single bid was submitted by Gibbs and Register for approximately \$900,000 and the City Engineer's estimate was approximately \$600,000. Staff attempted to negotiate a lower price with the contractor, but was unsuccessful. Therefore, staff is recommending that the single bid be rejected and approval for the Public Works Department to act as the general contractor to subcontract various components in an amount not exceed \$647,742.82 (base bid plus alternate 1 with a 5 percent contingency). This will allow the City to remain in compliance with the State grant requirement that the construction must commence by September 15, 2004. **Motion by Commissioner Harriman to reject the single bid placed for Crown Point Cross Road. Seconded by Commissioner Thompson and carried unanimously 4-0.**

Motion by Commissioner Dixon approving the Public Works Department to act as its own General Contractor to subcontract the road improvements to Crown Point Cross Road between West Crown Point Road and East Crown Point Road not to exceed \$647,742.82. Seconded by Commissioner Harriman and carried unanimously 4-0.

5. **MATTERS OF CONCERN FROM CITIZENS - None**

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

7. **MATTERS FROM CITY MANAGER**

- Reported on the status of Hurricane Charley that has the City essentially at Level 2. All critical sites have been contacted such as the mobile home parks and assisted living centers. There have been reports that the area shelters can expect up to one million evacuees into Central Florida. City crews will not be dispatched when winds reach a sustained speed of 40 to 50 mph and they will not go out until the winds are below those speeds. Several cities will be closed all day and Orange County will be closing at 2 p.m. Therefore, he advised the newspaper that Winter Garden would close offices no later than noon and depending upon the wind criteria, we may close earlier so the non-essential personnel can take care of themselves. Day workers were hired to fill sand bags and up to ten bags per resident are being distributed unless there is a proven need for additional bags. Staff has received the necessary phone numbers for Progress Energy. The major challenge is making sure that power lines are off, the debris is removed, and keeping the roads open for emergency vehicles. He asked the Commission to let staff know about

any special needs. Trouble areas for flooding have been identified and will be monitored. Commissioner Dixon asked that the area at 10th and Center Streets also be watched for possible flooding because of past problems.

- Advised that preliminary meetings have been held between Winter Garden and Oakland senior planning staff, and a developer, regarding a unique concept for a joint project that will span across the two cities. There will be discussion on key issues between the two municipalities doing a single development. The proposal is for roughly 575 homes, with about 175 in Oakland and about 400 in Winter Garden. Oakland is looking at providing water on their side and Winter Garden is looking at providing sanitary sewer services to all of it and water on our side. To accommodate for the roads, it will entail amending the Joint Planning Area agreement for the city's boundaries with some annexation and deannexation to make the city boundaries go down the centerline of a road. It will comply with Lake Apopka's rules because they are working with Friends of Lake Apopka. The design will include a marina and commercial center. A joint meeting between the two Commissions will need to be scheduled and may be scheduled as early as September.

A. **Discussion on Orange County Charter revision proposals regarding transportation impact fees and schools**

Schools

Mr. Holden disbursed copies to the City Commission of the proposed County Charter amendments as part of their agenda packages and stated that he and the Mayor have taken the position of opposing the proposed Charter Amendments, but not opposed to dealing with the school capacity situation. No one has done a better job than Winter Garden of refusing developments without the necessary school capacity. Mr. Holden stated that Winter Garden should get through this process with interlocal agreements that do not get the City into some of the situations we are into now. He has asked some very pointed questions which the County and School Board have not been able to answer and have not figured out yet. For example, he asked what if a developer starts his development by spending \$400,000 to \$500,000, has the School Board's letter that there is the required capacity to meet the development's need and then the school fails causing 300 students to be assigned to another school that puts it 200 over capacity. What do they do at that point, remove the authorization letter? The second question he asked is what if the answer given is the developer doesn't need the County school, they are going to build a charter school and what is the School Board's answer to charter schools when they did not endorse them just a couple of years ago. Is the consequence going to be to force charter schools to be built by developers? We have large enough developments to do just that. Also, Oakland Town Manager Jay Evans stated that Oakland Charter School caters to about 100 Oakland students and it draws the rest of the students from Lake County and from overcrowded Tildenville School. What if Oakland is denied the right to do a development for school capacity and Oakland were to limit the charter school to Oakland citizens. How would Orange County Schools deal with the 600 students back in the County system? The County and School Board took notes from these questions. Mr. Holden stated that to get a Charter amendment and Ordinance passed before they try to get through these issues is a concern to him.

Impact fees: He can't figure out why Orlando has not yet addressed this issue and wonders if Orlando knows of any legal challenges later on or whether or not it is worth the effort to begin with. He suggested that these issues be followed all the way through the process and if anyone asks if this is the fix for all charter schools, etc., he is not sure that it's not the beginning of a mess.

8. MATTERS FROM MAYOR AND COMMISSIONERS

Mayor Quesinberry:

Asked the Commissioners if there would be any problem with changing the second budget hearing and regular meeting from Wednesday, September 22, 2004 to Tuesday, September 21, 2004 due to a conflict in his schedule. **It was the consensus of the Commission to change the meeting date as requested.**

Commissioner Dixon:

- Asked about the possibility of acquiring property for a new recreation area in East Winter Garden as she has made inquiries to some property owners who may be interested in selling a corner parcel. City Manager Holden stated that he has previously directed Marshall Robertson to have the pocket park re-titled and begin foreclosure on properties the City demolished in East Winter Garden. He will speak with Mr. Robertson when he returns from vacation about the possibility of creating a corner park.
- Stated that she would like to know details regarding the Center Street property being zoned R-NC, which needs to be rezoned for the good of the community to allow a game room so the young folks will have something to do other than standing around on the street corners. City Planner Cechman stated that the property was zoned R-4 in 1959 and the best he can find is that in 1971 it was rezoned R-NC. When it was zoned R-4, pool halls were not allowed. Commissioner Dixon asked what has to be done to have the property rezoned. City Manager Holden stated that a change in zoning must first be presented to the Planning and Zoning Board.
- Advised that there are dark areas in need of more lighting; one is from Ms. Wilder's daycare center to the store and one is across from where her brother lives to just before Bay Pointe. There also needs to be Police enforcement against the loitering that is going on in these areas as well.
- Stated that there is too much speeding in these areas and there needs to be speed bumps installed. City Manager Holden stated that he and Police Chief Brennan have been considering vacating Klondike at the start of the park so it cannot be driven through, which would make it a cul-de-sac. That would make the park go from the swimming pool all the way across to the end, which can be approved by the City Commission.
- Addressed her desire to take the necessary action to make it a requirement that a Commissioner be required to reside in the district he or she represents. This change can be accomplished by a vote of the City Commission without having a referendum while the Charter Review Committee is in place. City Manager Holden explained that the Charter Review Committee is specific to Orange County as dictated by their Charter and is not in any way part of City of Winter Garden. Commissioner Dixon stated that Winter Garden's Charter is antiquated and has only been reviewed twice since its inception. Therefore, changes need to be made and she wants some items reviewed.

The meeting was adjourned at 7:24 p.m.