



CITY OF WINTER GARDEN

OFFICE OF THE CITY CLERK

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WINTER GARDEN, FL 34787

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REGULAR MEETING MINUTES CITY COMMISSION

July 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 Harold L. Boulter, Bob Buchanan, H. Gerald Jowers and Colin Sharman

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 Managers Johnny Clark and Tony Brienza, Finance Director Brian Strobeck, Human Resources Director Frank Gilbert, Building Official Willie Herbert, Fire Chief John Williamson, Recreation Director Jay Conn, Planning Director Ed Williams, Assistant to the City Manager for Public Works Don Cochran, and West Orange Times reporter Michael Laval

1. **APPROVAL OF MINUTES**

Motion by Commissioner Buchanan to approve the regular meeting minutes of June 28, 2007 as submitted. Seconded by Commissioner Jowers and carried unanimously 5-0.

2. **PRESENTATIONS**

A. **Proclamation 07-07**

Mayor Quesinberry read and presented Proclamation 07-07 to Fire Chief Williamson declaring Winter Garden Fire Fighter Appreciation the week of August 5 through 11, 2007. Fire Chief Williamson voiced his appreciation to the firefighters and thanked the Mayor and Commissioners for the honor.

B. **Certificates for completing the 2007 Institute for Elected Municipal Officials**

Certificates were presented by Mayor Quesinberry to District 2 Commissioner Bob Buchanan and District 3 Commissioner Harold L. Boulter. Mayor Quesinberry stated that the certificates presented were on behalf of the John Scott Daily Florida Institute of Government and the Florida League of Cities.

C. **Update on Property Tax Reform**

Finance Director Strobeck stated that he would give a brief presentation outlining the new legislation recently passed on property tax reform and how it is expected to impact the City of Winter Garden (*see attached*).

Mr. Bollhoefer added that he does not believe the debate on taxes is over. He spoke of the referendum scheduled for January 29, 2008, and that the Tax Commission is currently in session looking to reduce taxes on businesses and other types of tax cuts. There are several anti-government and anti-tax groups throughout the state working on their own referendums which could possibly be on the ballot in 2008. He told the Commission that what he sees now is just the first phase. Staff wanted to update the City Commission on what these changes actually mean in terms of revenues. Additional details will be given as staff works through the budget.

Commissioner Jowers stated that he respects what the state legislators are doing but stated that "they need to clean up their own act while they are cleaning ours up."

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

A. **Ordinance 07-23:** AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM MEDIUM DENSITY RESIDENTIAL TO COMMERCIAL OF PROPERTY LOCATED AT 13330 WEST COLONIAL DRIVE, 13340 WEST COLONIAL DRIVE, 13350 WEST COLONIAL DRIVE AND 13360 WEST COLONIAL DRIVE (AS RECORDED IN OFFICIAL RECORDS BOOK 3342, PAGE 1436 PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.), ALSO KNOWN AS THE WINDTREE PROFESSIONAL CENTER; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE
City Attorney Ardaman read Ordinance 07-23 by title only. Mayor Quesinberry opened the public hearing. Planning Director Williams explained that this is an existing commercial condominium project that is incorrectly zoned in the City's Comprehensive Plan. This ordinance corrects the error and there should be no opposition. Hearing or seeing no other comments, Mayor Quesinberry closed the public hearing. **Motion by Commissioner Jowers to approve Ordinance 07-23 with the second reading and public hearing being scheduled for July 26, 2007. Seconded by Commissioner Sharman and carried unanimously 5-0.**

B. **Ordinance 07-24:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 1.51 ACRES OF LAND LOCATED AT 13330 WEST COLONIAL DRIVE; 13340 WEST COLONIAL DRIVE, 13350 WEST COLONIAL DRIVE AND 13360 WEST COLONIAL DRIVE, WINTER GARDEN, FLORIDA (AS RECORDED IN OFFICIAL RECORDS BOOK 3342, PAGE 1436 PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.), ALSO KNOWN AS THE WINDTREE PROFESSIONAL CENTER AND MORE SPECIFICALLY DESCRIBED HEREIN FROM CITY R-3 TO CITY C-2; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE
City Attorney Ardaman read Ordinance 07-24 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 07-24 with the second reading and public hearing being scheduled for July 26, 2007. Seconded by Commissioner Boulder and carried unanimously 5-0.**

- C. **Ordinance 07-25:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA; SUBMITTING AMENDMENTS TO THE CITY CHARTER TO CITYWIDE REFERENDUM THAT: PROVIDE FOR COMPREHENSIVE REVISION, REORGANIZATION, CONSOLIDATION, MODERNIZATION AND CLARIFICATION OF THE CURRENT CHARTER; PROVIDE FOR THE ELIMINATION, REPLACEMENT OR REVISION OF INEFFECTIVE, PREEMPTED OR OTHERWISE OBSOLETE LANGUAGE; SET 3 YEAR TERMS FOR CITY COMMISSIONERS; PROVIDE NEW OR REVISED PROCEDURES FOR FILLING VACANCIES IN OFFICE, HOLDING REGULAR MEETINGS, CALLING SPECIAL AND EMERGENCY MEETINGS, CONDUCTING AND CANVASSING ELECTIONS, PRESENTING CITIZEN INITIATIVES AND REFERENDUMS, PASSING ORDINANCES, AND REVISING THE CITY CHARTER; CONSOLIDATE FISCAL PROVISIONS; PRESCRIBE NEW AND REVISED PREREQUISITES AND QUALIFICATIONS FOR COMMISSIONERS QUALIFYING AND HOLDING OFFICE; AND CHANGE THE DUTIES AND METHODS OF APPOINTMENT OF CITY OFFICERS SUCH AS THE CITY MANAGER, CITY CLERK, CHIEF OF POLICE AND CITY ATTORNEY; PROVIDING FOR NOTICE OF AN ADVERTISEMENT FOR THE REFERENDUM TO BE PUBLISHED IN ACCORDANCE WITH THE CURRENT CITY CHARTER, CITY CODE, AND STATE STATUTES; PROVIDING THAT THIS ORDINANCE, WHEN ADOPTED, SHALL SUBMIT THE QUESTION AND AMENDMENTS CONTAINED HEREIN TO THE QUALIFIED ELECTORS OF THE CITY OF WINTER GARDEN AT A MAIL BALLOT SPECIAL ELECTION WHERE SUCH AMENDMENTS SHALL BE INCORPORATED INTO THE CITY CHARTER IF APPROVED; CALLING MAIL BALLOT SPECIAL ELECTION TO BE HELD IN SEPTEMBER 2007; PROVIDING FOR CHARTER AMENDMENT CONFLICTS; PROVIDING FOR CODIFICATION OF ORDINANCE AND ADOPTED CHARTER AMENDMENTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 07-25 by title only. Mayor Quesinberry opened the public hearing: hearing and seeing none, he closed the public hearing. City Attorney Ardaman stated that he did make a substantive change to what the Commission has seen before, which maintains the existing charter with respect to the duties of the City Manager. Apparently when the Charter Review Committee made a recommendation, it changed the initial paragraph and eliminated some language that caused them to change subsection (3). His change appears under Exhibit "K", subsection (3) of Section 30. Powers and duties, which has been advertised and is (*subsection 14*) to provide that the City Manager has the authority to execute contracts and other documents on behalf of the City to carry out the City's business and to effectuate the directives of the City Commission. He stated that he added this because under section (3) the language "endorse on all contracts, bonds and other instruments in writing in which the municipality is interested his approval of the substance thereof" was deleted and never replaced. Therefore, the City Manager would not have the authority to execute contracts if that had been left out. It should be clearly expressed as he has indicated. **Motion by Commissioner**

Buchanan to approve Ordinance 07-25 with the second reading and public hearing being scheduled for July 26, 2007. Seconded by Commissioner Jowers and carried unanimously 5-0.

- D. **Ordinance 07-26:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, MODIFYING THE CITY'S GENERAL MUNICIPAL ELECTION DATES TO COINCIDE WITH THE PRESIDENTIAL PREFERENCE PRIMARY DATE IN 2008; PROVIDING FOR A 14-DAY QUALIFYING PERIOD AND SCHEDULE FOR RUN-OFF ELECTION TO BE APPLIED IN CONJUNCTION WITH SAID ELECTION; AND PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 07-26 by title only. Mayor Quesinberry opened the public hearing; hearing and seeing none, he closed the public hearing. **Motion by Commissioner Boulter to approve Ordinance 07-26 with the second reading and public hearing being scheduled for July 26, 2007. Seconded by Commissioner Sharman and carried unanimously 5-0.**

4. **THIRD READING AND PUBLIC HEARING OF PROPOSED ORDINANCE**

- A. **Ordinance 07-22:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 88 OF THE CODE OF ORDINANCES, CITY OF WINTER GARDEN, FLORIDA; PROVIDING FOR THE ASSESSMENT OF COSTS, EXPENSES AND FEES INCURRED BY THE CITY OF WINTER GARDEN IN REVIEWING REQUESTS RELATING TO DEVELOPMENT; PROVIDING FOR FEE SCHEDULES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 07-22 by title only. Mayor Quesinberry opened the public hearing; hearing and seeing none, he closed the public hearing. **Motion by Commissioner Jowers to adopt Ordinance 07-22. Seconded by Commissioner Sharman and carried unanimously 5-0.**

5. **REGULAR BUSINESS**

- A. **Recommendation to approve the final plat for Daniels Road Business Park with the conditions in the Engineering Department's memorandum of May 11, 2007, the Legal Department's letter dated May 2, 2007 and the City Surveyor's letter of May 9, 2007**

City Planner Williams stated that it was an oversight on his part for not pulling forward the materials to this agenda package and asked the City Commission to consider the item. He has provided the City Commission with another copy and asked the Commission to act on it at this time since they did have it for review prior to the last meeting. **Motion by Commissioner Buchanan to approve the final plat for Daniels Road Business Park with conditions in the Engineering Department's memorandum of May 11, 2007, the Legal Department's letter dated May 2, 2007 and the City Surveyor's letter of May 9, 2007 (see attached). Seconded by Commissioner Jowers and carried unanimously 5-0.**

B. Recommendation to approve bids and award contract for Phase I Public Access Reuse Storage and Pumping Facilities for \$2,938,000

Public Services Director Cochran stated that this project consists of constructing a 1.2 million gallon storage tank, pumping facilities, and transmission lines to Fuller's Crossing and Fuller's Landing subdivisions for receiving reclaimed water. Staff recommends awarding the contract to the low bidder, Encore Construction, for \$2,938,000. Mayor Quesinberry asked if this bid will also take care of other new subdivisions. Mr. Cochran stated that this is the first phase to serve the north end of town sometime around January or February. Other subdivisions will follow within the next year and staff will be bringing back the second phase to the commission sometime in October. Boyle Engineering will begin designing the second phase within the next couple of weeks and staff hopes to start construction on the second phase about the middle of next year for the south end of the city.

Mayor Quesinberry asked if this pumping facility, for this price, is big enough to service any of the other subdivisions and not just the two subdivisions mentioned. Mr. Cochran replied yes.

Motion by Commissioner Buchanan to approve bids and award contract for Phase I Public Access Reuse Storage and Pumping Facilities for \$2,938,000. Seconded by Commissioner Boulter.

Commissioner Buchanan asked if residents will have to pay for using reclaimed water. Mr. Cochran replied that those hooking up to the system will be charged the irrigation rate for the reclaimed water they use. Trunkline paths and costs were also discussed. Mr. Cochran stated that the City will be looking into options for residents to receive reclaimed water services and studying the options that would be most cost effective. **Motion carried unanimously 5-0.**

C. Recommendation to approve Cost Share Agreement with St. Johns River Water Management District and the City of Winter Garden to provide funding for the Phase I Public Access Reuse Water Storage and Pumping Project

City Manager Bollhoefer stated that staff would like to postpone this item until the July 26, 2007 meeting because the city engineers have found some language in the agreement that they are not happy with. **Motion by Commissioner Sharman to postpone the Cost Share Agreement with St. Johns River Water Management District and the City of Winter Garden to provide funding for the Phase I Public Access Reuse Water Storage and Pumping Project until July 26, 2007. Seconded by Commissioner Boulter and carried unanimously 5-0.**

D. Recommendation to approve setting the proposed tax millage rate at 3.4382 for Fiscal Year 2007/2008

City Manager Bollhoefer stated that staff recommends setting the millage rate at the rate established by the statutory recommendations. **Motion by Commissioner Sharman to approve setting the tax millage rate at 3.4382 for Fiscal Year 2007/2008 is accordance with the statutory changes.** There was discussion on the

City having a choice to override the decision handed down by the state legislature.
Motion seconded by Commissioner Buchanan and carried unanimously 5-0.

E. **Recommendation to approve the purchase of three parcels located at 143 S. Lakeview Avenue, 151 S. Lakeview Avenue, and 161 S. Highland Avenue for \$975,000**

City Manager Bollhoefer stated that the primary piece of property is located directly behind the Pounds Building on Plant Street which he thinks is critical for downtown Winter Garden. Also included is another lot on Highland Avenue across from City Hall that is 80 feet by 211 feet. He believes this is a great piece of land for future parking or exchanging for parking property. Initially the City can pay for these parcels out of fund balance and over the course of this fiscal year the City anticipates collecting \$1.2 million in parking fees in the new parking ordinance. In effect those who are developing in the downtown area will actually be paying for this property. Staff recommends purchasing these properties. **Motion by Commissioner Buchanan to approve purchasing three parcels located at 143 S. Lakeview Avenue, 151 S. Lakeview Avenue, and 161 S. Highland Avenue for \$975,000. Seconded by Commissioner Sharman and carried unanimously 5-0.**

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

7. **MATTERS FROM CITY ATTORNEY** – There were none.

8. **MATTERS FROM CITY MANAGER**
West Orange Chamber of Commerce Board

Mr. Bollhoefer stated that he has served on this board for two years and with all the other after hour activities he attends, on behalf of the City, it has become difficult for him to dedicate time to this board. He suggested appointing Commissioner Buchanan because of his work with the Chamber on several of their committees for many years, but it is the Commission's option as to whom they select to serve. Commissioner Buchanan confirmed he would be available to serve. **Motion by Commissioner Jowers to appoint Commissioner Buchanan as the City's representative on the West Orange Chamber of Commerce Board. Seconded by Commissioner Boulter and carried 4-0-1; Commissioner Buchanan abstained.**

Habitat for Humanity request for property

Mr. Bollhoefer stated that the City obtained a lot at 750 E. Klondike Street in lieu of payment of code enforcement fines. Habitat for Humanity has asked the City to donate this lot to them so that they can build a house. The City has done this in the past and it is a great opportunity to partner with them. Staff requests that the City Commission approve donating this property to Habitat for Humanity. This is a separate item from the house for the disabled veteran. **Motion by Commissioner Boulter to donate the lot at 750 E. Klondike Street, Winter Garden, Florida, to Habitat for Humanity. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

Update on capital improvement projects

Mr. Bollhoefer stated that a list of projects and their status has been distributed. Staff will try to update the City Commission on a monthly basis. He recognized Assistant City Manager Robertson to give the current update (*see attached*).

Florida League of Cities Legislative Policy Council Application

Mr. Bollhoefer stated that he has distributed an e-mail from the Florida League of Cities on the Legislative Policy Council Application for review by the City Commission and they may contact him about the next steps.

9. MATTERS FROM MAYOR AND COMMISSIONERS

Commissioner Sharman

Commissioner Sharman addressed traffic management on CR 535 after the opening of the Daniels Road Bridge and stated that he will keep the City Commission posted on this issue.

Commissioner Boulter

Commissioner Boulter stated that an issue was brought up at one of the homeowner association meetings he and the City Manager attended, regarding an unidentified odor as you turn off of State Road 50 onto Ninth Street. He suggested it may be coming from the forest area where there may be sitting water with rotten foliage. City Manager Bollhoefer stated that staff will investigate.

Commissioner Buchanan

Commissioner Buchanan stated that he previously asked the City Commission about allowing the City Manager to look for either a home to be remodeled or a lot to build a home on by Habitat for Humanity for a disabled veteran of the Iraqi war and Bill Criswell has since contacted him with a recipient. They would like to have a dedication ceremony at 6:30 p.m. on August 23, 2007, which is a City Commission meeting night. Since Winter Garden is heading up the search process, Habitat for Humanity would like to hold the ceremony at Tanner Hall on August 23, 2007 and he asked the City Commission if they would consider moving their meeting location to City Hall and moving the meeting time up to 4:00 p.m., which will allow the City Commission to attend the ceremony. **Motion by Commissioner Sharman to move the August 23, 2007 City Commission meeting to City Hall Chambers at 4:00 p.m. Seconded by Commissioner Boulter and carried unanimously 5-0.**

Mayor Quesinberry

Mayor Quesinberry stated that he has placed a performance evaluation form for the City Manager in each Commissioner's mailbox and requested that everyone please get them completed and returned to him as soon as possible. He encouraged communication between the Commissioners and the City Manager should they have any questions or concerns.

The meeting adjourned at 7:30 p.m.

APPROVED:

/S/
MAYOR PRO TEM H. GERALD JOWERS

ATTEST:

/S/
City Clerk Kathy Golden, CMC