

REGULAR MEETING MINUTES
CITY COMMISSION
March 24, 2005

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

Present: Mayor Jack Quesinberry, Commissioners Mildred Dixon, Theo Graham, and Carol Nichols, City Attorney Lionel Rubio, Acting City Manager Mike Bollhoefer, Deputy City Clerk Nancy Williams, Assistant to the City Manager Marshall Robertson, Planning Director Mark Cechman, Utilities Director Fernand Tiblier, Police Chief George Brennan, Fire Chief John Williamson, Public Works Director Bob Smith, Recreation Director Jay Conn

Absent: City Manager Hollis Holden and City Clerk Kathy Golden

1. **APPROVAL OF MINUTES:**

- A. Canvassing Board meeting minutes of March 9, 2005 and Regular Meeting Minutes of March 10, 2005. **Motion by Commissioner Graham to approve the minutes as submitted. Seconded by Commissioner Nichols and carried 4-0.**

2. **FIRST READING OF PROPOSED ORDINANCE**

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

City Attorney Rubio read Ordinance 05-23 by title only. Chief Brennan said he is asking for this ordinance to handle infractions as civil rather than criminal offenses. Commissioner Graham asked what the penalty is for a Class 1 violation. Chief Brennan said the penalty is a \$35.00 fine for the first offense. Commissioner Nichols asked if other motor vehicle laws apply, such as equipment violations, taillights, etc. Chief Brennan said no, because in 2002 the State Legislature removed motorized scooters from the definition of motor vehicle, in Chapter 316, which exempted scooters from those provisions and makes enforcement difficult. They were not removed from Chapter 322, which means a license is required to operate them; however, Chief Brennan does not think handling offenses as criminal violations is appropriate. Commissioner Dixon asked if there are certain places scooters can be ridden. Chief Brennan said they have to be ridden on private property or by a licensed driver. The ordinance provides for other restrictions, such as they have to be driven on the side of the road, cannot be driven two abreast, etc. Otherwise they must be on private property. **Motion by Commissioner**

Graham to adopt Ordinance 05-23 and to schedule the second reading and public hearing for April 14, 2005. Seconded by Commissioner Dixon and carried unanimously 4-0.

3. SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCES

H. Ordinance 05-09: VACATING THE SOUTHERNMOST APPROXIMATELY 480 FEET OF PARK AVENUE; PROVIDING AN EFFECTIVE DATE

City Attorney Rubio read Ordinance 05-09 by title only. Mayor Quesinberry opened the public hearing. City Planner Cechman said Staff has received notification from the adjacent property owner's attorney stating that he is in support of vacating the right-of-way. There being no comments, Mayor Quesinberry closed the public hearing. **Motion by Commissioner Dixon to adopt Ordinance 05-09. Seconded by Commissioner Graham.** Commissioner Nichols asked when ownership would transfer and if the City would bear any expense to tear up the road. City Planner Cechman said this street exists only on paper and there are no improvements to be made. The City is only vacating its rights, excepting utility rights, for access to the property. City Attorney Rubio clarified that the City is not actually conveying property. At some point the property was dedicated to the City and to the extent the City has any rights, they are vacated. Now half of it goes to the owner on one side and half to the owner on the other side, subject to any other rights which may exist. Commissioner Graham asked about the utility easement. City Planner Cechman said one utility company wants to reserve any rights it already has, and this will be maintained. A title search would outline any existing encumbrances. **Motion carried unanimously 4-0.**

I. Ordinance 05-20: REPEALING CHAPTER 46, FIRE PREVENTION CODE – LOCAL AMENDMENTS OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN; ADOPTING A NEW CHAPTER 46 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN ENTITLED FIRE PREVENTION AND PROTECTION; PROVIDING FOR ADOPTION OF THE FLORIDA FIRE PREVENTION CODE AND AMENDMENTS THERETO, GENERAL PROVISIONS, PLAN REVIEW, PERMITTING, INSPECTION FEES, AND AUTOMATIC FIRE PROTECTION EXTINGUISHING SYSTEMS; DIRECTING TRANSMITTAL TO THE FLORIDA BUILDING COMMISSION AND THE STATE FIRE MARSHAL; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Rubio read Ordinance 05-20 by title only. Mayor Quesinberry opened the public hearing. Chief Williamson said Staff recommends adoption of the ordinance. There being no comments, Mayor Quesinberry closed the public hearing. Commissioner Graham asked if the ordinance was only adding the new fire codes that the State has adopted. Chief Williamson said yes, plus a few local amendments have been included. **Motion by Commissioner Dixon to approve Ordinance 05-20. Seconded by Commissioner Graham.** Commissioner Nichols asked if the buildings on Plant Street had sprinkler installations. Chief Williamson said that according to the local

amendments, any new building over 4,000 square feet is required to have sprinklers. Any building that changes occupancy, according to Chapter 3 of the Building Code, and over 4,000 square feet is also required to have sprinklers. Commissioner Nichols asked why the single-family residences are not required to pay a fee. Chief Williamson said the fees were structured similarly to other cities of the same size. Most cities do not require the fee. Additionally, the Fire Department reviews primarily commercial building plans and does not have much authority over single-family home plans. Commissioner Nichols asked where the fees go. Acting City Manager Bollhoefer said the fees go into the General Fund. **Motion carried unanimously 4-0.**

4. **REGULAR BUSINESS**

A. **Request for donation by Autism and Related Disabilities Gym Program, Inc.**

Ms. Jo-Anne Houwers, 1054 Orange Wharf Court, Winter Garden, Florida, said the subject program has existed since 2000 as a family support group. This is the program's first fundraiser. **Motion by Commissioner Graham to donate \$500. Seconded by Commissioner Dixon and carried unanimously 4-0.** Mayor Quesinberry said he would personally donate \$100.

B. **Request for sponsorship by Ladyhawks 12U fast-pitch softball team under the non-profit organization of West Orange Girls Club, Inc.**

Deputy City Clerk Williams said Sandra Breeding was not able to attend the meeting due to an emergency. Ms. Breeding will contact the City Clerk to reschedule the request. **Motion by Commissioner Graham to table the item until the next scheduled meeting. Seconded by Commissioner Dixon and carried unanimously 4-0.**

C. **Recommendation to approve Final Plat for Stone Creek Unit 4**

City Planner Cechman said this is a 112-unit subdivision in Stoneybrook. Staff recommends approval of the final plat with the attached comments and conditions. The Planning & Zoning Board also recommended approval at their March 7, 2005 meeting. These are unattached single-family houses with 7-1/2' side yards, giving a 15' separation. Commissioner Graham said he thought they had to have 75'. City Planner Cechman said this was part of the PUD. Although Staff had an issue with the 5' sideyard setbacks, the builder and Staff worked together and compromised on the lot dimensions.

Mr. Bruce Lawson, 1839 Black Lake Boulevard, Winter Garden, Florida, appeared before the Commission representing the builder. The PSP, which generally sets the size of the home sites, was previously approved by the Commission. Based on the PSP, design plans were done and the subdivision has been constructed. This requested approval is to record the plat and provide legal descriptions of the properties. Commissioner Graham asked if the homes would be attractive. Mr. Lawson said these homes are similar to the others in Stoneybrook, and there will be a wall.

Mr. Vince Goodwin, 1302 Selbydon Way, Winter Garden, Florida, asked when the existing problems in Stoneybrook will be taken care of. He said his property has been flooding for two and a half years. Although engineers have looked at the problem, nothing has been done. Mayor Quesinberry said City staff is working on the problem and it will be corrected.

Motion by Commissioner Dixon to approve the Stone Creek Unit 4 final plat. Seconded by Commissioner Graham and carried unanimously 4-0.

D. Recommendation to approve Preliminary Plat for Oaks at Brandy Lake

City Planner Cechman said Staff recommends approval of the preliminary plat for 165 units with the included conditions. One condition has been amended: originally Staff required construction of a signal at Plant Street and Story Road. The City would recommend paying for half of that and the builder would install a turn lane. After negotiations, Staff determined it would be best for the City to pay for half of the turn lane construction also. The amended condition will come back to the Commission in the form of a development agreement. Mayor Quesinberry asked which turn lane was being referred to. City Planner Cechman said it was the left turn lane on westbound Story Road at Plant Street. **Motion by Commissioner Graham to approve the preliminary plat for Oaks at Brandy Lake. Seconded by Commissioner Dixon and carried unanimously 4-0.**

E. Recommendation to approve a Community Development Block Grant application to Orange County

City Planner Cechman said the grant is for the old library building, which the City is considering turning into a senior center. The building does need some renovation. **Motion by Commissioner Dixon to approve the Community Development Block Grant application. Seconded by Commissioner Graham.** Referencing Item #3, Commissioner Nichols asked if the \$350,000 figures includes the land and not just the library building. Acting City Manager Bollhoefer said it did. **Motion carried unanimously 4-0.**

F. Resolution 05-10: URGING THE LEGISLATURE TO VOTE AGAINST HB 1521 AND SB 2060, IN THAT THIS LEGISLATION WOULD AMEND PART III, CHAPTER 163, FLORIDA STATUTES, WITH THE EFFECT OF SEVERELY REDUCING THE ABILITY OF COMMUNITY REDEVELOPMENT AGENCIES TO ACCOMPLISH THEIR STATUTORY REDEVELOPMENT TASKS

City Attorney Rubio read Resolution 05-10 by title. Acting City Manager Bollhoefer said two bills are currently being considered by State legislators which would give the County power over how the City manages its CRA, i.e., they would reduce funding on existing CRAs and would have control over what projects can be done. Staff strongly believes the City should be able to manage its own CRA and that the previously made commitments for funding should be honored. The Resolution, if passed, will be sent to Tallahassee to

indicate the City's opposition to the two bills. **Motion by Commissioner Dixon to approve Resolution 05-10. Seconded by Commissioner Graham and carried unanimously 4-0.**

G. Request for donation by the FBI National Academy Associates, Inc.

Police Chief Brennan said Orange County is hosting the FBI National Retraining Conference this summer and all local police agencies are donating monies to help offset some of their costs. He is requesting \$1,000 from the Law Enforcement Trust Fund Account to make the donation. **Motion by Commissioner Graham to donate \$1,000 to the FBI National Retraining Conference. Seconded by Commissioner Nichols and carried unanimously 4-0.**

H. Recommendation to approve a Mutual Aid Agreement with Orange County Sheriff's Office

Police Chief Brennan said this is a renewal of the existing agreement. There are no changes. **Motion by Commissioner Graham to approve the Mutual Aid Agreement. Seconded by Commissioner Nichols and carried unanimously 4-0.**

I. Recommendation to approve the West Orange Narcotics Task Force agreement

Police Chief Brennan said this is a renewal of the existing agreement, which expired and was extended for 120 days through mutual agreement. Chief Brennan recommends approval as the system has been working very well. **Motion by Commissioner Graham to approve the agreement. Seconded by Commissioner Nichols and carried unanimously 4-0.**

J. Code Enforcement Board vacancy for Julian Revels whose appointment expired on March 1, 2005

Police Chief Brennan said Julian Revels's board appointment expired and, due to health reasons, he cannot continue. The City Clerk had one applicant on file, which application was given to the Commission for review. Chief Brennan asked if the Commission wanted to appoint that applicant or open the position up to additional applicants. **Motion by Commissioner Graham to appoint applicant Barbara Pennington to the vacant Code Enforcement Board seat. Seconded by Commissioner Nichols and carried 4-0.**

K. Planning and Zoning Board vacancy for James Campbell resignation (term expires October 2008)

Mayor Quesinberry said that one of the applicants, Terri Slack, is the City's former finance director. Commissioner Dixon said when Freddie Anderson resigned from the Board, she should have allowed Commissioner Dixon to appoint her replacement, since she knows of several interested people. The next time there is a vacancy, she wants to be notified. Mayor Quesinberry said the interested people should go to City Hall and submit

the necessary paperwork to be kept on file for the next occurrence. Commissioner Dixon said her district does not have representation on the Planning and Zoning Board, and she wants five or six applications to give to the interested parties. **Motion by Mayor Quesinberry to appoint Terri Slack to the vacant Planning and Zoning Board seat. Seconded by Commissioner Graham and carried unanimously 4-0.**

L. Selection of ZHA as the Design Criteria Professional Consultant for a new City Hall and Fire Station

Assistant to the City Manager Marshall Robertson said money was approved in last year's budget for design of the new City Hall, as was money for design and construction of a new fire station on Hennis Road. The City advertised the bid and received three Requests for Qualifications for a city hall and two for the fire station. The Selection Committee, consisting of Mr. Robertson, Acting City Manager Mike Bollhoefer, and Fire Chief John Williamson, interviewed the bidding firms and unanimously selected ZHA. Mr. Robertson requests the Commission's permission to negotiate with ZHA to do the design criteria package. **Motion by Commissioner Graham to grant permission for the Selection Committee to negotiate the design criteria package with ZHA. Seconded by Commissioner Dixon and carried unanimously 4-0.**

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

Acting City Manager Bollhoefer said the Rotary Club has withdrawn the request.

N. Filling of vacancy of District 1 Commissioner

City Attorney Rubio stated that at their Special Meeting held March 21, 2005, he provided to each Commissioner a memorandum addressing several issues raised at that meeting. Regarding Mr. O'Neil's methodology and analogy, Mr. O'Neil's proposal to designate an unknown winner is contrary to the clear language of the City Charter requiring that the City Commission elect an eligible person with 15 days. As such, the proposed methodology is improper. Further, Mr. O'Neil's analogy to the situation in the City of Orlando and reliance on Chapter 112 of the Orlando Charter are misplaced. The situations are different: Orlando's deals with a suspension, Winter Garden's is a recall. These are analyzed under different provisions of the Statute. It is clear that Orlando's Charter provisions have nothing to do with the City of Winter Garden. As to the action taken at the March 21st meeting, the action taken was improper; however, the action intended is permissible but requires compliance with certain procedural aspects set forth in the City Charter and Florida law. Namely: one, whoever is elected sits until the next general or special election; two, providing notice to the Supervisor of Elections and obtaining his consent to a specific date; and three, adopting a resolution setting the date. Mr. Rubio provided the Commissioners with several proposed resolutions for their consideration. Resolution 05-11 appoints Mr. Carris until the next general or special election. Resolution 05-12 presumes the appointment of Mr. Carris and calls for a special election. Resolution 05-13 is a combination of the two and most accurately reflects the

intent of the motion previously made. At this point, the Commission may move to consider one of the resolutions proposed or move to refer the decision to the Governor.

Mayor Quesinberry said that Commissioner Graham's motion provided that if Mr. Rubio determined that the Commission's actions at their Special Meeting was improper or illegal, the decision would go to the Governor. Commissioner Graham said Resolution 05-13 says the action is legal. Mr. Rubio said there are two separate questions: the mayor's question concerns the motion made at the March 21, 2005 meeting. It is his opinion that the actual action taken with the motion was improper. However, that is a strict construction. The intent of the motion is permissible if certain procedures are followed. Regarding Commissioner Graham's question on the resolution, it is Mr. Rubio's opinion that if this resolution is approved by the Commission, then they can proceed pursuant to the resolution. Mayor Quesinberry felt that any resolution approved would not be in accordance with the Charter, which action he opposes. Commissioner Graham said that according to the City Attorney, they would not be breaking the Charter. It is a legal resolution which the City Attorney said he would defend in a court of law. Mayor Quesinberry said he felt it was a technicality to change the Charter and he opposes it.

Commissioner Dixon said the previous action was illegal, and wanted to know what Commissioner Graham was alluding to. Commissioner Graham said he asked if Resolution 05-13 was legal, according to the City Attorney, if he would defend in a court of law that the Commission did not break the Charter, and the attorney said yes. Mayor Quesinberry said he thinks voting for the resolution would open up the City to a lawsuit and he opposes it. Mr. Rubio said there is still a step to be taken. The options provided are to consider one of the resolutions or refer it to the Governor. Presuming the Commission decides to consider a resolution, they would have to read that particular resolution and vote on it.

Commissioner Dixon asked how all this could be done within the time limit. Commissioner Graham said the resolution sets the date of May 3, 2005 and we would be within the law and the City Charter to adopt it. He said he felt the proper thing to do is to let the people in District 1 choose their representative.

Concerning the motion that was made at the Special Meeting, Mr. Rubio said the first problem is an attempt to call a special election without following the procedures required by the Charter and the Statute. The Charter requires any special elections be called by resolution. The Statute requires that prior to a governing authority or municipality calling a special election, they need to obtain the consent and approval of the Orange County Supervisor of Elections office and set the election date. Since that time, the City Clerk and City Attorney have communicated with the Supervisor of Elections, who has provided the preliminary date of May 3, 2005. However, nothing is set until the Commission takes action. If it is the Commission's pleasure to approve a particular resolution to try to capture the essence of what was proposed at the last Special Meeting, he has provided a methodology to do that legally in accordance with the City Charter and the Law. However, if it is the pleasure of the Commission to take a strict interpretation of

what the motion was, which essentially said, "We will do this but if we can't do it and we didn't do it properly, we will refer it to the Governor," then that is another option for the Commission's consideration. At this point, it is for the Commission to decide.

Commissioner Graham said all four people voted to bring this back and if the action was illegal, it would go to the Governor. But if it was legal, then we would go with an election. And the attorney has stated that by following the resolution, then it's legal.

Mr. Rubio clarified that what he said was that the actual action taken was improper, illegal, because there are certain provisions that needed to be complied with and the Commission did not comply with them. But there is a way to legally accomplish what the Commission was trying to do. If that is the pleasure of the Commission, then he has provided a way to do that. But the question essentially is, for the Commission's consideration, do they want to refer to the Governor or appoint Jerry Carris until the next general or special election and call a special election.

Commissioner Graham started to make a motion to adopt a resolution. Mr. Rubio interrupted and said that could not be done. First he had to move to consider Resolution 05-13 and then Mr. Rubio had to read the resolution. Commissioner Dixon asked if there would be any repercussions from the improper action taken. Mr. Rubio said it was a nullity. **Motion by Commissioner Graham to consider Resolution 05-13. Seconded by Commissioner Nichols. Commissioners Graham and Nichols voted aye. Mayor Quesinberry voted opposed. Commissioner Dixon said she did not know.** Commissioner Graham told Commissioner Dixon that if she wanted to have an election to let the people vote, she should vote yes. Commissioner Dixon asked if the election would be open to everyone, including Mr. Carris. Commissioner Graham said yes.

Commissioner Dixon said she had voted before with the intention that there would be a special election. The Charter needs to be changed but she doesn't see any action being taken to do that. It is unfair because the Commission is violating its own Charter. Mayor Quesinberry asked Commissioner Dixon for her yes or no vote because she cannot abstain. Commissioner Dixon repeated that they are violating the Charter. Commissioner Graham said the attorney says they are not violating the Charter. Mr. Rubio said if this Resolution is adopted and the procedures are followed, then this is provided for in the Charter, in his opinion; however, a vote is still needed to consider the resolution, and the next step is to read the resolution. Mayor Quesinberry said the motion made at the Special Meeting was the fact that if the attorney came back and said there was a violation, the decision would go to the Governor. And the Commission did something in violation because they didn't have a resolution. Commissioner Graham said that was not what he said; he said if it was legal or not legal.

Mr. Rubio called for Commissioner Dixon's vote. Mr. Rubio said the motion is to consider the resolution. If that motion is approved, then he can read the resolution and the Commission can vote on that. However, if her vote is not to consider the resolution, then there is no consideration of the resolution. Commissioner Graham said it would automatically go to the Governor because today is the last day.

Commissioner Dixon said she does not believe in going against the Charter. Mr. Rubio said that if she does not believe the motion would be consistent with the Charter, then she needs to vote based on that decision, but based on his analysis, he believes that if they follow the procedure set forth in the resolution, it is provided for in the Charter. However, she has to vote her conscience. **Commissioner Dixon said the Charter says in case of a tie, the Governor would decide, and she is voting to let the decision go to the Governor. (Opposed, 2-2, no action.)** Mr. Rubio asked if it was the Commission's pleasure to go to the Governor. Commissioner Graham said there was no alternative, today is the last day.

5. MATTERS OF CONCERN FROM CITIZENS:

Mr. Jerry Carris, 347 Bayside, Winter Garden, Florida said he accepted the nomination for the vacant Commission seat to break the deadlock. He applauded the Commission's action this evening in deciding to seek the Governor's decision.

Mr. Alvin Washburn, 22 Orange Drive, Winter Garden, Florida said he was really surprised that the Charter was not being violated.

Mr. Vincent Goodwin, 1302 Selbydon Way, Winter Garden, Florida, said he feels the issues have been blown out of proportion. He wondered how many Trailer City residents attended Commission meetings when they were not directly affected. He is ashamed that any particular group would verbally attack a commissioner because a decision did not go their way. What was done was done properly.

Mr. Don Miller, 1073 Woodson Hammock Circle, said he thought it was appalling that four elected officials would not listen to their constituents. The Governor does not rule Winter Garden. He said there are only two Commissioners who ever ask questions.

Mr. Burton Brown, 14 Orange Drive, Winter Garden, Florida, mentioned several concerns about Trailer City, including washing machine repair, a rent increase, six shuffleboard courts that were torn up, and a water main.

Mr. Kent Horsley, 1679 Victoria Way, Winter Garden, Florida, said he sympathizes with the Commission's struggles of the last few weeks. He is a resident of District 1 and wants to know what the people of District 1 want. He believes there is apathy in the community because the citizens do not feel heard. The citizens of District 1 want to elect their own Commissioner to represent their interests.

Mr. Ed Bowman, 14 Laurel Drive, Winter Garden, Florida, said his brother was denied residence in Trailer City but it was no longer an issue because his brother died last month.

Mr. Richard Napotnik, 1633 Fullers Cross Road, Winter Garden, Florida, said he has attended all the Trailer City meetings at Tanner Hall and at City Hall. He said he brought up the issue of letting the citizens decide what they want to do with Trailer City. He was

chairman of the committee which recalled Commissioner Thompson and the citizens of District 1 voted the Commissioner out. He wants District 1 citizens to have the opportunity to vote.

Commissioner Dixon made several points about single-member districts.

Mr. Mike Youngblood, 383 Floral Drive, Winter Garden, Florida, said he has been a Winter Garden resident for 54 years. He believes what is happening in the meeting tonight is due process, and the letter of the law is being followed whether or not individual people like the results. The citizens should work together, not try to tear apart everything that's been accomplished in a great town.

Ms. Lynne Cole, 24 Temple, Winter Garden, Florida, said the issue is not Trailer City, it is power.

Mr. Andy Bruns, 6 Laurel Drive, Winter Garden, Florida, said he cannot understand what Trailer City has to do with electing a District 1 commissioner, and would like Trailer City issues kept out of the discussion. He said the people of District 1 want to vote for their own representative and thought the Commission should reconsider their vote.

Mr. Bob Cole, 24 Temple Drive, Winter Garden, Florida, said Commissioner Dixon asked in the invocation for those present to act with decency and he would do so. He believes single-member representation leads to ward politics. The seniors in District 1 should work with the Commission on low-cost housing. The letter of the law was observed tonight, but the spirit of the law was not, because a special election could be held but has been denied. Nothing that the District 1 citizens want is against the Charter. He asked the Commission to reconsider their decision because what the citizens want is completely legal.

Mr. Harold Boulter, 813 E. Bay Street, Winter Garden, Florida, said he thinks the citizens of Winter Garden ought to come together to handle the City's business themselves.

6. MATTERS FROM CITY ATTORNEY

Mr. Rubio clarified that the action of the Commission is proper and is provided for in the Charter. The alternative presented was also proper, but the action was proper.

7. MATTERS FROM ACTING CITY MANAGER

- A. The financial statements have been issued and he is available to answer any questions about them.
- B. He requested the scheduling of two workshops: one on April 5, 2005 to discuss the proposed mall, and one on April 18, 2005 to discuss the Oakland Park subdivision. The second workshop would be a joint meeting with the Oakland Commission. Both meetings will be held at 6:30 p.m. in the Commission Chambers at City Hall. A third workshop regarding the CUP will be scheduled at a later date.

8. MATTERS FROM MAYOR AND COMMISSIONERS

Commissioner Graham:

At the end of the Special Meeting, all four commissioners voted to extend the vote to this evening and if the attorney gave an opinion about the legality of the action taken, there would be an election. If it was legal, the Commission would let the people vote. Then there was a change of heart by two commissioners. No Charter rules were being broken. His motion did not say referendum, which is a technicality. The attorney should have corrected him to make a resolution. The Commission had to get the approval of the Supervisor of Elections to call a special election. The City Clerk is the election official for the City of Winter Garden and when he made the motion to be 45 days, she said that was proper. That's another technicality. He checked the Charter and it didn't say that, it said the Commission could set the date. (He then read Section 47.) His understanding is the reason the meeting was continued to tonight was to find out if it was legal or illegal to have an election. Going ahead with the election would not be going against the Charter. The people of District 1 should be allowed to vote and he feels the Commission did not do what they said they were going to do.

Mr. Rubio said the action taken at the Special Meeting was improper. However, what he provided for the Commission's consideration was a procedure. What was approved on Monday night was improper, illegal. With regards to the setting of the date, the Charter provides that the Commission will elect someone within 15 days until the next special or general election. The timeframe this person serves is provided in the Charter. To add "Jerry Carris will sit for 45 days" is to rewrite the Charter. The part regarding the Supervisor of Elections is not in the Charter, it is in the Florida Statutes in Chapter 100. That provision requires that notice be given and the consent be obtained from the Supervisor of Elections. When it refers to the Supervisor of Elections, it is not referring to the City Clerk, it is referring to the county Supervisor of Elections because it is that person who provides the election schedules.

Commissioner Graham said it would be perfectly legal and right, in the attorney's opinion, and the Commission could have voted for an election.

Commissioner Dixon:

She asked where the timeframe was explained. Mr. Rubio said that information was outlined in the election schedule. The runoff date would have been May 24, 2005. Commissioner Dixon asked if the same procedures would apply anywhere in the City. Mr. Rubio said the same analysis could be followed in the event of a vacancy. She asked if the Charter could be changed. Mr. Rubio said the procedure calls for 10 percent of the electorate to provide an ordinance to the Commission. Once it is brought, then it has to be voted on by referendum, by the electorate at large.

Commissioner Nichols:

She does not believe that when the Commission met at the Special Meeting that there was any intent to violate any portion of the Charter. She would like to see the people of District 1 vote for their own representative. She is delighted to see so many citizens of the entire City present and wants them to continue to participate.

The meeting was adjourned at 8:30 p.m.

APPROVED: