

**REGULAR MEETING MINUTES
CITY COMMISSION**

September 21, 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, 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, Assistant to the City Manager Marshall Robertson, Utilities Director Fernand Tiblier, Public Works Director Bob Smith, Trailer City Manager Hughlan Martin, Fire Chief John Williamson, Information Technology Director Bob Reilly, Finance Director Mike Bollhoefer, and Assistant Finance Director Brian Strobeck

APPROVAL OF MINUTES

This item was moved until after the budget hearings to comply with the TRIM notice.

1. **SECOND 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 Thompson to approve Ordinance 04-55. Seconded by Commissioner Harriman and carried unanimously 5-0.**

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 the anticipated 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 other comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 04-56. Seconded by Commissioner Thompson and carried unanimously 5-0.**

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. Seconded by Commissioner Harriman and carried unanimously 5-0.**

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.

Paul Johnston, 1087 Depot Court, Winter Garden, Florida first conveyed the thanks of the Homeowners Association of Winter Garden and Crown Point Springs Subdivision to Police Chief Brennan and Public Works Director Smith for all their hard work on behalf of the residents during the hurricanes. Mr. Johnston then addressed two items in the proposed budget: first, the self-imposed pay raise for the City Manager of \$7,680 and second, the proposed pay increase for the Trailer City Manager of \$10,000, which he opposes. He noted that it is not a personal issue but more a business issue. When there is a \$15 million dollar budget with administrative control over approximately \$40 million including the pensions and all other assets, it seems important that any merit based raises of any sort be coupled with a written evaluation. Mr. Johnston submitted a sample City Manager evaluation form to the City Clerk, obtained from the International City/County Management Association (ICMA), which could be used by the City Commission as a guide to measure the progress of the City Manager, who has done a good job. Evaluations for all department heads running our city should be available to the citizens. He asked the Commission to consider line item removal of the two proposed increases, which could be set for a public hearing at a later date. **Mayor Quesinberry** responded that a study has already been done for the proposed salary of the City Manager and Winter Garden is still behind other comparable cities.

Don Miller, 1073 Woodson Hammock Circle, Winter Garden, Florida, stated that he has previously addressed the need for accountability by the City Manager on down and feels there needs to be a contract in place. It holds people accountable. It is his understanding that there can be a line item veto for the City Manager's pay raise as the 7.8 percent is out of kilter as compared to what the constituent raises are. Giving a \$10,000 raise to someone running Trailer City is also questionable and should be a line item veto as well. The Winter Garden Homeowners Association is asking for a veto on these two items. He

also asked the Commission to get in touch with the residents, keep them informed, and ask the residents for their opinion.

Paul Shirley, 1665 Spring Ridge Circle, Winter Garden, Florida, stated that his issue is not with the increase but with accountability and documentation. How is it possible to award a merit increase without it being given in writing? Yes, you can look around and see what has been done over the past several years and it speaks for itself. It would be reasonable and fair to have measurable goals and objectives set for the City Manager. It would be helpful to everybody concerned to have a performance appraisal, not only for Mr. Holden but for every manager in every department. He does take exception to increasing the pay of the Trailer City Manager when his position is being phased out. He has known Mr. Holden for years and if we were shooting from the hip, he would probably give him more of a raise. There needs to be a good system of documentation and accountability.

Kent Horsley, 1679 Victoria Way, Winter Garden, Florida, thanked the City and the administration for the tremendous efforts to the community during the past two storms. He extended the deepest gratitude from the Tuscany Homeowners Association for what everyone did. As the Mayor has stated, he too would want to look at what other city managers are being paid to see if Winter Garden is close or not. What he thinks is being suggested by other speakers is for the City to take the administration of the City to the next level. Many Commissioners have been in their roles for a long time and have witnessed the transition of the City from a small citrus community to a booming developing metropolis. The point is not whether someone warrants a pay raise, but to take our City and administration to the next level by establishing criteria for which pay raises are given so anybody at any time can ask to see an evaluation and see whether it was based on merit, prejudice, or personal bias. How good it would be for the City to have a clear conscience to say it is meritorious, we have the criteria, and here it is. We are asking for a line item veto of those two items so they can be given criteria such as in the ICMA evaluation example. **City Manager Holden** stated that he would address management issues under his item on the agenda. **Commissioner Dixon** stated that Winter Garden's Charter was established a very long time ago and the citizens can initiate getting it changed. The Charter states the City Manager is also the Personnel Manager and he is responsible for evaluating the staff. The citizens can submit their ideas to the Commission and then a workshop could be held but this is not the time for these discussions. **Mr. Horsley** stated that if our City is so poorly structured that the members of the Commission are not in a position to evaluate our own City Manager, then we are in a very sad situation.

Edward Bowman, 14 Laurel Drive, Winter Garden, Florida, stated that the City should be run like a business and everyone is accountable to someone as it should be here tonight.

Hearing no other comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 04-58. Seconded by Commissioner Thompson.**

Commissioner Graham:

City Manager Pay: Commissioner Graham read Charter Article III, Sec. 26, Appointment of City Manager and compensation. "The city commission shall appoint from year to year and establish the compensation of an officer of the city ...". He feels that according to this statement, the City Commission should meet with the City Manager to discuss his raises whether it is a percentage, flat increase or whatever and give consideration to the employee raises, such as in this budget of a 2½ percent cost-of-living and 2½ percent merit raise equaling 5 percent. At the prior budget meeting, the City Manager disclosed that he had spoken with the Mayor and certain Commissioners about his proposed salary and they had approved of the amount. Commissioner Graham stated that he had no personal knowledge of this occurring prior to the meeting but thinks the City Manager salary should be discussed in a work session with the entire Commission and should be a separate item from the employee raises which was what he was asking for in the prior Commission meeting. He has calculated that the City Manager, who is currently making \$107,390 a year, would get a raise of not 2½ or 5 percent, but 7.5 percent, which is 2.5 higher than any other employee in the City, unless it was a merit raise decided by the City Manager to a department head. The City Manager's raise equals \$8,194 in one year. The City Manager has been here 10 years and 8 months and his salary increases have been over 100 percent. The salaries approved over the same period of time for all City employees equal 40.75 percent. So there is nearly a 60 percent difference. In 2001, the City Manager received a \$13,145 or 15.77 percent raise and the employees only received a 5.5 percent raise. In 1996, the City Manager's pay was increased by \$11,273 or 19.3 percent and the employees that year only received 3 percent. The City pay scale for 2004/2005 was given to the Commission this year. The Florida League of Cities does an annual survey that is provided to the City for comparison. The City Manager is at level 135 and is coming up on 11 years and according to the City pay scale, he would be in the middle at the salary he is already making of \$107,390. The City Manager has taken a three-step increase to a level 14, which gives him \$115,585. If the City Commission is going to use the pay scale for all the other employees then it should also be used for the City Manager unless the Commission meets and separately discusses it. Most Commissioners believe that the proposed salary increase 3 or 4 percent is what the City Manager is also going to get but the City Manager has actually been getting more than the Commission has been giving the employees each year.

Trailer City Manager Pay: On November 1, the Trailer City Manager will have been with the City for 10 years. His raises have been \$1,331 in 2003 and six months later, on April 1, he received \$9,048 which amounts to a 24 percent raise. This year, his raise was \$2,674; from October 1, 2003 to October 1, 2004 including the raise this coming year, his raise would be \$13,053 for one year. Since he came here in 1994 and through this coming year, he has received a total of 112 percent raise while other employees have only received 40.75 percent. From December 4, 1994 to August 28, 1995 he received \$1,892; from October 1, 1999 to October 1, 2000 he received \$3,556, an increase of 10 percent, while other employees only received a 5 percent increase; from October 1, 2000 to October 1, 2001 he received \$1,809. He has received out of sequence raises four times in

ten years, waiting less than a year to get a raise. Commissioner Graham stated that he believes all employees should be treated the same. This looks like favoritism by the City Manager to a good friend. According to the City pay scale, he should be at I-10 for \$41,433 but he is over by \$3,900. Commissioner Graham stated that he is sure that other employees would also like to see that same type of raise in their salary. The employees should all be treated equally unless they have a merit raise and are given an evaluation. The City Manager previously provided a list of other local city manager salaries but he did not take into consideration their longevity. Those employed with their City for a longer period would have received annual raises and will be at a higher amount. We should either use the pay chart or have a meeting to decide anything different.

Trailer City Insurance:

Commissioner Graham stated that he first noticed that the proposed budget showed a lot higher expense than previously and he then noticed the salary increase. He also noticed the increase in insurance and previously asked about it. He assumes it was because Trailer City was a greater liability is the reason why it would go up by two million dollars. He asked if someone had been found to provide the insurance and if it was settled yet. **City Manager Holden** stated yes. **Commissioner Graham** asked if we are staying with Public Risk Management (PRM). **City Manager Holden** stated that as the Commission was previously informed, our provider for liability is a standard package of \$2 million per occurrence, with a \$3 million aggregate, and they have changed the provider this year. The market, with hurricanes, has been very volatile and they had to get another provider. The provider of that insurance will not provide an excess liability policy for just Trailer City, which was what Ms. Ward previously explained. She was trying to find an insurance company, other than the provider for PRM, that would provide the insurance for just Trailer City. We received a quote just two days ago from LassiterWare Insurance, who were the only ones that would give us a bid. Their premium quote for the year was \$26,163.05 for a \$2 million general aggregate with a \$1 million per occurrence. City Manager Holden stated he just received a call today from the PRM provider agent for A. J. Gallagher who told him that he believes the quote that will provide us with \$3 million per occurrence with a \$3 million aggregate will be \$15,000, but he does not have the written commitment yet. The item was budgeted for \$25,000 as a place keeper because that is the number the City received back in March which was provided to the Commission. With the new insurance year, the City can get the \$15,000 policy and it will apply to the whole city and not just Trailer City. **Commissioner Graham** stated that that is the reason he wanted to go with PRM. The information he received from Mr. Furry, Executive Director of PRM, was that the City Manager went to them sometime around April and after they looked at Trailer City, a request for liability insurance was made. They did not want to change the policy in the middle of the year. **City Manager Holden** stated no sir, he talked with the specific provider and the provider would not issue a policy. **Commissioner Graham** stated that his facts are that it stands to reason that someone wanting to insure in the middle of the year asking to raise the liability is a flag and makes them ask why. Anyone representing 50 cities has good pull with the underwriters. We are saving \$8,000 by getting it for \$15,000 that will cover the whole City and that is the point he was trying to make during the budget meetings because they can get a better deal for the entire City rather than

going out for a separate policy for Trailer City, which is just good common sense to him. Additionally, the City has added more police and fire staff, which is a greater liability, so increasing the insurance is to the City's benefit, and he hopes it can be accomplished through PRM. **City Manager Holden** stated that staff has never told the Commission that they were not trying to get a quote from PRM. During the mid-year budget process, he reported that the price they considered giving it to the City was for \$25,000 as they had just done for one other City in the pool, but he pointed out that it was for the whole year and they said yes. Mr. Holden asked them why they wouldn't prorate it since they would only be providing it for six months. He said they don't prorate because they don't like to provide insurance in the middle of the year and so he came back to the Commission, recommended that the City not spend that exorbitant amount, and try to get the insurance at the renewal period. We were on a two-prong process, number 1 being to try to get a quote from PRM and number 2, try to see if there was another firm out there willing to provide the coverage and what their rates would be. Obviously, PRM's quote of \$15,000 is what we are going with. **Commissioner Graham** stated that as he recalls Ms. Ward stated that PRM would not take Trailer City but here you just said you wanted it at mid-term and they quoted you \$25,000. If we had asked for this at the beginning, we would have probably got it for \$15,000 to start with. **City Manager Holden** stated that he only got the quote by phone this afternoon. **Commissioner Graham** stated that they did not want to insure us in the middle of the year but they would have insured us if it had been included in the original policy. He did not know at the time when Ms. Ward said they had turned it down that it had actually been requested in the middle of the year. **City Manager Holden** stated that the point is that the City will pay \$15,000 for it and not \$25,000. **Commissioner Graham** asked if it is going to cover the entire City, will Trailer City's portion be prorated. **City Manager Holden** stated that the \$15,000 will be out of Trailer City. The insurance allocation for this budget year is something like \$673,000 which is broken down into various categories that are allocated to the department causing the liability. For example, boiler and machinery, which is a little over \$2,000, is not charged to anyone but the Utility Department. Workers Compensation charges are based upon the job classification and the last time he looked, sanitation workers were the highest at risk for workers comp cases in the State of Florida. Therefore, the sanitation fund pays the largest portion based upon their workers. A letter from PRM has stated that we do not need additional excess insurance for the City, but we need it for the situation that exists at Trailer City. The decision is whether the Commission wants the extra insurance at a cost of \$15,000 to cover Trailer City, which is the answer he believes the Commission previously gave him. The second question is whether it should be borne by Trailer City because they are causing the need for it due to the lack of compliance with fire codes. The Commission can do whatever it would like. **Commissioner Graham** stated that prorating the insurance last year for Trailer City was only \$866. Everybody else is going to benefit from the new policy but every bit is going to be charged to Trailer City. He doesn't think the charge should all go to Trailer City and it was poor judgment to ask the very people that are going to insure Trailer City to evaluate it. **City Manager Holden** stated that the people who came to look at Trailer City are our Risk Management representatives who work for us, not the insurance company. The insurance company has not looked at Trailer City. Mr. Furry is the Executive Director of PRM, which is comprised of 50 plus cities and is not in the

insurance business. PRM hires Mr. Furry and he has a staff of seven. PRM works with A. J. Gallagher who goes out to find the insurance at the best rate it can for the participating municipalities. **Commissioner Graham** asked why Mr. Furry's letter states he looked at Trailer City and both he and Rob Ross expressed their concern about the potential liability to the City under the current park operation. He apparently was giving advice and if he wasn't looking at liability, why did he put that in the letter and recommend raising the liability amount. **City Manager Holden** stated that Mr. Furry is the Risk Manager expert on those kinds of issues. **Commissioner Graham** stated that he specifically disagrees with this particular matter but favors the budget because it is a good budget. **Motion carried unanimously 5-0.**

2. **APPROVAL OF MINUTES**

Regular Meeting Minutes of September 8, 2004. **Motion by Commissioner Harriman to approve the minutes as submitted. Seconded by Commissioner Dixon and carried unanimously 5-0.**

At this time, Mayor Quesinberry moved to Regular Business Item A.

A. **Request for donation from the City of Ocoee for the dedication of State Road 429 as the Veterans Memorial Interchange**

Lester Dabbs stated that on behalf of the Veterans of Florida he is pleased to announce that legislation was passed designating the interchange at State Road 50 and State Road 429 as the Veterans Memorial Interchange. A group of Veterans organizations is sponsoring a dedication ceremony at the Auto Auction on October 20, 2004, and that is why he is present to request a sponsor donation of \$500. **Motion by Commissioner Dixon to approve a donation of \$500 from the designated donation account for the dedication ceremony of the Veterans Memorial Interchange. Seconded by Commissioner Harriman and carried unanimously 5-0.**

3. **FIRST READING OF PROPOSED ORDINANCE**

A. **Ordinance 04-60: ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 0.65 ACRES LOCATED AT 15650 WEST 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 (Voss)**

Commissioner Dixon stepped out at 7:04 p.m.

Assistant City Attorney Rubio read Ordinance 04-60 by title only. **Motion by Commissioner Graham to approve Ordinance 04-60 and schedule the second reading and public hearing for October 28, 2004. Seconded by Commissioner Harriman and carried unanimously 4-0.**

B. **Ordinance 04-61: AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY INCLUDING PROPERTY GENERALLY DESCRIBED AS 0.65 ACRES OF LAND LOCATED AT 15650 WEST COLONIAL DRIVE AS COMMERCIAL**

Assistant City Attorney Rubio read Ordinance 04-61 by title only. **Motion by Commissioner Harriman to approve Ordinance 04-61 and schedule the second reading and public hearing for October 28, 2004. Seconded by Commissioner Graham and carried unanimously 4-0.**

C. **Ordinance 04-62: REZONING APPROXIMATELY 0.65 ACRES LOCATED AT 15650 WEST COLONIAL DRIVE MORE SPECIFICALLY DESCRIBED HEREIN FROM ORANGE COUNTY A-1 TO CITY C-2 (Voss)**

Assistant City Attorney Rubio read Ordinance 04-62 by title only. **Motion by Commissioner Graham to approve Ordinance 04-62 and schedule the second reading and public hearing for October 28, 2004. Seconded by Commissioner Thompson and carried unanimously 4-0.**

Commissioner Dixon returned at 7:07 p.m.

D. **Ordinance 04-63: AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION OF THE PROPERTY GENERALLY DESCRIBED AS 1,008 SQUARE FEET OF LAND LOCATED AT 30 9th STREET FROM INDUSTRIAL TO COMMERCIAL**

Assistant City Attorney Rubio read Ordinance 04-63 by title only. **Motion by Commissioner Harriman to approve Ordinance 04-63 and schedule the second reading and public hearing for October 28, 2004. Seconded by Commissioner Thompson and carried unanimously 5-0.** Commissioner Graham asked if there was a commercial building at this location all this time in an industrial district. City Planner stated yes.

E. **Ordinance 04-64: REZONING 1,008 SQUARE FEET OF REAL PROPERTY GENERALLY LOCATED AT 30 9th STREET AND MORE SPECIFICALLY DESCRIBED HEREIN FROM I-2 TO CITY C-2**

Assistant City Attorney Rubio read Ordinance 04-64 by title only. **Motion by Commissioner Harriman to approve Ordinance 04-64 and schedule the second reading and public hearing for October 28, 2004. Seconded by Commissioner Dixon and carried unanimously 5-0.**

F. **Ordinance 04-65: AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION OF THE PROPERTY GENERALLY DESCRIBED AS 2.4 ACRES OF REAL PROPERTY LOCATED AT 979 AND 971 EAST PLANT STREET FROM INDUSTRIAL TO COMMERCIAL**

Assistant City Attorney Rubio read Ordinance 04-65 by title only. **Motion by Commissioner Harriman to approve Ordinance 04-65 and schedule the second reading and public hearing for October 28, 2004. Seconded by Commissioner Dixon and carried unanimously 5-0.**

G. Ordinance 04-66: REZONING APPROXIMATELY 2.4 ACRES OF REAL PROPERTY GENERALLY LOCATED AT 979 AND 971 EAST PLANT STREET MORE SPECIFICALLY DESCRIBED HEREIN FROM I-2 TO CITY C-2

Assistant City Attorney Rubio read Ordinance 04-66 by title only. **Motion by Commissioner Thompson to approve Ordinance 04-66 and schedule the second reading and public hearing for October 28, 2004. Seconded by Commissioner Harriman and carried unanimously 5-0.**

H. Ordinance 04-67: AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION OF THE PROPERTY GENERALLY DESCRIBED AS 1.26 ACRES OF LAND LOCATED AT 970 EAST PLANT STREET FROM INDUSTRIAL TO COMMERCIAL

Assistant City Attorney Rubio read Ordinance 04-67 by title only. **Motion by Commissioner Harriman to approve Ordinance 04-67 and schedule the second reading and public hearing for October 28, 2004. Seconded by Commissioner Thompson and carried unanimously 5-0.**

I. Ordinance 04-68: REZONING 1.26 ACRES OF REAL PROPERTY GENERALLY LOCATED AT 970 EAST PLANT STREET AND MORE SPECIFICALLY DESCRIBED HEREIN FROM I-2 TO CITY C-2

Assistant City Attorney Rubio read Ordinance 04-68 by title only. **Motion by Commissioner Dixon to approve Ordinance 04-68 and schedule the second reading and public hearing for October 28, 2004. Seconded by Commissioner Harriman and carried unanimously 5-0.**

J. Ordinance 04-69: ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 9.45 ACRES LOCATED NORTH OF LAKE ROBERTS, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN, FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY

Assistant City Attorney Rubio read Ordinance 04-69 by title only. **Motion by Commissioner Harriman to approve Ordinance 04-69 and schedule the second reading and public hearing for October 28, 2004. Seconded by Commissioner Thompson and carried unanimously 5-0.**

K. Ordinance 04-70: AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY INCLUDING PROPERTY GENERALLY DESCRIBED AS 9.45 ACRES OF LAND LOCATED NORTH OF LAKE ROBERTS AS SUBURBAN RESIDENTIAL

Assistant City Attorney Rubio read Ordinance 04-70 by title only. **Motion by Commissioner Dixon to approve Ordinance 04-70 and schedule the second reading and public hearing for October 28, 2004. Seconded by Commissioner Harriman and carried unanimously 5-0.**

L. **Ordinance 04-71: REZONING APPROXIMATELY 48.05 ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED NORTH OF LAKE ROBERTS FROM ORANGE COUNTY R-CE TO CITY PUD; PROVIDING FOR CERTAIN PUD REQUIREMENTS**

Assistant City Attorney Rubio read Ordinance 04-71 by title only. **Motion by Commissioner Dixon to approve Ordinance 04-71 and schedule the second reading and public hearing for October 28, 2004. Seconded by Commissioner Harriman and carried unanimously 5-0.**

M. **Ordinance 04-72: VACATING THE SOUTHERLY 7 FEET OF THE TWELVE FOOT DRAINAGE AND UTILITY EASEMENT LOCATED ADJACENT TO THE NORTHERNMOST PROPERTY LINE LESS 6 FEET ON THE WESTERN AND EASTERN PROPERTY LINES OF 2520 PRAIRIE VIEW DRIVE**

Assistant City Attorney Rubio read Ordinance 04-72 by title only. **Motion by Commissioner Harriman to approve Ordinance 04-72 and schedule the second reading and public hearing for October 28, 2004. Seconded by Commissioner Dixon and carried unanimously 5-0.**

4. **REGULAR BUSINESS**

A. **Request for donation from the City of Ocoee for the dedication of State Road 429 as the Veterans Memorial Interchange**

This item was moved and acted upon after the minutes of September 8, 2004.

B. **Request from the Historic Downtown Winter Garden Merchants Guild to conduct an arts festival the weekend of November 20 and 21, 2004**

Mayor Quesinberry announced that the applicant, Tina Aldrich, has requested this item be postponed until the next meeting on October 14, 2004.

C. **Resolution 04-11: Ratifying and adopting the Memorandum of Understanding by and between the State of Florida, Department of Transportation and the City of Winter Garden, Florida establishing the expectations of and obligations of each party for the reconstruction and addition of two (2) lanes for State Road 50 from Avalon Road to State Road 429**

Assistant City Attorney Rubio read Resolution 04-11 in its entirety. Assistant to the City Manager Robertson stated that FDOT was originally going to reinstall the standard steel strain pole signalization as part of the road widening and they have agreed to fund the design of the mast arm signalization if the City would pay the difference between the two signalizations. The City has the funds budgeted from the local option gas tax to pay for the upgrade. The design needs to be done at this time. The JPA will come back to the Commission sometime in the future. The reason the JPA can't be done at this time is because the state only has the funding for the design and they are not allowed to do a JPA until the construction is actually funded. The proposed memorandum covers the design phase. **Motion by Commissioner Dixon to approve Resolution 04-11 and authorize the execution of the Memorandum of Understanding with the State of Florida,**

Department of Transportation. Seconded by Commissioner Harriman and carried unanimously 5-0.

D. Recommendation to approve the preliminary plat for Tucker North

City Planner Cechman stated that the City Commission has previously approved the PUD and staff is recommending approval of the preliminary plat with some conditions provided in the agenda package. The Planning and Zoning Board has also reviewed the preliminary plat and recommends approval. **Motion by Commissioner Harriman to approve the preliminary plat for Tucker North with staff recommendations (see attached).** Seconded by Commissioner Dixon and carried unanimously 5-0.

E. Appointments to the Planning and Zoning Board

City Planner Cechman stated that three seats are set to expire and Mr. Campbell, Mr. Connell and Mr. Morabito have expressed their desire to be reappointed. **Motion by Commissioner Graham to reappoint Jim Campbell, John Connell, and Joe Morabito to the Planning and Zoning board for a four-year term.** Seconded by Commissioner Harriman and carried unanimously 5-0.

F. Ordinances 04-23, 04-24 and 04-25: Recommendation to remove from the table and schedule the second reading and public hearing for the annexation, small scale comprehensive plan amendment and rezoning of certain land located at 1250 West Plant Street (Oaks at Brandy Lake) (Tabled on June 24, 2004)

City Planner Cechman stated that these ordinances were voluntarily removed from the approval process because an eagle was located on the property and they had to work out some related issues with the Federal government. The applicant has since identified a plan with the Federal government and they are ready to proceed and have asked to reschedule the ordinances for second reading and public hearing on October 28, 2004. **Motion by Commissioner Graham to remove from the table Ordinances 04-23, 04-24 and 04-25 and schedule the second reading and public hearing for October 28, 2004.** Seconded by Commissioner Harriman and carried unanimously 5-0.

G. Donation request to fund a computer instructor at Maxey Center for the remainder of Fiscal Year 2003/2004

Finance Director Bollhoefer stated that an additional \$1,050 is needed to finish the class the remainder of the fiscal year and the funds are available in the special donation account. **Motion by Commissioner Dixon to approve expending \$1,050 from the special donation account to fund the computer instructor at Maxey Center for the remainder of fiscal year 2003/04.** Seconded by Commissioner Graham and carried unanimously 5-0.

H. Recommendation to approve the reappointment of Mark Griffith as the at-large trustee member of the General Employees Pension Board for a two-year term expiring December 31, 2006

General Employee Pension Board Chairman Graham stated that at the last Pension Board meeting, Dennis Duckwiler was re-elected to serve on the board, and that the board voted to reappoint Mark Griffith, which must be confirmed by the City Commission. **Motion**

by Commissioner Graham to reappoint Mark Griffith as the at-large trustee member of the General Employees Pension Board for a two-year term expiring on December 31, 2006. Seconded by Commissioner Dixon and carried unanimously 5-0.

5. MATTERS OF CONCERN FROM CITIZENS

Don Miller, 1073 Woodson Hammock Circle, Winter Garden, Florida stated that he understands that if the City Commission desires to have their pay increased all they need to do is pass a motion. **Mayor Quesinberry** stated that an Ordinance would have to be adopted at least six months prior to the next election. Since that timeframe has passed, it cannot be acted upon at this time. **Mr. Miller** stated that he personally believes the Commissioners and especially the Mayor are grossly underpaid. Mr. Miller asked why the City Commission would be opposed to appointing a Charter Review Committee because as he understands it, it is so grossly outdated and needs updating. **Assistant City Attorney Rubio** stated that a review of the Charter is up to the City Commission and there are several ways to make amendments to the Charter. **Mr. Miller** stated he would like to know if the City Commission is opposed to a Charter Review Committee and why. He and those he has spoken with think it is a good idea and they hope the City Commission will discuss it tonight. **Mayor Quesinberry** stated the Commission will take it under advisement and bring it up at a later date.

6. MATTERS FROM ASSISTANT CITY ATTORNEY RUBIO: Nothing to report.

Commissioner Dixon left at 7:25 p.m.

7. MATTERS FROM CITY MANAGER

A. Financial Report August 2004

The financial statement for August 2004 has been provided and the City continues in excellent financial condition.

Reported that he does not have the latest hurricane damage figures and asked the Finance Director for an update from the departments. Mr. Bollhoefer responded that he anticipates the two hurricanes will not exceed \$120,000.

Mr. Holden stated that those who spoke earlier that he was going to address have left and asked Mr. Miller to take his message back to them that he would be glad to spend some time at one of their meetings to go over the ICMA policies and their position on contracts for city managers. By their account, about 50 percent of the city managers in the country have contracts. He would be glad to address any other issues they would like to discuss.

8. MATTERS FROM MAYOR AND COMMISSIONERS: None

At this time, Assistant City Attorney Rubio stated that he would like to clarify how the City of Winter Garden operates for the benefit of the Boy Scout Troup that is present tonight. The

City Commission answers to the citizens of the City of Winter Garden. The City Manager, City Attorney, and City Clerk each answer to the City Commission. All the employees and department heads answer to the City Manager. The City Commission is prohibited from directing any of the employees. The Commission must go through the City Manager. In earlier discussions about why the City Commission can't get somebody to do something is because they are required to go through the City Manager.

The meeting was adjourned at 7:29 p.m.