



CITY OF WINTER GARDEN

OFFICE OF THE CITY CLERK

251 W. PLANT STREET
WINTER GARDEN, FL 34787
TEL: (407) 656-4111 Ext. 2254 • FAX (407) 656-4952

REGULAR MEETING MINUTES

CITY COMMISSION

May 25, 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, H. Gerald Jowers, and Mildred Dixon

Absent: Commissioner Carol Nichols

Also Present: City Manager Mike Bollhoefer, Interim City Attorney Cliff Shepard, City Clerk Kathy Golden, Assistant City Manager Marshall Robertson, City Planner Mark Cechman, Utilities Director Fernand Tiblier, Building Official Willie Herbert, Recreation Director Jay Conn, Fire Chief John Williamson, Police Chief George Brennan, Human Resources Director Frank Gilbert, Public Works Director Bob Smith, Economic Development Director Shelly Weidenhamer, Orlando Sentinel reporter Sandra Mathers, and West Orange Times reporter Michael Laval

1. **Determination regarding District 4 City Commissioner Carol Nichols participating in public meetings by electronic device** *This item was not discussed due to the written resignation received to become effective June 1, 2006 that included her statement that she would not be attending this meeting.*
2. **APPROVAL OF MINUTES**
Regular meeting minutes of May 11, 2006. **Motion by Commissioner Jowers to approve the regular meeting minutes of May 11, 2006 as submitted. Seconded by Commissioner Graham and carried unanimously 4-0.**

At this time, Mayor Quesinberry invited a guest speaker, Dr. Gaby Hawat, to come forward. Dr. Hawat with Valencia Community College stated that a new college campus is scheduled to be built in the Horizons West area and they are looking forward to serving the citizens of Winter Garden.

3. **REGULAR BUSINESS**

A. **Request for donation by Special Olympics Orange County**

Ms. Charlotte Day and Ms. Laurie Chmielewski stated that they are requesting a donation for the Special Olympics Orange County athletes to compete in the national games in Iowa. Commissioner Graham asked if all of the athletes attending are from Winter Garden. Ms. Chmielewski replied yes, two still attend West Orange High School and the rest still live and work in Winter Garden. Commissioner Graham stated that he noticed that the County aids in running this program. Ms. Chmielewski explained that Special Olympics is a not-for-profit program and there is a state office that allows each county to form its own program. Special Olympics Orange County services all athletes with mental disabilities and because they are a not-for-profit group, they have to fundraise for all athletes year round. **Motion by Commissioner Graham to approve donating \$500 to Special Olympics Orange County. Seconded by Commissioner Jowers and carried unanimously 4-0.**

B. **Recommendation to authorize the purchase of 17 and 21 Henry Street to become part of the new City Hall complex**

Assistant City Manager Robertson described the location of the property and stated that the two properties are currently vacant. **Motion by Commissioner Jowers to approve the purchase of 17 and 21 Henry Street. Seconded by Commissioner Graham and carried unanimously 4-0.**

C. **Recommendation to award contract for Newell Street Improvements Phase 1 to T. D. Thomson Construction, Inc.**

Assistant City Manager Robertson stated that this project was advertised and we had two bidders, JCB Construction, which is currently doing the Trunkline "C" project, and T. D. Thompson Construction. **Motion by Commissioner Graham to approve awarding the contract to T.D. Thomson Construction not to exceed \$689,303.37. Seconded by Commissioner Dixon and carried unanimously 4-0.**

D. **Recommendation to a authorize the purchase of real property located at 902 Avalon Road, Winter Garden, Florida**

Assistant City Manager Robertson described the location of the property, size and possible uses. He stated that staff had negotiated a price of \$400,000 and the final renegotiated price is \$425,000. Mayor Quesinberry asked if this included the home currently located there. Mr. Robertson replied no, there is three quarters of an acre that belongs to someone else. Commissioner Graham asked if the City has spoken to Mr. Ron Stucki who owns the nearby property. Mr. Robertson stated yes. **Motion by Commissioner Jowers to approve the purchase of real property located at 902 Avalon Road, Winter Garden. Seconded by Commissioner Dixon and carried unanimously 4-0.**

E. **Recommendation to approve Change Order #1 to the South Park Avenue construction contract with T. D. Thomson Construction Co. for \$114,949.68 -**

Assistant City Manager Robertson explained every effort is being made to complete

South Park Avenue by early August. The engineering done at the onset of this project did not take into account the rising water tables. This was unexpected and the installation of a slotted pipe is needed in order to keep the water from coming up into the road basin. Commissioner Graham asked if any funding came from a County grant. Mr. Robertson replied no, the funds will be from local option gas tax funds. **Motion by Commissioner Graham to approve Change Order #1 as recommended. Seconded by Commissioner Dixon and carried unanimously 4-0.**

- F. **Recommendation to authorize a donation of \$250 by the Police Chief from Law Enforcement Trust Funds (State) to the Florida Missing Children's Day event** – Police Chief Brennan stated that the Missing Children's Clearinghouse Advisory Board is hosting their annual Missing Children's ceremony in Tallahassee on September 11, 2006. He stated that they are seeking donations from agencies throughout the state to help fund this event. He explained that he would like to give them a \$250 donation from the trust fund account, which is money from drug confiscations and not taxpayer dollars. **Motion by Commissioner Jowers to approve a \$250 donation from the Law Enforcement Trust Fund to the Florida Missing Children's Day Event. Seconded by Commissioner Graham and carried unanimously 4-0.**

4. **MATTERS FROM CITIZENS** – There were none.

5. **MATTERS FROM INTERIM CITY ATTORNEY**

Interim City Attorney Shepard stated that it appears to be his last night with the City of Winter Garden and expressed his pleasure in helping the community and thanked the Commission and citizens for their welcome and the opportunity to serve them.

6. **MATTERS FROM CITY MANAGER**

● **Letter of Resignation from Commissioner Nichols**

Mr. Bollhoefer stated that Commissioner Nichols has once again tendered her resignation to be effective June 1, 2006. He stated that he has spoken to Interim City Attorney Shepard regarding this issue and technically the resignation cannot be accepted or effective until June 1, 2006. He presented the Commission with some options such as having a special meeting on June 1, 2006 or waiting until June 8, 2006. In any event, the Commission has 15 days after the effective date to make an appointment or it will go to the Governor for a decision. Commissioner Dixon recommended having a meeting on June 1st or as soon as possible thereafter to move on with the matter. Commissioner Jowers agreed with Commissioner Dixon's recommendation. Mayor Quesinberry stated that he would be out of town on the first, but would be back by the next Commission meeting on June 8, 2006. Commissioner Dixon asked if this would be alright. Interim City Attorney Shepard stated that it would be okay to act on June 8, 2006 since there are 15 days from June 1. *(By consensus, the Commission will consider filling the vacancy at their meeting of June 8, 2006.)*

● **Position Statement from Friends of Lake Apopka (FOLA)**

Mr. Bollhoefer stated that staff was previously directed to draft an ordinance, but he wants to wait until the next meeting because the City of Oakland is in the process of

drafting their resolution and Winter Garden can use theirs as a guideline. Mayor Quesinberry asked Mr. Bollhoefer to give a brief explanation of what this is all about. Mr. Bollhoefer stated that the cities of Clermont, Minneola and Apopka are trying to draw water out of Lake Apopka to supplement their irrigation water supply. He stated that it seems to be unanimous among the citizens of Winter Garden that we do not like this idea because Lake Apopka is already a shallow lake and it could be detrimental. Other organizations and cities are also in opposition to this issue.

- **Charter Review Committee**

Mr. Bollhoefer stated that during the last Charter Review Committee meeting, they discussed placing a newspaper advertisement to generate more public input at their meetings. However, the Committee does not have a budget for these types of items. In accordance with Resolution, the Committee was supposed to select a chair but decided instead to make decisions by consensus. He requested that the Commission direct the Committee to appoint a spokesperson to address the Commission with any issues they might have. He requested direction from the Commission regarding advertising for this Committee. Commissioner Dixon explained that without a chairperson it leads to the equality of its members, but agreed with having the Committee choose a spokesperson to present items to the Commission. Public input would be good after the Committee has had time to establish themselves. She advised that the public needs to be educated on what the charter review is all about. Commissioner Graham asked if the Charter Review Committee has agreed on everything 100%. Mr. Bollhoefer replied no, they need a super majority of 70%. Commissioner Jowers asked if this is working well. Mr. Bollhoefer stated that he attended one meeting and it seemed to work well at that time but they do need a spokesperson to come back as they go through this process to report to this Commission or ask any questions of the Commission. He stated that in the end the Commission will take their input and decide on the referendums. Commissioner Graham addressed the minutes of the Charter Review Committee and commented that they do not reflect what they vote on. City Clerk Golden stated that they are summarized and brief as reviewed by the facilitator who makes revisions and submits them to the Committee. There was discussion among the Commission as to how the Charter Review Committee would appoint their spokesperson. Mr. Bollhoefer asked Charter Review Committee Member Napotnik to convey to the Committee that they need to select a spokesperson to make monetary requests to the City Commission.

- **Engineering Firm for Daniels Road Construction**

Mr. Bollhoefer stated that construction on Daniels Road has begun for the mall and staff would like to hire an engineering firm to do the inspections. The City has a purchase order for \$266,320.00, which is a pass-through to the Sembler Corporation who will be paying the City back through inspection fees. He stated that he needed the Commission's approval of the purchase order. **Motion by Commissioner Jowers to approve a purchase order for \$266,320.00 (with PEC) for Daniels Road inspections. Seconded by Commissioner Graham and carried unanimously 4-0.**

- **Right Turn Lane at CR 535 and State Road 50**

Mr. Bollhoefer stated that the Florida Department of Transportation (FDOT) recommended that a right turn lane be implemented at the corner of CR 535 and State Road 50. For \$24,915.00, an engineer can be hired to design the right turn lane and it could be built into a future budget. There was discussion on the signals on State Road 50 that are owned by the City. Assistant City Manager Robertson explained current situations at this intersection and proposed solutions that would increase the volume and operation of that intersection. **Motion by Commissioner Graham to approve the \$24,915.00 for the design of the right turn lane for CR 535 and State Road 50. Seconded by Commissioner Dixon and carried unanimously 4-0.**

- **848 E. Plant St**

Mr. Bollhoefer stated that R. C. Stevens Construction Company has expressed an interest in purchasing city-owned property at 848 E. Plant Street and building a two-story office complex. City-owned property is not allowed to be sold to any one person who shows an interest, but it must be advertised and bid on. He asked the Commission for permission to dispose of this property. Only about 80% of it would be sold, with the other 20% needing cleanup and staff is trying to obtain brownfield funds for that purpose and then it will be available for sale. Mayor Quesinberry stated that the City would still have control over what would go in that location. Mr. Bollhoefer stated that this property has been rezoned to commercial. Commissioner Dixon stated that whatever is put there should be compatible with the area. Commissioner Graham asked if there could be a minimum acceptable bid amount. Mr. Bollhoefer stated that he would research the City's costs and review the appraisal to determine the fair market amount for this property. Mayor Quesinberry stated that it would have to be appraised before selling it. **Motion by Commissioner Dixon to declare as surplus City-owned real property located at 848 E. Plant Street. Seconded by Commissioner Graham and carried unanimously 4-0.**

A. **Police Salaries**

Mr. Bollhoefer stated that the City's Police Officers are on the low end when it comes to salaries and have been for a few years. He stated that this has caused the City to be somewhat of a training center for some of the larger cities. The young officers come here to work two to three years, get their training, and move on to other cities. He stated there are currently ten to eleven unfilled positions. It does not do the City any good to increase the number of police officers if we cannot fill the existing positions. If we want to maintain having one of the best police forces, it is critical that we pay them a good wage. The proposed increase would put them on the higher end compared to other police departments. He stated that if you want the best you have to pay to keep the best. He stated that the starting salaries for police officers would go from \$32,400 to \$37,500. Commissioner Dixon stated that she agreed with this and would like to see our police officers stay with the City of Winter Garden. **Motion by Commissioner Graham to adopt the recommended salary level for police officers. Seconded by Commissioner Jowers and carried unanimously 4-0.**

B. **City Attorney position**

Mr. Bollhoefer stated that he has researched city attorney positions, in-house versus outsourcing and referenced a spreadsheet he distributed to the Commission. There was not a great deal of information available, but the Human Resources Director Gilbert did do the analysis and found that in some instances people saved money by going in-house and some paid more; there was no clear answer. Generally an in-house attorney is seen in cities over 50,000 in population, but there were smaller cities with in-house attorneys. He described the need to farm out to special counsel even with an in-house attorney. He explained that if most is done in-house without a lot of outsourcing to special counsel, you would probably save money. He explained the difficulty in knowing which is best at this point without having had sufficient time with an in-house attorney for comparison. He advised the Commission to decide based on what they see as the best way to serve the City at this time.

Mr. Bollhoefer stated that he spoke to the City of Mt. Dora who has in-house counsel but has decided to use outside counsel instead. He stated that their current city attorney has expressed an interest in coming to Winter Garden. He provided the Commission with the resume of Mr. Gary Cooney and stated that the City is currently researching Mr. Cooney.

Mr. Bollhoefer stated that earlier this week another law firm named Fowler and O'Quinn also expressed their interest in becoming the City Attorney as an outsourced attorney. He stated that as discussed in the last meeting, Kurt Ardaman has also expressed his interest in becoming the city attorney. He explained one of the advantages of Mr. Ardaman as representation is that he knows the City and everyone on the Commission is familiar with his skills and abilities. Whereas with the others, no matter how well you check references and converse, you never really know about someone until they have worked for you for awhile.

Mr. Bollhoefer recommended the option of holding a special meeting and talking to the three choices or the Commission could decide tonight. Commissioner Jowers asked Mr. Bollhoefer what he wanted. Mr. Bollhoefer responded that he had talked to staff which favors an in-house attorney but stated the Commission would need to decide what is comfortable for them. He stated that he would feel very comfortable with Mr. Ardaman as the City Attorney. He has worked with him and knows that he is very knowledgeable and cares a lot about the City. Mayor Quesinberry mentioned that Mr. Ardaman stated he was willing to spend one day a week at the City if needed. Mr. Bollhoefer stated that he spoke to Mr. Ardaman with reference to half a day on Tuesday and half a day on Thursday and Mr. Ardaman has agreed with this. **Motion by Commissioner Jowers to hire Kurt Ardaman as the City Attorney. Seconded by Commissioner Dixon.**

Commissioner Graham stated that he had asked Mr. Bollhoefer to poll the entire staff on this issue and 100% indicated they want an in-house attorney. As a Commission, we are to assist staff in what they need. He stated that he would still like to have an in-house attorney and asked about the attorney service costs as some are paid \$250 to \$300 an

hour. He would like to see some figures before a decision is made. He further explained that items come up and staff would have to wait to talk to the attorney. Mayor Quesinberry stated that the City Manager could contact the attorney at any time. Commissioner Graham stated that in the contract the Attorney will state what he will do for so many hours per a week. If they are called for something special he will charge for that additional time. Mr. Bollhoefer replied that there are charges for attending all the meetings and a set amount for the time spent in the City. An hourly rate is charged for those items which are separate. Mr. Bollhoefer stated that \$250 an hour is a common rate, the City pays the Winderweedle firm \$150 an hour. Commissioner Graham stated the Commission is agreeing to hire someone without knowing what the contract will be. Mr. Bollhoefer suggested adding to the motion, "Hire contingent upon bringing back a contract to the Commission for approval". **Commissioner Jowers amended his motion to add "hire contingent upon bringing back the contract for Commission approval."** **Commissioner Dixon seconded the amendment to the motion and carried 3-1; opposed Commissioner Graham.** Commissioner Graham asked the City Manager to provide a comparison for a full time attorney and a part time attorney. He asked that the comparison be available for the meeting the contract will be reviewed. Mr. Bollhoefer responded that he will try, but advised that it will be limited due to the difficulty of determining how much work the in-house attorney will do, in comparison to outsourcing. He stated that even when we had the in-house attorney the special counsel was still needed. He stated he would do the best he could to come up with at least a range.

C. **Appointment of alternate board member to Public Risk Management (PRM)**

Mr. Bollhoefer stated that the City is a part of an insurance pool called Public Risk Management for which Mr. Gilbert is our representative. We must also have an alternate to attend in the absence of our representative, which must be appointed by the City Commission. Mr. Bollhoefer recommended appointing Peggy Carpenter who is Mr. Gilbert's assistant as the alternate representative for PRM. **Motion by Commissioner Graham to appoint Peggy Carpenter as the PRM alternate representative. Seconded by Commissioner Dixon and carried unanimously 4-0.**

● **Financial Statements for April 2006**

These statements were provided to the Commission for their review.

8. **MATTERS FROM MAYOR AND COMMISSIONERS**

A. **Resignation of District 4 City Commissioner Carol Nichols** *(Item previously acted upon above.)*

Commissioner Jowers – Had no items.

Commissioner Graham

Invited everyone to attend the Memorial Day Service next Monday at 8:30 a.m. at Veterans' Memorial Park.

Asked if the City has a table for the County Mayor and Commissioner meeting on June 1, 2006 at Stoneybrook. Mr. Bollhoefer replied yes, we generally have a table each year for this event.

Commissioner Dixon

Commissioner Dixon stated that donation funds are getting low and inquired as to how to get more money in this fund. In October, the Community Action Board has their annual volunteer recognition dinner and she wants to be sure that the Commission has funds available to purchase the two tables for this event because we always have good representation.

She briefly addressed the Assistant City Manager's progress with the 20 acres donated for affordable housing and she hopes that residents can be updated at the next meeting.

She asked everyone to attend the recreation planning session to be given by Recreation Director Conn on May 30, 2006 at 6:30 p.m.

She stated that she is still getting medical treatment and will not be able to attend some of the events.

The meeting adjourned at 7:44 p.m.

APPROVED:

/S/
MAYOR JACK QUESINBERRY

ATTEST:

/S/
City Clerk Kathy Golden, CMC