



CITY OF WINTER GARDEN

OFFICE OF THE CITY CLERK

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REGULAR MEETING MINUTES

CITY COMMISSION

February 9, 2006

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

Present: Mayor Jack Quesinberry, Commissioners Theo Graham, Rod Reynolds, Mildred Dixon (arrived at 6:34 p.m.), 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, Michael Laval reporter West Orange Times, Orlando Sentinel reporter Sandra Mathers

1. **APPROVAL OF MINUTES**

Regular Meeting of January 12, 2006, Special Meeting of January 17, 2006, Charter Review Workshop of January 26, 2006 and postponement of Regular Meeting of January 26, 2006

Motion by Commissioner Graham to approve the regular meeting minutes of January 12, 2006, Special meeting minutes of January 17, 2006, and Charter Review Workshop meeting minutes of January 26, 2006. Seconded by Commissioner Nichols and carried unanimously 4-0. Commissioner Dixon arrived at 6:34 p.m.

Motion by Commissioner Graham to postpone the regular meeting minutes of January 26, 2006. Seconded by Commissioner Nichols and carried unanimously 5-0.

2. **PRESENTATIONS**

A. **Commuter Rail**

Tawny Olore, Florida Department of Transportation - Proponent Speaker (*See Attached*)

Sally Baptiste - Opponent Speaker (*See Attached*)

Michael Teague, Mayor of the City of Edgewood - Opponent Speaker

Mr. Teague referred to his city as the David to this Goliath that is coming to Central Florida. His Council opposes this particular project for the City of Edgewood based upon not only constituent feedback but on a great deal of research they have done on the project as well. He stated that the representations that have been made accuse the City of Edgewood of not doing their homework on this issue are clearly inaccurate. He stated that he has become a pseudo-expert when it comes to transportation related projects, more so out of necessity than anything else. He then explained, in detail, the City of Edgewood's opposition to this project.

Meeting recessed at 7:35 p.m. and reconvened at 7:45 p.m.

B. County Road 545 Corridor Presentation (See Attached)

City Manager Bollhoefer stated that 90 days ago staff was tasked with creating a Concurrency Management System for the City. He stated that a system is in place but wanted to update it. He stated that there are many players in this process and many are from other agencies and it is not as easy to control the time as it is in your own agency. He stated that the system is not in place 100 percent but he wanted to share what staff has at this point and where we are going in the future.

3. FIRST READING OF PROPOSED ORDINANCES

A. Ordinance 06-08: AMENDING CHAPTER 110 OF THE WINTER GARDEN CODE OF ORDINANCES RELATING TO SUBDIVISIONS BY AMENDING THE FOLLOWING SECTIONS THEREOF: SECTION 110-3, STATE CERTIFICATION OR COUNTY COMPETENCY CARD REQUIRED; SECTION 110-4, CONTRACTOR'S INSURANCE, GUARANTEE; RELEASE OF LIENS REQUIRED; SUBSECTIONS (1)O AND (8) OF SECTION 110-152, FINAL PLATS; APPLICATION, SUPPLEMENTARY MATERIALS, DOCUMENTATION, CONTENTS AND DATA REQUIRED FOR FINAL APPROVAL; SECTION 110-60, MODEL HOMES; SECTION 110-155, INITIAL COMMUNITY SUBDIVISION INFRASTRUCTURE REPORT; SECTION 110-156, SUBSEQUENT COMMUNITY SUBDIVISION INFRASTRUCTURE REPORTS AND MAINTENANCE; AND SECTION 110-171, ACCESS PROVISIONS AND GATE DESIGN STANDARDS; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Bedell read Ordinance 06-08 by title only. **Motion by Commissioner Dixon to approve Ordinance 06-08 with the second reading and public hearing being scheduled for March 9, 2006. Seconded by Commissioner Graham. Commissioner Graham** asked with reference to the certificates mentioned on page 2, section 110-3, why would we just have it for the underground projects. **Public Works Director Smith** replied that it applies to all infrastructure installed by the developer that is transferred to the City or to the Homeowner's Association (HOA). He stated it is not just underground, it also covers roads, sidewalks or any infrastructure installed prior to the construction of houses. **Commissioner Graham** stated that the latter part of the statement says "if doing underground". **Mr. Smith** responded that this applies to problems we have had with unqualified contractors doing underground construction. This requires any contractor doing underground construction in a residential subdivision to

either have a state license or an Orange County competency card. **Commissioner Graham** stated that on page 4 under 110-55 initial community subdivision and infrastructure report, just above section 8, it states the City shall be entitled to withhold issuance of certificate of occupancy or building permits for an improvement within the subdivision until such time as provision of this sections are met. He asked how we will know if this has been done. **Mr. Smith** responded that this applies to the current ordinance requiring gated communities to provide a written report to the City from a licensed professional engineer on a periodic basis on the maintenance that has been performed inside a gated subdivision. A gated subdivision is legally private property, it takes the City out of the loop when the HOA provides the City a written report on the condition and maintenance of private property; it does not do away with any of the requirements for building permits. **Commissioner Graham** asked about the change in the HOA obtaining a registered engineer inspection report every five years instead of three and how would the City know that the repairs etc. have been done if the City does not get a copy. **Mr. Smith** responded that in gated communities it is staff's opinion that it is not our business, they are still subject to code requirements but it is not the City's business to get into how you maintain private property. **Commissioner Graham** asked if the withholding of the certificate of occupancy would be for new homes only. **Mr. Smith** replied yes it just applies to new homes and has nothing to do with the infrastructure report. **Motion carried unanimously 5-0.**

- B. **Ordinance 06-12:** AMENDING CHAPTER 78 OF THE WINTER GARDEN CODE OF ORDINANCES RELATING TO UTILITIES BY AMENDING THE FOLLOWING SECTIONS THEREOF: SECTION 78-1. STANDARDS AND SPECIFICATIONS FOR WASTEWATER AND WATER MAIN CONSTRUCTION; SECTION 78-35. TEMPORARY WATER SERVICE; SECTION 78-130. PRIVATE SEWAGE COLLECTION SYSTEM CONNECTED TO POTW; SECTION 78-131. BUILDING SEWERS AND CONNECTIONS; SECTION 78-133 ADMINISTRATION, PERMITS AND MONITORING; SECTION 78-264. IN-CITY SERVICE; AND SECTION 78-268. RESTRICTIONS ON USE OF ALTERNATIVE WATER SOURCES; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Bedell read Ordinance 06-12 by title only. **Motion by Commissioner Graham to approve Ordinance 06-12 with the second reading and public hearing being scheduled for March 9, 2006. Seconded by Commissioner Nichols.** Commissioner Reynolds asked if the fees established for temporary construction work referred to home projects under development. Utilities Director Tiblier stated that these fees apply to temporary water service for such things as carnivals, not to residential homes. **Motion carried unanimously 5-0.**

4. **PUBLIC HEARING TO ADOPT STIPULATED SETTLEMENT AGREEMENT WITH THE STATE DEPARTMENT OF COMMUNITY AFFAIRS FOR FOWLER GROVES DRI**

City Planner Cechman stated that in September the Commission did approve the development order, comprehensive plan agreement and the planned commercial district for Fowler Groves. He stated that staff mailed the comprehensive plan amendment and the

development order to the Department Community Affairs (DCA) for their final review. While in review a couple of important key items were taken care of, Sembler Florida, Inc. did sign an agreement with the Florida Department of Transportation (FDOT) which came to almost \$9 million. There was also a negotiation between Sembler Florida, Inc. and the City of Winter Garden on their improvements of Daniels Road. In November, the DCA informed the City that they were going to find part of the Comprehensive Plan Amendment out of compliance. The issues of concern for the DCA was that even though there were a lot of assurances that Sembler Florida, Inc. will pay for their improvements on Daniels Road and also pay the FDOT, the DCA was not party to those agreements. If we want to renegotiate and let them out of their obligation, the DCA would not be party to it. They wanted to include some of that in the Comprehensive Plan agreement itself, that way if we did allow them out of their obligation it will require a comprehensive plan amendment. We worked out the Stipulated Settlement Agreement with the DCA, which identifies the changes that have to be done in the Remedial Comprehensive Plan amendment and the Development Order. Some of those changes include an amendment to the capital improvements plan of the comprehensive plan amendment which requires the obligation that Sembler Florida, Inc. has already committed to for paying for the improvements on State Road 50 and the improvements for Daniels Road. If the Comprehensive Plan Amendment passes now, the DCA has the assurance that they are a player in the requirements of what the Sembler Florida, Inc. is moving ahead with. Another requirement is that we amend our future traffic circulation map to include the 6-laning section of Daniels Road through the Fowlers Grove Project itself. He stated that one last change that came up in the last minute of negotiations with the DCA that was not in the agenda package was the elimination of a sentence in the stipulated settlement agreement. "Upon the developer obtaining all necessary approvals and/or does not purchase the property", needs to be removed from the Comprehensive Plan Amendment and the Stipulated Settlement Agreement. He stated that the Comprehensive Plan Amendment, Stipulated Agreement, the Amendment to the Planned Commercial District (PCD), and the Development Order all went to the Planning and Zoning Board last Monday night. The Planning and Zoning Board did recommend approval of the Comprehensive Plan Amendment, the Remedial amendment and the change for the Development Order, but recommended denial for the change in the PCD. Sembler Florida, Inc. has requested some changes and some times the Home Improvement store to open earlier in the morning and the exercise studio to open earlier in the morning and stay open later at night. The Planning and Zoning Board did recommend denial of that request. With that stated, staff does recommend approval of the ordinance.

Mayor Quesinberry opened the public hearing.

Becky Furman, on behalf of the Sembler Florida, Inc. stated that she was here to agree with staff's recommendation. She stated that she was unclear as to whether we have opened up the stipulated settlement agreement, the remedial comp plan, and the PCD for discussion. Mr. Cechman stated that it is hard to address one without talking about the other and explained the three items before the Commission. Mr. Bollhoefer suggested dealing with each issue independently. Mr. Cechman apologized and stated that the first is the Stipulated Settlement Agreement, which identifies the fixes to the Comprehensive Plan Amendment, the DCA found not in compliance.

Bill Garnett, 9000 Seidel Road, Winter Garden, Florida stated that he thinks before anything else is done on County Road 535, we should make sure that bike paths are put in. He stated that perhaps Disney could help as they contribute to traffic with their employees. He has ridden his bicycle for years on that road and has counted the cars, He thinks it is time they get on board and if we are rezoning that property lets include that. He stated that we also need busses.

Ed Lynch, 660 Home Grove Drive, Winter Garden, Florida stated that with reference to these ordinances this is your last chance to shut down this mall as it should be, it's too big.

Shirley Smith, 21 West Crest Avenue, Winter Garden, Florida stated that the Sembler Florida, Inc. has spent a lot of time, as has the City, on building this mall for our convenience. She stated that she does not know why everybody is so worried about this mall when she sees hundreds and hundreds of acres of new housing projects being approved. We hardly have anymore land and we are never going to grow anymore roads. We need local transportation for people working at this mall. What we decide to do with our planned growth, our roads, our communities, our conveniences for shopping and travels, hospitals and schools is very important. There are a lot of people that want and need conveniences. This mall will be built by the people who built the mall at Millennia and we deserve the best that we can get, and Sembler Florida, Inc. is the best that we can get. She stated that she is for the mall.

Edward Bowman, 14 Laurel Drive, Winter Garden, Florida stated that the mall in itself is not a bad thing. It is where you put it. If you want to put a mall in of that size, take it where there are no houses and people that want to live next to it will have the option to build next to it.

James Balderrama, 14315 Hampshire Bay Circle, Winter Garden , Florida stated that getting access to some of the information was not possible on the City's website and this is the first that he was able to review it and asked the Commission to delay this item for a couple of weeks. He stated that no one for the mall or against the mall has had the opportunity to review this information unless they were one of the Attorneys. He stated that he thinks it would be fair to the citizens of Winter Garden to be able to review and be able to form accurate, educated judgments.

Mayor Quesinberry stated that there has been a public hearing on this issue, Planning and Zoning Board has met on it and Board Member Colin Sharman made the motion to approve it at their last meeting. Mr. Balderrama stated that the public through the City's website is was only able to see a letter posted from the Sembler Florida, Inc. saying they would like to extend their hours. He stated that this is the only thing that was published on the City's website. The agreement with the DCA is not published. Commissioner Graham stated that 06-09 was going to be postponed because of an error in advertising. Mr. Balderrama stated that the ad in the paper stated to go to the City's website for more information. He stated that the information is not there.

Mayor Quesinberry asked Planner Cechman if there was any comment on this information. Mr. Cechman stated that there was not an error in the advertisement. The advertising for the change in the development order is 30 days and staff could not get it in for this meeting. It was not wrong, we just added more time and the first meeting we could put it on with the 30-day notice was the meeting of February 23rd for first reading and March 9th for the second reading.

Commissioner Reynolds asked if we are now discussing the Ordinance 06-10. Attorney Bedell replied that right now the discussion is on the Stipulated Settlement Agreement. Ordinances 06-10 and 06-11 will be addressed later.

Hal Beckenmeyer, 1647 Winter Garden Vineland Road, Winter Garden Florida stated that on the Stipulated Settlement Agreement nothing of substance has been changed. It is only paperwork to satisfy the state. There has been a public referendum with 75 percent of the constituents stating they want the mall. He urged the Commission to go ahead and complete this project.

Commissioner Reynolds stated that the only real changes have been the money that Sembler Florida, Inc. is contributing to the roads. Mayor Quesinberry then closed the public hearing and requested City Planner Cechman to come forward and explain what is being reviewed. Mr. Cechman stated that we have a Stipulated Settlement agreement. Commissioner Nichols asked if that is 06-09. Mr. Cechman replied no, this does not have an ordinance number it is just an agreement that includes the removal of the one sentence he referenced earlier. **Motion by Commissioner Reynolds to approve the Stipulated Settlement Agreement with the State Department of Community Affairs for Fowler Groves DRI. Seconded by Commissioner Dixon and carried unanimously 5-0.**

5. **FIRST READING AND PUBLIC HEARING OF PROPOSED ORDINANCES**

A. **Ordinance 06-10: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING THE WINTER GARDEN COMPREHENSIVE GROWTH MANAGEMENT PLAN IN ACCORDANCE WITH A STIPULATED SETTLEMENT AGREEMENT BETWEEN THE CITY OF WINTER GARDEN AND THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS BY AMENDING POLICY 3.3 OF THE CAPITAL IMPROVEMENTS ELEMENT BY PROVIDING FOR PROPORTIONAL SHARE CONTRIBUTIONS FOR TRANSPORTATION IMPROVEMENTS AND ADDRESSING TRANSPORTATION CONCURRENCY PERTAINING TO THE FOWLER GROVES DEVELOPMENT OF REGIONAL IMPACT; ADDING POLICY 1.4 TO THE CAPITAL IMPROVEMENTS ELEMENT TO PROVIDE FOR MAJOR CAPITAL EXPENDITURES TO DANIELS ROAD AND STATE ROAD 50 RESULTING FROM DEVELOPMENT OF A DEVELOPMENT OF REGIONAL IMPACT; AMENDING THE FUTURE TRAFFIC CIRCULATION MAP OF THE TRANSPORTATION ELEMENT BY DEPICTING THE SEGMENT OF DANIELS ROAD THROUGH THE FOWLER PROPERTY AS A SIX-LANE ROAD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE. (Fowler Remedial Comprehensive Plan Amendment)**

City Attorney Bedell read Ordinance 06-10 by title only. City Planner Cechman stated that now that we have the approved Stipulated Settlement Agreement with Department of Community Affairs, the first step in implementing the requirements is to pass a Remedial Comprehensive Plan amendment which is what was just read. Staff recommends approval with the one small change to eliminate one sentence as presented to the Commission before the meeting.

Mayor Quesinberry opened the public hearing, hearing and seeing none, closed the public hearing. **Motion by Commissioner Dixon to approve Ordinance 06-10 with the second reading and public hearing being scheduled for February 23, 2006. Seconded by Commissioner Graham and carried unanimously 5-0.**

- B. **Ordinance 06-11:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ORDINANCE NUMBER 05-24, RELATING TO THE REZONING OF CERTAIN REAL PROPERTY GENERALLY DESCRIBED AS 174.8 ACRES OF LAND LOCATED NORTH OF THE WESTERN BELTWAY AND EAST OF COUNTY ROAD 535, GENERALLY KNOWN AS THE FOWLER PROPERTY, FROM CITY R-1 TO CITY PCD, BY AMENDING SUBSECTION "t" OF SECTION 2 OF ORDINANCE NUMBER 05-24 PERTAINING TO HOURS OF OPERATION PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE (Winter Garden Villages at Fowler Groves PCD Amendment)

City Attorney Bedell read Ordinance 06-11 by title only. City Planner Cechman stated that this is minor amendment to the zoning and this is not a requirement of the Department of Community Affairs. He stated that this is a request of Sembler Florida, Inc. to make the minor amendment. This is the ordinance that the Planning and Zoning Board recommended denial.

Mayor Quesinberry opened the public hearing.

Rebecca Furman of Lowndes, Drosdick, Doster, Kantor & Reed, P.A. representing the Sembler Florida, Inc. stated that they are were asking for four changes: allowing the home improvement store to be open at 6:00 a.m. instead of 6:30 a.m., allowing the gym to open at 5:00 a.m. and stay open until midnight instead of 11:00 p.m., and allow loading dock activity only at the home improvement store at 6:00 a.m. instead of 6:30 a.m. At the Planning and Zoning there were a lot of people who spoke against the loading dock activity and opening the home improvement store early. She stated that they went back to their tenant to let them know. She stated that when we first came before the Commission they did their best to have this in order so that they would not have to come back and ask for changes. They believe they can work out their issues with the opening of the loading dock and the home improvement store and are withdrawing that request. They have also spoken to the gymnasium and will also withdraw the request that they hours be extended from 11:00 p.m. to midnight. The health club has said that in order to have a health club, they need to open at 5:00 a.m. so people can exercise before they have to drive into work. She stated that this would be the one request to change the PCD.

Commissioner Reynolds stated that he personally does not favor increasing the hours for the home improvement center. With the obesity problem being what it is today, he thinks that allowing the exercise facility to open early is a separate issue and he thinks they should be divided. There are critical times during the year that residents need to protecting their homes and property and he would like to see a stipulation to allow that if there is a named storm that was going to cut through the state in this region, that is projected within 72 hours before impact that the home improvement center be allowed to remain open for 24 hours, if necessary, so that people can get their supplies. **Ms. Furman** responded that they would be happy to include the suggestion. **Mayor Quesinberry** pointed out that he thinks this would have to go back to the Planning and Zoning Board. Right now, the request is only for extending the time for the work out center. **Ms. Furman** stated just to extend into the morning by one hour. **Commissioner Nichols** suggested that they go back and start over with all of this before the Planning and Zoning Board because she would like to know the Planning and Zoning Board's opinion. **Commissioner Dixon** suggested that we go on with what is before the Commission it is ultimately up to the Commission to make the decision. **Motion by Commissioner Graham that because the applicant has withdrawn their request and made revisions, the request be returned to the Planning and Zoning Board for their review of the request to extend the open hours at the health club. Seconded by Commissioner Nichols.** Mayor Quesinberry stated the public hearing is closed and as he understands it, the Commission would like the Planning and Zoning Board to also consider allowing the home improvement store to remain open during a declared disaster. **Motion carried 4-1; Commissioner Dixon opposed.**

6. **SECOND READING AND PUBLIC HEARING 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. City Planner Cechman stated that this ordinance, when advertised in the newspaper included the wrong map and that is why staff is asking that this item be postponed. **Motion by Commissioner Graham to postpone Ordinance 06-03 with the second reading and public hearing being scheduled for February 23, 2006. Seconded by Commissioner Nichols and carried unanimously 5-0.**

City Attorney Bedell stated that Ordinances 05-18, 05-19 and 05-44 all relate to the same project (Alexander Ridge) therefore he will read all the ordinance tiles opening them all at the same time for a public hearing and then there should be a separate vote on each ordinance.

- B. **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 CR545 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) **AND** an annexation agreement
- C. **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 CR545 AND TILDEN ROAD AS CITY LOW DENSITY RESIDENTIAL, COMMERCIAL, AND CONSERVATION OVERLAY; PROVIDING FOR AN EFFECTIVE DATE (Karr-Allen Alexander Ridge)
- D. **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)

Mayor Quesinberry opened the public hearing for all three ordinances (05-18, 05-19, and 05-44) and the annexation agreement.

City Planner Cechman stated this is all one piece of property called Alexander Ridge that is currently owned by four different owners that want a PUD rezoning to allow for townhomes and single-family houses. In the future, they want a commercial piece and they are not rezoning that tonight and do not have any details at this time. If it is approved tonight the Commission will be amending the comprehensive plan amendment. The first order of business is the annexation agreement then the ordinance is to approve the annexation, which both need to be acted upon before anything else. He stated that the annexation agreement in the agenda package does have one small change regarding a percentage breakdown that this project along with three other projects will have to contribute toward intersection improvements at County Road 545 and Tilden Road. The applicant is willing to pay for his fair share as identified in the annexation agreement. The applicant is also willing to pay for his fair share in the way of increased impact fees for the final solution as to what will be done on County Road 545. He is also willing to pay a higher amount for recreation fees also in the annexation agreement. With all of that, staff does recommend approval and the applicant is in the audience to answer any questions.

Mayor Quesinberry again announced that this is a public hearing.

Kurt Ardaman, 170 East Washington Street, Orlando, Florida stated that we have been working on this project for about two and a half years with staff and commended staff on doing a great job. Staff has been very tough on the owners and consultants. The second and third ordinance actually implement the overall plan. The Planner, Jim Hall, has the diagram to show the Commission what it looks like. **Mayor Quesinberry** asked Mr. Ardaman if he was the spokesman for them and have they agreed to all the stipulations. **Mr. Ardaman** stated yes, they are all agreed.

Jim Hall, Kane & Associates, stated that they have worked long and hard with staff, particularly with over an open space system running through the whole property. There are some townhomes that are all rear loaded with no garages on the front. They have worked with the neighbors and provided a horse/pedestrian trail on the south part of the property to tie into the Avalon rural settlement and have tried to work out and compromise including the participating in the County Road 545 intersection with a super impact fee and paying additional park fees above and beyond what the City normally expects. **Mr. Ardaman** noted that on the PUD document plan shows a 30-foot trail easement to help accommodate the neighbors, the owners did agree to convert that 30-foot trail easement and convey it to the Avalon Property Owners Association. He stated that with that modification to the plan, they respectfully request approval by the Commission.

Commissioner Reynolds asked if the development agrees with the City Manager's analysis that the \$9,000 plus figure could be a possibility and accept whatever the open-ended amount is. **Mr. Ardaman** stated yes; specifically the agreement deals with that and requires the developers to pay what is adopted by the City and the City's impact fee. He understands the current City impact fee to be slightly under \$4,000 per unit, the \$9,000 is more than double what they would have to pay today. **Commissioner Reynolds** asked if he had a copy of the annexation agreement with him and if he would look at page 4 under paragraph E, which addresses the \$9,000 less the then existing transportation impact and asked Mr. Ardaman to explain that. **Mr. Ardaman** replied, that is the \$9,000 amount that would have to be paid, less the impact fee, which would be a difference. The next page has a statement that if the City has adopted a transportation impact fee ordinance which increases transportation impact fees that are assessed in part to cover the widening of County Road 545, the owners of the subject property may continue with their respective developments by paying the newly adopted transportation impact fee in lieu of the \$9,000. Above that part, the agreement it states that "each of the owners of the residential and commercial portions of the property shall, as a condition precedent to approval of the preliminary subdivision plan or preliminary site plan, participate in the road plan on a fair share basis, which is expected to be based on the ratio of average daily trips generated by the development seeking approval". What that says is, when the City has its plan in place, whatever that fee is at that time, the developer would be obligated to pay that amount. **Commissioner Reynolds** asked what about the residents that may already be there. **Mr. Ardaman** responded that the actual transportation impact fees are paid at the time a building permit application is pulled so it would be part of the purchase price of the home.

Mayor Quesinberry again asked if there was anyone to speak to this item, hearing one seeing none, he closed the public hearing.

Commissioner Nichols asked if it will be gated and what the acreage of purposed future commercial will be. **Mr. Ardaman** responded it will not be gated and each commercial corner would be four acres and would only be neighborhood commercial to support the neighbors, not regional or area wide.

Motion by Commissioner Dixon to approve the annexation agreement and Ordinance 05-18. Seconded by Commissioner Nichols and carried unanimously 5-0.

Motion by Commissioner Dixon to approve Ordinance 05-19. Seconded by Commissioner Nichols.

Commissioner Graham asked when will the Commission get the proposed comprehensive plan for the Wekiva requirements on the percentage of open space requirements. By approving this ordinance, they will be using 20 percent and he are really wanted to get it to 35 percent. **Mr. Cechman** responded that he and staff have met with the Department of Community Affairs (DCA) at a workshop yesterday and the 13 communities should have had it done by January 1, 2006 and he thinks that only one has completed it. The DCA is now producing model goals, objective and policies (GOPS), so they have told us not to worry that we are out of date because pretty much every one is, but slow down and do it properly instead of rushing things through. We did receive our ORC report from the DCA on our Comprehensive Plan amendment request that has not yet been adopted by this Commission, it has just been transmitted. Staff is working through items with the DCA right now. **Commissioner Graham** stated that his problem is that he would really like to see the 35 percent. As we keep getting more developments on CR 535, are we going to keep giving 20 percent instead of 35 percent? **Mr. Cechman** stated that staff started working with Alexander Ridge two and a half years ago, and the first round of plans had approximately 600 plus units and staff said it was too dense and directed them to go back. They went through three or four sets of plans to get to the plans before the Commission tonight. All new developments coming through are going to know about our requirements for Wekiva and open space. **Commissioner Graham** stated that we are still killing our water aquifer if we don't stop letting them cover so much of our property when you are building. He wants the lots made bigger so that when the rain comes off of the roof it will have somewhere to soak in. We are covering the ground with pavement and houses and we will run out of water one of these days. **Mr. Ardaman** stated that the only had to meet 20 percent but we did more than that. It was 23.2 percent of open space that this development provides, which is 21.1 acres, but if you actually look at the impervious and pervious areas if this was built out, you'll have a total of 66.8 acres that is pervious, which is 64 percent of that gross area that will be pervious. In addition, because it is in the Apopka Basin they will provide pre and post treatments for the 100-year storm. This project will meet and far exceed what most other projects would have to and the soils here are well drained. **Commissioner Graham** stated that he was not trying to affect this specific project but wanted to see the Comprehensive Plan in effect before approving a more in that area. **Motion carried unanimously 5-0.**

Motion by Commissioner Dixon to approve Ordinance 05-44. Seconded by Commissioner Graham and carried unanimously 5-0.

- E. **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. Mayor Quesinberry opened the public hearing.

Bill Garnett, 9000 Seidel Road, Winter Garden Florida asked what does this mean and what are self-contained containers. **Public Works Director Smith** explained they are an open top roll-off container as seen at every construction site primarily for construction debris, not household garbage.

Mayor Quesinberry closed the public hearing. **Motion by Commissioner Graham to adopt Ordinance 06-04. Seconded by Commissioner Reynolds. Commissioner Reynolds** stated that we were attempting to plug holes in the existing garbage management ordinance and asked why we ended up at this point rather than reworking the ordinance and making the proposal for that ordinance. **Mr. Smith** stated there are very specific reasons, one is that our non-exclusive franchise for all commercial service expires December 31, 2006. Also, part of this recommendation is that we need a complete financial analysis and study of the solid waste business in our business plan. Instead of trying to do a full interim fix, this is kind of a “plug the hole” attempt to get us through the full financial analysis and business plan. There are some in-house studies that say the solid waste division of Public Works can take all commercial service in-house and generate substantial revenue. Staff wants an outside source to tell them this fact. Staff did compare Winter Garden’s franchise ordinance with other cities and most other cities do not include residential roll-offs in their franchise and their average fee is 22.9 percent and he rounded it up to 25 percent. It includes an increase in residential fees every time a residential building permit is pulled, a fee for polycart (hobo) and the two recycle bins. **Commissioner Reynolds** asked what about the pole in the ground with the chicken wire. **Mr. Smith** replied that issue is in a separate section 58 under sanitation, not in the roll-off ordinance. It even allows a homeowner to haul their own garbage to the landfill or to the dump, should they want to. This ordinance states that for residential construction and remodeling, the contractor must either place it in a container or contain it and most people interpret “contain it” as allowing chicken wire so it does not scatter or blow, and it is staff’s interpretation that they at least meet the spirit of the ordinance. **Commissioner Reynolds** asked how do we regulate that and also make sure we are getting our franchise fee out of the chicken wire pit. **Mr. Smith** replied we are, we are going to collect \$100 on every new residential building permit. **Commissioner Reynolds**

asked if it costs them the same price to have a dumpster or chicken wire pit. **Mr. Smith** stated that it would be the owner or contractor's choice. **Motion carried unanimously 5-0.**

7. **REGULAR BUSINESS**

A. **Request for sponsorship by purchasing an advertisement for the West Orange High School Theatre Department**

Mayor Quesinberry called Ms. Brooke James who was not present. **Motion by Commissioner Graham to postpone until next meeting of February 23, 2006. Seconded by Commissioner Dixon and carried unanimously 5-0.**

B. **Recommendation to approve an Interlocal Agreement with Orange County for the Creation of a County Wide Watershed Atlas**

Public Works Director Smith stated that Orange County is requesting the City's participation in a watershed atlas. Orange County is contracting with the University of Florida and the University of South Florida to provide the following information on every water body in Orange County to include: Water Quality Data, Total Maximum Daily Load (TMDL), Daily Weather Data, they will devise proposed watershed projects and reports, and fund projects for volunteers such as historic photos and documents of all watersheds and bodies. There will be brochures available at City Hall that will illustrate the information that is available in this watershed atlas as well as a website with full access to all of this data. The County asking the City to fund this over a three-year period of \$1,952 a year for a total of \$5,856. He stated that he could not collect the TMDL data on one water body for that price. He has current funding to cover it for this year and recommends approval to authorize the interlocal agreement. **Motion by Commissioner Graham to approve Interlocal Agreement with Orange County for the creation of a County Wide Watershed Atlas. Seconded by Commissioner Nichols and carried unanimously 5-0.**

C. **Recommendation to approve Preliminary Plat for Avalon Reserve Townhomes**

City Planner Cechman stated that this is located on County Road 545 near Stoneybrook Parkway and is for a 136-townhome project. Staff has reviewed this and recommends approval of the project. The Planning and Zoning board reviewed this item on January 9, 2006, and also recommended approval. The applicant is also willing to contribute to a final solution of County Road 545. **Motion by Commissioner Graham to approve the preliminary plat for Avalon Reserve Townhomes. Seconded by Commissioner Dixon. Mayor Quesinberry** recognized Mr. Randy June, project representative, who stated that they concur with staff on all aspects. **Commissioner Reynolds** asked why there was not any park contribution in the project and asked why. **Mr. Cechman** stated the developer will have to pay recreation impact fees, which is approximately \$650 per house. **City Manager Bollhoefer** restated that the question is why this project did not have the additional impact fees that the projects have. **Mr. Cechman** stated that the other project required annexation, comprehensive plan amendment, and required rezoning as opposed to this project that has already been thorough the process. **Commissioner Reynolds** stated that we still have the issue of needing the parks in that area. **Mr. Cechman** responded yes, we could always use more park land.

Commissioner Reynolds stated that the Mr. June indicated they were willing to do whatever they needed to do, right. **Mr. June** stated that with respect to roads they would be willing to do what everybody else is doing with respect to paying all the impact fees. As far as negotiating a deal beyond what they already done with the approved rezoning, he would rather stick with the code as it presently stands. **Commissioner Reynolds** confirmed with Mr. June that his preference was not to make any additional contributions towards parks. **Mr. June** replied that would be his preference. **Motion carried 4:1; Commissioner Reynolds opposed.**

D. Recommendation to approve interlocal agreement with the Town of Oakland regarding the Oakland Park development

City Manager Bollhoefer stated that this project will be approximately two thirds in the City of Winter Garden and one third in the Town of Oakland. Therefore, in order to accommodate this type of project an agreement is needed between the two cities to address who will take care of stormwater, solid waste etc. The Commission has been provided with a copy with some very minor changes. **Motion by Commissioner Dixon to approve interlocal agreement with Town of Oakland regarding the Oakland Park development. Seconded by Commissioner Graham and carried unanimously 5-0.**

E. Resolution 06-04: ESTABLISHING A CHARTER REVIEW COMMITTEE, ESTABLISHING ITS DUTIES, ESTABLISHING APPOINTMENT OF MEMBERS, ESTABLISHING ORGANIZATION, PROVIDING FOR THE SUNSETTING OF THE CHARTER REVIEW COMMITTEE AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Bedell read Resolution 06-04 by title only. City Manager Bollhoefer stated that this is the resolution that came out of the last meeting. **Motion by Commissioner Dixon to approve Resolution 06-04. Seconded by Commissioner Graham. Commissioner Reynolds** noted that he had previously put forth a suggestion that the members of the committee be Winter Garden citizens and registered voters and he did not see where that appeared in the resolution. **Commissioner Graham** stated that he thought that would be on the application. **Mr. Bollhoefer** stated that each Commissioner could ensure that their appointees meet the criteria. **Commissioner Dixon** stated that she wished to assure residents that she is getting two people that she wants to appoint. She doesn't want anyone addressing what District he or she comes from. **Mayor Quesinberry** asked City Clerk Golden if she had the voter requirement on the application. **Ms. Golden** stated that she does not believe it is included on application but she can verify voter information for any candidate a Commissioner is considering. **Motion carried unanimously 5-0.**

F. Resolution 06-05: URGING MEMBERS OF THE FLORIDA LEGISLATURE TO SUPPORT THE FOLLOWING ISSUES DURING THE 2006 LEGISLATIVE SESSION

City Attorney Bedell read Resolution 06-05 by title only. Mayor Quesinberry stated that this a Winter Garden resolution that he thinks should be adopted to require the legislature to listen and pay attention. Commissioner Graham stated that it would be good to have entire resolution read as to what the City would be asking the legislature. Attorney

Bedell read the bulleted points of the resolution. **Motion by Commissioner Graham to approve Resolution 06-05. Seconded by Commissioner Reynolds and carried unanimously 5-0.**

8. MATTERS FROM CITIZENS

Gloria Quesinberry, 900 W. Plant Street, Winter Garden, Florida stated that her husband, Jack Quesinberry has been the Mayor of the City of Winter Garden for the past 14 years and this is the first time she has spoken at a City Commission meeting but she wants to publicly thank him and let everyone know just how proud she is of what he has done for Winter Garden, his integrity, honesty and the smile to everyone he passes.

Miriam Lancaster, 301 E Smith Street, Orlando, Florida stated her reasons for opposing commuter rail. It will be extremely costly to residents. She also presented Mr. Ron Lancaster's (no relation) suggestion to utilize idle charter buses because the cost would be known and they could be flexible.

Charlie Klein, 3213 Flowertree Road, Orlando, Florida stated he as worked out system since 20/20 mobility that he calls a mini bus system and explained the concept of small busses transferring to larger buses. The service could be fine-tuned for Winter Garden and would be flexible. He stated that he has provided a "Survey for Mass Transit" and highlights of his bus hub system. The survey could be customized for Winter Garden, handed out and returned to him to give to Lynx. Lynx is interested is giving better service to Winter Garden and other areas.

Josephine Miller, 9000 Seidel Road, Winter Garden, Florida stated her opposition to commuter rail and added that those who rally want it should pay for it.

Jerry Carris, 347 Bayside Avenue, Winter Garden, Florida stated that the Central Florida fair will be held April 20th and Winter Garden has not been represented in the past few years and he thinks the should be in the fair again. City Employee and local Masonic member Bart Patria has agreed to help him set up a 10 x 20 exhibit. Ms. Aldrich will canvass the downtown merchants to see what they can put in the exhibit and he has asked the City Manager for photos of the elected officials. He stated that he is asking the City to pay for their expenses not to exceed \$500. **Motion by Commissioner Graham to approve reimbursing Mr. Carris for receipts up to \$1,000 for a City exhibit at the 2006 Central Florida Fair. Seconded by Commissioner Dixon and carried unanimously 5-0.**

Mr. Carris also addressed the last Commission meeting whereby one Commissioner, it seemed to him, to be giving staff orders, which is unacceptable because the City Manager works for the City Commission and is to whom their questions should be addressed. The City Manager is very competent and if he does not have the answer, he will call on staff. He hopes the Commission will take this to heart from their employer, a voting city resident.

Brandon Simpson, 2916 Vine Street, Orlando, Florida stated his opposition to commuter rail and the costs that will affect his future and recommended exploring the bus hub system previously mentioned.

Shirley Smith, 21 W. Crest Avenue, Winter Garden, Florida, addressed pedestrians at Dillard and Plant streets, Dillard, and SR 50 have no digital yield to pedestrian signs. They should also be considered at Park Avenue and CR 535 at State Road 50 because a lot of people walk and it is otherwise dangerous. Regarding the Charter Review Committee, she is concerned about opening it up to those outside the City because they do not know or appreciate our needs. They should live here and know our City's needs and be a registered voter. Roads are in need of repair and the FDOT has collected our tax dollars, taken those funds elsewhere, while they need spend those funds here in Winter Garden. Depending on FDOT for a rail system is not even ludicrous.

Richard Napotnik, 1633 Fullers Cross Road, Winter Garden, Florida stated his opposition to commuter rail and he can visualize it being an enormous nightmare. He suggested looking at an elevated train such as the Disney monorail system. He thanked Commissioner Reynolds for voting no on increasing property taxes. The bus system may be beneficial. He also pointed out that a lot of money has been spent elsewhere when District 3 needs the funds spent there.

Merv Daniels, 433 N. Main Street, Winter Garden, Florida stated that he doesn't believe or like the new politics and there are many more that don't believe in half truths or putting people down that don't agree with you. Commuter rail is good with the right application. He suggested taking the time to analyze what has been said, get the facts and figures, and come back with a well thought out resolution that will benefit the community. If the northeast corridor wants to invest their money fine, but we should be clear that we oppose the use of any revenues that are marked for Orange County transportation not be used for anything than to meet the transportation needs of West Orange County.

Bill Garrett, 9000 Seidel Road, Winter Garden, Florida stated that while he lives 15 miles south of Winter Garden he considers himself a part of Winter Garden and considers it his home and what affects the community affects him. He opposes commuter rail and he thinks small buses is a better alternative as is bike paths.

Kent Horsley, 1679 Victoria Way, Winter Garden, Florida he knows that City staff is aware of the flooding situation at Chapin Station and is wondering if the Commission is aware of just how serious it is. All adjoining properties to Chapin Station are flooding daily from rains and drainage. It was wetlands for forty years for a reason, the developer was allowed to haul in dirt making it 10 to 12 inches higher than the surrounding properties, and that explains what is happening when the water runs downhill making it a very serious issue. He urged the City Commission to convene a review board of qualified engineers, city staff, and adversely affected residents to study the issue to ensure to the community that it can and will be solved in a timely manner and ensure this will not occur in future developments.

Sandra Rice, 1181 W. Crown Point Road, Winter Garden, Florida stated that her home is one of the homes under water and has been for several years. In 2004, the City vacated a roadway 40 feet by 190 feet and gave it to her but she only actually has half of it. The ditch was dug on her portion of the vacated property she has the drainage from Chapin Station because of that ditch. The problem has not been solved and now she has a 190-foot ditch that she does not want and should not have to solve Chapin Station's problem. She appreciates the City of Winter Garden and knows that she will be helped.

Edward Bowman, 14 Laurel Drive, Winter Garden, Florida addressed the rail system and that is not feasible for a city that is so wide spread and there is no large concentration of employment. It will be an albatross.

Allison Painter, 393 N. Lakeview Avenue, Winter Garden, Florida stated she is proud of what the downtown area looks like. If the City continues to build and grow, mass transit is the only answer. Look to the future and consider what you will need for transportation.

James Balderrama, 14315 Hampshire Bay Circle, Winter Garden, Florida stated he is already seeing changes being proposed for the mall after Planning and Zoning has said no they are asking the Commission to say yes. Will Sembler deliver what they promised? He thanked the City Manager for his presentation on 545 but why didn't it include some money being set aside for CR 535. He asked that when a Commissioner is speaking to ask public outbursts to stop while they are speaking.

Ed Lynch, 660 Home Grove Drive, Winter Garden, Florida suggested making the mall family friendly and make all businesses close by 11 p.m. and send these recommendations back to the Planning and Zoning Board. He also suggested ways to shorten Commission meetings by limiting each meeting to one rezoning public hearing to one per meeting and moving matters from citizens to earlier in the meeting as to become part of deliberations when the item is considered. He also suggested having Commissioners more accessible by email because he only has received communications back from some of the Commissioners. He suggested having presentations sponsored by the Commission or as a roundtable discussion on growth management. He thanked the City Manager for making the full text of ordinances available on the internet.

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

10. **MATTERS FROM CITY MANAGER**

City Manager Bollhoefer stated the Public Works Director will be giving an update but he wanted to advise the Commission that staff has been out to Chapin Station area and know that it is much more than one yard. Staff has changed how plans will be reviewed and will not look beyond the borders of the site plan submitted and evaluate what affect they will have on neighboring lands. Public Works Director Smith stated that he has met with Ms. Rice and with the Compliance Official for St. Johns River Water Management District (SJRWMD), who is addressing this as well. He explained the temporary fix done by the City that included constructing a swale one foot deep, by one foot wide, by 190-foot long ditch in front of Ms. Rice's property to catch the water before it gets to her house. Her home does sit in a hole

when you look around at the surrounding areas. Commissioner Graham asked if the County is involved. Mr. Bollhoefer replied not at this time because it is under the City's jurisdiction. Mr. Smith added that SJRWMD advised him not to do anything else until they contact the developer and the engineer of record for Chapin Station and Tuscan subdivisions.

Mr. Bollhoefer stated that the Orange County Housing and Community Development Division has about \$2 million available from a hurricane fund for remodeling home at \$30,000 per home and the City could repair up to 20 a year. He learned during the past weatherization program that paying the contractors in a timely manner we can get the contractors working for the city. He distributed the proposed agreement. **Motion by Commissioner Reynolds to approve applying for home repair funds from the County Housing and Community Development Division. Seconded by Commissioner Dixon.** Commissioner Graham asked if it includes only the east side of Winter Garden. Mr. Bollhoefer replied that the east side is the primary focus but it does include other locations. **Motion carried unanimously 5-0.**

Mr. Bollhoefer stated that the County has been wanting to give the City County Road 535 that runs from State Road 50 to State Road 429 but didn't want to do anything to it. In working with the County and Sembler an agreement has been reached whereby the County will repave the road and Sembler will pay for installing the stormwater pipe which is about a \$1 million for both portions of the project to get it up to standards without any cost to the City. He believes that in the long run the City is better off being in charge because the City will do a better job of maintaining it. He asked for direction regarding moving forward with negotiating agreements with the County and Sembler in this regard. Commissioner Reynolds asked what section of County Road 535 was being addressed. Mr. Bollhoefer replied it is south of 50 out to connecting with State Road 429. Commissioner Reynolds asked if we were to take this road over is there a possibility we could 4-lane it. Mr. Bollhoefer stated that it could be 4-laned but it would not be good to 4-lane a road so close to Daniels Road, which will be 4-laned as an alternate route, but once the City owns it can make those decisions. There was discussion on the condition the road should be in before the agreed transfer. Mr. Bollhoefer asked for direction from the Commission regarding him moving forward on this issue with any agreement reached being brought the Commission for final approval. Commissioner Nichols asked to hear from someone living off County Road 535. Mr. James Balderrama was recognized to speak on this issue. His biggest concern is the current speed limit that needs to be lowered and right-hand turn lanes for the Black Lake subdivision of hundreds of homes. He would like the City to address these items if they take over the road. There was discussion as to what the costs will be for possible future changes and there was a consensus that the County will not help with the road improvements. Commissioner Reynolds stated that the funds for maintaining the road has been collected by the County and it gripes him that it is not being maintained, but he doesn't think there is much of a choice. **Motion by Commissioner Graham to approve of the City Manager negotiating an agreement with Orange County and the developer. Seconded by Commissioner Dixon and carried unanimously 5-0.**

Mr. Bollhoefer stated that the Community Redevelopment Area (CRA) Advisory Board this past year has been working on a master plan for the CRA with emphasis on the East Winter

Garden area and will be bringing it to the City Commission soon. Staff has also been looking for land and lots for Homes in Partnership to build affordable housing. Staff is also working to locate an office for Ms. Dennard to set up her minority business so there is emphasis on CRA projects in East Winter Garden.

He will also be speaking with Commissioner Dixon regarding her concerns about additional bus routes.

11. MATTERS FROM MAYOR AND COMMISSIONERS

Mayor Quesinberry recognized Human Resources Director Gilbert regarding the hiring of Attorney Gerry L. Clark. Mr. Gilbert referenced the proposed employment agreement negotiated with Mr. Clark who has agreed to the terms and conditions. Mr. Gilbert explained the majority of the contract is the same as the City Manager's contract and asked the Commission how they would like him to proceed. Commissioner Reynolds asked if salary comparables were done. Mr. Gilbert replied that the range is \$100,000 to \$130,000. Commissioner Reynolds asked what the value of an automobile is for a year. Mr. Gilbert replied it is from \$16,000 to \$19,000 and is insured through the PRM pool. Mayor Quesinberry recognized Ms. Pam Stewart who works for attorneys addressed the moving allowance of \$10,000 being a bit high. Mr. Gilbert stated that housing will run about \$4,500 and probably no more than \$2,000 to move his personal items, but \$10,000 is the maximum. Commissioner Nichols asked staff how much was budgeted. Finance Director Strobeck replied that the budget did not include an in-house attorney we budgeted for routine legal expenses. The in-house attorney budget will have to come back as a budget adjustment. Commissioner Reynolds asked if this was Mr. Clark's first request. Mr. Gilbert stated negotiations had gone back and forth on some issues so it is not the first.

Commissioner Nichols asked if the car would be used for business and personal use. Mr. Gilbert responded that it would be for travel back and forth to work and business. Commissioner Reynolds asked about offering a vehicle as an incentive for contract renewal. Mr. Gilbert replied that the package presented is a standard package and Mr. Clark would probably not come for any less. If there is no car, he probably would not come.

Commissioner Graham asked for clarification about the deminimus use clause of the contract on page 2 item "D" regarding the use of the vehicle in non-related business. Mr. Gilbert explained that the deminimus use of City equipment for such purposes is referring to the whole article and gave an example he had to use the phone on his own time we would not prevent him from using the City phone to call. **Motion by Commissioner Graham to accept the contract. Seconded by Commissioner Dixon and carried unanimously 5-0.**

Commissioner Reynolds

Commissioner Reynolds stated after all the information presented tonight on commuter rail, he previously put forth a Resolution in opposition and the only thing he sees changing between now and when someone else may present information is the price tag going up so he asked the Commission for a vote to pass a Resolution on opposition. Mayor Quesinberry stated that that last action was a motion to listen to both sides. Mr. Bollhoefer stated that Hal

Barley from MetroPlan and Jim Harrison from Orange County are scheduled to make their presentations at the next Commission meeting.

Commissioner Graham

Stated that he received a telephone call from Ms. Fulmer who asked him if the City would honor a past mayor, with whom he served, by asking a developer if they would consider naming a street after her late husband. Mr. Bollhoefer replied absolutely.

Commissioner Dixon

Commissioner Dixon stated that Community Development met last night and on February 22, 2006, they will be having their meeting at County Chambers and will be accepting funding proposals. She only spoke with them about annexing the Joe Louis subdivision to be able to connect them to City water.

She addressed some of the needs on the east side of Winter Garden and spoke to conducting a Diversity Day from the funds allocated to each Commissioner. She stated that more information needs to be disbursed about various organizations to educate our residents. Senator Siplin told her that he is looking into helping Winter Garden with Brownfield money and representatives from Duke University have been addressing this issue.

Commissioner Nichols

Commissioner Nichols stated she has received a lot of phone calls and emails from constituents and residents of the district she resides regarding the current election asking her if there was going to be any candidate debates. She thinks a debate would be wonderful for all candidates and residents to meet and listen to the candidates. She asked if the City Commission would agree to approve waiving the fees for using Tanner Hall that is still available Tuesday evening, February 28, 2006. She has taken the liberty of contacting an unbiased, outside party to moderate, Lauren Rowe, who is the news anchor for Channel 6 who is willing to participate. Mayor Quesinberry stated that debates are always against the incumbent and he will not attend.

Motion by Commissioner Nichols for approval of waiving the fees for Tanner Hall for a debate for all Mayoral and District 1 candidates in the upcoming election. Commissioner Reynolds stated there are a couple of candidates in District 1 in the room who appear to be shaking their heads in favor so yes, he will second the motion. **Seconded by Commissioner Reynolds.**

Richard Napotnik, 1633 Fullers Cross Road, Winter Garden, Florida spoke from the floor in favor of a candidate's debate.

Mrs. Deweese, 1573 Victoria Way, Winter Garden, Florida stated that using the term debate, to her, means anything goes. Just as in the Presidential debate, they had the questions before the actual debate. She can see ours becoming a shouting match because some will know more about than others, there will be plants in the audience asking questions. If it happens, it needs to be done in a dignified manner. Commissioner Nichols thanked Mrs. Deweese for bringing this up because that is what she was going to cover next.

Commissioner Dixon stated that she has never heard of a City conducting a debate. She has heard about candidates having a debate, but she has never heard of a City having one.

Tina Aldrich, 141 W. Plant Street, Winter Garden, Florida stated that a debate brings to her mind aggression and being aggressive. She agrees that the candidates need to be met and that the questions should be given to the candidates before they meet at an open forum give them a set amount of time to answer the questions. She suggested it be more a meet the candidate as an open forum than anything else.

Mayor Quesinberry asked the Commission what they want to do. Commissioner Nichols stated that all she wants to know is if Tanner Hall is available and asked if it had to be voted on. Commissioner Reynolds asked if the vote was for waiving the hall rental fee. City Manager Bollhoefer said yes and Recreation Director Conn said the fees for the hall could be waived if approved by the Commission. The sound system probably would have to be contracted out the same as City Commission meetings are. Commissioner Nichols stated that this fee could be taken out of her previously approved Town Hall meeting funds. Mr. Bollhoefer suggested that the motion be to pay for the microphones and waive the fee for Tanner Hall. Commissioner Nichols stated that is her **motion to pay for the microphones and waive the fee for utilizing Tanner Hall for a candidates form**. Mayor Quesinberry asked if there was a motion and a second. Commissioner Nichols replied yes. **Motion carried 4-1; Mayor Quesinberry opposed.**

The meeting adjourned at 11:13 p.m. to a regular meeting on Thursday, February 23, 2006, 6:30 p.m. at Tanner Hall.

APPROVED:

MAYOR JACK QUESINBERRY

ATTEST:

City Clerk Kathy Golden, CMC