

**REGULAR MEETING MINUTES  
CITY COMMISSION**

September 8, 2004

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Jack Quesinberry at 6:00 p.m. in City Hall Commission Chambers. The invocation and Pledge of Allegiance were given.

**Present:** Mayor Jack Quesinberry, Commissioners Bill Thompson, Theo Graham, Mildred Dixon (arrived at 6:26 p.m.), and John Harriman

**Also Present:** City Manager Hollis Holden, Assistant City Attorney Lionel Rubio, City Clerk Kathy Golden, Police Chief George Brennan, City Planner Mark Cechman, Recreation Director Larry Caskey, Assistant to the City Manager Marshall Robertson, Utilities Director Fernand Tiblier, Public Works Director Bob Smith, Trailer City Manager Hughlan Martin, Finance Director Mike Bollhoefer, and Assistant Finance Director Brian Strobeck

1. **FIRST READING AND PUBLIC HEARING OF PROPOSED ORDINANCES TO ADOPT A FINAL MILLAGE AND BUDGET FOR FISCAL YEAR 2004-2005**

A. **Ordinance 04-55:** LEVYING TAX UPON ALL TAXABLE PROPERTY WITHIN THE CITY OF WINTER GARDEN, FLORIDA, FOR THE TAX YEAR BEGINNING ON OCTOBER 1, 2004 AND ENDING ON SEPTEMBER 30, 2005

Assistant City Attorney Rubio read Ordinance 04-55 by title and Section 1 to establish and levy a rate of 4.3040 mills, which exceeds the rolled back rate of 4.0535 mills by 6.18 percent. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 04-55 and schedule the second reading and public hearing on September 21, 2004. Seconded by Commissioner Graham and carried unanimously 4-0.**

B. **Ordinance 04-56:** APPROPRIATING AND ALLOCATING ALL REVENUE AND FUNDS OF THE CITY OF WINTER GARDEN, FLORIDA, FOR THE TAX YEAR BEGINNING ON OCTOBER 1, 2004 AND ENDING ON SEPTEMBER 30, 2005

Assistant City Attorney Rubio read Ordinance 04-56 by title and stated that it is anticipated that the Collection of Ad Valorem will equal \$ 4,474,373 and Revenue other than Ad Valorem will equal \$11,351,320 for a total revenue amount of \$15,825,693. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 04-56 and schedule the second reading and public hearing on September 21, 2004. Seconded by Commissioner Thompson and carried unanimously 4-0.**

C. **Ordinance 04-57:** APPROPRIATING AND ALLOCATING ALL REVENUE AND FUNDS OF THE COMMUNITY REDEVELOPMENT AGENCY (CRA) OF THE CITY OF WINTER GARDEN, FLORIDA, FOR THE TAX YEAR BEGINNING ON OCTOBER 1, 2004 AND ENDING ON SEPTEMBER 30, 2005

Assistant City Attorney Rubio read Ordinance 04-57 by title and stated that it is anticipated that the collection of Ad Valorem will equal \$283,721 and the Revenue other than Ad Valorem will equal \$230,000 for a total revenue amount of \$513,721. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Thompson to approve Ordinance 04-57 and schedule the second reading and public hearing on September 21, 2004. Seconded by Commissioner Harriman.** Commissioner Graham asked about the base year 1996 for Area II and whether it was taken in after 1991. City Manager Holden stated that Area II was a reserve area that was originally set aside as an option to be added to the CRA, which was exercised when the County approved the base tax year of 1996. Commissioner Graham stated that when he read it, the millage difference between Area I and II is substantial so he thought it had to be a smaller area. City Manager Holden stated yes it was. **Motion carried unanimously 4-0.**

- D. **Ordinance 04-58:** AUTHORIZING THE APPROPRIATIONS OF CITY FUNDS FOR FISCAL YEAR 2004-05 IN ACCORDANCE WITH ARTICLE 3 SECTION 30.4 OF THE CITY CHARTER OF THE CITY OF WINTER GARDEN, FLORIDA AND FLORIDA STATUTE 166.241 FOR THE PURPOSE OF FULFILLING THE FINANCIAL OBLIGATIONS OF THE CITY

Assistant City Attorney Rubio read Ordinance 04-58 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 04-58 and schedule the second reading and public hearing on September 21, 2004. Seconded by Commissioner Thompson.** Commissioner Graham stated that because of the two hurricanes, he is still doing some research and will reserve his comments until the next public hearing and would therefore be abstaining. Assistant City Attorney Rubio advised that in this case, Commissioner Graham could not abstain. Commissioner Graham replied that he would have to vote against the motion. **Motion carried 3-1; Commissioner Graham opposed.**

### **REGULAR CITY COMMISSION MEETING**

2. **APPROVAL OF MINUTES**

Regular Meeting Minutes of August 26, 2004 and Budget Workshop Minutes of August 26, 2004. **Motion by Commissioner Thompson to approve both minutes as submitted. Seconded by Commissioner Harriman and carried unanimously 4-0.**

3. **PRESENTATION**

A. **Fire Department Battalion Chiefs**

City Manager Holden reported that Fire Chief Williamson was unable to attend the meeting so this item is postponed.

4. **FIRST READING OF PROPOSED ORDINANCE**

- A. **Ordinance 04-59:** VACATING PORTIONS OF THE UTILITY EASEMENT IN CERTAIN LOTS LOCATED IN THE DANIELS LANDING SUBDIVISION

Assistant City Attorney Rubio read Ordinance 04-59 by title only. City Planner Cechman advised that there has been a change to page two of the legal description, which has been distributed. **Motion by Commissioner Harriman to approve Ordinance 04-59 and schedule the second reading and public hearing on October 14, 2004. Seconded by Commissioner Thompson and carried unanimously 4-0.**

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

- A. **Ordinance 04-43:** PROVIDING FOR THE ANNEXATION OF 0.4 ACRES LOCATED AT 905 9<sup>th</sup> 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

Assistant City Attorney Rubio read Ordinance 04-43 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Graham to approve Ordinance 04-43. Seconded by Commissioner Harriman 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 9<sup>th</sup> STREET AS COMMERCIAL; PROVIDING FOR AN EFFECTIVE DATE

Assistant City Attorney Rubio read Ordinance 04-44 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 04-44. Seconded by Commissioner Thompson and carried unanimously 4-0.**

- C. **Ordinance 04-45:** REZONING A 0.4 ACRE LOT LOCATED AT 905 9<sup>th</sup> STREET MORE SPECIFICALLY DESCRIBED HEREIN FROM ORANGE COUNTY RESIDENTIAL DISTRICT TO CITY C-2; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

Assistant City Attorney Rubio read Ordinance 04-45 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Thompson to approve Ordinance 04-45. Seconded by Commissioner Graham 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

Assistant City Attorney Rubio read Ordinance 04-46 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Graham to approve Ordinance 04-46. Seconded by Commissioner Thompson 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

Assistant City Attorney Rubio read Ordinance 04-51 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed.

**Motion by Commissioner Harriman to approve Ordinance 04-51. Seconded by Commissioner Graham 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 EFFECTIVED DATE

Assistant City Attorney Rubio read Ordinance 04-52 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed.

**Motion by Commissioner Thompson to approve Ordinance 04-52. Seconded by Commissioner Graham 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

Assistant City Attorney Rubio read Ordinance 04-53 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed.

**Motion by Commissioner Harriman to approve Ordinance 04-53. Seconded by Commissioner Graham and carried unanimously 4-0.**

- H. **Ordinance 04-54:** AMENDING THE CODE OF ORDINANCES CHAPTER 2, ARTICLE V, ELECTIONS; BY ADDING A NEW SECTION 2-254, EARLY VOTING OPT OUT PROVISION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH, PROVIDING FOR SEVERABILITY, AND AN EFFECTIVE DATE

Assistant City Attorney Rubio read Ordinance 04-54 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed.

**Motion by Commissioner Graham to approve Ordinance 04-54. Seconded by Commissioner Harriman and carried unanimously 4-0.**

## 6. **REGULAR BUSINESS**

### A. **Reappointment to the General Employees Pension Board**

Mayor Quesinberry stated that Commissioner Graham's term is expiring and he has requested reappointment. **Motion by Commissioner Harriman to reappoint Commissioner Graham to the General Employees Pension Board with his term to**

**expire on September 30, 2006. Seconded by Commissioner Thompson and carried unanimously 4-0.**

**B. Recommendation to approve acquisition of 110 Henderson Street, Winter Garden, from West Orange Youth Center Association, Inc.**

City Manager Holden explained that this item has been carried over from the August 26, 2004 meeting, even though all voted in favor, because it was discovered that a motion and second was not made. **Motion by Commissioner Thompson approving the acquisition of 110 Henderson Street, Winter Garden, from the West Orange Youth Center Association, Inc. Seconded by Commissioner Harriman and carried unanimously 4-0.**

**7. MATTERS OF CONCERN FROM CITIZENS**

**8. MATTERS FROM ASSISTANT CITY ATTORNEY RUBIO:** Nothing to report.

**9. MATTERS FROM CITY MANAGER**

**A. West Orange Chamber of Commerce 2004 Legislative Luncheon**

It was the consensus of the City Commission to purchase individual tickets.

**Report on Hurricane Frances**

Overall, we fared extremely well throughout the City. We had some pockets (Magnolia Woods and Crown Point Springs) that were hit with power outages and trees down. There was not any significant damage to City property except for an awning worth about \$4,000. The cemetery has numerous trees down and a report has been provided by the Sexton which he has forwarded to the City Commission. The City filled and provided over 30,000 sand bags which was more than Orlando and the County combined. The reason we probably distributed so many was because we did not require proof of residency but next time, staff will require identification. Power is slowly coming back and, as the Finance Director was informed, West Orange County is the lowest priority because of how severe it was elsewhere.

*Commissioner Dixon arrived at 6:26 p.m.*

From what he saw in tonight's news, Ivan is stronger, moving faster, and almost takes the same path as Charley. We will be watching it carefully and we are trying to get as much debris up as possible by the weekend. Because we can't get the debris to the landfills, we are taking yard trash out to our spray field and we will get a permit to burn it. Two EMT's were sent to assist the Volusia County area, but he will not release any other employees until we ourselves are in the clear because of the threat of Hurricane Ivan. There were a couple of non-serious overflows at the lift stations.

**10. MATTERS FROM MAYOR AND COMMISSIONERS**

**Commissioner Harriman:**

Stated that he has received only good reports about what City staff is doing after the hurricane.

**Commissioner Dixon:**

Stated that she is glad to be living and be here. She did lose some of her roof. Everyone should be thankful and helping others. Commissioner Dixon stated she will be speaking personally to the City Manager regarding a raise for the Commissioners. City Manager Holden replied that the Charter requires that the adoption of an ordinance must precede the next regular election by at least six months. Therefore, it is too late to proceed as we are now within the six months.

**Mayor Quesinberry:**

Stated that Commissioner Harriman's appointment as the City Representative for the West Orange Chamber of Commerce is expiring and asked for nominations. **Motion by Commissioner Harriman to appoint Commissioner Thompson. Seconded by Commissioner Graham and carried unanimously 5-0.**

**Commissioner Graham:**

Stated that an elderly resident had asked him about tree limbs in the right-of-way and who is responsible. City Manager Holden stated that if the limbs are in the City's right-of-way, then the City is responsible. From a legal standpoint, property owners own from their property lines straight up. If a neighbor's tree limbs are hanging over a person's property line, then that person who has the limbs hanging over onto their property is responsible. Additionally, if a tree on the adjacent property falls into a person's property, then the person owning the property where the tree has fallen is responsible.

The meeting was adjourned at 6:35 p.m.