



CITY OF WINTER GARDEN

OFFICE OF THE CITY CLERK

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WINTER GARDEN, FL 34787

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REGULAR MEETING MINUTES

CITY COMMISSION

January 26, 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, 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, West Orange Times reporter Michael Laval

1. **APPROVAL OF MINUTES**

Motion by Commissioner Nichols to approve the regular meeting minutes of December 22, 2005, Charter Review Workshop Minutes of January 12, 2006 and postponing the minutes of January 12, 2006. Seconded by Commissioner Dixon and carried unanimously 5-0.

At this time, Mr. James Fleming and George Englehart, Commander of American Legion Post 63 came forward to present Commissioner Theo Graham with a Meritorius Award for his efforts in promoting veteran programs and Veteran's Park.

2. **FIRST READING OF PROPOSED ORDINANCES**

A. **Ordinance 06-01:** REZONING APPROXIMATELY TWO (2) ACRES OF CERTAIN REAL PROPERTY LOCATED AT 942 WEST STORY ROAD AND MORE SPECIFICALLY DESCRIBED HEREIN FROM R-2 TO CITY R-1B; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE (New Hope Primitive Baptist Church)

City Attorney Bedell read Ordinance 06-01 by title only. **Motion by Commissioner Graham to approve Ordinance 06-01 with the second reading and public hearing being scheduled for February 23, 2006. Seconded by Commissioner Dixon.** Mayor Quesinberry stated that this property adjoins the back of his property and wanted to be sure that his comments did not have any conflict, but asked how can the property be divided into three 75 foot lots. Senior Planner Kelly Randall stated that this is a fairly deep piece and a subdivision road is required up one side of the piece and then the lots will be parallel with Story Road. She stated they can do this because of the depth of the lot but not the width of the lot. **Motion carried unanimously 5-0**

- B. **Ordinance 06-05:** REZONING APPROXIMATELY 232 ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED ON THE NORTHWEST CORNER OF AVALON ROAD AND HARTWOOD MARSH ROAD FROM COUNTY A-1 TO CITY PUD; PROVIDING FOR CERTAIN PUD REQUIREMENTS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE (Hickory Hammock PUD)

City Attorney Bedell read Ordinance 06-05 by title only. City Planner Cechman stated that the City has been working with the developer South Star for two years on this project. The property was not originally in the JPA area and it had to be amended. They annexed in December of 2005. He explained that schools and concurrency were discussed and addressed. Most of the homes will be two stories, but they would like to have a few three-stories and will restrict it to no higher than three stories. With this addition, the Planning and Zoning Board does recommend approval of the project. **Motion by Commissioner Graham to approve Ordinance 06-05 with staff recommendation (see attached) with the second reading and public hearing being scheduled for February 23, 2006. Seconded by Commissioner Dixon.**

Commissioner Nichols asked if staff recommendations include no building will be taller than three stories. **Mr. Cechman** stated that staff will include that in the PUD for the second reading. **Commissioner Dixon** asked about County Road 545. **Mr. Cechman** stated that our traffic consultant stated the level of service on County Road 545 is adequate but is not going to be adequate in the future, with all the proposed development currently on the books. Background traffic is about six percent a year, which is the projected amount of traffic increase from Lake County and Orange County. The City Manager is working with Orange County to come up with a solution for widening County Road 545. **Commissioner Reynolds** stated that the operative words staff utilizes are "if" and "may" collect fees. This intersection is being discussed again and there is not a set agreement for concurrency. He stated that he has a concern approving this project without concurrency in place. He asked about collection and handling of impact fees. **Mr. Bollhoefer** stated that staff has been working with the County and the "if" is if it is approved by the City Commission, any funds collected will go into a special revenue fund, such as an impact fee fund. This would be a super impact fee fund that will be held just to do this road. He stated that of all these types of projects

that the Commission has approved, the developers have agreed to pay whatever is needed to get that road done. **Commissioner Reynolds** stated that we are saying that we will collect those fees, not “if” or “may.” He asked what the fees will be. **Mr. Bollhoefer** replied that we are still working on the estimates on the cost for this road and the estimate is approximately \$33 million dollars with the fee being in between \$8,000 and \$9,000, including the existing impact fee per unit. He stated staff is upgrading the estimates on the road. **Commissioner Reynolds** asked if the fees will be in an escrow holding account before the Commission approves this subdivision. **Mr. Bollhoefer** responded that this will be just like any other impact fee held in a special revenue account that can only be used for this project. **Commissioner Reynolds** stated that the wording should be changed from “if” and “may” to “will” be collected. **Mr. Bollhoefer** stated that the critical language states that “if approved by the City Commission, the project shall be required to participate in the City’s final solution”, he stated that it does have the “shall” requirement. **Commissioner Reynolds** asked if we are talking about a nebulous figure. **Mr. Bollhoefer** stated that they have agreed to participate in the final solution to County Road 535 whatever that number is, as determined by the City. **Commissioner Reynolds** asked if they were going to write the City a blank check. **Mr. Bollhoefer** explained that impact fees are paid at the time permits are pulled. That is a long way out and by that time, they will have a hard number. **Motion carried unanimously 5-0**

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

- A. **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 SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Bedell read Ordinance 06-06 by title only. Mayor Quesinberry opened the public hearing.

Tom Reedy, 14217 Country Estate Drive, Winter Garden, Florida stated that since listening to statements made at the first reading of this Ordinance, he has read Florida Statute Chapter 190 and it is his opinion that the legislative intent is to provide a quasi-governmental structure to large mixed-use developments with homes, apartments, schools, and shopping areas within the boundary. What is being proposed here is to set up a separate government for a private developer and he doesn’t think Chapter 190 was passed to give private developers access to tax exempt financing and taxing powers. It seems a CDD is a lot more than simply a financing vehicle. The other powers include allowing Sembler to appoint a

governing board with no elections and no public input. They will be able to enroll their employees in the state retirement system. The CDD will be able to apply for federal, state and local grants, essentially taking that grant money away from true governmental entities. The CDD has the right of eminent domain from within and outside the property development. The CDD can also be accorded several possible special powers. To cut and fill public highways is one example. They can do “any other project within or without the boundaries of the CDD”. The Commission should not make a decision on incomplete or improper information. He urged the City Commission to table this item to allow for a complete report from staff on the potential consequences.

Billie Roberson, 12100 Marshall Farms Road, Winter Garden, Florida stated that now is the time for planned managed growth in the City of Winter Garden and it is destined to succeed. All of West Orange County will benefit. Let’s get on with this well-planned project that this area needs. The Commission should turn their attentions to Lake Apopka and the fact that Lake County is providing alum injections into the Beau Claire canal. That is where the money and time needs to be invested. Stop the alum injections into the Beau Claire canal and move forward with Sembler, something that will benefit our community, not take away from it.

James Balderrama, 14351 Hampshire Bay Circle, Winter Garden, Florida stated he wanted to bring some of his concerns to this Commission. Sembler said Winter Garden would be getting a Winter Park Village-type shopping center. Later, residents found out that it was nothing like Winter Park Village. Local press has been saying that there could be a shortage of as much as \$43 million for road improvements. The State addressed this issue and asked where are the road improvements. Sembler responded by saying don’t worry, they would handle it. Apparently, they are not going to handle it because they are coming up with this ordinance, which gives them the control and there will be a special tax levied on the people that are going to live around there. The Commission has the opportunity to hold Sembler accountable for the misrepresentations they gave to citizens south of State Road 50. He asked the Commission to vote no. Send it back to Sembler and hold them accountable.

Shirley Smith, 21 West Crest, Winter Garden, Florida addressed widening of State Road 50 since it was first addressed 12 years ago. She stated that she has contacted the City Manager and requested a list of where the funds are coming from for Highway 50 and how much we lack and he is working on that for her. She never heard that there was a \$53 million dollar shortage and thought it was five or six million dollars. This mall is only as good as it is made to be and it is up to the City to follow this through. Citizens deserve something beautiful and convenient. She stated she is in favor of the Sembler Mall.

Mayor Quesinberry closed the public hearing. **Motion by Commissioner Reynolds to approve Ordinance 06-06. Seconded by Commissioner Dixon.**

Commissioner Reynolds stated that the residential portion is excluded from the CDD board that will be established. Participation on the part of the business owner is entirely voluntary. Anyone deciding to move their business into the CDD will be told up front what the surcharges and services will be. It is a contractual agreement so anyone not wanting to pay it will not put their business there. If someone feels that the extra expense is worth the return, then the business owner may participate, it is as simple as that. The CDD will handle disputes between tenants and owners. He stated that he does not know of any other way for a company to put out millions of dollars to improve the roads and not recover that cost. If they don't, this project won't fly. The City talks about not being able to get government funding for the roads needed. How can one builder be expected to carry the load on its own for what the City has been irresponsible with over many years. The reason he is in favor of it is because if we don't do it we give them a reasonable opportunity to succeed with the project from a business standpoint. **Commissioner Dixon** stated her agreement with what Commissioner Reynolds has said on this issue and stated that is why she has seconded the motion. **Motion carried unanimously 4-1; opposed Commissioner Nichols of District 4.**

- B. **Ordinance 06-02:** VACATING THE SOUTHERLY FIVE FEET OF THE TEN FOOT DRAINAGE AND UTILITY EASEMENT LOCATED ADJACENT TO THE NORTHERNMOST PROPERTY LINE, LESS 5 FEET ON THE EASTERN AND WESTERN PROPERTY LINES OF 438 VALLEY VIEW DRIVE, WINTER GARDEN, FLORIDA; PROVIDING AN EFFECTIVE DATE
City Attorney Bedell read Ordinance 06-02 by title only. Mayor Quesinberry opened the public hearing. Hearing and seeing no comments, the public hearing was closed. **Motion by Commissioner Graham to approve Ordinance 06-02. Seconded by Commissioner Nichols and the motion carried unanimously 5-0.**

4. **REGULAR BUSINESS**

- A. **Request by Winter Garden Heritage Museum to serve alcohol outside on February 9, 2006 from 7:00 p.m. until 9:00 p.m.**

Ann Ellis, 15136 Oakland Avenue, Winter Garden, Florida stated that she hopes everyone has heard of the Tiffany Exhibit of five windows made in about 1908 by Louis C. Tiffany. She stated that on February 9th they will be having a grand opening and it was originally her intention to ask the Commission for permission to serve wine, but they have since decided to serve coffee and dessert. They also decided that they will need a 20' x 30' tent that will be placed on public property on the north side of the museum to serve the refreshments. She asked the Commission to grant them permission to install a tent for this date. Mayor Quesinberry asked if the tent would be in the parking area with part of it in the street. Ms. Ellis replied that it would not be on part of the street, but as people turn off of the street into the parking lot, it would be in that drive-in area. She stated that there will still be access to the parking lot from the Woodland side, but

access would be lost into the parking lot from the Main Street side. **Motion by Commissioner Graham to approve the request. Seconded by Commissioner Dixon and carried unanimously 5-0.**

B. Request for temporary open-air vendor license by Publix to sell flowers February 13 and 14, 2006 on State Road 50

City Planner Cechman stated that the City is usually concerned about open-air vendors and concerned about the look, but because Publix is an existing City business and the duration is only two days, staff believes it is appropriate to recommend approval. **Motion by Commissioner Graham to approve the request for a temporary open-air vendor license for Publix to sell flowers February 13 and 14, 2006 on State Road 50. Seconded by Commissioner Reynolds and carried unanimously 5-0**

C. Recommendation regarding Zanders Park Improvements and cul-de-sac on Klondike Street

Assistant City Manager Robertson stated that back in September the Commission requested preliminary designs for this park. For over the past year there have been temporary barricades to stop traffic from going through Zanders Park. A consulting engineer has designed the improvements and it will cost approximately \$300,000 to get it completed. Half of the cost would be from the local option gas tax and the other half would come out of the general fund/parks. He explained the proposed design and improvements. **Mayor Quesinberry** stated that this park is on Klondike and explained that the large gray area is a cul-de-sac. **Mr. Robertson** stated that the cul-de-sac will be fenced with two gates for maintenance workers to enter the pool and park areas. **Commissioner Dixon** stated that she was more interested in the blocking off of 11th Street, so people from Lincoln Terrace could not come through the park. She asked if there will be hedges or something placed across. **Mr. Robertson** responded that from Lincoln Terrace there are parking spaces on 11th Street or you can walk in. No one will be able to drive in this park. Staff is recommending a budget amendment be done at interim budget and to go ahead and move forward with this project at this time. **Motion by Commissioner Dixon to approve recommended improvements to Zanders Park and the installation of a cul-de-sac on Klondike Street and authorize an interim budget amendment in the amount of \$300,000. Seconded by Commissioner Graham.**

Commissioner Graham asked if there was money in the recreation fund that could be used instead of taking money from the gas tax. **Mr. Bollhoefer** replied that the City could not use recreation impact fees because this would not be based on any growth. He explained that it was decided to split it between the local option gas tax funds because it is a transportation issue for a cul-de-sac and then use general funds for parks for the other half. There was discussion on more parking. **Commissioner Nichols** asked Commissioner Dixon if she felt the eleven parking spaces was ample for the park and pool. **Commissioner Dixon** pointed out there is no parking now but there is no room for more. **City Manager**

Bollhoefer pointed out that there cannot be parking too close to the intersection. **Commissioner Reynolds** asked about the condition of the court. **Recreation Director Conn** stated that the existing pavilion court was taken down with the hurricanes last year. The court now only has one basketball rim on one end and with the pavilion gone, staff is looking at expanding it to a full court. **Commissioner Reynolds** asked if this will be worked in conjunction with the cul-de-sac improvement. There needs to be a functioning place to play. **Mr. Conn** stated that staff is looking at enhancing improvements to the playground. **Commissioner Dixon** asked if there will be stands for sitting. **Mr. Conn** stated that the overall aesthetics of the park are being addressed in the recreation master plan. This item is more for infrastructure to the park. This park is one that has been identified as being redeveloped in the park master plan. **Commissioner Reynolds** asked when the plan would be back before the Commission. **Mr. Conn** responded that the overall master plan is scheduled to be completed in late May or June. **Motion carried unanimously 5-0.**

D. Recommendation to approve Preliminary Plat for Walkers Grove at the southeast corner of West Bay Street and Brayton Road

City Planner Cechman stated that this property was under contract at one time to be a large daycare, which did not happen. A new developer has a contract to purchase it and would like to put in townhomes. The property is zoned for townhomes and the preliminary plats have been submitted. Staff has reviewed them and recommends approval with some conditions as stated in the agenda package. The Planning and Zoning Board has also made their review on January 9, 2006 and also recommends approval of a preliminary plat. **Motion by Commissioner Graham to approve the preliminary plat for Walkers Grove at the southeast corner of West Bay Street and Brayton Road. Seconded by Commissioner Nichols and carried unanimously 5-0**

E. Recommendation to approve Preliminary Plat for Oakland Park and a Development Agreement

City Planner Cechman stated that this is Oakland Park's first phase that the City of Winter Garden is sharing with the Town of Oakland. He stated that most of it is in the City of Winter Garden and some is in Oakland. Staff has reviewed this phase of the preliminary plat and recommends approval. This item includes a development agreement. The Planning and Zoning Board also reviewed it at their January 9th meeting and also recommends approval with staff recommendations. **Commissioner Graham** asked if the developer has agreed to the changes. **Mr. Bollhoefer** replied that they have agreed to all the changes, some they requested and some the City requested. **Mr. Bollhoefer** explained the highlighted changes of the development agreement. **Motion by Commissioner Dixon to approve the Preliminary Plat for Oakland Park and a Development Agreement. Seconded by Commissioner Nichols. Commissioner Graham** asked if water will be used from Lake Apopka. **Mr. John Rinehart** with Castle and Cooke stated that they intend to use reuse water from the City of Winter Garden's system when it becomes available for irrigation. **Commissioner Graham** explained that

several years ago there was concern that the lake could dry up. It is not a deep lake and the level of the lake might drop if they intended to pull water out. He asked Mr. Rinehart if they would have to get permission from the St. John's Water Management District if they wanted to do that. **Mr. Rinehart** replied yes. **Commissioner Nichols** stated that she met with Mr. Rinehart last summer and he drove her around the property. Commissioner Nichols asked Mr. Rinehart for a brief overview of what is being done with the traffic. **Mr. Rinehart** stated that when the Commission approved the planned unit development on May 26, 2005, there were conditions that addressed the traffic and they are covered in the development agreement. There are improvements that will be made at State Road 50 and County Road 545 that will need to be in place prior to pulling the first residential certificate of occupancy. We have agreed to participate in the signalization of Story Road and Plant Street. **Commissioner Reynolds** asked the status of the traffic signal warrant on State Road 50 at the 175 mark. **Mr. Rinehart** stated that with reference to the Motamassek connection between Oakland Avenue and State Road 50, they will design and construct that road with the appropriate turn lanes and if the signal is warranted, that will be part of the project as well. **Motion carried unanimously 5-0**

F. **Recommendation to approve Apex Commercial Center site plan at 350 E. Crown Point Road**

City Planner Cechman stated that this is a request for site plan approval for a 35,000 square foot commercial building used for flex-space which is different types of uses. Staff has reviewed it and recommends approval with conditions identified in the agenda packet. The Planning and Zoning Board also reviewed this at their January 9, 2006 meeting and also recommend approval. Sam Samali of Florida Engineering Group as representative for the applicant was recognized to answer any questions for the Commission. **Commissioner Reynolds** stated that they are contributing to widening East Crown Point and asked about signalization where East Crown Point meets Plant Street. **Mr. Bollhoefer** replied that the City is doing the signalization on West Crown Point and Plant Street which will alleviate the traffic on East Crown Point Road when people will take that as an alternate route to go to a light. East Crown Point at this time is a County road. They are claiming that half is Ocoee's road and half is Winter Garden's road and staff disagrees. **Commissioner Reynolds** stated that East Crown Point intersects with Plant Street at the old Britt Mansion and this is the intersection he is concerned with. **Mr. Bollhoefer** explained that it is a County road and Plant Street is a state road. **Mr. Samali** stated that the staff has evaluated that area, a traffic study has been done, and their project generates very minimal traffic. The parcels along East Crown Point Road are all required to contribute to improve the traffic situation. As mitigation for their project the proportionate share they are paying was deemed to be adequate to deal with the traffic situation. **Mr. Bollhoefer** stated that the State has looked at that intersection and it has not warranted a light at that road at this time. **Commissioner Reynolds** asked how old is that study. **Assistant City Manager Robertson** responded that the study was done approximately two years ago, when Wallick went in. The problem is

you will never get a light at that intersection until the road is four-laned. The intersection is so close to the signal light at the State Road 429 exit that the state will never give us a traffic light until that road is four-laned and a traffic light would then be required in order to cross two lanes of traffic. **Commissioner Dixon** stated she is happy to finally be getting a traffic light on the East Side. **Mr. Robertson** stated that the plans for the signal at State Road 438 is not just a signal and the only way we could get that is that we are also we are having to put left turn lanes on the 438 and on West Crown Point northbound. He explained that a signal is a magnet which will allow some movement of traffic. A warrant study includes several questions that they ask and you have to pass three of the questions: how many people have been killed, how many accidents and what kind they were, and the traffic volume. He stated that you have the traffic volume on County Road 438 but you do not have the traffic volume on East Crown Point Road. **Motion by Commissioner Dixon to approve Apex Commercial Center site plan for 350 E. Crown Point Road. Seconded by Commissioner Graham and carried unanimously 5-0.**

G. Appointment to the MetroPlan Citizens Advisory Board

Mayor Quesinberry suggested appointing Mr. Delmar Johnson, III to this board. Commissioner Reynolds stated that they meet the fourth Wednesday of every month. He expressed his appreciation and stated that we need support in traffic. **Motion by Commissioner Graham to approve the appointment of Delmar Johnson to the Metroplan Citizens Advisory Board. Seconded by Commissioner Reynolds and carried unanimously 5-0.**

5. MATTERS FROM CITIZENS

Richard Napotnik, 633 Fullers Cross Road, Winter Garden Florida stated that he agreed about the Lake Apopka concerns and read information from Jim Thomas on the issue. He stated that it surprises him that we would use aluminum sulfate which is a contaminant and a pollutant and it is not a cure to do anything. He stated that why they are wasting money dumping it into the lake is beyond him. He stated that he wished the Commission would take a look at this and support Jim Thomas in having this stopped. Commissioner Graham brought it up about the lake being down and said that the lake has been down for a couple years. He stated that he lives directly on the lake and is very familiar with it. He expressed attention needs to be given to try to restore Lake Apopka.

Mr. Napotnik addressed a serious flooding issue for families living behind Chapin Station. The effects of rains and flooding in this area is due to the construction built around them and having been inadequately engineered. He addressed possible septic concerns and related health issues. He suggested tying them into the City sewer system. **Mr. Bollhoefer** responded that the City has been working on this for quite awhile and are looking at hooking her up and fixing the problem. Staff has had surveyors out and staff is trying to find the correct solution. The majority of the problem was not caused by newer development, but was an existing problem. In working with the Public Works Director Smith, they found that there were

insufficiently sized pipes installed and where they drain. Fixing this problem will be much more detailed and it is being addressed on a weekly basis. **Mr. Napotnik** stated that is very good and thanked Mr. Bollhoefer for his reply. **Commissioner Reynolds** stated that he would like to try to answer Mr. Naptonik and called on Public Works Director Smith to come forward to tell exactly where the City is at on this issue. **Mr. Bollhoefer** stated that in accordance with City Charter the City Manager gives staff direction, and in this case he is answering the question. **Commissioner Reynolds** stated that he asked him the question. **Mr. Bollhoefer** replied, yes, and he is answering for staff and reiterated that the problem is being worked on with further analysis and explained some details of the work to be done. He will keep the Commission posted on the status of this project.

Commissioner Graham stated that he wanted to address the Lake Apopka issue and said that the alum treatment was going to be on the Beau Claire canal. He is on the Board for the Friends of Lake Apopka and one of the concerns was where they would be putting the alum in. Alum is to treat the water leaving Lake Apopka going downstream, which is polluting the lakes downstream. They do not want them to build the plant where it is planned to be placed. That area is environmentally protected land which has always been vacant. He stated that when they come in and put clay and such, it will hurt the environment. The alum is not going to come back toward us, it will go downstream. They did put alum in before they bought the farms. The thing about alum is that it has never been used on a lake this big. What has been used on small lakes has been successful. He described some of the lakes that have had this alum treatment and how it has made the water clearer, but stated that there has never been a long study to see what the after effects will be.

Commissioner Reynolds stated for clarification, the City Commission may inquire of staff for information in accordance with the Charter.

Sharon Wilcox, 26 June Ellen Lane, Winter Garden, Florida encouraged the City Commission to address recent news regarding a possible Asian bird flu pandemic that requires a vaccine. She has made calls to the Senator's office and spoke to Kathy Taylor who gave her some ideas as to what she could do. No one seems to know much about it. Commissioner Nichols responded that the one of the reasons that they have not been able to make a vaccine yet is because the avian flu has not been found to be passed from person to person. Until that actually happens, they cannot make a vaccine. Thus far, it is being passed from bird to person and will eventually go from person to person. Ms. Wilcox stated that there are people in southeast Asia and Turkey that are already getting sick so it is just a matter of time before it mutates. Commissioner Nichols stated that until it mutates, they cannot create a vaccine. Ms. Wilcox stated that they did not tell her that. Commissioner Nichols stated that she has been watching this for over a year and these are the facts. Ms. Wilcox stated that we need to find out what is going on and Commissioner Nichols stated she would get her some literature on the subject.

Pam Stewart, 1465 Markel Drive, Winter Garden, Florida commended the City of Winter Garden for hiring Mr. Fred Leonhardt as the City's lobbyist and shared his background in multiple areas as well as personal attributes that he will bring to representing the City. She stated that Mr. Leonhardt is worth a lot more than what he is going to be paid by Winter Garden and he will be worth every penny. Our City Manager should be commended for his role in securing one of Central Florida's top political experts to lobby for Winter Garden's interests and she thanked Mr. Bollhoefer.

Merv Daniels, 433 North Main Street, Winter Garden, Florida commended the City and Gary Faller for providing assisted listening devices for the hearing impaired, such as him, and the system works great. He stated that he agreed with Commissioner Reynolds that Crown Point Road and Plant Street is bad news. Maybe Delmar Johnson and the new lobbyist can work on that in their perspective places to get that taken care of.

Barbara Pennington, 421 Timber Creek Drive, Winter Garden, Florida stated that the gated community next to hers, Lake Cove Point, has signs posted that there are no trucks allowed through her subdivision, Kings Bay, and that they are to enter on the south side. However, huge trucks come barreling through her neighborhood with no regard to the sign and she requested that something be done to prevent this. In addition, residents pay no attention to the residential speed limits and they also come barreling through the gates.

She expressed gratitude to Commissioner Graham for serving on the board of the Friends of Lake Apopka. She asked the Commission to actively ask Jim Thomas of Friends of Lake Apopka and the St. John Water Management District, what the City can do to actively maintain, keep, and preserve the quality of this lake. She remembers hearing that it would be approximately 12 years before Lake Apopka will be recreational again and she suggested a possible proclamation. She also would like to see a traffic light at Hennis Road. She expressed her joy in the City's choice for the new lobbyist. At first she did not see the need for one and soon realized through talking with friends that they could do a lot of good for the City. She expressed that she has heard nothing but great, ethical, and high moral standards about them and she congratulated the Commission and staff for making that selection.

James Balderrama, 14135 Hampshire Bay Circle, Winter Garden, Florida stated that he wants to know what the City will do for District 4, specifically the 535 corridor. There are condos, townhomes, a two-lane road in disarray, and blind intersections. It is getting difficult to get in and out of area subdivisions. The intersection of County Road 535 and State Road 50 is becoming a complete nightmare and challenged the Commission to sit with him for half an hour at 5:00 p.m. at County Road 535 and watch the cars dodging in and out of traffic. He stated that he previously presented photographic evidence that the posting of the hearing for the zone change is probably going to be ignored and stated that these things in District 4 are not acceptable. He would like City leaders and the people who work for residents be held accountable for

their actions. He stated that when their citizens ask them questions they should show simple respect by answering them.

Sally Baptiste, 7027 Eager Drive, Orange County, Florida stated she is the Supervisor of the Orange County Storm Water Conservation District and addressed the earlier topic of Chapin Station flooding and noted that her board is doing more to investigate these kinds of problems. She stated that she could be contacted for additional investigation and that she will be going to a site tomorrow and the issue may be addressed in the near future. In east Orange County there is a thing called “Filling Cavities with Concrete”, that is the filling of cavities under the ground with concrete that is affecting our water supply and our environment. She stated that she wanted to let people know that as a Supervisor on this Board, they are doing more.

She addressed discussion about growth and transportation and the problems the City is having. As a candidate for Orange County Mayor, she has attended MetroPlan meetings and believes Winter Garden is getting absolutely no consideration from Orange County. She wants to reform transportation. Part of that reform is to shut down the commuter rail, just as the City of Edgewood has done. She would strongly encourage this Commission to take opposition because it is taking money away that the City needs to fix the problems in Winter Garden. Commuter rail will do nothing at all for Winter Garden and it will take money away from what the City needs done. The way Orange County handles transportation needs to be totally reformed. She has new solutions and changes she wants done. It is her understanding that the City Commission is considering a resolution to formally oppose commuter rail. She stated that the \$44 million dollars is from Orange County’s budget, not to mention the money at the State level that is not being going to be used to fix the roads. It is funding that is being taken away from what you need. She offered to meet and go over her research on commuter rail and transportation solutions. By opposing it, you can get the money you need to fix the roads right here in Winter Garden.

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

7. **MATTERS FROM CITY MANAGER**

A. **Discussion on City Attorney position**

Mr. Bollhoefer stated the Commission narrowed the choices down to two for the City Attorney and the Commission now has the opportunity to make a decision. Mayor Quesinberry asked Human Resources Director Frank Gilbert to give an update on the candidates. Mr. Gilbert stated that on January 14, 2006 the Commission chose to interview four candidates and narrowed them down to two. The Commission asked that thorough background checks be conducted and these have been completed and he is now looking for direction from the Commission as to which of the two candidates they would like to go forward with for negotiating a contract. Commissioner Reynolds stated that he thought Mr. Gilbert had communicated that the background check eliminated one of the candidates. Mr. Gilbert replied that it is not his decision to eliminate any candidate, that has to be by the Commission. Mayor Quesinberry stated that the background check of one

of the candidates showed things that was not revealed at the time of the first interview. The candidate from Atlanta had a clean background. Mr. Gilbert stated that Mr. Clark does have a very clean background and everything has checked out. **Motion by Commissioner Graham to authorize the Human Resources Director to negotiate a contract for City Attorney with Gerry L. Clark. Seconded by Commissioner Dixon and carried unanimously 5-0.**

B. Financial Statement for December 2005

Mr. Bollhoefer stated that the Commission has been given the financial statement and if there are any questions, they could speak to him or the Finance Director.

C. Downtown parking presentation *(See attached)*

D. Update on current projects

- **New prospectus for Trailer City** is currently being worked on with the State. This is the fourth change since 2000.
- **Allowing gated communities without guards to close their gates during the day**
Our current ordinance prohibits closing of community gates during the daytime for those communities that do. It is the consensus of City staff that it should be the gated community's decision. Each community will need the right equipment to allow access by solid waste, police, and fire departments.
- **West Orange High School use of City's swimming pool**
Mr. Bollhoefer stated that in an effort to build bridges with other agencies that serve the City's constituents, the City has been working with West Orange High School by meeting with Dr. Buckman and Coach Boston. They use the City swimming pool for water polo in the evenings and have always paid for the heating of the pool, along with their regular fees. The school budget did not allow for paying the entire amount so they have come up with a proposal to the exchange services for a portion of the cost to heat the pool. They have offered summer programs for children; tennis, soccer, golf, basketball (using their gym), water polo, volleyball, and they would also like to do equestrian and art programs for children. They have the capability of doing this, whereas the City does not. If the City is willing to pay half of their heating bill at \$4,000 in exchange for these services, it would be a win-win situation for both parties. He asked the Commission for permission to move forward with this item at interim budget to include the \$4,000. **Mayor Quesinberry** stated that the City worked out something with them in the past where instead of them paying by the hour, they paid a straight agreement of approximately \$2,200. He asked if that was not covering it. **Mr. Bollhoefer** replied no they are currently paying \$8,000 a year to heat the swimming pool. Recreation Director Conn has been working with them to ensure we get our fair share of their services. Without this alternative, we could not go out and

cost effectively create these programs. **Commissioner Graham** stated that he thought it would be good because our current recreation does not have any place for basketball games except for outside. **Mr. Bollhoefer** stated that if he could get direction from the Commission, staff could move forward with this. **Commissioner Reynolds** asked Police Chief Brennan about Collision Avoidance Training (CAT) which is a program available within the state where police officers train people how to avoid collisions. **Police Chief Brennan** stated one thing that would be needed is a large parking lot and liability is an issue as to whether or not the City would want to undertake that responsibility. **Mr. Bollhoefer** stated that the PTA has worked out an arrangement with Florida Auto Auction and they have found an even better program put on by Ford Motor. The Auto Auction has a million square feet of parking lot and they are going to set up that program for the West Orange area. At a meeting one of the representatives from the CAT program was there, but this is actually a much better program for the youth because it teaches them a lot of the driving skills they need and don't seem to have at the ages of 16 to 18. **Commissioner Reynolds** asked if it would require an off-duty police officer or City vehicles. **Mr. Bollhoefer** stated that at this time the PTA is going to take the lead in the program and will probably come to the City and ask for assistance, but they want to put on the program for youth in Winter Garden. **Commissioner Reynolds** asked Police Chief Brennan if he saw any challenges to it being successful. **Police Chief Brennan** stated that he has not fully seen the PTA program yet, but does have some problem with the CAT program because they train officers to run the programs and then walk away from any of the liabilities. One downside is that a student comes and uses their own vehicle, with no card being provided by the City, whether their cars are capable of going through the courses is not known and if something goes wrong, where do we stand? He stated that he has also asked for some statistics regard the program's success and he has not received the statistics he is looking for.

- **Solution for the northern portion of County Road 535**

A couple of other areas where the City is trying to build its relationship is with Orange County and the City has felt for years that we have not had our fair share here in West Orange and staff has been having several meeting with Orange County. Staff has been working on coming up with a solution for the northern part of County Road 535 to handle its drainage issues. Staff is also working with Orange County and using our lobbyist to get trip funding for the southern portion of County Road 535. Staff has been told that Mr. Gilhooley has put County Road 535 back on the table for trip funding and we are hoping they will follow through to give us the funding for that southern portion of County Road 535. He will keep working on this and see what we can do because this is a critical road for all of our citizens.

- **Orlando Orange County Expressway Authority**

He stated that staff has also been working with the Orlando Orange County Expressway Authority and a proposal has been submitted asking that five acres near the YMCA be donated for a park. This would allow the City to use funds to purchase park land elsewhere. He stated that if the land is not donated the City would try to buy it, but the City would not be able to build right away.

- **Commuter Rail Resolution and Speakers**

Mr. Bollhoefer stated that the Florida Department of Transportation will speak to the City Commission on February 9, 2006. Jim Harris from Orange County will be able to make our February 23, 2006 meeting. He is also trying to line up MetroPlan to speak. Sally Baptiste has been recommended to come and speak in opposition of commuter rail, however, he could not, in good conscience, ask her to speak to the Commission due to her close involvement with Ax the Tax and Mr. Doug Guetzloe. Considering the attacks Mr. Guetzloe has made on the members of our community, he did not feel in good conscience that he could recommend her as a speaker. If it is the desire of the Commission to direct him to do so, he would contact Ms. Baptiste to see if she would be willing to make a presentation. **Commissioner Reynolds** asked for clarification on what Mr. Bollhoefer was asking, if the Commission wanted her to come and speak in opposition. **Mr. Bollhoefer** replied, correct. If the Commission votes to direct him to contact Ms. Baptiste, he would then do so. **Commissioner Nichols** asked how about the Mayor of Edgewood. **Commissioner Reynolds** stated that he does not know what Doug Guetzloe has to do with Ms. Baptiste making a presentation in opposition. **Mr. Bollhoefer** explained that Ms. Baptiste is closely allied with Ax the Tax and Doug Guetzloe's attack on all our citizens because citizens pay our salaries, he could not do it in good conscience. **Ms. Sally Baptiste** asked who has she attacked, she is talking the issues and facts, which is the part that Orange County does not want you to know. **Commissioner Reynolds** stated that he does not have a problem with Ms. Baptiste making an opposition presentation. **Mr. Bollhoefer** stated that it is up to this Commission. **Commissioner Nichols** stated that Ms. Baptiste knows what she is talking about. **Mayor Quesinberry** asked if there was someone else. **Mr. Bollhoefer** stated that Commissioner Nichols has suggested Mayor Teague of the City of Edgewood. **Commissioner Nichols** asked if we are having three speakers in favor of the rail. **Mr. Bollhoefer** stated that we have three speakers that are proponents, speaking from three different perspectives of commuter rail. He explained that they are getting ready to do their required environmental study and this issue will not be before the County for quite some time. **Commissioner Reynolds** asked Ms. Baptiste if she disagreed with that. Ms. Baptiste stated no, there are a lot of things going on including a vote in February and stated that there are so many games going on with commuter rail. **Mr. Bollhoefer** stated the speakers he is bringing in are the Florida Department of Transportation (FDOT) because it is part of the FDOT program and possibly the County, who has not signed on all the way, but seem to be for it, and the MetroPlan because

they have been the overseers. **Motion by Commissioner Nichols to direct City Manager Bollhoefer to contact Mr. Teague, Mayor of Edgewood, and Ms. Baptiste to speak in opposition to commuter rail. Seconded by Commissioner Reynolds and carried unanimously 5-0.**

- Mr. Bollhoefer advised the Commission that they may be receiving phone calls regarding the commuter rail issue. Mr. Bollhoefer advised the Commission to be prudent in their discussions and decisions regarding commuter rail. Passing a resolution in opposition could have serious consequences for the City's relationships with other governmental agencies with reference to the City getting the roads we need.
- **Economic Development Director**
Mr. Bollhoefer introduced Shelly Weidenhamer as the new Economic Development Director.
- **Lobbyist**
Mr. Bollhoefer apologized to the citizens of Winter Garden regarding the flyers being circulated with very caustic and terrible remarks about one of the lobbyists hired by the City.
- **Apology to Commissioner Reynolds**
Mr. Bollhoefer apologized to Commissioner Reynolds for speaking out of line earlier in the meeting. Commissioner Reynolds accepted the apology and thanked him for it.

8. MATTERS FROM MAYOR AND COMMISSIONERS

Mayor Quesinberry

Stated that a streetlight is needed behind the Plant Street karate studio for the kids hanging out with their skateboards.

Commissioner Reynolds

Addressed the issue of the Development Review Committee (DRC) he spoke of at the last meeting. The extreme financial burden on the City is not justified and he thinks the benefits would be greater than what the additional time and cost would be for staff. It would provide a great information source for the public and the Commission to have minutes and for the meetings to be conducted within the Sunshine Law. **Motion by Commissioner Reynolds to establish a formal Development Review Committee. Mayor Quesinberry** stated that there should be pros and cons on this issue before the Commission brings it to a vote. **Commissioner Reynolds** responded that projects keep coming through and that is what makes the DRC a priority. **Mr. Bollhoefer** stated that he had asked earlier that the staff be allowed to review its entire process and address this issue as part of that review instead of addressing this by piecemeal. If done in a piecemeal fashion, in the end we will have a hodge-podge system. **Commissioner Reynolds** stated that this is the beginning step.

Commissioner Dixon asked if there is any money involved in this. **Commissioner Reynolds** replied no, we are already paying the staff to do it. **Commissioner Dixon** stated that all she heard is that the Mayor wants a light behind the karate place and she wants one behind her house. She stated that she does not want any more money spent until we put some lights where they are needed. **Mayor Quesinberry** stated that a few years ago he proposed installing 13 new lights and increase all the small bulbs to help the police. Just let them know that we missed a spot. **Commissioner Dixon** stated that she is not for hiring anyone else or forming anything else. We have hired these people to do their job and we will address it if they are not. **Commissioner Reynolds** stated that he did not ask for it to be cumbersome. There is staff in place and the Commission needs to know how they feel about the projects and his motion stands. **Mayor Quesinberry** declared that the motion died for lack of a second. **Commissioner Nichols** stated that she would second the motion but she would like to see what staff is already working on. She agrees with **Commissioner Reynolds** that we need that kind of board to be formed. **Mayor Quesinberry** asked for clarification on **Commissioner Nichols'** second to the motion. **Commissioner Nichols** stated that she wants to see what **Mr. Bollhoefer** is working on instead of pushing it now. **Mayor Quesinberry** clarified that it really is not a second to the motion. **Commissioner Nichols** stated no, it is not. **Mayor Quesinberry** again stated that the motion failed for the lack of a second and asked **Mr. Bollhoefer** if he was going to get the Commission some information. **Mr. Bollhoefer** explained his plan. **Commissioner Dixon** told **Mr. Bollhoefer** to bring it back as quick as he can and stated that she wanted to hear his plan before forming anything new.

Commissioner Reynolds addressed the hiring of the two lobbyists and stated that Winter Garden is the lowest on the list for attention by one particular firm. We are going to be competing with the City of Orlando, which he stated currently pays one lobbyist approximately \$250,000. **Mr. Bollhoefer** stated that the City of Orlando pays **Gray Robinson** approximately \$25,000 a year. **Commissioner Reynolds** asked if it was their firm retained by Winter Garden. **Mr. Bollhoefer** replied yes. **Commissioner Reynolds** stated that they pay them about \$250,000. **Mr. Bollhoefer** stated that he checked with the Intergovernmental Affairs office of the City of Orlando and they have stated it is \$25,000. He also checked with **Fred Leonhardt** who told him it is \$25,000. **Commissioner Reynolds** responded that if you check further, he thinks you will find that the figure will be substantially more from the City of Orlando. He asked about a measuring device for the performance of the lobbyist and also to what degree of liability is the City exposed. **Mr. Bollhoefer** responded absolutely none, they have their own insurance as an independent contractor.

Commissioner Reynolds stated that with regard to commuter rail presentations, there is nothing the City can do with certain groups that may be aligning themselves with certain issues. Our job is to try and get the facts and make the best possible decision. To say some fraction of a group or an individual may do specific acts and to lump all people into that group is not appropriate. He does not think that the City should try and stifle good political conversation and good factual presentations because there maybe someone who is undesirable in promoting a certain issue or even against a

certain issue. Factual information is pertinent to making a decision. To discredit someone based on who may be supporting her, he finds to be unprofessional. **Mr. Bollhoefer** stated that part of the Commission's responsibility is to protect the citizens of Winter Garden. **Commissioner Reynolds** stated that he has not seen Ms. Baptiste make any accusations or negative comments towards anybody tonight. He doubts that you will find purity on either side of any issue all the time.

Commissioner Graham

Stated that when he voted for these two men, he had confidence in them and he still has confidence. The flyer he received only had one issue against one lobbyist. His thought was that we all make mistakes and this young man made one and is being crucified for it. He stated that he thinks he does a good job. He has known him for many years and asked the citizen who started this to cease. With reference to measuring performance, the lobbyists are hired on yearly bases and at the end of the year we can see whether they did a good job or not. He stated that he thinks a good choice was made and we will get good results.

Commissioner Dixon

Stated that with reference to the flyer about the lobbyist, she did not see it nor does she know what it said. She will be going on what his reputation and character are.

She discussed the issue of needing a streetlight behind her house. Children are committing crimes and she has confronted children 10 to 12 years old damaging her neighbor's fence. We have to do something besides allowing first time offenders to go unpunished. If they feel they got away with it, they will do it again. She wants it to stop and said so at the televised Community Action Board meeting and will say it again tomorrow to Representative Corrine Brown and Sheriff Kevin Beary at the annual legislative update. The City needs some safe neighborhood money. She suggested charging the residents of the neighborhood an additional \$2 to solve this problem and reiterated the need for lights, especially near Horizon Oaks on West Crown Point Road.

She invited the residents of Trailer City to attend the legislative update by being at the Maxey Center tomorrow at 9:30 a.m. to catch a 40-passenger bus to return after lunch.

Stated that a Diversity Day with her Town Hall meeting money is still being arranged by a committee, which is being formed and will be held the last of February or first of March.

Commissioner Nichols

Commissioner Nichols told City Manager Bollhoefer that she was really impressed with the downtown concepts and especially the mixed-use part she previously spoke about for having apartments over the stores. Mr. Bollhoefer recognized several others in the creation of the concept.

Commissioner Nichols thanked the individuals that sat on the City Attorney Selection Committee because they did a wonderful job of screening approximately 50 applications down to four wonderful candidates. Mayor Quesinberry recognized those selection committee members.

The meeting adjourned at 9:12 p.m.

APPROVED:

MAYOR JACK QUESINBERRY

ATTEST:

City Clerk Kathy Golden, CMC