



CITY OF WINTER GARDEN

OFFICE OF THE CITY CLERK

251 W. PLANT STREET

WINTER GARDEN, FL 34787

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REGULAR MEETING MINUTES

CITY COMMISSION

July 28 2005

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Quesinberry at 6:30 p.m. at 29 W. Garden Avenue, 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: City Manager Mike Bollhoefer, City Clerk Kathy Golden, City Attorney Frank Bedell, Assistant to the City Manager Marshall Robertson, City Planner Mark Cechman, Utilities Director Fernand Tiblier, Police Administrative Lieutenant Jon Johnson, 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

1. **APPROVAL OF MINUTES**

Regular meeting minutes of July 14, 2005 were postponed.

2. **PRESENTATION ON THE PROPOSED WINTER GARDEN VILLAGE AT FOWLER GROVES OPEN-AIR MALL (SEE ATTACHED)**

City Manager Bollhoefer opened by stating that this is the first presentation of staff's preliminary analysis of the proposed shopping center and he expects to present a final analysis in the near future. Staff has tried to include answers to many of the questions asked by residents. After each Department Head presentation, there will be an opportunity for the City Commission to ask questions and he will give a closing summary.

Commissioner Nichols asked Acting Finance Director Strobeck about the difference in impact fee revenue if the site were developed as residential rather than a mall. Mr. Strobeck stated he does not have those figures on hand but it would be less if it were developed as a mall.

Commissioner Dixon stated she would have questions for staff later regarding transactions with the Church of Christ on Daniels Road.

Commissioner Nichols asked if Orange County has indicated when they might approve their portion of the road agreement. Mr. Robertson stated Orange County will not agree until the City has agreed and approved it. The City Commission gave their approval in November 2003 and it was forwarded to the County who pulled it from their agenda because Sembler announced their plans and they have commented that if there is someone going to develop the area, they want to try and get some of the construction costs from them. The portion through M/I Homes was built by Orange County under a similar tri-party agreement. Commissioner Nichols asked if the widening of Daniels Road was eventually going to be four lanes regardless of what was built on the Fowler property. Mr. Robertson replied yes as planned since 1996. Commissioner Nichols stated she mentioned this because of comments made about residents moving in should have known something big was coming with the road being planned as four lanes. Commissioner Reynolds asked who is responsible for traffic signals on Daniels Road. Mr. Robertson replied that any road in the City's jurisdiction, except for state roads, is the City of Winter Garden even if it is a County road. By state law, a traffic signal has to first pass a signal warrant study for traffic going in all directions. Commissioner Reynolds asked that if the entrances of Daniels Landing and the church would have a signal, and if so, who would be responsible. Mr. Robertson replied the City. Commissioner Reynolds stated there is also a subdivision just south of the expressway on the left side of CR 535 that would also need the assistance of a signal. Mr. Robertson advised that the City pays for the maintenance of the signals on State Road 50. Commissioner Reynolds asked if the maintenance costs had been calculated into the cost of the road. Mr. Robertson replied yes for the intersection of Daniels Road and State Road 50. Commissioner Reynolds asked whether the costs for the other two signals he referenced were included. Mr. Robertson replied no.

Commissioner Nichols stated that most of the communities are gated communities maintaining their own roads and streetlights. Public Works Director Smith replied that his figures are based on public non-gated roads. The City currently contracts out all commercial garbage pickup with Waste Management, who pays the City a fee that essentially equates to a about a dollar a ton. The Public Works Sanitation Department handles all residential accounts. Commissioner Reynolds asked if the figure given takes into account any construction debris. Mr. Smith replied no and estimates that amount to be about \$500,000.

Commissioner Nichols asked if the City has received any information from the State regarding the widening of State Road 50. City Manager Bollhoefer replied that there is supposed to be an announcement made in September. If the date is not moved up, it does create a concurrency problem. Commissioner Reynolds stated that Section 10 includes Wholesale Membership Clubs with tower installation, it is not known how much traffic volume there will be and what the advertisement driven traffic will be. Included is the reference to administrative judgment of the Planning Director and he asked if that would be Sembler making the decision on what type of retail would go in. Mr. Bollhoefer replied that Sembler would generally make those decisions. Commissioner Reynolds asked if the Ordinance is written as such that if the mall is struggling for traffic, could the City go to the wholesale membership club and ask them to draw traffic to that area. Mr. Cechman asked Commissioner Reynolds to restate the question. Commissioner Reynolds stated that under

item 10 in the Ordinance addresses the types of stores permitted and includes wholesale membership clubs with tire insulation and based on what Mr. Bollhoefer is saying, there could be pressure down the road as far as where the traffic flow goes in competition to other developments. So, within the administrative judgment of the Planning Director, which is Sembler, it seems they would have the ability to go to the Sam's Club type stores, which is a concern that has been expressed to him. Mr. Cechman stated that these are some of the items being looked at and hopefully the ordinances will be postponed to give staff more time. He believes it was important for Sembler to have a wholesale club. Staff was concerned about open bays for a tire center facing Daniels Road. Mr. Bollhoefer replied that what is important is whether staff believes they should or shouldn't have it. Commissioner Reynolds stated that currently there is nothing in the Ordinance prohibiting a 24-hour operation for a retail store. Mr. Bollhoefer replied there are certain limitations and that is in part the reason for the request for postponement, for staff to go through the Ordinances very thoroughly. Commissioner Graham addressed Exhibit B of the Development Order under Item 13(b) on page 8, which references very low and low-income households within or reasonably accessible to the project. Mr. Bollhoefer replied there will not be any affordable housing built and he knows it is not Sembler's intent to build any. Commissioner Graham replied that affordable housing would not have to be built at the same location but could be built elsewhere similar to when Disney contributed to Country Estates on CR 545 and SR 50. Mr. Bollhoefer stated he would be happy to discuss that option. Commissioner Dixon pointed out that what is affordable to some is not affordable to others. It will eventually be built and she doesn't think Sembler should go into the affordable housing business. Commissioner Graham stated he read that the worker salaries, as many as 2,220, will not be as high and they will need to be able to afford a home and that is why he brought it up. Commissioner Nichols asked Mr. Bollhoefer to let the Commission know more about the affordable housing section. Mr. Bollhoefer replied he will provide the Commission with more details in their next presentation.

Commissioner Graham asked if using off duty officers would be better than what other malls do by using private security. The Ocoee mall has their own security and call in the police department as needed. Lieutenant Johnson replied that the Ocoee mall also has off duty officers and they just don't have them as many hours as staff is requesting Sembler to provide. Also, staff is requesting non-sworn officers on site from mall closing to mall opening the next morning. All three malls they compared, West Oaks, Winter Park and Waterford, have sworn officers dedicated to the center and remain with the number of hours varying. Mr. Bollhoefer stated he spoke with Mayor Vandergrift in Ocoee and the philosophy for mall security has changed. Studies on crime prove that wherever you have more gathering places, the more opportunity there is for crime and the theater with a food court in an indoor mall is a crime magnet.

Commissioner Reynolds asked what the cost of a fire ladder truck is. Fire Chief Williamson replied around \$700,000. Commissioner Reynolds asked if the funds for the truck were included in the impact formula presented. Mr. Williamson replied no, he identified the truck as a future special needs item. As the City continues to grow, a fire station will be needed for the area and he would like to use impact fees for a fire station on Daniels Road. Commissioner Graham asked if the mall were not built, would the City need a ladder truck.

Mr. Williamson replied not if there is no mall. However, there will be other needs for the City down the road that will cause the truck to be needed. Commissioner Graham asked how long County Station 34, across from the cemetery, would respond to the proposed mall. Mr. Williamson replied that it would depend on the call volume. Commissioner Graham asked if the County would keep Station 34 when the City builds a fire station on Daniels Road. Mr. Williamson replied that Station 34 will remain open as long as they continue to have a contract with Oakland.

Commissioner Dixon commented that the budget presentation for recreation is too low when the City is looking to purchase land and South Winter Garden residents participate in different types of recreation than in her district such as golf and soccer. Recreation Director Conn responded that the master plan is being developed to address citywide recreation programs. Commissioner Dixon responded that the City is fortunate that the County puts on most the programs in East Winter Garden and that the City as a whole needs more.

Jason McGlashan of HRT One Company presented the traffic projections. Commissioner Reynolds asked about a statement made about the capacity for Highway 50 would be completely consumed with the Fowler Grove project and asked for what period of time was the statement referencing. Mr. McGlashan replied that it would be consumed until SR 50 is widened. Commissioner Reynolds asked if that meant no other development could be allowed. Mr. McGlashan replied that it would have to be evaluated again on a case-by-case basis, but the way the concurrency system works is that there has to be capacity available on the road at the time the development is approved. The mall project would consume the balance and there would not be additional capacity to allocate to a new project if it were to come in. They would have to look at spot mitigation to help increase the capacity such as signalization but that widening SR 50 is the needed improvement. Commissioner Nichols asked to see the simulations on Daniels Road and asked if Phase 2 is included in the presentation. Mr. McGlashan replied no. Commissioner Graham asked where would the "box" stores feed out from within the development at the southeast corner. Mr. McGlashan replied that along Stoneybrook Parkway they would have right-in/right-out access; along Daniels Road at the north end they recommend it be closed to a right-in/right-out for safety reasons, not a full access; midway they recommend limiting it to a directional median so only southbound left turns and northbound left turns could be made, no cross street movements; the main south entrance would be a full signalized traffic; the south end going north would be a right turn-in and a southbound left turn with no through traffic. Commissioner Nichols asked about CR 535 south of SR 429. Mr. McGlashan replied that it is currently a four lane roadway that is planned to be widened to four lanes in each direction. Commissioner Reynolds referenced traffic lights being too close together and whether or not a traffic light at Beard and Daniels, near the overpass, would obscure a driver's view. Mr. McGlashan replied that the intersection does have a sight distance problem, which can be addressed when the construction is done by changing the profile and grades.

Mr. Bollhoefer closed by stating that staff is still in the middle of doing a lot of analysis and will include research on what the wages will be and what affect it will have on property values. Commissioner Nichols asked that the future presentation include more information on the mall being built in compliance with the current comprehensive land use plan.

Commissioner Graham asked if the state would stop Lake County from building on SR 50 because of the mall increasing traffic. Mr. Cechman replied that it is his understanding that both projects are being processed independently. Plaza Collina has to do a proportional share and once they do, as he understands it, they are deemed concurrent through the state's process. Mr. McGlashan stated that the process is to look at the City and it doesn't track against Lake County's concurrency system and visa-versa. Commissioner Reynolds asked what the development schedule for the Lake County mall is. Mr. Cechman replied that they are a little behind in their DRI process as opposed to the Sembler project. Commissioner Reynolds asked if the traffic study took into consideration any additional traffic for the Lake County mall. Mr. McGlashan replied that their next presentation will look out longer than to 2007 and a regional look at transportation. Commissioner Reynolds asked if there was a miscalculation in ad valorem generated from the West Oaks Mall to offset expenses for Clarke Road etc. due to the fact that ad valorem is not the same for malls as it is for a standard commercial development. Mr. Bollhoefer replied that he has read that Ocoee staff did miscalculate the ad valorem. Winter Garden's estimate has been compared to the model leader, Fishkind and Associates, and we are very close. Commissioner Nichols stated she has heard that the Ocoee mall has cost the city money each year. Mr. Bollhoefer replied that he does not know if that is true or not, but staff will verify the information.

Mayor Quesinberry called a recess 8:40 to 8:53 p.m.

3. SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCE

A. Ordinance 05-34: REZONING 233 S. DILLARD STREET MORE SPECIFICALLY DESCRIBED HEREIN FROM R-2 TO CITY C-3; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Bedell read Ordinance 05-34 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Dixon to adopt Ordinance 05-34. Seconded by Commissioner Graham.** Commissioner Nichols asked if the applicant has submitted his plans for the new building. City Planner Cechman replied yes the applicant is present and has a rendering of the building and submitted a copy to the Commission. Commissioner Dixon verified that the action before the Commission is only for the rezoning. Mr. Cechman replied yes. Commissioner Nichols asked what the building height is at the peak. Mr. Cechman replied 33 feet. **Motion carried unanimously 5-0.**

4. FIRST READING OF PROPOSED ORDINANCES

A. Ordinance 05-32: AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY INCLUDING PROPERTY GENERALLY DESCRIBED AS 1.03 ACRES OF LAND LOCATED AT 1125 E. PLANT ST. AS COMMERCIAL; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Bedell read Ordinance 05-32 by title only. **Motion by Commissioner Graham to approve Ordinance 05-32 with the second reading and public hearing on August 25, 2005. Seconded by Commissioner Nichols and carried unanimously 5-0.**

- B. **Ordinance 05-33:** REZONING 1125 E. PLANT STREET MORE SPECIFICALLY DESCRIBED HEREIN FROM I-2 TO CITY C-2; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Bedell read Ordinance 05-33 by title only. **Motion by Commissioner Graham to approve Ordinance 05-33 with the second reading and public hearing on August 25, 2005. Seconded by Commissioner Dixon and carried unanimously 5-0.**

- C. **Ordinance 05-39:** REZONING 4.83 ACRES LOCATED AT 1075 E. STORY ROAD, WINTER GARDEN, FLORIDA AND MORE SPECIFICALLY DESCRIBED HEREIN FROM CITY I-1 TO CITY I-2; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Bedell read Ordinance 05-39 by title only. **Motion by Commissioner Dixon to approve Ordinance 05-39 with staff's recommendations (see attached) with the second reading and public hearing on August 25, 2005. Seconded by Commissioner Nichols.** Commissioner Graham asked if the City Engineer and City Stormwater Engineer requirements been complied with. Mr. Cechman replied that they are still working on the site plan and they will make sure it is in compliance before it goes through. **Motion carried unanimously 5-0.**

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

At this time, Mayor Quesinberry announced that the Sembler Company has submitted a letter requesting postponement of the following three ordinances until August 25, 2005. **Motion by Commissioner Nichols to postpone the first reading and public hearing of Ordinances 05-02, 05-22 and 05-24 until August 25, 2005. Seconded by Commissioner Dixon and carried unanimously 5-0.**

- 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)

6. **REGULAR BUSINESS**

- A. **Request for sponsorship by the National Heritage Foundation – Andre Lancaster, Charity or Charities.org**

Mayor Quesinberry called Mr. Lancaster forward to address his request. Mr. Lancaster was not present. **Motion by Commissioner Dixon to postpone this request until the regular meeting of August 11, 2005. Seconded by Commissioner Nichols and carried unanimously 5-0.**

- B. **Recommendation to approve an interlocal agreement with Central Florida Fire Academy**

Motion by Commissioner Graham to approve the agreement with Central Florida Fire Academy as submitted. Seconded by Commission Dixon and carried unanimously 5-0.

- C. **Recommendation to approve Final Plat for Winter Garden Business Park**

City Planner Cechman state that the Planning and Zoning Board has reviewed the Final Plat and recommends approval. Staff has also made a review and recommends approval with the conditions stated in the staff report. Mr. Dan Langley, Fishback Law Firm, 170 E. Washington Street, Orlando, Florida stated his agreement with staff recommendations. **Motion by Commissioner Dixon to approve the submitted Final Plat for Winter Garden Business Park, with staff's recommendations (see attached). Seconded by Commissioner Graham and carried unanimously 5-0.**

- D. **Recommendation to approve the ranking for scope of services and fees for a hydraulic model of the City's water, wastewater, and future reclaimed water systems**

Utilities Director Tiblier stated that five proposals had been submitted and staff is requesting approval of the committee's ranking order to negotiate and bring back to the Commission a scope of services and fee for the services package. **Motion by Commissioner Dixon to approve the ranking order submitted. Seconded by Commissioner Graham and carried unanimously 5-0.**

- E. **Resolution 05-16:** ACCEPTING FROM THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA A NON-EXCLUSIVE EASEMENT UNDER, OVER, AND UPON A PORTION OF THE WEST ORANGE TRAIL FOR THE PURPOSES OF ACCESS, DRAINAGE, UTILITIES, ROADWAY, AND OTHER PUBLIC USES; PROVIDING FOR AN EFFECTIVE DATE (Roper/Youngblood Trail Easement Acceptance)

City Attorney Bedell read Resolution 05-16 by title only. City Planner Cechman stated the Roper/Youngblood PUD does cross the West Orange Trail in one location, both with a driveway, road, and utilities. The trail is owned by the State and this is the first step in

the process of obtaining their permission to cross the trail by establishing an easement between the City and the State. The next step is the agreement, which would be submitted at the next meeting. This process will occur again in the future for the Oakland Park PUD. **Motion by Commissioner Graham to adopt Resolution 05-16. Seconded by Commissioner Dixon and carried unanimously 5-0.**

F. **Resolution 05-17:** PROVIDING FOR THE SETTING OF THE GENERAL MUNICIPAL ELECTION LOCATIONS; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Bedell read Resolution 05-17 by title only. City Clerk Golden stated that the Resolution will change the voting location for District 4 from the library to the Stoneybrook West Country Club. Mayor Quesinberry stated that this addition will create three voting locations: Tanner, West Orange Library, and Stoneybrook West Country Club. **Motion by Commissioner Nichols to adopt Resolution 05-17. Seconded by Commissioner Dixon and carried unanimously 5-0.**

G. **Resolution 05-18:** SUPPORTING THE ADDITION OF THE PORTION OF ORANGE COUNTY ROAD 438 LYING WITHIN THE CORPORATE LIMITS OF THE CITY OF WINTER GARDEN TO THE EXISTING CORRIDOR OF THE GREEN MOUNTAIN SCENIC BYWAY

City Attorney Bedell read Resolution 05-18 by title only. City Manager Bollhoefer stated this item is required by the State to include this portion in the Green Mountain Scenic Byway. **Motion by Commissioner Graham to adopt Resolution 05-18. Seconded by Commissioner Dixon and carried unanimously 5-0.**

7. MATTERS FROM CITIZENS

Mayor Quesinberry announced that a three-minute time limit is being imposed and that the City Clerk will announce when 30 seconds are remaining to allow the speaker to wrap up their comments and she will announce when the limit has been reached.

Mr. Lee Kraft, 314 ½ S. Boyd Street, Winter Garden, Florida stated he is a member of the Florida Water and Pollution Control Operators Association and is addressing the City regarding the protection of the water supply and sources. There is an underground river through the state that is even now partially polluted. If we don't take care of it and cut back on building, we will be in serious trouble. He thinks there should be some impact studies on this aspect because this affects all citizens of Florida.

Ms. Shirley Smith, 21 W. Crest Avenue, Winter Garden, Florida, stated that FDOT is buying her antique business of 34 years on State Road 50 that will become a pond but she knows that the improvements are necessary and she is in favor of the proposed mall.

Mr. Jim Graham, 3208 W. Orange Country Club Drive, Winter Garden, Florida stated that he is circulating petitions and will be submitting to ask the City to allow five unincorporated areas of 275 houses to have a say in the straw poll for the mall.

Speaking in opposition to the proposed mall:

Ms. Rita L. Graham, 3208 W. Orange Country Club Drive, Winter Garden, Florida; she also stated that the City does need more parks and recreation.

Mr. Edward F. Lynch, 660 Home Grove Drive, Winter Garden, Florida

Mr. James Balderrama, 1431 Hampshire Bay Circle, Winter Garden, Florida; he also asked that those living in the vicinity be allowed to vote in the straw ballot.

Mrs. Gina Balderrama, 1431 Hampshire Bay Circle, Winter Garden, Florida

Mr. Colin Sharman, 312 Duff Drive, Winter Garden, Florida addressed the need for compromise.

Mrs. Lisa LaNasa, 431 Home Grove Drive, Winter Garden, Florida

Mr. Rob LaNasa, 431 Home Grove Drive, Winter Garden, Florida

Mr. David Carrier, 2816 Tropic Court, Winter Garden, Florida

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

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

City Attorney

Stated that he has received and distributed a copy of a letter from the President of the Winderweedle Haines Ward & Woodman (WHW&W) law firm notifying the City that as of September 30, 2005 they will no longer be representing the City, but are willing to remain special counsel for the City. He recommends retaining WHW&W as special counsel to maintain continuity as the City moves forward with several large projects. Commissioner Graham stated that he spoke with Mr. Bollhoefer after receiving the letter, and as Mr. Bollhoefer mentioned at the last Commission meeting, a full-time City Attorney would be beneficial. Therefore, he suggested that a committee be formed to recruit a new City Attorney. Commissioner Dixon stated her disappointment to hear WHW&W was resigning as the City's attorney. The City needs good legal counsel and she favors advertising for the position. Commissioner Graham stated he did not go into detail but Mr. Bollhoefer suggested a committee comprised of the Mayor, an attorney, and a citizen to short-list the candidates. Commissioner Nichols asked what the past recruitment process has been. Mr. Bollhoefer replied that when seeking a firm, a request for qualifications or proposals was published. As the fastest growing City in Orange County, he believes it justifies having a City Attorney who works just for the City as a staff person in addition to retaining WHW&W as special counsel. Mayor Quesinberry stated that the person would have to be well versed in many areas and expressed his appreciation for the prior City Attorney, Dykes Everett, and called him forward for his opinion. Mr. Everett stated that the City is at a crossroad and is of a size and growth rate that could be well served by having a City Attorney as an employee and part of the administrative team. There are a lot of talented candidates, both private and possibly a Deputy City Attorney somewhere that would be interested in moving up. He agrees with Mr. Bollhoefer's recommendation to advertise and have a committee to recommend the top three to five qualified applicants to the City Commission for final appointment. Commissioner Dixon stated she wants each Commissioner to select someone for the committee. **Motion by Commissioner Graham approve advertising for a City Attorney and deciding on the committee details at a later date. Seconded by Commissioner Dixon.** Commissioner Reynolds asked that the procedure established be adhered to and apologized to the residents of District 1 for the last time. **Motion carried unanimously 5-0.**

Commissioner Nichols stated the Commission needs to address retaining WHW&W as special counsel. Mr. Bollhoefer stated that under the current agreement the City could maintain WHW&W as special counsel under an hourly rate. Commissioner Graham asked if it would be correct to enter into a new contract with WHW&W. Mr. Bollhoefer replied that it could easily be done. Mr. Everett stated that the current contract includes a retainer structure for general city attorney activities and everything else either on a per job basis or on an hourly basis. It would really be just a matter of lopping off the City Attorney role and going a la carte. In his opinion, the structure can be to allow the future City Attorney and City Manager determine how much WHW&W would be involved on items. Mayor Quesinberry stated that WHW&W and the City Manager can work on something to bring back for the City Commission to decide on. City Attorney Bedell added that the September 30th date is not an absolute date and if more time is needed WHW&W will be available to the City.

- **Mall straw poll update**

Ballots are scheduled to be mailed on August 8, 2005; must be returned by August 23, 2005; counting will commence on August 24, 2005; results and statistical information will be available August 24, 2005 and provided to the City Commission the August 25, 2005 meeting. Commissioner Dixon asked about the absentee process. City Clerk Golden advised that there will not be any absentee ballots for the straw poll.

- A. **Joint Planning Area Sixth Amendment Presentation**

At this time, Mr. Bollhoefer stated City Planner Cechman will give a presentation on growth management and the Joint Planning Area Sixth Amendment (*see attached*). Mr. Cechman also announced that the County will be conducting a joint workshop with the City at Tanner Hall on August 10 at 7:00 p.m. All issues will come back formally to the City Commission and he will advertise the meeting to allow the Commission to attend.

- B. **Charter Review Workshop**

Mr. Bollhoefer stated that a package has been distributed but it keeps getting pushed back and asked for direction. Commissioner Nichols asked that this workshop be scheduled for a date and time separate from a regular Commission meeting. Mr. Bollhoefer stated he would contact each Commissioner regarding their schedule and plan it accordingly. It was the consensus of the Commission to schedule a separate date and time for a Charter Review Workshop.

- D. *Financial Statement for June 2005 was distributed.*

- E. **Appointment of Finance Director**

Mr. Bollhoefer stated that he has distributed Brian Strobeck's resume and he would like to appoint him as the Finance Director. Mr. Strobeck has worked for the City for almost five years, has the education, experience and knowledge to do the job. Mr. Strobeck's leadership has earned the City the Government Finance Award for the CAFR. He believes he will do a very good job as the Finance Director. **Motion by Commissioner Dixon to appoint Brian Strobeck as the Finance Director. Seconded by Commissioner Graham and carried unanimously 5-0.**

F. **West Orange Chamber of Commerce request to sell alcohol**

Mr. Bollhoefer stated that the chamber has requested permission to sell beer and wine at their private (no children) annual fundraiser Red Bandana Barbeque on October 7, 2005 at the old bed and breakfast on Tildenville School Road. **Motion by Commissioner Reynolds to approve the sale of beer and wine as requested. Seconded by Commissioner Dixon and carried unanimously 5-0.**

• **Permit fee waivers for hurricane damaged roofs**

The Building Official has asked for parameters on how much longer to waive permit fees. Building Official Herbert stated that the Governor's order for waiving permit fees has expired and staff is asking the Commission for direction. Mayor Quesinberry asked if only a licensed contractors can repair the roofs. Mr. Herbert stated that if the homeowner pulls the permit, they are allowed to repair their own roof. Commissioner Reynolds asked if there is any idea of how many hurricane related repairs are needed. Mr. Herbert stated that he doesn't have an official count but would guess about two to three percent still have tarps and that 60 days should suffice. **Motion by Commissioner Graham to extend the waiver of hurricane damage roof repair permit fees for 60 days. Seconded by Commissioner Nichols.** Mayor Quesinberry stated that the determination of whether or not it is hurricane damage will be at the discretion of the Building Official. Commissioner Dixon stated that she is in the process of buying a home from Homes in Partnership that has to be fixed and she may not be able to get it fixed within 60 days. Commissioner Nichols asked if the waiver can be revisited at a future date. Mr. Bollhoefer replied that it can be reassessed and reported on by the Building Official in 60 days. **Motion carried unanimously 5-0.**

10. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Nichols

Stated that she is still unhappy with the decision regarding the straw poll vote and the fact there are some that cannot vote.

Thanked Mr. Cechman for his presentation at the last meeting on building height restrictions and she believes it is time for Winter Garden to enact a building height moratorium to protect the City's history and charm. She asked the Commission to direct City staff to draft an ordinance that would designate all new buildings within the City limits to be limited to a height of no more than three stories or 35 feet to include all architectural embellishments and facades. This would not affect any building plan already approved or currently under construction. Mr. Cechman stated that a five story building on State Road 50 was approved as part of a PCD rezoning. Commissioner Dixon stated that she needs more details and would not vote on the issue on the spur of the moment. Commissioner Nichols stated she is only asking the Commission approve directing staff to research it and draft an ordinance so they can vote on it. Commissioner Dixon stated she is not ready to restrict building heights. Commissioner Graham asked about the current 35-foot restriction. Mr. Cechman stated that R-1 restricts the height to 35 feet and he does not believe commercial has a height restriction but in all practicality, a building is limited because of the need for parking. **Motion by**

Commissioner Nichols to draft an ordinance for a moratorium limiting building heights to no more than three stories or 35 feet to include all architectural embellishments and facades, except for buildings already approved or currently under construction. Seconded by Commissioner Reynolds and carried 3-2; Quesinberry and Dixon opposed.

Stated her concern regarding the out of control growth and development within the City, which is overloading staff and stretching resources to their limit. Other cities are starting to adopt temporary moratoriums on building and new construction so they can catch up and get the infrastructure in place. She is asking the Commission to approve directing staff to look into drawing up an ordinance for a temporary moratorium on new construction and development. Commissioner Dixon stated that she is working to get more houses in East Winter Garden and a moratorium will not help her get the land for building more housing. Commissioner Nichols stated that a building moratorium would give the City the opportunity to better plan for the future. The City is diverting so far from the Comprehensive Land Use Plan and she is only asking to give staff direction to look into it. Mayor Quesinberry asked about the impact on current projects and restated that the request is for staff to look into a building moratorium and report back with their findings. Commissioner Dixon stated that she wants to make sure the Dreyfus project moves forward for the land and low-income housing in East Winter Garden as quickly as possible. It was the consensus of the City Commission for staff to research and report their findings to the City Commission on a building moratorium.

Commissioner Dixon

Reported that children will begin their Head Start classes in about three weeks and unfortunately someone has stolen \$400+ they had received for uniforms. She will be requesting donations and what she doesn't get, she will be asking the City Commission to make up the difference and wants a motion tonight to approve her request.

Commissioner Reynolds

Addressed how the factual information about the proposed mall will be disbursed before the straw poll takes place. Mr. Bollhoefer replied that he plans to create a mail-out of one page of information by the end of next week. Commissioner Nichols asked if it will be unbiased. Mr. Bollhoefer stated it is his intent to make it unbiased. Commissioner Reynolds stated that he thought the earlier presentation was factual and if used as the base line to work from, it should be a good effort in the right direction. Also, people have made some legitimate points about residing near the proposed mall but not being able to participate in the poll so what logistically would have to occur to make that happen. City Clerk Golden advised that the ballots have already been ordered. Commissioner Reynolds stated that he doesn't think at this point that it can be logistically done.

The meeting adjourned at 10:48 p.m. to the next regularly scheduled meeting on August 11, 2005.