



# CITY OF WINTER GARDEN

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## OFFICE OF THE CITY CLERK

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## REGULAR MEETING MINUTES

### CITY COMMISSION

September 14, 2006

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Jack Quesinberry at 6:30 p.m. at Tanner Hall, 29 W. Garden Avenue, Winter Garden, Florida. Moment of Silence in remembrance of Commissioner Mildred L. Dixon, the invocation, and Pledge of Allegiance were given.

**Present:** Mayor Jack Quesinberry, Commissioners Theo Graham, H. Gerald Jowers and Colin Sharman

**Absent:** Commissioner Mildred Dixon (*deceased September 8, 2006*)

**Also Present:** City Manager Mike Bollhoefer, City Clerk Kathy Golden, City Attorney Kurt Ardaman, Assistant City Manager Marshall Robertson, City Planner Mark Cechman, Utilities Director Charlie Tinch, Police Chief George Brennan, Trailer City Manager Johnny Clark, Building Official Willie Herbert, Finance Director Brian Strobeck, Recreation Director Jay Conn, Fire Chief John Williamson, Information Technology Director Bob Reilly, Public Works Director Bob Smith, Economic Development Director Shelly Weidenhamer, Senior Planner Kelly Randall, Assistant City Engineer Mike Kelley, Solid Waste Manager John Love, Orlando Sentinel reporter Erin Ailworth and West Orange Times reporter Michael Laval.

#### 1. **FIRST READING AND PUBLIC HEARING TO ADOPT THE PROPOSED MILLAGE RATE AND BUDGETS FOR FISCAL YEAR 2006-2007**

- A. **Ordinance 06-42:** AN ORDINANCE LEVYING TAX UPON ALL TAXABLE PROPERTY WITHIN THE CITY OF WINTER GARDEN, FLORIDA, FOR THE TAX YEAR BEGINNING ON OCTOBER 1, 2006 AND ENDING ON SEPTEMBER 30, 2007 with the **Second Reading and Public Hearing on September 28, 2006**

City Attorney Ardaman read Ordinance 06-42 by title and Section 1 to establish and levy a rate of 4.3040 mills, which exceeds the roll back rate of 3.5080 mills by 22.69 percent. Mayor Quesinberry opened the public hearing; hearing and seeing none, closed the public hearing. **Motion by Commissioner Jowers to approve Ordinance 06-42 with second reading and public hearing on September 28, 2006. Seconded by Commissioner Graham and carried unanimously 4-0.**

- B. **Ordinance 06-43:** AN ORDINANCE APPROPRIATING AND ALLOCATING ALL REVENUE AND FUNDS OF THE CITY OF WINTER GARDEN, FLORIDA, FOR THE TAX YEAR BEGINNING ON OCTOBER 1, 2006 AND ENDING ON SEPTEMBER 30, 2007

City Attorney Ardaman read Ordinance 06-43 by title and stated that this is the ordinance for the collection of Ad Valorem will equal \$8,182,875 and Revenue other than Ad Valorem will equal \$19,619,635 for a total revenue amount of \$27,802,510. Mayor Quesinberry opened the public hearing; hearing and seeing none, closed the public hearing. **Motion by Commissioner Graham to approve Ordinance 06-43 with second reading and public hearing on September 28, 2006. Seconded by Commissioner Sharman and carried unanimously 4-0.**

- C. **Ordinance 06-44:** AN ORDINANCE APPROPRIATING AND ALLOCATING ALL REVENUE AND FUNDS OF THE COMMUNITY REDEVELOPMENT AGENCY (CRA) OF THE CITY OF WINTER GARDEN, FLORIDA, FOR THE TAX YEAR BEGINNING ON OCTOBER 1, 2006 AND ENDING ON SEPTEMBER 30, 2007

City Attorney Ardaman read Ordinance 06-44 by title and stated that this is the ordinance for the collection of Ad Valorem will equal \$366,390 and Revenue other than Ad Valorem will equal \$480,591 for a total revenue amount of \$846,981. Mayor Quesinberry opened the public hearing; hearing and seeing none, closed the public hearing. **Motion by Commissioner Graham to approve Ordinance 06-44 with second reading and public hearing on September 28, 2006. Seconded by Commissioner Jowers and carried unanimously 4-0.**

- D. **Ordinance 06-45:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN AUTHORIZING THE APPROPRIATIONS OF CITY FUNDS FOR FISCAL YEAR 2006-2007 IN ACCORDANCE WITH ARTICLE 3 SECTION 30.4 OF THE CITY CHARTER OF THE CITY OF WINTER GARDEN, FLORIDA AND FLORIDA STATUTE 166.241 FOR THE PURPOSE OF FULFILLING THE FINANCIAL OBLIGATIONS OF THE CITY

City Attorney Ardaman read Ordinance 06-45 by title only. Mayor Quesinberry opened the public hearing; hearing and seeing none, closed the public hearing. **Motion by Commissioner Jowers to approve Ordinance 06-45 with second reading and public hearing on September 28, 2006. Seconded by Commissioner Graham and carried unanimously 4-0.**

### **REGULAR CITY COMMISSION MEETING AGENDA**

#### **2. APPROVAL OF MINUTES**

Regular Meeting of August 24, 2006. **Motion by Commissioner Jowers to approve the regular meeting minutes of August 24, 2006 as submitted. Seconded by Commissioner Graham and carried unanimously 4-0.**

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

- A. **Ordinance 06-40:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTION 42-55 OF THE WINTER GARDEN

CODE OF ORDINANCES ENTITLED "ROAD IMPACT FEE SCHEDULE" BY ESTABLISHING A SPECIAL BENEFIT OVERLAY DISTRICT FOR THE CR 545 CORRIDOR; ESTABLISHING AN ADDITIONAL ROAD IMPACT FEE FOR ALL NEW DEVELOPMENT WITHIN THE CR 545 SPECIAL BENEFIT OVERLAY DISTRICT; AMENDING SECTION 42-56 ENTITLED ALTERNATIVE IMPACT FEE CALCULATIONS FOR ALL NEW DEVELOPMENT WITHIN THE CR 545 SPECIAL BENEFIT OVERLAY DISTRICT; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 06-40 by title only. Mayor Quesinberry opened the public hearing. City Planner Cechman stated that this ordinance has been put together to finance needed improvements on CR 545. This ordinance will allow the City to charge an additional impact fee for new residences. City Manager Bollhoefer stated that the City has been working on this for over ten months to ensure the City has the funding required for CR 545 to handle the new growth in that area. He stated that the County will work with the City to four-lane the remaining portion of CR 545 from State Road 50 south to the City's portion. He is asking that this reading and public hearing be postponed to a date certain of the first meeting of October. This will not change the effective date of the impact fees, but gives staff review time to be sure there will not be a significant adverse impact on commercial development. Mr. Cechman stated that the developers are aware of these impact fees. Commissioner Graham inquired what happens if the developers wanted to try and get ahead of this impact fee. Mr. Bollhoefer stated that this has been discussed ahead of time and all the developers have this possibility included in their development agreements. **Motion by Commissioner Graham to continue the public hearing for Ordinance 06-40 to October 12, 2006 at 6:30 p.m. Seconded by Commissioner Jowers and carried unanimously 4-0.**

- B. **Ordinance 06-39:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTION 42-55 OF THE CITY'S CODE OF ORDINANCES ENTITLED "ROAD IMPACT FEE SCHEDULE" BY REPLACING EXHIBIT "A" WITH A NEW TABLE TO REFLECT THE INCREASE IN COST OF ROAD CONSTRUCTION AND BY CONSOLIDATING THE NORTH AND SOUTH BENEFIT AREAS INTO ONE CITYWIDE BENEFIT AREA; AMENDING SECTION 42-56 OF THE CITY'S CODE OF ORDINANCES ENTITLED "ALTERNATIVE ROAD IMPACT FEE CALCULATIONS" BY AMENDING THE COST OF RIGHT-OF-WAY ACQUISITION PLUS CONSTRUCTION COST FACTOR; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 06-39 by title only. Mayor Quesinberry opened the public hearing; City Planner Cechman requested that the City Commission table this item to give staff time for further review. City Manager Bollhoefer stated that this increases the City's regular road impact fees and explained that high construction costs have made this necessary to ensure that the impact fees are sufficient to build the roads needed because of growth. **Motion by Commissioner Sharman to continue the public hearing for Ordinance 06-39 to October 12, 2006 at 6:30 p.m. Seconded by Commissioner Graham.** Commissioner Sharman asked the City Manager what staff would be reviewing. Mr. Bollhoefer responded that as the City looks to increase some of the commercial development, it is necessary to create and bring high paying jobs into Winter Garden. In order to alleviate the tax burden on residences it is important to have commercial. Staff has reviewed these commercial fees and they would be the highest in

the State of Florida and staff wants to be sure this does not cause a negative economic impact. If fees become too high, all of the business and commercial enterprises will probably move elsewhere. This could put the City out of the market in luring those types of jobs. He stated he did not know if there will be a change but wanted to be sure that we did not kill our chances for good economic development in the City. **Motion carried unanimously 4-0.**

- C. **Ordinance 06-46:** AMENDING CHAPTER 98 OF THE WINTER GARDEN CITY CODE BY CREATING ARTICLE VI, DEVELOPMENT REVIEW COMMITTEE; PROVIDING FOR THE CREATION AND ESTABLISHMENT OF A DEVELOPMENT REVIEW COMMITTEE; PROVIDING FOR MEMBERS OF THE DEVELOPMENT REVIEW COMMITTEE; PROVIDING THE POWERS, DUTIES AND PROCEDURES OF THE DEVELOPMENT REVIEW COMMITTEE; PROVIDING FOR RECOMMENDATIONS AND DETERMINATIONS OF THE DEVELOPMENT REVIEW COMMITTEE; PROVIDING FOR APPEALS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 06-46 by title only. Mayor Quesinberry opened the public hearing.

Margaret Lombardo, 22 Hazel Drive, Winter Garden, Florida asked if this item includes money for schools. She stated that the Commission was just talking about roads and asked what about schools. Mr. Bollhoefer stated that the City has no authority on school impact fees; this is done by the school system. The City is working with the schools in helping them find locations. The school impact fees are set by the Orange County Commission. We can give them opinions but it is ultimately their decision. They just raised the impact fees from \$2,000+ to over \$7,000 per house. Ms. Lombardo asked if this means that as taxpayers we will be paying for the schools to be built. Mr. Bollhoefer responded no, these are impact fees placed on new development. **Motion by Commissioner Jowers to approve Ordinance 06-46 with second reading and public hearing on October 12, 2006. Seconded by Commissioner Graham.**

Commissioner Sharman stated that a resident at a Planning and Zoning meeting mentioned that the mailout coverage should be increased for up and coming projects so that the people in that area would have the opportunity to attend the board meeting. Mr. Bollhoefer stated that he attended this meeting and it has been noted at other meetings that some of the citizens feel a sufficient amount of people have not been notified. He explained that in the past the City has sent out notification based on the law. On significant projects the City can enlarge the mailout area to whatever we want. In the future the City will plan on sending out a greater amount of notifications. Commissioner Graham asked if the City has considered the distance, stating that 300 feet is the normal distance. City Planner Cechman stated 300 feet is the distance for variances and special exceptions, with 500 feet being the distance for rezonings. Commissioner Graham asked if this would be increased. Mr. Bollhoefer stated that he was not sure if we would want to set a parameter in the number of feet because sometimes feet may not be a good measure on those impacted. Staff will review and see everyone that is affected and send them a notice.

Commissioner Sharman stated he would like to be sure staff defines what will be required to have a review by the Development Review Committee, stating that smaller projects may not require staff review but larger projects should be reviewed. The smaller projects could be left to the Commission and/or the Planning and Zoning Board. We want to be effective and not have the department heads meeting for the really small projects. Mr. Bollhoefer stated that staff could come back with something but stated that he thought it would be separate from this ordinance which deals with the Development Review Committee. Staff could come back at a later date with some changes in ordinance elsewhere to set the parameters of how to do the mailouts. This ordinance is very important for the City; many other communities have an open development review committee process. These meetings will be open to the public; developer's site plans will be reviewed in front of the public, and there will be minutes taken. It will be a more transparent process and part of this process will be the developers communicating with the surrounding community. This will resolve any issues before it gets to the Planning and Zoning Board. City Attorney Ardaman stated that this does not create a new approval body other than setting up and formalizing the existing staff mechanism. It creates a uniform process to make staff recommendations effectively to the Planning and Zoning Board and to the City Commission. Commissioner Sharman reiterated that the intent is to get the information out to the public earlier. Commissioner Graham stated that this will speed up the process and the City Commission will not see as many partially completed items. He stated that also with the larger number on the committee, the developer will get better input with what they will need to do. Mr. Bollhoefer agreed, stating that this will make it clearer for the developer, staff and the citizens. **Motion carried unanimously 4-0.**

5. **REGULAR BUSINESS**

A. **Request for a donation of \$500 by the West Orange High School Senior F.F.A.**

Representatives of the West Orange High School Senior F.F.A. were Mr. Chet Kramer - President, Lester Bailey - Vice President, Mandy Thompson - Secretary, and Kayla McNealy - Chaplain. Mr. Kramer stated that the F.F.A. has had a successful past year and explained that they went to Kentucky to receive the Two-Star National Chapter Award. This year they are honored to announce that they have gone above and beyond and will now receive the Three-Star National Chapter Award which is the highest honor at the national level. Mr. Lester Bailey stated that they are excited this year to go to Indianapolis, Indiana to receive the award. He stated that they have run into financial difficulties and are requesting assistance from the City Commission. Mr. Kramer asked the City of Winter Garden to generously donate \$500 to their Chapter so they can receive their reward in Indiana. Out of the 5,000 Chapters in the State of Florida, only 12 received the Three-Star National Award. **Motion by Commissioner Graham to approve donating \$500 to the West Orange High School Senior F.F.A. Seconded by Commissioner Jowers and carried unanimously 4-0.**

**B. Request to conduct a music festival in Historic Downtown October 27-28, 2006 by the Winter Garden Heritage Foundation**

Mr. Ron Sikes, 9147 Lake Mable Drive of Orlando, a member of the Winter Garden Heritage Foundation Board, stated that they are organizing the first annual music festival in Downtown Winter Garden for October 27<sup>th</sup> and 28<sup>th</sup>. This event will begin Friday night at 5:00 p.m. to 10:00 p.m. and Saturday night at 4:00 p.m. immediately following Oakland's Founders Day festival and run until 11:00 p.m. There will be a variety of music styles presented. This event is being held to help in the operating costs of the Winter Garden Heritage Foundation, Museum, and History Center. He stated that they are not asking for money, but for permission to conduct the festival. The primary impact to the City will be the closing of the streets. Mr. Bollhoefer stated that they are also asking to waive the permit fee. **Motion by Commissioner Jowers to approve a music festival in Historic Downtown, October 27-28, 2006 by the Winter Garden Heritage Foundation, to waive the permit fee and allow the serving of beer and wine.**

Commissioner Graham asked if the beer and wine being sold from the booth as mentioned in the agenda package would allow consumption up and down the street. Mr. Sikes explained the booth is to be located North of Boyd at Plant Street and stated that they intend to only allow one drink per person at a time and they did not want to disadvantage the vendors by restricting the consumption of the beer and wine to a limited area. Commissioner Graham asked if the vendors will be able to sell beer and wine also. Mr. Sikes responded no, this will be the only booth allowed to serve alcohol. Commissioner Graham asked if alcohol will be in a container or in cups. Mr. Sikes responded cups. **Seconded by Commissioner Sharman and carried 3-1; opposed Commissioner Graham.**

**C. Recommendation to approve Recycling/Reselling Agreement with A1 Assets to dispose of old computers and related equipment**

Information Technology Director Reilly stated that the City has old computer parts in need of disposal and he has found a company that is EPA certified for this task. He asked the Commission for permission to use A1 Assets for this disposition. **Motion by Commissioner Jowers to approve Recycling/Reselling Agreement with A1 Assets to dispose of old computers and related equipment. Seconded by Commissioner Graham.** Commissioner Graham stated that the information given in the agenda packet states this company will take everything off of the modem. There was a recent article he read where companies turned in their computers and left a lot of information on them. He asked if this has been checked to be sure this works. Mr. Reilly stated that the City has taken all of the hard drives out of these computers for in-house destruction, but stated that this company does guarantee as part of the agreement that they will do a Department of Defense level wipe of the hard drives. **Motion carried unanimously 4-0.**

**4. MATTERS FROM CITIZENS**

Everard Morgan, 3308 Middle Lake Terrace, Ocoee, Florida and James Morris, President of the West Orange Knights Youth Football Program, were recognized as representatives for the West Orange Knights Football programs. Mr. Morgan stated that the kids range from age 4 to

15 and there are approximately 140. He has provided City staff with a Power Point slideshow of his presentation. They are requesting assistance with the mowing of a vacant lot next to the Mildred Dixon Activity Center which is owned by Health Central (*Alliance*). He stated that an agreement has been made with Health Central (*Alliance*) that if the City of Winter Garden would actually mow this lot during the months of July to November, Health Central (*Alliance*) will allow them use of this property as a practice field. The lot they use now is the field next door to the Mildred Dixon Activity Center but it is tight for 140 kids. He stated that they are also requesting funding.

Mayor Quesinberry stated that this should have been an agenda item which would allow the Commission time to review the request. Mr. Morgan stated that he tried to go through the proper channels by contacting several departments. Mr. Bollhoefer stated that he had spoken with Mr. Morgan yesterday and he did submit this item to staff. The City started researching this organization but found difficulty in locating any history of the organization or their successes. Police Chief Brennan tried to email the organization to no avail, Recreation Director Conn requested references and received one of someone they did not know. Mr. Bollhoefer stated that he and Mr. Morgan discussed several references which staff had not yet received. He directed Mr. Morgan to come back after putting a package together and give staff the additional references. He stated that staff also thought it would be important to communicate with Pop Warner Football, a team the City also supports, to be sure there would be no animosity between the two teams. Mr. Morgan stated that the kids he was helping would not be playing Pop Warner Football because of the financial costs to the families as well as the weight restraints Pop Warner has. He stated that Pop Warner is limited to one team for each division. He stated that if he has 140 kids and Pop Warner has the same amount, this town can handle two teams without a problem.

Mr. Bollhoefer stated that the Commission has a limited donation fund that has been spent. He stated that his suggestion to Mr. Morgan is to come back with those items put together in a package and possibly work with Police Chief Brennan who has funds from drug arrests for these types of programs. Mr. Bollhoefer reiterated that these things need to be put in a package, communication with Coach Boston, Jim Carter and several people before coming back to the Commission as an agenda item with a presentation.

Mr. Morgan stated that he is funding the program himself and his funds are limited. He does not want to disappoint these kids. Mr. Bollhoefer stated that the funds that they are seeking are more than is given out of the general donation fund. Mr. Morgan stressed to the Commission that they are in need of a lot of assistance. He stated that they are there regardless of what their references are and are willing to fight the fight.

Deneen Wilkerson, Esquire, 775 Klondike Street, Winter Garden, Florida, stated that she has recently relocated back to Florida but grew up here as a child. Her grandmother has been a long time resident and is now 98 years old. She stated that it is a sad day in Winter Garden now that we have lost who she calls her Fearless Leader. She never personally met Ms. Dixon but heard things about her and her reputation spoke for itself. She stated that she stands in the spirit of Ms. Dixon and asked the City Commission not to forget about the east Winter Garden area. She stated that as the gentleman stated earlier, their area is in desperate

need of the City's assistance. They appreciate that the Police Chief and other elected community officials coming to their community meetings. She stated that the relationships Ms. Dixon worked so hard to develop are still needed in East Winter Garden.

Ms. Wilkerson asked about the vacant seat, stating that she believes in a fair and open election process. There is discussion and possible action listed on the agenda for filling the seat of Commission District 3. Because this is an elected position, the community should be an active participant on who should fill the seat. She asked the deadline for the qualifying oaths, and if there is a specific format, and where it was available. She stated that East Winter Garden is well represented here tonight and want to know what their future holds.

Mayor Quesinberry stated that the City Commission is facing a situation where it has to appoint someone within 15 days to fill this seat. He explained that since Ms. Dixon passed away last Friday, they have this week and next week and expressed that the Commission did not want anyone to feel that they are pushing Commissioner Dixon's position out. He stated that we all love Ms. Dixon and had been keeping close tabs on her condition. He stated that the City Commission does not want this to go to the Governor.

Ms. Wilkerson asked if the Charter states that the Commission appoints and there is no special election. Mayor Quesinberry responded no, there will not be an election. Mr. Bollhoefer stated that City Attorney Ardaman had information to share, but the timing of the special election is very difficult at this time because the City has to go through the Supervisor of Elections and it is very doubtful that the City could get an election by December if we were lucky. City Clerk Golden confirmed that we could not do a special election before then. Mr. Bollhoefer stated that it could not be done in that short of a time.

City Attorney Ardaman stated that the City of Winter Garden Charter provides that when there is a vacancy in a Commission seat, the City Commission shall elect within 15 days by the affirmative vote of three (3) of the sitting Commissioners an eligible person to fill that vacancy until the next general or special election. The vacancy, pursuant to the Florida Constitution, actually occurred upon Ms. Dixon's passing. This gives this Commission the ability to appoint and elect the replacement to her seat to an eligible person by a week from Saturday. He stated that they have all of next week for that appointment to happen and explained that it would go to the Governor if that appointment did not happen.

Commissioner Jowers asked with this terminating date being on a weekend would it be possible to allow people to submit names all next week and then vote on Monday evening. Mr. Ardaman stated that unfortunately the Florida Constitution and the Florida Statutes and all case law do not provide for extending the period. He stated that the meeting could actually be held on a Saturday, but could not be moved beyond that date. Mr. Bollhoefer stated that if it goes to the Governor, the Governor is under no obligation to make an appointment. It is the Governor's option to not choose anyone and then this district could be without someone until next March. Ms. Wilkerson asked the City Commission who the candidates are they have in mind to appoint to the position. Mayor Quesinberry stated that he only has one Qualifying Oath of Candidate form and asked the City Clerk if there were more; she replied that one

additional oath had been turned in tonight. Mr. Bollhoefer stated that if the Commission decided to wait until next week it would allow for more candidates.

Ms. Wilkerson asked if there is any room in the Charter for any community involvement in this appointment, even to make suggestive phone calls during this week prior to the City Commission decision. Mr. Ardaman stated that the public has the right to communicate by contacting individual Commissioners. Mrs. Wilkerson stated that the citizens would need to know who the qualified candidates are that the City Commission will be considering. Mr. Ardaman asked if she was suggesting that some notification or schedule be set up between now and the election date. Commissioner Sharman suggested having the City post the qualified candidates. Mr. Bollhoefer asked about a deadline for submitting applications. There was discussion about Commissioner Jowers scheduled absence next week. Mr. Ardaman stated that if the Commission would like Commissioner Jowers to participate, they should consider making a finding of extraordinary circumstance and allow him to participate by speaker phone which would allow the public to hear his comments. There must be three (3) Commissioners physically present to establish a quorum. Commissioner Jowers stated that he would be in Denver and finding a phone is no problem and suggested setting it on Saturday morning at 11:00 a.m. Mayor Quesinberry asked about this coming Wednesday night. Commissioner Jowers stated that he could not participate due to a presentation he will be making that evening. Commissioner Sharman stated that he would like to give the public as much time as possible. There was discussion on the date of the special meeting and location of the Commission Chambers at City Hall due to Tanner Hall being unavailable. Mayor Quesinberry stated that it shows respect for Ms. Dixon to let her seat stay open. Commissioner Jowers stated that he would not like to appoint anyone until Ms. Dixon has been laid to rest. **Motion by Mayor Quesinberry to allow Commissioner Jowers to participate in the Special Meeting, Saturday, September 23, 2006 at 11:00 a.m. by phone due to the extraordinary circumstances. Seconded by Commissioner Sharman and carried unanimously 4-0.**

Mr. Bollhoefer asked the Commission if they wanted to establish a system or timeframe when oaths have to be submitted. Commissioner Jowers stated that he would love to have time to do research on the candidates. **Motion by Commissioner Jowers to set a deadline for the submitting Qualifying Oath applications no later than Wednesday, September 20, 2006, by 5:00 p.m. Seconded by Commissioner Graham.** Commissioner Sharman stated that he wanted to postpone the vote in order to hear from the public on setting this date. Mayor Quesinberry stated that the Commission needs to take action in order to keep business moving. Commissioner Sharman stated he wanted to give District 3 the opportunity to get the word out and if we hear of some hardships in meeting this date that we have the ability to adjust. Mr. Bollhoefer asked Ms. Wilkerson for her input in this decision of Wednesday by 5:00 p.m. Ms. Wilkerson stated that if her community can get the names on Wednesday, they can put out a flyer on Thursday and people will have an opportunity to call on Friday before the vote on Saturday. There has to be some community involvement. For the Commission to appoint their leader is not open election. She stated that this may be what our Charter reads but the people want to be involved in who represents them. She stated that they best know who should represent them. Commissioner Jowers suggested that the names

be available by Wednesday giving the public time to interview the candidates. He stated that he will be available for public comment. **Motion carried 4-0.**

City Clerk asked the City Commission about the agenda format: should there be a section for the candidates to speak or a section for the public to address the Commission regarding the candidates? Mr. Ardaman stated that it is in the Commission's discretion to establish any procedure that would give them the best information to make a decision. Commissioner Jowers stated that the format used to appoint Commissioner Sharman seemed to work well and he explained that it gave the Commission an opportunity to see the candidate and hear them give their qualifications and or reasons they should be considered.

Merv Daniels, 433 N. Main Street, Winter Garden, Florida stated that he has concerns and used a parable to make his point, then stated that we live in an age of handshakes, contracts and treaties. No longer is a man's word good, it seems it is not the way of doing business anymore. Doing what is right and moral is not the standard anymore; it is "you scratch my back and I'll scratch your back" or the buddy system.

#### 5. **MATTERS FROM CITY ATTORNEY**

##### **Consider Stipulated Settlement Agreement with Burger King Corp. in Orange County Circuit Court Case No. 03-CA-10198**

City Attorney Ardaman stated that Assistant City Manager Robertson and an Assistant City Attorney at the time, Rob Simon, had mediation with respect to a condemnation case that the City is involved in. He referred the Commission to the stipulated settlement agreement that they were able to craft and come to a resolution. He stated that if the Commission is inclined to approve this, he suggested that they approve it subject to the total attorney's fees and expert's fees and costs being approved by the City Manager and City Attorney. He stated that this is the one item that is left open under their stipulated final judgment. He stated that really it is the expert's fees and costs because the statutory attorney's fees were fixed.

Commissioner Graham asked if their attorney agrees with what was just suggested. Mr. Ardaman stated that he has talked to Rob Simon who with the Winderweede firm that handled it for the City and asked him if that would create a problem and he thought it was a good idea that the Commission approve the settlement agreement with that condition. Commissioner Graham stated that he was referring to Burger King's attorney. Mr. Ardaman replied that he has not talked to her and he does not think Rob Simon has either. He stated that the Commission could approve it as is but it leaves open how much in expert fees and costs the City is going to have to pay. He stated that he does a lot of eminent domain where if he is representing the property owner, he could have a full trial before a judge on how much the expert fees and costs are and it could end up costing the City a lot more than what the fees and costs might be. It is a way to help encourage the property owner and their lawyer and the experts to come in with a reasonable number rather than looking at another opportunity to make some fees and costs. Commissioner Graham stated that this went into arbitration and the arbitrator wrote it in longhand and it was a little cloudy. Mr. Ardaman stated that it gives the City the opportunity to resolve it and if they are not willing to agree to reasonable fees, then there is no settlement. It gives the City some ability to say no, rather than giving the property owner and all the experts and their lawyers an open checkbook.

**Motion by Commissioner Graham to approve Stipulated Settlement Agreement with Burger King Corp. in Orange County Circuit Court Case No. 03-CA-10198 subject to acceptable expert fees and costs to be approved by the City Manager and City Attorney. Seconded by Commissioner Jowers and carried unanimously 4-0.**

#### 6. MATTERS FROM CITY MANAGER

- West Orange High School Homecoming Use of Historic Downtown

City Manager Bollhoefer stated that the West Orange High School is having it's homecoming on September 22, 2006 and is requesting the downtown area for their homecoming parade. It would require closing Plant Street for a couple hours on the Friday evening of September 22, 2006. **Motion by Commissioner Jowers to approve the closing of the historic downtown for the West Orange High School homecoming parade. Seconded by Commissioner Sharman and carried unanimously 4-0.**

Director Jay Conn stated that this event will start at 4:00 p.m.

- Funeral Arrangement for Commissioner Dixon

Mr. Bollhoefer stated that he had been working with Bro. Xerxes Snell trying to get the funeral arranged for this Saturday. He asked the Commission to donate the gravesite at the City's cemetery. Also, he stated that her City life insurance policy, did not have a beneficiary which means the funds could be tied up for quite a while. She was going to use those funds for the burial which is approximately \$4,000. He asked that the City loan approximately \$4,000 to cover the cost of the funeral and when her life insurance funds come in, the family has agreed to pay back the City. This way we can ensure that the funeral is paid for this Saturday. **Motion by Commissioner Graham to approve the request for donating the cemetery plot for Commissioner Dixon and approve a loan to the Dixon family for approximately \$4,000 to cover the costs of the funeral. Seconded by Commissioner Sharman and carried unanimously 4-0.**

Mayor Quesinberry stated that there is \$500 left in the general donation fund and stated that these funds must be used by the end of the month and suggested putting the \$500 towards the expenses of Commissioner Dixon's funeral arrangements. **Motion by Commissioner Jowers to approve donating \$500 towards expenses for Commissioner Dixon's funeral arrangements. Seconded by Commissioner Sharman and carried unanimously 4-0.**

- Evening at the Pops

Mr. Bollhoefer stated that Larry Cappleman is present representing the Rotary Club. They are having their Evening at the Pops and recognized Mr. Cappleman to make his request to the Commission.

Mr. Cappleman stated that the Winter Garden Rotary Club will present on Saturday evening, October 7, 2006 the Evening at the Pops on Lake Apopka at Tanner Hall. He stated that this is their fourth annual event and they moved the event from the spring to the fall to better accommodate the Rotarians. He stated that they think it is a wonderful event

for the City. They use it partly as a fundraiser for the Rotary Club, partly to entertain VIPs and sponsors that help them put on the event and help them pay for the symphony to come here. The VIPs will be contained within a tent as they were last year. He asked for permission to serve wine and beer to the VIPs inside of that tent as last year. He stated that in a second request he is asking permission to serve wine within the confines of the roped-off area of the symphony. He stated that these will not be in marked containers but in cups. Mayor Quesinberry stated that he wanted to comment on the fact that people do come to listen to the Philharmonic Orchestra and those in the tent area got so noisy last year that there was no respect for others. Commissioner Sharman asked Mayor Quesinberry to elaborate on his view of the event last year. Mayor Quesinberry stated that everyone wants this event to continue but the people in the VIP tent got a little noisy and did not show respect for the other people. He stated that there is a great turnout on this. Mr. Cappleman stated that they believe the music was not audible and the people within the tent drifted into private conversation which carried outside the tent.

Mr. Cappleman explained that prior to the event starting is a time for the public to come and meet with the performers and see their instruments. He stated that they contact the schools so students can be alerted to the fact that this is available to them. It is intended to familiarize them with the Philharmonic. **Motion by Commissioner Sharman to approve serving beer and wine to the VIPs inside their tent and within the confines of a roped-off area. Seconded by Commissioner Jowers.** Commissioner Graham stated that he appreciates what the Rotary is doing and stated that he has already explained his opposition to serving alcohol in the last meeting. He stated that he likes what is going on, but sometimes when someone gets a little too much alcohol things will happen. **Motion carried 3-1; opposed Commissioner Graham.**

• **Grant to the Fire Department**

Fire Chief Williamson informed the Commission that the Fireman's Fund through Image Corporation located on Crown Point Cross Road had advised him of a \$35,000 grant for the City. This has to do with Image Corporation being involved with the Fireman's Fund over a long period of time, being a loyal customer, and building up points. He stated that he spoke to the president of Image Corporation, Bob Brooks, and together they came to an agreement that a Fire Safety House for children and older adults would be a good use for the grant. He stated that they found out well after the budget submissions were due that the \$35,000 is not enough to cover the Fire Safety House.

Mr. Bollhoefer stated that they are \$15,000 short for the \$50,000 that is needed. He stated that they thought if the City could pay half of the \$15,000 then they could seek corporate donations for the other \$7,500. This would allow for the purchase of the \$50,000 Fire Safety House. Fire Chief Williamson stated that there is another option which is a dual role for making the Fire Safety House an incident command trailer for large events. The manufacturer can do that for an additional \$10,000 which would be necessary to decide during manufacturing. He stated that we can take it or leave it, but we have borrowed them in the past from Ocoee. He stated that it would be nice to have our own and this would be a good opportunity to do that. Mayor Quesinberry asked Mr. Williamson to elaborate on the Committee of 100 of Orange County. Mr. Williamson explained the dollar for dollar

cost sharing from corporate partners. Commissioner Graham clarified that the additional funding needed was \$25,000 and suggested corporate contacts could be cable television and Progress Energy and some of the bigger companies may be happy to donate. Mr. Bollhoefer stated that we would approach corporate sponsors and ask them to pay half, the City pay the other half, and plus the \$35,000 grant from Image Corporation. Mr. Williamson stated that we may want to wait and see what the corporate sponsors do and then maybe go the extra \$10,000 and do the command post at that time. Commissioner Graham stated that he would like to see them go the whole \$60,000 and get sponsors within the City that would donate. **Motion by Commissioner Jowers to approve using City funds to pay for the portion not covered by the grant not obtained from corporate sponsors to purchase a Fire Safety House. Seconded by Commissioner Graham and carried unanimously 4-0.**

• **Plant Street (State Road 438)**

Mr. Bollhoefer stated that we have an issue with Plant Street or 438 which is a state road. He stated that the level of service on this road is diminishing to an "F". Going out there at 8:00 a.m. or 5:00 p.m. can be a nightmare. The state has no intention of four-laning that road within 15 years or ever, they are now focusing on the large arterial roads. If we want to do something with this road, it will be up to the City of Winter Garden. He stated that the City has been working with Florida Department of Transportation (FDOT) and have come up with what they think is a solution. The FDOT can take the \$2.5 million they have budgeted for repaving the road and give it to the City of Winter Garden. We would use impact fees and also come up with a proportional share number for future developments above and beyond impact fees to help fund it. He stated that he believes by using this mechanism the City would be able to fund this road and probably have the section from State Road 429 down to Ninth Street completed in possibly three to three-and-a-half years. He explained the City would four-lane it from SR 429 down to Ninth Street and place traffic lights at East Crown Point Road, West Crown Point Road, and Ninth Street. He explained that this would divert some traffic coming down from SR 429, down Ninth Street, down to either Story Road or SR 50. He stated that next year the intersection at Story and Ninth Street will be worked on to help handle some of that traffic. He asked the Commission to give direction if they wished to move forward with this plan so that he can let the FDOT know so the City can work on creating that plan and the funding. He stated that the City has been talking with developers and they understand that these additional dollar amounts will be required. It is one of our efforts to make sure that we do our best to ensure that new development pay for the impact that they have on our roads. Mayor Quesinberry stated that we have been acquiring the property in that area so that we would have space to widen the road. He stated it costs about \$7 ½ million per mile of road to do this construction, so this two mile section is a \$15 million project. Mayor Quesinberry stated that FDOT would be giving us \$2.5 million. Mr. Bollhoefer stated that this is correct and this is the amount they had scheduled for paving. The City has been negotiating and they will not give anymore than that and part of this is that the City will probably take over the road and it would then become a City of Winter Garden road which would give the City complete control which he thinks will be better for the City in the long run. **Motion by Commissioner Graham to approve staff moving forward with negotiations with**

**FDOT for the City to obtain the \$2.5 million FDOT had allotted for repaving. Seconded by Commissioner Jowers. Motion carried unanimously 4-0.**

Commissioner Graham noted that with reference to the level of service as noted in the agenda package the levels show backwards from what the actual grading levels are.

• **City Planner Mark Cechman**

Mr. Bollhoefer recognized City Planner Mark Cechman for his nine and a half years of service. He stated that he has always put 100% into the City; he has put his heart into the City and cared. He has been one of the hardest working employees that we have in the City. He stated that he has accepted another position with the City of Orlando. Mr. Cechman thanked the Commission and stated that it was a pleasure working with them. He thanked prior City Manager Hollis Holden for hiring him and current City Manager Bollhoefer for keeping him around. He stated that he has learned a lot and cherished his time with the City of Winter Garden.

8. **MATTERS FROM MAYOR AND COMMISSIONERS**

**Commissioner Colin Sharman**

Commissioner Sharman stated that he really does want to see the residents of District 3 get involved. He stated that he has received a call from a citizen that stated they wanted to see that District fired up. He commended the Commission for coming in on a Saturday and making this happen. He stated that he will keep an open mind to this whole process.

**Commissioner Theo Graham**

Commissioner Graham stated that he served with Commissioner Mildred L. Dixon for better than 12 years. He stated that he used to sit by her in City Hall chambers and they had a lot of fun kidding with one another. He feels she was probably out working seven days a week. She worked hard for her District and it will be hard to fill her shoes. He thinks she was a great lady.

**Commissioner H. Gerald Jowers**

Commissioner Jowers stated that he served six years with Commissioner Dixon and that she was full of forethought and as sly as a fox. He stated that she once told him that if he would talk less and listen more that he could get something done. He stated that he told her he could not get a word in edgewise with her. He stated that she has served her City well and he will always hold good memories of her.

**Mayor Jack Quesinberry**

Mayor Quesinberry stated that we have heard Commissioner Mildred L. Dixon talk about this person and that person, all the way from here to Tallahassee. She knew the local laws and what she could do here, she also knew what they could do up in Tallahassee. He stated that she could drop names of those she knew in local government and those she knew in Tallahassee. He has been receiving calls from a lot of those people whose names she has referenced as knowing over the years and some just calling to say that they will attend the funeral. He stated that Buddy Dyer said when he was running for office, she would run right there to support him and he will be here on Saturday morning. Corrine Brown made a call

and stated that her family has some medical problems with the mother or grandmother and regrets that she could not be here. He stated that numerous people have called his house to say that they thought so much of Commissioner Dixon. He stated that of course we feel the same way. He invited the everyone to join with us to celebrate Mildred L. Dixon's 83 years of life starting with the visitation Friday night at 6:00 at the Ninth Street Church of Christ at 115 Ninth Street, Winter Garden, and then on Saturday at the West Orange Church of Christ on Daniels Road at 11:00 a.m.

The meeting adjourned at 8:16 p.m.

**APPROVED:**

/S/  
**MAYOR JACK QUESINBERRY**

**ATTEST:**

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