

**REGULAR MEETING MINUTES  
CITY COMMISSION**

July 14, 2005

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Quesinberry at 6:30 p.m. at 110 Henderson Street, Winter Garden, Florida. The invocation and Pledge of Allegiance were given.

Present: Mayor Jack Quesinberry, Commissioners Rod Reynolds, Theo Graham, Mildred Dixon, and Carol Nichols

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

Mayor Quesinberry asked Acting City Manager Bollhoefer to introduce the new City Attorney. Mr. Bollhoefer introduced Mr. Frank Bedell who practices with the law firm of Winderweedle Haines Ward & Woodman (WHW&W) and gave a brief description of his qualifications.

1. **APPROVAL OF MINUTES**

**Motion by Commissioner Graham to approve the regular meeting minutes of June 9, 2005 and June 23, 2005 as submitted. Seconded by Commissioner Nichols and carried unanimously 5-0.**

2. **FIRST READING OF PROPOSED ORDINANCES**

A. **Ordinance 05-38:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, RELATING TO THE RESIDENCES OF SEXUAL OFFENDERS (THOSE CONVICTED OF A VIOLATION OF SECTION 794.011, SECTION 800.04, SECTION 827.071, OR SECTION 847.0145, FLORIDA STATUTES, REGARDLESS OF WHETHER ADJUDICATION HAS BEEN WITHHELD, WHEN THE VICTIM OF THE OFFENSE FOR WHICH THE CONVICTION RESULTED WAS LESS THAN SIXTEEN (16) YEARS OF AGE AT THE TIME THE OFFENSE WAS COMMITTED) WITHIN THE CITY LIMITS OF THE CITY OF WINTER GARDEN; AMENDING ARTICLE VI OF CHAPTER 50 OF THE WINTER GARDEN CODE OF ORDINANCES RELATING TO MISCELLANEOUS PROVISIONS AND OFFENSES BY ADDING SECTION 50-155, FINDINGS AND INTENT; AND SECTION 50-155, SEXUAL OFFENDER AND SEXUAL PREDATOR DISTANCE SEPARATION REQUIREMENTS, MEASUREMENT, VIOLATIONS, APPLICATION; PROVIDING FOR CODIFICATION, SEVERABILITY, AN EFFECTIVE DATE, AND CONFLICTS

City Attorney Bedell read Ordinance 05-38 by title only. **Motion by Commissioner Reynolds to approve Ordinance 05-38 with the second reading and public hearing being scheduled for August 11, 2005. Seconded by Commissioner Graham and carried unanimously 5-0.**

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

- A. **Ordinance 05-35:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA VACATING THE EASTERLY 5 FEET OF THE TEN FOOT DRAINAGE AND UTILITY EASEMENT LOCATED ADJACENT TO THE WESTERNMOST PROPERTY LINE, LESS 5 FEET ON THE NORTHERN AND SOUTHERN PROPERTY LINES OF 734 HURLEY DRIVE, WINTER GARDEN, FLORIDA; PROVIDING AN EFFECTIVE DATE

City Attorney Bedell read Ordinance 05-35 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Graham to adopt Ordinance 05-35. Seconded by Commissioner Nichols and carried unanimously 5-0.**

- B. **Ordinance 05-28:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 6 OF THE WINTER GARDEN CODE OF ORDINANCES RELATING TO ALCOHOLIC BEVERAGES BY AMENDING THE FOLLOWING SECTIONS THEREOF: SECTION 6-1 DEFINITIONS, SECTION 6-4, HOURS OF SALE, SECTION 6-5, POSSESSION, CONSUMPTION OR DISPLAY OF ALCOHOLIC BEVERAGES ON PUBLIC PROPERTY OR ON PREMISES OF UNLICENSED COMMERCIAL ESTABLISHMENTS, SECTION 6-6, BOTTLE CLUBS, AND BY ADDING SECTION 6-7, VIOLATIONS; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Bedell read Ordinance 05-28 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Graham to adopt Ordinance 05-28. Seconded by Commissioner Dixon and carried unanimously 5-0.**

- C. **Ordinance 05-36:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ARTICLE IV OF CHAPTER 38 OF THE WINTER GARDEN CODE OF ORDINANCES RELATING TO NOISE BY AMENDING THE FOLLOWING SECTIONS THEREOF: SECTION 38-152, PURPOSE, SECTION 38-153, TERMINOLOGY, STANDARDS AND DEFINITIONS, SECTION 38-155, PROHIBITED ACTS, SECTION 38-156, MAXIMUM PERMISSIBLE SOUND LEVEL LIMITS, SECTION 38-157, SOUND MEASUREMENTS, SECTION 38-158, EXCEPTIONS, SECTION 38-160, ENFORCEMENT, SECTION 38-161, PENALTY, SECTION 38-162, OTHER REMEDIES, SECTION 38-164, ADMINISTRATION, AND SECTION 38-165, VARIANCES; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Bedell read Ordinance 05-36 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by**

**Commissioner Nichols to adopt Ordinance 05-36. Seconded by Commissioner Graham and carried unanimously 5-0.**

D. **Ordinance 05-37:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR AN ADJUSTMENT IN THE SALARIES OF THE MEMBERS OF THE CITY COMMISSION; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Bedell read Ordinance 05-37 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Dixon to adopt Ordinance 05-37. Seconded by Commissioner Nichols.** Commissioner Graham stated that a correction may need to be made to the effective date of April 1, 2006 in order to comply with the Charter because as he understands the Charter, a Commissioner voting on a pay increase must first go through an election before the raise takes effect. Acting City Manager Bollhoefer stated that he believes the Charter language states that as long as the Ordinance is adopted six months prior to the next election, the effective date would be after the election the following year. **Motion carried unanimously 5-0.**

At this time, Mayor Quesinberry stated that if there are no objections, Commissioner Graham has requested to speak at this time. Hearing no objections, Mayor Quesinberry recognized Commissioner Graham.

Commissioner Graham apologized to Commissioner Dixon for raising his voice and cutting her off at the last Commission meeting. Commissioner Graham stated that he has received a lot of phone calls and personal contacts regarding how he stands on certain issues. In fact, he has had more in the last two weeks than he has had in years. Regarding the rumor that the City Commission is going to "clean house in city hall", it is personally not his intent. He thinks everyone working for the City right now is doing a great job. He has worked with the Acting City Manager for about nine years and he has never gone to Mr. Bollhoefer that he didn't try to get it for him or if he couldn't he would get someone else to get it for him. In the past three months, Mr. Bollhoefer has shown outstanding leadership, in his opinion, and has worked hard. He went to Mr. Bollhoefer and asked him if Winter Garden should do as other cities have done and have a contract for the City Manager position. Mr. Bollhoefer responded that if he were appointed, he would want a contract. **Motion by Commissioner Graham to hire Mike Bollhoefer as the City Manager on a one-year contract.** Mayor Quesinberry stated that since Mr. Bollhoefer has to find a home in Winter Garden, a two-year contract would be appropriate. Commissioner Graham stated he is flexible with a one or two year contract. **Commissioner Graham amended his motion to a two-year contract.** Mayor Quesinberry stated that the contract should be brought back to the Commission within 30 days. **Seconded by Commissioner Reynolds.** Commissioner Dixon pointed out that there is nothing in the Charter that states how the City Manager is to be hired, three months have already passed, and asked how other cities appoint their City Manager and if their contracts are for a year. Mr. Bollhoefer replied that there are many different ways, some are year, some are longer, and some are without a contract. Commissioner Dixon stated that the City Manager position should be addressed as part of the Charter Review process and that she is voting with reservations. Commissioner Nichols stated that since

she has been in office, Mr. Bollhoefer has been very helpful, always available for her calls, works late and she is pleased to be able to appoint him. Commissioner Reynolds asked Mr. Bollhoefer is he is still interested in the position and if he has anything to say. Mr. Bollhoefer replied that he is still interested in the job and he has learned these past three months that being a City Manager is one of the most challenging jobs and is convinced he can do the job. **Motion passed unanimously 5-0.**

4. **REGULAR BUSINESS**

A. **Request for sponsorship by advertising in the football program by the West Orange School Cheerleaders**

Ms. Ashley Umstead, Varsity Cheerleader at West Orange High School, stated she is before the Commission to ask for support from the City by purchasing an advertisement in their football program. **Motion by Commissioner Graham to purchase the front cover if available, if not, a full-page advertisement. Seconded by Commissioner Nichols and carried unanimously 5-0.**

B. **Request for taxicab permit by Stoneybrook West Transportation**

Mr. Jean Baptiste, applicant, 2626 Shirehall Lane, Winter Garden, Florida, stated he is requesting permission to operate a 1997 Nissan Quest as a taxicab from his home. Mayor Quesinberry asked City Clerk Golden if all the necessary documents have been submitted and are satisfactory. City Clerk Golden replied yes. **Motion by Commissioner Graham to approve a taxicab permit to Mr. Jean Baptiste as requested. Seconded by Commissioner Dixon and carried unanimously 5-0.**

C. **Recommendation to approve a Joint Project Agreement with Orange County for Burch's Quarters Water Main Project**

Utilities Director Tiblier stated that the project area is a county enclave at the southwest intersection of Park and Story. In working with the County, the low responsible bidder was APEC Construction at \$175,310. Mayor Quesinberry asked if this is an area that would be annexed. Mr. Tiblier stated that he understands that it is the intent to have the area annexed into the City. Commissioner Graham asked if the area could be annexed without the residents voting. Assistant to the City Manager Robertson stated that this project is a Community Development Block Grant (CDBG) that the City requested back in 1998 and includes a street, sidewalk, curb, and drainage. There is an agreement that after the work is completed and the residents vote in favor of being annexed, the City would annex the entire property. Commissioner Reynolds asked what work has to be completed in order to receive the Block Grant. Mr. Robertson replied that from 1998 until now the design work has been done. The County had a problem with their bid process, had to rebid and do some redesigning. The City purchased some property from Hyde Park on Pamela Street for additional right-of-way of 30 feet long by 300 feet long. Commissioner Reynolds asked if there are houses in the area that are on septic. Mr. Robertson replied yes. Back in 1979, Block Grant funds were used to make sewer available and he thinks one house did connect. One or two have since annexed and have hooked to the sewer. They have all been offered the opportunity to connect to the sewer because the ditches and pipes will be removed so some of the drain fields will not be going into the ditches. **Motion by Commissioner Dixon to approve the Joint Project Agreement with Orange County for Burch's Quarters water main project as submitted. Seconded by Commissioner Graham.** Commissioner Graham asked about

item 4, the first paragraph on page two of the agreement requiring the completion of the construction within 120 days and asked if the City can comply. Mr. Tiblier replied yes, the project involves upgrading the existing utilities and adding some new pipe. Commissioner Reynolds verified with Mr. Tiblier that he doesn't have any concerns with meeting the 120-day provision. Mr. Tiblier replied affirmatively. **Motion carried unanimously 5-0.**

**D. Recommendation to establish the tentative Millage Rate for Fiscal Year 2005-2006**

City Manager Bollhoefer stated because some handouts have been distributed downtown with misinformation, a presentation will be given regarding why staff believes the millage rate should remain the same (see attachment "A"). As an example, to reduce the roll back rate on a \$300,000 home would give the resident \$90 a year savings or \$7.50 a month. The City in turn would have to look at what to cut or go into the fund balance, which can jeopardize the City's financial well being going into the future. Staff recommends maintaining the current millage rate of 4.3040. **Motion by Commissioner Dixon to approve maintaining the current millage rate of 4.3040 for fiscal year 2005-2006. Seconded by Commissioner Graham.** Commissioner Reynolds asked Mr. Bollhoefer which one of the funds he was commenting on because all the unrestricted surplus funds listed in the Comprehensive Annual Financial Report have several with a surplus that add up to about \$30 million. Mr. Bollhoefer replied he was looking at the general fund because the millage rate is for property taxes that is only used in the general fund. The \$30 million contains a large portion of the utility fund that is all paid for with fees, etc., not property taxes. Commissioner Reynolds stated that what caught his attention were the terms unrestricted or undesignated in all the different funds so to him it means liquid. He checked with the Finance Department who has told him the money was just being invested. Mr. Bollhoefer replied that is correct but you cannot take funds from the Utility Department and transfer to the general fund. The Utility Department funds must remain there and may say unrestricted but are required to be used for capital projects, as they are actually impact fees that have to be spent, according to general law, in about seven years. There is probably about \$5 to \$7 million available for any type of expenditure in utilities. In the next two to three years, there will be a \$5 million expense to relocate utility lines on State Road 50 and another \$7 to \$8 million for reclaimed water. Commissioner Reynolds asked where the unrestricted \$20 million for governmental activities come from. Mr. Bollhoefer replied that it is primarily the impacts for fire, police, streets, and recreation and must be expended by those departments on capital expenditures. He based his millage rate report on the general fund because the roll back and property taxes are only related to the general fund and has no relationship to the other funds. Commissioner Reynolds referenced the 50 percent in the reserve fund that the fact the State recommends 20 percent. Mr. Bollhoefer replied there are varying recommendations but no scientific rule on what the figure should be but he argues that in a fast growing city you want the percentage to be higher because when the growth subsides, you will still have the expenditures in the end. He predicts that just keeping the millage rate what it is today, in two years the City will be down to 30 percent without cutting budget items or the millage rate. To cut the millage rate and try to expand City programs would in five years jeopardize having the reserve fund balance down to 20 or 10 percent. Commissioner Reynolds referenced the escalating property values, the City providing very little service to the gated communities who are paying the

same millage rate but are receiving a reduced level of service. Mr. Bollhoefer responded that the communities are gated by choice and pay the same millage rate, receive fewer services in the early years, but in later years tend to go to their municipality and ask them to take over the streets and utility lines. Commissioner Reynolds replied that because they are paying the same millage rate and not receiving the same services, maybe the rate could be reduced and there would still be a fund surplus. Mr. Bollhoefer replied that the statement is incorrect because the residents still drive on the roads outside their gates, go to the parks, use the police and fire services, and their streets are designed for a 20-year life that have little maintenance. Commissioner Reynolds stated he looked at other municipal millage rates and was wondering if it would be feasible to conduct a study to project whether or not the new homes being built are generating, say 300% more revenue than what the millage rate is being set at. Mr. Bollhoefer replied that a study is not needed because if the millage rate is lowered you will have \$500,000 less and the budget will show where that money is being spent. Commissioner Reynolds asked that as part of the TRIM process whether the Commission can reduce the millage at a later date. Mr. Bollhoefer replied absolutely, it just can't be raised. Commissioner Reynolds asked if an analysis can be presented to the Commission on both millage rates because the City has a lot of money invested compared to other cities. Mr. Bollhoefer agreed that the City has a significant reserve fund balance but he is also aware that cities who thought they were "fat" and cut millage rates during growth periods ended up not having enough money in later years. Commissioner Reynolds asked how much surplus is enough surplus. Mr. Bollhoefer stated there are different philosophies and his tends to be more conservative and tries to think of the quality of life for residents and contingencies for emergencies. Commissioner Reynolds pointed out that as property values continue to escalate for people moving in, the taxes generated will be a much larger amount. Mr. Bollhoefer replied that there is no guarantee on real estate values and the Commission could still reduce the millage. Mr. Bollhoefer asked Commissioner Reynolds to speak with him about the specifics on an analysis. Commissioner Reynolds stated he just wanted to see the options and do the due diligence on the subject.

Commissioner Nichols referenced the affordable housing in the presentation and asked how it fits into the budget because she thought it was something handled by the state or federal governments. Mr. Bollhoefer replied that one possible program is using municipal funds to purchase land and for affordable housing to attract other governmental agency funds. Commissioner Dixon pointed out that the Comprehensive Plan includes an affordable housing component and it is time to address it and have an Affordable Housing Board.

Commissioner Reynolds addressed the employee pension plans, one for the rank and file of 16 percent, which takes five years to be vested versus the professional plan that vests after one year. Mr. Bollhoefer replied that the professional staff plan is stair cased at twenty percent the first year, forty percent the second, then sixty and eighty percent, which is standard in the industry when you have a defined contribution plan. Often a defined benefit plan vests at 100 percent at five years. Commissioner Reynolds stated that five years is not in concrete. Mr. Bollhoefer stated it could be one year or two years, but the costs skyrocket at that point and he doesn't understand lowering the millage and

doubling the pension costs. Commissioner Reynolds stated that following the policy of accumulating a surplus then maybe the Commission should redistribute it back out to the workers who helped get it. Mr. Bollhoefer responded that it looks good at first when their pension goes up and then you start running low on money and then their wages stay stagnant, you can't afford to pay those wages, and then the pension plan is changed because of the financial debt. Sometimes what looks good in the short term can be very dangerous in the long term and his financial background causes him to look at items in the long term. Commissioner Reynolds stated he is looking at the difference in time to get vested in the plans. Mr. Bollhoefer replied that the reason the defined benefit plan was implemented was because the professional workers tended to be more mobile and this was a way to retain them. Commissioner Reynolds stated he is trying to address the turnover rate within the five-year range with the rank and file employees. Mr. Bollhoefer replied that the turnover rate is right in line and the Human Resources Director is assessing the reasons. Commissioner Graham added that the change made to vesting from ten to five and the average wage computation from 5 to 3 was implemented in order to attract, recruit, and maintain the best employees while competing with other cities.

Mayor Quesinberry called for the vote. **Motion carried 4-1; Commissioner Reynolds opposed.**

E. **Establish budget workshop and public hearing dates**

Acting Finance Director Strobeck stated that staff would like to establish the budget workshop immediately following the regular meeting of August 25, 2005 and to establish the budget hearing dates. In order to comply with the TRIM regulations, staff recommends changing the September meetings to the day before the regular meetings. That would make the September meetings on the 7<sup>th</sup> and 21<sup>st</sup> at 6:00 p.m. **Motion by Commissioner Graham to establish the budget workshop and budget hearing dates as recommended. Seconded by Commissioner Dixon and carried unanimously 5-0.**

5. **MATTERS FROM CITIZENS**

Mr. Jerry Carris, 347 Bayside Avenue, Winter Garden, Florida, stated his disagreement with the Commission action dismissing the City Attorney Lionel Rubio who did nothing more than research an issue and brought back an answer. He encouraged the City Commission to reconsider and correct their action because Mr. Rubio is a good attorney. **Commissioner Graham** responded that he previously gave his reason for voting to dismiss Mr. Rubio and feels Mr. Rubio misinterpreted the City Charter. He spoke to three other attorneys who advised him that in order to fulfill the Charter requirement, someone could be selected to temporarily fill the position until a special election could be held because it did not all have to be done within 15 days.

Mrs. Tina Aldrich, 141 W. Plant Street, Winter Garden, Florida, thanked Commissioner Graham for his initiative to hire Mr. Bollhoefer as the City Manager. Regarding the millage issue, she would rather see a strong and financially stable community than have her \$7 a month. Mrs. Aldrich stated she sits on the Community Redevelopment Agency Advisory Board and has invited the new Commissioners Nichols and Reynolds to their meetings to

help them understand the initiative to redevelop the East Winter Garden area. Regarding the gated communities paying the same millage rate, she knows a lot of people who do not have school age children that have been paying school taxes for years. As president of the Merchants Association, she courteously asked the person who handed out the millage flyer to quit asking merchants to hand out political propaganda, saying "Pass it out yourself and do not involve well meaning businesses that do not know or understand the issues."

Mrs. Allison Painter, 537 Greenway Drive, Saginaw, Texas, stated she was born and grew up in Winter Garden and is embarrassed by what occurred at the last meeting. She is in favor of Trailer City as affordable housing for residents.

Mr. Fred Medley, 1442 Markel Drive, Winter Garden, Florida, encouraged the Commission to face the challenges, be truthful, and do what is in the best interest of the City.

Mr. James Balderrama, 1431 Hampshire Bay Circle, Winter Garden, Florida, spoke in opposition of the proposed Fowler Groves mall and asked that Country Lakes be allowed to vote in the straw ballot, as they are right next to the proposal mall.

Ms. Marian Wagster, 383 N. Grove Court, Winter Garden, Florida, expressed her appreciation to those on the Commission for the last ten years for making Winter Garden beautiful and for voting to keep the City Manager and asked the Commission not to make snap decisions and work together.

Pam and John Stewart, 1465 Markel Drive, Winter Garden, Florida, stated they are also speaking on the behalf of Rolland and Sherry Jones, at 55 Temple Grove Drive, Winter Garden, Florida who could not attend and thanked Mayor Quesinberry for his dedicated service. Their family is extremely concerned about the increasing influence of Mr. Guetzloe in Winter Garden's local government. He files media grabbing lawsuits and then the legal bills rest with the taxpayers he so vehemently claims to protect. He also appears to make his living by embracing issues and causes where he can bring the most media attention to himself. The City of Winter Garden is putting itself at great risk in forging any alliances with Mr. Guetzloe. She is shocked at the hasty removal of Mr. Rubio but is very happy that WHW&W firm is the legal counsel for the City and disagrees with hiring anyone outside the WHW&W firm. She is happy with the hiring of Mr. Bollhoefer as the City Manager and an employment agreement that protects both. His presentation tonight was excellent and he responded quickly. She is guarded about a full-time lobbyist for Winter Garden that is not needed at this time. She reminded Commissioner Reynolds that he is a public servant and his responsibility is to everyone in District 1 and if he has asked for input from District 1 residents, she has not heard of it. She never heard that Mr. Rubio was going to be fired.

Ms. Barbara Pennington, 421 Timbercreek Drive, Winter Garden, Florida, requested that the cemetery rules be changed to accommodate a flag for her late husband who was in the Air Force for 27 years. Stated her disapproval of the dismissal of Mr. Rubio because she believes it was made at a time when the City needs stability and consistency. She addressed Commissioner Graham by stating that if he is going to go to other attorneys, why not go to the firm that the City has hired and has fourteen qualified attorneys. She also addressed the

straw poll and does not understand why it is necessary because it sets a precedent that the Commission will resort to "let's take a poll" mentality. They are elected and need to listen to everyone to make a decision. The only question for the mall is size. She suggested that in lieu of a straw poll, a flyer be mailed out in the utility bills with the questions and let the residents send it in.

Mr. Paul Shirley, 1665 Spring Ridge Circle, Winter Garden, Florida, commended the City Commission on working out their differences and is proud that Mike Bollhoefer is the new City Manager. He stated he supports those Commissioners who make decisions in the best interest of the people of Winter Garden.

Mr. Michael Youngblood, 383 Floral Drive, Winter Garden, Florida, stated that he is sad to see what is happening in his town. The two new Commissioners seem to have someone pulling their strings to set an agenda he does not approve of. He does not know Mr. Guetzloe but he doesn't approve of his choices. He thanked Commissioner Graham for acting to appoint Mr. Bollhoefer as the City Manager. He also thanked Mayor Quesinberry for all he has done and put up with for the City of Winter Garden. Winter Garden is in bad shape if the Mayor doesn't run or runs and is not elected.

Mr. Colin Sharman, 312 Duff Drive, Winter Garden, Florida, stated he is impressed with seeing Mr. Bollhoefer in the community. He sees Commissioner Reynolds as a person who likes to challenge some things and Mr. Bollhoefer has given good responses and as such he is impressed to see what is going on in the City. He thanked the Police Chief for putting an officer in front of his neighborhood to slow traffic down and noted the good job the Recreation Director is doing.

Mr. John Connell, 347 N. Lakeview, Winter Garden, Florida, stated he previously served on the Planning and Zoning Board for three years and during that time he observed Mr. Rubio and he has never met a more genuine and honest person who would bring every detail forward to allow the Board to make a positive decision. He has three children in three schools and his wife is a schoolteacher. He works for Orange County Recreation and would be glad to help the City plan parks and use his landscape architect experience. The Historical Society is dedicated to their cause and if government becomes involved, he feels their hands will be tied in a lot of ways. He is not sure a grant can be given to a municipality and he was wondering if it would jeopardize the City's grant by making the City involved and suggested looking into that possibility.

Ms. Shirley Smith, 21 W. Crest, Winter Garden, Florida, stated she is proud of how the City rallied to save Trailer City. More affordable and transitional housing is needed in the City and there are many different ways it can be accomplished. Stated that Mr. O'Neal, who was suggested to be the City Attorney at the last meeting, helped save Trailer City and commended him for that effort. Mr. Guetzloe also helped save Trailer City. She has heard a rumor that Mr. Guetzloe is cultivating a spot for himself to become Winter Garden's lobbyist and that he has friends to take current city staff positions. She wonders if this is true because it sounds like the City is surrounded by a bunch of people wanting to pick the City's pockets.

She stated her appreciation of every Commissioner's efforts and is proud of the new City Manager.

Mr. Hal Bekemeyer, 1645 Winter Garden-Vineland Road, Winter Garden, Florida, thanked staff for posting the agenda and the minutes on the City web page. He asked to see the straw poll ballot questions before commenting on them and questioned the precedence of conducting a poll to determine what people can do with their property. He asked if a polling ballot is going to be sent out on every piece of property being developed in the City of Winter Garden since there is a precedence being established. There are issues related to property rights. He urged the City Commission to approve the upcoming ordinances and development. The project has been nitpicked to death and the Sembler Company has been made to jump through many, many hoops and have done so willingly and good spiritedly. He has read in the minutes where the disposition of his mother's house has been connected to the project and assured the Commission that the house will not be an issue because it will not be there at the closing of the property. As far as Country Lake Estates is concerned, they are in the County and if they wanted input into City decisions then they should not have refused to be annexed when they had the opportunity. He urged the Commission to consider the property owner's rights as well.

Mr. Herschel Parrish, 311 Valencia Shores, Winter Garden, Florida, congratulated Mr. Bollhoefer on his appointment as City Manager and knows he will do a wonderful job and his only recommendation to the City Commission is to negotiate a two-year contract with a one-year option that is standard in the industry. He stated the Mayor has done a fantastic job and the downtown improvements are phenomenal. Setting the millage is not an easy task and a good millage rate has been set. Everyone uses City services and must pay their equal fair share. He read Mr. Guetzloe's letter in the West Orange Times that downgraded one of the finest families in our community, the Britt family. His letter also mentioned Mr. Chicone, whom he has personally known since 1934 to be an outstanding citizen of this community and has donated a lot of his own funds to beautify the downtown area. This type of article disturbs him and he questions why Mr. Guetzloe is in our community to begin with. He believes the City does need a lobbyist to represent the City in Tallahassee because he has experience walking the halls of our State Capitol in Tallahassee and has come home with \$600,000. He personally knows what a good lobbyist can do for the community in obtaining grants and assistance. He knows Mr. Geutzloe's past and doesn't want him involved with the City of Winter Garden. He is glad for the help provided to Trailer City and everyone needs to get behind them and help them.

Mr. John Kirby, 332 W. Tilden Street, Winter Garden, Florida, thanked Mayor Quesinberry, Commissioners Dixon and Graham for listening to him and hearing the voice of the people. He is proud of the changes made since 1984. He can't see anything wrong and encouraged the Commission to continue on.

Ms. Stasha Boyd, 541 N. Boyd Street, Winter Garden, Florida, as a member of District 1 she is of no opinion of whether or not Trailer City stays open. She does not want them displaced or harmed in any way. If it is utilized for low-income housing then it should be approached in a comprehensive manner. She agrees the City needs more low incoming housing and we

are falling behind. She does not personally feel her taxes are too high or too low; she is getting her money's worth and appreciates how the City finances are being handled. Regarding the Fowler mall, she is lukewarm on the subject; more importantly, what she thinks the Fowlers should do with their property is immaterial. They have the right to do what they want and it is the Commission's responsibility to see that the infrastructure is taken care of. It is important for the City Commission, entrusted with public funds, to do their due diligence.

Mr. Merv Daniels, 43 N. Main Street, Winter Garden, Florida, stated that the greatest tragedy at the last election was the voter apathy, not the outcome. He challenged the Commission to be available and visible to their districts and at the next election get out at least 50 percent of their district voters so the majority will have spoken. Will the straw poll vote be the majority or minority? He recommended that the City purchase and make available portable assistive listening devices like the one he is using tonight that allows him to hear what is being discussed. Those hard of hearing would benefit from the devices and he can provide additional information.

4. **MATTERS FROM CITY ATTORNEY** – Frank Bedell had no items.

5. **MATTERS FROM CITY MANAGER** – Mike Bollhoefer

A. **Presentation on Consumptive Use Permit (CUP) and Louis Dreyfus Citrus Plant**

Utilities Director Tiblier came forward and gave a PowerPoint presentation (see attachment "B") relating to the City's current capacities under the CUP and the future needs of the City. Mr. Rick Tomlin, Senior Vice-President of Louis Dreyfus Citrus, 13668 Sunset Lake Circle, Winter Garden, Florida, spoke on the evolution of the facility since being established in 1944 to 2004 when the hurricanes forced cessation of fruit processing and reduced the staffing from 305 employees to 208. In conclusion, Mr. Tiblier stated that the net cost to the City to purchase the Louis Dreyfus Citrus Plant as a future wastewater treatment and reclaimed water distribution site to accommodate the growth would be \$780,000, based on a five-year period.

Commissioner Dixon thanked Mr. Tiblier for his presentation and stated that the City needs the water. Commissioner Reynolds asked if this proposal is better than building a new facility. Mr. Tiblier responded yes. Commissioner Nichols asked about the current spray field. Mr. Tiblier responded that Dreyfus would discontinue using the property for a spray field, send their water to the City and pay the City \$1.2 million in impact fees, and free up the property for sale to a developer. Commissioner Graham stated that he is in favor of the plan to get the line to developments instead of spraying the water on a field. It then could be sprayed on lawns and the City should have no problem getting the additional permit for additional water out of the aquifer. He stated Ocoee is using some of our percolation pond water and asked what happened to Apopka's request for water. Mr. Tiblier responded that the Apopka request was not feasible because of the length of pipeline that would have to have been installed to get it to where Apopka needed it. Commissioner Graham asked if sewer/wastewater impact fees could be used to purchase the property. Mr. Bollhoefer stated he would have to look into that possibility. Mr. Tiblier asked the Commission for a consensus to allow staff to move forward and bring

back a contract. Commissioner Reynolds asked about the actual condition of the facility. Mr. Tiblier stated that the facility has value and invited the Commission to take a look at the consultant reports that breaks down the cost to be \$2.6 million to retrofit the facility into something the City can use. The real value is the location where a plant already exists because it would be difficult to find a neighborhood that would not object to a wastewater treatment plant. **No objections were noted.**

**B. Presentation on building height limitations**

City Planner Cechman gave a PowerPoint presentation (see attachment "C") and stated that this is the first of a series on growth and development issues that will identify historical policy, recent trends, with staff recommendations, and allow the City Commission to ask questions and give direction. In conclusion, staff believes the current Code is adequate but the Commission may want to: restrict the height of a building when it is too close to residential; provide a maximum height in C-1 zoning and preserve the historical downtown area; and may want to require a design criteria, especially for parking garages. Commissioner Nichols stated she personally believes that the Edgewater Hotel is as high as the downtown area should go and suggested a height moratorium to preserve the character and charm of downtown. She wonders why there are not apartments over the stores on Plant Street. She thinks it would be wonderful to have people there 24 hours a day. Mr. Cechman stated that the Code was just recently changed to allow residential downtown. He understands a moratorium is temporary but what he has presented is a rule change. There is no current height restriction in C-1 zoning, but in reality, it is limited by the parking requirements. Mayor Quesinberry stated there needs to be some flexibility on State Road 50. Commissioner Nichols replied that her desire is to go no higher than the Edgewater Hotel.

**C. Straw poll ballot questions for proposed mall**

City Manager Bollhoefer stated that he has provided the proposed ballot questions submitted by the Commissioners and he has tried to combine them and made his own suggestions. Ms. Rebecca Furman, representing the Sembler Company, addressed the Commission regarding the questions and emphasized that they need some sort of decision by the Commission at the second reading on August 25, 2005 as there is an outstanding \$800,000 that is to be put toward building North Daniels Road by a date certain, and if the Ordinances are not approved they will not have Orange County's signature on the agreement, then Sembler can't sign an agreement to help pay for the road, and the City will have no funding to build North Daniels Road. Her second point is the wording on the ballot that they believe is misleading to suggest that there are options other than the proposed project, which is 1.15 million square feet of retail and 350 residential units in phase 1. Any questions that go out to the citizens that suggest there is an existing project that is all residential, etc., is misleading. Her understanding of the poll is to find out whether the citizens want the Sembler mall or not. You can't force the Fowlers into a smaller or different project than what the Sembler Company is proposing. Mr. Bollhoefer stated that staff needs the question to move forward with the straw poll ballot to have the results by August 25, 2005. Commissioner Reynolds stated he does not see the issue as whether it is Sembler or not but whether it is going to be a bigger commercial development and what the current comprehensive plan has. Mr. Bollhoefer replied that

the reference to Sembler can be removed. Commissioner Graham responded that removing Sembler from the ballot may cause residents not to know what the Commission is asking. He has tried to find a 50-acre parcel on State Road 50 and there is none. All the articles have referred to the Fowler and Sembler project and the Commission has to vote on what has been requested by the applicant. Commissioner Nichols stated that the three questions should be related to leaving the Comprehensive Plan as it is, or do you want no mall at all, or do you want the mall as it is planned now. Commissioner Dixon emphasized that this ballot has no bearing on the vote to be made by the Commission and her only submitted question is whether you want a mall or not. Mayor Quesinberry stated that the question should be either you are in favor or you aren't. Commissioner Reynolds stated that the issue to him is whether or not the proposed project will fit what the City wants to see for a commercial area or not, not whether residents like the plan or not. Commissioner Nichols stated that however the questions are worded, they need to be very simple. Mr. Bollhoefer asked for a decision on whether it will be a single question or multiple question survey and then decide the question(s). Commissioner Nichols pointed out that when the question was asked at a prior Commission meeting "is there anyone in the room totally opposed to the mall", no one raised their hand. That's because they are not totally against it. They are for it with changes and that is what the third question should be. Commissioner Graham pointed out that he believes people will know what they are voting on if you include the term mall, and they know what is large or small. He doesn't see mentioned in Mr. Bollhoefer's question the 60,000 square feet of office space. Mr. Bollhoefer replied that the office space is part of Phase 2. Ms. Furman replied that office space planned for Phase 2 coming on line in 2007 is included in the Comprehensive Plan amendment and development order, but the zoning ordinance would have to come before the City Commission. Commissioner Reynolds stated that there is no guarantee there will be a Phase 2 so the decision should be made on Phase 1. Commissioner Graham read Mr. Bollhoefer's suggested question and asked those present if it was confusing to anyone because he doesn't personally think it is confusing. Commissioner Nichols stated that if multiple questions are not submitted, how can the residents tell the Commission what they want. Commissioner Dixon asked if the vote doesn't count, why keep going on about it. Commissioner Nichols stated it will count with her because she has already told her constituents she will vote according to the results of the survey and needs the answer from the residents. Mayor Quesinberry stated that the ballots are going through the Orange County Supervisor of Elections office to verify signatures of registered voters on the returned ballots so the straw poll will be accurate. Commissioner Nichols stated that since the mall affects mostly her District, she thinks it would be appropriate to allow her to ask her people what they want in three questions. Mr. Bollhoefer stated that a presentation can be made before the ballots go out. Commissioner Reynolds asked if Orange TV could cover the presentation. Mr. Bollhoefer replied that he can try to get it covered. **Motion by Mayor Quesinberry that the question on the non-binding straw poll ballot whether or not they favor the current proposed mall. Seconded by Commissioner Dixon and carried 4-1; Commissioner Nichols opposed.**

**D. Request for postponing the Charter Review Workshop**

Mr. Bollhoefer stated that the agenda package includes the analysis made by the Municipal Code Corporation and recommended postponement until the next meeting. Commissioner Dixon stated that if there is going to be a Charter review there needs to be discussion on composition of the review board. **Motion by Commissioner Dixon to postpone this item. Seconded by Commissioner Graham and carried unanimously 5-0.**

#### **City Attorney position**

Mr. Bollhoefer stated he has discussed this issue with the prior City Attorney, Dykes Everett, and with City staff, and because of the amount of growth and work we are doing, we are overloaded, which puts a lot of pressure on the attorney. Therefore, he recommended to the City Commission that the City Attorney position become a full-time city employee, and the WHW&W firm would be retained as special counsel. Commissioner Dixon responded that it is the wrong time to change attorneys and the subject needs to be postponed. Mayor Quesinberry replied that WHW&W firm would still work for the City and the City Attorney, City Clerk, and City Manager work under the direction of the Commission; the rest work for the City Manager. The Commission would make the selection, if the Commission wants to. Commissioner Nichols stated that an in-house attorney is probably a good idea especially as we grow and need to have someone immediately available, and not lose the WHW&W firm. Commissioner Reynolds stated that he agrees in principle, but he does not think right now is a time to go out and do it. We need to stick with WHW&W right now. Mayor Quesinberry stated that it will be brought up when things are calmer.

### **10. MATTERS FROM MAYOR AND COMMISSIONERS**

#### **A. Designation of a Voting Delegate for the Florida League of Cities Annual Conference**

**Motion by Commissioner Graham to designate Mayor Quesinberry as the Voting Delegate for the 2005 Florida League of Cities Annual Conference. Seconded by Commissioner Nichols and carried unanimously 5-0.**

#### **Commissioner Nichols**

Apologized to Ms. Aldrich for not being able to attend the CRAAB meeting because of a work meeting conflict. Told Ms. Pennington she is good with her presentations and she enjoys them. The Trailer City issue is not over in accordance with Ordinance and she wishes everyone would stop saying it is. Her home is still in jeopardy and until it is over, it will remain in jeopardy and is one of the reasons she is sitting on the Commission. The man who went to Tallahassee and got funds strongly believes the City needs a lobbyist and she has been accused of putting forth Doug Guetzloe's name, but the two words lobbyist and Guetzloe have never come out of her mouth together until just now. She has never put forth Doug Guetzloe as a lobbyist. As of yesterday, the list of registered lobbyists does not include Doug Guetzloe. She is a little disgusted with having words put in her mouth. If you want to talk to her, call her. She thinks that the biggest problem in this town right now is the fact that information is not being made widely available to everybody with the truth and facts. Therefore, to fill the void, rumors are used to fill the gaps. She is so happy to see so many people at the meeting tonight. She doesn't know

what residents want unless they tell her. She will fight for everyone's right to speak whether she agrees with him or her or not. She knows Doug left, but if he wants to speak, he has just as much right to speak as anybody else does. This is America and your government at work. Keep the rumors down because it is eating up this town.

### **Commissioner Dixon**

Stated she is attending Mayor Crotty's State of the County address Saturday morning. She thanked everyone for attending the meeting tonight. She opposes a lobbyist at this time. She is proud of her heritage in Winter Garden and the families she has known through the years. This City is showing progress and she asked what legacy this Commission will leave. She has never voted against Trailer City. This Commission let a Hispanic go when they let the City Attorney go. She is getting mail regarding the mall that she will be bringing to City Hall. She is looking at jobs, economic development and the City doesn't need a lobbyist. There is money out there and someone needs to go out and get it in relation to economic development. There are children who can't read and the library hasn't opened yet. If there is money to be thrown away, then give it to the kids who can't pass the FCAT test. The Florida League of Cities, which represents the whole state and of which Winter Garden is a member, has a lobbyist right in Orlando so why would we pay another one.

### **Commissioner Graham**

Stated that he has received a phone call and noticed that a turn signal at State Road 50 and Vineland Road is needed because there is too much traffic now and it should qualify for a signal.

### **Commissioner Reynolds**

Stated he has several things he wanted to cover but decided to address the items that were more time sensitive.

## **B. Additional advertising for disposal of Community Redevelopment Agency-owned property**

In his discussion with the City Manager regarding how disposable property is advertised, he was advised that currently only a small ad is placed in the Orlando Sentinel and that the City Commission would have to vote to change the policy. Currently, nothing is posted at the property, City Hall, or the City's web page. He suggested utilizing the utility billing to get the notice out and asked for a change to the policy to allow wider exposure for noticing disposable property. This will allow everyone a sense of ownership of the transitions taking place and get everyone's input as much as possible, which the City Commission can't do if the residents don't know it is taking place. Mr. Bollhoefer stated that the Florida State Statute requires at a minimum one advertisement in a newspaper of general circulation and a waiting period of 30 days and it doesn't prevent additional advertising. City Attorney Bedell advised that what Commissioner Reynolds is asking could be acted upon tonight. Mayor Quesinberry asked what surplus property is there. Mr. Bollhoefer replied that he believes Commissioner Reynolds is addressing the Plant Street Theater that the Commission acted upon at the last meeting and the advertisement has already run and meets the minimum requirements. The Heritage

Foundation has asked that the property be donated to them, but before CRA property can be donated, it must be advertised as disposal property and have a 30-day waiting period even if the property is only to be transferred. Commissioner Dixon asked if Commissioner Reynolds is asking to rescind the prior action or add additional advertising in the future. Mr. Bollhoefer stated that as he understands it, Commissioner Reynolds is not asking to change or rescind the prior action but in the interim have additional advertising placed. Commissioner Reynolds responded that is correct for wherever the property may be, not necessarily just for the theater. Commissioner Dixon agreed to additional advertising of future surplus properties but wants the theater decision to remain as it is. As clarified by the Mayor; **Motion by Commissioner Reynolds to place additional advertising, as suggested, regarding the disposal of the theater property. Seconded by Commissioner Nichols. Mayor Quesinberry called the vote and he asked Commissioner Graham how he voted.** Commissioner Graham stated he did not vote because he thought there would be more discussion and he has a question. It is his understanding that the theater is a donation and is not for sale to someone else. The property was purchased strictly as a historical property to be restored. He asked if someone else came forward to purchase it, would the City be obligated to sell it to someone else. Mr. Bollhoefer replied absolutely not because the CRA can dispose of a property based on their decision that is best for the community. Commissioner Graham stated that the CRA buys property to control what goes in on the property, which is what the CRA has done in the past. More advertising adds expense, but as long as the CRA controls the property he does not oppose the additional advertising, but the intention on this property is to donate it. Mr. Bollhoefer stated that if the intent is to donate the property then it would not make sense to advertise it beyond the requirements. Extra advertising would indicate a desire to sell it to someone else. Mayor Quesinberry called for the vote to place additional advertising of the theater for sale. Mayor Quesinberry did not hear Commissioner Graham's vote and asked how he voted. Commissioner Graham stated he votes not to sell the theater and would not place additional advertising **but he would agree to additional advertising for any future property and asked for a friendly amendment to the main motion. The motioner, Commissioner Reynolds, and the seconder, Commissioner Nichols both agreed to the friendly amendment made by Commissioner Graham.** Commissioner Dixon stated that if additional advertising is done for one piece of property then you would have to do it for all the City property and that will slow down the progress in East Winter Garden. **Mayor Quesinberry restated the motion with the friendly amendment to advertise surplus Community Redevelopment Agency (CRA) property purchased for the purpose of improving the CRA, except the theater. Everyone agreed to the restated motion and the amended motion carried 4-1; Commissioner Dixon opposed.**

Thanked everyone for attending the meeting. He has heard a lot of talk about Mr. Guetzloe tonight and the way he sees it, he thinks Mr. Guetzloe would not be in Winter Garden if the Trailer City issue were resolved and it is not. A trust has been fractured and people want this problem to go away. There needs to be a humane solution and he believes that if people would start treating people the way they want to be treated, Mr. Guetzloe will probably go away. As far as cleaning house on City employees, he resents that comment because he thinks his message to City workers is that if you are doing a

good job for this City, with honesty, integrity, and respect to the residents of this town, he thinks the residents will find a majority of the Commission to be their friend. It is not a witch-hunt, it is about quality of life for everybody, and a sense of ownership for the entire community, not just a few. He hopes we can move forward and there is more opportunity to do great things.

His remaining agenda items were not discussed.

The meeting adjourned at 11:20 p.m. to the next regularly scheduled meeting on July 28, 2005.