
**REGULAR MEETING MINUTES
CITY COMMISSION**

April 28, 2005

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

PRESENT: Mayor Jack Quesinberry, Commissioners Theo Graham, Mildred Dixon, 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, Deputy Fire Chief Tom Berrios, Recreation Director Jay Conn, Human Resources Director Frank Gilbert, Senior Planner Kelly Randall, West Orange Times reporter Michael Laval, and Orlando Sentinel reporter Sandra Mathers

1. **APPROVAL OF MINUTES**

Motion by Commissioner Dixon to approve the regular meeting minutes of April 14, 2005 and workshop minutes of April 18, 2005. Seconded by Commissioner Nichols and carried unanimously 4-0.

2. **FIRST READING OF PROPOSED ORDINANCES**

A. **Ordinance 05-25:** REZONING 4.84 ACRES LOCATED AT 1207 E. STORY ROAD MORE SPECIFICALLY DEFINED HEREIN, FROM I-1 TO CITY I-2; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Rubio read Ordinance 05-25 by title only. **Motion by Commissioner Graham to approve Ordinance 05-25 with the second reading and public hearing being scheduled for May 26, 2005. Seconded by Commissioner Dixon and carried unanimously 4-0.**

B. **Ordinance 05-29:** VACATING THE EASTERLY 2 FEET OF THE TWELVE FOOT DRAINAGE AND UTILITY EASEMENT LOCATED ADJACENT TO THE WESTERNMOST PROPERTY LINE, LESS 6 FEET ON THE NORTHERN AND SOUTHERN PROPERTY LINES OF 13000 LAKESHORE GROVE DRIVE, WINTER GARDEN, FLORIDA; PROVIDING AN EFFECTIVE DATE

City Attorney Rubio read Ordinance 05-29 by title only. **Motion by Commissioner Dixon to approve Ordinance 05-29 with the second reading and public hearing being scheduled for May 26, 2005. Seconded by Commissioner Graham and carried unanimously 4-0.**

3. **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 submitted a written request to continue the above three ordinances relating to a proposed open-air mall at Fowler Groves until June 9, 2005 to allow them additional time to adequately address the concerns expressed by area residents, Planning and Zoning Board, staff and the City Commission. **Motion by Commissioner Nichols to continue the first reading and public hearing of Ordinances 05-02, 05-22, 05-24 until the regular meeting of June 9, 2005. Seconded by Commissioner Dixon.** Acting City Manager Bollhoefer asked to interject on this item and pointed out that staff has been working with the Sembler Company for the past two weeks trying to address many of the issues raised by the surrounding residents and residents throughout Winter Garden such as the site plan, traffic and safety concerns, the ordinance, and other issues. Staff believes that many of these issues can be resolved if given enough time. He knows that the public has been given opportunities to speak to their issues and they will have the same opportunity at the two public hearings. Therefore, he suggested that if the continuance is approved any

resident wanting to address the Commission could do so under the Concerns of Citizens portion of the agenda. Staff is familiar with most of the issues and points made thus far. If anyone has any new issues, if possible, ask the public to utilize spokespersons for their neighborhoods or if any one cannot attend the public hearings, speak to those issues under Concerns of Citizens. Staff is willing to listen to their concerns and staff is willing to do what they can to work with Sembler on any changes that might be made. **Motion carried unanimously 4-0.**

- D. **Ordinance 05-26:** REZONING CERTAIN REAL PROPERTY GENERALLY DESCRIBED AS 191.2 ACRES OF LAND LOCATED WEST OF TILDENVILLE SCHOOL ROAD, SOUTH OF LAKE APOPKA, AND EAST OF THE TOWN OF OAKLAND, FROM CITY R-1 AND COUNTY A-1 TO CITY PUD; PROVIDING FOR CERTAIN PUD REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Oakland Park)

City Attorney Rubio read Ordinance 05-26 by title only. City Planner Cechman stated that because of the size of the proposed project, this ordinance has been advertised as a public hearing at the first reading. The Planning and Zoning Board has reviewed this Ordinance and recommends approval. Staff has reviewed the Ordinance as well and recommends approval. The City Engineer has made a small technical change to his memo, which has been provided to the Commission and will be included in the actual Ordinance. **Motion by Commissioner Dixon to approve Ordinance 05-26 with the second reading and public hearing being scheduled for May 26, 2005. Seconded by Commissioner Graham.** Mr. John Rinehart with Glatting Jackson, representing Castle & Cook, stated that he felt the workshop with the City Commission went very well and covered a lot of information regarding their intent and what they wanted to do and offered to present another overview. Commissioner Dixon asked Mr. Rinehart to explain the traffic flow again. Mr. Rinehart replied that the Oakland Park design is such as to encourage people to walk and the West Orange Trail is an integral part of the project, which goes through the community east to west. The buildings are also being oriented towards the trail to give residents and children an ability and encouragement to walk to various locations. Also very important is how the transportation network is laid out in terms of how traffic loads out onto the street system when people are in vehicles so they have provided a number of connections to external roads around the project. There are seven ways to get in and out of Oakland Park. Mayor Quesinberry stated his concern with traffic trying to get out at the same time such as 7:00 a.m. and the possibility of adding another access road to State Road 50. Mr. Rinehart stated that they have agreed, as a condition of this project, to construct a two-lane road on Motamassek from Oakland Avenue to State Road 50. They have also designed a piece of the community where the neighborhood center is, south of Oakland Avenue to go to the exterior of their project so that when property around them comes to the city for approval, the city can condition that the owner connect between Oakland Park and State Road 50 will provide additional connections. Since they do not control property they do not own, the best they can do is to provide the opportunity to have those connections and not foreclose those from making it happen in the future. Commissioner Graham stated he has three items and the first relates to Mr. Rinehart's memorandum of March 30, 2005 on page two in item one that states the applicant will either bond or construct a two-lane road on Motamassek prior to the issuance of the 200th building permit but the plans call for 175. Mr. Rinehart stated

they are glad to agree to the 175 because what it is saying is that before they can begin Phase 2, Motamassek will have to be constructed. Commissioner Graham asked if the project is for 750 units or homes. Mr. Rinehart replied units. Commissioner Graham pointed out that on the plat page 8 of 10 under the Housing Type chart under residential neighborhood when you add the figures to the right of the percentages they total 775. Then if you take in the neighborhood center and add those figures as well, you would add another 110, which totals 885 units. Mr. Rinehart replied that the total number of units is still 775. The reason they add up to a little bit higher is we don't know exactly how many different types of units they will built so they give maximum numbers and 750 is the cap. Staff asked them to provide a breakdown of the different housing types to preclude them from having all of one type. Commissioner Graham stated that the Orange County School Capacity Report shows that this project of 750 homes is only expected to produce 188 students and he doesn't understand how the County School Board can arrive at that low of a figure. Mr. Rinehart offered what he thinks is the answer and that is the number of students generated are percentages, which comes out to less than one student per household because some homes have two or three students and balance out with homes that have no children. The 188 figure is probably the number of students beyond the vested students. His guess is that there will be about 350 to 400 students total in the community at build out which is eight to ten years from now. Commissioner Dixon asked how many homes are planned for Winter Garden. Mr. Rinehart replied that of the 750 homes, only 575 of those will be in Winter Garden on 191 acres. Commissioner Nichols asked if the 35 percent having granny flats over their garages are included in the 750 units. Mr. Rinehart replied no. Commissioner Nichols asked if there would be any control over renting the above garage units. Mr. Rinehart replied that this issue has been discussed extensively with staff and the only way the owner can rent it out is if the primary owner is a resident of house. They felt they are needed for those families that might want their family to live close by. City Planner Cechman stated that the only concern that came out with granny flats is parking and that is why they have included two covered parking spaces and two flat parking spaces, for a total of four, must be on the site to be able to have a granny flat. The square footage is also limited. Commissioner Nichols asked how the entire development would impact the City's consumptive use permit. Utility Director Tiblier replied that the proposed project is not part of the present permit and would be an issue that would require a modification when we do get our consumptive use permit. Because there are so few units, it is not expected to be problematic. The applicant has agreed to pay the full impact fees for the granny flats and they will be on separate meters. Commissioner Graham expressed his concern about planning ahead for the needed schools for a project to build out in eight to ten years and it takes them that long to build a new school. Mr. Cechman shared that the greatest need is for middle schools. The School Board has purchased the property south of Tildenville and is big enough for a middle and elementary school. Additionally, staff recommends that prior to the preliminary plat; the developer will have to sign an agreement with Orange County Public Schools identifying how they will deal with the capacities. Commissioner Graham noted that schools that have just been built already have modular classrooms added before they open. Mayor Quesinberry added that schools are not being built until they are over capacity and have children waiting. Mr. Rinehart agreed that the state will not fund a school until there is a child waiting to go into it, which assures that

every school will have portables. Mayor Quesinberry opened the public hearing. Hearing no other comments, the public hearing was closed. **Motion carried unanimously 4-0.**

4. **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, March 24, 2005 and April 14, 2005)**

Ms. Sandra Breathing apologized for not being able to attend the last meeting. Her non-profit organization is dedicated to helping young girls with their sports and softball skills as team players in the community, which are skills they should be able to use when they get older. **Motion by Commissioner Dixon to approve a Platinum Sponsorship of \$500 to the LadyHawks softball team. Seconded by Commissioner Nichols and carried unanimously 4-0.**

B. **Recommendation to approve contract with ZHA as the Design Criteria Professional Consultant for a new City Hall and Fire Station**

Assistant to the City Manager Robertson stated that the City Commission previously approved ZHA and staff has since met with them to generate the contracts provided in the agenda package. **Motion by Commissioner Graham to approve the contract with ZHA as the design criteria professional consultant for a new city hall and fire station. Seconded by Commissioner Dixon and carried unanimously 4-0.**

C. **Request to utilize confiscation funds (LETF) to fund a midnight basketball program**

Police Chief Brennan stated that the program would cost \$10,000 and he proposes funding half of it with the remainder being funded by the Center for Drug-Free Living Inc. The program will include education as drug prevention presentation before each game. **Motion by Commissioner Graham to approve an expenditure of \$5,000 from the Law Enforcement Trust Fund to co-fund a midnight basketball program for one year. Seconded by Commissioner Dixon and carried unanimously 4-0.** Commissioner Dixon advised that as she understands it, the area is also going to be enclosed.

D. **Appointment to three Code Enforcement Board vacancies**

Mayor Quesinberry stated three vacancies have resulted because the City Attorney advised members serving on two boards at the same time should resign from one board or the other. Therefore, in accordance with the City Code, Mayor Quesinberry asked Commissioners to support his nominations from each District; Jeffrey Sherron of District 1 to fill the seat vacated by Terri Slack expiring in March 1, 2007; Vincent Goodwin of District 4 to fill the seat vacated by Jerry Carris expiring on March 1, 2007; and Harold Boulter of District 3 to fill the seat vacated by Bea Deariso expiring in March 1, 2006; with all serving out the respective remaining terms. Commissioner Graham asked if the appointments had any residency requirement. Mayor Quesinberry answered no but they are all residents of the City. **Motion by Commissioner Dixon to approve all three recommended appointments. Seconded by Commissioner Nichols. Motion carried unanimously 4-0.**

E. **Request to utilize confiscation funds (LETF) to purchase crime prevention material**

Police Chief Brennan stated that this request is for material to be given out at community events. **Motion by Commissioner Graham to approve an expenditure of \$3,000 from the Law Enforcement Trust Fund to purchase and distribute crime prevention materials. Seconded by Commissioner Dixon and carried unanimously 4-0.**

5. MATTERS OF CONCERN FROM CITIZENS

(Note: Several members in the audience left after the Sembler Company was granted their request for continuance until June 9, 2005 regarding the proposed mall ordinances.)

The following spoke in opposition to the proposed Sembler mall:

Deborah Bee, 13567 Glynshel Drive, Winter Garden, FL
Patrick McDonald, 13632 Glynshel Drive, Winter Garden, FL
James Balderrama, 14315 Hampshire Bay Circle, Winter Garden, FL
Frank Imbruglia, 14015 Hampshire Bay, Winter Garden, FL
Gina Balderrama, 14315 Hampshire Bay Circle, Winter Garden, FL
Mike Rushing, 13549 Glynshel Drive, Winter Garden, FL
Kathy Bollo, 313 Duff Drive, Winter Garden, FL
Joyce Robinson, 13743 Glynshel Drive, Winter Garden, FL
Laura Foster, 14213 Hampshire Bay Circle, Winter Garden, FL
Colleen Conchelos, 14501 Tabago Bay Driver, Winter Garden, FL
Colin Sharman, 312 Duff Drive, Winter Garden, FL
Margaret French, 574 Home Grove Drive, Winter Garden, FL
Jennifer Armitage, 663 Groves End Lane, Winter Garden, FL
Brad Necrason, 15139 Harrowgate Way, Winter Garden, FL
Ken Mohler, 14507 Tabago Bay Drive, Winter Garden, FL
Valerie McGowan, 14518 Tabago Bay Drive, Winter Garden, FL
Greg McGowan, 14518 Tabago Bay Drive, Winter Garden, FL
Dean Armitage, 663 Groves End Lane, Winter Garden, FL
Claude Robinson, Jr., 13743 Glynshel Drive, Winter Garden, FL
Sally Baptiste, 7027 Eaker Drive, Orlando, FL
Valerie Toth, 2019 Clover View Way, Winter Garden, FL
Selenia Roldan, 1852 Nesting Lane, Winter Garden, FL
Dan Maher, 14237 Hampshire Bay Circle, Winter Garden, FL
Shannon Meyers, 14115 Pipevine Court., Winter Garden, FL
Rob LaNasa, 431 Home Grove Drive, Winter Garden, FL
Edward Lynch, 660 Home Grove Drive, Winter Garden, FL
Bill Garnett, 9000 Seidel Road, Winter Garden, FL
Josephine (Miller) Garnett, 9000 Seidel Road, Winter Garden, FL

In summary, the citizens above expressed the following concerns and suggestions:

Project: is too large; largest in the State of Florida; make it appropriate and reasonable; Winter Garden need not be known for the largest mall; scale it down; nothing more than a strip mall; make better use of land; proper land planning does not allow \$1.5 million dollar homes about a “power center” “mega mall”; first presented as an open-air mall similar to Winter Park Village but it is not with a Lowe’s, Target, etc.; falsely presented as being lovely with parks and trees; two other area malls coming to the area include Horizon West and Plaza Colina; not needed; enough existing commercial vacancies now; after the newness wears off will the burden transfer to the taxpayers; continued occupancy of existing commercial buildings; leave the current comprehensive plan as it is; proposed big box stores already exist nearby; Semblers have made inconsistent statements leaving residents feeling betrayed and lied to; too much cement; multiple level parking structure; view residents will have with big box store locations; within 40 feet of a residence; residential buffers needed around the entire project; bus stops are needed on 535 for mall workers

Allowable uses: include auditoriums, skating rinks, bowling alleys, convenience stores with car washes, auto service stations with freestanding tire repair, and for more concern is “Any other retail store or service establishment that in the administrative judgment of the planning department is consistent with those included in this section and will not detract from the character of the shopping center and that, further, is in harmony with the spirit of this PCD.” Concerned about the Planning Department making the “administrative” judgment in the middle of high income/high end homes; types of businesses and their hours of operation include theaters being open until 2 a.m., gas pumps and convenience stores open 24-hours (unless in identified restricted residential areas), loading dock deliveries not allowed between 11 p.m. and 7 a.m. or within 500 feet of a residential area or Winter Garden/Vineland Road but why isn’t Daniels Road included because it runs right through the Stone Crest Subdivision

Crime: who pays for the extra police officers; array of offenses will be major for a mall this large; loitering at mall and at the subdivision clubhouse; helicopters look for criminals at and around Ocoee mall; vandalism

Traffic: bottle necked and bumper to bumper; 57,000 cars a day, average number on I-Drive is only 34,000 cars a day and who wants to live on that; timing of road improvements for Daniels Road transition onto 535 has not begun; no right-of-way acquisition on SR 50 for proper transition; turnpike overpass has not yet been planned or funded for a mall scheduled to open in 2006/07; accidents because of not enough traffic lights; speeding; people cutting through non-gated subdivisions

Safety: children have to cross a major road to get to a playground; noise and vehicle exhaust pollution; pollution to swimming pools; separation of Stone Crest residents accessing their Community Center

Property devaluation

Newest homes going up are not being told about the proposed mall

Perception of news articles regarding the stall tactics until the vacant commissioner seat is filled by the governor with someone who is favorable to the mall

Leaving a legacy is to leave something better for future generations; a resident’s hometown got a nice mall and 80 percent of the small business owners downtown area closed within a year; another mall came three years later outside their community and then the first mall closed; fears it will affect the downtown area

Permanent Commissioner for District 1 so voices can be heard before a final decision is made; conflict of Governor Bush's appointment of District 1 Commissioner because there are strong ties with the Sembler Company

Work with the residents, not with Sembler; form a committee of residents

Address the Planning and Zoning's three recommendations before passing the ordinance

Sally Baptiste, Supervisor of Orange County Soil and Water Conservation District stated that her office has been asked if they have had any involvement and if they could do anything. She stated she is formally asking for information regarding the environmental impact study and what the change of the land use would do to the community. She will be motioning her board to look at it to see if they should be looking at it to protect the environment. City Planner Cechman advised her that a lot of the information is on the internet and asked her for her business card so he can contact her.

Commissioner Nichols shared that an independent consultant has been hired to review the potential impact of traffic.

Commissioner Dixon stepped out at 9:09 p.m.

The following spoke in favor of the proposed mall

Stasha Boyd, 541 N. Boyd Street, Winter Garden, FL

Shirley Smith, 21 W. Crest Avenue, Winter Garden, FL

Commissioner Dixon returned at 9:13 p.m.

Edward Scott, 830 E. Bay Street, Winter Garden, FL stated that he has seen positive things in his community in East Winter Garden and hopes that it can continue.

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

7. **MATTERS FROM ACTING CITY MANAGER MIKE BOLLHOEFER**

A. **Financial report for March 2005**

Stated that the report has been distributed and either he or Mr. Strobeck will answer any questions.

- Advised everyone that Plant Street will be closed on May 7th for a Boy Scout Family Festival.
- Requested approval of \$18,000 to repair a corrugated metal pipe in Valencia Shores Subdivision that has failed in several places and the financing will be addressed in the interim budget process. **Motion by Commissioner Graham to approve expending \$18,000 to repair the metal pipe in Valencia Shores. Seconded by Commissioner Dixon and carried unanimously 4-0.**
- Annual request from the Winter Garden Rotary has been received to sponsor two bowling teams in support of their charity events. **Motion by Commissioner Dixon to approve sponsoring two bowling teams for the Winter Garden Rotary fundraiser. Seconded by Commissioner Graham and carried unanimously 4-0.**

- Announced that the improvements to Crown Point Cross Road were originally bid by one bidder at \$927,000 high and the City, as its own contractor, estimated it could be done at a savings of \$300,000 and the City actually saved \$428,000.
- Announced that as the Acting City Manager, he would like to appoint Brian Strobeck, Assistant Finance Director as the Acting Finance Director which has to be confirmed by the City Commission. **Motion by Commissioner Dixon to appoint Brian Strobeck as the Acting Finance Director. Seconded by Commissioner Graham and carried unanimously 4-0.**
- Introduced the new Building Official, Willie Herbert, who started last Monday.

8. MATTERS FROM MAYOR AND COMMISSIONERS

A. Discussion on Acting City Manager salary

Mayor Quesinberry stated that he recommends a salary increase for the Acting City Manager to ten percent above the highest paid department head. **Motion by Commissioner Graham to increase Mike Bollhoefer, Acting City Manager, pay to ten percent higher than the current highest paid department head. Seconded by Commissioner Nichols and carried unanimously 4-0.**

Commissioner Nichols

Stated her disappointment at seeing half the Sembler representatives leaving early as well as so many citizens leaving early. The agenda always has comments from citizens. Regarding comments made about concerns as to whom the Governor may appoint, contact the Governor and tell him your concerns.

Commissioner Dixon

Expressed her appreciation for approved funding of the Midnight Basketball Program.

The meeting was adjourned at 9:38 p.m. to the next regularly scheduled meeting on May 12, 2005 at city hall.