



CITY OF WINTER GARDEN

OFFICE OF THE CITY CLERK

251 W. PLANT STREET

WINTER GARDEN, FL 34787

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REGULAR MEETING MINUTES

CITY COMMISSION

May 24, 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 Harold L. Bouler, Bob Buchanan, and Colin Sharman (*Commissioner Sharman arrived at 6:34 p.m.*)

Absent: H. Gerald Jowers

Also Present: City Manager Mike Bollhoefer, City Attorney A. Kurt Ardaman, Assistant City Manager Marshall Robertson, City Clerk Kathy Golden, Police Chief George Brennan, Trailer City Manager Johnny Clark, Finance Director Brian Strobeck, Human Resources Director Frank Gilbert, Fire Chief John Williamson, Recreation Director Jay Conn, Information Technology Director Bob Reilly, Planning Director Ed Williams, Assistant City Engineer Mike Kelley, Assistant to the City Manager for Public Works Don Cochran, Sanitation Supervisor John Love, and West Orange Times reporter Michael Laval

1. **APPROVAL OF MINUTES**

Motion by Commissioner Bouler to approve the regular meeting minutes of May 10, 2007 as submitted. Seconded by Commissioner Buchanan and carried unanimously 3-0. (*Commissioner Sharman arrived at 6:34 p.m.*)

2. **PRESENTATION**

A. **Potential impact on budget from proposed changes in property taxes**

City Manager Bollhoefer addressed current talks in the State's Capitol of cutting property taxes. He stated that he was making the presentation so that the City Commission could better understand the ramifications of property tax cuts (*see attached*).

Mr. Bollhoefer began by stating facts about the State of Florida, citing it as one of the lowest tax states, it is the most livable, has the worst freeways, ranked 48th in Education out of all the United States, and ranked 2nd among the states in reliance on sales taxes.

He elaborated on some of the problems for cities stating that they are forced to spend a lot of money on unfunded state and federal mandates; there are the local government costs, and the "Save Our Homes" inequity. He further explained that legislators in Tallahassee are saying that local government has been wasting money. This is not true because the revenues are being invested back into the community.

He described the increases in ad valorem taxes, but significantly more were the increases in the City's spending on Police, Fire, Parks and Recreation.

Mr. Bollhoefer explained the five primary areas in which property taxes are used for are Fire, Police, Parks and Recreation, Street Maintenance, and Code Enforcement. He stated that Solid Waste, Utilities, and Wastewater are all paid with enterprise funds and are funded through fees.

He stated cutbacks will leave only two choices staff will have to consider: they are revenue enhancement (increase of fees) and budget cuts. He explained that the elimination of employee positions, certain City events, and certain City services and programs will have to become a consideration for possible cutbacks. He further described the effect that some of these forced cutbacks will have on the City.

He stated that in anticipation of these cutbacks the City has implemented its current strategy of a hiring freeze, and staff itemization of programs and services currently offered. He suggested surveys and polls of the citizens for their input on what items should be eliminated for this process. Staff has been instructed to reduce the general fund budget by 20 percent. He expressed that the amount of the cuts are unknown at this point, but can be anywhere from 20 percent to 50 percent. He also stated that a 10 percent reduction in the enterprise fund budget has been requested.

He summarized, stating that if those decisions to cut property taxes are made in Tallahassee, the City will be forced to make some tough choices. When it comes down to the services provided in the State of Florida, local government provides the most services.

Mayor Quesinberry thanked the staff and the City Manager for their hard work on this issue and stated that these are not scare tactics, but realities based on the facts available.

Mr. Bollhoefer stated that he thinks a lot of the people see and are happy with a lot of the great things in Winter Garden, but do not realize there is a cost to everything the City does.

There was discussion on the importance of some of the services and programs offered in the City.

Mr. Bollhoefer stated that volunteer programs are also an option for maintaining some of the services the City now provides.

B. Presentation of the sale of Orlando Apopka Airport

Douglas Rodante, President of Orlando Apopka Airport Association, stated that he wanted to address the City Commission regarding the City's funding of the West Orange Airport Authority (WOAA). The City Commission was given a presentation by Mr. Guy Haggard, the Chairman of WOAA, at a prior meeting and

he stated that he wanted to make corrections to that presentation. His organization, Orlando Apopka Airport Association, has not approved the donation of their runway to WOAA, nor have they had any representative at any of the City or County meetings. They signed a memorandum of understanding with WOAA in October. It was a non-binding memorandum of understanding that outlined certain specifications. He stated that he did not like the contract and crossed it out, never receiving a signed copy from Guy Haggard; he stated that as far as he is concerned the contract was never executed. He stated that Mr. Haggard touted the benefits of a public use airport, a base for emergency services, and benefits to the local community during his presentation. They already are a public use airport and do have emergency use services that utilize the airport. They have a sheriff's department helicopter pad that has just been poured and the sheriff's office is soon to move in. He stated that Mr. Haggard spoke of safety issues with private airports and stressed a lack of concern or local government oversight regarding the safety of private airports. The airport is very safe and adheres to very strict specifications with the Florida Department of Transportation to make sure the runways are safe, and the pilots are trained and licensed by the FAA. He expressed that these were all bullet points Mr. Haggard made in having the City of Winter Garden fund WOAA. He stated that Mr. Haggard also touted the Small Air Transportation System (SATS) program, which means small aircraft coming in for regional air traffic and air taxi service. This airport currently does not qualify for this program and he stated that he has mentioned this to Mr. Haggard. Mr. Thomas of Friends of Lake Apopka (FOLA) has told him specifically that any further development on their airport, especially an east-west runway, would be opposed due to disruption of the bird migration area. Mr. Rodante stressed that his comments were specifically addressing the Orlando Apopka Airport and not the Orlando North Airport. He stated that most importantly, Mr. Haggard has told the City Commission how he is going to fund WOAA from the lease-back of hangars, access fees, and fuel surcharges, all of which is not wanted at their airport. This is a privately owned public use airport.

Mr. Rodante then read excerpts from a report given by the FAA addressing proposed development items that are not justified by the forecast of aviation activity, such as additional runways which are ineligible for federal funding and hangars and stated that Mr. Haggard said he was going to solicit federal and state funds.

Mayor Quesinberry asked how many property owners are involved in their group. **Mr. Rodante** replied that they have seven members on the board. They are a transitional board at this time and are getting ready to have elections. There are 181 votes or 181 lots with approximately 80 to 100 owners. **Mayor Quesinberry** asked if all of them pay taxes on their property. **Mr. Rodante** replied that they pay taxes on their individual hangar lots. He explained ownership of the hangars and a percentage of the runways as common areas which are like land condos. **Mayor Quesinberry** asked if the board has ever signed a contract with WOAA. **Mr. Rodante** explained that he signed a memorandum of understanding and had

revisions in it and it was non-binding and required a 100% approval from every owner, which he states will not happen.

Mr. Rodante then recognized one of the airport owners to address the City Commission.

Al Adin, owner of two hangars, stated that last year at one of the owner association meetings, Mr. Haggard presented this opportunity which he stated would better their airport. Mr. Adin called the Florida Director of Aviation, Bill Ashbaker, who stated that he could not justify spending any money on the airport and explained that as far as he was concerned, WOAA does not have a revenue base, is probably the airport authority in Florida without a revenue base. Mr. Adin further explained his conversation with Mr. Ashbaker and gave the reasons why state or federal funding would not be available.

Mr. Rodante stated that Mr. Haggard insinuated that the owners are waiting for the approval of the City of Winter Garden and that they would then donate. This is not the case; most of their owners are not aware of the solicitation of City and County funds from WOAA. It is highly unlikely that there will ever be a 100 percent vote to donate their runway. Many of the owners have told him that they will challenge this legally if there are any issues and explained that there is controversy among the owners.

Mayor Quesinberry explained that Mr. Haggard stated that WOAA had received the support from Orange County, City of Apopka, City of Ocoee and they needed the City of Winter Garden's pledge in order to have the plan succeed. **Mr. Rodante** stated that he knows that the City of Winter Garden wants a seat on the MPO Board, but not at the expense of their airport. He stated that they run their airport well and feel they can run it better than anyone can. He reiterated that it is safe and a benefit to the public.

Commissioner Buchanan expressed that all the information given was great and well received, but according to the minutes from the last meeting, if Mr. Haggard does not meet all of the requirements, then the City of Winter Garden does not have to give them a dime.

Mr. Rodante stated that their airport has been developing and is almost at its highest and best use and there is not very much more that can be done to improve it.

Scott Ayles, 2461 East Crooked Lake Boulevard, Eustis, Florida, stated that two years ago he placed a deposit on a lot and closed on that lot a year ago. His interest in buying that lot was because it was privately held with common areas and a runway. He stated that he made the decision to purchase based on that.

Commissioner Boulter expressed that he voted at the last meeting to donate the funding to WOAA and later felt regret over that vote as there are so many other things that \$40,000 could have been used for in the communities of Winter Garden.

Mayor Quesinberry expressed that he voted against it because he felt they did not have enough information. He stated that if these gentlemen would have been here at the same time, the vote may have ended differently and reiterated that he felt the vote should have been postponed until enough information had been given.

3. **FIRST READING OF PROPOSED ORDINANCE**

- A. **Ordinance 07-21:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING THE CITY OF WINTER GARDEN FISCAL YEAR 2006-2007 BUDGET; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE
City Attorney Ardaman read Ordinance 07-21 by title and listed the revenues and expenses as follows:

REVENUES

General Fund	\$ (2,097,528)
Community Redevelopment Agency Fund	124,154
Local Option Gas Tax Fund	488,224
General Impact Fee Fund	1,098,070
Transportation Impact Fee-South of Turnpike Fund	(994,006)
Transportation Impact Fee-OOCEA	
Pledge Fund	120,638
Transportation Impact Fee-CR545	
Special Benefit Area Fund	-
Transportation Impact Fee-General Fund	2,934,700
Police and Fire Premium Tax Trust Fund	50,000
Debt Service Fund	(146,829)
New City Hall Capital Project Fund	720,314
Utility Operating Fund	361,978
Utility Impact Fee Fund	87,906
Utility Renewal and Replacement Fund	37,798
Stormwater Fund	109,377
Trailer City Fund	10,504
Total	<u>\$2,905,300</u>

Mr. Ardaman stated that the expenses matched each revenue line item and totaled \$2,905,300.

Motion by Commissioner Buchanan to approve Ordinance 07-21 as recommended by staff with the second reading and public hearing scheduled for June 14, 2007. Seconded by Commissioner Boulter and carried unanimously 4-0.

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

- A. **Ordinance 07-09**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 1.43 ± ACRES LOCATED AT 12728 WEST COLONIAL DRIVE, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN, FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 07-09 by title only. Mayor Quesinberry opened the public hearing. James W. Robinson, owner of the property, spoke in favor of this request. City Planner Williams stated that this property is in the County and has been permitted by the County. He stated that the City would like it to annex and hook into the City sewer and water systems because of the nature of the business. The permitting that the County has done is slightly different from the City's codes and the City is trying to do an agreement that will make some minor changes to make this property more compliant to City codes. Mayor Quesinberry stated that he was under the impression that in an effort to eliminate these enclaves along State Road 50, the County would come to the City. Mr. Williams agreed that this is correct, but stated that this property does not meet some of the City's overlay zones and setbacks, but the overriding issue is to get them into the sewer and water system for the type of use they have. The City is trying to make the County permitting more consistent and thinks that we are getting there.

Mayor Quesinberry closed the public hearing. Commissioner Sharman inquired of the use for this property. Mr. Williams responded stating that this is a modified car wash previously presented to the City Commission. **Motion by Commissioner Buchanan to approve Ordinance 07-09 as recommended by staff with the second reading and public hearing scheduled for June 28, 2007. Seconded by Commissioner Sharman and carried 3-0-1; Commissioner Buchanan abstained.**

- B. **Ordinance 07-10**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 1.43 ± ACRES OF CERTAIN REAL PROPERTY LOCATED AT 12728 WEST COLONIAL DRIVE FROM ORANGE COUNTY C-3 TO CITY C-2; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 07-10 by title only. Mayor Quesinberry opened the public hearing; hearing and seeing none, he closed the public hearing. **Motion by Commissioner Boulder to approve Ordinance 07-10 as recommended by staff with the second reading and public hearing scheduled for June 28, 2007. Seconded by Commissioner Sharman and carried 3-0-1; Commissioner Buchanan abstained.**

- C. **Ordinance 07-11**: AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM ORANGE COUNTY COMMERCIAL TO CITY COMMERCIAL FOR PROPERTY GENERALLY DESCRIBED AS 1.43 ± ACRES

LOCATED AT 12728 WEST COLONIAL DRIVE; PROVIDING FOR SEVERABILITY;
PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 07-11 by title only. Mayor Quesinberry opened the public hearing; hearing and seeing none, he closed the public hearing. **Motion by Commissioner Sharman to approve Ordinance 07-11 as recommended by staff with the second reading and public hearing scheduled for June 28, 2007. Seconded by Commissioner Boulter and carried 3-0-1; Commissioner Buchanan abstained.**

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

A. **Ordinance 07-13:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 0.34 ± ACRES LOCATED AT 81 BROAD STREET, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN, FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 07-13 by title only. Mayor Quesinberry opened the public hearing; hearing and seeing none, he closed the public hearing. City Planner Williams stated that the Planning and Zoning Board and staff recommend approval. **Motion by Commissioner Boulter to adopt Ordinance 07-13. Seconded by Commissioner Sharman and carried 3-0-1; Commissioner Buchanan abstained.**

Commissioner Buchanan stated that he has a private interest with one of the property owners and has submitted the proper documentation to the City Clerk. Mr. Ardaman indicated that this is with respect to all of the before mentioned properties for which Commissioner Buchanan abstained.

B. **Ordinance 07-14:** AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM ORANGE COUNTY LOW DENSITY RESIDENTIAL TO CITY COMMERCIAL FOR PROPERTY GENERALLY DESCRIBED AS 0.34 ± ACRES LOCATED AT 81 BROAD STREET; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 07-14 by title only. Mayor Quesinberry opened the public hearing; hearing and seeing none, he closed the public hearing. **Motion by Commissioner Sharman to adopt Ordinance 07-14. Seconded by Commissioner Boulter and carried 3-0-1; Commissioner Buchanan abstained.**

C. **Ordinance 07-15:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 0.34 ± ACRES OF CERTAIN REAL PROPERTY LOCATED AT 81 BROAD STREET FROM ORANGE COUNTY RESIDENTIAL TO CITY C-2; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 07-15 by title only. Mayor Quesinberry opened the public hearing; hearing and seeing none, he closed the public hearing.

Motion by Commissioner Sharman to adopt Ordinance 07-15. Seconded by Commissioner Boulter and carried 3-0-1; Commissioner Buchanan abstained.

- D. **Ordinance 07-16:** AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM RESIDENTIAL NEIGHBORHOOD COMMERCIAL TO COMMERCIAL FOR PROPERTY GENERALLY DESCRIBED AS 1.150 ± ACRES LOCATED AT 462 WEST PLANT STREET; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 07-16 by title only. Mayor Quesinberry opened the public hearing; hearing and seeing none, he closed the public hearing.

Motion by Commissioner Boulter to adopt Ordinance 07-16. Seconded by Commissioner Sharman and carried 3-0-1; Commissioner Buchanan abstained.

- E. **Ordinance 07-17:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 1.150 ± ACRES OF CERTAIN REAL PROPERTY LOCATED AT 462 WEST PLANT STREET FROM CITY R-NC TO CITY C-1; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 07-17 by title only. Mayor Quesinberry opened the public hearing; hearing and seeing none, he closed the public hearing.

Motion by Commissioner Sharman to adopt Ordinance 07-17. Seconded by Commissioner Boulter and carried 3-0-1; Commissioner Buchanan abstained.

- F. **Ordinance 07-18:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 0.33 ± ACRES OF CERTAIN REAL PROPERTY LOCATED AT 32 EAST MILLER STREET FROM CITY R-2 TO CITY C-3; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 07-18 by title only. Mayor Quesinberry opened the public hearing; hearing and seeing none, he closed the public hearing.

Motion by Commissioner Buchanan to adopt Ordinance 07-18. Seconded by Commissioner Boulter and carried unanimously 4-0.

- G. **Ordinance 07-19:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 78 OF THE WINTER GARDEN CODE OF ORDINANCES RELATING TO UTILITIES BY AMENDING THE FOLLOWING SECTIONS THEREOF: ARTICLE IV INDUSTRIAL WASTE; SECTION 78-1 STANDARDS AND SPECIFICATIONS FOR WASTEWATER AND WATER MAIN CONSTRUCTION; SECTION 78-35 TEMPORARY WATER SERVICE; SECTION 78-126 PURPOSE AND POLICY; SECTION 78-127 DEFINITIONS; SECTION 78-128 ABBREVIATIONS; SECTION 78-129 USE OF PUBLIC SEWERS REQUIRED; SECTION 78-130 PRIVATE SEWAGE COLLECTION SYSTEM CONNECTED TO POTW; SECTION 78-131 BUILDING SEWERS AND CONNECTIONS; SECTION 78-132 PROHIBITIONS AND LIMITATIONS ON DISCHARGE INTO THE POTW; SECTION 78-133 ADMINISTRATION; SECTION 78-134 INDUSTRIAL WASTEWATER DISCHARGE PERMITS; SECTION 78-135 PROCESSING AND ISSUANCE IWDPS; SECTION 78-136 PERMIT REQUIREMENTS AND RESTRICTIONS; SECTION 78-137 REPORTING REQUIREMENTS AND

RETENTION OF RECORDS FOR IWDP HOLDERS AND OTHER INDUSTRIAL USERS; SECTION 78-138 ENFORCEMENT PROCEDURES; SECTION 78-139 APPEAL OF ENFORCEMENT ACTION; SECTION 78-140 AFFIRMATIVE DEFENSES OF DISCHARGE VIOLATIONS; SECTION 78-141 PROVIDING FOR CODIFICATION, SEVERABILITY AND EFFECTIVE DATE

City Attorney Ardaman read Ordinance 07-19 by title only. Mayor Quesinberry opened the public hearing; hearing and seeing none, he closed the public hearing.

Motion by Commissioner Buchanan to adopt Ordinance 07-19. Seconded by Commissioner Boulter and carried unanimously 4-0.

6. **REGULAR BUSINESS**

A. **Request for support by the Bloom 'N Grow Society for the annual Spring Fever in the Garden Festival April 12 to April 13, 2008**

Sue Crabtree thanked the City of Winter Garden for its past support of the Bloom 'N Grow annual Spring Fever event and asked for permission to hold the festival on April 12 and 13, 2008 and waiver of the permit fee as they are a non-profit organization. She stated that this will be their 8th Spring Fever in the Garden. Mayor Quesinberry stated that this event has grown each year and it is a benefit to the City. **Motion by Commissioner Sharman to approve support of the Bloom 'N Grow Society for the annual Spring Fever in the Garden Festival April 12 to April 13, 2008 and to waive the permit fee. Seconded by Commissioner Buchanan and carried unanimously 4-0.**

B. **Request by First Baptist Church of Winter Garden to use downtown City gazebo on June 4, 2007 and Waiver of \$1,000 permit fee**

Will Blane, Pastor of First Baptist Church stated that he was representing Melinda Smith and it is their desire to come down to the City's downtown and have a choral performance that will last from approximately 6:30 p.m. to 7:45 p.m. He stated that they will do two 20 minute segments. They are asking permission to use the City gazebo and for a waiver of the \$1,000 permit fee. Mayor Quesinberry asked if this means they will have to close off any part of the road. Mr. Blane responded no. **Motion by Commissioner Boulter to approve use of the downtown City gazebo on June 4, 2007 and waiver of the \$1,000 permit fee by First Baptist Church of Winter Garden. Seconded by Commissioner Sharman and carried unanimously 4-0.**

C. **Recommendation to approve amending the Joint Planning Agreement and entering into a Utilities Territorial Agreement with Orange County**

Planning Director Williams stated in January the City Commission approved JPA 6 and forwarded it to Orange County who held their public hearing on April 17, 2007. On page 3 of the agreement a minor change under "Bike/Pedestrian Trail" was made: "bike" and "pedestrian" were removed and replaced with "trail system." He stated that some of the residents in the area wanted to include horses in any trail system. Staff supports this minor change and Mr. Williams asked the City Commission to authorize the Mayor to initial that change. Mayor Quesinberry asked if there would be a sand trail beside the trail so horses would not ride on the

actual trail. Mr. Williams replied that the City has not gotten into any of those specific details and stated that at this point the change is addressing not making the trail only bike or pedestrian, but looking at everything. **Motion by Commissioner Sharman to approve amending the Joint Planning Agreement and entering into a Utilities Territorial Agreement with Orange County. Seconded by Commissioner Boulter.** Commissioner Buchanan expressed that he would not like to see the riding of horses through the downtown area. Mr. Williams stated that it could potentially mean horses coming in the downtown area, but the idea is that as that particular area of JPA 6 develops, there will be some trail systems and as the City considers each development proposal and as they tie into the trail system there will be consideration as to whether it would be pedestrian, bike, and/or horses. He stated that it is a long way off before we get to that part, but there are numerous properties getting ready to annex and develop. The issue will come back to the City Commission, but a lot of details will have to be worked out. There are property owners in favor and opposed to horses on the trail, so this will be an issue to be resolved. Mr. Bollhoefer stated that this is just for JPA 6, and does not change the downtown area at all. There was discussion that this was limited to the trail along Hartwood Marsh Road. **Motion carried unanimously 4-0.**

D. **Recommendation to award bids and approve contract for Ninth Street and Story Road Intersection Improvements Project**

Public Services Director Cochran stated that on May 9, 2007 the City received bids on the Ninth Street and Story Road intersection improvements. Emerald Utilities was the lowest responsible bidder with a bid of \$742,816 and staff recommends awarding the contract to Emerald Utilities. In addition, staff is recommending that with this project a 10 percent contingency fund of \$74,281 be including. This brings the total amount to \$817,097.60. Staff is asking for authorization to spend up to that amount in the course of the project before being required to come back to the City Commission and ask for additional funds. **Motion by Commissioner Buchanan to approve award of bids and contract for Ninth Street and Story Road intersection improvements project. Seconded by Commissioner Boulter and carried unanimously 4-0.**

8. **MATTERS FROM CITIZENS** – There were none.

9. **MATTERS FROM CITY ATTORNEY**

A. **Redistricting issue in Charter for City Commission direction**

City Attorney Ardaman stated that the charter changes have been made as previously approved by the City Commission. He stated that under “Qualifications,” where it states that candidates to the City Commission shall have been residents of the City and a district member has been changed from “two years” to “one year”.

Mr. Ardaman stated that the issue has been researched with respect to the compromise previously discussed, which addresses a redistricting that moves a sitting commissioner out of a district, but allows the commissioner to run either in

his new district or in the previous district. He stated that there is a grey area and there are very good arguments that could be made against the charter change allowing this kind of compromise. It could be challenged on equal protection grounds and other arguments. Supportable arguments would allow the compromise to prevail if challenged, especially because the voters in the newly configured district would be electing a commissioner with whom they've had experience. There is some rational basis for allowing that compromise to go forward, but Mr. Ardaman stated that as legal counsel giving the safest course, he suggests that they not approve that compromise as it could be held up as a violation of the Constitution. The vote of the Commission was to allow the candidates to live anywhere in the City and this is how the language was changed.

Mayor Quesinberry stated that he voted the way he did because he thought it was wrong to vote out a sitting commissioner because redistricting put him or her in a new district.

Mr. Ardaman stated that if the City Commission is comfortable with allowing the candidate to reside in the City and not have to live in the district in order to serve, then no vote is necessary, but if the City Commission desires to change the language to state that the candidate must live in the district for which he/she wants to serve, then a vote by the City Commission would be required.

Mayor Quesinberry expressed that in the past someone had run for a district seat only as a means to get a seat on the Commission, with no regards to the concerns of the district.

Commissioner Buchanan expressed that his reason for keeping the qualifications for candidates open to city-wide candidates is because he did not feel that the city was big enough to limit itself to single member districts. It would be better if left open for anyone who was qualified and then only voters living in the district can choose who would represent their district.

Commissioner Boulter stated at the last meeting it was stated that there was not a lot of enthusiasm and/or participation in the past. He feels that this issue has changed considerably with the growth of this City and asked how big does the City need to get before it can become single member districts.

There was discussion on this issue being resolved before it goes to the citizens for public comment or it could be left open until after the citizens have given their input. **Mr. Ardaman** stated that the final decision on what the language will be is not needed in this meeting.

Commissioner Sharman stated that regarding the compromise on this issue, it could be left as the Charter Review Committee stated it in their original version.

Mr. Ardaman stated that the additional changes that were made at the last meeting have been made as follows:

Section 27, four (4) affirmative Commission votes for the removal of the City Manager was changed to three (3) affirmative votes as previously directed by the City Commission.

Section 43, regular annual election was changed to regular election, removing the word “annual.”

Section 57, regarding petitions, the number of people needed to sign the petition must be at least 10 percent of the total number of voters registered to vote in the City in the calendar month prior to the month in which the petition is filed. Mr. Ardaman stated that this was determined by confirming with the Orange County Supervisor of Elections office that they actually have this information available every month.

9. **MATTERS FROM CITY MANAGER**

A. **Financial Statements for April 2007 were distributed.**

B. **Revised donation form** (*postponed*)

• **Orange County Commissioners Luncheon**

Mr. Bollhoefer stated that the Orange County Commissioners luncheon is on June 6, 2007 and in the past the City has purchased a table and he asked if they wished to do so this year. This is the luncheon where all of the County Commissioners give their “State of the County address” to let everyone know what is going on in the County. It was discussed that this event will be held at Stoneybrook West and the cost is \$310 for a table. **Motion by Commissioner Buchanan to purchase a table at \$310 to the Orange County Commissioners Luncheon on June 6, 2007. Seconded by Commissioner Sharman and carried unanimously 4-0.**

• **Joint Use Agreement for Winter Garden Heritage Theatre with HJR, LLC**

This agreement allows the two buildings to share certain parts of their building. The theatre will be able to use the bathrooms and some of the lobby area of one building. HJR, LLC will be able to use the fire escape and the mezzanine with limited use as determined by the theatre. He stated that this is a win-win for both buildings; it is good for the theatre because putting the bathrooms next door will allow for more seats. This is a 50-year lease reviewed by the City Attorney, attorney for HJR, LLC, and an attorney for the Heritage Foundation. **Motion to approve the joint use agreement between Winter Garden Heritage Foundation, Inc. and HJR, LLC. Seconded by Commissioner Buchanan and carried unanimously 4-0.**

10. MATTERS FROM MAYOR AND COMMISSIONERS

Commissioner Sharman

Stated that he had received a complaint from a resident about mall construction noise before 7:00 a.m.

Commissioner Buchanan

Stated that if you read the West Orange Times this week you would have seen that William Chriswell is in the process through the Habitat for Humanity to find a place to build a house or refurbish a house for the veterans coming home from the war who have been disabled. He stated that he and Bill Chriswell met with City Manager Bollhoefer to talk about what they wanted to do as far as trying to find someplace. He stated that he would like the City Commission to give the City Manager permission to search for a location for this project. Mayor Quesinberry stated that the City has had properties that have been condemned and torn down that have been turned over to Habitat for Humanity and thinks this is great to find a piece of property and get it back into circulation. **Motion by Commissioner Buchanan to authorize the City Manager to find a property for use by the Habitat for Humanity project as stated. Seconded by Commissioner Boulter and carried unanimously 4-0.**

The meeting adjourned at 7:56 p.m.

APPROVED:

/S/
MAYOR JACK QUESINBERRY

ATTEST:

/S/
City Clerk Kathy Golden, CMC