



CITY OF WINTER GARDEN

OFFICE OF THE CITY CLERK

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REGULAR MEETING MINUTES

CITY COMMISSION

November 22, 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 Attorney Frank Bedell, Assistant to the City Manager Marshall Robertson, City Planner Mark Cechman, Utilities Director Fernand Tiblier, Police Chief George Brennan, Trailer City Manager Johnny Clark, Finance Director Brian Strobeck, Fire Chief John Williamson, Information Technology Director Bob Reilly, Human Resources Director Frank Gilbert, Recreation Director Jay Conn, Assistant City Clerk Angee Grimmage

1. **APPROVAL OF MINUTES**

Motion by Commissioner Graham to approve the regular meeting minutes of October 27, 2005 as submitted. Seconded by Commissioner Dixon and carried unanimously 5-0.

Motion by Commissioner Graham to postpone the regular meeting minutes of November 10, 2005 until the next regular meeting on December 8, 2005. Seconded by Commissioner Dixon and carried unanimously 5-0.

2. **PRESENTATION**

Mayor Quesinberry presented Commissioner Nichols with a Certificate for completing the Florida League of Cities 2005 Institute of Elected Municipal Officials.

3. **FIRST READING OF PROPOSED ORDINANCES**

A. **Ordinance 05-58:** ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 2.89 ACRES LOCATED AT 205 WINDERMERE ROAD, 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 AND AN EFFECTIVE DATE

City Attorney Bedell read Ordinance 05-58 by title only. **Motion by Commissioner Dixon to approve Ordinance 05-58 and to schedule the second reading and public hearing on December 22, 2005. Seconded by Commissioner Nichols and carried unanimously 5-0.**

- B. **Ordinance 05-60:** AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY INCLUDING PROPERTY GENERALLY DESCRIBED AS 2.89 ACRES OF LAND LOCATED AT 205 WINDERMERE ROAD AS LOW-DENSITY RESIDENTIAL, PROVIDING FOR AN EFFECTIVE DATE

City Attorney Bedell read Ordinance 05-60 by title only. **Motion by Commissioner Graham to approve Ordinance 05-60 and to schedule the second reading and public hearing on December 22, 2005. Seconded by Commissioner Dixon and carried unanimously 5-0.**

- C. **Ordinance 05-59:** REZONING A 2.89 ACRE PROPERTY LOCATED AT 205 WINDERMERE ROAD, MORE SPECIFICALLY DESCRIBED HEREIN FROM ORANGE COUNTY CITRUS RURAL TO CITY R-1; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Bedell read Ordinance 05-59 by title only. **Motion by Commissioner Nichols to approve Ordinance 05-59 and to schedule the second reading and public hearing on December 22, 2005. Seconded by Commissioner Dixon and carried unanimously 5-0.**

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

- A. **ORDINANCE 05-40:** AMENDING CHAPTER 102 OF THE CODE OF ORDINANCES, CITY OF WINTER GARDEN, FLORIDA, RELATING TO SIGNS BY ADDING SECTION 102-5, SUBSTITUTION OF NONCOMMERCIAL SPEECH FOR COMMERCIAL SPEECH AND BY ADDING SECTION 102-6, SEVERABILITY; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Bedell read Ordinance 05-40 by title only. Mayor Quesinberry opened the public hearing. Hearing or seeing no comments, the public hearing was closed. **Motion by Commissioner Graham to adopt Ordinance 05-40. Seconded by Commissioner Dixon and carried unanimously 5-0.**

5. **REGULAR BUSINESS**

- A. **Request for donation of \$500 by the Maxey Community Center to purchase turkeys to be donated for the Thanksgiving holiday**

City Manager Bollhoefer stated that the Maxey Center gives out turkeys but because their funding is not enough to cover all those requesting them, they have requested a donation from the City to ensure everyone will receive a turkey. He recommended approving disbursement of the funds with the Maxey Center submitting the receipts. Commissioner Dixon explained that fifty families have requested turkeys but only twenty have been donated. **Motion by Commissioner Dixon to approve the donation as requested with**

purchase receipts being submitted. Seconded by Commissioner Nichols and carried unanimously 5-0.

B. Recommendation to approve the Final Plat for First Commercial Bank on State Road 50

City Planner Cechman stated this is the final plat for First Commercial Bank on State Road 50. There is a large piece of property to the rear that they would like to split/plat off to make it available for future development. There are no applications or proposals for developing the second piece but the applicant does want to get the property ready in case something becomes available. Staff recommends approval with the conditions provided in the agenda package. The applicant, **Rodney Jolley**, stated that he agrees to the terms stipulated. **Motion by Commissioner Dixon to approve. Seconded by Commissioner Nichols.**

Commissioner Graham asked if the plans to run a road across to come out on 9th Street have been abandoned. **City Planner Cechman** explained that staff has tried to work this plan out with the Florida Department of Transportation (FDOT) and they are in favor of it if the City will pay for probably all of it. It would be a very expensive road to install. The FDOT sees it as a side street that benefits the City. Staff has tried to explain that it would be an improvement on State Road 50 because it would eliminate one of the signals. In answer to the question, he thinks that whole process has been abandoned. **Commissioner Graham** stated that the Attorney's letter states three different items need to be done within 30 days prior to recording the final plat and asked if they had been done. **City Planner Cechman** responded that a title opinion will be done just before recording to ensure there have not been any adjustments made to the plat without the City's knowledge. **Commissioner Graham** stated that the title opinion has not been signed. **Mr. Jolley** responded that it has been submitted twice and invariably, they are going to update it one more time before it is recorded to make sure that no documents have been recorded between. **Mr. Cechman** stated that the City always updates the title opinion, even after the Commission approves it, just before the plat is recorded. **Commissioner Reynolds** asked if there was going to be a cut-off of State Road 50 that was going to make a curve over to 9th Street near this property. **Mr. Cechman** replied that the City proposed punching through Beulah Road to the north through the applicant's property, giving him a corner piece; he was willing to work with the City and eventually connect onto 9th Street, which would eliminate the signal at 9th Street. He noted that with traffic concurrency and capacity, eliminating signals is very important. That is what improvements FDOT was encouraged to fund. **Commissioner Reynolds** stated he can see some real challenges given the fact that it is already congested with the school and commercial area and then trying to add another small commercial area getting onto the road without the punch-through can be a problem, so he would like the City to continue to explore the punch through if it can. **City Manager Bollhoefer** stated that staff can go back to FDOT on this issue. **Commissioner Dixon** pointed out that a traffic light at 438 and 9th Street is very important if there is a new traffic light to be installed somewhere. **Mr. Cechman** stated that the philosophy in eliminating the 9th Street traffic light is, in theory, you could then use the cut-through. **Mayor Quesinberry** stated that to extend Beulah straight through would create a problem at Story and 9th. **Commissioner Graham**

stated that it would not go that far. The road was to go over and come out just before our lift station. The City was looking into this a few years ago before the bank came. **Mayor Quesinberry** asked Assistant to the City Manager Robertson if he had any comments on this item. **Mr. Robertson** responded that FDOT did a traffic study and it was approximately five to six million dollars to build it. FDOT said that the good it would do would be so minimal, especially with the six-laning and the traffic signalization that is not now timed, they would never spend to improve it, but the City could. FDOT has said it will not do anything for the traffic on Highway 50, but staff can ask them again. **Commissioner Graham** asked if FDOT is going to wait until SR 50 is six-laned until the signals are synchronized. **Mr. Robertson** stated that in the congestive management study the FDOT did, they were going to connect all the signals and the last word is that they are not going to expend funds on congestive management because they think the four or six-laning is coming so soon, they considered it a waste. There is only going to be 15 feet on each side of the road from the right-of-way line to the edge of pavement. **Commissioner Graham** asked if the motion could include "contingent upon meeting all the legal requirements." **Mr. Bollhoefer** responded yes. **Motion carried unanimously 5-0.**

C. Recommendation to approve Grovehurst (Stonecrest Village 4) Final Plat

City Planner Cechman stated that Grovehurst will probably be the name used instead of Village 4. Staff has reviewed this item and recommends approval with the conditions stated in the agenda packet. The Planning and Zoning Board has also reviewed this item and recommends approval. Eric Wilson of M/I Homes concurred with City staff's comments. The comments that were attached from the City Attorney and the Public Works Department have all been addressed. Commissioner Graham asked whether the name of Grovehurst Homeowners' Association has been changed with the state. Mr. Wilson responded yes. **Motion by Commissioner Dixon to approve Grovehurst (Stonecrest Village 4) Final Plat. Seconded by Commissioner Reynolds.** Commissioner Reynolds asked if this subdivision was in compliance with concurrency at the time it was approved as part of the original development and the County has met their obligation for road improvements in the area in front of this subdivision. Mr. Bollhoefer replied yes, there is a Tri-Party Agreement and the County did build the four-lane Daniels Road in front of the subdivision. Commissioner Nichols asked if any of this has an impact on the land that floods. Mr. Bollhoefer replied no, this subdivision is not adjacent to that land and staff has been working with owners on a solution. The County has neglected their stormwater pipe system, so our difficulty is getting the County to repair their pipes, but they have somewhat cleaned them out. **Motion carried unanimously 5-0.**

D. Recommendation to approve First Amendment to the Tri-Party Easement Agreement with Orange County and Ocoee granting limited easement privileges to cross the West Orange Trail

Utility Director Tiblier stated the Agreement is for the area where the City percolation ponds are and there is a sewer main running through the trail in the City of Ocoee. **Motion by Commissioner Graham to approve the first amendment to the Tri-Party Easement Agreement with Orange County and Ocoee granting limited privileges to**

cross the West Orange Trail. Seconded by Commissioner Dixon and carried unanimously 5-0.

E. Recommendation to approve Scope of Services and fee for a Charter Review facilitator

City Manager Bollhoefer stated that the scope of services has been provided by Marilyn Crotty, who is very experienced at doing charter reviews in Central Florida. A fee of \$4,000 is a very reasonable fee. Mayor Quesinberry stated that he has spoken with Ms. Crotty and she has said she would be glad to speak with the City Commission. Commissioner Dixon stated that she also thinks Ms. Crotty is very competent. **Motion by Commissioner Dixon to approve the scope of services and fee for a Charter Review Facilitator. Seconded by Commissioner Reynolds and carried unanimously 5-0.**

6. MATTERS FROM CITIZENS - None

7. MATTERS FROM CITY ATTORNEY – Frank Bedell had no items.

8. MATTERS FROM CITY MANAGER

A. Financial Statement for October 2005

Have been distributed and if there are any questions, he or the Finance Director can answer them.

B. Discussion on the second meeting in December

Mr. Bollhoefer stated that in the past, the second Commission meeting in December has normally been cancelled and this year it falls on December 22, 2005. Because staff has several pending Ordinances, staff would like to conduct the meeting so they can move forward. Commissioner Reynolds suggested moving the meeting up to the week before. Mr. Bollhoefer stated that would be difficult for getting the agenda out. Commissioner Nichols suggested meeting on Tuesday. Commissioner Graham pointed out that the Ordinances just passed have been set for December 22 so if the meeting date were changed, the motions would also need to be changed. Mr. Bollhoefer stated that is correct and he will try to make it a light agenda. *It was the consensus of the Commission to maintain the regular meeting date.*

• **Update on Reeves Road**

All the residents the City has been working with are County residents, but staff has been working with them as a good neighbor and he believes the City has done a lot more than the County has for its own residents. Commissioner Reynolds stated that for whatever reason, the County seems to think the City of Winter Garden is not in the County. To get any cooperation is unbelievable.

• **Sungard HTE**

Mr. Bollhoefer stated that he has provided the Commission with a quote from SunGuard HTE for approximately \$42,000. Staff is working on a Concurrency Management System and a system for tracking all developments. This system would tie into all our HTE software - building department, accounts receivable and all other software - to

enable us to track all the developments and projects going on in the City. We have actually needed this for a long time and it is an essential ingredient in doing a better job with managing the growth in the City. **Commissioner Graham** asked if this item was in the budget. **Mr. Bollhoefer** replied no. **Commissioner Reynolds** asked if this item is approved, will staff be able to get it downloaded to get information on how we are going to go forward on concurrency. **Mr. Bollhoefer** stated that the software will assist in all future growth management decisions and enable staff to do a better job of tracking all the projects. If approved, this item would be included in the interim budget and could be up and running some time in January. **Motion by Commissioner Reynolds to approve SunGuard HTE quote as submitted (see attached). Seconded by Commissioner Dixon and carried unanimously 5-0.**

- Mail-outs for Community Meetings

Mr. Bollhoefer stated that he has been approached about mailing out notices for district community meetings. It has not been a practice in the past and therefore it was not included in the budget. If the Commission desires this, it would need to be approved. He gave examples of the estimated costs for certain types of printed mail-outs. **Mayor Quesinberry** stated that he understood that leaflets were included in water bills to save taxpayer money. **Mr. Bollhoefer** stated that staff can put an item in the utility bill; it takes longer to plan to get it in because of the utility billing schedule, but it is an option if there is enough lead time to do so. **Commissioner Reynolds** stated that in most cities the Commissioners do have a budget for mail-outs to contact specific districts wherever there is a concern or whenever feedback is needed from their district. He knows of some that have budgeted up to \$100,000 per Commissioner so he thinks a figure like \$10,000 is very reasonable for communicating with your district. **Commissioner Dixon** stated that most mail-outs came out of her pocket. It looks more important when it is on or in with a City document. Contact does need to be made on issues. **Mr. Bollhoefer** stated that the mail-outs would be used to announce a Commissioner's community meeting within their district. **Commissioner Reynolds** stated that it could also be used for feedback on a particular issue that has to be voted on that significantly affects their district. There are a lot of good ways a mail out can be utilized. **Motion by Commissioner Reynolds to allocate \$10,000 per district per Commissioner for contacting residents. Seconded by Commissioner Dixon.** **Mayor Quesinberry** stated that it is a waste of taxpayer dollars because it can be disbursed in a City mail-out. He thinks the Commission should try to conserve someplace along the way. **Commissioner Dixon** stated she was in favor of trying out something new and although \$10,000 is a little bit heavy, it is equally the Commission's responsibility to get the word out about what is happening in the district. **Commissioner Graham** stated that this is good in a sense but if we put out a flyer or announcement concerning an individual district, the Commissioner would have to be careful to not make it a political flyer because he does not think it would be legal. **Commissioner Reynolds** agreed. **Commissioner Dixon** stated that they call theirs a town hall meeting and the last meeting was about annexing. She complimented City staff for participating. **Mr. Andy Bruns** stated that before the Commission votes, he wanted to mention that the amount should be evaluated based on the number of residents in a district; \$10,000 for District 1 versus District 4 may not go very far, but for District 1 it might be more than enough. **Mr. Bollhoefer** stated that if the Commission puts the

\$50,000 in the budget, staff can take a look at those numbers and allocate them to see how it works out. **Commissioner Reynolds** stated that it could be justified by the mailing list. **Commissioner Graham** asked where the addresses would come from. **Mr. Bollhoefer** suggested using an address list through the Property Appraiser, but the downside is that it is for property owners and it may not get to all the addresses. **Commissioner Reynolds** stated that good mailing list can easily be purchased. **Mayor Quesinberry** asked if a list could be generated by water meters and if so, how much extra work is this for staff. **Mr. Bollhoefer** stated that it could be achieved by using the water meters and it will take a little staff time but in the future, when we get our GIS system set up, we will be able to do these things much easier at that point. We may not get 100 percent of the people, but if we get it to the majority, it accomplishes the task. **Commissioner Reynolds** stated that that if we get it to 90 percent, we have got to 90 percent more than what we have now. **Commissioner Nichols** stated that it is not necessary to send more than one notice to an address. **Commissioner Reynolds** stated that if it can get approved the City Manager can work out the details and get back to the Commission. **Motion carried 4-1; opposed Mayor Quesinberry.**

- Overstreet Road will be closed south of Ficquette Road on County Road 535 from November 28, 2005 until June 7, 2006.

- Plant Street will have a detour by East and West Crown Point Roads while there is construction on the railroad tracks December 9 - 11th, 2005.

- Gated Community Police Patrol

Mr. Bollhoefer stated that if a gated community wanted the City to patrol their streets they can invite the City in as long as they meet certain criteria and he asked the Commission for approval of this item for those gated communities that make the request. **Commissioner Reynolds** asked if the communities were already paying for it. Mr. Bollhoefer stated that they are paying taxes and the asked the Police Chief to come forward and give more details. **Police Chief Brennan** stated that the issue is not generally patrol, they can go in and patrol, answer alarms, domestics and do crime prevention patrols. State law specifically prohibits them from doing traffic enforcements on private roads unless there is a written agreement between the municipality and the land/property owner. Right now, the large gated communities like Stoneybrook West have no Police traffic enforcement authority and therefore they cannot issue tickets for running stop signs or speeding. They can arrest a drunk driver because it is a crime and not a traffic violation. Also, gated communities will have to comply with Florida Department of Transportation standards for signs and they will need to pay for their own study to have them certified that they are in compliance. **Commissioner Reynolds** asked who bears the cost of getting all the signage down. **Chief Brennan** stated that this is up to the private gated community because they own their roads and if they want the Police to do enforcement, they have to do it at their own expense. **Mayor Quesinberry** asked how many gated communities are in Winter Garden. **Chief Brennan** replied that he believes there are more than six. **Commissioner Nichols** asked if the agreements have to be approved one at a time. **Chief Brennan** stated that they would have to be done one at a time because not all of them want an agreement. **It was the consensus of the**

Commission to proceed with bringing back police patrol service agreements by gated subdivision. **Commissioner Dixon** asked to hear from the City Attorney on the issue. Attorney Bedell replied that this would be a matter of coming up with an acceptable agreement after consulting with other Florida municipalities that have done the same. It would be up to the individual homeowners' association to enter into that agreement by the person in the homeowners' association who has the legal authority to bind that homeowners' association.

9. MATTERS FROM MAYOR AND COMMISSIONERS

Commissioner Nichols

Commissioner Nichols asked the City Manager where the City stands with the FDOT and widening of Highway 50. **Mr. Bollhoefer** replied that they have not moved the widening up from the third year of the five-year plan. The City is currently working with FDOT to see if we can get a clearer idea of what they are going to be doing and he is trying to set up a meeting with George Gilhooly, the FDOT representative for Orange County, to find out where we go from here. Representative Johnson gave a presentation but there were not any clear answers given. It was staff's impression that there was about a twenty-six million dollar shortfall in funding. Staff is looking at ways to bridge the shortfall and determine if only a small portion of the shortfall is within the Winter Garden area. He stated staff is in the process of getting those answers. **Commissioner Nichols** asked how this specifically impacts the mall project south of Highway 50. **Mr. Bollhoefer** replied that this does not impact the mall because under a Development of Regional Impact Report (DRI), once they pay their six million dollars to the state, they are automatically within concurrency. **Commissioner Nichols** asked if this means they will go ahead and do the mall even though the roads can't handle it. **Mr. Bollhoefer** stated that once they have a DRI, by law, once they paid their six million dollars to the State that has to be used on Highway 50, they have in effect paid their way into Highway 50. Staff is looking at a way to use the six million dollars and possibly find another way to come up with another three million dollars, not City funds but other funds. We can perhaps find a way to get the Winter Garden portion funded also. **Commissioner Reynolds** stated that by the new growth management law, it essentially has that within three years of opening the mall the road has to be concurrent, meaning Highway 50 would have to be done. He also attended that same meeting as the City Manager and he agrees that we are underfunded. He guesses that as time goes on and the price of real estate keeps going up, we will be even more underfunded unless we come up with some creative financing in order to bridge that gap. As a matter of fact, he thinks Winter Garden is the only section that is not fully funded. **Mr. Bollhoefer** stated no, actually the Ocoee section is also underfunded. He thinks FDOT has funded all the right-of-way, but it is the actual construction costs that are not funded. **Commissioner Dixon** stated that we should be talking to District 3 Representative Corrine Brown. We need to be actively asking for funds. **Commissioner Nichols** asked if these are the types of things a lobbyist could help us pursue. **Commissioner Reynolds** asked about the status of the lobbyist. **Mr. Bollhoefer** replied that three lobbyists did submit their qualifications and those were just reviewed today; staff is looking to have something back to the Commission at the next meeting. This is one of the main reasons to utilize a lobbyist.

Commissioner Nichols asked if the Commission also participates in the Ocoee Parade. **Commissioner Graham** responded yes, we always have.

Commissioner Dixon

Stated that she attended the Florida League of Cities' Black Caucus, which was most enjoyable. She stated that there are many things that came up from the state such as affordable housing, economic development, and about minorities getting more. She stated that they have decided that something needs to be done with the revolving door of crime and our youth. She stated we have to educate people and get them trained. We definitely need to rid Winter Garden of the crime in order to make Winter Garden more attractive.

Commissioner Graham

Wished everyone a wonderful Thanksgiving.

Commissioner Reynolds

Advised he did have a citizen complain about unmarked city vehicles. He thinks they do not like white trucks without a City decal. City Manager Bollhoefer stated that he will look into this but stated that most of vehicles are marked with the exception of a few supervisors and department heads. Sometimes they do this so it is easier to see what is going on.

Mayor Quesinberry

Stated that he also attended the Florida League of Cities' conference. One meeting was about transportation and the League wants an ordinance passed some way through the State that the cities would have the right to force the power companies to check all of their power poles. He stated that with the windstorms we have had, if it blows over one pole, it takes a whole series of them down because the poles have not been checked in maybe ten years. He stated it could cost thirty or forty thousand dollars but the cities would not have to absorb that cost but put onto the power companies if the city wanted to push it. He does not know if all the Winter Garden poles are good or not. He suggested having employees watch for power poles in need of repair.

He attended the dedication of Whispering Oak Elementary School today that was well attended by representatives of the City of Winter Garden. He stated that it was a good ceremony and the children are excited about their school.

He reminded everyone of the "Light Up Winter Garden" and the parade and wished everyone a happy holiday.

The meeting adjourned at 8:20 p.m.

APPROVED: