

**REGULAR MEETING MINUTES
CITY COMMISSION**

October 14, 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, Assistant City Attorney Lionel Rubio, Deputy City Clerk Nancy Williams, City Planner Mark Cechman, Assistant to the City Manager Marshall Robertson, Parks and Landscaping Superintendent Joy Robertson, Utilities Director Fernand Tiblier, Public Works Director Bob Smith, Trailer City Manager Hughlan Martin, Information Technology Director Bob Reilly, Finance Director Mike Bollhoefer, City Planner Mark Cechman, Police Lieutenant Jon Johnson, and Code Enforcement Officer Johnny Clark

1. **APPROVAL OF MINUTES**

Regular Meeting Minutes of September 21, 2004. Motion by Commissioner Thompson to approve the minutes as submitted. Seconded by Commissioner Dixon and carried unanimously 4-0.

PRESENTATION

Ken Rush of West Orange High School's Drama Department introduced students Kate Gordon and Benjamin Rush, who performed a piece from "Man of La Mancha," the school's current production. Mr. Rush encouraged all those present to attend in support of the award-winning students.

Dispensed as the City Commission and convened as the Community Redevelopment Agency at 6:39 p.m.

Members Present: John Harriman, Theo Graham, Mildred Dixon, Bill Thompson and Larry Cappleman

Members Absent: Jack Quesinberry and County Commissioner Teresa Jacobs

2. **Accept resignation of CRA Advisory Board Member Bruce Williams and consider recommendation for replacement for the unexpired term**

Member Larry Cappleman asked the Commission to accept the resignation of Board member Bruce Williams, as he has moved out of the area and is unable to participate any longer.

Motion by Commissioner Dixon to accept Bruce Williams's resignation from the CRA Advisory Board. Seconded by Commissioner Graham and carried unanimously 5-0.

Mr. Cappleman then asked the Commission to accept the appointment of Mr. Jerry Chicone to the seat vacated by Mr. Williams. **Motion by Commissioner Dixon to accept the appointment of Jerry Chicone to the CRA Advisory Board. Seconded by Commissioner Graham and carried unanimously 5-0.**

Adjourned as the Community Redevelopment Agency and reconvened as the City Commission at 6:41 p.m.

3. FIRST READING OF PROPOSED ORDINANCES

A. Ordinance 04-73: AMENDING CHAPTER 22 OF THE WINTER GARDEN CODE OF ORDINANCES RELATING TO BUSINESSES BY CREATING ARTICLE VI, ITINERANT AUTOMOTIVE SALES; PROVIDING FOR THE REVIEW, PERMITTING AND REGULATION OF ITINERANT AUTOMOTIVE SALES WITHIN THE CITY LIMITS OF THE CITY OF WINTER GARDEN; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE (Tent Sales)

Assistant City Attorney Lionel Rubio read Ordinance 04-73 by title only. Commissioner Thompson asked whether the Ordinance applied to dealers outside the City limits. Mr. Rubio said the ordinance would apply to any auto dealership within or outside the City limits. Commissioner Thompson said he did not like the idea of the City providing a place for businesses from outside the City to show their products and then draw business away from the City. Mayor Pro Tem Harriman said he has talked to business owners in both shopping centers about this issue and none of them have ever complained to him about the practice. City Planner Cechman said this addresses only automotive sales and not all tent sales.

Commissioner Dixon expressed concern about whether the dealers would be paying fees to the donation account. The more tent sales the City permits, the more the City will collect to donate to worthy causes. In addition, there are plenty of used car lots in Winter Garden but not many new car dealers.

Commissioner Graham asked about the statement in Part B, Paragraph 4 of the Ordinance concerning three consecutive sale days. City Planner Cechman said that historically the sales take place over a weekend but are not limited to that. Mr. Rubio said that the Ordinance also provides for a specific time limit for set-up and tear-down. Mr. Cechman said the Ordinance gives guidance and structure to the tent sales. Mr. Rubio added that in the past there has been no set procedure. This is an attempt to codify the regulations for temporary automotive sales. Mr. Cechman said there is a \$500 non-refundable application fee and a permit fee of \$3,375. Commissioner Graham asked if a fee of nearly \$4,000 for a three-day sale was designed to discourage this type of sale. Mr. Rubio said the intention is neither to encourage nor discourage the sales, but to provide regulations.

Motion by Commissioner Dixon to approve Ordinance 04-73 with the second reading and public hearing on November 11, 2004. Motion was seconded by Commissioner Graham and carried 3-1; Commissioner Thompson opposed.

- B. Ordinance 04-74: AMENDING THE CITY OF WINTER GARDEN, FLORIDA, BUDGET FOR FISCAL YEAR 2003/2004; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE; THAT THE SUM OF \$2,863,116 TO BE APPROPRIATED AS FOLLOWS: REVENUES, \$2,863,116; EXPENSES, \$2,863,116**

Assistant City Attorney Rubio read Ordinance 04-74 by title and read the totals for revenues and expenses. **Motion by Commissioner Graham to approve Ordinance 04-74 with the second reading and public hearing on October 28, 2004. Motion was seconded by Commissioner Dixon and carried unanimously 4-0.**

4. SECOND READING AND PUBLIC HEARING PROPOSED ORDINANCE

- A. Ordinance 04-59: VACATING PORTIONS OF THE UTILITY EASEMENT IN CERTAIN LOTS LOCATED IN THE DANIELS LANDING SUBDIVISION; PROVIDING FOR AN EFFECTIVE DATE**

Assistant City Attorney Rubio read Ordinance 04-59 by title only. City Planner Cechman said a small error in the survey required this vacation. Staff recommends approval. Mayor Pro Tem Harriman opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Dixon to approve Ordinance 04-59. Motion was seconded by Commissioner Thompson and carried unanimously 4-0.**

5. REGULAR BUSINESS

- A. Request from Historic Downtown Winter Garden Merchants Guild to conduct an arts festival the weekend of November 20, 2004 (postponed from September 21, 2004)**

Tina Aldrich, 141 W. Plant Street, stated that effective September 17th, she is now a permanent resident of the City of Winter Garden. The Merchants Guild meets the first Wednesday of each month at the Railroad Museum, and has organized the "Winter Garden Arts Festival," which they hope will become an annual event. For various reasons, mostly delays caused by the hurricanes, the attendance is expected to be small for this first event but they are confident it will grow. Thirty vendors have been signed up to date for this year's festival. Closures of Plant Street between Dillard Street and Park Avenue would be needed from 4:00 a.m. on Saturday, November 20th through 6:00 p.m. on Sunday, November 21st. An event production company has been retained; they will provide all exhibitors' tents, sanitation, night security, and will obtain all the appropriate permits. Ms. Aldrich said the Merchants Guild is also requesting a special exception for beer and wine sales, which would be their fundraiser, and would be limited to the area

between the bar and the Edgewater Hotel. A non-profit organization may apply for a special exception license only three times a year. Since the Merchants Guild is not established as a non-profit, another entity has agreed to obtain the license for the Guild as long as their name is not attached to it. In addition, the beer and wine patrons would be arm-banded and have special cups. The Merchants Guild is not requesting any funds from the City for the event; they are only asking for police presence and some assistance from the Public Works and Recreation Departments.

Commissioner Dixon asked why a non-profit group is limited to only three special exception licenses a year. City Manager Holden said it is a state law allowing a liquor license for a short time period, and it requires approval of the local governing authority. It also permits beer and wine only, not mixed drinks.

Commissioner Graham said he wanted it on record that he would be opposed to the second request for a special exception liquor license. **Motion by Commissioner Graham to approve the Winter Garden Arts Festival November 20-21, 2004 with the requested street closures. Motion seconded by Commissioner Thompson and carried unanimously 4-0.**

Motion by Mayor Pro Tem Harriman to approve the request for a special exception liquor sales license for the arts festival. Motion seconded by Commissioner Dixon. Commissioner Graham said he is opposed to approving the special exception because allowing the drinking of alcohol on City streets where there is a law in place prohibiting it sends the wrong message to the youth. **Motion failed by virtue of a tie vote 2-2; Mayor Pro Tem Harriman and Commissioner Dixon in favor; Commissioners Graham and Thompson opposed.**

Ms. Aldrich asked if beer and wine sales would be permitted in a contained, tented area. Mayor Pro Tem Harriman said if the motion had passed, then yes.

B. Request from Webb's Antique Mall to conduct an open-air parking lot sale October 30-31, 2004

Mr. Verlon Webb, 13373 W. Colonial Drive, said the sale would be held from 9:00 a.m. to 3:00 p.m. on Saturday and Sunday, October 30 and 31, at no charge to the vendors. Business has been slower than normal over the summer and due to the hurricanes. About 50 vendors have signed up, and will set up in the parking lot inside marked parking spaces and not in any driving lanes. **Motion by Commissioner Graham to approve the request for an open-air parking lot sale at Webb's Antique Mall on October 30-31, 2004. Motion seconded by Commissioner Thompson and carried unanimously 4-0.**

C. Request from Taquitos Jalisco Restaurant to conduct an anniversary celebration in the Tri-City Shopping Center parking lot at 1041 S. Dillard Street on November 14, 2004 from 1:00 to 7:00 p.m.

Mr. Servando Lupercio, owner of Taquitos Jalisco, said that the anniversary celebration would consist of music outside the restaurant. No alcohol is involved in the event. Commissioner Graham said that last year the event was quite loud and patrons stayed after dark. City Manager Holden said that was a different event; this one has never caused any problems. **Motion by Commissioner Dixon to approve the Taquitos Jalisco anniversary celebration on November 14, 2004 from 1:00 to 7:00 p.m. Seconded by Commissioner Thompson and carried unanimously 4-0.**

D. Recommendation to approve a Fifth Amendment to the Joint Planning Agreement with Orange County

City Planner Cechman said the City and Orange County have entered into a Joint Planning Agreement which establishes the area the City can annex. Any time the City wants to annex outside this area, an amendment must be approved. City and County staff have talked at length about the Amendment and have developed terms that are adequate to satisfy both sides. This will allow the City to annex property on the west side of 545, known as the Burch property, and the property known as Harlem Heights. Staff has reviewed the Amendment and recommends approval.

Commissioner Graham asked about parking design, porches and balconies. Mr. Cechman said the Amendment establishes higher design criteria. City Manager Holden said that was addressed in the Fourth Amendment also, so the concept was approved two or three years ago. Commissioner Graham asked about school capacity at the time of building. Mr. Cechman said the Amendment requires the applicant to get a letter from Orange County Public Schools.

City Manager Holden said the biggest holdup in the discussions has been the termination date. One of the goals of the County Commission has been to get a JPA Agreement that was more than a year long. The original JPA had an annual renewal and gave the City the right to opt out. It is not really a planning tool if it is only effective for one year because sometimes it takes nine months for something to get approved. It has been agreed that this Agreement would go to 2009. The City has had extensive discussions with County Commissioner Teresa Jacobs and the County planning staff on this issue. This is a longer-term Agreement now, which is to everyone's benefit and is consistent with what other cities have been doing.

Motion by Commissioner Graham to approve the Fifth Amendment to the Joint Planning Agreement with Orange County. Motion seconded by Commissioner Dixon and carried unanimously 4-0.

E. **Request by employee Joe L. Castro for retirement credit for previous employment from December 13, 2001 through July 13, 2004**

City Manager Holden said Mr. Castro, an outstanding employee in the Utilities Department, left employment with the City to work for the U.S. Postal Service. His job there was not satisfactory and he returned to work for the City one month later. Mr. Castro is requesting that the Commission reinstate his original hire date for retirement purposes. Mr. Holden strongly recommends approval of his request. **Motion by Commissioner Graham to credit the period of December 13, 2001 to July 13, 2004 to Joe Castro's City employment history. Motion seconded by Commissioner Dixon and carried unanimously 4-0.**

F. **Recommendation to negotiate with four engineering firms for Continuing Engineering Services Contracts**

Finance Director Bollhoefer said the City has several large projects coming up over the next five years. To ensure that the projects are done in a timely fashion, additional engineering services will be needed. Twenty-eight Statements of Qualifications were requested, 13 were submitted, and four firms were short-listed: Professional Engineering Consultants, Hartman and Associates, GAI Consultants, and Boyle Engineering. Staff recommends selecting all four firms, all of which have done work in the City previously. Staff will conduct the negotiations, write agreements, and bring formal contracts to the Commission for approval at a later date. **Motion by Commissioner Graham to approve contract negotiations with the four short-listed engineering firms for Continuing Engineering Services Contracts. Motion seconded by Commissioner Thompson and carried unanimously 4-0.**

G. **Recommendation to reappoint Joe Morabito and Mildred Holt-Washington as trustee members on the Police Officers and Firefighters Pension Board for a two-year term until November 30, 2006**

Motion by Commissioner Graham to reappoint Joe Morabito and Mildred Holt-Washington as trustee members on the Police Officers and Firefighters Pension Board for a two-year term until November 30, 2006. Motion seconded by Commissioner Thompson and carried unanimously 4-0.

H. **Recommendation to approve a request for reduction in Code Enforcement fines in Cases #00-121, #00-123 and Special Assessment Lien for mowing 132 North Street**

City Manager Holden said the City has had many old code enforcement cases for which liens exist for mowing and demolition fines. Code Enforcement Manager Johnny Clark has been issuing up to 200 citations and warnings per month and most citizens comply; very rarely does the City have to take someone to court. Mr. Clark will explain the particulars of this case and Mr. Holden wholeheartedly supports the recommendation.

Code Enforcement Manager Johnny Clark said there were problems at this address for several years prior to his employment with the City. When he became Code Enforcement Officer, he worked with the applicant to correct the problems. Lightning struck the house sometime in the late 1990s and the house was condemned. The applicant, Ms. Simmons, had the house demolished and the site cleaned up at no cost to the City. As she is an elderly widow who has cooperated to the best of her ability, and she does not have the funds to pay the full amount of the fines, Mr. Clark recommends that Commission approve this request. **Motion by Commissioner Graham to approve the request for reduction in code enforcement fines and special assessment lien to \$178 for 132 North Street. Motion seconded by Commissioner Dixon and carried unanimously 4-0.**

6. MATTERS OF CONCERN FROM CITIZENS

Richard Napotnik, 1633 Fullers Cross Road, Winter Garden, Florida, said he had a question for Commissioner Thompson. Commissioner Thompson said he would not answer questions directed to him in the Chambers. Mr. Napotnik then directed his question to City Manager Holden. He asked Mr. Holden if the increased liability insurance covered all the citizens of the City of Winter Garden. Mr. Holden said no. Mr. Napotnik asked what the insurance covered. Mr. Holden said it is excess liability insurance for elected officials and liability for the City from being sued. Mr. Napotnik asked if it would cover everything within the City limits. Mr. Holden asked Mr. Napotnik to please schedule an appointment if he wanted to discuss this in detail, as these questions were already answered at the budget hearings. Mr. Napotnik asked why the \$15,000 was charged to Trailer City instead of whatever fund it normally comes out of. Mr. Holden repeated that Mr. Napotnik was welcome to call and make an appointment with himself or Finance Director Bollhoefer to discuss his budget questions.

Sonia Yost, 644 S. Vineland Road, Winter Garden, Florida, stated that the property across the street from her house (637 S. Main Street) is a commercial property which has been abandoned. During the hurricane, 80' sheets of tin blew off the roof and what is left has not been secured, presenting a safety hazard to all the surrounding homes and cars, some of which have already been damaged. City Manager Holden said City action is already being taken against the owner but due to FEMA regulations, the City is forced to allow a longer period of time for the problem to be corrected.

Ms. Yost also said that she has spoken to Public Works Assistant Director Dennis Duckwiler about a three-year old drainage problem in her yard that causes standing water and mosquito problems. She provided photos of the area and asked for help. A neighboring fence was installed on the City's property line without a permit. Part of the fence has been taken down and the rest has been left in disrepair.

City Manager Holden made note of her requests and the address.

Andy Bruns, President of the Trailer City Homeowners Association, said that there was minor damage to Trailer City homes from the hurricanes. He said that two representatives

from Trailer City have not been appointed, and some of the trailers are being torn apart and he wants to know what is going on. City Manager Holden said that trailers have been donated or provided to the City for removal. He will not discuss personal transactions that the owners of those trailers have executed with the City; that is their personal business. Mr. Bruns, as HOA president, would have to speak to those parties directly. Mr. Bruns said one of the trailers was purchased by the City for \$1 and one for \$1,000, and no City staff has contacted the HOA. Mr. Holden said if Mr. Bruns would like to make an appointment with him and Finance Director Bollhoefer to please call and they would be happy to meet with him. Mr. Bruns said he didn't feel like calling, Mr. Holden or Mr. Bollhoefer should call him.

Commissioner Dixon said a meeting should be held with all parties to talk about the issues intelligently, calmly, and in an orderly manner. There was not going to be a free-for-all. Mayor Pro Tem Harriman asked Mr. Bruns if he had HOA meetings with the residents to discuss what was happening. Mr. Bruns said there is an HOA meeting every Monday night. Mayor Pro Tem Harriman said Mr. Bruns was going over the same issues repeatedly at every Commission meeting and not accomplishing anything. In order to move ahead, he needs to make the appointment with City Manager Holden and/or Finance Director Bollhoefer to discuss his concerns. Mr. Bruns asked Assistant City Attorney Rubio whether Chapter 723 provides for getting about \$2750 if you walk away from your trailer (if it's a single-wide.) Mr. Rubio said he was not here to comment. Commissioner Dixon said the City is divided into districts and Mr. Bruns should be talking to the elected representative from his district about his concerns, not coming to her.

7. **MATTERS FROM ASSISTANT CITY ATTORNEY** – No report

8. **MATTERS FROM CITY MANAGER**

A. **Recommendation to cancel regular meeting dates of November 25 and December 23, 2004 for the Thanksgiving and Christmas holidays**

Motion by Commissioner Thompson to cancel the November 25 and December 23, 2004 regular meetings. Motion seconded by Commissioner Graham and carried unanimously 4-0.

B. **Request for sponsorship by the West Orange Chamber of Commerce honoring "Teachers and Support People of the Year"**

The West Orange Chamber has requested \$100 for their "Jewels of Our Schools" program. City Manager Holden asked if the City had carried over monies into the donation fund from the previous fiscal year. Finance Director Bollhoefer said about \$2,000 will be carried over. **Motion by Commissioner Graham to approve a \$100 donation to the Chamber program. Seconded by Commissioner Thompson and carried unanimously 4-0.**

C. **Request for participation in the YMCA 2004 Annual Awards Gala on October 21, 2004**

Motion by Commissioner Dixon to buy a table at the Gala for \$750. The motion failed for lack of a second.

Motion by Commissioner Dixon to buy two Gala tickets at \$75 each for herself and Ms. Charlie Mae Wilder. Motion seconded by Commissioner Harriman and carried unanimously 4-0.

9. **MATTERS FROM MAYOR PRO TEM AND COMMISSIONERS**

Commissioner Dixon:

- Asked if the City owns Crown Point Road. City Manager Holden said the City owns part of West Crown Point Road (from the VFW to Bay Street). Some road workers had told Commissioner Dixon that the County owned the road.
- Wants the YMCA to take over some of the Maxey Center recreation programs. She also wants the game room on Center Street to be approved; Maxey can no longer accommodate all the people who need a place to go.

Commissioner Thompson:

- With regard to Trailer City questioning, Mr. Thompson said he has never failed to return a telephone call or answer an e-mail. He will answer any question presented in a letter or in a meeting scheduled somewhere else. However, he will no longer answer any questions in Chambers.

The meeting was adjourned at 7:58 p.m.