



CITY OF WINTER GARDEN

OFFICE OF THE CITY CLERK

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REGULAR MEETING MINUTES CITY COMMISSION

November 9, 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. The invocation and Pledge of Allegiance were given.

Present: Mayor Jack Quesinberry, Commissioners H. Gerald Jowers, Colin Sharman, and Charlie Mae Wilder

Absent: Commissioner Theo Graham

Also Present: City Manager Mike Bollhoefer, City Attorney A. Kurt Ardaman, Assistant City Manager Marshall Robertson, City Clerk Kathy Golden, Utilities Director Charlie Tinch, Police Chief George Brennan, Trailer City Manager Johnny Clark, Building Official Willie Herbert, Finance Director Brian Strobeck, Fire Chief John Williamson, Human Resources Director Frank Gilbert, Recreation Director Jay Conn, Assistant City Engineer Mike Kelley, Information Technology Director Bob Reilly, Economic Development Director Shelly Weidenhamer, and West Orange Times reporter Michael Laval

1. **APPROVAL OF MINUTES**

Motion by Commissioner Wilder to approve the regular meeting minutes of October 26, 2006, as submitted. Seconded by Commissioner Jowers and carried unanimously 4-0.

2. **OATH OF OFFICE**

Police Chief Brennan introduced and administered the oath of office to Police Officers William E. Sullivan, III, Brandon Appel, April Durias, Ramon Garcia, Paola Hernandez, Michael Hogberg, Hoi Khuu, Brian McAvoy, Gail Michaud, and James Riley

3. **PROCLAMATION 06-14: Proclaiming October as “National Arts and Humanities Month”**

Mayor Quesinberry read the proclamation and presented it to Ms. Sue Thompson. Ms. Thompson commented that she did not know how they could present more culturally than they did and shared some of the past and future events in Winter Garden.

4. **FIRST READING OF PROPOSES ORDINANCES**

- A. **Ordinance 06-47:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING CERTAIN REAL PROPERTY GENERALLY DESCRIBED AS 0.33 ACRES OF LAND LOCATED AT 305 S. WOODLAND STREET, FROM CITY R-2 TO CITY C-3; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 06-47 by title only. **Motion by Commissioner Jowers to approve Ordinance 06-47 with the second reading and public hearing being scheduled for December 14, 2006. Seconded by Commissioner Sharman and carried unanimously 4-0.**

- B. **Ordinance 06-48:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING CERTAIN REAL PROPERTY GENERALLY DESCRIBED AS 0.17 ACRES OF LAND LOCATED AT 111 PENNSYLVANIA AVENUE, FROM CITY R-2 TO CITY C-3; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 06-48 by title only. **Motion by Commissioner Sharman to approve Ordinance 06-48 with the second reading and public hearing being scheduled for December 14, 2006. Seconded by Commissioner Wilder and carried unanimously 4-0.**

5. **REGULAR BUSINESS**

- A. **Request for temporary open-air sales vendor license, with tent, by Severt's Tree Farms to sell Christmas trees November 23, 2006 to December 24, 2006 (32 days) at 14101 W. Colonial Drive adjacent to AmSouth Bank**

Representative Patrick Ireland of Severt's Tree Farms stated that he was available for any questions the City Commission might have and that his company was here again to sell Christmas trees during the holiday season. **Motion by Commissioner Jowers to approve temporary open-air sales vendor license, with tent, by Severt's Tree Farms to sell Christmas trees November 23, 2006 to December 24, 2006 (32 days) at 14101 W. Colonial Drive adjacent to AmSouth Bank. Seconded by Commissioner Wilder.** City Manager Bollhoefer stated that the application states that the City must be listed as additionally insured, however the Code of Ordinances does not require this and the Public Risk Manager has indicated it is not necessary as the event is held on private property. **Motion carried unanimously 4-0.**

- B. **Request for temporary open-air sales vendor license, with tent, by Alpha Focal Point to sell Christmas trees and wrought iron sculptures November 15, 2006 to December 27, 2006 (43 days) at 14811 W. Colonial Drive**

Motion by Commissioner Wilder to approve temporary open-air sales vendor license, with tent, by Alpha Focal Point to sell Christmas trees and wrought iron sculptures November 15, 2006 to December 27, 2006 (43 days) at 14811 W. Colonial Drive. Seconded by Commissioner Sharman and carried unanimously 4-0. Representative Richard Mazzula of Alpha Focal Point thanked the Commission for their approval.

C. **Request for sponsorship by West Orange High School Choir member Sofia Troncoso**

Ms. Troncoso requested sponsorship of \$1,500 to go to New York and Miami, Florida to compete with the West Orange High School Choir in national events. Mayor Quesinberry noted that a \$1,000 donation was given last year. **Motion by Commissioner Sharman to approve donating \$1,000 to the West Orange High School Choir. Seconded by Commissioner Wilder and carried unanimously 4-0.**

D. **Request for waiver by the West Orange Neighborhood Center for Families for the rental fee of Tanner Hall**

Recreation Director Conn stated that the West Orange Neighborhood Center for Families works out of Westside Tech here in Winter Garden serving many families in need. He stated that they have an annual Christmas Party at Tanner Hall for the families and are requesting a waiver of the fees for this event which is approximately three hours amounting to a rental fee of \$150. He stated that the Center Manager Dennis McAllister is available for any questions the City Commission might have. Commissioner Sharman asked Mr. Conn if this is the first year the City is able to assist this group. Mr. Conn replied no, we have helped them every year. **Motion by Commissioner Wilder to approve waiving the rental fee of Tanner Hall for the West Orange Neighborhood Center for Families. Seconded by Commissioner Jowers and carried unanimously 4-0.**

E. **Recommendation to approve site plan for Simply Self Storage at 12446 W. Colonial Drive**

City Manager Bollhoefer stated that this site plan was approved by the Planning and Zoning Board and staff recommends approval. Mayor Quesinberry recognized the representative of Simply Self Storage, Brent Setchel; representative of Boyer Singleton, 520 S. Magnolia Avenue, Orlando, Florida who stated that he agrees to the conditions as presented by staff. **Motion by Commissioner Jowers to approve the site plan with conditions (see attached) for Simply Self Storage at 12446 W. Colonial Drive. Seconded by Commissioner Wilder and carried unanimously 4-0.**

F. **Recommendation to approve preliminary plat for Alexander Ridge South**

City Manager Bollhoefer stated that this preliminary plat for Alexander Ridge South was approved by the Planning and Zoning Board and staff is recommending approval. He stated that there was one change made at the Planning and Zoning meeting on the last page of the Engineer's memorandum, paragraph nine, last sentence. *"The intersection improvements stated above shall be completed prior to the issuance of any certificate of occupancy on any structure."* He explained that this statement was put in when it was thought that they would be building the road. We do not believe that they will be building the road and do not feel it would be fair to hold them responsible for something over which they have no control. Mayor Quesinberry recognized the applicant Emily Regis, representative of Lennar Homes, 101 S. Hall Lane, Suite 200, Maitland, Florida who stated that they agree with staff recommendations. Commissioner Sharman asked if this is the section of CR545 that the City Commission approved to

widen. Mr. Bollhoefer replied that is correct and they have agreed to be a part of the Overlay District in that area and pay the additional impact fees. Commissioner Sharman stated that he wanted to share this with the residents of District 4, and stated that they are happy to see the road widened. **Motion by Commissioner Sharman to approve the preliminary plat for Alexander Ridge South as presented and amended. Seconded by Commissioner Wilder and carried unanimously 4-0.**

G. Recommendation to approve preliminary plat for Winter Garden Commerce Center

City Manager Bollhoefer stated that this preliminary plat for Winter Garden Commerce Center was approved by the Planning and Zoning Board and staff is recommending approval. He stated that there was one thing that should have been corrected at the Planning and Zoning Board Meeting. The letter to Mr. Sedloff under item number two states that they are required to follow the State Road 50 Overlay District. He stated that they are outside of that district and legally the City cannot make them follow the overlay district rule. Mr. Randy June, representative for the Winter Garden Commerce Center, agreed. **Motion by Commissioner Jowers to approve the preliminary plat for Winter Garden Commerce Center. Seconded by Commissioner Wilder and carried unanimously 4-0.**

6. **MATTERS FROM CITIZENS** - There were none.

7. MATTERS FROM CITY ATTORNEY

A. Consider Stipulated Order of Taking of Parcel 103 and Final Judgment in Orange County Circuit Court Case No. 06-CA-7318

Mr. Ardaman stated that this involves a parcel of property in the northwest quadrant of the intersection of Ninth Street and Story Road as needed in order to allow a left turn lane for eastbound traffic to Story Road. This will allow for the widening of the road so that there can be a through lane to pass. The property owner and lawyers for the owner have agreed to this and stated that staff is in favor of this judgment. He stated that the City Commission needs to approve it so that this parcel may be resolved. **Motion by Commissioner Jowers to approve moving forward with the Stipulated Order of Taking of Parcel 103 and Final Judgment in Orange County Circuit Court Case No. 06-CA-7318. Seconded by Commissioner Wilder and carried unanimously 4-0.**

• **Selby Burch Code Enforcement Lien**

Mr. Ardaman stated that there is another eminent domain case where the Florida Department of Transportation (FDOT) is widening State Road 50. He stated that there are a number of lawsuits that they are pursuing against property owners through Winter Garden and other areas along State Road 50. The City is named in each of those lawsuits, which means that there are multiple lawsuits in which the City is an interested party, to the extent that the City has an easement on private property and the FDOT intends to take that portion which the City will seek reimbursement. He stated that if the City has a Code Enforcement Board lien on properties acquired by the FDOT for the widening of State Road 50, the City will pursue those and if the City has any other interest in those parcels, the City's interest will be protected. He stated that the City

intends, unless the City Commission votes otherwise, to consent to the FDOT doing what is needed to widen State Road 50.

He stated that there is one case, the FDOT vs. Selby Burch, in which there was an old Code Enforcement Board lien imposed back in 1989. There were issues and problems with that lien and is requesting authority be granted to allow the City Manager to agree to dismiss the City's interest with respect to this lien, rather than spend the City's money on trying to protect that lien and assert the City's interest in it. Mr. Bollhoefer stated that in review of the lien, the amount due is \$125 to \$150 and would not be worth pursuing. **Motion by Commissioner Jowers authorizing the City Manager to dismiss the City's interest in the Selby Burch Code Enforcement Board case lien. Seconded by Commissioner Sharman and carried unanimously 4-0.**

8. **MATTERS FROM CITY MANAGER**

A. **Discussion regarding the regular meeting of December 28, 2006**

Mr. Bollhoefer stated that in the past the City has normally cancelled the second meeting in December for the holidays but this year several items will be coming up that he thinks are important enough to have the December 28, 2006 meeting. The Commission agreed.

B. **Discussion on participating in the West Orange Chamber of Commerce Legislative Luncheon November 30, 2006**

Mr. Bollhoefer stated that staff needs to know if anyone is interested in participating in the West Orange Chamber of Commerce Legislative Luncheon November 30, 2006. Tables of eight are \$248. Mayor Quesinberry stated that he did not know how many would be in attendance but felt that the City should purchase at least one table. Commissioner Sharman indicated he could attend. Mr. Bollhoefer stated that he would purchase one table.

C. **Discussion regarding a possible joint workshop with the Charter Review Committee November 30, 2006 at Tanner Hall**

Mr. Bollhoefer stated that the Charter Review Committee has completed their review and he has given a copy of their report to the City Commission. He explained that there are two versions, one clean version showing all the changes, and the other is the current Charter with underlines and strike-outs. He stated that the Charter Review Committee exists until November 30, 2006 and they would like to schedule a joint workshop with the City Commission to discuss their proposed revisions. He suggested 6:30 p.m. Mayor Quesinberry asked if Tanner Hall would be available. Mr. Bollhoefer replied it is available and has been tentatively reserved. Hearing or seeing no objections, it was agreed to hold a joint workshop with the Charter Review Committee on November 30, 2006 at 6:30 p.m. at Tanner Hall.

D. **Presentation on new City Hall**

Mr. Bollhoefer stated that the agenda included a presentation on the new City Hall but he would like to reschedule it until immediately following the Charter Review Workshop. It was the consensus of the City Commission to have the presentation of the

new City Hall immediately following the Charter Review Committee Workshop on November 30, 2006 at 6:30 p.m. at Tanner Hall. City Clerk Golden asked if there would be any public comment time. Mayor Quesinberry replied no, this will just be a presentation to give an update of what is going on.

E. **Recommendation to authorize negotiating the sale of 114 E. Plant Street (old Rainbow property) to Winter Garden LLC**

Mr. Bollhoefer stated that the City has put 114 E. Plant Street on the market and a memorandum was distributed to the City Commission for their review. He stated that RFQ packages were sent out to over 30 developers and the City received responses from two, Winter Garden LLC and Feltrim. There was a meeting to go over both proposals and the City's Committee chose Winter Garden LLC and thought that they fit more with downtown Winter Garden. He referred the City Commission to renderings of both projects contained in their agenda packages and explained some of the recommended changes. He asked the City Commission for permission to move forward with negotiations. He stated that if they can come together on some form of agreement it would be brought back to the City Commission for vote on both the project and the amount that the land would be sold for. He pointed out a major difference between the two projects was parking issues. **Motion by Commissioner Wilder to authorize the City Manager moving forward with negotiations on the sale of 114 E. Plant Street (Old Rainbow property) to Winter Garden LLC. Seconded by Commissioner Sharman and carried unanimously 4-0.**

• **Cauley Property**

Mr. Bollhoefer stated that he just received a settlement/offer for the sale of the Cauley property. He stated that it is the block house on the corner where the new city hall will be. He stated that Ms. Peterson had requested \$325,000, which is higher than the appraised value but after discussion with staff and the City Attorney it was felt that if the City went to eminent domain it would probably cost more money than this offer. He asked the City Commission for permission to pay \$325,000 plus the additional legal fees which are required to be paid by Florida Statute under eminent domain proceedings. He stated that those amounts are given in the handout. Mayor Quesinberry stated that he did not see where the City had any choice and the seller could ask any price that they wanted. Mr. Bollhoefer explained that the eminent domain proceedings could cost the City more. City Attorney Ardaman stated that he has spoken with Mr. Rob Simon as well and he concurs that it will be less money for the City if we pursue this rather than eminent domain. **Motion by Commissioner Jowers to approve the purchase of the Cauley property for \$325,000, plus legal fees. Seconded by Commissioner Wilder. Motion carried unanimously 4-0.**

9. **MATTERS FROM MAYOR AND COMMISSIONERS**

Mayor Quesinberry

Mayor Quesinberry stated that since it is flu season, he shared information on the availability of shots from one local health center.

Commissioner Wilder

- Commissioner Wilder shared her experiences at events around Winter Garden. She also shared some current invitations.
- She announced that the second District 3 meeting is scheduled for November 14, 2006 at 6:00 p.m. at the Maxey Center and invited everyone to attend.

Commissioner Sharman

- Commissioner Sharman stated that he would like the Commission to consider enacting an ordinance that would permit a person to only serve on one board thereby allowing for broader public input. Mayor Quesinberry explained that in the past there were not many applicants willing to volunteer to serve on boards as there are now. Commissioner Sharman stated that as a City we are growing and we need to open ourselves up to as many people as we can that want to serve. He suggested adding a stipulation that if there was no qualified applicant, then someone could serve on two boards.

Mr. Bollhoefer suggested including a statement that this would occur through attrition and differentiate between regular boards and temporary boards.

Commissioner Jowers stated that he would first need to review the proposed ordinance for its restrictiveness or non-restrictiveness.

Commissioner Wilder agreed with moving forward with the suggestion, but mentioned that it is important to have people who will attend the meetings.

- Commissioner Sharman stated that an official City liaison had been established with Orange County Public Schools and he has attended one of the rezoning meetings held for the community on the middle schools. It is going to be a tough fight as the school board is a big organization and more residents are needed to assist in this process. Mr. Bollhoefer shared information on task forces that have been formed.

Mayor Quesinberry

- Complimented City staff on their efforts in cleaning up after recent downtown events.
- He shared that he attended the groundbreaking event for the new West Orange High School.

The meeting adjourned at 7:50 p.m.

APPROVED:

/S/
MAYOR JACK QUESINBERRY

ATTEST:

/S/

City Clerk Kathy Golden, CMC