



# CITY OF WINTER GARDEN

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## OFFICE OF THE CITY CLERK

251 W. PLANT STREET

WINTER GARDEN, FL 34787

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## REGULAR MEETING MINUTES

### CITY COMMISSION

June 8, 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

**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 Charlie Tinch, Recreation Director Jay Conn, Fire Chief John Williamson, Police Chief George Brennan, Human Resources Director Frank Gilbert, Information Technology Director Bob Reilly, Trailer City Manager Johnny Clark, Economic Development Director Shelly Weidenhamer, Assistant City Engineer Mike Kelley, Orlando Sentinel reporter Sandra Mathers, and West Orange Times reporter Michael Laval

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

Regular meeting minutes of May 25, 2006. **Motion by Commissioner Graham to approve the regular meeting minutes of May 25, 2006 as submitted. Seconded by Commissioner Jowers and carried unanimously 4-0.**

#### 2. **REGULAR BUSINESS**

##### A. **Request for sponsorship by placing an advertisement in the West Orange High School Football Program**

Ms. Mandy Boyd asked the City Commission to place an advertisement supporting the cheerleaders of West Orange High School. Mayor Quesinberry asked if the cover was available. Ms. Boyd replied no, they are both taken. **Motion by Commissioner Graham to purchase a full page ad in the West Orange High School Football Program. Seconded by Commissioner Jowers and carried unanimously 4-0.**

##### B. **Request for support by the Bloom 'N Grow Garden Society for the annual Spring Fever in the Garden Festival March 31 to April 1, 2007**

Recreation Director Conn stated that this is an annual request for support by the Bloom 'N Grow which has been successful in past years. He stated that they hope to expand the

festival to a two-day event. The City has been a big sponsor of this event and they are requesting assistance with personnel and blocking of the street. **Motion by Commissioner Graham to approve supporting the Bloom 'N Grow Garden Society annual Spring Fever in the Garden Festival March 31 to April 1, 2007. Seconded by Commissioner Jowers and carried unanimously 4-0.**

C. **Request by Legacy Life Church to waive the festival permit fee for their youth event on June 10, 2006 in a vacant lot in the West Point Commons (Publix) Plaza**

Mr. Lyle Lovett asked the City Commission to waive permit fees for their youth event to be held Saturday, June 10, 2006 from 12:00 p.m. to 3:00 p.m. He stated that there will be food and games for the kids. They have obtained an insurance policy indemnifying the owner of the land. **Motion by Commissioner Graham to waive the festival permit fees. Seconded by Commissioner Dixon and carried unanimously 4-0.**

D. **Recommendation to approve interlocal agreement with Orange County transferring jurisdiction of Winter Garden-Vineland Road from West State Road 50 to State Road 429 (Western Expressway)**

City Manager Bollhoefer stated that the City has been working with Orange County on this interlocal agreement. Part of the agreement is that Orange County will pay for the repaving and the Sembler Corporation has agreed to do the stormwater and drainage work up to \$500,000. He stated that once Daniels Road is four-laned it will be the primary route for vehicles and Winter Garden-Vineland Road will become more of a local road. It would then be appropriate for the City to take control over this road. Before Orange County repaves the road we will ensure Daniels Road is complete to prevent having two roads under construction at the same time. Other reviews for possible improvements will also be done to be sure it works well for the citizens. **Motion by Commissioner Dixon to approve interlocal agreement with Orange County transferring jurisdiction of Winter Garden-Vineland Road to the City. Seconded by Commissioner Jowers and carried unanimously 4-0.**

E. **RESOLUTION 06-12:** A RESOLUTION OF THE CITY OF WINTER GARDEN, FLORIDA, SUPPORTING THE POSITION THE FRIENDS OF LAKE APOPKA HAVE TAKEN AGAINST THE WITHDRAWAL OF WATER FROM LAKE APOPKA

Interim City Attorney Shepard read Resolution 06-12 by title only. Mayor Quesinberry briefly described the City's opposition to drawing water out of Lake Apopka. **Motion by Commissioner Graham to adopt Resolution 06-12. Seconded by Commissioner Dixon and carried unanimously 4-0.**

F. **RESOLUTION 06-13:** A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, ADOPTING POLICY NO. 06-01 PROVIDING FOR PROCEDURES RELATING TO PUBLIC INPUT AND ADDRESSING THE CITY COMMISSION

Interim City Attorney Shepard read Resolution 06-13 by title only. Mayor Quesinberry addressed the conduct of a few citizens at some of the prior meetings over the last six months. He stated that some conduct at the podium and in the audience has resulted in the need for this resolution. City Manager Bollhoefer explained that these are basic

guidelines and rules of decorum, which will be put on a form to be handed out to those wishing to address the Commission in future meetings. **Motion by Commissioner Jowers to adopt Resolution 06-13. Seconded by Commissioner Graham and carried unanimously 4-0.**

### 3. MATTERS FROM CITIZENS

James Balderrama, 14315 Hampshire Bay Circle, Winter Garden, Florida stated that Resolution 06-11 appointing Mr. Ardaman to the City Attorney position will give insult to the people of District 4. He stated that what Commissioner Graham said about looking outside the City for a neutral party would be in the best interest of the entire City. He then spoke in support of Colin Sharman as Commissioner of District 4.

Ed Lynch, 660 Home Grove Drive, Winter Garden, Florida addressed Resolution 06-13, as well as other resolutions and ordinances, being made available on the City's website for review by the citizens before a City Commission meeting. He spoke in opposition to the appointment of A. Kurt Ardaman as City Attorney. He then requested that the Commission fill the vacant seat for District 4 with someone who can best represent that district.

Mark Salvador, 1105 Harbor Hill Street, Winter Garden, Florida spoke in support of Jim Gustino as Commissioner of District 4.

Jim Gustino, 13914 Eylewood Drive, Winter Garden, Florida spoke in opposition to the process of selecting a City Attorney. He suggested that the City have an escape or termination clause in the contract. He then spoke in support of his own appointment as Commissioner of District 4.

Mark Defuso, 12224 Oyen Court, Winter Garden, Florida spoke in support of Mack McLaughlin as Commissioner of District 4.

Mike Carroll, 1149 Portmoor Way, Winter Garden, Florida spoke in support of Jim Gustino as Commissioner of District 4.

Mack McLaughlin, 312 English Lake Drive, Winter Garden, Florida asked direction from the Commission as to whether he should address his interest in being Commissioner of District 4 or wait until later in the meeting. The Mayor advised that there would be an opportunity later in the meeting.

### 4. MATTERS FROM INTERIM CITY ATTORNEY - Had no items.

### 5. MATTERS FROM CITY MANAGER

- Cost comparison analysis of an in-house attorney to outsourcing  
**Mr. Bollhoefer** addressed the difficulty of the task and explained the findings to the Commission.

**Mayor Quesinberry** addressed a previous comment by a citizen about A. Kurt Ardaman being the City Attorney and the attorney for the Fowlers. He stated that Mr. Ardaman was the City Attorney for the City of Winter Garden for nine years. He resigned his position with the City prior to representing the Fowlers. Therefore, any conflicts have been resolved.

**Commissioner Graham** expressed his preference and support for an in-house attorney. He explained his position and stated that the staff would be able to meet with an in-house attorney at any time. He stated that it would be a real asset for the City. He described how the number of hours the attorney could exceed the contracted 20 hours. He then further explained how it could become costly to the City. The City could get someone who is experienced and the number of hours would not cost the City any more.

**Mr. Bollhoefer** stated that the survey presented to the Commission was done by the City of Mt. Dora. He described some of the rates for attorneys. **Commissioner Graham** stated that the attorney we have now does not charge that much an hour. **Mr. Bollhoefer** stated that the Winderweedle contract is \$150 an hour from the year 2000 and has not been raised. **Interim City Attorney Shepard** stated that the pass-through fees they charge are substantially in excess of the regular \$200 an hour. He stated that he is not a candidate for the position but stated that he has experience that might help. He described the issue of an in-house versus an outside firm is always an issue particularly with cities this size. He stated that it is very difficult to find someone that will come in-house and handle the broad variety of the specialties that are included under the heading of local government law. He described some of those areas and stated that each area is its very own specialty. There is a small number of attorneys available that can do 90 percent of the work without seeking special counsel. He stated that the standard attorney you will find looking to come in-house will be capable of doing maybe only half and you will need special counsel. He described the difficulty of finding that special person that could do a large percent of the work without needing to hire special counsel. They would generally not be willing to come in-house because they would make more money as an outsourced attorney.

**Mr. Shepard** addressed the prior comment by a citizen as to a termination provision in the contract. He stated that the answer is yes, it is included, but you can fire any firm attorney at will. The difference is when you bring in-house counsel from out of town; for example you don't generally get to negotiate a 30-day termination clause because they have to find a job and move. He stated that those are the kinds of things that are in the balance.

**Mr. Bollhoefer** stated that in calculating the cost for attorneys, the City of Winter Garden has a separate attorney for the Police Department, one for labor, and for workers' compensation through the insurance pool. He stated that none of those attorneys were included in the costs presented to the Commission in the analysis.

**Commissioner Dixon** stated that we need an attorney now and this will allow the City to look around and then decide if an in-house attorney is what we need. **Commissioner Jowers** stated that you get what you pay for with reference to service from any attorney.

- **Workshop for Parks Master Plan**

Mr. Bollhoefer stated that he and Recreation Director Conn would like to have a workshop with the Commission and send out notices to all residents. He stated that this plan will be our guide for the next 20 years regarding parks. Commissioner Dixon stated that the parks on the east side need to be finished. Mr. Bollhoefer replied that the County just recently approved a Community Development Block Grant (CDBG) for parks and described some the efforts planned for the east side. He stated that this plan includes some big decisions that need to be made before the final plan is presented. There was discussion as to the date of the proposed workshop. It was the **consensus** that the workshop be scheduled as part of the July 13, 2006 City Commission Meeting.

- **Demolition at Wallick Property on Plant Street**

Mr. Bollhoefer stated that demolition of the metal building on the Wallick property was not budgeted for and will be \$50,000. The demolition crew is available to work on it now and the \$50,000 for the demolition will be included in the interim budget. He asked the City Commission for approval to move forward with this demolition for \$50,000. **Motion by Commissioner Graham to approve \$50,000 for demolition at 971 E. Plant Street. Seconded by Commissioner Jowers and carried unanimously 4-0.**

- **Events in Downtown**

Mr. Bollhoefer stated that the merchants have come up with ideas for events in the downtown area and after describing some of the ideas he suggested that the City purchase four port-a-lets to be maintained by the City. He explained how the City would maintain them and requested that these items be approved for purchasing now and be included in the interim budget. **Motion by Commissioner Graham to purchase four port-a-lets. Seconded by Commissioner Jowers and carried unanimously 4-0.**

## 6. MATTERS FROM MAYOR AND COMMISSIONERS

A. **RESOLUTION 06-11**: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, APPOINTING A. KURT ARDAMAN AS CITY ATTORNEY. Interim City Attorney Cliff Shepard read Resolution 06-11 by title only. **Motion by Commissioner Jowers to approve Resolution 06-11 appointing A. Kurt Ardaman as City Attorney. Seconded by Commissioner Dixon and carried 3-1; opposed Commissioner Graham.**

B. **Vacant District 4 Commissioner seat**

Mayor Quesinberry allowed residents interested in filling the District 4 Commission Seat to address the Commission. Those who spoke were James Balderrama, Jim Gustino, Mack McLaughlin, and Colin Sharman. **Motion by Commissioner Jowers to appoint Colin Sharman to District 4 Commission seat. Seconded by Commissioner Graham and failed 2-2; opposed Mayor Quesinberry and Commissioner Dixon.**

**Motion by Commissioner Dixon to appoint Mack McLaughlin to District 4 Commission seat. Seconded by Mayor Quesinberry and failed 2-2; opposed Commissioners Graham and Jowers.**

Interim City Attorney Shepard advised the Commission that they could have further discussion to see if a consensus could be built or for a motion for one of the other interested residents. Commissioner Dixon asked for further detail on why each Commissioner voted the way they did. Commissioner Jowers stated that he felt that the one to fill the seat should be one who understands that growth is not to be stopped but controlled. Commissioner Graham stated that he spoke to Mr. Sharman and he is a person that did not think he knew it all and said he was willing to learn. The Commission thought he was capable of serving on the Planning and Zoning Board. He explained how being on the Planning and Zoning Board gives a person a handle on how the City is run.

**Motion by Commissioner Jowers to appoint Colin Sharman to District 4 Commission seat. Seconded by Commissioner Graham and carried unanimously 4-0.**

**Commissioner Dixon**

Commissioner Dixon stated that the Commission made a motion to turn 20 acres of City owned land over to Homes In Partnership with conditions. She asked for something written to say that the land was given to Homes In Partnership. Mr. Bollhoefer stated that he can get them the information. He explained that the City has met with Orange County who is doing some studies on the land to see if it can be used for housing. Commissioner Dixon asked for clarification on how the land was given. Assistant City Manager Robertson explained that the Commission voted to give the land and the CDBG grant money was to combine the land together where it can be used and because it was a burn site they are investigating to see if houses can be built on that property. He stated that the City got the report that OOCEA did when they took five acres off of that land. He stated that a study is being done and they will get back with the City and Mr. Kellom of Homes In Partnership. Commissioner Dixon stated that there is a clause in the contract that he can have the land if they can build on it.

Commissioner Dixon stated that she met with Randy June and they discussed the Mildred Dixon Center and some of the improvements they anticipate. She asked if anyone knew about the status of the plans. Mr. Bollhoefer stated that he has also spoken to Mr. June with reference to his plans and explained some of the improvements. He stated that it is owned by the County and it will be a great asset to the community; however, the City should obtain ownership to have better control so it could be multifaceted and not just tied to the Boys and Girls Club. Commissioner Dixon expressed her appreciation at the City collaborating with the County.

● **Oath of Office for District 4 Commissioner**

City Clerk Golden administered the oath of office to Commissioner Colin Sharman for District 4.

- **Appointment of Jerry Carris to Planning and Zoning Board**  
Mayor Quesinberry stated that now that Mr. Sharman has been sworn in as a Commissioner, he would like to appoint Jerry Carris to fill his seat on the Planning and Zoning Board. **Motion by Mayor Quesinberry to appoint Jerry Carris to replace Colin Sharman on the Planning and Zoning Board for his unexpired term. Seconded by Commissioner Dixon and carried unanimously 4-0.**

The meeting adjourned at 8:05 p.m.

**APPROVED:**

/S/  
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**MAYOR JACK QUESINBERRY**

**ATTEST:**

/S/  
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**City Clerk Kathy Golden, CMC**