



CITY OF WINTER GARDEN

OFFICE OF THE CITY CLERK

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REGULAR MEETING MINUTES

CITY COMMISSION

November 10, 2005

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Quesinberry at 6:30 p.m. at Tanner Hall, 29 W. Garden Avenue, Winter Garden, Florida. The invocation and Pledge of Allegiance were given.

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

Also Present: City Manager Mike Bollhoefer, City Clerk Kathy Golden, City Attorney Dykes Everett, Assistant to the City Manager Marshall Robertson, City Planner Mark Cechman, Utilities Director Fernand Tiblier, Police Chief George Brennan, Trailer City Manager Johnny Clark, Building Official Willie Herbert, Finance Director Brian Strobeck, Fire Chief John Williamson, Information Technology Director Bob Reilly, Public Works Director Bob Smith, Human Resources Director Frank Gilbert, City Engineer Art Miller, Senior Planner Kelly Randall, Assistant City Clerk Angee Grimmage

1. **APPROVAL OF MINUTES**

Commissioner Graham noted a correction: Page 8, Item 7 under Matters from City Manager in the fourth paragraph on line seven should state Fire Chief instead of Police Chief. **Motion by Commissioner Dixon to approve the regular meeting minutes with the noted correction. Seconded by Commissioner Graham and carried unanimously 5-0.**

Motion by Commissioner Dixon to postpone minutes of October 27, 2005 until the next regular meeting of November 22, 2005. Seconded by Commissioner Graham and carried unanimously 5-0.

2. **OATH OF OFFICE**

Police Chief Brennan introduced and administered the Oath of Office to Officers James Davis, Nathan W. Murch, and Megan Valance.

Mayor Quesinberry stated that he would like to change the agenda and move to Regular Business Item E at this time because the representative with Louis Dreyfus Citrus Corporation has to catch a flight.

Regular Business

E. **Recommendation to approve a negotiated Real Estate Transaction and Asset Transfer Agreement with Louis Dreyfus Citrus Corporation for two parcels equaling 13.7 acres for future use as a wastewater treatment plant and reclaimed water storage site**

Utility Director Tiblier stated that this item was brought to the commission on July 14th and there was a unanimous consensus of the City Commission to move forward with the real estate transaction. The City has until December 20th to close on the transaction. **Mayor Quesinberry** opened the floor for questions. **Commissioner Graham** asked if the City is going to run the wastewater plant under the five-year lease. **Mr. Tiblier** replied that for the next five years and any year thereafter, Dreyfus would be operating their plant as an industrial waste pre-treatment facility to send to the City sewer. After five years the City has the option to take it over and modify it for City use. The City will own the land and the plant and rent it back to Dreyfus for a nominal fee. **Commissioner Graham** then asked if in the parking area of approximately 3 ½ acres will Dreyfus only use the paved parking? **Mr. Tiblier** replied that what the City is acquiring is 8.7 acres, of which there is a paved portion that Dreyfus will continue to use as a lease back to park storage vehicles. **Commissioner Graham** asked if the City would have the unpaved part immediately. **Mr. Tiblier** replied that is correct. **Commissioner Reynolds** asked if the leased portion was part of the first five-year arrangement and the City would be receiving \$10 and no additional revenue. **Mr. Tiblier** replied that the amount was included as something convenient for the contract and negotiated as something the City could go without for the next five years while plans are being developed. **Commissioner Reynolds** asked if the City only has the option to extend the lease annually after the initial five years for \$10. **Mr. Tiblier** responded that any year beyond the five-year period would be renewable and a higher rate could be negotiated if that was appropriate, but the scenario staff has envisioned is that there will be a certain time period staff will be making plans and preparations and therefore the City will not need the property right away. **Commissioner Dixon** stated that she is looking forward to using some of the property for affordable housing. **Mayor Quesinberry** recognized Rick Tomlin, the representative for Louis-Dreyfus. **Commissioner Graham** asked if after the five-year lease is up, the City could give Dreyfus a 12-month notice to not renew. **Mr. Tiblier** replied yes. **Commissioner Reynolds** stated that it appears to him that the contract states that the rental rate would remain \$10 a year after the initial five-year period. He thinks that the City Manager and the Assistant City Manager came up with a value of \$5,000 a year, which should be the normal lease rate. **Mr. Bollhoefer** replied that it was not a normal rate; they were just trying to make an estimate of what they thought the lease amount could be. At the end of the five years, the City could negotiate and get more than \$10 if the City felt it was appropriate. **Commissioner Reynolds** stated that his concern was that it appeared that the City was indefinitely locked into \$10 a year when it was initially figured in for the first five years. **Mr. Bollhoefer** stated that is why the City is being given control over that issue. **Motion by Commissioner Graham to approve the negotiated agreement as written. Seconded by Commissioner Dixon and carried unanimously 5-0.**

3. **PRESENTATION**

Mayor Quesinberry introduced and presented a certificate of appreciation to Jerry Carris for his service on the Planning and Zoning Board from September 2000 to October 2003, and the Code Enforcement Board from March 2002 to April 2005. Other recipients not present were Billy Burch, Richard Mask, and Terri Slack.

4. **FIRST READING OF PROPOSED ORDINANCES**

A. **Ordinance 05-56:** AMENDING THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN TO COMPLY WITH THE WEKIVA PARKWAY AND PROTECTION ACT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Everett read Ordinance 05-56 by title only. **Motion by Commissioner Dixon to approve Ordinance 05-56 and to schedule the second reading and public hearing after review by the Department of Community Affairs. Seconded by Commissioner Nichols and carried unanimously 5-0.**

B. **Ordinance 05-57:** ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 36.79 ACRES LOCATED AT 355 SOUTH NINTH STREET AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN, FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Dreyfus/355 9th St. Annexation)

City Attorney Everett read Ordinance 05-57 by title only. **Motion by Commissioner Dixon to approve Ordinance 05-57 and to schedule the second reading and public hearing on December 8, 2005. Seconded by Commissioner Graham. (Note: Commissioner Graham began commenting on Ordinance 05-46 and his comments have been included below under that Ordinance.) Motion carried unanimously 5-0.**

C. **Ordinance 05-61:** AMENDING SECTION 106-2, SECTION 106-16 AND SECTION 106-17, AND ADDING SECTION 106-18 TO CHAPTER 106 ENTITLED STORMWATER MANAGEMENT, OF THE CODE OF THE CITY OF WINTER GARDEN; CHANGING THE REQUIREMENT FOR A NPDES NOTICE OF INTENT TO CONSTRUCT FROM 5.0 ACRES TO 1.0 ACRE PURSUANT TO FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION RULES; PROVIDING ADDITIONAL NON-STORM DISCHARGES ALLOWED TO DISCHARGE INTO THE CITY'S MUNICIPAL SEPARATE STORM SEWER SYSTEM PURSUANT TO FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION RULES; PROVIDING FOR MAXIMUM IMPERVIOUS SURFACE RATIOS FOR NEW DEVELOPMENT AND REDEVELOPMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

City Attorney Everett read Ordinance 05-61 by title only. **Motion by Commissioner Dixon to approve Ordinance 05-61 and to schedule the second reading and public hearing on December 8, 2005. Seconded by Commissioner Graham.** Commissioner Reynolds asked what the revisions were from the original draft. City Engineer Miller replied that the minor changes give a distinction between PUD's, single-family detached

and multi-family, like townhomes or apartments. The only prior distinction was between residential and commercial or industrial and then staff realized that they needed to address the difference between single-family detached and attached multi-family. **Motion carried unanimously 5-0.**

5. SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCES

A. Ordinance 05-46: AMENDING CHAPTER 94 ENTITLED NATURAL RESOURCE PROTECTION BY INCLUDING SECTION 94-132.5 ENTITLED "WETLAND BUFFER REQUIREMENTS"; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Everett read Ordinance 05-46 by title only. Mayor Quesinberry opened the public hearing. Hearing or seeing no comments, the public hearing was closed. **Motion by Commissioner Dixon to approve 05-46. Seconded by Commissioner Graham. Commissioner Graham** referenced page one under New Development - an average of 25-foot buffer states it can be maintained by the homeowners or St. Johns River Water Management District. Usually, you want the homeowners to take care of the wetland buffer but if they are annexed with an existing natural barrier along a lake per se, would it be better to leave it natural rather than putting in new plants or vegetation. For instance, Lake Butler, years ago there were only a few people along the Butler Chain, but as they kept building next to the lake, they eventually filled it in with grass and now the fertilizers they use is polluting the lake. He asked if they are going to remove vegetation that is already there that could otherwise stay. **City Planner Cechman** stated that the intention of a buffer is just that, whatever natural vegetation is there remains there. He is not saying there cannot be some general cleanup. **Commissioner Graham** stated that the Ordinance states that they could put in the right type of vegetation. **Mr. Cechman** read the bottom of the first page of the Ordinance that states the type of buffer planted must be the type consistent with St. John River Water Management guidelines. **Commissioner Graham** stated that the vegetation planted must be consistent and wants to know if they would have to remove what is there now. **Senior Planner Randall** stated that the intention is that if they have to take out invasive species, or have to clean out non-native species that are not appropriate for the area, the intention is to ensure that when they do replant the area it is with the appropriate species of plants. It does not mandate that they have to clean out or take out any appropriate plants. **Commissioner Graham** stated that our purpose was not to run anything into the lake to deteriorate the lake as it has in other places. **Ms. Randall** replied no. **Motion carried unanimously 5-0.**

B. Ordinance 05-55: AMENDING ORDINANCE 04-78; ELIMINATING THE REQUIREMENT THAT MOBILE HOMES PURCHASED BY THE CITY MUST BE REMOVED FROM THE PARK OR EXCHANGED FOR ANOTHER MOBILE HOME WITHIN THE PARK; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Everett read Ordinance 05-55 by title only. Mayor Quesinberry opened the public hearing. Hearing or seeing no comments, the public hearing was closed. City Manager Bollhoefer stated that this Ordinance includes the amendments that were

made at the last meeting. If this Ordinance is adopted, the prospectus would have to be revised. The Ordinance does not address the issue brought up by Commissioner Graham regarding the Fire Code Section 118-1231 regarding the distance requirements between mobile homes. If this Ordinance is adopted, staff will go back and make Code amendments to make it agree with the State Fire Code. Commissioner Graham noted that the City Code is five feet less between the trailers than the State's ten feet and using the State Code would mean less trailers being removed to bring it into compliance. City Manager Bollhoefer replied that this is correct and recommended bringing back an Ordinance to change Code Section 118-1231. Adopting this Ordinance allows the removal of the sign because it removes the five-year review requirement. **Motion by Commissioner Nichols to approve Ordinance 05-55, amending Ordinance 04-78. Seconded by Commissioner Dixon and carried unanimously 5-0.**

6. **REGULAR BUSINESS**

A. **Request for open-air sales by Mike Severt Tree Farms to sell Christmas trees November 16 – December 25, 2005 at 14001 W. Colonial adjacent to AmSouth Bank**
Mayor Quesinberry recognized Patrick Ireland who was present to answer any questions. **Motion by Commissioner Graham to approve the request as submitted. Seconded by Commissioner Dixon and carried unanimously 5-0.**

B. **Request for approval to conduct an open-air sales event by Webb's Antique Mall, 13373 W. Colonial, in the adjacent parking lot November 25 - 27, 2005**
Connie Scott addressed the Commission in the absence of Marcie Webb. Ms. Scott stated that the dates requested are November 25, 26, and 27th. She also asked if they could be allowed to conduct this sale on a monthly basis. Mayor Quesinberry replied that a review would need to be made after a couple of events before a continuous request could be considered. Commissioner Dixon stated that she saw the sale and asked if it went alright. Ms. Scott answered yes, it was very good and people enjoyed themselves. It brought a lot of good traffic to the area businesses in their mall. Commissioner Graham stated that open air events usually have a tent and asked if they had used one last time. Ms. Scott replied no, they changed it to a parking lot sale because there is no tent involved. City Clerk Golden stated that that the recommended action includes waiving the open-air vendor occupational license tax, which is a separate classification. The business is already a taxed business and could be waived because the sale will be on an adjacent lot. **Motion by Commissioner Graham to approve the open-air sale as requested and to waive the vendor permit fee. Seconded by Commissioner Dixon and carried unanimously 5-0.**

C. **Accept resignation of Planning and Zoning Board member Terri Slack and appoint a replacement for her unexpired term ending October 2008**
Mayor Quesinberry acknowledged Commissioner Dixon's prior request to address this nomination. Commissioner Dixon nominated and introduced Xerxes Snell as her appointment to the Planning and Zoning Board. Commissioner Graham stated that in that motion we should accept the resignation of Terri Slack. **Motion by Commissioner**

Dixon to accept the resignation of Teresa Slack and to appoint Xerxes Snell to fill her unexpired term until October 31, 2008. Seconded by Commissioner Reynolds and carried unanimously 5-0.

D. Recommendation to approve Black Lake Park Phase 2 Final Plat and approve a Quit Claim Deed for the lift station

City Planner Cechman stated this is the final plat for phase 2 of the Black Lake Park project under development by KB Homes. Staff has made their review and recommends approval of the plat. The Planning and Zoning Board has also made their review and recommends approval. Staff asks that the motion include approval of the quit claim deed subject to the approval of an as-built boundary survey approved by the City Engineer. Also, staff requests that the motion include approval of the Black Lake final plat with staff conditions provided in the agenda package and upon execution of the quit claim deed involving the lift station. **Motion by Commissioner Graham to accept the final plat for Black Lake Park Phase 2. Seconded by Commissioner Dixon and carried unanimously 5-0.**

Motion by Commissioner Graham to approve quit claim deed for a lift station subject to the as-built boundary survey when approved by the City Engineer. Seconded by Commissioner Nichols and carried unanimously 5-0.

E. Recommendation to approve a negotiated Real Estate Transaction and Asset Transfer Agreement with Louis Dreyfus Citrus Corporation for two parcels equaling 13.7 acres for future use as a wastewater treatment plant and reclaimed water storage site

(Note: This item was moved and acted upon earlier in the meeting after the Oath of Officers.)

F. Resolution 05-22: REQUESTING 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 (Oakland Park Trail Easement Acceptance)

City Attorney Everett read Resolution 05-22 by title only. City Planner Cechman stated that this is to allow the Oakland Park subdivision to cross the West Orange Trail in three places. **Motion by Commissioner Graham to approve Resolution 05-22. Seconded by Commissioner Dixon and carried unanimously 5-0.**

G. Recommendation to approve a joint participation agreement with the Florida Turnpike District for Daniels Road Bridge over the Turnpike

Assistant to the City Manager Robertson stated that this is a joint participation agreement (JPA) between the City and the Florida Department of Transportation (FDOT) which allows the City to exchange its right-of-way on the Turnpike with FDOT for right-of-way they own on the embankment and the Turnpike will give the City \$885,000 to be used in the construction of the Daniels Road bridge. **Motion by Commissioner Dixon to**

approve the joint participation agreement as submitted. Seconded by Commissioner Reynolds. Commissioner Graham asked if the City would only get the funds after the project is finished and FDOT has done an audit. Mr. Robertson responded yes. Commissioner Graham asked if the project will be finished by 2007. Mr. Robertson stated he hopes it will. **Motion carried unanimously 5-0.**

H. **Recommendation to approve a scope of services and fee proposal for survey and site planning services for park areas adjacent to the City cemetery**

Assistant to the City Manager Robertson stated that staff has been meeting with the county and their consultants who are designing the widening to four lanes of segment A next to the cemetery. They need some right-of-way on the cemetery side of the road. They also want to put in a retention pond in the wooded part behind the cemetery. He stated that he does not want any conflict in the survey because our property is older than their road so we need the survey. In the wooded area on the other side of the cemetery, we are looking at a possible recreational facility and this survey is the first step. Mr. Robertson added that staff is looking also looking at redoing the road to Sections 24 and 25 because to enter as a left turn from CR 535 is dangerous. They are looking at making the turn at the signal and an entrance on Lake Butler Boulevard for funeral services. **Motion by Commissioner Graham to approve the survey as requested. Seconded by Commissioner Dixon and carried unanimously 5-0.**

I. **Recommendation to approve letter of intent to purchase property located at 50 Ninth Street, Winter Garden, Florida**

Assistant to the City Manager Robertson stated that the owners of L & M Monuments at 50 Ninth Street have approached the City regarding the sale of their property because they are going out of business. It is adjacent to City owned property at 848 E. Plant Street and in looking at developing the 848 property, it becomes apparent that it will need an entrance off 9th Street as well as Plant Street. If the City obtains this property it would line up directly at Center Street allowing for a driveway entrance that lines straight up with a different street. The property is now zoned I-2 and he receives calls every day from the construction business looking for I-2 property to park dump trucks, etc. He stated staff does not think this would use would be very good next to a nice commercially zoned area. The property owner approached the City and has not yet put it on the market. **Commissioner Graham** asked if the price has been checked to see if it is a fair price. **Mr. Robertson** replied that they wanted \$20,000 more than this, but he has made him this contingent offer. If it was put on the market for this price, with as many people that are calling him for this kind of property, it would be gone in less than a day. **Motion by Commissioner Dixon to authorize negotiating for purchasing 50 Ninth Street from L & M Monuments. Seconded by Commissioner Graham.**

Commissioner Reynolds asked if the City has anyone in particular interested in the property now. What is the purpose of purchasing it other than to prevent someone else from purchasing it. **Commissioner Dixon** asked how big the property is. **Mr. Robertson** replied 50 feet wide. **Commissioner Dixon** stated that there is really nothing you can put on this property that would allow for parking. She stated that we do not want anything else on this property because it is just too small. **Mayor Quesinberry** stated that if Ninth

Street is widened wouldn't the City have to use part of the property. **Mr. Robertson** replied that the City would take 40 feet off the front to widen Ninth Street. If someone bought it and the City took 40 feet off the front of 130 feet deep, the property would be ruined. He stated that whenever the 848 piece of property is sold, the right-of-way will already have come off. We will not be selling right-of-way to whoever buys that property. We will maintain that right-of-way so that it will already be there when we are ready to do the road. **Commissioner Reynolds** clarified if the intent was to prevent us from having to buy right-of-way from someone who purchases the property in the future. **Mr. Robertson** replied that at some point in the future, if someone else owns it, we would have to take 40 feet which would probably cost more than for us to own it all. **Commissioner Reynolds** stated that he understands that but he did not want the City sitting on more land such as the land down on Plant Street for about three years now and essentially there does not seem to be any definite purpose or action to it. He is not interested in taking land off the market so free enterprise can't acquire it and not have anything working with it. **City Manager Bollhoefer** stated that in the long term view, by assembling this piece with the other it makes that piece more valuable. In the long run you will also have more property taxes by having a more valuable piece of property. **Commissioner Reynolds** stated if the City is not upside downing it when it is sold and developed, which is the whole question. What Mr. Robertson has stated makes sense that if we are going to have to buy right-of-way back from the purchaser. **Mr. Bollhoefer** replied that the City will be collecting property taxes on it for many years so it will be caught up. **Commissioner Nichols** stated that the County Property Appraiser values the land at \$11,000 and the City is going to pay \$130,000. She asked if the City owns the tiny piece just north of it. **Mr. Robertson** responded yes, and it is about 600 square feet. **Commissioner Dixon** stated that a road will help. **Motion carried unanimously 5-0.**

- J. **Resolution 05-23:** DECLARING THE CITY'S SUPPORT FOR THE UNIVERSITY OF CENTRAL FLORIDA'S PROPOSAL FOR A MEDICAL SCHOOL; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Everett read Resolution 05-23 by title only. **Motion by Commissioner Graham to approve resolution 05-23. Seconded by Commissioner Nichols and carried unanimously 5-0.**

7. MATTERS FROM CITIZENS

Jerry Carris, 347 Bayside Avenue, Winter Garden, Florida stated his appreciation for the framed certificate of appreciation presented to him earlier in the meeting and complimented the City Commission on a great job tonight.

Richard Napotnik, 1633 Fullers Cross Road, Winter Garden, Florida offered his compliments to City Manager Bollhoefer for doing a fine job. He has attended the last several meetings and has heard a lot of favorable talk around the City and he thinks Mr. Bollhoefer is doing a fine and outstanding job.

Shirley Smith, 21 W. Crest Avenue, Winter Garden, Florida, stated that she thinks everyone has been doing a great job also and she is glad to see the turnaround in our government and everyone listening and helping each other. She stated that one of her windows on Main Street at her business shattered and her neighbors came to her rescue, one of whom was Commissioner Rod Reynolds and she wanted to thank him, Bob from the Music store and her next door neighbor, a City employee, Darryl Johnson. She is very proud to have these three men in her life that care about other people.

Christine Jackson, 1073 N. Lakewood Ave, Ocoee Florida stated that she wanted to ask about Trailer City being opened up to hurricane victims. Her parents live in Mississippi and are victims of Hurricane Katrina and she is considering moving them but only if it will not be closed. **Commissioner Reynolds** stated that he thinks it is safe for her to move her family here in Trailer City if they meet the qualifications. **Commissioner Dixon** stated that she thought the people moving into the trailers were from Waveland. **Ms. Jackson** asked who she needs to see to find out whether they meet the qualifications. **City Manager Bollhoefer** replied that the on site Park Manager has all of the information. **Ms. Jackson** asked if they are to go through the park itself to find out if they qualify for the homes that the City might have available. **Mr. Bollhoefer** replied that if they wanted to purchase one separately from a private owner they could just go to the park manager to make sure they meet all the criteria. If they want to see if they are qualified for the City offered program with Waveland, the City has not really defined at this point in time any specifics but have some very good general guidelines as to what the City is going to do. The City would sell the mobile home to someone at a nominal fee and it would have a buy back clause but it would have to be brought back to the Commission. **Commissioner Dixon** stated that she understood that there were ten trailers, four were not any good, and six were for people from Waveland. Commissioner Dixon asked if the City was going to keep and fix up the four. **Mr. Bollhoefer** replied that the original plan was that the mobile homes were specifically for the residents of Waveland, Mississippi as the adopted City for providing assistance. If there were others from another part of Mississippi, they would have to request permission from the City Commission to purchase them at a nominal fee. **Commissioner Nichols** asked Mr. Bollhoefer if the City has received any indication from Waveland that someone may be interested. **Mr. Bollhoefer** replied that he has spoken to one representative in Waveland and she has not provided him with anyone interested at this point in time. **Commissioner Nichols** asked if there are any plans to repair the homes that are considered not livable. **Mr. Bollhoefer** replied that there are no plans to repair the homes that are not considered livable. **Commissioner Dixon** stated that if we are going to say we are looking for victims of the hurricane we should probably change the wording of the motion. **Commissioner Reynolds** stated that the Commission could establish a date for finalization for applications from Waveland and then decide if the City wants to broaden the spectrum. **Mr. Bollhoefer** replied that the only caveat is to remember that the Commission will still have to restrict it to follow the prospectus, i.e. 55 and older. **Commissioner Reynolds** stated that geographical restrictions to Waveland could be broadened if there are no applicants from there, say by Christmas or something. **Mr. Bollhoefer** replied that this is completely up to the Commission.

8. **MATTERS FROM CITY ATTORNEY** – Dykes Everett had no items.

9. MATTERS FROM CITY MANAGER

A. City Attorney Selection Committee

Stated that there is an unresolved matter regarding the City Attorney Selection Committee for the purpose of short-listing the resumes/applications for consideration by the Commission. One suggestion he had brought up was to choose one commissioner, Mayor, City Manager, a former City Attorney and perhaps a citizen or committee of that nature. **Commissioner Dixon** stated that she suggested the Mayor and one City Commissioner. **Commissioner Reynolds** suggested having each Commissioner select an individual to sit in on the committee. **Mr. Bollhoefer** stated that the only reason he suggested including a former City Attorney, City Manager and City Commissioners is because of their experience working with City Attorneys and their knowledge of the position requirements to fill it. **Commissioner Reynolds** stated that he was talking about appointees in addition to the suggested members. **Mr. Bollhoefer** stated that in his opinion the larger committees do not arrive at a solution. Committees of five tend to be one of the best committees for achieving results. He suggested that the best committee would include some professional experience and knowledge because they have worked with a City Attorney and know the requirements of the position. The short list will come back to the Commission and it will give them the opportunity to see all of the other resumes but the idea is to short list the candidates and probably interview the top three candidates, which is a standard practice. **Commissioner Reynolds** asked that if the Commissioner doesn't agree with the short list the Commission does not necessary have vote favorably for one of the three that may be selected. **Mr. Bollhoefer** responded yes. **Commissioner Graham** stated that he thinks the City Manager was hired to be the leader and he would like to accept his suggestion to have the Mayor, one Commissioner and one attorney. **Commissioner Dixon** asked who would be the Commissioner. **Commissioner Graham** responded that this Commission would vote and make that decision. The committee could include the Mayor, one attorney, one Commissioner, the City Manager and a citizen. The Commission would still have the prerogative of turning any of them down and starting all over again. **Mayor Quesinberry** stated that Commissioner Graham has previously served on the committee and suggested that he be the appointed. **Motion by Commissioner Reynolds for Commissioner Graham to be the Commission representative for reviewing City Attorney applications. Seconded by Commissioner Nichols and carried 4-1; opposed by Commissioner Dixon.**

City Manager Bollhoefer stated that the Commission also needs to select a former City Attorney and a citizen to serve on this committee. **Commissioner Dixon** recommended that Shirley Smith serve. Ms. Shirley Smith declined the recommendation. **Commissioner Nichols** asked if the Commission were to choose a former attorney, wouldn't someone need to find out whether or not they were interested in serving. **Commissioner Dixon** stated that she is voting for Pam Stewart. **Commissioner Nichols** stated that she would like to nominate former City Attorney Blair Johnson but she is unaware if he would be willing to serve. **Mayor Quesinberry** stated he was going to appoint Kurt Ardaman. **Mr. Bollhoefer** stated

that he thought both would probably be willing to serve so a vote could be taken and move on from there. If not, it could come back to the Commission. **Commissioner Dixon** seconded the nomination. **Mayor Quesinberry** stated that Pam Stewart's name has been brought up. **Commissioner Reynolds** stated that he believes she works for an attorney's group. Ms. Stewart replied that she works for an attorney but she is not an attorney. **Motion by Commissioner Dixon to appoint Pam Stewart to review City Attorney applications. Seconded by Commissioner Graham and carried 3-2; opposed by Commissioners Nichols and Reynolds.**

Motion by Commissioner Nichols to appoint prior City Attorney Blair Johnson to review City Attorney applications. Seconded by Commissioner Dixon and carried unanimously 5-0.

Mr. Bollhoefer stated that now he would gather the information, contact everyone to set up a timeframe and make sure that it is open to the public to comply with the Sunshine Laws. **Commissioner Nichols** asked how many applications have been received. **Mr. Bollhoefer** stated there have been quite a few with the majority not having the experience. **Commissioner Nichols** asked if there was a screening process already in place to help scale them down. **Mr. Bollhoefer** replied that he has looked at them but has not screened them as the committee will have to screen them. **Mayor Quesinberry** asked how many résumés have been submitted. **Human Resources Director Gilbert** replied approximately 50. **Mr. Bollhoefer** clarified with the City Attorney that the applications could be distributed to the committee in advance to expedite the process. **Commissioner Dixon** asked how long before it comes back to the Commission. **Mr. Bollhoefer** replied that it should be back no later than two weeks.

B. Status of Concurrency Management System

Roads: **Mr. Bollhoefer** stated that staff is creating an actual Concurrency Management System for roads, which is really the number one issue. A model system is being built and is almost complete whereby you plug in all current and possible developments to give the impact all of those developments will have on roads, level of service needed, and what is needed to get the roads up to standards. In recent times, the County really has not spent a lot of money maintaining or building roads in West Orange County. He is compiling a group comprised of developers, attorneys, and local government that will be working with Orange County to find out which roads they will build and how much money the County is willing to contribute to determine how much funding the City will have to contribute, which will be the most difficult because of the negotiating process.

Schools:

Staff is also looking at the school system and he has met with Dennis Foltz, Chief Planner for the School Board, to come up with some ideas of what can be done with regard to school concurrency. It seems that the big plan now is to have developers come up with what they call the "carrying costs", which is any interest on loans so the School Board can borrow the money sooner, build the school sooner with the developer paying

the carrying cost. The current School Board system is to not build the next school you need until the current schools are way over capacity.

Water and Sewer:

He does not believe there are any water and sewer issues with the purchase of the Dreyfus property.

Parks:

The only issue is finding the land. The funding is not an issue. Staff is looking at land next to the cemetery and negotiating with the Orlando/Orange County Expressway Authority to see if they will release five acres by the 429 and YMCA. We are also looking at some land in the West Orange County area. He is confident that a Concurrency System can be put together in 90 days. In order to accomplish the many other things that staff is working on, staff needs this plan in place to move forward.

Commissioner Reynolds stated his concerns are with the earlier approval of the Black Lake project because those residents will currently have no place to go to school. The State concurrency requirement does have some lag time before it will become effective and it is on a regional basis. The State's plan is coming but is two and a half years out and our problem is now. **Mr. Bollhoefer** stated that is why he has met with Mr. Foltz to go over all the future sites and what it would take to get the School Board to move faster on some of these school locations. Generally, the plan they are looking at is to have the developers work with the City to pay for the carrying costs. **Commissioner Reynolds** asked how to get the County to guarantee that the money collected from new Winter Garden citizens paying the fees will actually be spent in Winter Garden. **Mr. Bollhoefer** stated that the funds go to the School Board and staff has been trying for years and there is no legal way to get them to do that. **Commissioner Reynolds** asked if the School Board must first have the land. **Mr. Bollhoefer** replied yes, and one of the things staff does is to secure the land for the School Board and often times find available land that the School Board will decide not to purchase. **Commissioner Dixon** stated the School Board has a 10-year plan already in place. It is smart to get developers to participate in getting schools. **Mayor Quesinberry** stated that the School Board waits until there are 350 students before they will start a school and by the time the school is finished they are bringing in portables. **Mr. Bollhoefer** stated that it is best to build a relationship between the developer, the School Board, and the City working together to solve these problems. **Commissioner Reynolds** asked if the Black Lake Park area has land designated for a school. **Mr. Bollhoefer** replied no, but those students will actually be able to go West Orange High School and Whispering Oaks Elementary School. Those schools will redistrict, adjust them, or put in portables to accommodate the subdivision. The School Board does not turn away any children, so they will have to find schools. He stated he is more concerned for the developments coming in the future. **Commissioner Reynolds** stated from the standpoint of the growth rate overtaking the school rates that are being furnished is his concern and where it will fall locally the next two and a half years to change that and we will have to have the courage to change that. **Mr. Bollhoefer** replied that there is no perfect plan but there can be a good plan than will work and it can be brought back to the City Commission in 90 days. **Commissioner Reynolds** pointed out

that it must also include a ratio of shared costs. **Commissioner Graham** asked who changes the rule that you can't build a school looking forward with more students due to growth. **Mr. Bollhoefer** replied that lies with the State legislature. **Commissioner Graham** stated this is what we need to start doing. It is a lot easier to build one to the size needed for growth than to build one that is over capacity before it is built as in the case of Dillard Street. **Mr. Bollhoefer** stated that Dillard Street is actually not over capacity, they just lost some students. **Mr. John Rees** (former City Commissioner) added that the school was built to accommodate 940 and the current enrollment was about 640, so don't let the portables fool you. **Mr. Bollhoefer** stated that when he met with Mr. Foltz he also spoke with him about the nine portables at the Dillard School and there was talk that there would be less. He received assurance that over the next five years they will not add another portable. **Mayor Quesinberry** stated that the Maxey School went from a "D" school to a "A" school. They dedicated a new computer room with 30 new computers and put in a speaker system with Lowes's donation of \$100,000. **Commissioner Dixon** thanked deceased City Commissioner John Harriman for his role in getting Maxey School computers and a library.

- For the second year in a row the Finance Department qualified to receive the Certificate of Achievement in Excellence in Financial Reporting Award.
- Announced that Utilities Director Tiblier has given him a copy of the Florida Water Resources Journal, which lists the top performers on the certification exam results. Included in the drinking water class "A" license top performers was our own Robert Henderson of the Utility Department.
- New Fire Station
When we were getting ready to build our Fire Department as a design-build, the bids came back very high (\$1.4 million). When staff calculated what the City would be paying the contractor for profits, set-up costs, and office costs, that portion was estimated to cost \$400,000. Alternatively, staff looked at utilizing our internal General Contractor, Jack Burch, thereby saving at least the \$400,000 and asked the Commission for direction to use our internal contractor to build an even better station and save about \$400,000. He referenced the excellent refurbishment of the Teen Center as lead by Jack Burch. **Commissioner Graham** stated that if the City can save \$400,000 the City should use Mr. Burch. **Mr. Bollhoefer** replied that this is an estimated savings by using Mr. Burch, but if we don't save it we may add an additional \$100,000 to improve the Fire Station such as from metal to brick and still have saved a significant amount. **Commissioner Reynolds** asked if Mr. Burch is a City employee. **Mr. Bollhoefer** replied that Mr. Burch is a City employee and is a licensed contractor hired to do these types of projects; he actually remodeled Tanner Hall. **Commissioner Reynolds** asked if he is building it at cost plus for his time. **Mayor Quesinberry** replied that Mr. Burch is paid by the City and not on a cost plus basis. It was the consensus of the commission that he would manage the project. **Motion by Commissioner Graham to approve utilizing the City-employed general contractor to build the new fire station. Seconded by Commissioner Reynolds and carried unanimously 5-0.**

- Update on Capital Improvement Projects

Assistant to City Manager Robertson reported the status on the following projects, with some having the design budgeted last year and budgeted for being done this year:

- Highland, Henderson to Newell and Lakeview, Henderson to Newell were designed to be re-bricked from Henderson down when we did the streetscape the brick was going to be carried all way to Newell Street are both under design for this year.
- Klondike cul-de-sac: The barricade by the park is being designed as a dogleg cul-de-sac. The pavement will be removed from the park, parking installed, re-fenced, and re-landscaped.
- Trunk C Phase II goes to bid in December and will start from Boyd Street where it stops to Tilden. Phase III will be bid mid-year from Tilden down to Park Avenue. The park from Boyd to Tilden will be a complete rebuild with new street, curbed sidewalk. Once we get to Tilden Street, the force mains will go in the right-of-way, not out in the middle of the street, and continue on all the way to 545 and Highway 50.
- Park Avenue construction, including drainage, from Jackson Street south to Highway 50 is scheduled to start in January.
- Roper Road pre-construction meeting is scheduled for next Thursday with construction slated to begin the week after that.
- Newell Street from Highland Street to Boyd Street will go to bid in December. This project will rebuild the drainage.
- Story Road and 9th Street intersection improvements are 90 percent finished.
- Highway 438/Plant Street, West Crown Point Road signal and intersection plans are finished and are at Florida Department of Transportation (FDOT) for review.
- County Road 535 (Segment A) from 429 to Ficquette Road plans, the part that the County is supposed to four-lane, are 90 percent finished.
- Bids for Daniels Road north, Beard Road to Highway 50 (the bridge) were opened yesterday and the City Engineer is reviewing the bids.
- The City received the Daniels Road 60 percent plans through the Fowler Property for review this week.

Commissioner Dixon asked about a traffic light at Plant and 9th Streets. **Mr. Robertson** responded that there is no traffic light planned by the City. Staff has asked the State many times for a traffic light and the Congested Management Study indicates it is needed but the State has said they will install it but will not fund it, so it does not get built.

10. MATTERS FROM MAYOR AND COMMISSIONERS

Commissioner Nichols

Asked the City Manager how the Charter Review was coming along. Mr. Bollhoefer replied that he has spoken with Marilyn Crotty who has verbally agreed to facilitate the review and he will contact her to set up a time schedule. Commissioner Nichols asked whether it would be a good idea to ask for applications for selecting members. Mr. Bollhoefer responded that the Commission could if they wanted to, but the first decision is whether the Commission would be the review board or will they get volunteers. Applications could be taken and never use them, but the Commission has to make the initial decision. Commissioner Dixon stated that the facilitator can educate the Commission to give a better understanding on how to proceed.

Commissioner Dixon

Announced that there will be a community forum on the East Side of Winter Garden for property owners, business owners, residents, and other interested parties to discuss information on affordable housing, zoning, annexing, and other community issues next Thursday, November 17, 2005 at 7:00 p.m. at the Maxey Center, 830 Klondike Street as hosted by the Florida A&M University, College of Law Community Economic Development Legal Clinic and invited everyone to attend.

Shared that she attended a ribbon cutting for a Sembler shopping mall in St. Petersburg called Sweet Bay which was built in the black community. She stated that she can get a bus from the County to let all those who want to see what could be done with available land. She has made the suggestion to the City Manager and she hopes that something will be done with their assistance offer.

Commissioner Graham

Motion by Commissioner Graham to return the Commission to coat and ties until April 2006. Seconded by Commissioner Dixon and carried unanimously 5-0.

Advised that he has had a couple of complaints in the last week about vehicles parking on both sides of North Highland near City Hall because it is not wide enough for two vehicles to get through and it was suggested that parking only be allowed on one side of the street. He asked if staff could look into this possibility. Mayor Quesinberry stated that the Police Chief should look into it.

Commissioner Reynolds

Commissioner Reynolds asked if it would be feasible to partner with willing fueling stations in the City to provide or install back-up power to prevent the City from being totally without

fuel in case of loss of power for large areas for two to three days, and whether or not it would create any legal complications. Mr. Bollhoefer asked if he was addressing fuel other than what the City has at Public Works to run our generators. Commissioner Reynolds stated he was not referring to the City's need, but for the public in order to have access for people to fuel their vehicles. Mr. Bollhoefer replied that he could look into the feasibility.

Mayor Quesinberry thanked everyone for coming.

The meeting adjourned at 8:20 p.m.