



CITY OF WINTER GARDEN

OFFICE OF THE CITY CLERK

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REGULAR MEETING MINUTES CITY COMMISSION

December 28, 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 Theo Graham, H. Gerald Jowers, Colin Sharman, and Charlie Mae Wilder

Also Present: City Manager Mike Bollhoefer, City Attorney A. Kurt Ardaman, Assistant City Manager Marshall Robertson, City Clerk Kathy Golden, Assistant Utilities Director Bart Patria, Police Chief George Brennan, Trailer City Manager Johnny Clark, Building Official Willie Herbert, Finance Director Brian Strobeck, Fire Chief John Williamson, Recreation Supervisor Greg Fallon, Assistant City Engineer Mike Kelley, Information Technology Director Bob Reilly, Economic Development Director Shelly Weidenhamer, Planning Director Ed Williams, Assistant Public Works Director Dennis Duckwiler

1. **APPROVAL OF MINUTES**

Motion by Commissioner Wilder to approve the regular meeting minutes of December 14, 2006 as submitted. Seconded by Commissioner Graham and carried unanimously 5-0.

At this time, Mayor Quesinberry called upon Fire Chief Williamson to introduce our new Deputy Fire Chief Brian McGrew.

2. **FIRST READING OF PROPOSES ORDINANCES**

A. **Ordinance 06-49:** AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM CITY SUBURBAN TO COMMERCIAL FOR PROPERTY GENERALLY DESCRIBED AS 8.52 ± ACRES OF LAND LOCATED ON THE NORTHEAST CORNER OF AVALON ROAD AND TILDEN ROAD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Belle Meade)

City Attorney Ardaman read Ordinance 06-49 by title only. **Motion by Commissioner Jowers to approve Ordinance 06-49 as recommended by staff and to schedule the second reading and public hearing for January 25, 2007. Seconded by Commissioner Wilder and carried unanimously 5-0.**

- B. **Ordinance 06-50**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 8.52 ± ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED ON THE NORTHEAST CORNER OF AVALON ROAD AND TILDEN ROAD FROM CITY PUD TO CITY PCD; PROVIDING FOR CERTAIN PCD REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Belle Meade)

City Attorney Ardaman read Ordinance 06-50 by title only. **Motion by Commissioner Sharman to approve Ordinance 06-50 and to schedule the second reading and public hearing for January 25, 2007. Seconded by Commissioner Jowers and carried unanimously 5-0.**

- C. **Ordinance 07-02**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA; EMPOWERING THE CITY TO REQUIRE, AS CONDITIONS TO DEVELOPMENT, REDEVELOPMENT, AND SITE PLAN APPROVALS, JOINT USE DRIVEWAYS, CROSS ACCESS CORRIDORS, AND UNIFIED ACCESS AND PARKING SYSTEMS; REQUIRING EASEMENTS, AGREEMENTS, AND STIPULATIONS FOR USE AND MAINTENANCE OF JOINT USE DRIVEWAYS, CROSS ACCESS CORRIDORS, AND UNIFIED ACCESS AND PARKING SYSTEMS; REQUIRING SUCH EASEMENTS TO BE PUBLICLY RECORDED; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 07-02 by title only. **Motion by Commissioner Sharman to approve Ordinance 07-02 and to schedule the second reading and public hearing for January 25, 2007. Seconded by Commissioner Wilder and carried unanimously 5-0.**

3. **REGULAR BUSINESS**

- A. **Request by the Church El Llamado De Dios (The Call of God) to conduct a Christian music festival at Veterans Memorial Park on January 13, 2007**

Recreation Supervisor Fallon stated the church is requesting permission to conduct this event and for a waiver of the \$1,000 permit fee. Mayor Quesinberry asked what assurance the City has that the park will be cleaned up after their event and what about extra restrooms. Mr. Fallon responded that they are expecting approximately 150 people and Recreation Director Jay Conn has indicated the existing restrooms will accommodate them and the organizers have agreed to clean the area after the event. **Motion by Commissioner Jowers to approve the music festival as requested and waiving the \$1,000 permit fee subject to them entering into an agreement with the City whereby the church will be responsible for cleaning up after the event. Seconded by Commissioner Wilder.**

Mayor Quesinberry emphasized that there needs to be tighter controls for cleaning up after events. City Manager Bollhoefer added that a possible incentive could be an agreement that includes language that if it is not cleaned up they will be levied the full \$1,000 permit fee. Commissioner Graham noted that the application indicates there will be music and in the past there have been complaints about the music being too loud so

he would like police officers to respond to these complaints by getting it turned down on behalf of the surrounding residents. Mr. Bollhoefer suggested also adding to the agreement that the sound will be monitored and they will have to comply with keeping the noise level down or it will be shut down. **Commissioner Jowers agreed to the City Manager's suggested amendments to his original motion (*add an agreement that includes payment of the full permit fee if the event area is not cleaned, and if the noise levels generate complaints and they do not comply with police officer requests to turn it down, the event will be shut down*) and no objections were noted to the amendments by the seconder Commissioner Wilder. Motion carried unanimously 5-0.**

B. Recommendation to approve Tucker Oaks Final Plat

Planning Director Williams stated that the Planning and Zoning Board recommends approval subject to the staff conditions provided in the agenda package. Rocky Carson with Donald McIntosh Associates came forward and stated his agreement with staff's recommendations. **Motion by Commissioner Graham to approve the final plat for Tucker Oaks. Seconded by Commissioner Jowers and carried unanimously 5-0.**

C. Recommendation to approve Oaks at Brandy Lake Final Plat

Planning Director Williams stated that the Planning and Zoning Board recommends approval subject to the staff conditions provided in the agenda package. Shane Cox with Meritage Homes came forward and stated his agreement with staff's recommendations. **Motion by Commissioner Jowers to approve the final plat for Oaks at Brandy Lake. Seconded by Commissioner Sharman and carried unanimously 5-0.**

D. Recommendation to approve Windermere Corners Site Plan

Planning Director Williams stated that this item is a site plan for a two-story office building for which staff is recommending approval subject to the conditions stated in the Engineering Department memorandum. Sam Sebaali with Florida Engineering Group came forward and stated his agreement with staff's recommendations. **Motion by Commissioner Graham to approve the site plan for Windermere Corners. Seconded by Commissioner Wilder and carried unanimously 5-0.**

E. Recommendation to approve Winter Garden Executive Center Site Plan

Planning Director Williams stated that this facility is located at Dillard and East Maple Street. The Planning and Zoning Board has recommended approval subject to the staff conditions. Casey Herlihy, 1420 Lake Whitney Drive, Windermere, Florida stated his agreement with staff's recommendations. **Motion by Commissioner Jowers to approve the site plan for Winter Garden Executive Center. Seconded by Commissioner Sharman and carried unanimously 5-0.**

F. Recommendation to approve Apex Commerce Center Phases II & III Site Plan

Planning Director Williams stated that the Planning and Zoning Board recommends approval and staff recommends approval subject to the conditions listed in the agenda package. Jim Dombrowski with Stillwater Technologies stated his agreement with staff's conditions. **Motion by Commissioner Wilder to approve the site plan for Apex Commerce Center Phases II & III. Seconded by Commissioner Sharman and carried unanimously 5-0.**

- G. **Recommendation to approve Avamar (aka Avalon Marsh Retail) Preliminary Plat**
Planning Director Williams stated the Planning and Zoning Board recommends approval. Staff recommends approval subject to the conditions stated in the Engineering Department's memorandum provided in the agenda package. Earl Kurtz with Monroe's Prestige Group stated his agreement with staff's comments. **Motion by Commissioner Jowers to approve the preliminary plat for Avamar (aka Avalon Marsh Retail). Seconded by Commissioner Wilder and carried unanimously 5-0.**
- H. **Recommendation to approve agreement with Quality Vault for cemetery services**
City Manager Bollhoefer stated that this item is from the last Commission meeting that includes the requested language that the annual extension will require a resolution by the City Commission. City Attorney Ardaman suggested adding to Section 1 "However, the annual extension of this agreement from year to year during the term, will require a resolution...." so that every year during the three-year period it would be subject to the City Commission adopting a resolution. **Motion by Commissioner Jowers to approve the agreement with Quality Vault for cemetery services to include the City Attorney's recommended language. Seconded by Commissioner Wilder and carried unanimously 5-0.**
- I. **Recommendation to approve Vote Processing Equipment Use Agreement and Summary of Responsibilities with the Orange County Supervisor of Elections office for the 2007 municipal election(s)**
City Attorney Ardaman advised that prior to any election, an agreement must be entered into with the County Supervisor of Elections office spelling out the duties and responsibilities. This will also be required for the Charter referendum. He and the City Clerk have reviewed the documents and have no concerns. **Motion by Commissioner Wilder to approve the Vote Processing Equipment Use Agreement and Summary of Responsibilities with the Orange County Supervisor of Elections for the elections in 2007. Seconded by Commissioner Graham and carried unanimously 5-0.**
- J. **Discussion and possible action regarding Canvassing Board criteria for absentee and provisional ballots cast in 2007 election(s)**
City Clerk Golden stated that the criteria presented is actually the same used in the 2006 elections because there have been no needed changes. **Motion by Commissioner Graham to approve the Canvassing Board criteria as submitted. Seconded by Commissioner Sharman and carried unanimously 5-0.**
- K. **Request for reappointment by Mark Griffith to the General Employees Pension Board for an additional two-year term**
Mayor Quesinberry stated that Mr. Griffith has indicated his desire to be reappointed. **Motion by Commissioner Graham to reappoint Mark Griffith to the General Employees Pension Board for another two-year term. Seconded by Commissioner Wilder and carried unanimously 5-0.**
4. **MATTERS FROM CITIZENS**
Don Miller, 755 Queensbury Loop, Winter Garden, Florida addressed his participation on the Charter Review Committee as a representative of the citizens, which was a great honor that he appreciates. He believes his committee presented a great final product and described

how it was arrived at. It is disturbing for him to hear that staff will be allowed to make recommendations and he is not sure which staff would be involved and he wants to know who and why. He encouraged the City Commission to take the necessary steps to get the Charter changes moving well before the September date he has heard mentioned. City Attorney Ardaman stated that under his report he will be giving the Commission information on this subject.

Jerry Carris, 347 Bayside Avenue, Winter Garden, Florida stated that it has come to his attention that the City of Apopka is petitioning the St. Johns River Water Management District (SJRWMD) to let them take five million gallons of water a day out of Lake Apopka. The petition he is circulating to the SJRWMD Board strongly urges them to consider other means for Apopka meet its needs. His request to the City is to take a stand on this subject and object. City Manager Bollhoefer advised that the City Commission has already passed a Resolution that has been mailed to St. Johns stating their opposition to withdrawing water from Lake Apopka as did the cities of Ocoee and Oakland.

5. **MATTERS FROM CITY ATTORNEY**

Mr. Ardaman distributed a proposed Charter Amendment schedule highlighting some of the key dates in the process for Commission review and consideration. The schedule proposes an actual mail ballot referendum on July 24, 2007 which can be moved somewhat in either direction depending on how much time the Commission wants for educating the voters and receiving their input while incorporating the minimum amount of time required. He understands there are between 70 and 90 proposed changes by the Charter Review Committee that did a fine job but their recommendations to the City Commission are just that, because the City Commission ultimately decides what goes on the ballot for consideration by the voters in the City of Winter Garden. If the Commission feels it needs additional information from the public or staff, and his understanding is that staff would be clearly the City Manager, City Clerk, City Attorney, or other officer listed in the Charter that is included in his proposed schedule because from the publications he has seen, they encourage local governments to consider input from their staff who deal with and work under the Charter on a daily basis. Clearly input and education of the public is important. There are so many proposed changes to the Charter and many affect other sections and that also needs to be considered. Additionally, grouping of questions needs to be considered which may reduce the number of questions on the ballot. Included in this process will be the City's upcoming regular election cycle. He anticipates having the language back to the Commission for their final vote on March 28, 2007 for direction on an ordinance. In addition to meeting the requirements for mail ballots we have to deal with absentee ballot requirements. He asked the Commission to look at the schedule and if anyone has any problems, suggestions, or changes to let him know so staff can see if it can be accommodated. A separate agreement with the Orange County Supervisor of Elections for a referendum election will need to be acted upon. Mayor Quesinberry asked about voters getting both an absentee and a regular ballot mailed to him. City Clerk Golden stated that only one ballot is mailed to a person regardless of an absentee ballot request on file with the Orange County Elections office.

It was the **consensus** of the City Commission to hold a workshop with staff for their comments on January 18, 2007 at 6:00 p.m. at City Hall Chambers. City Manager Bollhoefer suggested mailing a public notice of the public hearing in utility bills and making the proposed changes available on the City web page for their review prior to the hearings. Mr. Bollhoefer stated that grouping questions together will be difficult because of trying to avoid creating any conflicts or omissions on the ballot. Commissioner Graham stated that the public input sessions should be well advertised.

6. **MATTERS FROM CITY MANAGER**

A. Distributed the financial statement for November 2006

B. **New City Logo Color**

Distributed a color version of the new city logo. The stylized logo does not contain a lot of detail in order to make it easier to be reproduced on shirts, etc. Staff does use a version of the clock tower on some documents that shows the brick detail. Commissioner Graham stated that he heard Mr. Bollhoefer stating earlier that someone is using the clock tower with tile. Mr. Bollhoefer stated that he believes it is the Town Crier newspaper but he is not sure whether or not it is copyrighted. Commissioner Graham stated that he would have liked to have had the tile roof on our logo. Mr. Bollhoefer stated that the centennial logo we use does have a clock tower with bricks and tile roof. Mayor Quesinberry stated that the black letters used for Winter Garden will not show on dark colored shirts. Mr. Bollhoefer responded that the example provided tonight could be the official colors but on certain color shirts it would be better to have the leeway to change the colors so they will show. **Motion by Commissioner Graham to approve the logo colors as submitted. Seconded by Commissioner Jowers and carried unanimously 5-0.**

C. **West Orange Chamber of Commerce Annual Champions Gala**

Mr. Bollhoefer stated that in the past the City Commission has purchased a table and this year the corporate table for 10 is \$960. Commissioner Jowers stated it is important to participate and **motioned to approve the purchase of one corporate table for the 2007 Champions Gala. Seconded by Commissioner Sharman and carried unanimously 5-0.** Mr. Bollhoefer asked the City Commission to let him know whether they are able to attend because staff does sometimes fill their seats.

• **Underdrain Change Order for Lakeview Avenue Trunk Line "C" Phase 2**

Mr. Bollhoefer stated he has handed out a memorandum explaining this item and asked Mr. Robertson to come forward and explain the request. Mr. Robertson stated that since the project was originally designed, the water table has risen and this change order is for a tile line down the east side of the road to catch the water before it gets into the base. It needs to be installed before the driveways and sidewalks are installed. Mr. Bollhoefer explained that the contractor wanted an additional 20 days but staff has insisted on no more than 14 days to get this done. He is getting a project schedule for Commissioner Graham that will be given to all the Commissioners. Mayor Quesinberry asked if the original contract included installing the driveways and sidewalks. Mr. Robertson replied yes. **Motion by Commissioner Graham to approve a change order not to**

exceed \$88,696.51. Seconded by Commissioner Wilder and carried unanimously 5-0.

7. MATTERS FROM MAYOR AND COMMISSIONERS

Commissioner Jowers

Asked when residents will be able to make a right-hand turn onto Tilden again. Assistant City Engineering Kelley stated it should be no longer than two weeks.

Commissioner Graham

Commissioner Graham stated that the Nemours Children's Hospital is having a difficult time getting into Orlando and several cities have passed a resolution supporting their locating here and he feels Winter Garden should also consider a resolution. Mr. Bollhoefer stated he has a copy of the resolution and he will bring it to the Commission at the next meeting. Mayor Quesinberry stated that the Tri-County League had all the mayors sign a resolution and then both Orange County and Orlando decided to sign one. Commissioner Graham stated that he can't see why there is opposition to the hospital when our growth can justify the need. Mayor Quesinberry stated that one concern was that it would be for children going to Arnold Palmer Hospital but Nemours offers completely different services according to Belle Isle Mayor Bill Brooks. Commissioner Graham stated that he has received two letters by Orlando Regional staff that has put conditions on agreeing to let it go through. Mr. Bollhoefer stated that he has discussed this issue and he doesn't think the conditions are right and thinks they were included so no one will compete with them for services.

Commissioner Wilder

Announced that her first annual community health symposium will be held January 6, 2007 at the Maxey Community Center 10:00 a.m. to 2:00 p.m. She invited all to attend and asked for volunteers to contribute to the employment and education portion of the presentation.

The meeting adjourned at 7:34 p.m.

APPROVED:

/S/
MAYOR JACK QUESINBERRY

ATTEST:

/S/
City Clerk Kathy Golden, CMC