



# CITY OF WINTER GARDEN

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## OFFICE OF THE CITY CLERK

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## REGULAR MEETING MINUTES

### CITY COMMISSION

January 12, 2006

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Quesinberry at 6:35 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 Frank Bedell, Assistant City Manager Marshall Robertson, City Planner Mark Cechman, Human Resources Director Frank Gilbert, Recreation Director Jay Conn, Fire Chief John Williamson, Utilities Director Fernand Tiblier, Police Chief George Brennan, Information Technology Director Bob Reilly, Finance Director Brian Strobeck, Trailer City Manager Johnny Clark, Building Official Willie Herbert, Public Works Director Bob Smith, Assistant City Clerk Angee Grimmage, Orlando Sentinel reporter Sandra Mathers

#### 1. **APPROVAL OF MINUTES**

**Motion by Commissioner Dixon to approve the regular meeting minutes of December 8, 2005 and postpone the minutes of December 22, 2005. Seconded by Commissioner Graham and carried unanimously 5-0.**

#### 2. **FIRST READING OF PROPOSED ORDINANCES**

A. **Ordinance 06-03:** PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 0.68 ACRES LOCATED AT SOUTHWEST CORNER OF NINTH STREET AND STORY 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; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Bedell read Ordinance 06-03 by title only.

**Motion by Commissioner Dixon to approve Ordinance 06-03 with the second reading and public hearing being scheduled for February 9, 2006. Seconded by Commissioner Graham and carried unanimously 5-0.**

- B. **Ordinance 06-04:** AMENDING ARTICLE III OF CHAPTER 22 OF THE WINTER GARDEN CODE OF ORDINANCES RELATING TO ROLL-OFF CONTAINER SERVICE BY AMENDING THE FOLLOWING SECTIONS THEREOF: SECTION 22-62, APPLICATION FOR PERMIT, SECTION 22-63, PREREQUISITES TO ISSUANCE OF PERMIT, AND SECTION 22-67, EXEMPTION FOR USE ON TEMPORARY RESIDENTIAL CONSTRUCTION SITES; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Bedell read Ordinance 06-04 by title only. **Motion by Commissioner Reynolds to approve Ordinance 06-04 with the second reading and public hearing being scheduled for February 9, 2006. Seconded by Commissioner Graham.** Commissioner Graham asked if a study is needed. Public Works Director Smith replied yes, an independent expert is needed for a thorough analysis with recommendations on solid waste services. Commissioner Graham stated that if this ordinance is passed, a decision on the study needs to be made. Commissioner Dixon asked about poly-carts and recycling containers. Mr. Smith responded, yes that is what is provided now and the City has never charged for them. He explained man-hours are consumed for assembly and delivery. He stated that there would be no charge to existing residents. This would only apply to new residential houses. When the contractor pulls the building permit, there is a \$100 roll-off fee and a \$100 fee for the garbage cart and recycle bins. Commissioner Graham asked if they would be replaced in the same manner. Mr. Smith replied that if the cart fails due to normal wear and tear, or is stolen, then it will be replaced free of charge. If they are damaged due to the homeowner's negligence, then there is a replacement charge. **Motion carried unanimously 5-0**

- C. **Ordinance 06-06:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, GRANTING PETITION OF SEMBLER FLORIDA, INC. FOR ESTABLISHMENT OF A COMMUNITY DEVELOPMENT DISTRICT; CREATING AND ESTABLISHING WINTER GARDEN VILLAGE AT FOWLER GROVES COMMUNITY DEVELOPMENT DISTRICT; PROVIDING FOR NAME, POWERS AND DUTIES; PROVIDING DESCRIPTION AND BOUNDARIES; PROVIDING INITIAL MEMBERS OF BOARD OF SUPERVISORS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Bedell read Ordinance 06-06 by title only. **Motion by Commissioner Dixon to approve Ordinance 06-06 with the second reading and public hearing being scheduled for January 26, 2006. Seconded by Commissioner Reynolds.** Commissioner Reynolds stated he has some questions. Mr. Ken Artin with the law firm of Bryant, Miller, and Olive, representing Sembler Florida, Inc. came forward. Commissioner Reynolds referred to the approval of the Development District and the fact that the project must still comply with all City ordinances, laws, and current design approvals. The exemption of the residential areas essentially does not allow any flexibility within the project development to change the Ordinance as it currently stands. Mr. Artin stated that is correct. A Community Development District (CDD) has no powers to amend, change, or impose its own development orders, or those mentioned. It is strictly a financing tool for public infrastructure. The CDD boundaries encompass the commercial development with residential not being included. The only thing a CDD can do is levy the assessments to pay the principal and interest due on the bonds. If a property owner believes an assessment is too high it is heard by the Equalization Board.

**Commissioner Nichols** asked if this Ordinance is approved how it would benefit the people of the City of Winter Garden. **Mr. Artin** replied that CDD's are being used throughout the state of Florida to reduce the cost of financing public improvements. This is lowering all the overall costs for all the roads and infrastructure that are being imposed upon this particular project, as they would be financed at a lower cost. **Commissioner Nichols** asked if he was referring to money coming out of taxpayer's money. **Mr. Artin** replied no, CDD's do not use taxpayer money. CDD funds are raised when bonds are issued so the developer can borrow at a lower rate than bank financing. **Commissioner Nichols** asked if Sembler Florida, Inc. normally creates a CDD for their projects. **Mr. Artin** stated he is involved in a CDD for this project and one in South Florida. Many developers are using CDD's not only for commercial but for residential improvements as well. **Commissioner Nichols** asked why Sembler Florida, Inc. is doing a CDD on this particular project, do they not have enough money. **Mr. Artin** stated they are taking advantage of a financing tool that is permitted under Florida law to lower their costs. **Commissioner Nichols** stated she spoke with the Department of Community Affairs (DCA) this afternoon and Sembler Florida, Inc. has not reached a money agreement with the Florida Department of Transportation (FDOT). **Mr. Artin** stated that he was not familiar with the DCA requirements and asked the Sembler attorney to address this issue. **Ms. Rebecca Furman** of Lowndes, Drosdick, Doster, Kantor & Reed, P.A., representing Sembler Florida, Inc. came forward and stated that this afternoon the FDOT executed an agreement with Sembler, whereby Sembler will pay \$8.991 million dollars to the City of Winter Garden for funding State Road 50. She stated that she also believes that there is more good news that came from Mr. Gilhooley. **Mr. Bollhoefer** stated that staff has been working very hard on getting State Road 50 moved up on the construction schedule. Mr. Gilhooley announced today that it is their intention to move the construction of State Road 50 up to 2008 with an expected construction completion sometime in 2010 depending on conditions, etc. It is easier to set the begin date rather than the end date. He knows Sembler Corporation, staff, Mayor, Senator Webster and Representative Johnson have all been working very hard and it looks very promising that State Road 50 will be moved up, which will solve a lot of problems for everyone in West Orange County. **Ms. Furman** stated that Commissioner Nichols is correct that the DCA was not aware of the written agreement as she only just received the information this afternoon on her way to the Commission meeting and the DCA will be informed tomorrow. **Mr. Bollhoefer** stated that in the last Commission meeting he announced that Sembler Corporation had reached an agreement with FDOT on the funding, which was actually an agreement reached two weeks ago on the dollar amount.

**Commissioner Nichols** referred to the agenda item on page 2, item number 2, states a good faith estimate with a number of individuals likely to be affected by the Ordinance is blank and asked what number that is. **Mr. Artin** stated that the answer to that question is that the only ones affected by the CDD are the landowners within the boundaries of the district, which will include Sembler Florida, Inc. as the continuing landowner, and any of the retailers that buy lots within the property. **Commissioner Reynolds** stated to Commissioner Nichols that when they go into this property, everything has to be fully disclosed that they are taking on those extra fees over and above the normal taxes and maintenance fees that are required. **Commissioner Nichols** referenced the cost of

governmental agencies on Appendix "A" has no figures and asked what figure those might be. **Mr. Artin** stated that Appendix "A" is basically the lists of recording requirements that a CDD must go through on an annual basis. There are no additional costs of creating the CDD to the City. **Commissioner Reynolds** expounded upon how the CDD works by stating it is a good situation for taxpayers and for the people who move in because Sembler Florida, Inc. would get a lower bond rate through this than through a normal financing package. The City would not miss out on any revenues in the City in the form of any taxes because the City would have never seen this money to begin with. **Mr. Artin** agreed and stated that all the CDD will do each year is levy the assessments it needs to pay the principal and interest on its bonds. Sales tax generated from the project, the ad valorem property taxes generated by the improvements to this land, all flow to the City and not to the CDD. He reiterated that the CDDs sole purpose for being is just to levy the assessments to pay off its bond of indebtedness. **Commissioner Graham** stated that the benefit to the City is the fact that a CDD is a City within itself and they tax themselves. One example is when they were asked to contribute \$400,000 for additional recreation, Sembler Florida, Inc. could borrow those funds at a reduced cost and therefore were more liberal in giving recreation funds to the City. For agreeing to widening the roads, it helped the City not have to pay to widen the road. **Commissioner Nichols** stated that she asked the question mostly to inform those in the audience, as she is familiar with Florida Statute 190. **Motion carried unanimously 5-0.**

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

- A. **Ordinance 05-18:** ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 112.16 ACRES LOCATED ON THE NORTHWEST AND SOUTHWEST CORNERS OF THE INTERSECTION OF CR 545 AND TILDEN 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; PROVIDING FOR AN EFFECTIVE DATE (Karr-Allen Alexander Ridge)
- B. **Ordinance 05-19:** AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY INCLUDING PROPERTY GENERALLY DESCRIBED AS 112.16 ACRES LOCATED ON THE NORTHWEST AND SOUTHWEST CORNERS OF THE INTERSECTION OF CR 545 AND TILDEN ROAD AS CITY LOW DENSITY RESIDENTIAL, COMMERCIAL, AND CONSERVATION OVERLAY; PROVIDING FOR AN EFFECTIVE DATE (Karr-Allen Alexander Ridge)
- C. **Ordinance 05-44:** REZONING APPROXIMATELY 112.16 ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED ON THE SOUTHWEST AND NORTHWEST CORNERS OF THE AVALON ROAD AND TILDEN ROAD INTERSECTION FROM COUNTY A-1 TO CITY PUD; PROVIDING FOR CERTAIN PUD REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Alexander Ridge PUD)

City Attorney Bedell read Ordinances 05-18, 05-19, and 05-44 by title only. **Motion by Commissioner Graham to postpone Ordinances 05-18, 05-19, and 05-44 until**

**February 9, 2006 at the applicant's request. Seconded by Commissioner Dixon and carried unanimously 5-0.** City Planner Cechman announced for those in attendance that the postponement will be until February 9, 2006, at 6:30 p.m. at Tanner Hall.

4. **REGULAR BUSINESS**

A. **Resolution 05-24:** AUTHORIZING THE CONVEYANCE OF IMPROVEMENTS UPON THAT CERTAIN REAL PROPERTY GENERALLY DESCRIBED AS BEING LOCATED AT 160 WEST PLANT STREET, WINTER GARDEN, FLORIDA, AND THE GRANTING OF A GROUND LEASE THEREON; PROVIDING FOR THE TERMS THEREOF; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Bedell read Resolution 05-24 by title only. **City Manager Bollhoefer** stated that this Resolution transfers the ownership of the building over to the Heritage Foundation, but the City would maintain ownership of the land and the primary reason for this action is for obtaining funding from other sources for grants. He explained that some of the government grants, especially the cultural grant through Orange County through the tourist tax dollars, require that a government entity own the land. Several other organizations require that the organization would have to own the building before they would award any grants. The reason why is because they are afraid that if the building was owned by the City, someone could come along at some point in time and try to force them to put on a program that would not be family friendly. He stated that it gives these entities a little more control so they don't have to worry that when they get grant money that they will be funding entertainment that is not appropriate for families. **Mr. Bollhoefer** asked Heritage Foundation representative Mr. Ward Britt to come forward and answer any questions. **Motion by Commissioner Dixon to approve Resolution 05-24. Seconded by Commissioner Reynolds.**

**Mr. Britt** stated that this has been set up to open up the funding avenues for the Heritage Foundation so they can go for both public and private funds as an avenue to raise more money to complete the project. **Mr. Bollhoefer** stated that there were some questions as to how the museum was operating and he met with the Heritage Foundation which has made a decision to ensure the public has input by agreeing to have two public meetings each year and report to the City Commission twice a year on the construction and operations of the theater. **Mr. Britt** elaborated on Mr. Bollhoefer's comments. **Commissioner Reynolds** stated that according to the recommendation and suggestion from State Attorney Crist's office, is the Heritage Foundation willing to conduct its meetings and board activities in compliance with the Florida Sunshine Laws. **Mr. Britt** stated that he has the same letter Commissioner Reynolds' has referenced and the opinion is a non-opinion because they have said that the Heritage Foundation does not fall under the Sunshine Laws; however, the Foundation is willing to have public meetings in order to keep the public informed. **Commissioner Reynolds** stated that the language would suggest that the Heritage Foundation conduct its meetings within Florida Statute 286, which is the Sunshine Law. The other thing would be a recommendation from the City Commission that this board should appoint representation from the City to oversee the \$2.5 million of taxpayer money and allow the City more direct input into and from the Foundation. **Mr. Bollhoefer** stated that the document provided for a lot of oversight, not representation, but providing financials on a quarterly basis. **Commissioner Reynolds**

stated that is the key, that we play the shell game of “now you see it, now you don’t, moving around”. Essentially, he thinks that if we don’t comply very rigidly, this leaves a lot of questions. People don’t understand why we are not leasing the building and retaining it, they can control venue in that way. This board voted in a majority decision to do it the other way, so he will comply with that decision. The City has another situation coming up on the agenda, where the City has loaned money that they cannot back. So to avoid this in the future and as being charted to be the caretakers of the taxpayers’ money, just to dole this out without a referendum when the City needs parks and roads requires the Commission to do their due diligence and ask the Heritage Foundation to do their due diligence and do everything they can to keep it out in the open and comply as much as possible with the Sunshine Law. **Mr. Bollhoefer** responded that there is no shell game, everything has been above board and has been done in public meetings. The comment about money the City has loaned that is later on the agenda, the City did not loan any money and the City has no responsibility to pay that money. The City just worked with the organization so they could obtain funding to build their Quality Healthcare Center. The City has no financial interest and no financial risk. **Mr. Britt** stated that in all the agreements they have with Winter Garden, there is a clear line that every dollar that is provided to the Foundation is kept separate, every bill that is paid the City is given a copy of the cancelled check and a copy of the bill. There can be no money spirited out of any of the money lent to the Heritage Foundation by the City of Winter Garden, which will be paid back in full. **Commissioner Reynolds** noted that there is not another theater within the state that currently makes money. They all have to be funded constantly with public funds or private donations have to be raised. He stated that for us to represent this as going to say we are making a commitment to culture, what we need to say is that we are going to continually be making a commitment to culture. **Mr. Britt** pointed out that the Sanford Theater makes money. **Motion carried 4-1; Commissioner Reynolds opposed.**

- B. **Resolution 05-25:** AMENDING THE STONEYBROOK WEST PUD WHICH WAS ADOPTED BY ORDINANCE 98-79 FOR PARCEL 17 BY CHANGING THE FINAL DEVELOPMENT FROM 229 MULTIFAMILY APARTMENTS TO 186 TOWNHOMES; PROVIDING AN EFFECTIVE DATE **AND** the Preliminary Plat for Stoneybrook West Parcel 17

City Attorney Bedell read Resolution 05-25 by title only. **City Planner Cechman** stated that in 1998 the City approved our largest master plan community in Stoneybrook West. Because of the project size, it was recognized that there would probably be a need to have ways to adjust for minor amendments to the process. Therefore, the Planned Unit Development (PUD) included that the applicant can request minor amendments with Commission approval. They have done these two or three times and each time it was lowering the amount of units they are allowed to have. The PUD provided for an elementary school site that has been constructed and is known as Whispering Oaks. There is also a joint park with the school as well as other amenities. The final plat will include right-of-way for County Road 545. Staff has reviewed the Resolution and the preliminary plat and recommends approval. The Planning and Zoning Board has also made their review of the preliminary plat and also recommend approval. **Motion by**

**Commissioner Dixon to approve Resolution 05-25 with staff recommendations (see attached). Seconded by Commissioner Graham.**

**Commissioner Reynolds** asked if there was any discussion in reference to impact on City parks or additional funding that could be contributed for parks that need to be provided in the area. **Mayor Quesinberry** responded that the developer has already left room for a school that has been built and left 15 acres for a park in the first approval. **Mr. Cechman** explained that staff looked at whether or not it complied with their PUD. With the exception of the change from apartments to townhomes, yes it does comply with all open space requirements in the PUD. **Commissioner Reynolds** stated that he was not referencing the parks within this particular project, he was addressing the park situation in the district itself. **City Manager Bollhoefer** stated in looking at US Homes, that has gone above and beyond and has paid their original impact fees, staff feels they have given their fair amount for parks. Each development is looked at individually when it comes to parks. **Commissioner Reynolds** noted that access to the golf course is for a fee. **City Manager Bollhoefer** responded that there are fees but it is open to the public and provides open space for all residents. **Motion carried 4-1; opposed Commissioner Reynolds.**

C. **Resolution 06-01:** DETERMINING THE NECESSITY TO CONSTRUCT A NEW CITY HALL AND AUTHORIZING THE ACQUISITION OF CERTAIN REAL PROPERTY LOCATED WITHIN THE CITY OF WINTER GARDEN, ORANGE COUNTY, FLORIDA TO BE USED FOR THE PUBLIC PURPOSE OF CONSTRUCTING AND OPERATING A NEW CITY HALL

City Attorney Bedell read Resolution 06-01 by title only. Assistant City Manager Robertson stated staff is negotiating with three adjoining property owners for the new city hall. One of the negotiations is completed and staff is still negotiating with the other two. He stated that this Resolution is needed if negotiations come to a standstill and it helps the property owner because when it falls under eminent domain or a threat of eminent domain, it gives the property owner an extra year to do something with the proceeds. **Motion by Commissioner Graham to adopt Resolution 06-01. Seconded by Commissioner Nichols.** Commissioner Reynolds asked if there has been any investigation into whether the Sprint building downtown would be for sale. City Manager Bollhoefer stated that Sprint is not interested in selling at this time and the building would not be large enough or designed correctly for use as a City Hall. Mr. Robertson stated that the Sprint tower is rented to others at this time and for the past two years staff has been trying to negotiate removal of the tower with no success. Sprint has a tower permit. Commissioner Graham added that Sprint has refused to remove the tower and asked if the City can legally require them to address the public health hazard of the turkey vultures roosting on the tower. Mr. Bollhoefer stated he has contacted a wildlife person and staff is looking at options to rid the downtown area of the vultures and will continue working with Sprint in this regard. Additionally, staff is looking at area garbage dumpsters to ensure the birds cannot get to the garbage. Mr. Robertson spoke to the lack of parking at the Sprint building. **Motion carried unanimously 5-0.**

- D. **Resolution 06-02:** DETERMINING THE NECESSITY TO IMPROVE AND CONSTRUCT A PUBLIC ROADWAY AND AUTHORIZING THE ACQUISITION OF CERTAIN REAL PROPERTY LOCATED WITHIN ORANGE COUNTY, FLORIDA TO BE USED FOR THE PUBLIC PURPOSE OF CONSTRUCTING, OPERATING, AND MAINTAINING THE PUBLIC ROADWAY KNOWN AS “STORY ROAD/NINTH STREET INTERSECTION”  
City Attorney Bedell read Resolution 06-02 by title only. **Motion by Commissioner Graham to adopt Resolution 06-02. Seconded by Commissioner Dixon and carried unanimously 5-0.**
- E. **Resolution 06-03:** AUTHORIZING QUALITY HEALTH OF ORANGE COUNTY, INC. TO ENTER INTO A LEASE AMENDMENT AND EXTENSION AGREEMENT WITH M-K OF WINTER GARDEN, L.L.C.; APPROVING THE FORM OF, AND PROVIDED CERTAIN CONDITIONS ARE MET, AUTHORIZING THE EXECUTION OF THE CONSENT TO THE ALLONGE TO A PROMISSORY NOTE AND THE EXECUTION OF AN ASSUMPTION AGREEMENT; DELEGATING CERTAIN AUTHORITY TO OFFICERS, EMPLOYEES AND AGENTS OF THE ISSUER; AND AUTHORIZING AND PROVIDING AN EFFECTIVE DATE  
City Attorney Bedell read Resolution 06-03 by title only. **Motion by Commissioner Graham to adopt resolution 06-03. Seconded by Commissioner Dixon.** Commissioner Graham noted that the City is under no obligation to pay this bill. The City helped them receive the bonds. Mr. Bollhoefer stated this will allow the facility to continue to pay. They are still in default but they continue to pay and are working to cure the default by setting up this arrangement with a management company. Mr. Maury Murphy of M-K of Winter Garden stated that this is simply asking for an extension of their lease agreement. They have had the lease for five and a-half years and they are asking to lease the building for another six years, during which time the bonds will be paid off. Mayor Quesinberry stated that the City is not involved in their funding. He stated that we are just a sponsor for them. Commissioner Reynolds asked how many patients are currently at the facility. Mr. Murphy responded that they house between 110 and 115 and their capacity is 120. **Motion carried unanimously 5-0.**
- F. **Recommendation to approve the purchase of real property located at 124 S. Highland Avenue, Winter Garden, Florida**  
Assistant City Manager Robertson stated this is one of the properties staff has negotiated a purchase on for the new City Hall building. **Motion by Commissioner Nichols to approve the purchase of real property located at 124 S Highland Avenue, Winter Garden, Florida (\$385,000.00). Seconded by Commissioner Dixon and carried unanimously 5-0.**
- G. **Recommendation to approve Vote Processing Equipment Use Agreement and Summary of Responsibilities with the Orange County Supervisor of Elections office for the General Municipal Election on March 14, 2006**  
City Attorney Bedell stated this item is for the standard contract that Mr. Bill Cowles’ office is requiring in preparation for the upcoming election. **Motion by Commissioner Graham to approve the agreement as submitted in the agenda package. Seconded by Commissioner Reynolds and carried unanimously 5-0.**

**5. MATTERS FROM CITIZENS**

Shirley Smith, 21 West Crest Avenue, Winter Garden, Florida stated that she is really proud of our City and the fact there is so much care being taken. She is in favor and proud of the theater renovations. She hopes the theater will be a success and help the children.

Ed Lynch, 660 Home Grove Drive, Winter Garden, Florida, suggested that for better citizen participation the City should put proposed resolutions on the internet and possibly the agenda package that he could download. The passed ordinances currently appear but it is useful to see what is being proposed. Mr. Bollhoefer stated that staff is in the process of updating the website and once it is updated you will be able to access the agenda via a calendar that will take you to Resolutions and Ordinances. Information Technology Director Reilly stated that the target date is January 26, 2006. Mr. Lynch thanked Commissioners Nichols and Reynolds for asking questions that residents need to hear and the questions that are sometimes hard to ask.

Gary Faller, 215 North Main Street, Winter Garden, Florida, District 1, stated that he is proud to work with citizens on the Winter Garden Historical Theater/Heritage Foundation. He stated he personally has put in some time, but there are people who have put in hundreds of hours for free. The key is tying the theater into the local businesses. There has been lots of positive citizen input and it is going to be very successful. This is not a movie theater having problems generating money. He referenced the Orlando Science Theater, which is non-profit but is making money. During the day there is a room that businesses can rent. He doesn't foresee it having financial problems.

Colin Sharman, 312 Duff Drive, Winter Garden, Florida, stated that he is a member of the Planning and Zoning Board. He stated that he previously spoke with the City Manager and City Planner and they will be conducting a workshop for the Planning and Zoning Board to train the four new members. Mr. Bollhoefer stated that his goal for conducting the workshop would be for the next meeting or the meeting immediately thereafter. He stated that they are excited about knowing more about how the process works, their obligations to the City, and their responsibilities as Planning and Zoning Board members.

Ward Britt, 1219 Kelso Boulevard, Winter Garden, Florida, stated that when the Foundation was doing some fund-raising for the theater, they visited Sprint and they got the same response as Assistant City Manager Robertson. They were told they could apply but the money goes to New York and does not come to Winter Garden. They had been assured that after the merger of Sprint and Nextel, the local Sprint Company would be a community-based company and would want to invest money in the community. The timing might be right to revisit the new President, Vice President, and Financial Officer and perhaps get the tower removed. Secondly, about light rail, Winter Garden and West Orange County do not have a pony in that race and he thinks it would be political suicide to anger Orange County when the City is trying to find funding for highways and other things. He thinks it would be a mistake to get involved in the light rail issue.

**6. MATTERS FROM CITY ATTORNEY – City Attorney Bedell had no items.**

7. **MATTERS FROM CITY MANAGER** – Michael Bollhoefer

A. **Presentation on the new Citizens Action Center**

Human Resources Director Gilbert gave a presentation of the Citizens Action Center (*see attached*). Mr. Gilbert stated that there is an ad campaign announcing the Citizens Action Center and the upcoming open house for citizens. In conclusion, he introduced Mitzie Graff, the new Citizens Action Center Supervisor.

B. **Annual West Orange Community Champions' Gala**

**Motion by Commissioner Graham to approve purchasing a corporate table for ten at \$910. Seconded by Commissioner Dixon and carried unanimously 5-0**

C. **Recommendation to reject bids for Fire Station**

Mr. Bollhoefer stated that at a prior meeting he spoke about using an employee who is a licensed contractor to build the new fire station because of the cost savings generated. There was only one contractor who placed a bid, Unity Construction, for \$1.5 million and staff is convinced the fire station can be built for \$1 million with our in-house contractor. In order to move forward with his suggestion, the Commission would need to take official action and reject the bid submitted by Unity Construction. **Motion by Commissioner Graham to reject the bid from Unity Construction. Seconded by Commissioner Dixon and carried unanimously 5-0**

D. **Recommendation to change the second City Commission meeting date in March and first City Commission meeting date in April**

Mr. Bollhoefer stated that this item relates to election law changes whereby a challenged ballot will not allow the voter three days after the election to prove that they were eligible to vote. In order to accommodate this change, the Commission meetings in March and April would need to be changed. Staff recommends changing the second Commission meeting in March to Monday, March 20, and the first meeting in April to Tuesday, April 18. **Motion by Commissioner Graham to approve changing the meeting dates as requested. Seconded by Commissioner Nichols and carried unanimously 5-0**

• **Commuter Rail**

Mr. Bollhoefer updated the Commission on his efforts to find speakers and additional information on commuter rail. He contacted the staff at Orange County and found that the department actually working on commuter rail is not the County but the Florida Department of Transportation (FDOT). Their Rail Transit Project Manager, Tawney Olore, has committed to attending the Commission on February 9, 2006 to give a full presentation. He is still checking to see if the County will be able to attend. To be fair on this issue, he is looking for someone to make an opposing presentation.

• **State Road 50**

Mr. Bollhoefer restated that it is FDOT's intention to begin construction of State Road 50 in 2008. He stated that a lot of agencies have been working on this and he is very confident that we can accomplish the other task of getting CR 535 south of the 429 four-laned.

## 8. MATTERS FROM MAYOR AND COMMISSIONERS

### Mayor Quesinberry

#### Vacancy on MetroPlan Orlando Citizens' Advisory Board

Mayor Quesinberry stated that Don Miller has resigned from this board and there has been no response to filling the vacancy. The Commission should find someone to serve on this Board that meets monthly. Commissioner Reynolds added that it meets once a month for about two and half hours on a Wednesday from 9:30 a.m. until noon. Commissioner Reynolds acknowledged that this is an important advisory committee that advises FDOT on where money is going to be spent on road improvements. Mayor Quesinberry announced that if anyone in the audience is interested in serving, let the City Clerk Golden know.

### Commissioner Nichols

Commissioner Nichols asked about the status on correcting the erosion problems in Trailer City. Public Works Director Smith responded that the design is approximately 35 to 40 percent complete, so it proceeding.

Commissioner Nichols stated that there has been a lot of talk about land for parks and asked how we are coming along in finding land for parks. City Manager Bollhoefer responded that that the four to five acre piece the OOCEA owns will be authorizing it for disposal in a month and they know the City is interested. Staff has approached many people about land, but the trouble now is that most people would rather develop the land because they could make more money. There are two good options for some large pieces on CR 545 with one landowner that wants it to be a park and staff is trying to work with her to make it a park and allow her to live on the land for a while. The number one objective is to secure the land. Staff is approaching another landowner regarding a large parcel on CR 545. The Recreation Director is working to obtain grants to save land so the State would pay for half of the park. The difficulty is in finding a willing seller.

Commissioner Nichols asked about the earlier presentation on Charter Review and what would be the next step. Mayor Quesinberry stated that the Commission will meet prior to the next regular meeting at 6:00 p.m. to discuss composition, etc.

Commissioner Nichols stated she is happy with what the Information Technology Director is doing with the City's website.

### Commissioner Dixon

Commissioner Dixon acknowledged Irma Knodge with the Minority Contractors in the audience and that she has agreed to work with residents on the east side of the City.

Commissioner Dixon stated that Mary Hall of Community Development with regard to CDBG funds is trying to set up a meeting to speak about the consolidated plan. The East Winter Garden Community Development Board and Ms. Hall have spoken. There is a need to secure the old Masonic Lodge for use by the East Winter Garden Community Development Board's meetings. This organization needs to be able to work on renovating

the east side of Winter Garden. The funds become available in April and they will be working on a plan starting in February.

She stated there are funds available through the faith-based initiative. She has also discussed with Louis Kellom, Homes in Partnership, the subject of affordable housing and demolishing and replacing homes is still an issue because before they are torn down, there needs to be homes built.

### **Commissioner Graham**

Stated that the boat ramp has a board on the west side that needs to be repaired.

Stated that he and the Public Works Director attended a meeting in Leesburg on the stormwater summary about the Ocklawaha chain and he asked Mr. Smith to come forward and give a scenario of what the City of Winter Garden is doing to keep Lake Apopka from being polluted and more. Mr. Smith explained the relationship of how Winter Garden's lakes relate to the Ocklawaha River; the Beau Claire Canal goes from Lake Apopka to Lake Beau Claire to Lake Dora to Lake Eustis to Lake Harris to the Ocklawaha River. St. Johns Water Management's data states that 80 percent of the phosphate pollutant load that was going into the Lake Beau Claire came through the Beau Claire Canal from Lake Apopka. He stated that this is how Winter Garden got involved. This is based on Federal legislation from the 1978 Clean Water Act which mandated that every state establish Total Maximum Daily Load (TMDL), which tells how much pollutant you can put in a lake and have it still stay a clean lake. The Florida Department of Environmental Protection (DEP) chose to ignore it for about 20 years, and some civic group sued. The Wekiva legislation came down with a list of things for the City to do. This working group that he is on, that goes on to the elected officials group, lets them decide which projects will be done. The first project is for Dr. Bradford Park to construct artificial wetlands and some retrofits for stormwater. This could result in a grant up to \$1 million dollars and could happen this year if everything goes according to plan. He is trying to get Dr. Eric Livingston from the Environmental Protection Agency (EPA) to come make a formal presentation and they would like Winter Garden to host the regional presentation sometime after the elections in March or April because it affects Oakland, Winter Garden, Ocoee, Apopka, and Orange County. Commissioner Graham stated that we need to try very hard to get the million. Ocoee has already received a \$900,000 grant for a retention pond.

### **Commissioner Reynolds**

Commissioner Reynolds stated that with the velocity of new development coming before the Commission it would be prudent to establish a formal Development Review Committee (DRC) to review these projects to weigh in on public record. He explained that a DRC is comprised of department heads that reviews the proposed project in a formal meeting. They also meet with a developer expressing their concerns they may have on various issues. It would be held as a formal meeting where minutes are kept. The builder is asked to make certain changes and/or what the developer is willing to do or not do. The public and Commission would have the information. Even before it even gets to Planning and Zoning, each department head will have had the opportunity to weigh in on it and make a formal vote and if a majority doesn't approve it then it get kicked back before going to Planning and

Zoning Board. Whenever agenda items state “staff recommends approval”, then staff has indeed recommended approval because they formally voted. There will be documentation as to what the concerns were in formal minutes and provided documentation to answer any possible litigation. Commissioner Reynolds offered a motion to clean up the review process to get it documented by department to formally weight in on projects and if staff has opposition it will be noted in the minutes. Mr. Bollhoefer responded that staff is currently reviewing all review processes. Staff currently meets with developers, builders, and citizens and is currently looking at revamping the whole system. Staff currently looks at all the projects and holds meetings that are concluded by consensus. The Code of Ordinances contains a provision whereby a developer can request a DRC. He would like, before a major step is taken like it is suggested, let staff finish their analysis and studies and come up with a system that has been studied well and know that it will work going forward. Orange County has a DRC and it actually takes their entire staff an entire day to go through a review in this manner. In effect, it would require hiring more employees and he would at least like to see what the cost is for his process to see how much more it will cost the taxpayers before implementing a new program. Commissioner Reynolds stated that what needs to be considered is what it will cost the taxpayers if we do not. He has been contacted twice in the past month about drainage issues that should have been addressed before the projects were put into place. How long would it take to determine the dollar value to give citizens good development projects. Mr. Bollhoefer stated that staff has been given many, many projects in the past six months and they have to be prioritized. Rather than piece-mealing the items by adding items, let’s look at the whole process to come up with a comprehensive plan that we know will work, will accomplish what we want to accomplish, that is not yet clearly defined, and then determine what it will cost us and move in that direction. Commissioner Reynolds asked what do we do in the situation of the rush to get developments approved before this is implemented because he believes this is a priority based on the pace of development for the citizens of Winter Garden. Mr. Bollhoefer explained that by the time the Commission has seen these projects it has usually gone through a year long process. The biggest complaint staff gets is that the City is not going fast enough. Generally, developers know what is expected, the tricky part is getting them to agree to do what is expected. Commissioner Reynolds stated that a DRC is an excellent place for the concurrency program to be reinforced. Mr. Bollhoefer stated that the process needs to look at this from a broader look at the entire process.

Commissioner Reynolds addressed the earlier point regarding citizens feeling that opposing the light rail issue that absolutely does nothing for Winter Garden but yet imposes a tax that residents would have to pay, would be any sort of political suicide for any special interest group who may be trying to fundraise from Orange County.

Regarding the theater, it is a great deal and he hopes it is successful, but when you step over the line into public funding, he feels the Commission must take certain measures to impose accountability and the public is due that assurance. He stated that this is not a seat against culture but a seat for good fiscal responsibility.

Mayor Quesinberry thanked everyone for attending the meeting.

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