



CITY OF WINTER GARDEN

OFFICE OF THE CITY CLERK

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REGULAR MEETING MINUTES CITY COMMISSION

April 12, 2007

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, Police Chief George Brennan, Fire Chief John Williamson, Trailer City Manager Johnny Clark, Finance Director Brian Strobeck, Human Resources Director Frank Gilbert, Recreation Director Jay Conn, Assistant City Engineer Mike Kelley, Information Technology Director Bob Reilly, Public Works Director Bob Smith, Economic Development Director Shelly Weidenhamer, and West Orange Times reporter Michael Laval

1. **APPROVAL OF MINUTES**

Motion by Commissioner Graham to approve the minutes of the regular meetings of March 8, 2007 and March 16, 2007 as submitted. Seconded by Commissioner Wilder and carried unanimously 5-0.

2. **PRESENTATIONS**

A. Mayor Quesinberry presented District 3 Commissioner Charlie Mae Wilder with a certificate of appreciation for serving out the remaining term of Mildred L. Dixon (deceased) and for her prior service on the Code Enforcement Board.

B. Mayor Quesinberry presented a plaque to District 2 Commissioner Theo Graham for his 20 years of service. Commissioner Theo Graham thanked the City Commission and the citizens of Winter Garden for allowing him to serve for so many years.

3. **OATH OF OFFICE**

City Clerk Golden administered the oath of office to incoming City Commissioners elected in the March 13, 2007 general election; Bob Buchanan for District 2, Harold L. Bouler for District 3, and Colin Sharman for District 4.

Dispensed as the City Commission and convened as the Community Redevelopment Agency at 6:39 p.m.

Members Present: Jack Quesinberry, Gerald Jowers, Bob Buchanan, Harold L. Boulter, Colin Sharman and Larry Cappleman

Member Absent: Dale Crosby

4. **Request by the Heritage Foundation for a \$200,000 donation for the construction of the Garden Theatre**

Mr. Larry Cappleman, Community Redevelopment Agency Advisory Board (CRAAB) Chairman, stated that in January of 2005 the CRA approved a request made by the Heritage Foundation of Winter Garden for the City to pledge \$500,000 in support of the renovations and capital improvements to the Winter Garden Theatre. This pledge was contingent upon other obligations being paid off first, mainly the funds borrowed from SunBank and from the City for the renovations downtown. He stated that it was promised that it would be paid sometime within the next 15 years. There was a recent request from the Heritage Foundation to accelerate this payment. The CRAAB has verified with staff who has stated that the cash is available in the CRA fund. After meeting all debt obligations to satisfy this request the CRAAB is recommending that the CRA approve the request from the Heritage Foundation. At this time he recognized Alauna McMillen, Theatre General Manager, to present to the CRA the request for the donation.

Ms. McMillen introduced John Murphy, the President of the Winter Garden Heritage Foundation and Becky Stafford, Chair of the Garden Theatre Board. Ms. McMillen stated that a request was made from the CRA through the CRAAB that the Winter Garden Heritage Foundation be approved for the first \$200,000 of the \$500,000 pledged in 2004-2005. She stated that in March of last year, the Winter Garden Heritage Foundation received approval from Orange County to receive \$500,000 towards the Garden Theatre restoration project. Not only was this the largest amount awarded to any one organization, but also they ranked number one in the scoring of the grant. She described the money and pledges that the Foundation has received. She stated that the Garden Theatre was awarded phase 2 of the Garden Theatre grant of \$250,000 from Orange County, bringing the total commitment from Orange County to \$750,000. Out of a score of a possible 100 this organization received a 98.7, a score never reached by any arts organization applying for Orange County funding. She explained the requirements of receiving this funding from Orange County and stated that the CRA's vote is crucial to their ability to take advantage of the Orange County grant. She explained that they are a non-profit organization that is fiscally responsible and held accountable for every dollar they receive. With the projected completion of the Theatre being fall of this year, the soft opening is slated for January 22, 2008, with a grand opening and dedication ceremony March 1, 2008. She stated that with 299 seats and a goal of being open four to seven nights every week, the economic impact of this project will be felt by every merchant downtown and in the outlying area. She explained that the Garden Theatre is setting the stage for a new vibrant downtown Winter Garden. She stated to the CRA that a commitment of \$200,000 is investing directly in the future of Winter Garden. She thanked the CRA for their time and stated that John Murphy and Becky Stafford were available to answer any questions.

Commissioner Sharman asked if the only paid employees of the Garden Theatre are the administrative staff and all Board members are voluntary. Ms. McMillen stated that she is full time for the theatre side; the museum side is staffed by the administrator and several part-time employees, and the board is comprised of volunteers.

Commissioner Sharman stated the he would write a personal check for \$250 to the Winter Garden Heritage Foundation. The members of the Winter Garden Heritage Foundation were recognized by standing and they thanked Commissioner Sharman for his personal donation.

Motion by agency member Cappleman to approve disbursing \$200,000 to the Winter Garden Heritage Foundation on behalf of the Garden Theatre project. Seconded by agency member Sharman and carried unanimously 6-0.

Mr. Cappleman stated that following the completion of the downtown project, the CRAAB moved on to the next priority in their finding of necessity which was originally established in 1992 when the Board began. This is to deal with affordable housing and crime in east Winter Garden and a feeling of a blighted situation, predominantly in the core area between Ninth and 11th & North Street and Klondike Street. For several years, they have been investigating all of the possibilities of improving the housing in that area such as converting more homes into owner-occupied instead of tenant-occupied. Last year the City Commission approved a rezoning of the area which could allow some different kinds of construction within that geographic area, such as four structures in a clustered pattern on two adjacent lots if a builder chose to do so. He stated that the CRAAB has struggled with a way to move forward with some demonstration projects and would like to request that the CRA authorize the establishment of a fund of \$100,000 for acquiring any property within this area which may become voluntarily available in the near future. This would allow the CRA to purchase it with the express intent of accumulating enough property to put together a specimen project and to locate builders to present proposals for building a project and reselling the land to a builder to develop it into a test project which could hopefully be used as a catalyst to move forward with other people independently. He explained that the CRA is not being asked to approve any acquisition, but simply setting aside the funds to be utilized in the event there is the opportunity to acquire lots that could be used for test or demonstration projects. He stated that they felt at this time this is the best way to move forward.

Agency member Boulter stated that he has worked on the CRAAB for about two years and stated that a City is only as strong as its weakest link and that weakest link as far as he is concerned is the east Winter Garden area. There are several projects that were discussed for east Winter Garden, but only a few have been started. He stated that before people can buy into something, they need to see something tangible. Having said that, the purchase of land in the east side should be handled delicately, because a lot of people will think, "Here comes the City and what they are doing is buying our property and pretty soon we will have no affordable place to stay." A lot of times when cities purchase properties and rehabilitate them, they are no longer affordable. He suggested a campaign to educate the people as to

why the property is being purchased by the City, how much property, and what the City intends to do with it once purchased.

Mr. Cappleman stated that he does not disagree with Agency member Boulter and realizes that Mr. Boulter has worked on this for quite some time. The CRAAB does not have any target property at this time, nor will they go out to solicit property. If they knew a property was up for sale, they could then investigate the property and see if it would fit the needs of what we are looking for. He agreed that they should publicize a plan as much as possible; if this project goes forward, more meetings in east Winter Garden would be very helpful to explain to the citizens of that area what is going on.

Motion by Agency member Jowers to set aside \$100,000 to purchase property when it becomes available. Seconded by Agency member Cappleman and carried unanimously 6-0.

Adjourned as the Community Redevelopment Agency and reconvened as the City Commission at 6:54 p.m.

5. **FIRST READING AND PUBLIC HEARING OF PROPOSED ORDINANCES**

A. **Ordinance 05-56:** AN ORDINANCE AMENDING THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN TO COMPLY WITH THE WEKIVA PARKWAY AND PROTECTION ACT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE – City Planner Williams

City Attorney Ardaman read Ordinance 05-56 by title only. Mayor Quesinberry opened the public hearing; hearing and seeing none, closed the public hearing. **Motion by Commissioner Sharman to approve Ordinance 05-56 with the second reading and public hearing being scheduled for April 26, 2007. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

B. **Ordinance 07-12:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA; VACATING THE PLATTED SOUTH WEST CORNER OF LOT 50, WINTERMERE HARBOR ACCORDING TO PLAT BOOK 42 AT PAGES 67-68 IN THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE N 84°29'04''E AT A DISTANCE OF 3.55 FEET; THENCE N 05°30'56''W A DISTANCE OF 7.25 FEET TO THE POINT OF BEGINNING; THENCE 27°25'26''W THENCE N 84°29'04''E A DISTANCE OF 62.08 FEET; THENCE S 79°57'48''W A DISTANCE OF 60.35 FEET RETURNING TO THE POINT OF BEGINNING FOR THE PROPERTY LOCATED AT 13119 LAKESHORE GROVE DRIVE, WINTER GARDEN, FLORIDA; PROVIDING AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 07-12 by title only. Commissioner Jowers asked how much this will affect the City. City Planner Williams replied not much and the City has received letters of no objection from the respective utility companies. In addition, the City Engineer has no objection to vacating the easement. Mayor Quesinberry opened the public hearing; hearing and seeing none, closed the public hearing. **Motion by Commissioner Jowers to approve Ordinance 07-12 with the second reading and public hearing being scheduled for April 26, 2007. Seconded by Commissioner Sharman and carried unanimously 5-0.**

6. **REGULAR BUSINESS**

A. **Request for donation by Winter Garden Rotary**

Stephon Delafordos, 921 Westcliffe Drive, Winter Garden, Florida, stated that he was present on behalf of the Winter Garden Rotary and gave a brief history of the purpose of the Rotary Club with example programs such as Polio Plus. **Motion by Commissioner Boulter to approve a \$400 donation to the Winter Garden Rotary. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

B. **Request by the Winter Garden Heritage Foundation to hold a music festival October 5-7, 2007 on Plant Street between Main Street and Highland Avenue**

Ron Sikes, 291 Gary Drive, Winter Garden, Florida, stated that they are requesting permission for a three-day music fest beginning Friday, October 5th from 5:00 p.m. to 11:00 p.m., Saturday, October 6th from noon to 11:00 p.m., and Sunday October 7th from noon until 4:00 p.m. involving community choirs and various churches. He stated that the format will be very similar to that of last year. There are three primary elements of their request: 1) to approve the application request 2) to waive the permit fee, as they are a 501(3)c non-profit organization and 3) to request the approval of the sale of beer and wine at this event during festival hours on Friday and Saturday. He explained the controlled environment in which the beer and wine would be sold. **Motion by Commissioner Jowers to approve the request of the Winter Garden Heritage Foundation to hold a music festival October 5-7, 2007 on Plant Street between Main Street and Highland Avenue. Seconded by Commissioner Sharman.** Commissioner Boulter stated that he attended last year's festival that had a variety of music for everyone and he had a grand time. He encouraged the citizens to come out and enjoy the festival. **Motion and carried unanimously 5-0.**

C. **Recommendation to approve site plans for Avalon Marsh Retail (Avamar)**

Planning Director Williams stated that staff is recommending approval of this site plan subject to the 23 conditions of approval as stated in the attached memorandum (*see attached*). Earl Kurtz of Munroe Prestige Group, the developer, was recognized and stated that their group accepts the conditions as listed. **Motion by Commissioner Boulter to approve site plans for Avalon Marsh Retail (Avamar). Seconded by Commissioner Sharman and carried unanimously 5-0.**

D. **Recommendation to approve a Right-of-way Maintenance Agreement for Covington Park Subdivision**

Planning Director Williams stated that this is an agreement for use of the right-of-way and maintenance within the project by the developer and homeowners association and staff recommends approval. **Motion by Commissioner Jowers to approve a Right-of-way Maintenance Agreement for Covington Park Subdivision. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

E. **Appointment to fill seat vacated by incoming Commissioner Buchanan on the Planning and Zoning Board**

Mayor Quesinberry stated that he has seen the list of applicants and would like to recommend Mr. James "Jimmie" Dunn for appointment. Commissioner Sharman stated that he does know Mr. Dunn and he would be a good asset to the Planning and Zoning Board. **Motion by Commissioner Sharman to appoint James Dunn to fill the unexpired term of Bob Buchanan. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

F. **Appointment to fill seat vacated by incoming Commissioner Boulter on the Code Enforcement / Nuisance Abatement Board**

Mayor Quesinberry stated that he was not certain if Ms. Wilder would be willing to serve on this Board but she was co-chairman at one time and served quite a few years. If she would be willing to accept the appointment, he thinks Ms. Wilder should be put back on this Board. Commissioner Boulter stated that he has worked with Ms. Wilder on this Board and he believes that she is very capable and was an asset. It would be a travesty not to put her back on this Board. Commissioner Buchanan stated that he also worked on that Board and would like to see Ms. Wilder appointed to the Board again. **Motion by Commissioner Boulter to appoint Charlie Mae Wilder to fill his unexpired term. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

G. **Appointment to fill seated vacated by incoming Commissioner Boulter on the Community Redevelopment Advisory Board**

Mayor Quesinberry stated that this Board would not be meeting for quite some time and the City Commission could take some time to think about this appointment unless someone had a name that they wanted to submit. Commissioner Boulter stated that he was going to suggest postponing the appointment until the next meeting. It was the **consensus** of the City Commission to postpone this appointment until the next meeting.

H. **Appointment to fill seat vacated by outgoing Commissioner Graham on the Ocklawaha River Basin Advisory Board**

It was the **consensus** of the City Commission to postpone this appointment until a later date.

I. **Selection of a Mayor Pro Tempore**

Motion by Mayor Quesinberry to appoint Commissioner Jowers as the Mayor Pro Tempore. Seconded by Commissioner Sharman and carried unanimously 5-0.

J. **Recommendation to approve Annual Construction Services Contracts for Infrastructure Improvements**

Public Services Director Cochran stated that on March 19, 2007, the City received bids for the annual construction services contract for infrastructure improvements. The work encompasses roadway, drainage, water, and wastewater repairs on an as-needed basis. T. D. Thomson was the lowest qualified bidder, with Emerald Utilities as the second lowest qualified bidder. He stated that considering that the work is done on an as-

needed basis and many times can be the result of an emergency situation, staff feels that it is advantageous to award this contract to T. D. Thomson and the second lowest qualified bidder, Emerald Utilities. Emerald Utilities has agreed to honor the T.D. Thomson bid with the understanding that T. D. Thomson would receive the first call and if they cannot respond and take care of the work in a timely manner, then Emerald Utilities would be called. **Motion by Commissioner Jowers to approve Annual Construction Services Contract for Infrastructure Improvements with first option to T. D. Thomson and then Emerald Utilities for the same amount. Seconded by Commissioner Sharman and carried unanimously 5-0.**

K. **Recommendation to award contract for Division Street roadway and utilities improvements from Lakeview Avenue to Dillard Street**

Public Services Director Cochran stated that the City received bids on March 28, 2007. C. E. James Construction was the lowest responsible bidder with a bid of \$1,244,899.39. PEC Engineering, the City's project engineer, has reviewed their references and recommends awarding this bid to the low bidder, C. E. James Construction. Staff concurs with that and also recommends awarding this bid to C. E. James Construction. Mayor Quesinberry asked if they have ever worked for the City. Mr. Cochran replied no. He noted that this work is roadway, drainage, and utility replacements on the Division Street. **Motion by Commissioner Boulder to award the contract for Division Street roadway and utilities improvements from Lakeview Avenue to Dillard Street to C. E. James Construction as recommended. Seconded by Commissioner Jowers and carried unanimously 5-0.**

L. **Recommendation to approve youth program scholarships to summer day camp participants**

Recreation Director Conn stated that the City has a great summer youth day camp program and has received a number of requests for the fees to be waived in order for needy families to be able to attend the program. The City has completed a study of other cities that have a similar program and asked the City Commission to approve up to a 15% reduction of the day camp enrollment fee. Mayor Quesinberry asked if this is for needy families only. Mr. Conn responded yes, and stated that the criteria used has been provided in the agenda package. **Motion by Commissioner Sharman to approve a youth program scholarship for summer day camp participants. Seconded by Commissioner Jowers and carried unanimously 5-0.**

M. **Recommendation to approve policy changes to the rental agreements for Tanner Hall**

Recreation Director Conn stated that after a budget analysis last year, staff started looking at the rates charges for Tanner Hall and felt that an increase was warranted for Tanner Hall rental rates. There was an extensive renovation done to this hall in 1998 and since that time there have not been any rate increases. He referred to information provided to the City Commission and stated that he was seeking guidance. Mayor Quesinberry asked Director Conn what his recommendation was. Mr. Conn replied that his recommendation would be to approve Option B and he gave a brief explanation. **Motion by Commissioner Sharman to approve policy changes to the rental**

agreement for Tanner Hall and Option B (*see attached*). **Seconded by Commissioner Buchanan.** Commissioner Jowers asked if there is any room for modification if this rate was deemed unaffordable by the citizens of Winter Garden. Mr. Conn stated that if you review the rates, City residents do get a discount compared to non-residents. The City does not have a scholarship or fee waiver written into the contract. School groups and non-profits do have the opportunity of using the hall Monday through Thursday. Mayor Quesinberry asked Mr. Conn if he felt that the City could keep Tanner Hall rented at the higher rate. Mr. Conn responded yes, staff has really looked at this and the type of rental the City has and the response that staff has received from renters on the rates is that they are inexpensive. One of the proposed changes is to go to a preferred caterers list, which would bring in a substantial amount of revenue for the city.

Mr. Bollhoefer asked for clarification on policy changes as they relate to contracted events with a 12:00 midnight ending as opposed to the new 10:00 p.m. ending time. Mr. Conn responded that the current contracts would be honored with the 12:00 midnight time but all new contracts would be effective immediately with the 10:00 p.m. deadline.

Commissioner Buchanan asked if there have been any plans for the new revenue. Mr. Conn responded that the extra revenue is really to cover operational costs. The average capital costs are related to improvements to the hall.

Mayor Quesinberry asked about the damage deposit for renters using the hall that do not leave it in a clean condition. Mr. Conn responded that the deposit is \$400 and is refundable after the event if everything is okay.

Motion and carried unanimously 5-0.

N. Recommendation to approve the purchase of the old Dillard Street Elementary School site

Assistant City Manager Robertson stated that this has been in the works for three years and negotiations have gone back and forth with the Orange County School Board. Staff recommends purchasing this property and the retention pond can be used for mitigating drainage for the new city hall site. If the City Commission votes to approve the purchase, a vote for approving the easement agreement is also needed. This easement will give the Orange County School Board the right to still put their water into the pond along with the water the city will put into it. **Motion by Commissioner Buchanan to approve the purchase of the old Dillard Street Elementary School site and the easement agreement. Seconded by Commissioner Boulter and carried unanimously 5-0.**

O. Recommendation to purchase property located at the southeast corner of Windermere Road and Warrior Road for a park in District 4

City Manager Bollhoefer stated that the City has been looking at this piece of land for over two years. The City initially requested that this land be donated but the Orlando/Orange County Expressway Authority (OOCEA) was not inclined to do so. He

received a call on Monday from the OOCEA that they are getting ready to put this piece of property on the market for sealed bids. The OOCEA wanted to give the City first option to buy this property for their appraised value of \$521,300. The property is 4.5 acres and he envisions this property being a trailhead as the County will be building a bike path along State Road 429 and Stoneybrook Parkway. He stated that the City's biggest issue with trying to build parks in the south is that there is not enough land available. He was not certain of when the City could build the park but at least the land can be secured. **Motion by Commissioner Sharman to approve purchase of property owned by the OOCEA located at the southeast corner of Windermere Road and Warrior Road for the appraised price of \$521,300 for a park in District 4. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

7. **MATTERS FROM CITIZENS**

Keith Eazsol, 1522 E. Spring Ridge Circle, Winter Garden, Florida, stated that the Orange County School Board repealed all rezoning changes that had been presented and changed the whole structure of how that zoning is going to occur. They are basically starting over in his particular area regarding Ocoee High School. The areas they are concerned about are Ocoee High School and the residents in Crown Point Springs and some of the neighboring subdivisions. He stated that in January the City Commission sent a letter to the Orange County School Board endorsing a feeder program in which the kids would be going from Ocoee High School back to West Orange High School. He explained that they came to that meeting in March and requested that the City Commission also endorse the kids who are going to Ocoee High School be able to stay there. He asked the status of the letter.

Commissioner Sharman stated that he received Mr. Eazsol's e-mail and answered it. Mr. Eazsol stated that he receive Commissioner Sharman's e-mail which stated that it was only his position and not that of the City Commission. Mr. Eazsol stated that this is why he is addressing the City Commission, to find out if they can get a letter from the City Commission endorsing their side of the issue as they want their kids to stay at Ocoee High School.

City Attorney Ardaman stated that the City Commission has no authority at all as this is a School Board decision. They deal with all of the factors on school rezonings, and the emotions with respect to that. The City Commission can authorize the letter, one way or the other, but there is no requirement. He advised the City Commission that this is a very emotional, difficult issue for a school board and the extent that the City Commission gets involved in that they will be adopting or finding themselves subject to some of those same pressures. The City Commission can decide to send a letter or not, or stay out of it. Mr. Ardaman stated that there is no procedure in the school system that he is aware of that asks the City Commission or any government to take a position on something like that. He reiterated that the City Commission does have the ability to do that if they want to. He further advised that this is not a legal issue but a political issue, and stated that if there is division in the citizen support there will be repercussions from either side. Whenever the City Commission does send a letter, it carries weight from whoever sent it. He advised to be very careful when they decide to send something like that and suggested that they send

letters individually if they wanted, as opposed to sending one as the City Commission. He reiterated that it is their decision.

Commissioner Buchanan asked the number of the children involved. Mr. Eazsol stated that he was not aware of the number and they only canvassed their neighborhood. He shared that he has a neighbor across the street who feels the complete opposite and wants their kids to go to West Orange High School. His reason for asking for a letter is that the City Commission endorsed one side and sent a letter to the Orange County School Board. He stated that he is not asking for a legal opinion as stated by the City Attorney, but a letter to the Orange County School Board notifying them that there is a second side of this issue.

Commissioner Jowers asked how many signed the petition and how many students are involved. Mr. Eazsol stated that he knows that 177 people signed the petition but does not know the number of students involved. Commissioner Jowers stated that he knows Mr. Eazsol and has coached his kids and explained that he has grown up in this City and stated that he believes in municipal continuity in which the people who live in the town grow up together and know each other.

Motion by Commissioner Jowers to have staff send a letter rescinding the prior letter and stating that the City Commission takes no position with respect to the rezoning. Seconded by Commissioner Sharman.

Richard Hudson, 548 Garden Heights Drive, Winter Garden, Florida, expressed to the City Commission that they should be real careful, stating that if they make a decision and wrote one letter they should stand behind that decision. The School Board will be voting very soon on this decision and he was in opposition to sending another letter to rescind the first letter.

Motion carried unanimously 5-0.

Barbara Pennington, 421 Timbercreek Drive, Winter Garden, Florida, thanked Building Official Herbert for arranging for training of the Code Enforcement Board and Assistant City Attorney Gail Owens. They attended a very intensive training session in Lakeland, Florida on February 23, 2007. As a member of the Code Enforcement Board, she wanted to let the City Commission and the City staff know how beneficial this type of training is for volunteer board members.

Edward Lynch, 660 Home Grove Drive, Winter Garden, Florida, stated that he wanted to point out that the City has not always had elected Commissioners, but now the City has five elected officials and stated that he thinks that is wonderful. He stated that there are three items he wanted to address.

Mr. Lynch thanked the City on their promise to follow through on their effort to bring more parks down to District 4 with the Windermere Road – Warrior Road Park and the residents in District 4 do appreciate it.

He stated that he also wanted to discuss agenda item 8.A under the City Attorney about the Charter Referendum but he was not aware of what might be brought before the City Commission for discussion. Mr. Ardaman briefly explained that he would be seeking the process and direction the City Commission wants to take from this point forward with the new City Commission on board. Mr. Lynch asked if the discussion will be on the way the Charter is voted on. Mr. Ardaman replied it would be regarding public input and decisions on what the public will be able to see and consider in making public comment. Mr. Lynch shared that he thought it would refer to the citizen referendum along with the initiative recommendation, which he thinks are both good things.

He stated that he wanted to comment on the \$200,000 donation to the Heritage Foundation. He said he did not know a lot about the Heritage Foundation and he has not been in the City of Winter Garden very long. Everything he knows about the Heritage Foundation is positive and good. He expressed that he enjoys downtown and thinks the Garden Theatre will be good for downtown. He stated that a lot of questions should be asked by the City Commission for giving out that amount of money. He stated that he hopes that the questions were asked, when you give that amount of money you might ask to see the books of the organization. He does not know if the City has done this or not. He stated that this request on the agenda does not say a lot and stated that he wanted to comment on that and hope that his elected officials are asking all the right questions and understanding how the Heritage Foundation spends their money to avoid any future problems as seen with the Expressway Authority having some money spent in some very poor and improper ways.

Richard Napotnik, 1633 Fullers Cross Road, Winter Garden, Florida, stated that he wishes to speak to the Charter issue and inform the Commissioners on some situations on this charter. He stated that on January 11th the City Commission attended a workshop to get direction from the staff which City Attorney Ardaman was relaying to the City Commission, with the City Commission making no comment at that time. He expressed that he thought the citizen initiated referendum is an item that is a very good thing for the citizens giving them something that they can participate in. If they are dissatisfied with something that the City Commission has done, the citizens can go ahead and call for a repeal of a decision. He stated that at that time there were comments made that this type of referendum should be stricken from the charter and should never appear in the charter, that no cities have it at all, and that a small minority can shut this government down. He stated that he was there to tell them that this is not true and cannot happen. He identified West Melbourne, Zephyrhills, Celebration, and the City of Maitland as having this provision in their charter. He stated that at the same meeting it was also brought up that the City of Maitland had a very good charter. He also addressed that these cities also have the office of the City Clerk stay under the control of the City Commissioners and not under the control of the City Manager.

He stated that he has changed his position on sending the ballots out to the citizens. He thought about it long and hard and stated that there were improprieties in the election prior to this recent election and he thought that the polls should be opened to let the people go to the polls to vote on these issues rather than let the ballot go to their house. He stated that he also feels that every citizen should get a copy of the charter.

Allison Painter, 393 North Lakeview Avenue, Winter Garden, Florida, stated that she is going to match Commissioner Sharman's \$250 donation to the Heritage Foundation. She stated that she is a native of Winter Garden and feels like she has not done enough to improve this City and offered her volunteer services and expressed that anyone wishing to be a part of it should come and volunteer.

She addressed Mr. Napotnik's comment on the charter being available to everyone in the City by stating that everyone should be able to go down to the City and get a copy.

8. **MATTERS FROM CITY ATTORNEY**

A. **Discussion on Charter referendum**

Mr. Ardaman stated that the City Commission should have in their agenda package a copy of the Charter Review Committee Advisory Final Report and a memorandum from himself and Assistant City Attorney Dan Langley listing the suggested items to be changed in the charter and an original set of recommended changes from the Charter Review Committee. He stated that tonight is not the night to go through it as some Commissioners may not have had an opportunity to go through some of the Committee recommendations. He stated that staff would like to get the City Commission's decision about what the charter changes should be before it is sent out to the public for their comment, versus taking public comment now before the Commission makes a decision. His recommendation is to make a decision by the next meeting as to which of the changes they are most comfortable with and publish those suggested changes to the citizens, letting them know what the Commission wants to do. Let them then have the opportunity to comment back to the City Commission, rather than taking a lot of comment now, then make a decision, then there will be more comments from the citizens about decisions already made. He stated that this would be the recommendation from a time standpoint.

Mr. Ardaman recognized the City Clerk in terms of providing information regarding the past turnout at the polls for mailed ballots versus voting at the precincts. Ms. Golden advised that the voter turnout for the last mailed straw poll ballot was 38 percent and the last general election averaged 14 percent for three districts.

Mr. Ardaman stated that staff needs a decision from the City Commission in the very near future about their intended charter changes so they can be published, instead of taking the comments prior to publishing the information about what the citizens would like to change.

Commissioner Sharman asked if the City Commission votes on proposed changes and then hears public comment, could the Commission make further changes a later date. Mr. Ardaman stated absolutely, the City will have a meeting at which the City Commission will ultimately decide the ballot language for a vote by the citizens. He stated that between now and that meeting the City Commission can change anything they want.

9. **MATTERS FROM CITY MANAGER**

City Manager Bollhoefer identified disparaging and false comments made against the City's Police Department in a letter written calling for an investigation of sexual offenders violating the City's Code of Ordinances. Specifically, Mr. Fleming wrote a letter under the auspices of helping the City; however, the letter was not initially submitted to the City, but was sent to Doug Guetzloe for his radio show on the Friday before the election and then faxed to the Police Department the following Monday. This letter concluded there were eight sexual offenders living in Winter Garden who are in violation of the City's ordinance. The letter claims the Police Department was not sufficiently funded to enforce the related ordinance and the letter was distributed by local Guetzloe supporters. Neither Mr. Fleming nor anyone else thoroughly researched the situation. However, the Police Department did research it and found the report to be wrong because the facts showed there are not eight sexual predators in violation of the City of Winter Garden's ordinance, but only one that the Police Department was in the process of getting to move. He noted the Police Department has since succeeded in removing the single violator, leaving none in violation.

Mr. Bollhoefer stated that the second item that disturbs him is that a recent candidate running in District 4 filed an ethics charge against him about something he supposedly said at a public meeting. This person did not check with anyone attending the meeting on what he supposedly said, but read an article in the newspaper and assumed he said and did something wrong. The Florida Commission on Ethics has since ruled that the complaint was legally insufficient and had now been closed. He is not sure whether or not that person realizes that filing a complaint without merit under our state statutes is a misdemeanor.

Mr. Bollhoefer stated that former District 4 City Commissioner Carol Nichols recently sent an e-mail, from her FDLE office, to a prospective buyer of a trailer in Trailer City whereby she made derogatory comments about him and Trailer City resident Andy Bruns. Her comments included that the City still intends to close down the trailer park apparently in an attempt to convince the prospective buyer to not purchase the trailer. This could be a civil offense and in doing so she is interfering in City business and gives the appearance it is official business from the FDLE. He was not sure what her motive is and asked the City Commission to give the City Attorney the authority to research this issue to see if some type of action by the City is needed.

In closing, Mr. Bollhoefer stated that he felt that it is time for the leaders of this community to stand up and say it is time for the viciousness and negative attacks to stop and to move forward. While criticism is good, there is a line you cross when it is no longer decent and another line when it borders on slander and libel. He wanted to bring this issue up because it is time to take a look at this and end it.

Motion by Commissioner Buchanan to authorize the City Attorney to look into any legal issues as described by Mr. Bollhoefer regarding Ms. Nichols's interference with City business on the sale of a mobile home in Trailer City. Seconded by Commissioner Boulter and carried unanimously 5-0.

10. **MATTERS FROM MAYOR AND COMMISSIONERS**

Mayor Quesinberry

Mayor Quesinberry stated that he attended the Tildenville School dedication and he is always proud to see his Fire and Police Chiefs present to let the children know that they are there to protect them. He thanked them for being present.

Commissioner Jowers

Welcomed the new Commissioners.

Commissioner Buchanan

Commended Commissioner Graham for his service as Commissioner in District 2.

Commissioner Bouler

Stated it is going to be a pleasure for him to serve this wonderful City. He shared that he always said as a young man that this is where he wanted to come back and live. He wished his grandfather was here, who walked some of these streets back in the day. He stated that he wanted to clear up that there were no improprieties in District 3 during the election. He thanked the team that made it possible for him to be there, namely his campaign manager Mary Jackson and the citizens of Winter Garden. There is a lot of catching up to be done in District 3.

Commissioner Sharman

He thanked the residents of District 4, which had the highest turnout at the polls in District 4 out of any past Commission election and he welcomed the new Junior Commissioners.

He stated that he thought it was a good suggestion to make the Charter available at City Hall for those citizens wishing to get a copy.

He stated that the City has a lot of new Commissioners and a new Mayor Pro Tem and he asked the Mayor if he could give a refresher on how the meeting should proceed.

Mayor stated that he thought things were going fine the way they were and addressed the need for the Commissioner to be prepared by knowing the information presented to them in their agenda packages.

Commissioner Sharman addressed the issue of when the Commission should address a citizen regarding their comments. Mayor Quesinberry stated that he thought that a Commissioner could address a citizen's comments at the end so there is no debate of issues back and forth. Public hearing issues can be addressed at the time they are covered on the agenda.

The meeting adjourned at 8:25 p.m.

APPROVED:

/S/
MAYOR JACK QUESINBERRY

ATTEST:

/S/
City Clerk Kathy Golden, CMC