
**REGULAR MEETING MINUTES
CITY COMMISSION**

April 14, 2005

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

PRESENT: Mayor Jack Quesinberry, Commissioners Theo Graham, Mildred Dixon (arrived at 6:36 p.m.) and Carol Nichols

Also Present: Acting City Manager Mike Bollhoefer, City Attorney Lionel Rubio, City Clerk Kathy Golden, Assistant to the City Manager Marshall Robertson, Police Chief George Brennan, City Planner Mark Cechman, Utilities Director Fernand Tiblier, Assistant Finance Director Brian Strobeck, Information Technology Director Bob Reilly, Public Works Director Bob Smith, Fire Chief John Williamson, Recreation Director Jay Conn, Human Resources Director Frank Gilbert, West Orange Times reporter Michael Laval, and Orlando Sentinel reporter Sandra Mathers

1. **APPROVAL OF MINUTES**

Motion by Commissioner Graham to approve the Special meeting minutes of March 18, 2005, Regular meeting minutes of March 24, 2005, and Workshop minutes of April 5, 2005. Seconded by Commissioner Nichols and carried unanimously 3-0.

2. **PRESENTATIONS**

A. **Drop Savers Contest award winners and Proclamation 05-06 proclaiming April as Water Conservation Month**

City Attorney Rubio read Proclamation 05-06. Mr. Dennis Jones, Water Conservation Coordinator and Mayor Quesinberry presented the awards to the following Drop Savers contest winners:

Third Grade First Place Winners

Marisol Sarate	Dillard Elementary
Cameron Ives (absent)	Maxey Elementary
Alexander Cruz	Calvary Christian
Alexandra Almestica	Tildenville Elementary
Kody Tomlinson	Foundation Academy

Fourth Grade Winners

Travis Mohabir	Dillard Elementary
Michelle Bush	Calvary Christian
Juan Medina (absent)	Tildenville Elementary
Faith Bennett	Foundation Academy

Commissioner Dixon arrived.

B. Audit Report by Sines, Girvin, Blakeslee and Campbell for Fiscal Year ending September 2004

Assistant Finance Director Brian Strobeck stated that on behalf of Senior Auditor Hank Sines, he is presenting the audit report:

On page 9 of the Independent Auditor's Report the City has once again received an "unqualified opinion", also known as a clean audit opinion, meaning the information in the financial statements can be relied upon to be true and correct.

The general fund balance increased by \$2 million during the fiscal year with an ending fund balance of \$9.6 million. The large increase is primarily due to the rapid growth that increased the revenue by \$1.8 million over what was projected and the \$833,000 in reserved contingencies was not needed. During the year, the City increased its debt by \$8 million that was attributable to the State Revolving Fund loans that were used for construction of the southern area water treatment plant as well as expanding our existing wastewater treatment facility.

During the year, the City paid down \$1.6 million on the agreement with Orlando Orange County Expressway Authority. The Road Impact Fee Fund has 75 percent of the funds pledged toward the repayment of the debt. Again, with the rapid growth, there was an accumulation of funds in the Impact Fee Fund and so money was paid to reduce that debt.

Three major hurricanes during the year have an estimated total cost of \$353,000. Those funds were used for emergency operations, debris removal, as well as repairs to damages to City property. The expected reimbursement is about 95 percent from FEMA and from the State of Florida. There was relatively little financial impact to the City.

There is one new addition to the audit report on page 6, which is the Certificate of Achievement for Excellence in Financial Reporting issued by the Government Finance Officers Association of the United States and Canada for the 2003 report. One the privileges to receiving this award, is we are allowed to reproduce the award in a subsequent report. The 2004 report has also been submitted for receiving the award.

Commissioner Graham referred to page 108 where it shows the ad valorem taxes collected for this year was 95.9 percent, which is never 100 percent, but means that we lost \$145,638 and asked whether or not the City has liens on those properties. Mr. Strobeck stated that the County Tax Collector collects those funds and he believes the County liens the property. Acting City Manager Bollhoefer replied that the County does lien the property and once the funds are received, they are forwarded to the City.

Dispensed as the City Commission and convened as the Community Redevelopment Agency (CRA) at 6:46 p.m.

Members Present: Jack Quesinberry, Theo Graham, Mildred Dixon, Carol Nichols and Larry Cappleman

3. **Request for allocation of \$20,000 for directional signage**

Agency Member Cappleman stated that the Community Redevelopment Agency Advisory Board (CRAAB) has reviewed a report from Glatting Jackson who was hired to design additional signage and Mr. Robertson will present the estimates. Assistant to the City Manager Robertson displayed the mock-up of a proposed sign. Glatting Jackson received an estimate from Design Communication Ltd. that was \$4,500 per sign; Graphic Systems gave an estimate of \$4,000 per sign if you bought ten of each. The City has built some of the items downtown and so he asked the Public Works Shop Foreman to provide an estimate of what it would cost the City to build them in-house and that estimate can back at \$1,400 each. The in-house signs would be coated and better than the outside estimates that were not coated. Examples of the signs for traffic have been provided in the agenda package. Glatting Jackson is still designing the pedestrian signs, which are smaller, and they will show merchant locations. Mayor Quesinberry, for the benefit of the public, explained the CRA. Mr. Robertson stated that the CRAAB suggested that signage also be installed on Dillard Street to direct traffic to other facilities such as Tanner Hall, Lake Apopka, Newton Park, Maxey Center, Boys and Girls Club, and other East Winter Garden facilities. **Motion by Agency Member Cappleman authorizing the budgeted expenditure of up to \$20,000 to purchase and manufacture road directional signs. Seconded by Agency Member Dixon and carried unanimously 5-0.**

The Community Redevelopment Agency adjourned and reconvened as the City Commission at 6:52 p.m.

4. **FIRST READING AND PUBLIC HEARING OF PROPOSED ORDINANCES**

A. **Ordinance 05-02:** AMENDING THE WINTER GARDEN COMPREHENSIVE GROWTH MANAGEMENT PLAN TO ALLOW FOR THE DEVELOPMENT OF AN OPEN AIR MALL ON THAT CERTAIN REAL PROPERTY GENERALLY DESCRIBED AS 174.8 ACRES OF LAND LOCATED NORTH OF THE WESTERN BELTWAY AND EAST OF COUNTY ROAD 535 AND GENERALLY KNOWN AS THE FOWLER PROPERTY BY SPECIFICALLY AMENDING POLICY 1.3 OF THE FUTURE LAND USE ELEMENT BY INCLUDING A "BELTWAY CENTER" LAND USE CATEGORY; AND AMENDING OBJECTIVE 3 OF THE CAPITAL IMPROVEMENT ELEMENT BY ESTABLISHING A POLICY IDENTIFYING PROPORTIONAL SHARE CONTRIBUTION FOR INFRASTRUCTURE IMPROVEMENTS REQUIRED BY A DEVELOPMENT OF REGIONAL IMPACT; AND AMENDING THE FUTURE LAND USE MAP BY CHANGING THE LAND USE DESIGNATION OF THE AFORESAID REAL PROPERTY GENERALLY KNOWN AS THE FOWLER PROPERTY FROM WINTER GARDEN LOW DENSITY RESIDENTIAL AND CONSERVATION OVERLAY TO CITY BELTWAY CENTER WITH A CITY CONSERVATION OVERLAY; AND REVISING POLICY 9.3.2.4 OF THE FUTURE LAND USE ELEMENT BY CHANGING THE DESIGNATION OF

THE FOWLER PROPERTY TO BELTWAY CENTER; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (LSCPA Fowler Groves)

- B. **Ordinance 05-22:** APPROVING THE DEVELOPMENT ORDER OF THE WINTER GARDEN VILLAGE AT FOWLER GROVES DEVELOPMENT OF REGIONAL IMPACT, CONSISTING OF APPROXIMATELY 174.8 ACRES OF LAND LOCATED NORTH OF THE WESTERN BELTWAY AND EAST OF COUNTY ROAD 535; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE (Fowler Groves)
- C. **Ordinance 05-24:** REZONING CERTAIN REAL PROPERTY GENERALLY DESCRIBED AS 174.8 ACRES OF LAND LOCATED NORTH OF THE WESTERN BELTWAY AND EAST OF COUNTY ROAD 535, GENERALLY KNOWN AS THE FOWLER PROPERTY, FROM CITY R-1 TO CITY PCD; PROVIDING FOR CERTAIN PCD REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Winter Garden Villages at Fowler Groves PCD)

Mayor Quesinberry announced that the applicant has requested that the above three ordinances relating to a proposed open-air mall at Fowler Groves be continued until April 28, 2005 to allow them additional time to address the concerns expressed by area residents and the Planning and Zoning Board. **Motion by Commissioner Dixon to continue the first reading and public hearing of Ordinances 05-02, 05-22, 05-24 until the regular meeting of April 28, 2005. Seconded by Mayor Quesinberry.** Commissioner Graham stated a lot of people are present for the purpose of discussing this item and may have additional information to bring forth. Allowing them to speak would allow the applicant to consider their items. Commissioner Nichols stated that she does not agree to the request for continuance because she does not feel the ordinances are written to cover everything they need to do. If passed in their current form, it would be granting the developers carte blanche to do what they feel like doing in certain areas. She stated she met with Sembler representatives last evening and went over some very important issues such as traffic, which is a big mess and the Sembler Company has some things they want to work on especially along Daniels Road to help slow down traffic. There are also issues with the State and the Planning and Zoning Board who made three additional recommendations to their approval. Just last week at the Commission's workshop Sembler stated they would not even consider the additional recommendations. City Attorney Rubio stated that the motion being considered is whether or not to continue the first of two public hearings to allow the applicant two additional weeks to address the concerns of the residents. Commissioner Nichols stated that continuing the ordinances would be rehearing the same ordinances without any changes being made to them. Mr. Rubio replied not necessarily. Commissioner Nichols asked if there would be amendments to the ordinances. Mr. Rubio replied that potentially there will be because the applicant hopes to meet with citizens to address their concerns, the Planning and Zoning Board recommendations, and meet with staff. Hypothetically, if the applicant says they will install a catwalk, that provision would have to be added to the ordinance or a development agreement. There are different ways to approach what may be added to address the concerns. Commissioner Dixon stated that the first reading of an ordinance

can be changed and is only adopted at the second public hearing. If there is going to be discussion, she needs to know what those issues are. Commissioner Nichols stated she does not feel any of this is far enough along that the Commission is in any position to approve any of it. This has gone too fast and too far. It is ludicrous to put something that large in that area with that amount of traffic. She first heard there was only going to be 50 residential units and then they have said there is going to be 450 residential units and when you ask where they are going to put them, they said it may never happen. They need to make up their mind.

Commissioner Graham asked the Commission to get back to his original question about allowing more discussion, then consider a continuance, and not vote on these three ordinances tonight. Mr. Rubio stated that one option available to the Commission is to amend the motion to allow public input. Commissioner Graham asked what if the original motion was to be defeated; could his suggested motion be made? Mr. Rubio stated yes. Mayor Quesinberry stated that those who have appeared should have their comments heard and the Semblers should be allowed to work with them for the two weeks they have requested. Mr. Rubio stated that the current motion is for the City Commission to continue the first reading and public hearing until April 28, 2005. Commissioner Nichols stated she believes the Commission is prepared to decide this evening. Depending on how the vote goes, the Semblers can always bring it back after making corrections. The Commission needs to take its time on a project that has a big impact on a lot of lives. Mr. Rubio clarified that if the ordinances pertaining to the Comp Plan and Development Order fail, pursuant to the Charter, they cannot be heard again for at least 90 days and the PCD ordinance potentially could not be heard for six months. Acting City Manager Bollhoefer clarified that Commissioner Graham has suggested that everyone be allowed to speak tonight and if it is tabled for two weeks it would allow the Sember Company extra time to work with citizens. If after two weeks there is no solution, the Commission would still have the opportunity to reject the ordinances. Commissioner Graham stated that his suggestion was that if the motion did not pass, he was going to motion to allow discussion, and he could ask his questions. Commissioner Graham announced he has spoken with the Sembler Company for about 30 minutes and he did not commit himself either way. Commissioner Nichols stated that her concern is not about whether the citizens are going to get an opportunity to speak or not because she knows they will. Her concern is how the ordinances are currently written and if they are brought back in two weeks, what changes will be made, who makes them, and who tells somebody to make the changes. She does not want to see the same documents in two weeks without changes because they are wrong. Mayor Quesinberry called for the vote. **Motion failed with a tie vote of 2-2; Favor Dixon and Quesinberry; Opposed Nichols and Graham.**

Motion by Commissioner Graham to postpone the first reading and public hearing of the proposed Winter Garden/Fowler Grove project until April 28, 2005 however, allow the public and the Sembler Company to speak and those comments will become a part of the public record and this not a public hearing. Seconded by Commissioner Dixon. Commissioner Nichols noted that these items impact her district and she has spoken with many people. She is not opposed to the mall but she would like

to see more dialogue and more consideration on both sides, the residents and developers, and that is why she is asking for more time. **Motion carried 3-1; Favor Quesinberry, Graham and Dixon; Opposed Nichols.** Mr. Rubio clarified that all comments made will be carried over to the April 28, 2005 meeting.

Ms. Rebecca Furman of Lowndes Drumstick Doster Kantor & Reed, P.A., Orlando, Florida stated her appreciation to continue the items which will allow them extra time to address the concerns previously expressed and any new concerns.

Ella Henderson, 207 Avalon Road, Winter Garden, Florida stated her money should be spent in Winter Garden and she is in favor of the proposed project.

Mike Carroll, 1149 Portmoor Way, Winter Garden, Florida stated he is in favor of the project and he does not want to go elsewhere to shop or go to the movies. Any time someone can stay off SR 50, it is a good thing.

Bert Valdes, 255 Temple Grove, Winter Garden, Florida stated his support of the proposed mall because in the long run he believes it will benefit the City.

Larry Seab, 748 Duff Drive, Winter Garden, Florida stated he wrote a letter he wants on the record that he supports the proposed mall. He referenced the "stopfowler" web page which does not address the facts and most of the reasons listed are reasons the Commission should approve the mall. There is one legitimate concern that should be addressed and that is the increased traffic. Progress creates opportunity that the citizens need to have.

Shirley Smith, 12900 W. Colonial Drive, Winter Garden, Florida stated that she can't believe that Winter Garden would be so blessed with the vision and creativity that the Semblers are proposing. She hopes that Winter Garden can grow and become better. She, her family, and friends are excited about a mall. It will reduce the amount of travel time to go elsewhere and increase their leisure time. We will get the specialty shops we need. She thanked the Sembler Company for funding all the road improvements. She hopes everybody can be happy when it is finished and hopes it will not be drug out.

Chris Abbott, 567 Groves End Lane, Winter Garden, Florida stated he is in favor of the mall. He has seen the web page "stopfowler.com" and what concerns him is the reference made to the size of the mall. This mall has been presented as an open-air mall you can walk around with beautiful buildings, restaurants, landscaping, etc. and he is all for it as opposed to an indoor mall. The web page also references the vacancies in other buildings in Winter Garden and his answer to that is it is a management issue. The page also goes so far as to say there is a store selling pipes to kids. He questions why the residents aren't picketing such a shop instead of a project that will create jobs. Traffic is always a problem but there is a traffic plan. He printed an aerial map of the area from 2002 and it shows that there was nothing in the area so every surrounding area resident, besides Country Lakes, just moved here. They are living here because the Commission approved their development and all residents are asking is that this mall be approved. He

looks forward to being able to take his children right down the street to eat instead of loading them into the car and traveling down SR 50.

Kimberlee Rose, 22 ½ W. Vining Street, Winter Garden, Florida stated she remembers attending meetings as long ago as five years and heard about all the proposed developments going in on CR 535 and 545 down through Clermont with hundreds of thousands of homes. Both she, her mother and others asked that it not be changed from low density. The public was repeatedly told that the property owner has rights to develop the land and could not be interfered with by the Commission. It has since been developed and the original charm has been lost. She wants to reap the benefits of change, as well as many others, in the form of convenience. She would save time, money for gasoline, hopefully money on insurance and possibly other things if we had our own conveniences right here. The Daniels Road/535 has been planned for a long time and is nothing new. She supports the mall and asked the Commission to consider when they vote on the proposed project, that they think of the entire Winter Garden population and not just one segment or just who is here to speak.

Betty Myers, 368 Grove Court, Winter Garden, Florida stated she has not fought progress and it is sad how progress keeps skipping Winter Garden. It would be great to go only a few miles to shop right here in Winter Garden.

Frank Imbruglia, 14015 Hampshire Bay, Winter Garden, Florida stated the mall is an overwhelming project of 175 acres with 1.5 million square feet of retail. He has worked on alternatives and made suggestions that he was told are great but it stops there. Not a lot of concessions have been made such as increasing buffers from 40 to 50 feet, which are not the concessions most of the homeowners are looking for. They would like to see a transition from single family to big box retail. Traffic engineering has told him that as soon as the project opens, the road will be over capacity. The developer alone is going to put 65,000 trips on this road a day. It could take anywhere from four to seven years to make the improvements on SR 50 required by this development. He is not opposed to the mall as a concept but the way it is illustrated, it is too dense. There is no transition between the single and multi-family units. He distributed his proposed plan, as requested by staff, for moving the big box retail to the other side of the road, which the developer is unwilling to do. He understands the developer's argument that one store feeds off another but they tell him to move the lifestyle center on the other side of the road is impossible. He asked that the alternatives at least be entertained and not just take the word of the developer. He is not opposed to developing the property; it is the perfect location with a four-lane road and the expressway. The comp plan set aside 40 acres for commercial property and now it is 175 acres.

Patrick L. McDonald, 13632 Glynshel Drive, Winter Garden, Florida stated that some of the concerns expressed by the Stonecrest residents have yet to be addressed. Sembler has done a lot to sit down and go over the issues and concerns of residents. The Semblers have not agreed to everything the residents want but are continuing to talk and they appreciate it. The issues with Stonecrest reside right here with the City. As a reasonable and prudent investor, he is not against growth, change, and opportunity. The City had a

comprehensive plan that the first mission statement states it is the objective to maintain the low-density residential aspect of Winter Garden. The City also set aside 30 acres as regional commercial development. If it were as much as 80 acres he doesn't believe the City would be hearing so many objections. What we have is massive sprawl. This is a strip mall with a little town center. His second issue deals with safety. The ordinance includes "to advance and serve the health, safety, and greater welfare of the citizens of Winter Garden" and asked if anyone could show him any other PUD in the State of Florida that has a major highway dissecting it and the community center sits with access onto a major four-lane highway. In 2003, the Mayor addressed pedestrian safety on walkways around a retention pond, so how are the families going to cross Daniels Road safely to get to their community center that the City approved.

Tom Reedy, 14217 Country Estate Drive, Winter Garden, Florida stated he would not like to see the comprehensive plan changed from 40 acres but it doesn't seem the Commission thinks that is reasonable and he understands the desire to respond to the changes in the area and develop something different than what was envisioned in the comprehensive plan. He asked the Commission to remember that neighborhoods surround this property and the two suggestions made at the Planning and Zoning Board meeting have great merit, are reasonable, and urged consideration by the Commission. The first is to require the development order to include moving the big boxes along 429. The second is to not make the entire 175-acre parcel the beltway center but implement transitional land uses in zoning between the existing residential communities and the mall. At the workshop last week Sembler said they wouldn't do that because there is not enough demand for housing and he hopes that the same consultant that told them that isn't the same one that told them that there is enough retail demand to support this mall and that the downtown merchants will not be hurt by the mall. A more effective buffer would be a band of multi-family or light commercial between the existing residential and the mall rather than piles of dirt, trees, and brick walls. Sembler has modified their original plan to include 450 residential units so let's make sure we put them where they do the most good. There are issues with the scale of the development but he thinks that with a little adjusting we can have a project that is a great fit for the area.

Robert LaNasa, 431 Home Grove Drive, Winter Garden, Florida stated his concerns about the size and safety, not the money it will bring. A community center right at the back of the big boxes is a concern for pollutants and the crime that comes with this type of development. He is concerned for his 14-year-old daughter's safety while walking the street and how can she safely cross the road to her bus stop.

James Balderrama, 14315 Hampshire Bay Circle, Winter Garden, Florida stated he is opposed to the mall because it is just too big. Some people had no idea of the size of this mall. Some believe the lies of Sembler. The Semblers come in with their pictures depicting how beautiful it is. Today's headline shows the governor saying we have a traffic problem, so why increase it in Winter Garden. He asked if there was a meeting with the Semblers by the Commission last night because he has an email stating the Commissioners met with Sembler yesterday. Commissioner Nichols stated she met with them by herself. Mr. Balderrama asked if any member of the Commission met with the

Semblers without the public's consent or knowledge. Mayor Quesinberry stated he does not speak with them, that is up to staff. Mr. Balderrama stated that as a citizen, don't let them find out different. He attended the April 5th workshop and the only question the Mayor asked was what restaurants would be in the mall. Mayor Quesinberry stated he also asked how many jobs would the mall create. Mr. Balderrama replied that was Commissioner Dixon's question. From SR 50 south towards the development is only a two-lane highway (two photos submitted). Mayor Quesinberry stated his five minutes were up and asked for the next person.

Tina Aldrich, 141 W. Plant Street, Winter Garden, Florida stated she is the President of the Merchants Association, is a member of the Community Redevelopment Advisory Board, which she is not representing tonight, and a member of the Planning and Zoning (P&Z) Board. She was the one objecting vote at the P&Z meeting. She is not opposed to the mall in concept, but she is concerned about its magnitude. She thanked the Sembler group for working with them. The non-majority of downtown merchants asked her to come and speak. Sembler allowed David Marks to piggyback a market study that reports that in order to secure the downtown survival 200 homes are needed within walking distance of the downtown. She is not sure where those will go or what would happen if it takes ten years to build 200 homes, but questions will they survive until then. The second suggestion by Mr. Marks is a build-out of grocery stores, more antique shops, and the theater. If the mall takes people from downtown with the draw of a fabricated main street, will the build-out still occur. She asked the Commission to consider the proposed Oakland Park subdivision with 35,000 square feet of shopping, the Bella Colina Plaza with 1.2 – 1.5 square feet of open-air mall at the Orange/Lake County line. Unless the Commission is willing to take the market study to fruition, the future of our thriving downtown corridor is not guaranteed. Putting herself in her neighbor's place, she finds she does not want the mall as presented until some issues can be resolved. Mrs. Aldrich suggested that staff ask each homeowner what they want so each Commissioner can truly say they have listened to the people. Her suggestion at the P&Z meeting is that it is imperative that the Stonecrest neighborhood not be divided. The Comp Plan never alluded to this area being anything but residential with some commercial. If the project goes through, there should be a bridge or walkway, anything but just a crosswalk, and be built with the cost shared by the Semblers, since they want the project, and the City, since they are changing the rules and allowing it to be built.

Selenia Roldan, 1852 Nesting Lane, Winter Garden, Florida stated she has been to other malls and the big boxes are not an easy stroll and will not make Winter Garden attractive. They belong on SR 50. She doesn't want to drive so far to shop and would enjoy meeting her neighbors at an open-air mall. She reminded everyone about all the big trucks that would be bringing in hurricane supplies to the big box stores. The proposed mall needs to be made attractive and bring nice restaurants.

Ms. Furman extended her appreciation to those attending this meeting. Everyone has put a lot of work into this proposal and look forward to working on it more in the next two weeks.

Commissioner Graham stated that he went through the Development Review Impact (DRI) report and on pages 21-22 through 21.32 the level of service on SR 50 has nine F's which means that it is as much as you can have on that highway with a couple of more places exceeding the F rating. He is very concerned about the traffic. The feeder/frontage road projections, in his opinion, are low and Marsh Road has been completely omitted. Marsh Road goes west of 545 and he has been working with Lake County to widen Marsh Road to four lanes. The prior City Manager Holden reported meeting with Orange and Lake Counties and Lake County wanted a fast lane. Mr. Holden's point was that if Lake County would pay for the lane, then Winter Garden and Orange County would consider it but all they wanted to do was get Disney traffic through the area. Commissioner Graham pointed out that traffic is traffic regardless of who it is or where they are going and it would eliminate a lot of traffic. The Kings Ridge subdivision is going to have nearly 4,000 homes, which is located near Marsh Road on Highway 27 and therefore, Marsh Road should also be considered. The map shows from 455 to SR 50, which has a lot of traffic from Montverde that could go to Marsh Road instead of SR 50 and would eliminate a lot of traffic from SR 50. He also read the referenced newspaper article where Governor Bush stated that if you are going to develop in your area, pay for it in that county and taxes can be increased. Winter Garden does not want to increase taxes but we want the roads and the developers should help pay for them which is what the city has been doing all along. The Department of Community Affairs had five objections and the city has given a response but the city must first have the DCA approval before this project would move forward. In particular, objection number four was answered that the entire property line north of the commercial project has had the buffer specifications agreed to by the adjacent Stone Crest subdivision. That answer is not correct because he has heard enough people here tonight stating they do not agree to the buffer on that side. He is not opposed to the mall and believes it will help some people, but some additional items need to be addressed.

Ms. Furman stated that she has notated the issues and they will address them over the next two weeks. Commissioner Dixon stated that her attorney, Ralph Armstead, is present and if there are any changes to be made it should be given to him to relate to her.

Commissioner Nichols stated there has been a lot of discussion tonight about the problems on Daniels Road and when she spoke with Mr. Hareas last night, he explained to her how the Daniels Road situation came to be and the agreement to four-lane the road over the bridge to SR 50 and asked him to explain it again. Mr. Hareas, with the Sembler Company, stated that he believes the city and the county have been working together over the past seven to eight years, before Sembler came, on the plans to four-lane from SR 50 south past 429 with the future widening of 535 south down to possibly past Fiquette Reams Road. MI Homes developed the Stonecrest subdivision, constructed the road with 100 percent funding from Orange County, and donated the right-of-way to the city. Commissioner Nichols stated that it is her understanding that MI Homes had originally planned the road, installing pedestrian friendly devices to help them cross the road and slow down traffic. City Planner Cechman stated that it started with the master plan approved in 1997 with the Daniels Road extension. When MI came forward, he remembers they were to give the city the right-of-way through the center of the property

and where it was located was part of the PUD process. There was a tri-party agreement between the city, county and MI Homes that included a condition that the city would obtain the right-of-way from Fowler within ten years. Commissioner Nichols clarified that her question was about the pedestrian friendly devices that were not installed. Mr. Cechman stated that the reason they were not installed is because this is a functionally classified road, which is the only way the county would agree to partially fund the road. Traffic has to move and to put pedestrian crosswalks would be very difficult to get through the warrants. Commissioner Nichols asked if we would have that same problem now because she has heard of other options such as rumble strips or pavers to slow traffic down because once it is widened to SR 50, it will be worse. Acting City Manager Bollhoefer stated that these issues are that need to be resolved over the next two weeks. There are limitations because it is a functionally classified road under the control of DOT. Commissioner Nichols asked who is paying for the widening of Daniels Road over the Turnpike to SR 50. Mr. Cechman replied that the Semblers are currently negotiating those amounts with the county. The city has an FDOT grant of \$800,000 that has to be acted upon rather quickly because they are widening the Turnpike and it benefits them both.

Commissioner Nichols stated that it is her understanding that FDOT also has some concerns that Sembler is not projecting their construction costs high enough, which is how they base their share of costs. Ms. Furman replied that they received a call Monday, and they have adjusted their construction costs and they will be paying the higher rate. They should have the construction agreement by the meeting on April 28 but if not, certainly they will have it by the second reading. Commissioner Nichols addressed the current city staffing level that is already not keeping up with services and asked if there are plans to increase staff. Mr. Bollhoefer stated that staffing issues will be reviewed as part of the budgeting process. Commissioner Nichols stated that in the ordinances gas stations are referenced twice and not be any closer than 500 feet to any residence. The plans have one gas station more than 500 feet but she would like them changed to not be any closer than 1000 feet of any residence for health and safety reasons.

Commissioner Dixon stepped out at 8:36 p.m.

Commissioner Nichols stated that the ordinance includes a provision whereby the buildings must significantly comply with figure 1, which tells the Commission that the plan must be adhered to and not changed. This is another reason she does not like the ordinance. Mr. Cechman stated that the language is what staff wanted because the process sets what they can build so they cannot change it without coming back through the approval process. Commissioner Nichols stated she understands but she is not happy with what the plan is as it is now.

Commissioner Graham stated that according to a recent letter he received about the Turnpike bridge is that they are first only going from I-4 to Beulah Road with eight lanes which will take a long time and the next phase would be to go all the way to Highway 50. Why are they in such a hurry to tie us to the \$800,000? Mr. Bollhoefer stated that he understands that if the city does not have bridge built in time for them to use it to bypass

traffic they will not give the city the grant. Assistant to the City Manager Robertson added that the mainline is scheduled to be start being widened in 2007 and the grant of \$885,000 was awarded because the city would build the bridge to span the eight lanes and be out of their way while they widen. If the city doesn't, they will extend the bridge and put only put a two-lane bridge back.

Commissioner Nichols stated that the original plan had almost 1 ½ acre park that is now gone.

Commissioner Dixon returned at 8:39 p.m.

Ms. Furman replied that the park has been absorbed by the Lake Apopka rule that requires an increase in the dry and wet pond to almost 13 or 18 acres of open space. There is a smaller park through the center as a plaza in front of the theater. Commissioner Nichols asked if it would be possible to hire a consultant to provide an independent non-biased opinion of the site plan. Commissioner Dixon stated her objections to expending additional funds because there are already enough consultants; staff is knowledgeable and should be utilized. Commissioner Nichols replied that she agrees the city has a lot of experienced staff but everyone in this room, including her and Commissioner Dixon, have their own opinion, and they are all biased. She wants someone to review it that is not and therefore is asking the Commission to consider the outside consultant. Commissioner Dixon stated she would not favor expending any additional funding when the east side needs improvements. Mayor Quesinberry advised Commissioner Nichols that she can address her request with staff, possibly Marshall Robertson who is very knowledgeable in this area, and let them make a recommendation back to the Commission.

THIS ITEM WAS NOT A PUBLIC HEARING

- D. **Ordinance 05-27:** VACATING THE WESTERLY 5 FEET OF THE TEN FOOT DRAINAGE AND UTILITY EASEMENT LOCATED ADJACENT TO THE EASTERNMOST PROPERTY LINE, LESS 5 FEET ON THE NORTHERN AND SOUTHERN PROPERTY LINES OF 209 TRADITIONS DRIVE, WINTER GARDEN, FLORIDA; PROVIDING AN EFFECTIVE DATE

City Attorney Rubio read Ordinance 05-27 by title only. **Motion by Commissioner Graham to approve Ordinance 05-27 with the second reading and public hearing on May 12, 2005. Seconded by Commissioner Dixon and carried unanimously 4-0.**

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

- A. **Ordinance 05-23:** AMENDING ARTICLE VI OF CHAPTER 50 OF THE WINTER GARDEN CODE OF ORDINANCES RELATING TO MISCELLANEOUS PROVISIONS AND OFFENSES BY ADDING SECTION 50-154, MOTORIZED SCOOTERS; PROVIDING FOR DEFINITIONS, REGULATIONS RELATING TO MOTORIZED SCOOTERS, AND VIOLATIONS; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Rubio read Ordinance 05-23 by title only. Mayor Quesinberry opened the public hearing. Hearing no public comments, the public hearing was closed. **Motion by Commissioner Graham to adopt Ordinance 05-23. Seconded by Commissioner Nichols and carried unanimously 4-0.**

6. **REGULAR BUSINESS**

A. **Request for sponsorship by LadyHawks 12U fast-pitch softball team under the non-profit organization of West Orange Girls Club, Inc. (Postponed February 24, 2005 and March 24, 2005)**

Mayor Quesinberry called upon Sandra Breeding who was not present. **Motion by Commissioner Graham to postpone this item until the next regular meeting on April 28, 2005. Seconded by Commissioner Dixon and carried unanimously 4-0.**

B. **Recommendation to approve site plan for B & B Commercial Center at 13640 West Colonial Drive**

City Planner Cechman stated this site plan is basically an office project and the SR 50 overlay ordinance requires projects greater than 25,000 square feet must be approved by the City Commission. Staff and the Planning and Zoning Board have reviewed the plan and recommend approval. The applicant is present. Mr. Bob Harrell, part owner, stated that he and his partner concur with the staff recommendations. **Motion by Commissioner Graham to approve the site plan for B & B Commercial Center at 13640 West Colonial Drive with staff recommendations (see attached). Seconded by Commissioner Dixon and carried unanimously 4-0.**

C. **Recommendation to approve a contract for a traffic signal at 535 and Lake Butler Boulevard**

Public Works Director Smith stated that Orange County has performed another warrant study and based on the number of accidents, speed limit and the volume of traffic it does finally warrant a signal. All four corners are in the city, are under the city's jurisdiction, and therefore must pay for the signal. The recommended contract is with Orange County's continuing services contractor, Chinchor Electric in the amount of \$82,021.12. Mayor Quesinberry stated that he understands the hold up relates to the County wanting to install a turn lane so the light can be designed with it. Mr. Smith replied that the County's warrant study did recommend a left turn lane west bound on Lake Butler Boulevard. There have been discussions regarding the funding but staff does not recommend waiting for the signal, which will be installed to accommodate the turn lane. Acting City Manager Bollhoefer stated that it would be paid for out of impact fees and will be brought back as part of the interim budget adjustment. Commissioner Nichols asked if this area is part of what is to be widened to four lanes. Mr. Smith replied yes, eventually and that is why the signal would be concrete posts with a span wire signal that will have to be moved after right-of-way issues are resolved before the four lanes can happen. We cannot install the signal to accommodate four lanes at this time. Commissioner Graham stated that the Sembler project proposes to widen the road within two years so it seems we should be able to save money somewhere. Mr. Smith replied that the only items that cannot be reused are the concrete poles. Commissioner Graham agreed that the signal light is needed. **Motion by Commissioner Graham to approve**

the recommended contract with Chinchor Electric. Seconded by Commissioner Nichols and carried unanimously 4-0.

D. Recommendation to approve a contract for a traffic signal at the intersection of Stoneybrook West Parkway and Town Commons Boulevard

Public Works Director Smith stated this item is for a permanent mast arm signal for \$125,881.74, which is why it is more than the prior signal and that is primarily to accommodate the school and traffic out of Town Commons Boulevard. Acting City Manager Bollhoefer stated that this would be paid for by grant funds. **Motion by Commissioner Graham to approve the recommended contract with Chinchor Electric. Seconded by Commissioner Dixon and carried unanimously 4-0.**

E. Request by the Rotary Club of Winter Garden for the Evening at the Pops event to serve alcohol on April 23, 2005 at Newton Park

Mr. Larry Cappleman, member of Winter Garden Rotary Club, stated this item is for the third Philharmonic concert on Lake Apopka and the city has supported the last two successful events. He is requesting the Commission's permission to authorize the Acting City Manager to approve a one-day alcohol permit to serve beer and wine as a gratuity to those VIP's who have made contributions to help defray the costs of the event, in a confined tented area only. Mayor Quesinberry asked if he can assure the Commission that the alcohol will stay within the tented area. Mr. Cappleman replied that tent access will only be by VIP ticket and it will be fenced with a white picket fence and policed by Rotarians. Commissioner Nichols asked what has been done at the past events. Mr. Cappleman replied that they have actually sold beer and wine outside but this year the program has been shortened because of a religious conflict so they have modified their request to not sell it to the public. Commissioner Graham stated that his opinion on alcohol is clear but he has spoken with Mr. Cappleman and another Rotarian, and he can agree to keeping it away from the general public inside a tent. **Motion by Commissioner Graham to authorize the Acting City Manager to sign a one-day alcohol permit application as requested. Seconded by Commissioner Nichols and carried unanimously 4-0.**

7. MATTERS OF CONCERN FROM CITIZENS

Kimberlee Rose, 22 ½ W. Vining Street, Winter Garden, Florida stated her concerns for pedestrian traffic trying to cross the intersection of SR 50 and Dillard. Traffic is not yielding to pedestrians, as they should even at other intersections. She asked for a sign stating yield to pedestrians or no right turn during the day. Mayor Quesinberry stated that the only thing the city can do with this intersection is make a request to DOT. Commissioner Graham stated that the city can do something about anyone running a red light. Commissioner Nichols noted that the Police Chief has taken note of her request.

Lynn Cole, 24 Temple Drive, Winter Garden, Florida complimented the change in the Commission meetings that are now informative and encouraged others to attend. Mayor Quesinberry stated that public hearings are advertised and public comments are welcome. Ms. Cole stated she also appreciates the questions by the Commission and the interaction. She also asked why there is still an odor after the upgrade to the sewer treatment plant. Acting City Manager Bollhoefer stated that the next phase is to control the odor but it will

never be completely eliminated. Utilities Director Tiblier replied that \$50,000 is budgeted this year to deal with odor control and components will be installed such as aerator diffusers and digesters, which is a process before the sludge is sent by truck. Mayor Quesinberry stated he received a phone call about the methane gas smell in the same area. Mr. Tiblier replied that there is sometimes a thermal inversion that causes the odor cloud to become stationary. Mr. Bollhoefer stated he too has spoken with the same resident and he has researched a new process on the internet that he will forward to Mr. Tiblier.

Commissioner Graham addressed a motor noise reported by a resident across the street has had to endure them so loud that even his home vibrates. Mr. Tiblier replied that the noise originates from the blowers that aerate the wastewater. They are looking at retrofitting them so it will be muffled and possibly repositioning the more powerful blowers.

Tina Aldrich, 141 W. Plant Street, Winter Garden, Florida addressed the small twinkle lights installed, by permission of each downtown business owner, by the city for Christmas because they look tacky when left out year around. She has heard the same from other business owners and she understands that it would be an added expense to remove and replace them each year. Therefore, she suggests possibly using them by lighting them on Friday and Saturday nights. Acting City Manager Bollhoefer agreed to try her suggestion.

Don Miller, 1073 Woodson Hammock Circle, Winter Garden, Florida addressed the terrible odor emitting at Crest and Division Street across from Lulu Creek. Utilities Director Tiblier replied that he suspects the cause is the construction and moving of dirt, which may be rich dirt matter. Public Works Director Smith stated they will look into it.

Selenia Roldan, 1852 Nesting Lane, Winter Garden, Florida stated she has been a resident for 1 ½ years and complimented the service provided by the city. She asked the Commission to consider conducting the next meeting at Tanner Hall for the comfort of the many citizens attending big issues on the agenda. Ms. Roldan addressed District 4's earlier request to consider a consultant, which should be an alternative considered when the residents show support for the idea. She also stated she resents Commissioner Dixon asking residents to filter questions for her through some attorney that was present. If residents wanted him to represent them, they would have voted for him. She understands that there is an office available for residents to meet with Commissioners in City Hall and she would not want to speak with an attorney whom she hopes he is not paid for by the city. Commissioner Dixon replied that she was referring to the Semblers who has spoken with Mr. Armstead. She addressed the city's web site for jobs and suggested adding the pay scale or range. Ms. Roldan asked who maintains the road from 535 and Tilden Road to Avalon. Public Works Director Smith replied that the road is maintained by the county. Ms. Roldan asked that if a city resident calls the city, the city will not call the county. Mr. Smith stated it works better if both call. Ms. Roldan stated she has called both for 2-3 months about garbage and a downed tree without success. Mr. Smith stated he would contact the county.

Commissioner Nichols was also going to bring up holding the next meeting at Tanner. City Attorney Rubio verified that the meetings have already been advertised for City Hall. City Planner Cechman stated that he can place a new ad, post a notice at City Hall and the web

page about a location change. Mr. Bollhoefer stated that we have to first verify Tanner Hall is even available. **It was the consensus of the City Commission to hold the proposed mall hearings at Tanner Hall.**

Shirley Smith, 22 W. Crest Avenue, Winter Garden, Florida stated that she was sitting downtown recently and witnessed several children jumping in and out of the train and fire truck at the museum. She called the police who quickly responded and spoke with the children. She has seen more and more skateboards and bicycles on the streets, which lack signs. She suggested installing four-sided box shaped signs with “No skateboards or bicycles on sidewalks” for the safety of those on the sidewalks.

Dan Maher, 14237 New Hampshire Bay Circle, Winter Garden, Florida stated his concern with the City Charter that states the vacancy of District 1 seat is to be filled by the Commissioners and if that doesn't happen it goes to the Governor. He has researched the Sembler Company and Mel in particular has a very strong relationship with the Bush family. Mr. Sembler was appointed as the ambassador to Australia and Italy and Mr. Maher is asking the Commission to consider the political ties and give the choice back to the people. His research has also revealed that the residents of St. Petersburg denied a rezoning and the Sembler Company used their political influence to get something passed that the residents did not want.

8. **MATTERS FROM CITY ATTORNEY** – Lionel Rubio – No items.

9. **MATTERS FROM ACTING CITY MANAGER** – Mike Bollhoefer
The city has eight seats available for the Evening with Pops and he would like to verify if the Mayor and Commissioners will be attending.

10. **MATTERS FROM MAYOR AND COMMISSIONERS**

A. **Discussion on City Manager position**

Mayor Quesinberry stated that Mr. Bollhoefer is operating as the appointed City Manager but the City Commission has not made the appointment. There are related benefit items that need to be considered as part of an appointment such as salary, vacation, insurance, etc. He could first be appointed by the Commission as Acting City Manager until the benefit items are discussed with him separately by each Commissioner and before any type of agreement is signed. Mr. Bollhoefer asked if the interim appointment would be until the fifth Commissioner is seated. Mayor Quesinberry stated that he thinks it would be important that no regular appointment be made until after discussion of the items he has mentioned and the Commission approves it. Commissioner Dixon stated that she thought everybody was in favor of Mr. Bollhoefer being the City Manager. How long does the Charter say the Commission has to wait? Mayor Quesinberry answered that the Commission can wait six months if they want to. Commissioner Nichols replied or as long as the Commission wants. Commissioner Graham stated that the Charter doesn't have anything to do with a timeframe. Mr. Bollhoefer stated that the Commission could at least decide in the interim that he be the Acting City Manager. Commissioner Nichols asked if Mr. Bollhoefer is currently enjoying an adjustment in his salary because he is

acting as the City Manager. Mr. Bollhoefer replied no. Commissioner Nichols stated that if he can be appointed as interim, then he can be given an adjustment. Commissioner Graham stated that he thinks there should be a motion for Mr. Bollhoefer to be the Acting City Manager as he feels since he is the Finance Director he knows the city. Whether the Commission hires Mr. Bollhoefer or not, he should not be hired at the same pay as the prior City Manager that was here for eleven years. When someone starts, they start at the bottom and work up. He believes Mr. Bollhoefer can come up with some figures and the Commission can look at them and pay him that amount until there is a permanent City Manager appointment or Mr. Bollhoefer becomes City Manager. Mayor Quesinberry stated that the Commission also needs to agree on a benefit package. Mr. Bollhoefer has been with the city for eight years and should receive the same vacation time but not the same pay as the prior City Manager. Mr. Bollhoefer pointed out that the City Manager has received the same vacation time as the department heads. Mayor Quesinberry acknowledged the **Motion by Commissioner Graham to appoint Mike Bollhoefer as Acting City Manager. Seconded by Commissioner Nichols.** Commissioner Dixon asked the Commission to include a timeframe for a final decision. Commissioner Graham thought that by the next meeting they should be able to make a decision on the salary. Mayor Quesinberry suggested that the interim appointment as Acting City Manager not exceed 30 days. Mr. Bollhoefer suggested making the Acting City Manager appointment until the Commission decides to appoint the permanent City Manager since there is no telling just how long it will be before there is a fifth Commissioner. **Commissioner Graham accepted the suggested amendment to his motion. Commissioner Nichols also agreed to the amendment to the original motion (restated) appointing Mike Bollhoefer as Acting City Manager until such time as the full City Commission makes the City Manager appointment. Motion carried unanimously 4-0.**

Mayor Quesinberry stated that the Commission is operating without a Mayor Pro Tem and asked Commissioner Dixon how many years has she been a Commissioner. Commissioner Dixon replied that she is going on her twelfth year. Mayor Quesinberry asked that since Commissioner Dixon has been on the Commission for twelve years and has not previously served as Mayor Pro Tem, would the Commission consider her appointment. Commissioner Nichols asked if Commissioner Graham could be considered for the appointment. Mayor Quesinberry replied that Commissioner Graham has previously served as Mayor Pro Tem twice. Commissioner Nichols stated then it is Commissioner Dixon's turn. Commissioner Graham pointed out that when someone is sitting in the Mayor's chair they must conduct the meeting and have some understanding of how a meeting is run and when people speak, not speak over them. He is not trying to hurt Commissioner Dixon's feelings but can she run a meeting as it should be. Commissioner Dixon stated that she has as just as much intelligence as Commissioner Graham to run a meeting. Commissioner Graham responded that he is not talking about intelligence but just as she is doing right now and throughout this meeting, she interrupts people and becomes rude. Commissioner Dixon replied that Commissioner Graham does what he is accusing her of doing. Commissioner Graham replied that he hopes he doesn't because he tries to keep from doing that. Mayor Quesinberry stated he was just offering a suggestion for the appointment. **Mayor Quesinberry asked Commissioner Nichols if she motioned to appoint Commissioner Dixon as Mayor Pro Tem. Commissioner Nichols responded yes. Mayor Quesinberry seconded**

the motion. Commissioner Nichols asked if her second was for the appointment of Commissioner Dixon or Commissioner Graham. Commissioner Dixon stated her objections to not being appointed as Mayor Pro Tem because Commissioner Graham has been Pro Tem twice before. City Attorney Rubio advised asking the City Clerk what the motion was. City Clerk Golden replied that the motion made by Commissioner Nichols was for appointing Commissioner Dixon as Mayor Pro Tem. Commissioner Nichols then withdrew her motion and Mayor Quesinberry withdrew his second and stated that he felt it was a deserved appointment. Commissioner Nichols stated her agreement that it was a deserved appointment but she also believes Commissioner Graham has a point to what he has said. Commissioner Dixon restated that she deserves to be appointed the Mayor Pro Tem. Mayor Quesinberry stated that this item can be postponed until the next meeting.

Commissioner Nichols stated that she would reserve her comments until the next meeting.

Commissioner Dixon stated her objections to her not being appointed as Mayor Pro Tem. A Mayor Pro Tem presides over the meeting and the only difference between her and the Mayor is that he lets people go on and on and on, but she won't let them and Commissioner Graham has already been Pro Tem three times. Whoever is appointed to District 1 will be new and certainly Commissioner Nichols doesn't want to be Mayor Pro Tem so she doesn't understand what Commissioner Nichols' objection is because if she doesn't do it right, the Commission can recall her from being Mayor Pro Tem.

Requested that the city purchase three additional Fannie Lou Hamer breakfast tickets for the National Hook-up of Black Women Conference at the Rosen Hotel, which is an organization that gives to various charities. It was the **consensus of the Commission to approve the purchase as requested.**

Commissioner Dixon stated that her home is her office and she is at the Maxey Center daily to serve the people for free. She will be working with others on affordable housing and helping others keep the home they are losing or help buy another affordable home. She wants the Commission to understand that she intends to see that the affordable housing component is back in Winter Garden as it was 12-15 years ago and will be bringing it up in the future.

The meeting was adjourned at 9:43 p.m.

APPROVED:

MAYOR JACK QUESINBERRY

ATTEST:

City Clerk Kathy Golden, CMC