



city commission agenda

Regular Meeting

3:30 p.m.
March 28, 2011
Commission Chambers

commissioners		mayor		commissioners	
seat 1	Steven Leary	seat 2	Sarah Sprinkel	seat 3	Carolyn Cooper
			Kenneth W. Bradley	seat 4	Tom McMacken

welcome

Welcome to the City of Winter Park City Commission meeting. The agenda for regularly scheduled Commission meetings is posted in City Hall the Tuesday before the meeting. Agendas and all backup material supporting each agenda item are available in the City Clerk's office or on the city's Web site at www.cityofwinterpark.org.

meeting procedures

Persons desiring to address the Commission MUST fill out and provide to the City Clerk a yellow "Request to Speak" form located by the door. After being recognized by the Mayor, persons are asked to come forward and speak from the podium, state their name and address, and direct all remarks to the Commission as a body and not to individual members of the Commission, staff or audience.

Comments at the end of the meeting under New Business are limited to three (3) minutes. The yellow light indicator will remind you that you have one (1) minute left to sum up. Large groups are asked to name a spokesperson. This period of time is for comments and not for questions directed to the Commission or staff for immediate answer. Questions directed to the City Commission will be referred to staff and should be answered by staff within a reasonable period of time following the date of the meeting. Order and decorum will be preserved at all meetings. Personal, impertinent or slanderous remarks are not permitted. Thank you for participating in your city government.

1	Meeting Called to Order	
2	Invocation Pastor Kathy Thacker, St. Andrews United Methodist Church Pledge of Allegiance	
3	Approval of Agenda	
4	Mayor's Report	Projected Time
	a. Proclamation – Water Conservation Month b. Hannibal Square Community Land Trust, Inc. Board of Directors appointment-Mr. Frank Baker, Jr. to replace Barbara DeVane c. Congratulations on the successful Winter Park Sidewalk Arts festival and thanks to the City staff who made it possible	5 minutes
5	City Manager's Report	Projected Time
		5 minutes
6	City Attorney's Report	Projected Time
	a. Lawsuit filed by developer Sydgan Corporation	5 minutes

7	Non-Action Items	Projected Time
	a. Financial Report – February 2011	10 minutes
8	Citizen Comments 5 p.m. or soon thereafter (if the meeting ends earlier than 5:00 p.m., the citizen comments will be at the end of the meeting) (Three (3) minutes are allowed for each speaker; not to exceed a total of 30 minutes for this portion of the meeting)	Projected Time
9	Consent Agenda	Projected Time
	<ul style="list-style-type: none"> a. Approve the minutes of 3/14/11. b. Approve the placement of one sign and one banner for a 30 day period from May 1-30, 2011 for the “Cool Camaro Sweepstakes” special event at Federal Trust Bank located at 1500 Lee Road c. Approve the agreement with Lynx on the bus shelter at the former Pittsburgh Glass (Floyd’s 99) on Orange Avenue. d. Ratification under FS 447.403(4)(e) of 2010-2011 Agreement between City of Winter Park and Teamsters Local Union No. 385. e. Award IFB-13-2011 to HD Supply Waterworks for the purchase of 12” HDPE pipe for the West Fairbanks Water Main Replacement Project; \$65,940 f. Award IFB-8-2011 to FitRev, Inc. for the purchase of fitness equipment for the new Community Center Fitness Center and approve PR 146386 for the purchase; \$78,000 g. Approve the following purchases and contracts: <ul style="list-style-type: none"> 1. PR 145908 to Diamondback Tactical for the purchase of replacement SWAT Body Armor; \$31,590.48 2. PR 146337 to Mondo America, Inc. for the owner direct purchase of polyurethane rolls for the Community Center; \$49,513.92 3. PR 146350 to JCB Construction, Inc. for complete retainage payout, Melrose Retention Ponds Stormwater Project (RFP-6-2010); \$30,705.45 4. Amendment #1 to Grounds Maintenance Pineywood Cemetery/Trimming of Headstone Areas at Palm Cemetery and Pineywood Cemeteries with Carol King Landscaping Maintenance, Inc. and authorize the Mayor to execute Amendment #1; \$27,031 5. Change Order COR-007 to Turner Construction for the Community Center and authorize the Mayor to execute the Change Order; \$60,591 6. Change Order COR-008 to Turner Construction for the Community Center and authorize the Mayor to execute the Change Order; \$3,250 7. Piggybacking the GSA Schedule 84 (GS-07F-0416M) with Diamondback Tactical for SWAT Body Armor and authorize the Mayor to execute the Piggyback Contract 	5 minutes

10 Action Items Requiring Discussion	Projected Time
a. Discussion regarding the scheduling of future work sessions.	5 minutes
11 Public Hearings	Projected Time
a. Ordinance- Regulating the sale of metals to Secondary Metal Recyclers (1)	10 minutes
b. Ordinance- Repealing Fleet Peeples Park fees (1)	30 minutes
c. Ordinance- Repealing City Commissioner salaries (1)	30 minutes
12 City Commission Reports	Projected Time
a. Commissioner Leary b. Commissioner Sprinkel c. Commissioner Cooper d. Commissioner McMacken e. Mayor Bradley 1. Complete Streets / Pedestrian friendly City 2. Circumstances under which an Advisory Board member should be removed	10 minutes each
13 Fairbanks Avenue Public Input Session	6:00-7:00 p.m.
The public is invited to share comments regarding the plans for Fairbanks Avenue.	

appeals & assistance

"If a person decides to appeal any decision made by the Commission with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, and that, for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." (F. S. 286.0105).

"Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office (407-599-3277) at least 48 hours in advance of the meeting."

Hannibal Square Community Land Trust Inc.



March 9, 2011

*Mayor Ken Bradley
City Of Winter Park
400 S. Park Avenue
Winter Park, FL 32789*

*Cc: City of Winter Park Commissioners
Randy Knight, City Manager
HSCLT Board of Directors
Denise Weathers, Executive Director*

Reference: HSCLT Public Representative Vacancy – Request for Recommendation and Consideration for Vacancy Replacement

Dear Mayor Bradley,

HSCLT would like to recommend to the City Commission and to be on the March 28, 2011 Commissioner meeting agenda to fill the vacancy for Public Representative.

Recommendation for HSCLT Public Representative Vacancy through 2012:

- ***Frank Baker, Jr. to fill the vacancy left by Barbara DeVane's resignation.***

*HSCLT current Public Representatives nominated and the board strongly supports and recommend Frank Baker, Jr. as the nominee to be considered to fill the vacancy of Barbara DeVane's term which **would expire in 2012 and at that time he may/may not be recommended as a Public Representative.** We feel Frank is a good candidate for this position and will be an active participant in the mission of HSCLT.*

Attached for your review is Frank's letter of interest and resume.

I would like to thank you, the City Commissioners and the City of Winter Park for all your support of HSCLT and its mission of providing/preserving affordable/workforce housing in the community.

Respectfully,

Mary R. Daniels
Mary R. Daniels, President
Hannibal Square Community Land Trust, Inc.
H: 407-647-5072 or cell: 407-272-4895

Letter of Interest

When I was approached about being considered for an opportunity to work with and learn from members of the Hannibal Square Community Land Trust I was humbled and thrilled at the same time. There are people involved in this venture that I have tremendous respect for. Jesse Fitzgerald, for instance, is a man I remember at the Winter Park Bridge Builder meetings I use to attend from time to time. I found his passion and fight for our community to be refreshing. When I listen to Mary Daniels speak I'm amazed at the depth and clarity of her arguments, well spoken, very prepared, and armed with all necessary facts and figures. These are leaders and I wonder what person wouldn't want to serve with God fearing leaders of the community. Denise Weathers is a bright, shining light whose enthusiasm is infectious. She's so driven and dedicated. To me these are all qualities I admire in people. Besides the people the concept is amazing. We all know that land prices in this city are very expensive and I feel we all have something to give to this community, not just a chosen few. This is an opportunity to make a difference in people's lives and they make a difference in mine by bringing quality people to our city.

This entire operation is governed and run by people who care about everyone in our community, not just the powerful, people who have a heart for all of our citizens. I find this to be attractive because we only live once before God calls us home. I feel the only thing that matters is have you served others? Did you help someone in need? Did you put in hard work without expecting a pat on the back or for attention? This community has meant the world to me and I intend to serve it in any capacity that I can if given the opportunity.

Just being considered is an honor. I will always be grateful. Thank you.

Sincerely,


Frank Baker, Jr.

Frank Baker

311 N Pennsylvania Ave, Suite 1
Winter Park, FL 32789
frankbakerjr@aol.com
Phone: 407-645-2181
Alt: 407-733-7987
Fax: 407-645-2161

OBJECTIVE:

Upon hearing about an opportunity to work with the Hannibal Square Community Land Trust, Inc. I became very excited. Some of the most astute people in this city that fight for a decent way of life for all of our citizens are a part of this organization. I'm very impressed by the people that make up this great concept. I want to be a servant in my community in order to give back to it, not just to take from it. I'm seeking a place on the Hannibal Square Community Land Trust Board because it reaches out to what our community needs most. Good, affordable, housing for middle class, working people. I can't think of a better organization to be a part of.

I will bring a working knowledge of this community along with a background of service and participation in other boards such as the City's Parks and Recreation Commission along with a continuing relationship with Winter Park High School on its Hall of Fame Committee. I will bring a background of working with children and families at my church and would love to bring that experience to this board. I do care about the West Side of Winter Park and am willing to roll of my sleeves and help, not just sit back and complain.

MAJOR ACCOMPLISHMENTS:

Some 12 years ago I started a small company called JBM Properties trying to add some extra income each month. Since then we've been able help build the operation to a debt free company now with additional units. We've even expanded to other markets. We started in Winter Park, we now have units in Sanford, Apopka, and North Carolina and soon to add more. My most impressive achievement was spearheading a plan to become debt free and accomplish it within two years.

EXPERIENCE:

January 1997
to
Present

JBM Properties
Manager/Director

Winter Park, FL

After taking over the operation I've had vast experience in collections, maintenance, real estate aquisition, and problem solving for others in need.

EDUCATION:

2010

Belhaven University
Business Science Management Business Management GPA: 3.32

Orlando, FL

Along with completing the degree I've also continued to learn on the job. I've recently started incorporating the company. We've also done several seminars on asset protection. We're constantly looking for more effective and efficient ways to operate.



city commission city manager's report

item type Non-Action Item

meeting date March 28, 2011

Below are issues of interest to the Commission and community that are currently being worked on by staff, but do not currently require action on the Commission agenda. These items are being tracked to provide the Commission and community the most up to date information regarding the status of the various issues. The City Manager will be happy to answer questions or provide additional updates at the meeting.

issue	update	open resolved
Pension Study	Both Pension Boards and the City Commission authorized the Actuaries to work together to implement the 12 year smoothing concept identified by Actuarial Concepts.	Open
Lee Road Median Update	Staff continues to work on getting a final approval with FDOT.	Open
Pro Shop Renovation	HPC approved limited demolition at their last meeting which is scheduled to begin 3/23. A request for final approval of the entire project is before the HPC at their next meeting.	Open
Historic District	The City received a favorable review by the State of Florida on January 20th. The report has been forwarded to the Federal Government for final approval.	Open
Community Center	Construction is underway. The Program Manager is on board and the programming study with Green Play is underway.	Open
Park Ave Area Task Force	Discovery sessions are underway for the Engauge project. A meeting has already been held with the merchants, additional meetings are being planned with other stakeholders and the Commission.	Open

Fairbanks Improvement Project	<p>90% plans were submitted to FDOT, with completed design anticipated in Late March.</p> <p>The Commission is holding a workshop to discuss the project on March 28th from 6-7 p.m.</p>	Open
Fairbanks/Orange/Pennsylvania	<p>Work continues on sidewalk improvements from Pennsylvania to Park with work being performed at night. Utility upgrades also being done ahead of sidewalk work. Street light base installation is also underway and approximately 50% complete. Anticipate street lights complete by April 30th and sidewalk and 5 points intersection work complete by May 31st.</p>	Open
ReLeaf	<p>Groundtek, the City's tree planting contractor, planted 39 trees in the southeast quadrant during the past week. Upon completion in the southeast quadrant the contractor will begin planting in the northeast quadrant. This will be the 4th and final phase of the reLeaf/Reforestation project which began in May of last year and is projected to be completed in April.</p> <p>Renewal of the \$100,000 contract for a second year and a second round of tree planting is currently an option and should be presented to the City Commission for direction.</p>	Open
Hazardous Waste	<p>Contract between City and Orange County is currently under review and revision by City Attorney.</p>	Open

Once projects have been resolved, they will remain on the list for one additional meeting to share the resolution with the public and then be removed.



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Usher L. Brown
Board Certified Civil Trial Lawyer

ulbrown@orlandolaw.net

March 16, 2011

Mayor Kenneth Bradley
City of Winter Park Commission
City of Winter Park
401 Park Avenue South
Winter Park, FL 32789

via email & regular U.S. mail

Re: City of Winter Park/Sydgan
New lawsuit filed by developer Sydgan
Our File: 1416-067

Dear Mayor and Commissioners:

This is a report regarding a recent lawsuit filed against the City. Sydgan, a developer controlled by Dan Bellows, recently filed a lawsuit against the City of Winter Park. The style of the lawsuit is *Sydgan Corp. v. City of Winter Park*, Orange County Circuit Court case number 2011-CA-001709-O. This case is a Petition for Writ of Certiorari, in which the Petitioner, Sydgan, requests that the Court reverse a decision by the City at the December 2, 2010 Commission meeting.

BACKGROUND FACTS

In its Petition, Sydgan alleges that it is the agent for the owners of property at 620, 630, 660 and 672 Symonds Avenue and 655 W. Morse Avenue in Winter Park. It is alleged that in 2000, the owners obtained from the Commission permission to build two story office buildings and a three story parking garage at 655 W. Morse Boulevard. This agreement is confirmed in a Developer's Agreement that is attached to the Petition as



Exhibit "A". On May 23, 2005, the owners received conditional use permission to add two levels (five total) to the existing three level parking garage, and that conditional use permit would expire after two years. In 2007, the City extended that conditional use permit through May 23, 2008. On March 10, 2008, the City again extended the CU permit "until after one year after the Comprehensive Plan became effective." The Comprehensive Plan became effective on May 14, 2009, which thus continued the conditional use permit through May 14, 2010. In April, 2010, the owners again requested the City extend the CU permit. The City Commission on May 10, 2010, extended the permit for one additional year with five added conditions. Significantly, the owner did not appeal that decision.

The owners were dissatisfied with the five conditions added to the permit at the May 10, 2010, meeting. Therefore, in December of 2010, the owners requested that the City revise and extend the permit. For the first time, in December 2010, the owners referred to two laws that provide relief to permit holders as a result of the economic downturn. The first law was Section 14, Chapter 2009-96, Laws of Florida (2009). The second was Section 46, Chapter 2010-147, Laws of Florida. On December 13, 2010, the City Commission approved an additional two year extension of the conditional use until December 13, 2012, but maintained the five conditions added May 10, 2010.

DISCUSSION OF THE RELEVANT LAWS

Both laws referenced above explicitly require that a permit holder refer to the law when requesting an extension under the authorizing statute, and the application must meet the deadline in each law. Thus, Section 14, Chapter 2009-96, Laws of Florida, states in relevant part:

"(3) The holder of a valid permit or other authorization that is eligible for the two year extension shall notify the authorizing agency in writing no later than December 31, 2009, identifying the specific authorization for which the holder intends to use the extension and the anticipated time frame for acting on the authorization."

Section 46, Chapter 2010-147, Laws of Florida, states in relevant part:

"(3) The holder of a valid permit or other authorization that is eligible for the two year extension must notify the authorizing agency in writing by December 31, 2010, identifying the specific authorization for which the holder intends to use the extension and the anticipated time frame for acting on the authorization."

These provisions are identical, except for the date of the deadline for the application. In this case, the owners arguably met the deadline imposed by Chapter 2010-

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147 by requesting a review of the May 10, 2010, extension before the deadline of December 31, 2010. However, the owners clearly failed to meet the deadline imposed by Section 14, Chapter 2009-96, Laws of Florida, because they did not request an extension under the statute "in writing" by the December 31, 2009, deadline.

The City of Maitland requested an Attorney General's Opinion in 2009 concerning the implementation of the 2009 law, Section 14, Chapter 2009-96, Laws of Florida. In AGO 2009-54, the Attorney General opined that a permit holder must provide "timely notice" to an authorizing agency in order to be eligible for an extension of a permit under that law. Thus, the Attorney General stated:

"While the language of the Act authorizes the extension of permits for two years beyond the date of their expiration, it also requires the permit holder to notify the authorizing agency (in this case the municipality) of his or her intention to receive the extension of time. Reading these parts together and giving effect to each does not appear to alter the legislature's intent to provide relief to permit holders affected by recent real estate market conditions who may require additional time to complete projects that have been permitted.

Accordingly, it is my opinion that the amendments to Section 380.06, Florida Statutes, by Section 14, Chapter 2009-96, Laws of Florida, require a permit holder to notify the authorizing agency no later than December 31, 2009, to be eligible for extending the permit pursuant to the Act."

LEGAL ANALYSIS AND PROCEDURE

The circuit court reviews the Petition for Writ of Certiorari and informs us by order if the City must respond. A response to the appeal is not due from the City unless the circuit court directs us to file a response. Therefore, at this time there is no deadline imposed because the circuit court has not issued an order either dismissing the Petition or directing us to file a response.

If a response is ordered, it is our opinion that the City has a good legal position on the appeal. Sydgan did not appeal the May 10, 2010 extension of the conditional use which imposed the additional conditions. Therefore, the *quasi-judicial* decision in May 2010, is fixed and the additional conditions that were imposed by the City at that time are conclusively made a part of the permit. Moreover, the application in May 2010, did not specifically invoke the 2009 law. Therefore, the extension request in May 2010, was a request pursuant to the City's Land Development Code, and the City acted properly in extending the permit under its Code and by imposing reasonable conditions.

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The application for an extension in December 2010, was timely and did invoke the 2010 law. However, there is no stacking of the two year extensions available both under the 2009 and 2010 laws because the applicant only requested a two year extension under the 2010 law. The applicant waived the right to request an additional two years under the 2009 law because the applicant did not timely request a two year extension under the 2009 law. And, the City's extension in December 2010, properly included the conditions that were imposed in May 2010. (The conditions were properly included because, as mentioned above, the applicant did not timely appeal the imposition of the conditions in May 2010, and the appeal deadline of 30 days from the date of rendition of that *quasi-judicial* decision was jurisdictional).

Please contact the undersigned should you have any questions regarding this case or any other legal matter involving the City of Winter Park.

Sincerely,

A handwritten signature in black ink, appearing to be "Usher L. Brown", written over a horizontal line.

Usher L. Brown

ULB:tla

cc: Randy Knight, City Manager
Jeffrey Briggs, Director, Planning

Financial Report

For the Month of February (42% of fiscal year lapsed) Fiscal Year 2011

General Fund

Financial results for the five months of FY 2011 in the General Fund are favorable with the following items noted:

- Overall General Fund revenues are on track to meet budget expectations. Discussion of major revenue sources is below.
- The timing of property tax distributions from the Tax Collector is behind where it was last year. This should catch up over the next couple of months.
- Franchise fee revenues include only four months of solid waste and electric franchise fees. Franchise fees from electric sales are typically higher in the summer months. Overall, franchise fee revenues year to date are \$106,758 ahead of where they were at this point in the prior year. This is primarily due to \$19,936 in tennis franchise fee revenues from High Performance and the fact that we had only receive three months of solid waste franchise fees through February 2010. The City was still operating the tennis center in the prior year and the revenues were reported under Charges for Services.
- Utility tax revenue includes only three months of Communications Service Tax revenue. Including comparable estimates for the other months will bring this revenue in line with the annual budget. Electric and water utility tax revenues are also on track to equal or exceed projections. Utility taxes in total are \$36,209 behind February 2010.
- Occupational licenses are renewed as of October 1 of each year so the largest portion of this revenue has already been received. Revenues are \$28,027 greater than February 2010.
- Building permit revenues are down \$21,828 in comparison to the first five months of the prior year and are slightly behind budget but still have time to catch up.
- Intergovernmental revenues are low in comparison to budget because only three months of half cent sales and local option gas tax revenues had been received through January. Sales tax may be about \$100,000 below budget by fiscal year end and local option gas tax is on track to exceed the budget by \$25,000. Still very early and not significantly different from original projections.
- Charges for services are up \$386,791 in comparison to the prior year. Ambulance transport revenues are the main reason for this increase and are \$339,220 higher than February 2010. The City was transitioning between billing agents at this point last year. Once the medicare application for the new billing agent was through all approval processes we received a large distribution of payments. Some of these were accrued to the prior year and a large amount remains for the current year. Overall, ambulance transport revenues will likely exceed the budget projection by about \$300,000.

- Fines and forfeiture revenues are a bit behind as the Orange County Clerk of Courts began retaining 10% of the traffic fines for the Public Records Modernization Trust Fund this past year. We will likely be \$320,000 below our budget estimate for this revenue. However, the additional transport revenues will more than offset this shortfall.
- Miscellaneous revenue is behind but we anticipate a strong rebate on our procurement card program which will help.
- Legal services are over budget due to union negotiation work.
- Organizational support for the Winter Park Historical Association (\$60,000) and United Arts (\$15,000) were paid at the beginning of the fiscal year. Contributions to the Winter Park Public Library are spread throughout the year at one twelfth of the budget each month.
- Other expenditures are generally in line with or below budget.

Community Redevelopment Agency Fund

Tax increment revenues decreased by \$867,739 as a result of a 16% decrease in valuation of properties within the CRA. Revenues are even with budget as expected and all tax increment revenues are credited to the CRA in December.

Charges for services revenue is from daily passes and sponsorships for the ice skating rink in the West Meadow earlier this year.

Operating expenditures are ahead of schedule because the City has already made its annual \$40,000 contribution for support of Heritage Center operations.

Capital project spending is largely for the new Community Center.

Debt service is higher than the prior year because this is the first year of debt service for the Community Center loan.

Water and Sewer Fund

Revenue is up \$138,199 in comparison to the prior year and is not too far behind budget through 42% of the year.

Bottom line shows YTD net income of \$807,328. After subtracting capital contributions (impact fees), net income is still \$155,861 for the five months ended February 28, 2011.

Electric Services Fund

Revenues are down \$130,790 in comparison to the prior year but very close to budget at 41% when we are 42% of the way through the year.

Bulk power costs are below budget as of February 28. The new arrangement with Seminole Electric and Progress Energy should result in these costs being significantly below budget for the year with the exception of fuel costs which will be recovered from the customer through quarterly adjustments.

The large miscellaneous revenue is primarily insurance payments received from Progress Energy (PE) to offset the excess fuel costs the City has been paying while PE's Crystal River nuclear plant has been operating at less than full capacity.

Bottom line is net income of \$3,491,715 through February 28. After deducting \$1,183,763 in payments from Progress Energy for insurance funds, net income is still \$2,307,952.

The City of Winter Park, Florida
Monthly Financial Report - Budget vs. Actual
General Fund
Fiscal YTD February 28, 2011 and 2010
42% of the Fiscal Year Lapsed

	Fiscal YTD February 28, 2011						Fiscal YTD February 28, 2010			
	Actual		Budget				Actual	Budget		
	YTD	YTD %	Original Annual	Adjusted Annual *	Prorated Adj. Annual	Variance from Prorated Adj. Annual	YTD	Adjusted Annual	Prorated Adj. Annual	Variance from Prorated Adj. Annual
Revenues:										
Property Tax	\$ 11,520,575	190%	\$ 14,538,871	\$ 14,538,871	\$ 6,057,861	\$ 5,462,714	\$ 13,481,480	\$ 15,895,265	\$ 6,623,029	\$ 6,858,451
Franchise Fees	376,348	80%	1,130,000	1,130,000	470,833	(94,485)	269,590	1,088,094	453,373	(183,783)
Utility Taxes	2,355,951	82%	6,921,536	6,921,536	2,883,973	(528,022)	2,392,160	6,712,270	2,796,779	(404,619)
Occupational Licenses	444,326	237%	450,000	450,000	187,500	256,826	416,299	468,000	195,000	221,299
Building Permits	386,206	90%	1,033,800	1,033,800	430,750	(44,544)	408,034	939,497	391,457	16,577
Other Licenses & Permits	9,065	109%	20,000	20,000	8,333	732	6,506	16,100	6,708	(202)
Intergovernmental	1,723,512	69%	5,995,605	5,995,605	2,498,169	(774,657)	1,628,585	5,660,612	2,358,588	(730,003)
Charges for Services	1,724,706	112%	3,708,300	3,708,300	1,545,125	179,581	1,337,915	3,685,827	1,535,761	(197,846)
Fines and Forfeitures	81,382	24%	797,500	797,500	332,292	(250,910)	221,416	664,570	276,904	(55,488)
Miscellaneous	85,983	41%	504,610	504,610	210,254	(124,271)	242,405	328,200	136,750	105,655
Fund Balance	-	-	-	566,257	235,940	(235,940)	-	802,709	334,462	(334,462)
Total Revenues	18,708,054	126%	35,100,222	35,666,479	14,861,030	3,847,024	20,404,390	36,261,144	15,108,811	5,295,579
Expenditures:										
City Commission	8,459	43%	47,057	47,057	19,607	11,148	10,557	19,477	8,115	(2,442)
Legal Services - City Attorney	156,627	185%	202,800	202,800	84,500	(72,127)	84,521	232,596	96,915	12,394
Legal Services - Other	50,046	120%	100,000	100,000	41,667	(8,379)	30,424	70,000	29,167	(1,257)
Lobbyists	27,533	127%	52,000	52,000	21,667	(5,866)	60,806	112,000	46,667	(14,139)
City Management	182,538	92%	476,603	476,603	198,585	16,047	199,959	478,863	199,526	(433)
City Clerk	77,383	81%	229,966	229,966	95,819	18,436	82,150	235,547	98,145	15,995
Communications Dept.	149,572	81%	440,584	441,384	183,910	34,338	152,038	481,212	200,505	48,467
Information Technology Services	584,003	100%	1,252,217	1,399,459	583,108	(895)	580,884	1,362,712	567,797	(13,087)
Finance	332,964	101%	789,862	789,962	329,151	(3,813)	335,816	807,357	336,399	583
Human Resources	115,008	92%	300,859	300,859	125,358	10,350	94,392	353,479	147,283	52,891
Purchasing	24,805	29%	202,494	203,788	84,912	60,107	72,785	210,825	87,844	15,059
Planning & Community Development	229,505	81%	639,187	683,761	284,900	55,395	243,331	692,089	288,370	45,039
Building & Code Enforcement	481,956	89%	1,289,136	1,293,628	539,012	57,056	492,393	1,275,919	531,633	39,240
Public Works	2,599,813	90%	6,779,814	6,932,734	2,888,639	288,826	2,616,350	7,192,799	2,997,000	380,650
Police	4,158,638	89%	11,044,550	11,225,620	4,677,342	518,704	4,479,975	11,672,252	4,863,438	383,463
Fire	3,503,020	97%	8,643,108	8,656,723	3,606,968	103,948	3,653,221	9,162,232	3,817,597	164,376
Parks & Recreation	2,148,770	87%	5,924,844	5,944,994	2,477,081	328,311	2,259,873	6,134,081	2,555,867	295,994
Organizational Support	631,755	107%	1,411,212	1,411,212	588,005	(43,750)	713,106	1,386,212	577,588	(135,518)
Non-Departmental	-	-	239,000	2,171,404	904,752	904,752	-	1,190,501	496,042	496,042
Total Expenditures	15,462,395	87%	40,065,293	42,563,954	17,734,983	2,272,588	16,162,581	43,070,153	17,945,898	1,783,317
Revenues Over/(Under)										
Expenditures	3,245,659	-113%	(4,965,071)	(6,897,475)	(2,873,953)	6,119,612	4,241,809	(6,809,009)	(2,837,087)	7,078,896
Operating transfers in	3,609,755	99%	8,782,012	8,782,012	3,659,172	(49,417)	3,696,804	9,139,505	3,808,127	(111,323)
Operating transfers out	(785,224)	100%	(1,884,537)	(1,884,537)	(785,224)	-	(971,040)	(2,330,496)	(971,040)	-
Other Financing Sources/(Uses)	2,824,531	98%	6,897,475	6,897,475	2,873,948	(49,417)	2,725,764	6,809,009	2,837,087	(111,323)
Total Revenues Over										
Expenditures	\$ 6,070,190		\$ 1,932,404	\$ -	\$ (5)	\$ 6,070,195	\$ 6,967,573	\$ -	\$ -	\$ 6,967,573

* As adjusted through February 28, 2011

The City of Winter Park, Florida
Monthly Financial Report - Budget vs. Actual
Community Redevelopment Fund
Fiscal YTD February 28, 2011 and 2010
42% of the Fiscal Year Lapsed

	Fiscal YTD February 28, 2011						Fiscal YTD February 28, 2010					
	Actual		Budget				Actual		Budget			
	YTD	YTD %	Original Annual	Adjusted Annual *	Prorated Adj. Annual	Variance from Prorated Adj. Annual	YTD	YTD %	Adjusted Annual	Prorated Adj. Annual	Variance from Prorated Adj. Annual	
Revenues:												
Property Tax	\$ 2,309,577	240%	\$ 2,305,963	\$ 2,305,963	\$ 960,818	\$ 1,348,759	\$ 3,177,316	169%	3,222,158	\$ 1,342,566	\$ 1,834,750	
Intergovernmental	-	0%	-	-	-	-	600	0%	-	-	600	
Charges for services	152,006	0%	200,000	200,000	83,333	68,673	117,687	-	-	-	117,687	
Miscellaneous	9,463	19%	117,200	117,200	48,833	(39,370)	68,801	227%	234,400	97,667	(28,866)	
Fund Balance	-	0%	338,821	7,625,256	3,177,190	(3,177,190)	-	0%	3,161,179	1,317,158	(1,317,158)	
Total Revenues	2,471,046	58%	2,961,984	10,248,419	4,270,175	(1,799,129)	3,364,404	72%	6,617,737	2,757,391	607,013	
Expenditures:												
Planning and Development	255,894	95%	644,708	644,908	268,712	12,818	251,649	42%	776,233	323,430	71,781	
Capital Projects	2,979,630	95%	-	7,526,235	3,135,931	156,301	702,074	57%	11,454,179	4,772,575	4,070,501	
Debt service	1,160,647	185%	1,506,081	1,506,081	627,534	(533,113)	653,728	132%	1,667,578	694,824	41,096	
Total Expenditures	4,396,171	109%	2,150,789	9,677,224	4,032,177	(363,994)	1,607,451	34%	13,897,990	5,790,829	4,183,378	
Revenues Over/(Under)												
Expenditures	(1,925,125)	-809%	811,195	571,195	237,998	(2,163,123)	1,756,953	324%	(7,280,253)	(3,033,438)	4,790,391	
Debt proceeds	-	-	-	-	-	-	8,100,000	0%	8,100,000	3,375,000	4,725,000	
Operating transfers out	(44,628)	100%	(107,108)	(107,108)	(44,628)	(0)	(49,101)	79%	(117,862)	(49,109)	8	
Other Financing Sources/(Uses)	(44,628)	100%	(107,108)	(107,108)	(44,628)	0	8,050,899	0%	7,982,138	3,325,891	4,725,008	
Total Revenues Over Expenditures	\$ (1,969,753)		\$ 704,087	\$ 464,087	\$ 193,370	\$ (2,163,123)	\$ 9,807,852		701,885	\$ 292,453	\$ 9,515,399	

* As adjusted through February 28, 2011

The City of Winter Park, Florida
Monthly Financial Report - Budget vs. Actual
Water & Sewer Funds
Fiscal YTD February 28, 2011 and 2010
42% of the Fiscal Year Lapsed

	Fiscal YTD February 28, 2011				Fiscal YTD February 28, 2010		
	YTD Actual	Original Budget	Adjusted Budget *	Adjusted %	YTD Actual	Adjusted Budget	Adjusted %
Operating Revenues							
Intergovernmental	\$ -	\$ -	\$ -	0%	\$ -	\$ -	0%
Charges for services	10,734,499	27,129,592	27,129,592	40%	10,596,300	26,084,285	41%
Total Operating Revenues	10,734,499	27,129,592	27,129,592	40%	10,596,300	26,084,285	41%
Operating Expenses:							
General and Administration	571,127	1,434,592	1,474,745	39%	531,483	1,511,472	35%
Operations	4,662,058	14,450,260	14,571,094	32%	4,909,845	16,890,549	29%
Facility Agreements	1,090,096	3,530,000	3,530,000	31%	1,073,721	3,717,000	29%
Depreciation & Amortization	2,146,949	-	-	0%	2,356,127	-	0%
Total Operating Expenses	8,470,230	19,414,852	19,575,839	43%	8,871,176	22,119,021	40%
Operating Income (Loss)	2,264,269	7,714,740	7,553,753	30%	1,725,124	3,965,264	44%
Nonoperating Revenues (Expenses):							
Investment earnings	(41,685)	238,920	238,920	-17%	73,190	745,900	10%
Debt Service	(1,251,858)	(5,999,908)	(5,999,908)	21%	(1,250,935)	(4,106,638)	30%
Miscellaneous revenue	157	2,300	2,300	0%	-	-	0%
Fund Balance	-	-	160,987	0%	-	1,459,718	0%
Total Nonoperating Revenues (Expenses)	(1,293,386)	(5,758,688)	(5,597,701)	23%	(1,177,745)	(1,901,020)	62%
Income (Loss) Before Operating Transfers	970,883	1,956,052	1,956,052	50%	547,379	2,064,244	27%
Capital Contributions	651,467	-	-	0%	61,840	-	100%
Operating transfers in	-	-	-	0%	-	-	0%
Operating transfers out	(815,022)	(1,956,052)	(1,956,052)	42%	(860,102)	(2,064,244)	42%
Total Contributions and Transfers	(163,555)	(1,956,052)	(1,956,052)	8%	(798,262)	(2,064,244)	39%
Net Income	\$ 807,328	\$ -	\$ -		\$ (250,883)	\$ -	

* As adjusted through February 28, 2011

The City of Winter Park, Florida
Monthly Financial Report - Budget vs. Actual
Electric Services Funds
Fiscal YTD February 28, 2011 and 2010
42% of the Fiscal Year Lapsed

	Fiscal YTD February 28, 2011				Fiscal YTD February 28, 2010		
	YTD Actual	Original Budget	Adjusted Budget *	Adjusted %	YTD Actual	Adjusted Budget	Adjusted %
Operating Revenues							
Intergovernmental	\$ -	\$ -	\$ -	0%	\$ 84,785	\$ -	0%
Charges for services	21,861,936	53,805,025	53,805,025	41%	21,992,726	57,337,970	38%
Total Operating Revenues	21,861,936	53,805,025	53,805,025	41%	22,077,511	57,337,970	39%
Operating Expenses:							
General and Administration	535,641	1,117,722	1,117,758	48%	399,360	3,671,924	11%
Operations	1,916,540	8,931,951	7,107,216	27%	2,176,817	7,038,744	31%
Purchased Power Cost	12,396,271	33,914,312	33,914,312	37%	13,741,494	37,592,170	37%
Deferred Purchased Power Fuel Cost	-	-	-	0%	651,160	-	0%
Transmission Power Cost	835,778	1,772,000	1,772,000	47%	774,465	1,771,875	44%
Depreciation & Amortization	1,462,613	-	-	0%	1,357,646	-	0%
Total Operating Expenses	17,146,843	45,735,985	43,911,286	39%	19,100,942	50,074,713	38%
Operating Income (Loss)	4,715,093	8,069,040	9,893,739	48%	2,976,569	7,263,257	41%
Nonoperating Revenues (Expenses):							
Investment earnings	(81,389)	(115,000)	(115,000)	71%	(116,011)	(100,000)	116%
Debt Service	(1,138,764)	(4,989,711)	(4,989,711)	23%	(1,149,318)	(4,032,260)	29%
Miscellaneous revenue	1,182,495	-	-	0%	73,766	-	0%
Fund Balance	-	-	356,358	0%	-	-	0%
Total Nonoperating Revenues (Expenses)	(37,658)	(5,104,711)	(4,748,353)	1%	(1,191,563)	(4,132,260)	29%
Income (Loss) Before Operating Transfers	4,677,435	2,964,329	5,145,386	91%	1,785,006	3,130,997	57%
Operating transfers in	-	-	-	0%	-	-	0%
Operating transfers out	(1,185,720)	(2,964,329)	(2,964,329)	40%	(1,193,260)	(3,130,997)	38%
Total Operating Transfers	(1,185,720)	(2,964,329)	(2,964,329)	40%	(1,193,260)	(3,130,997)	38%
Net Income (Loss)	\$ 3,491,715	\$ -	\$ 2,181,057		\$ 591,746	\$ -	

* As adjusted through February 28, 2011

REGULAR MEETING OF THE CITY COMMISSION
March 14, 2011

The meeting of the Winter Park City Commission was called to order by Mayor Kenneth Bradley at 3:30 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida.

A moment of silence was given to the families and children in Japan that have passed away and those who are suffering from the earthquake and tsunami this past week. The invocation was provided by Reverend Bryan Fulwider, First Congregational Church, followed by the Pledge of Allegiance.

Members present:

Mayor Kenneth Bradley
Commissioner Steven Leary
Commissioner Sarah Sprinkel
Commissioner Tom McMacken
Commissioner Carolyn Cooper
Commissioner Phil Anderson (for beginning)
Commissioner Beth Dillaha (for beginning)

Also present:

City Manager Randy Knight
City Attorney Larry Brown
City Clerk Cynthia Bonham
Deputy City Clerk Michelle Bernstein

Mayor Bradley presented outgoing Commissioners Phil Anderson and Beth Dillaha with a plaque of appreciation for their service for the last three years. Both commissioners bid farewell and provided comments and thanks as to their service on the Commission.

The Oath of Office was administered to newly elected Commissioner Steven Leary by Orange County Clerk of Courts Lydia Gardner and Commissioner Sarah Sprinkel by her spouse.

Approval of the agenda

Mayor Bradley requested to table Item 11D to the next meeting to allow for the procedural steps to take place. Commissioner McMacken requested Item 6C be addressed under Commission Reports.

Motion made by Mayor Bradley to approve the agenda with these changes; seconded by Commissioner McMacken and approved by acclamation of the City Commission.

Mayor's Report

- a. Introduction of Kathy Salerno, Outreach and Education Coordinator for the State of Florida's Chief Financial Officer, Jeff Atwater

Kathy Salerno, Orlando Regional Representative of the State of Florida Chief Financial Office provided background regarding their duties and the services they provide. She explained that their office provides consumer service assistance with approximately 26 types of insurance such as worker's compensation insurance and auto insurance. They also provide assistance with identity theft, consumer protection and insurance fraud. Ms. Salerno informed the Commission that she is the Orlando community relations representative. She provided their office website address <http://www.myfloridacfo.com> and a consumer helpline number 877-693-5236 for anyone needing assistance.

b. Proclamation-March 2011 as Bike Month

Mayor Bradley presented a proclamation marking March as "Bicycle Month". He also noted that the 3rd annual "Bike from Park to Park" event will be held on March 25, 2011 at 8:00 a.m. and encouraged all to attend.

Mayor Bradley announced that the Orange County League of Mayor's sent him a notice informing him that the White House has requested that on March 15, 2011 the American Flag be flown at half mast in honor of the passing of the last surviving American Veteran of WWI, Army Corporal Frank W. Buckles.

Mayor Bradley mentioned that in his upcoming April Parks Press article he has invited the Commissioners to join him in the visioning session. He also encouraged all citizens to attend and join in on the conversation.

Mayor Bradley announced that the Winter Park High School 9th grade center dedication will be held on March 15, 2011 at 8:30 a.m.

c. City Commission governance, working together, and efficient meetings:

1. Resolution No. 1978
2. Timed agendas
3. Charter's role definition for Commission members

This item addressed under Commission Reports.

d. Congratulations Winter Park Wildcats Boys State 6A Champions

Mayor Bradley commended the Winter Park Wildcats for winning the State 6A Championship.

City Manager's Report

City Manager Knight said he is pleased to announce that Fitch issued our ratings on the Water and Sewer Bonds. He said they reconfirmed our double-A minus ratings and that it continues to be a strong bond rating from Fitch.

The strategic planning session was scheduled on April 8, 2011 from 9:00-4:00 p.m. with a facilitator and the location is to be determined.

City Attorney's Report

No items to report.

Non-Action Items

a. Comprehensive Annual Financial Report (CAFR) presentation

Bernadette Britz-Parker of James Moore & Company, CPA provided the CAFR from fiscal year ending September 30, 2010. She summarized the highlights as presented in the package and

in the PowerPoint presentation. Commissioner Cooper asked if it was advantageous to have a debt policy. Ms. Parker said it would not hurt but they have to be very careful in how they word the policy so that their hands are not tied in the event of an emergency. Commissioner Cooper asked if their firm could help identify a few benchmarking cities that are the most comparable. Ms. Parker said she would be happy to do that.

Motion made by Commissioner Cooper to accept the CAFR and that they direct staff to implement the recommendations; seconded by Commissioner Sprinkel. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

b. Financial Report – January 2011

Finance Director Wes Hamil provided the January 2011 financial report and answered questions of the Commission. Electric Director Jerry Warren addressed the concern regarding the increase in gasoline and oil prices and how it may affect the current power rates. Mr. Warren recalled that they asked Progress Energy to fix 50% of the natural gas prices. He said they have accomplished what they intended to do and that was to hedge the risk. He explained that they review the fuel forecast quarterly and they adjust the fuel adjustment as appropriate. He said there will probably be no increase in the fuel adjustment and it should be the same or perhaps lower. Mr. Warren also noted that the non-fuel part of the contract offers substantial savings to our customers.

Motion made by Commissioner McMacken to accept the Financial Report; seconded by Commissioner Cooper and carried unanimously with a 5-0 vote.

Consent Agenda

- a. Approve the minutes of 2/28/11.
- b. Award RFP-5-2011, Bond Counsel Services to Bryant Miller Olive P.A.
- c. Approve the Orange County Vendor Payment Agreement for the Low Income Home Energy Assistance Program.
- d. Ratify the police union contract.
- e. Approve the following purchases and contracts:
 1. PR 146252 to Alan Jay Chevrolet, piggybacking the Florida Sheriff's Association contract; purchase of 2011 Chevy Silverado 2500HD; \$37,298
 2. PR 146290 to HD Supply Plumbing for the owner direct purchase of plumbing supplies for the Community Center
 3. PR 146295 to Interedge Technologies for the owner direct purchase of fire-rated glazing and framing systems for the Community Center
 4. PR 146300 to Rexel for the owner direct purchase of lighting fixtures for the Community Center.
 5. Piggybacking Seminole County contract #RFP-600103-07 with McLane Excavating, Inc. for aquatic maintenance services and authorize the Mayor to execute the Piggyback Contract
 6. Piggybacking City of Orlando contract #BI08-2351-2 with Unifirst Corporation for rental of work uniforms and authorize the Mayor to execute the Piggyback Contract

7. Piggybacking Lake County contract #CT070811G5 with Ten-8 Fire Equipment, Inc. for fire equipment and supplies and authorize the Mayor to execute the Piggyback Contract
8. Piggybacking Florida Sheriff's Association Contract #11/13-05-0120 for Tires & Related Services and authorize the Mayor to execute the Piggyback Contract
9. Piggybacking the GSA contract #GS-35F-0119P for General Purpose Commercial Information Technology Equipment, Software & Services and authorize the Mayor to execute the Piggyback Contract

Motion made by Commissioner McMacken to approve the Consent Agenda; seconded by Commissioner Cooper and carried unanimously with a 5-0 vote.

Action Items Requiring Discussion:

- a. Approve City Staff to work with the City Attorney to create a City ordinance that regulates Pain Management Clinics.

Building and Code Enforcement Director George Wiggins explained that recently the City of Maitland adopted an ordinance dealing with this issue. He explained that many police departments in Florida have reported a pattern of illegal drug use and distribution that has been linked through Pain Management Clinics and further elaborated on current studies. He also noted that on December 7, 2010 Orange County adopted an ordinance imposing a one year moratorium on the issuance of a business license for any new Pain Management Clinics.

Police Chief Railey explained that currently in Orange County there are 61 Pain Management Clinics and as soon as an illegal clinic is shut down another one opens up. He said as Orange County, Maitland and Orlando becomes more restrictive and because Winter Park does not have an ordinance to address this issue these types of businesses can come into our City and open shop. They would like to take a proactive step and work with the City Attorney to address the problem before it becomes worse. It was also noted that the creation of a City ordinance regulating Pain Management Clinics is not intended to interfere with legitimate medical clinics or the lawful prescription of controlled substances.

Attorney Brown asked for direction. He provided three options: enacting a moratorium which would allow them to study what other areas are doing; limit the zoning to an industrial area; or to regulate the hours and days of operation and the number of prescriptions allowed to be issued per visit.

Motion made by Mayor Bradley to approve City staff to work with the City Attorney to create a moratorium and/or a City ordinance that regulates Pain Management Clinics; seconded by Commissioner Leary. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

Public Comments

Tony Gray, 452 Sylvan Drive, spoke about the pay raises for the Commission. He suggested that they vote a \$10,000 raise and implement it at \$1,000 a year. He said they could start it next year or after they are out of office, otherwise they are putting it off to the next set of Commissioners and it will be equally embarrassing for them.

Public Hearings

- a. RESOLUTION NO. 2080-11: A RESOLUTION OF THE CITY OF WINTER PARK, FLORIDA, SUPPORTING POLICE OFFICER AND FIREFIGHTER PENSION PLAN REFORMS.

Attorney Brown read the resolution by title. City Manager Knight answered questions. He explained that this resolution was requested by the Florida League of Cities and will allow us the ability to negotiate the pension issue versus forcing something on either side.

Motion made by Commissioner McMacken to adopt the resolution; seconded by Commissioner Sprinkel.

Fire Pension Chairman Pat McCabe said he does not agree with everything that is in this resolution but he does understand why they are supporting it. He said the pension board is listening to them, the board members are professionals in their field and they feel that the board is being run very well and soundly. He said the board is available any time to answer any questions they may have. No public comments were made.

Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

Commissioner Reports:

- a. Commissioner Leary

Commissioner Leary requested to discuss two issues at the next meeting of March 28: the fees of Fleet Peoples Park and Commission salaries. There was consensus to add this to the March 28 agenda. City Manager Knight asked if they are requesting the first reading of an ordinance to repeal these two items or if they would like to handle it as a discussion item. It was agreed that both of these items be handled as first readings for repeal.

Commissioner Leary requested to suspend the implementation of the fines at Fleet Peoples Park. City Attorney Brown provided counsel. He said technically it requires a repealing ordinance to change the schedule of fines; however, law enforcement and municipal officers have discretion in enforcement. Attorney Brown recommended that they allow the City Manager and staff to exercise their normal discretion without a consensus coming from the Commission at this time and that was agreed.

b. Commissioner Sprinkel

Commissioner Sprinkel stated that the Commission salaries would not be in effect until April so if they address this issue at the next meeting it should not have any impact on anything in any specific way.

Commissioner Sprinkel said it would be great if the City could provide the same information to the public that she has received.

c. Commissioner Cooper

Commissioner Cooper asked about the Hannibal Square Community Land Trust appointment and wanted to know why they tabled the item. Mayor Bradley said that the president did not follow the bi-laws and they will be bringing the item back to them at the March 28 meeting.

1. West Fairbanks Listening Session

Commissioner Cooper requested to schedule a work session regarding West Fairbanks and to allow citizens the opportunity to express their concerns and provide input. Mayor Bradley asked the status of the form based codes. City Manager Knight said it is being reviewed now by the both Planning and Building Departments and should be completed sometime in May. Mayor Bradley requested that the form based code be sent out to all Commissioners. The request was acknowledged. Upon discussion, there was a consensus to add the West Fairbanks listening session to the March 28 agenda from 6:00-7:00 p.m. for discussion and public input.

d. Commissioner McMacken

Commissioner McMacken mentioned that he attended the free outdoor Orlando Philharmonic concert event this past weekend and the honoring of Ken Murrah. He said he hoped that others attended the event and enjoyed it as much as he did.

Commissioner McMacken mentioned the article titled "Pedestrian friendly Winter Park has it all: Museums, sidewalk cafes, shops and lakes" which was published this past week in the St. Petersburg Times.

Commissioner McMacken asked if the sign on Orange Avenue announcing the completion of the roadway 2010 can be removed. Mr. Attaway said they will remove it this week.

e. Mayor Bradley

Mayor Bradley welcomed the new Commissioners. He then called attention to Resolution No. 1978 which governs their work. He said they are trying to adhere to timed agendas in an effort to be fair to all who participate. He addressed what their roles are as Commissioners which is defined in the Charter.

Mayor Bradley requested support for a resolution to be brought back from City staff regarding improving City management governance. He asked for a resolution that looks at the dollar value that the City Manager can approve on consent agenda items as well as items that are budgeted. He said he would like to instruct the City Manager to bring something forward at their

meeting of April 11. There was consensus to bring this forward. City Manager Knight acknowledged and said he understands the request.

Mayor Bradley asked if the City's Economic Development Plan can be brought forward at their meeting of April 11 for ratification. CRA Director Dori DeBord advised that the EDAB Board is in the process of looking at the plan now and would like to meet with the Commission to discuss exactly what they want. She said they could bring them the Economic Development Master Plan that was developed a few years ago and use that as a starting point of discussion. Mayor Bradley asked if they could bring it back to them within a month to review. Ms. DeBord said yes. There was consensus to bring this forward in one month.

Mayor Bradley asked for support to bring forth a discussion on the state of our City buildings and City facilities such as the ADA accessibility and other items that they really need to address. There was a consensus to address this during the strategic planning session.

Mayor Bradley requested to look at combining resolutions, our Charter and ordinances into one master ordinance or master resolution that would govern our City advisory boards. He would like to clarify the number of board members and to do this before May so that they can appoint effectively. There was consensus for staff to look at this and bring forward in April.

He mentioned that the selection of the Vice Mayor is scheduled for April 11. It was noted that because how election day fell on the calendar and how the Charter is written that they will be without a Vice Mayor for the next two meetings.

Mayor Bradley mentioned the budget preparations and requested that Mr. Donegan, Orange County Property Appraiser, come and review what he perceives as our on-going projected tax assessments over the next few years. There was consensus to invite Mr. Donegan to either the April 11 or April 25 meeting and for the City Manager to coordinate. City Manager Knight acknowledged.

Mayor Bradley suggested eliminating the bi-weekly work session meetings. Mayor Bradley noted that the March 21 work session meeting is cancelled. Commissioner Cooper said she is not in favor because she thinks communication is critical. Mayor Bradley clarified that there is consensus for this item to be added to the March 28 agenda for discussion. It was clarified that there was consensus that these work sessions are not needed at this point in terms of regular work sessions. Mayor Bradley stated that they could use the regular Commission meetings to talk to each other and it would also allow for public input and that work sessions will be called only when needed.

The meeting adjourned at 5:17 p.m.

Mayor Kenneth W. Bradley

ATTEST:

City Clerk Cynthia S. Bonham



city commission agenda item

item type	Consent Agenda	meeting date	March 28, 2011
prepared by		approved by	<input checked="" type="checkbox"/> City Manager
department	Sylvia Wellon		<input type="checkbox"/> City Attorney
division	Code Enforcement		<input type="checkbox"/> N/A
board approval		<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N/A	final vote

subject

"Cool Camaro Sweepstakes" Special Event Application at 1500 Lee Rd. from May 1st to May 30th, 2011 at Federal Trust Bank

motion | recommendation

The Ordinance limits signs to 7 days. (4 days prior to the event and 3 days past the event). Anything beyond this requires approval from City Commission. Staff recommends approval.

background

Federal Trust Bank is raffling a Camaro where they are requesting the placement of one sign and one banner for a thirty day period.

alternatives | other considerations

No alternatives necessary as the event is taking place on private property only.

fiscal impact

This event could encourage citizen participation/interest from an economical standpoint.

long-term impact

It may increase awareness about Federal Trust Bank bringing new customers into the City of Winter Park.

strategic objective

Quality economic development.



ADVERTISING ■ MARKETING ■ PUBLIC RELATIONS ■ INTERACTIVE

RECEIVED
JAN 19 2011
CODE ENFORCEMENT

City of Winter Park
Permits & Licensing Department
401 S. Park Ave.
Winter Park, FL 32789

January 14, 2011

RE: Special Event Permit
May 1 -30, 2011
Cool Camaro Sweepstakes

To Whom It May Concern:

Please send the permit to:

Patterson/Bach, Inc.
Attention: Tim Bach
2600 Maitland Center Parkway, Suite 360
Maitland, FL 32751-4147

If you have any questions, please do not hesitate to contact me at 407.645.1880.
Thank you.

Respectfully yours.

A handwritten signature in black ink, appearing to read 'Tim Bach', written over a horizontal line.

Tim J. Bach
President



SPECIAL EVENT APPLICATION

City of Winter Park
401 S Park Avenue
Winter Park, FL 32789
407-599-3600

PERMIT # 11-335

DATE OF SUBMITTAL: _____

FEES:	FOR PROFIT:	NON-PROFIT:
PROCESSING	<u>\$100.00</u>	\$10.00
PERMIT	<u>\$50.00</u>	\$30.00
STREET CLOSURES (UP TO 400 PEOPLE)	\$100.00	\$100.00
STREET CLOSURES (401 + PEOPLE)	\$200.00	\$200.00

ALL FEES ARE NON-REFUNDABLE

CHECK ONE: For Profit ☒ Non-Profit ☐ (Must provide proof of IRS Code 501C(3))

Charity the event is supporting/how much was raised at event last year (if new event, N/A).

NAME OF EVENT: Cool Camaro Sweepstakes

ADDRESS OF EVENT: 1500 LEE Rd Winter Park FL 32789

DATE OF EVENT: From May 1, 2011 To May 30, 2011

TIME OF EVENT: From May 30 2011 am/pm To _____ am/pm

ANY EVENTS THAT INVOLVE USE OF PUBLIC PROPERTY, CREATE TRAFFIC, NOISE, OR SIMILAR CONCERNS MAY REQUIRE APPROVAL BY CITY COMMISSION.

DETAILED EVENT DESCRIPTION EXPLAINING BRIEFLY HOW EVENT WILL BENEFIT THE RESIDENTS AND BUSINESSES OF WINTER PARK: (Please see attached information sheet)

Federal Trust Bank is raffeling off a Camaro. We'd like to Park the car in their parking lot and have the Pole/Flag Sign and Banner sign displayed for 30 DAYS. Pole sign will be securely anchored in the ground. Banner will be attached to the wind shield. There is no other outdoor activities. Only signage.

Use of the city's official seal on any marketing, promotional or like materials without approval by the City of Winter Park is in violation of the city seal's copyright. Please direct all matters and inquiries related to using the city seal on event materials to the Communications Department at 407-599-3343 or e-mail PRDept@cityofwinterpark.org.

City Seal required: YES ☐ NO ☐ Est. Attendance: _____ City Staff Required YES ☐ NO ☐
Will there be any type of sound equipment: YES ☐ NO ☐ If yes, please describe below:

Are there any active construction sites within the area of this event? YES ☐ NO ☐

Are alcoholic beverages being: Served? YES ☐ NO ☐ Sold? YES ☐ NO ☐

(State Alcoholic Beverage License REQUIRED for sale of alcoholic beverages. 1-800-375-6975)

APPLICANT/CONTACT PERSON NAME: Tim J. Bach
ADDRESS: 2600 Maitland Ctr Pkwy Ste 360, Maitland FL 32751
PHONE: 407-645-1880 FAX: 407-645-1985 EMAIL: tim@pat-bach.com

APPLICANT SIGNATURE

DATE





CERTIFICATE OF LIABILITY INSURANCE

OP ID: MJ

DATE (MM/DD/YYYY)

01/13/11

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Cooper, Simms, Nelson & Mosley 271 West Canton Avenue P.O. Box 1480 Winter Park, FL 32790-1480 Michael K. Burch	407-644-8689 407-644-9934	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS: PRODUCER CUSTOMER ID #: MJGMA-1	FAX (A/C, No):
INSURED MJG/MAS Enterprises, Inc. d/b/a Pookie's Pet Nutrition 1980 W. Fairbanks Ave Winter Park, FL 32789		INSURER(S) AFFORDING COVERAGE INSURER A: Old Dominion Insurance Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	
		NAIC # 40231	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC			BPG1613B	11/25/10	11/25/11	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			BPG1613B	11/25/10	11/25/11	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DEDUCTIBLE RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	N/A				WC STATUTORY LIMITS E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Certificate holder named as additional insured with respect to general liability for RescueFest event to be held on 1/29/11-location 1980 W. Fairbanks Avenue, Winter Park, FL 32789.

CERTIFICATE HOLDER

CANCELLATION

CITWINP City of Winter Park 401 Park Avenue South Winter Park, FL 32789	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

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city commission agenda item

item type	Consent Agenda	meeting date	March 28, 2011
prepared by	Jeff Briggs	approved by	<input checked="" type="checkbox"/> City Manager
department	Planning Dept.		<input type="checkbox"/> City Attorney
division			<input type="checkbox"/> N/A
board approval	<input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A		
		final vote	

Subject:

Approval of Agreement with Lynx for a bus shelter at the former Pittsburgh Glass (future Floyd's 99) property on Orange Avenue.

Background:

Everyone is very excited about the conversion of former Pittsburgh Glass building at the Fairbanks and Orange Avenue intersection to a Floyd's 99 salon. This is transforming one of the worst (and certainly most visible) eyesores in the City into a very nice attractive corner. The City negotiated a number of years ago for the removal of the billboard, that is now gone !!! The City and the Floyd's 99 business owners are also working together on the new landscaping, lighting and other aesthetic upgrades to that property.

One piece of this project is to put a Lynx bus shelter at the existing bus stop in the southwest corner of this property. (See aerial map attached).

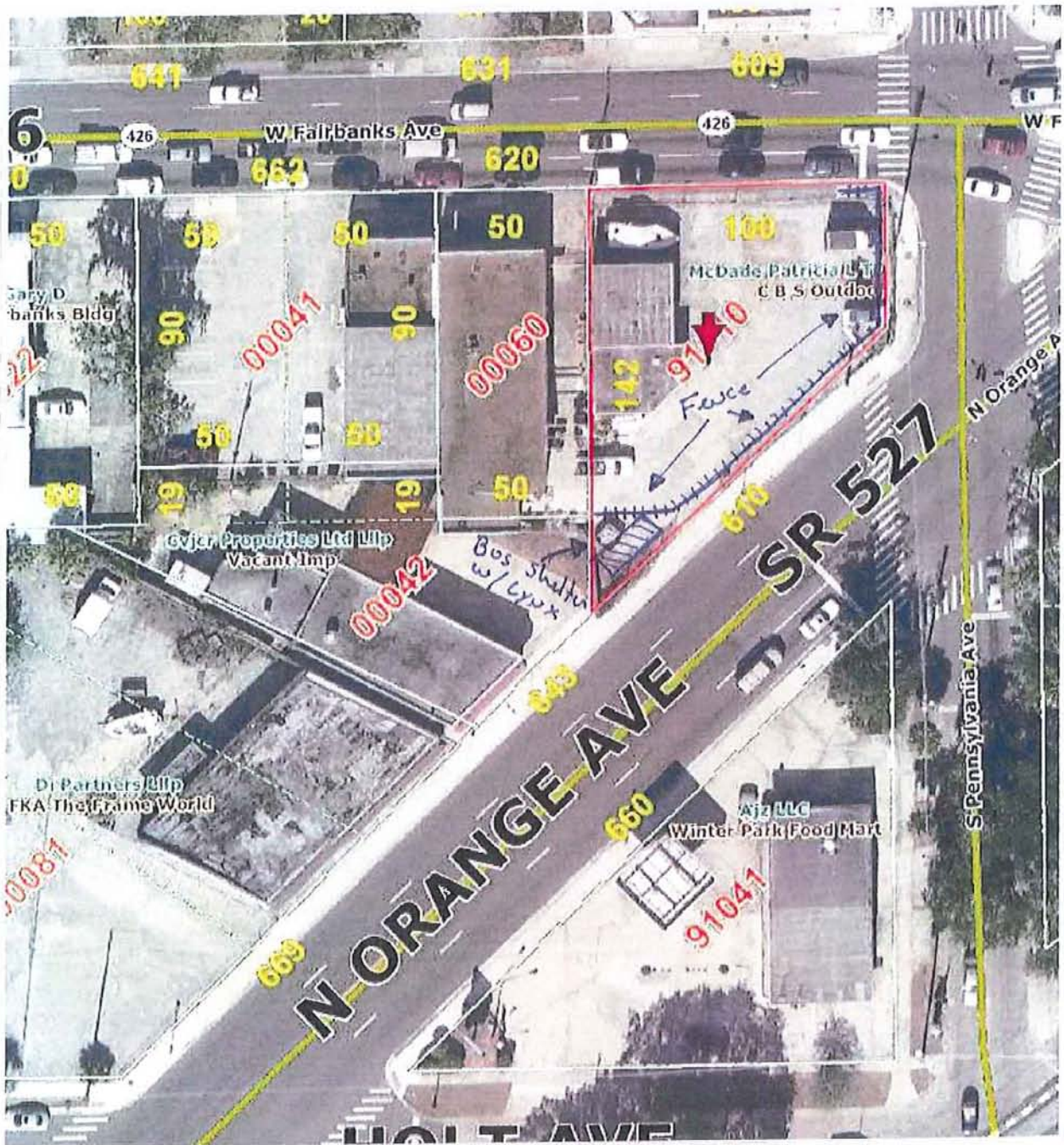
The typical easement agreement with Lynx is a minimum 10 year agreement (then with a 60 day cancellation clause). The property owner of Pittsburgh Glass is not comfortable with that initial 10 year length of the easement. The City staff wants to do a bus shelter at this location to help complete the transformation of this property.

As a result, the agreement proposed is that the City will take responsibility to relocate the bus shelter if the Pittsburgh Glass property owner wants the bus shelter moved before the initial term of ten years. There are a number of city right-of-way locations that this bus shelter could be moved to. All it would cost is to pour a new concrete pad (\$250) and the city labor (one day) to move the bus shelter to the alternate location.



OCPA Web MAP

PRINT CONTACT



Parcel ID: 302207651291010

0 25 ft

This map is for reference only and is not a survey.

Created on 12/2/2010, Copyright 2007, Orange County Property Appraiser.





city commission agenda item

item type	Consent Agenda	meeting date	March 28, 2011
prepared by department division	City Management	approved by	<input checked="" type="checkbox"/> City Manager <input checked="" type="checkbox"/> City Attorney <input type="checkbox"/> N A
board approval	<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N A		final vote

subject

Commission ratification under FS 447.403(4)(e) of 2010-2011 agreement between City of Winter Park and Teamsters Local Union No. 385.

motion | recommendation

Ratify contract of agreed upon and imposed articles between the City of Winter Park and the Teamsters Local 385 Police Officers Union.

background

The contract, based on the results of the Impasse Hearing held on March 7, 2011 is currently being compiled and will be sent to the Commission (and posted on the website) in a supplementary package upon completion.

alternatives | other considerations

fiscal impact

strategic objective

Quality economic development



city commission agenda item

item type	Consent Agenda	meeting date	March 28, 2011
prepared by		approved by	<input checked="" type="checkbox"/> City Manager <input checked="" type="checkbox"/> City Attorney <input type="checkbox"/> N/A
department	Purchasing & Water Distribution		
division	and Collection		
board approval		<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N/A	final vote

subject

IFB-13-2011 Purchase of 12 inch HDPE Pipe for the West Fairbanks Water Main Replacement Project

motion | recommendation

Commission approve award of IFB-13-2011 to HD Supply Waterworks. Amount: \$65,940.00. Payment will be made using pcard.

background

Bid was released on February 25, 2011.
 Bids were due March 10, 2011.
 10 responses were received and opened. All were considered responsive.

Replace old 12" Asbestos Cement water main with new 12" HDPE pipe utilizing the pipe bursting trenchless method of replacement. Purchase approved materials at the best pricing for CIP projects to maximize improvements to the water distribution system.

Bid Tabulation IFB-13-2011

Company	Unit Price	Quoted Total	Actual Price (Unit Price x 4200 ft.)	Comments	Accepts Visa
Consolidated Pipe & Supply	\$16.90	\$70,980.00	\$70,980.00		✓
Ferguson Waterworks	\$17.49	\$73,458.00	\$73,458.00	Delivery requirements can be met. Delivery schedule begins in 3-4 weeks, delivered as needed on location in truck qtys.	
Gresco Utility Supply Inc.	\$17.57	\$73,773.00	\$73,773.00		
HD Supply Waterworks	\$15.70	\$65,940.00	\$65,940.00	Warranty included - delivery stock to 3 weeks after PO is awarded.	✓
High Density Poly Enterprises	\$17.48	\$73,416.00	\$73,416.00		
ISCO Industries LLC	\$16.89	\$70,938.00	\$70,938.00	As requested in the specs, 40' pieces.	✓
ISCO Industries LLC	\$16.78	\$70,476.00	\$70,476.00	In 50' joints	✓
MWI Pumps	\$18.36	\$77,071.05	\$77,112.00		✓
Pan American Pipe & Alley Inc.	\$17.96	\$75,432.00	\$75,432.00		✓
Shaw American Plastic Pipe & Supply LLC	\$18.31	\$76,902.00	\$76,902.00		✓
Vari-Tech Inc.	\$20.14	\$84,588.00	\$84,588.00		
Vari-Tech Inc. If purchased after 3/31/11.	\$22.90	\$96,180.00	\$96,180.00		

alternatives | other considerations

Other bids received.

fiscal impact

Pipe purchase is for the West Fairbanks 12" Water Main Replacement Project. Funding for this project is available in the Utility R&R Fund.

strategic objective

Quality Facilities and Infrastructure.



city commission agenda item

item type	Consent Agenda	meeting date	March 28, 2011	
prepared by department division	Purchasing Division/Parks & Recreation Department	approved by	<input checked="" type="checkbox"/> City Manager	<input checked="" type="checkbox"/> City Attorney
			<input type="checkbox"/> N A	
board approval		<input type="checkbox"/> yes	<input type="checkbox"/> no	<input checked="" type="checkbox"/> N A
		final vote		

subject

IFB-8-2011 Purchase of Fitness Equipment for the new Community Center Fitness Center.

motion | recommendation

Approve award of IFB-8-2011 to FitRev, Inc. and approve PR 146386 for the equipment purchase. Amount: \$78,000.

background

On January 10, 2011 the IFB was issued

On February 9, 2011 a public opening of all bids received was held. A total of five (5) bids were received.

Bid tabulation is attached

alternatives | other considerations

The City received a total of five (5) bids. Evaluation of the bids closely examined the comparison of the bid equipment versus the specified standard of Nautilus equipment (or equal). The attached backup documents provide the comparison and evaluation of the proposed bids and recommend the vendor Fit Rev as the lowest bid meeting the IFB specifications.

fiscal impact

The purchase of fitness equipment for the Community Center is included in the FFE budget for the project. A total of \$84,000 has been budgeted for the fitness equipment.

strategic objective

Deliver the highest quality facilities & infrastructure.

IFB-8-2011
Bid Tabulation

	Advantage Fitness Products	Advantage Fitness Products - Alternative	Dan Burks & Co. Fitness	FitRev	Fitness Equipment Sales	Promaxima
Nautilus Nitro Plus Abdominal: S5AD or approved equal	\$3,599.00	\$4,395.00	\$2,699.00	\$2,495.00	\$2,306.00	\$1,795.00
Nautilus Nitro Plus Compound Row: S5CR or approved equal	\$3,499.00	\$4,595.00	\$2,699.00	\$2,495.00	\$2,306.00	\$1,795.00
Nautilus Nitro Plus Pulldown: S5LATP or approved equal	\$4,099.00	\$4,595.00	\$2,999.00	\$2,875.00	\$2,240.00	\$1,795.00
Nautilus Nitro Plus Low Back: S5LB or approved equal	\$4,199.00	\$3,475.00	\$2,999.00	\$2,875.00	\$2,345.00	\$1,795.00
Nautilus Nitro Plus Leg Curl: S5LC or approved equal	\$3,699.00	\$4,495.00	\$2,799.00	\$2,625.00	\$2,370.00	\$1,795.00
Nautilus Nitro Plus Leg Extension: S5LE or approved equal	\$3,499.00	\$4,495.00	\$2,699.00	\$2,495.00	\$2,306.00	\$1,795.00
Nautilus Nitro Plus Leg Press: S5LP or approved equal	\$5,599.00	\$5,795.00	\$3,799.00	\$3,875.00	\$3,110.00	\$1,895.00
Nautilus Nitro Plus Overhead Press: S5OP or approved equal	\$3,699.00	\$4,595.00	\$2,799.00	\$2,625.00	\$2,306.00	\$1,795.00
Nautilus Nitro Plus Vertical Chest: S5VC or approved equal	\$3,699.00	\$4,595.00	\$2,799.00	\$2,625.00	\$2,370.00	\$1,795.00
30-90 Degree Adjustable Bench: F30-90 or approved equal	\$1,898.00	\$1,798.00	\$1,398.00	\$1,500.00	\$1,160.00	\$550.00
Two Tier Dumbbell Rack: F32TDR or approved equal	\$1,099.00	\$925.00	\$799.00	\$875.00	\$450.00	\$365.00
Barbell Rack: F3BR or approved equal	\$999.00	\$799.00	\$699.00	\$750.00	\$465.00	\$325.00
Nautilus Cable Crossover: F3CC or approved equal	\$3,999.00	\$4,099.00	\$3,199.00	\$3,250.00	\$2,995.00	\$1,895.00
Nautilus Smith Machine: F3SM or approved equal	\$3,999.00	\$4,199.00	\$3,299.00	\$3,375.00	\$2,865.00	\$1,595.00
Nautilus T9.16 Treadmill: 100152 or approved equal	\$27,996.00	\$33,980.00	\$17,996.00	\$17,000.00	\$17,780.00	\$11,997.00
Nautilus R.9.16 Recumbent Bike: 100154 or approved equal	\$3,799.00	\$3,545.00	\$2,799.00	\$2,315.00	\$1,820.00	\$1,899.00
Nautilus E9.16 Elliptical: 100156 or approved equal	\$17,997.00	\$19,635.00	\$11,997.00	\$10,950.00	\$9,225.00	\$9,597.00

Bid Tabulation

	Advantage Fitness Products	Advantage Fitness Products - Alternative	Dan Burks & Co. Fitness	FitRev	Fitness Equipment Sales	Promaxima
Nautilus U 9.16 Upright Bike: 355012 or approved equal	\$3,399.00	\$3,245.00	\$2,499.00	\$2,000.00	\$1,685.00	\$1,799.00
Netpulse Monitor: FITN5i or approved equal	\$12,792.00		\$11,192.00	\$10,000.00	\$8,560.00	\$7,992.00
DTV Bracket: 003-6047 or approved equal	\$596.00		\$796.00	\$500.00	\$660.00	\$0.00
DTB Bracket: 003-6048 or approved equal	\$596.00		\$796.00	\$500.00	\$660.00	\$0.00
Integrated Viewing Screen		\$3,790.00				
Integrated Viewing Screen Kit		\$3,790.00				
Integrated Viewing Screen Kit(2)		\$15,160.00				
Ipoc CC Kit		\$1,580.00				
Freight	\$6,405.00	\$6,333.00				
Installation	\$4,110.00	\$4,630.00				
Discount	-\$17,495.65	-\$49,730.00				
Extended Bid Pricing	\$107,779.35	\$98,813.00	\$83,760.00	\$78,000.00	\$69,984.00	\$54,269.00
Clean and check provided after initial two year warranty period expiration	N/A	N/A	\$250/visit	\$215/visit	\$300/visit	\$125/visit
Parts discount	N/A	N/A	20%	30%	10%	20%
Labor rate for repairs per hour	N/A	N/A	\$50	\$60	\$80	\$75

Bid Analysis – Community Center Fitness Equipment

Of the three bids received only one meets the requirements of IFB. The Nautilus line of equipment utilizes a Kevlar belt pulley system rather than a cable driven pulley system. Both ProMaxima and Magnum utilize a cable system, which should disqualify their bids from consideration. In addition to the difference in pulley system, I have noted several deficiencies in pieces of equipment that were used as Nautilus equivalents by ProMaxima and Fitness Equipment Sales, Inc. below.

While I am sure Magnum and ProMaxima produce quality products, neither have the reputation of Nautilus within the fitness community. I have checked the references of both companies, and with the exception of the City of Port St. Lucie, neither company's products are being utilized by commercial facilities, public or private. In addition to checking references I also performed a survey of equipment being used by public facilities throughout the state. A majority of the public facilities contacted have made the decision to utilize equipment from companies with a proven reputation in the fitness community such as Nautilus, Life Fitness, Cybex, and PreCor.

ProMaxima Mfg.

Strength Equipment Make: **ProMaxima**

P6100 – Seat adjusts, but back does not. This causes the pivot point to change.

P4000 – Completely different machine than what was specified.

P4100 – Different range of motion than the Nautilus version which can cause stress to shoulders/rotator cuff. Rarely see this type of design anymore.

P6000* - The back rest is much lower in height and cannot be adjusted, as it can on the Nautilus model. This causes the pivot point to change.

P5300 – Leg support is a fixed pad, while the Nautilus version has a roller pad. The roller pad allows for more freedom of motion and reduces stress to the knees. Seat back goes up or down, but angle does not change as it does on the Nautilus version.

P5100 – Fairly comparable with the exception of the seat back adjustment.

P5000 – Seat location and back pad do not adjust, while the Nautilus version allows both to adjust for free range of motion and natural movement.

P1000 – Lacks the dual hand grip of the Nautilus equipment. Movement comes from the bottom of the machine rather than the top. Rarely see this configuration with newer equipment.

Smith Machine – Nautilus has a 1.5 inch guide rod versus Pro Maxima which has a 1 inch.

Warranty: Cable has a 2 year warranty vs. 3 year warranty on Nautilus belt

* P6100 was accidentally used by Pro Maxima. P6000 is the correct item.

ProMaxima References:

The only community recreation center that utilized ProMaxima equipment was **City of Port St Lucie**. Staff was contacted regarding the equipment and the opinion regarding the equipment was that it is decent equipment for what they paid, but would not be on par with the higher end equipment utilized at most fitness facilities.

Fitness Equipment Sales, Inc.

Strength Equipment Make: **Magnum**

6007 – No arm rests or handles. No back support. Very minimal machine and not near what was specified.

6220 – Machine is not what was specified. Machine is more of a Mid-Row then Compound Row which was specified.

6021 – Machine is more of what you would see on a cable tower then a selectorized machine equivalent to Nautilus.

6008 – No back rest. Foot and seat rest do not appear to be adjustable.

6027 – Seat back does not appear adjustable.

6001 – Seat back does not appear adjustable and cable is exposed.

6003 – Back pad adjusts, but seat does not.

6014 – Equivalent, with the exception of the cable driven pulley system

6022 – Exposed cable and location of resistance is different

Warranty: Cable has a 2 year warranty vs. 3 year warranty on Nautilus belt

Fitness Equipment Sales, Inc. References:

Fitness Equipment Sales, Inc. had only had one fitness center reference and it was the Columbus Georgia YMCA. A message was left on 3/8/11, no return call at this time. I also contacted the City of Columbia Tennessee and Kissimmee Police and Fire Department. The City of Columbia had purchased some used items, but they were not sure from where they were purchased. It appears that references provided were for Fitness Equipment Sales, Inc. and not for the actual equipment that is listed in the proposal.

Additional information regarding Magnum Fitness:

On March 2, 2011 I contacted Magnum Fitness to ask a few questions in regards to their strength machines. The questions were fairly basic and were pertaining to the pulley system used on the line of equipment that was used in the Fitness Equipment Sales, Inc. I first spoke with a Customer Support Representative; she could not answer the questions and transferred me to the Sales Team. The sales team member I spoke with could not answer my questions and sent me back to Customer Support. Customer Support took my phone number and said they would have someone contact me. As of March 11, 2011 Magnum Fitness has not returned my call.

Municipal Fitness Center Equipment Survey

Common Commercial Brands: **Nautilus, LifeFitness, Cybex, PreCor, HammerStrength**

City of Oviedo – **LifeFitness**

City of Kissimmee – **Cybex**

City of Orlando – **Nautilus**

City of Clearwater – **Cybex, PreCor, and Life Fitness**

Orange County – **PreCor**

City of Dunedin – **Nautilus-Strength Machines/PreCor- Cardio Machines**

City of Lakeland – **Nautilus**

City of Largo – **Nautilus**

City Port St. Lucie – **ProMaxima**

Recommendation:

If we need to pick one providers bid wholesale I would recommend **Fit Rev**. Fit Rev is the lowest bid (\$78,000.00) we received that actually meets the scope of the IFB. We did receive two lower bids, but as detailed above the equipment is not on the same level in quality or reputation. Additionally, the pulley system is typically the most frequent maintenance issue on selectorized equipment and Nautilus provides the longest warranty on their Kevlar belt system.



city commission agenda item

item type	Consent Agenda	meeting date	March 28, 2011
prepared by department division	Purchasing Division	approved by	<input checked="" type="checkbox"/> City Manager <input checked="" type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N/A		
		final vote	

Purchases over \$25,000

	vendor	item background	fiscal impact	motion recommendation
1.	Diamondback Tactical	Purchase of replacement SWAT Body Armor	Total expenditure is included in approved FY11 budget	Commission approve PR 145908 to Diamondback Tactical for the purchase of replacement SWAT Body Armor (\$31,590.48)
The purchase will be made under the GSA Schedule 84 (GS-07F-0416M). See item 7 below				
2.	Mondo America, Inc.	Owner direct purchase of polyurethane rolls for Community Center	Total expenditure is included in the approved project budget (\$49,513.92)	Commission approve PR 146337 to Mondo America, Inc. for the owner direct purchase of polyurethane rolls for the Community Center
3.	JCB Construction, Inc.	Melrose Retention Ponds Stormwater Project (RFP-6-2010) – complete retainage payout	Total expenditure is included in the approved project budget (\$30,705.45)	Commission approve PR 146350 to JCB Construction, Inc. for complete retainage payout
The City Commission approved award of this contract on March 8, 2010.				

Contracts

	vendor	item background	fiscal impact	motion recommendation
4.	Carol King Landscaping Maintenance, Inc.	Amendment #1 to Grounds Maintenance Pineywood Cemetery/Trimming of Headstones at Palm Cemetery and Pineywood Cemetery (IFB-15-2009)	Total annual expenditure is included in approved FY11 budget (\$27,031)	Commission approve Amendment #1 to Grounds Maintenance Pineywood Cemetery/Trimming of Headstone Areas at Palm Cemetery and Pineywood Cemeteries with Carol King Landscaping Maintenance, Inc. and authorize the Mayor to execute Amendment #1
The City of Winter Park utilized a competitive bidding process to award this contract. The contract was awarded on April 1, 2009 for a period of one (1) year. The contract allows for up to four (4) one year renewal options. One renewal has been exercised to date with no price increase. The vendor is willing to enter into another renewal period with no price increase. The current contract expires on March 31, 2011.				
5.	Turner Construction	Change Order COR-007 for Community Center	No fiscal impact. Change order is	Commission approve Change Order COR-007 to Turner

			an increase to the GMP but is covered by contingencies in the project budget. Amount (\$60,591.00)	Construction and authorize the Mayor to execute the Change Order
COR-007 includes the following additional work: overexcavate & demuck around storm structures & storm piping per Nodarse report dated 7/30/10. Change order has been reviewed and recommended by ZHA, Inc.				
6.	Turner Construction	Change Order COR-008 for Community Center	No fiscal impact. Change order is an increase to the GMP but is covered by contingencies in the project budget. Amount (\$3,250.00)	Commission approve Change Order COR-008 and authorize the Mayor to execute the Change Order
COR-008 includes the following additional work: food service allowance reconciliation. Change order has been reviewed and recommended by ZHA, Inc.				

Piggyback contracts

	vendor	item background	fiscal impact	motion recommendation
7.	Diamondback Tactical	Piggyback with Diamondback Tactical for SWAT Body Armor	Total expenditure is included in approved FY11 budget	Commission approve piggybacking the GSA Schedule 84 (GS-07F-0416M) and authorize the Mayor to execute the Piggyback Contract
The General Services Administration (GSA), through the Federal Supply Service, approved contract GS-07F-0416M under Schedule 84 for a period of July 1, 2002 through June 30, 2012. The pricelist is current through Modification PO-0056, dated May 28, 2010. All SWAT body armor has a life span of five (5) years. The total purchase cost per vest has decreased \$440 from the purchase made on December 4, 2008 (for a new employee). The Police Department has obtained several quotes to ensure this contract is most advantageous for the City. See Item 1 above				



city commission public hearing

item type	Public Hearing	meeting date	March 28, 2011
prepared by department division	Chief Brett C. Railey Police Department Administration	approved by	<input checked="" type="checkbox"/> City Manager <input checked="" type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N/A final vote		

subject

First reading of proposed ordinance that will regulate the sale of metals to Secondary Metal Recyclers

motion | recommendation

Recommend approval

summary

The increased demand for metals along with the associated rising price of metals have contributed to increased criminal activity, including the theft and sale of stolen copper wiring from construction sites, underground telecommunication wires and cables, utility wires and air conditioning units.

Current economic conditions have also contributed to the increase in copper related thefts and sale of stolen copper to Secondary Metal Recyclers. Although legislation was established in 2008 relating to secondary metal theft, additional local regulation with increased restrictions was needed to allow local law enforcement to be more effective investigating metal thefts and sales. Currently, no Secondary Metal Recyclers are in operation within the Winter Park City Limits.

Current State Laws that deal with person(s) responsible for stealing metals, specifically copper are adequate and effective. However, current State Laws relating to the regulation of Secondary Metal Recyclers are not and that is the reason for the proposed ordinance. The proposed City Ordinance specifically enhances the reporting requirements, documentation of transactions, method of payments, and the ability of law enforcement to track, identify and recover stolen metals.

The creation of a new City Ordinance containing stricter guidelines for regulation of Secondary Metal Recyclers, will enable law enforcement to be more effective in the detection, theft and sales of illicitly obtained metals, specifically copper.

board comments

N/A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA CREATING NEW SECTIONS IN CHAPTER 78, OF THE MUNICIPAL CODE REGULATING SECONDHAND GOODS, WHICH NEW SECTIONS SHALL BE ENTITLED “SECONDARY METALS RECYCLERS”; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, increasing demand for metals and the associated rising price of metals have contributed to increased criminal activity, including the theft and sale of stolen copper wiring from construction sites, underground telecommunication wires and cables, utility wires, air conditioning units and beer kegs; and

WHEREAS, law enforcement have testified that increased criminal activity relating to the theft of secondary metal and secondary metal products such as those described above are impacting the public health, safety and welfare of the residents of the City of Winter Park; and

WHEREAS, in 2008, Florida Law was enacted with a goal of ending secondary metal theft (Chapter 2008-69, Laws of Florida; Sections 538.18-538.26, Florida Statutes); and

WHEREAS, law enforcement of the City of Winter Park have identified areas in the law where additional regulation will be helpful to curb the theft of secondary metals; and

WHEREAS, under the Home Rule authority of the City of Winter Park, the City may pass additional legislation to further regulate secondary metals recycling and may enforce through ordinance the police power in the interest of the City of Winter Park so long as the additional regulations and ordinances of the City are not preempted by state law and are not inconsistent with state law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, AS FOLLOWS

Section 1. Sections 78.1 through 78.4 of the City of Winter Park Municipal Code of Ordinances are added, and by ordinance the Municipal Code shall now provide as follows:

1. **Definitions.** The following definitions apply:
 - a. “Ferrous Metals” means any metals containing significant quantities of iron or steel. For purposes of this definition, the item or product is considered “primarily” containing such metals if the composition of the material is more than

fifty percent (50%) iron or steel. The quantities will be deemed significant if the material has value in the secondary recycling or other markets.

- b. “Fixed Location” means any site occupied by a Secondary Metals Recycler as owner of the site or as lessee of the site under a lease or other rental or usage agreement providing for occupation of the site by the Secondary Metals Recycler. It is intended that any arrangement, written or unwritten, by which a Secondary Metals Recycler has use of a facility for the conduct of a secondary metals recycling business shall constitute a fixed location within the meaning of this provision with respect to such location allowed by such arrangement, regardless of the term of the lease.
- c. “Money” means a medium of exchange authorized or adopted by a domestic or foreign government as part of its currency. The term “money” shall also include any manner of consideration including but not limited to credit, barter, extinguishment of debt, or any other thing of value given in connection with an exchange or delivery of metal containing material.
- d. “Non-Ferrous Metals” means metals not containing significant quantities of iron or steel, including without limitation, copper, brass, aluminum, bronze, lead, zinc, nickel and alloys thereof, excluding precious metals. The materials shall be deemed to contain a significant quantity of a Non-Ferrous Metal if the material has a commercial value in the secondary recycling market or any other market.
- e. “Purchase Transaction” means a transaction in which a Secondary Metals Recycler gives consideration for Regulated Metals Property.
- f. “Regulated Metal Property” means any item comprised primarily of Non-Ferrous Metals or Ferrous Metals, but shall not include aluminum beverage containers, used beverage containers or similar small beverage containers or coins. However, the term shall include stainless steel beer kegs. An item is considered “primarily” containing such metals if the composition of the material is more than fifty percent (50%) either Ferrous Metals or Non-Ferrous Metals, or is more than fifty percent (50%) comprised of

any combination of Ferrous Metals and Non-Ferrous Metals.

- g. “Secondary Metals Recycler” means any person who:
 - i. Is engaged from a Fixed Location or otherwise, in the business of gathering or obtaining Ferrous or Non-Ferrous Metals, or is in the business of performing the manufacturing process by which Ferrous Metals or Non-Ferrous Metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value; or
 - ii. Has facilities for performing the manufacturing process by which Ferrous Metals or Non-Ferrous Metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value, other than by the exclusive use of hand tools, by methods including, without limitation, processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing or changing the physical form or chemical content thereof.
- h. “Seller” means a person from whom Regulated Metal Property is acquired.

This Section entitled “Definitions” shall be codified at Section 78.1 in the Municipal Code of Ordinances. This paragraph providing for the placement of this Section in the Municipal Code shall not be included in the Municipal Code.

2. Recyclers; Limitations on Cash Transactions.

- a. Secondary Metals Recycler shall not enter into any cash transaction for the purchase of Regulated Metals Property.
- b. Payment by a Secondary Metals Recycler for the purchase of Regulated Metals Property shall be made by check issued to the Seller of the metal and payable to the Seller, or by electronic payment to the Seller’s or employee of the Seller’s bank account.
- c. Each check for payment shall be mailed by the Secondary Metals Recycler directly to the current street address of the

Seller which is on file with the Secondary Metals Recycler. Payment shall not be mailed to a post office box. Electronic payments shall be sent to an account for which the Seller is listed as an account holder or an employee or agent thereof.

- d. Each check or electronic payment shall be mailed or electronically transferred by the Secondary Metals Recycler to the Seller within three (3) days of the Purchase Transaction.

This Section entitled "Recyclers; Limitations on Cash Transactions" shall be codified at Section 78.2 in the Municipal Code of Ordinances. This paragraph providing for the placement of this Section in the Municipal Code shall not be included in the Municipal Code.

3. Restrictions on Purchases.

- a. A Secondary Metals Recycler shall not purchase any of the following items of Regulated Metal Property without obtaining proof that the Seller owns the property. Proof of ownership shall include a receipt or bill of sale, or proof that the Seller is an employee, agent or contractor of a governmental entity, utility company, cemetery, railroad, manufacturer, or other person, business or entity owning the property from which the Regulated Metal Property came, and a statement of authorization that the Seller is authorized to sell the item of Regulated Metal Property on behalf of the owner of the property from which the Regulated Metal Property was removed. These requirements shall apply to the following types of Regulated Metal Property:
 - i. A manhole cover
 - ii. Electric light pole or other utility structure and fixtures, wires and hardware related to such utility structure/light pole
 - iii. A guardrail
 - iv. Street sign, traffic sign or traffic signal, and any fixtures and hardware associated with the same
 - v. Communication, transmission, distribution, and service wire or wires, including copper or aluminum

- busbar, connectors and grounding plates or grounding wire
- vi. Funeral marker or funeral vase
 - vii. Historical marker
 - viii. Railroad equipment, including but not limited to a tie plate, signal house, control box, switch plate, E-clip or rail tie junction
 - ix. Any metal item marked with any form of the name, initials or logo of an owner, including but not limited to a governmental entity, utility company, cemetery or railroad
 - x. Copper or aluminum condensing or evaporator coil, including tubing or rods, from a heating or air conditioning unit
 - xi. Aluminum or stainless steel container or bottle designed to hold propane for fueling forklifts or other equipment
 - xii. Stainless steel beer kegs
 - xiii. Catalytic converter or any part of a catalytic converter
 - xiv. Metallic wire that was burned in hole or in part to remove insulation
 - xv. Brass or bronze commercial valves or fittings referred to as "F.C. Valves" commonly used on structures for access to water for the purpose of extinguishing fires
 - xvi. A shopping cart
 - xvii. Brass or bronze commercial potable water backflow preventer valves that are valves commonly used to prevent backflow of potable water into municipal domestic water service systems from commercial structures

- b. When any Seller engages in a Purchase Transaction or attempts to engage in a Purchase Transaction of any of the items listed above, the Secondary Metals Recycler shall notify the Winter Park Police Department within twenty-four (24) hours of the Purchase Transaction or attempted Purchase Transaction. Notification for a Purchase Transaction shall include all of the records required pursuant to Section 538.19, Florida Statutes. Notification for an attempted Purchase Transaction shall include any information the Secondary Metals Recycler is able to obtain that identifies the individual who attempted the Purchase Transaction, and showing the Regulated Metal Property including, but not limited to photographs, video, vehicle description, vehicle tag, physical description of the Regulated Metal Property and the individual who attempted to sell the Regulated Metal Property.
- c. The Secondary Metals Recyclers shall comply with all of the provisions in Section 538.19, Florida Statutes in addition to the requirements imposed in this subsection entitled "Restrictions on Purchases." This subsection is supplemental to the requirements of Section 538.19, Florida Statutes.

This Section entitled "Restrictions On Purchases" shall be codified at Section 78.3 in the Municipal Code of Ordinances. This paragraph providing for the placement of this Section in the Municipal Code shall not be included in the Municipal Code.

4. Penalty

- a. A violation of this Code may be prosecuted in the manner provided in Chapter 1 of the Winter Park Municipal Code, and shall be a Class III violation. This provision is supplemental to the provisions in Section 538.23, Florida Statutes.
- b. A violation of any of the provisions in Section 538.23 Florida Statutes, may be prosecuted in the manner provided in that statute.

This Section entitled "Penalty" shall be codified at Section 78.4 in the Municipal Code of Ordinances. This paragraph providing for the placement of this Section in the Municipal Code shall not be included in the Municipal Code.

Section 2. Conflicts. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion or portions hereof or hereto. A reference to a statute in this Ordinance shall also include amendment to the statute.

Section 4. Codification. It is the intention of the City Commission of the City of Winter Park, Florida, and it is hereby ordained that the provisions of this Ordinance approved by the electors shall become and be made a part of the Code of Ordinances of the City of Winter Park, Florida; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; that the word “ordinance” may be changed to “section”, “article” or other appropriate word.

Sections 1-23 and 1-24 of the Municipal Code of Ordinances shall be amended to include a violation of Sections 78.1 through 78.4 (“Secondary Metals Recyclers”) as a scheduled Class III violation.

Section 5. Reservation of Sections in the Municipal Code. After codification of the sections provided for herein in Chapter 78 of the Municipal Code, Sections 78.5 through 78.25 shall continue to be reserved, Article I will be renamed “Secondary Metals Recyclers”, Article II will be renamed “In General” and will refer to and include those sections that are still reserved following the adoption of this Ordinance, and Article II shall be renumbered to Article III for “Garage Sales”.

Section 6. Effective Date of Ordinance. This ordinance shall take effect immediately upon its final passage and adoption.

Passed and adopted this ____ day of _____, 2011, by the City Commission of the City of Winter Park, Florida.

Mayor Kenneth W. Bradley

ATTEST:

Cynthia S. Bonham, City Clerk



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Attorneys at Law

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Usher L. Brown
Board Certified Civil Trial Lawyer

ulbrown@orlandolaw.net

March 4, 2011

Randy Knight, City Manager
City of Winter Park
401 Park Avenue South
Winter Park, FL 32789

via email & regular U.S. Mail

Re: Second Draft of Secondary Metals Recycling Ordinance

Dear Randy:

Enclosed please find a draft of an Ordinance regulating secondary metals recyclers. I have been working on this with Art King. Please consider my proposed placement of this in Chapter 78 (which deals with secondhand goods). There are process issues involved with this that are beyond the mere criminal or regulatory enforcement issues, so I wanted you to look at this.

We have modeled this after Maitland's ordinance, but I agree with Detective Cowart that the requirement for electronic reporting that is in Maitland's ordinance probably conflicts with the state law, because state law does not require electronic record keeping or reporting.

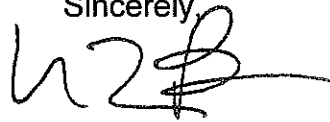
I came across another Code issue while working on this. Section 1-7 states that a violation of Code may result in imprisonment for a term not exceeding 4 months. See, Section 1-7(c). This conflicts with the provision in Section 162.22, Florida Statutes, which provides at most for a second degree misdemeanor. (Section 162.22, Florida Statutes provides that the maximum term of imprisonment for violation of a municipal ordinance shall not exceed 60 days; thus there is a conflict between Code Section 1-7 and Statute

March 4, 2011
Page 2

162.22). I recommend an Ordinance that amends this provision so that it is not in conflict with state law. Let me know if you agree that we should amend Section 1-7(c).

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'U2B' with a stylized flourish extending to the right.

Usher L. Brown

ULB:tla

cc: Deputy Chief Art King (w/encl.)

G:\Docs\City of Winter Park\Ordinances and Resolutions\Secondary Metal Recycling Ordinance\lfr.knight with second draft of ordinance.wpd



BROWN, GARGANESE, WEISS & D'AGRESTA, P.A.

Attorneys at Law

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Usher L. Brown
Board Certified Civil Trial Lawyer

ulbrown@orlandolaw.net

March 4, 2011

Art King, Deputy Chief of Police
City of Winter Park
500 N. Virginia Ave.
Winter Park, FL 32789

via email & regular U.S. Mail

Re: Secondary Metals Recycling

Dear Deputy Chief:

Enclosed please find the second draft of the Ordinance. This draft takes into account suggestions made by Detective Cowart and other enhancements/improvements that I have made.

This draft provides that a violation may be handled as a Class III Code violation, including prosecution as a second degree misdemeanor pursuant to Section 162.22, Florida Statutes. And, the Ordinance is supplemental to Section 538.23, and a violator may be criminally prosecuted as allowed by that statute.

In my opinion, an appropriate place to codify this section in the Code of Ordinances is in Chapter 78. That chapter already deals with "Secondhand Goods". The Ordinance also refers to Chapter 1, and violations are scheduled in Sections 1-23 and 1-24.

To the extent I did not accept or act on certain of Detective Cowart's comments, it is because I found that the specific provision he questioned was not preempted by state law, or in conflict with state law. The Florida Supreme Court just last year stated that preemption is disfavored and must be expressly provided. The only express provision for preemption is with respect to the "hold notice", in Section 538.21(4). That preemption is limited to that section concerning the hold notice and hold procedures.

March 4, 2011
Page 2

In the same 2010 Supreme Court case, the Court held that implied preemption is extremely disfavored, and a local regulation conflicts with a state law only if the performance of one necessarily violates the other.

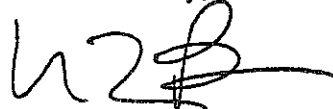
In summary, applying these principles of law, the provisions noted by Detective Cowart that I did not respond to in this draft are a result of my conclusion that the local regulation as worded is lawfully supplemental to the state law, is not in conflict with state law and is not expressly or implicitly preempted by state law.

Detective Cowart did make a very good catch, however. You will recall that we have modeled this Ordinance after the City of Maitland's ordinance. The City of Maitland added a section that requires electronic record keeping and electronic submission of data. The state law provides that a dealer may satisfy the law through electronic means, but electronic record keeping is not required. Therefore, I agree with Detective Cowart that the section requiring electronic record keeping and electronic reporting is in conflict with state law because a dealer could avail himself of his legal rights to not maintain electronic records under state law, but that would violate the local Ordinance.

Detective Cowart suggests enhancing the hold requirements to mirror pawn shop regulation. However, under the same reasoning outlined above, I believe that any form of hold notice or hold procedures deviating from Section 538.21 would violate the express preemption stated in that statute. I realize that dealers of other items (such as pawn shops) may comply with other and stricter procedures, but we cannot impose those with respect to this category of business because of the express preemption in the metal recyclers' statutes.

Please process this or schedule some time to speak with me if there are any further questions or concerns.

Sincerely,



Usher L. Brown

ULB:tla

Enclosure

cc: Randy Knight, City Manager (w/encl.)

Mayor Kenneth Bradley (w/encl.)

Police Chief Brett Railey (w/encl.)

G:\Docs\City of Winter Park\Ordinances and Resolutions\Secondary Metal Recycling Ordinance\ltr.king with second draft - ordinance.wpd



city commission public hearing

item type	Public Hearing	meeting date	March 28, 2011
prepared by department division	John Holland Parks and Recreation Department Administration	approved by	<input checked="" type="checkbox"/> City Manager <input checked="" type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N/A final vote		

subject

City Ordinance repealing the entry fees for the off-leash portion of Fleet Peeples Park.

motion | recommendation

If the commission approves the ordinance, provide direction to staff as to what to do with fees already collected

summary

During the March 14th, 2011 Commission meeting a consensus of the City Commissioners requested an ordinance be prepared and returned at the next meeting (March 28, 2011) which will repeal sections 18-14 and 18-45 of Ordinance Number 2835-11 relating to Fees for Entry and Violations of the entry requirements.

board comments

N/A



BROWN, GARGANESE, WEISS & D'AGRESTA, P.A.

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Usher L. Brown
Board Certified Civil Trial Lawyer

ulbrown@orlandolaw.net

March 21, 2011

Randy Knight, City Manager
City of Winter Park
401 Park Avenue South
Winter Park, FL 32789

via email & regular U.S. Mail

Re: **Partial repeal of Ordinance #2835-11 (as it relates to fees for the Dog Park)**
Repeal of Ordinance 2828-10 (regarding the increase in
Commissioners'/Mayor's compensation)

Dear Randy:

As directed at the March 14 Commission meeting, enclosed please find proposed ordinances repealing the fee for entry into the Dog Park, and repealing the increase in Commissioners'/Mayor's compensation. If these are in order, please place them on the next available agenda for first reading.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Usher L. Brown

ULB:tla

Enclosure

cc: Cindy Bonham, City Clerk

Michelle Bernstein, Assistant City Clerk

G:\Docs\City of Winter Park\Ordinances and Resolutions\Animal Ordinance\Dog Permit Fees Resolution\ltr.randy knight with ordinance repealing entry fee to dog park.wpd



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, REPEALING THE RECITALS AND SECTIONS OF ORDINANCE NO. 2835-11 THAT RELATE TO THE IMPOSITION OF A FEE FOR ENTRANCE INTO THE DOG PARK AT FLEET PEEPLES PARK AND FOR THE ENFORCEMENT OF SUCH FEE, PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Winter Park, Florida, adopted Ordinance No. 2835-11 on January 24, 2011; and

WHEREAS, certain portions of the Ordinance, including recitals in the Ordinance, relate to the imposition of a fee for entry into the Dog Park at Fleet Peeples Park and for enforcement of the permit and fee requirement; and

WHEREAS, the City is granted the authority under its Municipal Charter and Section 2(b), Article VIII of the State Constitution, to exercise any power for municipal purposes except when expressly prohibited by law; and

WHEREAS, the City has the authority to repeal such ordinances or provisions thereof when the City Commission determines that it is in the best interest of the citizens of Winter Park to enact such a repeal; and

WHEREAS, after deliberation and consideration, the City Commission has determined that it is in the best interest of the citizens of Winter Park to repeal the portions of Ordinance No. 2835-11, including the recitals thereof, which are related to the imposition of a fee for entry into the Dog Park at Fleet Peeples Park and the enforcement of such fee.

NOW, THEREFORE, be it enacted by the City Commission of the City of Winter Park, Florida, as follows:

Section 1. Recitals. The recitals set forth above are hereby adopted and incorporated herein by reference.

Section 2. Repeal of Ordinance No. 2835-11 As It Relates To the Enforcement Of A Fee For Entry Into the Dog Park.

- a. The recitals to Ordinance No. 2835-11 are repealed with the exception of the fourth recital which found that the Commission has determined it is in the best interest of Winter Park and its citizens to repeal the motor vehicle access charge for entry into Fleet Peeples Park.

- b. Section 1 of Ordinance No. 2835-11 is repealed with the exception that the fourth recital finding that it is in the best interest of the citizens of Winter Park to repeal the motor vehicle access charge for entry into Fleet Peeples Park shall remain and shall not be repealed.
- c. Sections 2, 3, and 4 of Ordinance No. 2835-11 are hereby repealed, are null and void and of no effect. As a result of this repeal, retroactive to the effective date of Ordinance No. 2835-11, there shall be no fee for entry into the Dog Park, and any such fees that can be proved to have been previously paid shall be refundable to the person who can establish that he or she paid such fee.
- d. Sections 5, 6, 7, 8, and 9 of Ordinance No. 2835-11 are not repealed and shall continue in force as related only to the repeal of the motor vehicle entry fee.
- e. Those portions of Ordinance No. 2835-11 concerning the repeal of Section 98-142, which provided for payment of an entrance fee for all vehicles entering Fleet Peeples Park are not repealed. The provisions of Ordinance No. 2835-11 shall remain in full force and effect with respect to the repeal of the entrance fee for vehicles entering Fleet Peeples Park, but in all other respects, Ordinance No. 2835-11 is repealed.

Section 3. Repeal Of Prior Inconsistent Ordinances and Resolutions.

All prior inconsistent ordinances and resolutions adopted by the City Commission, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 4. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. Codification. It is the intention of the City Commission of the City of Winter Park, Florida and it is hereby ordained that the provisions of this Ordinance shall be made a part of the Code of Ordinances of the City of Winter Park, Florida. Moreover, it is hereby ordained that any codification in the Municipal Code of Ordinances relating to the entry fee into the Dog Park at Fleet Peeples Park shall be removed from the Municipal Code of Ordinances and stricken as a matter of amendment thereto. Without limitation, Sections 18-14 and 18-45 of the Code of Ordinances shall not refer to or include any provision relating to an entry fee into the Dog Park at Fleet Peeples Park nor shall these sections provide for the enforcement in any respect of an entrance fee into the Dog Park. And, Sections 1-23 and 1-24 of the Municipal Code shall not refer to

or schedule any violation with respect to failure to have a permit or pay an entry fee for entry into the Dog Park at Fleet Peoples Park.

Section 6. Effective Date. This Ordinance shall become effective immediately upon its final passage and adoption by the City Commission of the City of Winter Park, Florida.

ADOPTED by the City Commission of the City of Winter Park, Florida, in a regular meeting held on the _____ day of _____, 2011.

Kenneth W. Bradley, Mayor

Attest: _____
Cynthia S. Bonham, City Clerk

Approved as to legal form and sufficiency for
the City of Winter Park, Florida only:

Usher L. Brown, City Attorney

First Reading: _____
Second Reading: _____

Minutes Regarding Fleet Peeples Park Fees

August 23, 2010 Commission Meeting

Fleet Peeples Park one year review

Sandy Womble, Friends of Fleet Peeples Park, provided a power point presentation to include August 2009-2010 financials and fundraising information, in-kind donations, expense budget and maintenance fees. She also discussed why they deserve an extension of the fundraising efforts and stated that no deadlines were set for other non-profit groups. She also noted that there has been a discussion about implementing membership fees, but does not recommend it right now because of the current economic hardships and it will compromise their fundraising ability. She spoke about the Wade Trim study which included the user ratio and the ranking of the park and their goals. Ms. Womble addressed questions about providing the City with a check of all funds raised. There was also a discussion on when the Friends group will commence the work.

Mr. John Fishback provided more detailed information regarding the improvements and said they would like to commence with the public pavilion on the south side. He noted that they would be more than happy to turn over the \$45,000 to the City to begin the improvements and feels that once they get started more individuals would be inclined to help or contribute either their time or money.

Commissioner Dillaha shared her concerns regarding the use of a dog park of that size on a lakefront, park rules, regulations and enforcement. She also mentioned fees, monitoring of activity, quality and environment with the use of the lakefront park, the compatibility of the dog park, the water quality and health threats. She referenced and spoke about a report that was prepared by the Public Works Department Lakes Division (Tim Egan) dated January 7, 2009 (attached at the end of these minutes) regarding lake management issues related to dog use at the Fleet Peeples Park on Lake Baldwin. She noted that the report lists four major areas of concern: water quality and stormwater management, human health and safety, aquatic habitat management and the use of a lake for recreation purposes and included recommendations.

Motion made by Commissioner Dillaha that we maintain a dog park over at Fleet Peeples, but that the configuration of it changes to a smaller configuration, whether it is the one that Wade Trim had proposed or whether it was one that was proposed by (I think) Commissioner McMacken before he was a commissioner and that we entertain fees again, which is what the intent was. Mayor Bradley asked her about her intent of the size of the park. Commissioner Dillaha stated just smaller than what they have now.

Motion restated by Commissioner Dillaha to revisit the actual configuration of the park with the goals of achieving access to the lakefront for our public, providing for water safety, preserving the environment, pulling it off the lake and in keeping with all of the recommendations from the professionals and from our different department heads and boards and that they will apply fees for use in order to control the numbers, in order to ensure the health of the dogs and in order to help maintain the park; seconded by Commissioner Cooper for discussion.

Commissioner Cooper shared her concerns with establishing a fee structure. She supported extending the time to fund raise by one year, the need to charge fees to cover costs, establishing control in the park, the need to identify alternate forms of revenue such as grants and the need to have a plan in place to have a restroom and a pavilion on the people's side of the park if funds are not collected. She suggested that a task force be created to help address the issues. Commissioner McMacken provided a brief summary of his interpretation and his understanding regarding the original scope of the project, the acceptance of the master plan, what has transpired over time with the overall process and how they got to where they are today.

A recess was taken from 7:34 p.m. to 7:41 p.m.

Commissioner McMacken asked for clarification with the plan that was approved along with the current actions presented. Mayor Bradley provided his interpretation with the approved recommendations. Commissioner Anderson said that the fee recommendation is a good idea, but the timing of when the fees come into place is a question. He provided his interpretation of what had transpired over time with the approval process and the recommendations and approvals that were given. He said in regards to the current motion, he is in support of considering a fee structure and to ask staff to revisit it and bring it back to the Commission for consideration at a later meeting, but does not support the other parts of the motion. He also thinks having access to the waterfront is an important facet.

Penny Potter, 1360 Canterbury Road, spoke on behalf of the boaters. She said that they use the lake for recreation, boating and swimming and she also teaches sailing classes and that it should be maintained.

Joe Terranova, 700 Melrose Avenue, spoke in favor of Fleet Peeples Park and that he is not in favor of the amendment and objects to the fees. He said they should extend the agreement for Fleet Peeples and implement the plan that has already been approved and not reduce the size of the park.

Rick Frazee, 1921 Englewood Road, is in favor of implementing a 'favorable fee' and asked the Commission to find a common ground and work forward.

Nancy Shutts, 2010 Brandywine, spoke about the funding issues and said it is important to have compliance regulations in place.

Bonnie Jackson, 3009 Temple Trail, shared her concerns with the current use of the park and asked that the park be given back to the people.

Joseph Brock, 2341 Randall Road, noted that Friends of Fleet Peeples has paid to upkeep the park to benefit of the City by providing poop bags and placards and is opposed to fees.

Marti Miller, 1399 Aloma Avenue, said the park is not being used to its highest potential and best use. She said there is no enforcement and no fees. She asked them to do what is right and what is good for the public and to bring it to a conclusion.

Sandy Womble, 940 Old England Avenue, noted that this item needs to come to closure and agreed with putting a task force together with the people who live in the City and not an outside consultant.

John Fishback, 180 Chelton Circle, said he hopes the wisdom of the Commissioners can distinguish between fact and innuendo and he will leave it up to the wisdom of the Commission.

Each Commissioner was given one (1) minute to make a final closing argument prior to the vote. Commissioners Dillaha, Cooper and McMacken took the opportunity to do so. Commissioner Dillaha stated she does not like the idea of a task force to design the park because it takes professionals but agreed with a group of people getting together consisting of a professional to work with staff and appropriate departments to come up with a plan. She agreed with the fees and the need to do this correctly. Commissioner Cooper believed they could come to a reasonable resolution understanding all the desires of the Commissioners within a short time period and that we should charge fees for the park. She stated there may be a way to make what currently exists in the park work and did not believe that we needed to hire experts to do this and it can be done in a 2-4 week period because we already have some expert input. Commissioner McMacken asked for clarification on the motion they are voting on. Mayor Bradley clarified they are voting on a smaller dog park plus charging fees. Commissioner Cooper asked for clarification because they only stated smaller and did not say how much smaller. Mayor Bradley said that was the motion and there was no clarity provided by the maker of the motion after being asked.

Upon a roll call vote, Mayor Bradley and Commissioners Anderson and McMacken voted no. Commissioners Dillaha and Cooper voted yes. The motion failed with a 3-2 vote.

Motion made by Commissioner Dillaha to implement fees and to put together a team of professionals that would consist of staff to design the dog park, potentially the individual that I mentioned who designs dog parks to come together to address the environmental issues, the issues of lake access and to come up with a design that would take care of all these concerns that we have; we need professionals.

Commissioner Cooper asked if this relieves Fleet Peebles from any fundraising responsibilities. Mayor Bradley stated that it is not inherent in the motion. **The motion failed for lack of a second.**

Motion made by Commissioner Dillaha to implement fees for the dog park and to bring a fee schedule to the Commission for consideration and adoption (as clarified by Commissioner Anderson), seconded by Commissioner Anderson.

Mayor Bradley asked for clarity on the cost, how that would be determined and when that would be determined. Commissioner Dillaha said that Mr. Holland had already gone through that with the Parks Board and recalled seeing information about a fee structure that they discussed at last year's meeting and believes a lot of that has already been done. Mr. Holland agreed. She said maybe that could be something that could be brought to the Commission relatively soon for discussion and approval.

Joseph Brock, 2341 Randall Road, said that in this economy it is inappropriate to charge fees which will deter people from using the park and the taxpayers will pay double in taxes and fees.

Marti Miller, 1399 Aloma Avenue, asked to charge a smaller fee for the citizens of Winter Park and a larger fee for those outside of Winter Park to help pay for the expenses and if they cannot do that, then charge one fee.

Pat Fishback, 180 Chelton Circle, said the fees are punitive and now is the worse time of all to ask for fees.

Nancy Shutts, 2010 Brandywine Drive, said she supports user fees for the dog park and it is a simple solution.

Bonnie Jackson, 3009 Temple Trail, noted that she is opposed to a fee for a public park since they already pay taxes.

Joe Terranova, 700 Melrose Avenue, is opposed to fees and that the City is responsible for paying for the expenses of the park and he recommends that they do not approve the ordinance.

Motion amended by Mayor Bradley that they request all Friends organizations including Casa Feliz to provide the City by September 30, 2010 current financial statements. Motion failed for lack of a second.

Upon a roll call vote of the motion, Mayor Bradley voted no. Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried with a 4-1 vote.

Mayor Bradley noted that City staff will be bringing the Commission a recommendation to vote on at a later time. Mr. Knight acknowledged. No further motions were made regarding the design of the park.

October 11, 2010 Commission Meeting

a. Fleet Peebles Park – Proposed entry fee policy for the off-leash dog area.

Parks and Recreation Director John Holland presented the proposed adoption of the Fleet Peebles Park Off-Leash Area Entry Fee Policy. He noted that the proposed annual permits will be \$75 per year for the first dog per household, \$50 per year for second dog per household, and \$25 per year for third+ dog(s) per household. He noted that a certificate of rabies vaccination from a licensed veterinarian is required with the permit application and a tag will be issued for each registered dog. The tag must be on the dog while in the park, the tag color will change each year, the tags may not be interchanged between pets and permit fees are prorated at mid-year, June 1st.

He advised that to purchase a daily pass of \$5, a current County rabies tag on the pet's collar must be displayed. The Parks and Recreation Department will be handling the applications, tag issuance and daily passes. He said if a person wanted a daily pass on the weekend they would make provisions to obtain one at the Golf Course and possibly the library; however, they currently have not approached them for their assistance. He mentioned that the estimated cost for implementation is \$1,600 based upon an estimate of 450 tags that they would sell during the year with no additional time or cost by staff. They are also anticipating selling an additional 150 tags for secondary dogs and 420 daily passes, assuming 8 per week, which would result in an income of \$43,350 based upon assumptions. Mr. Holland addressed questions and concerns

regarding the possibly of using an honor system to enter the park, enforcement and compliance. Commissioners Dillaha and Cooper shared their concerns with the fees and potential net revenue income and establishing a resident and non-resident fee structure.

Motion made by Commissioner McMacken to approve the Parks Department recommendation; \$75 a year for the first dog, \$50 a year for all other dogs in the household not just second dog or third dog, and a \$5 daily pass; seconded by Commissioner Dillaha.

Motion amended by Commissioner Dillaha to also include establishing a fund that is earmarked for Fleet Peeples Park for the revenues from the annual passes to go into that fund to be utilized for operations and capital improvements; an implementation date of December 1, 2010 and for the Commission to review whatever the regulations are for the park that the user would have to sign; that is a liability waiver, what you can and can not do in the park, age of the dogs, number of dogs at one time, that sort of thing; seconded by Commissioner Cooper.

Commissioner Cooper asked if the fees and fines would have to be included in an ordinance. Attorney Brown noted that the penalty portion would have to be addressed in an ordinance but the fees can be addressed in the fee schedule. He suggested if the Commission generally approved of the rules and regulations, they could approve the item tonight but they would have to remove any sanction, fine and/or penalty portion of the motion; then he and Mr. Knight could work on an ordinance that would incorporate the rules and bring it back to the Commission. Commissioner Dillaha approved of this process since she was the maker of the motion related to regulations.

Commissioner Dillaha restated her amendment which was to establish a fund that was earmarked for Fleet Peeples Park so that all of the revenue would go toward operations and capital improvements and also had recommended an implementation date of December 1, 2010 if that is reasonable and the third was in relation to the rules and regulations that the commission would be able to review those before they became official.

Michael Palumbo, 559 Oak Rescue Lane, is opposed to the fees and said that this is a public park. He said he is disabled with a service dog, living on a fixed income and they frequent the park on daily basis for exercise and socialization.

Carla Lubei, 1501 Oneco Avenue, said she is opposed to the dog fees.

Joseph Brock, 2341 Randall Road, said he sent an email with his concerns to the Commission and the Clerk for record. He stated that this is a violation and is illegal per Section 2-11 of the City Charter issued last year and should be issued as an ordinance not by motion.

John Rogers, 1002 Temple Grove, spoke about the fees, vaccinations and honesty system and mentioned that the \$50 fee is reasonable and said the dog park is an asset.

Joan Collins, 1820 Edwin Boulevard, said they are destroying her quality of life. She is retired and takes care of numerous dogs and does not agree with the City charging fees.

Wesley Hunt, 171 West Rockwood Way, said her family moved to the City knowing they will have higher taxes but feels they are being discriminated with these fees just to use the dog park.

Lori Martin, 2271 Wairn Drive, said she goes to this park everyday is not opposed to fees but believes that the City should maintain the park.

Stuart Lilie, 200 E. Rockwood Way, shared his concerns with the fees and said it would diminish the use of the park.

Joyce R. Lilie, 200 E. Rockwood Way, said they are setting a risky precedence, enforcement is more costly and controversial, and it is wrong.

Charles Gordon, 720 Virginia Drive, said as a taxpayer he thinks it is a terrible waste of time and there are other issues that need to be addressed such as the economy. He said fees should be charged for the use of Central Park and all other City parks.

Johnny Potock, 2102 Howard Drive, said he is opposed to increasing fees and that the Commission should not make a decision until they do their homework. He said once you start charging dog fees you take away the citizen responsibilities of up-keeping the park.

Patrick Chapin, 151 W. Lyman, asked the Commission to think about their decision especially with the resident and non-resident fees.

Bonnie Jackson, 3009 Temple Trail, said they need to charge a fee and to regulate it.

Steve Leary, 422 Raintree Court, asked to scrap the whole item and move on.

Robin Birkbeck, 1106 Oaks Boulevard, said she likes the green spaces and parks but does not agree with charging fees.

David Akins, 1399 Aloma Avenue, spoke about the boating facilities and agrees with the fees.

Marti Miller, 1399 Aloma Avenue, said the fees will not break the bank and she uses the park for boating and that people need to also follow the rules with on leash and off leash.

Wautrelle Richardson, 1936 Greenmeadow Lane, said she opposes the fees and they need to charge everyone who uses the park, not just dogs.

Pete Weldon, 700 Via Lombardy, spoke about the fees and this being a social and political loser. He urged the Commission to withdraw the fees and reconsider their motion.

Nancy Shutts, 2010 Brandywine Drive, said the fees and the registration are a means of compliance and agrees with implementation. She asked for structure to the park.

Elizabeth Thomas, 4521 Elaine Place, said the reason she goes to the park is because they do not charge fees and if they want to raise funds they should create a snack bar.

Kim Allen, 271 Virginia Drive, spoke in favor of the fees and said it will help cover park maintenance.

Rick Frazee, 110 S. Orlando Avenue, said a benefit of the dog park is for socialization.

Dan Chwalisz, 930 McGregor Way, Maitland, said if he had to pay a dog fee he would not use the park and thinks it is a bad idea charging both residents and non-residents fees to use a public park.

John Fishback, 180 Chelton Circle, is opposed to the high fees and mentioned that Fleet Peeples Park would be willing to work with the City to create and keep a viable asset.

Charles Namey, 1060 McKean Circle, is opposed to dog fees and recommends that the park remain free to the public and continue to operate as an open passive dog friendly off-leash park.

Commissioner Anderson spoke about the other City facilities such as the golf course where there are fees associated with each facility and that the issue before them is a policy question and decision on how you fund it and whether or not you regulate it.

Commissioner Cooper clarified by saying to her knowledge there is no one trying to sell this park and she has no personal desire to close or sell this park; everything they do in the City requires maintenance and most things require fees. She said it is not her intention to discourage non-residents from being in the City because she thinks it is critical to have them to help maintain our businesses.

Commissioner Dillaha said she is supportive of the fee and thinks it is a nominal fee that will provide for a safer and higher quality park. Commissioner McMacken said this is a City park and it is the responsibility as a City to run the park and is supportive of the fees. **Upon a roll call vote, Mayor Bradley voted no and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried with a 4-1 vote.**

Motion made by Commissioner Cooper to amend that non-residents be charged a break even cost base of \$86.00 and residents at \$75.00. Motion failed for lack of a second.

Motion made by Commissioner Anderson to amend to have some kind of an honor system installed at the park for the daily pass so that there is not a need to go to a different facility if you choose to use the daily use; Mayor Bradley seconded. It was noted that it would up to staff to research and implement the process. Upon a roll call vote, Mayor Bradley and Commissioner Anderson voted yes and Commissioners Dillaha, Cooper and McMacken voted no. The motion failed with a 3-2 vote.

Upon a roll call vote on the original motion (and also including the amendment that passed as stated above), Mayor Bradley and Commissioner Anderson voted no and Commissioners Dillaha, Cooper and McMacken voted yes. The motion carried with a 3-2 vote.

November 12, 2010 Commission Work Session Meeting

Mead Garden discussion:

As a follow up to the work session on October 18, 2010, the discussion continued regarding Mead Gardens.

Before the discussion on Mead Gardens, Commissioner Dillaha asked for a consensus to put Fleet Peeples Park on the November 22, 2010 agenda as an item for discussion or new business. Commissioner Cooper said she would prefer not to discuss it; her second choice is new business and does not want to ignore the issue but rather have the City Manager take some sort of action relative to talking to the boards, their authorities and what they should and should not be doing.

November 22, 2010 Commission Meeting

Consent Agenda Item 'c' – Approve the proposed Application, Collection and Administrative Policy for off-leash area and entry fees for Fleet Peeples Park.

Motion made by Mayor Bradley to table this item until a review by the Parks and Recreation Commission has looked at the policy and brings them a recommendation. Commissioner McMacken asked Parks and Recreation Director John Holland if they looked at this. Mr. Holland stated that it was on the agenda but was not listed as an action item. He said they were made familiar with the policy and chose not to take any action on it. Mayor Bradley stated that his motion would obligate them to take action. **Motion failed for lack of second.**

Motion made by Commissioner Anderson for open discussion; seconded by Commissioner Cooper and approved unanimously. Commissioner Dillaha shared her concerns with the cost of the daily ticketing machine and said that more considerations need to be made regarding the rules and regulations. She suggested that staff find another methodology for the daily pass scenario. Commissioner Cooper said she is concerned with large events being held in the park and suggested that staff come up with a way for citizens to be able to print their dog passes on-line to help save money so they do not have to purchase a costly machine. Commissioner McMacken said there is a standard set of rules for all parks and these items should be listed. Mr. Holland explained the application process, the daily pass machine, the rules and regulations, and enforcement. Commissioner Anderson said they are using the same concept as the boat tag machine that currently works fairly well and then asked for clarity of the fees for additional dogs. Mr. Holland noted that it is \$75 for the first dog and \$50 for every dog thereafter in the same family.

Motion made by Commissioner Dillaha to go with staff's recommendation for the annual pass including the daily ticketing machine and adding to the rules and regulations the following: first to change it to annual pass, not permit and would require that the fee schedule and the regulations are posted on the City website; add for regulations "Owners of dogs (not pets) without proper registration will be asked to leave the park and repeat offenders will be subject to a fine of 'x' amount of dollars; that dogs must be within voice range and under owner's control at all times; the owner/guardian must not

and cannot leave the park without their dogs; that professional dog walkers, trainers and groomers shall not use the park to conduct their business; dogs shall not harm humans, other dogs or wildlife; that a maximum of 3 dogs per guardian or owner at one time unless accompanied by another adult; and that no smoking or alcohol is allowed in the park; seconded by Commissioner Cooper.

Motion amended by Commissioner Cooper to remove the prohibition on smoking and alcohol, assuming alcohol is covered elsewhere; seconded by Commissioner McMacken.

Motion amended by Mayor Bradley that there would be a non-binding resolution for the dog fees and that it be placed on their City wide election in March to determine whether or not dog fees are a good thing for Fleet Peeples Park. Motion failed for lack of a second.

Commissioner Dillaha shared her concern regarding smoking in the park, specifically in the off leash dog area with cigarette butts being hazardous to the dog's health and the fire hazards with the park. Mr. Holland stated that over the past several years they have discussed making City parks non-smoking and there is a state statute currently in place that does not allow cities to do that. He also noted that they are currently working with the Winter Park Health Foundation in trying to encourage our parks to be non smoking, fresh air park facilities.

Motion amended by Mayor Bradley that the Fleet Peeples Park be placed on the agenda at the next city wide election and move an amendment to this that whether or not Fleet Peeples Park be a dog park. Motion fails for lack of a second.

Edward Englander, unknown address, said he does not want to be taxed twice and asked the Commissioners to rescind this ordinance before it goes into effect and leave well enough alone.

Sally Flynn, 1400 Highland Road, spoke about the dog fees and said she does not feel it is right to keep charging \$50 for each additional dog.

Lori Martin, 2271 Wairn Drive, requested that this item come before the voters rather than allowing only the Commissioners to make this decision since it affects all citizens.

Rick Frazee, 1921 Englewood Road, said the fees that they will be charged are extravagant and requested that they adjust the fees by making the park free or charge \$25 a year.

Wesley Ann Hunt, 171 West Rockwood Way, said she is in support of the idea of putting the vote to the people since it personally affects them. She also asked them to reconsider the fee schedule and to allow for a reduced fee for veterans, handicapped citizens and senior citizens in the community.

Peter Weldon, 700 Via Lombardy, said he would like to see as a citizen that the City fulfill their responsibilities and make this the best run dog park in Central Florida.

Michael Palumbo, 559 Oak Rescue Lane, said they should put this issue before the people of the City.

Sandy Womble, 940 Old England Avenue, said they should hold off on their decision and to allow everyone that is involved participate in the decision making process.

Nancy Shutts, 201 Brandywine Drive, said she hopes they approve this.

Motion amended by Commissioner Anderson that the \$50 additional dog fee be applied to households and not per additional dog; seconded by Commissioner McMacken.

Commissioner Anderson clarified his motion by stating that it would be \$75 for the first dog and \$50 per household for the additional dogs for a maximum of \$125. Attorney Brown clarified the reduction in user fees for residents and non-residents and noted that user fees need to bear a reasonable relationship to the cost of actually providing the service for which the user fee is charged. He also mentioned that they would be permitted to give some price reduction for the handicapped or veterans and they could do it on a per park basis. Commissioner McMacken asked Mr. Holland if they grant those types of differentials in fees for resident and non-resident at other facilities. Mr. Holland said yes.

Upon a roll call vote on the first amendment (to remove the prohibition on smoking and alcohol, assuming alcohol is covered elsewhere), Mayor Bradley and Commissioner Dillaha voted no. Commissioners Anderson, Cooper and McMacken voted yes. The motion carried with a 3-2 vote.

Commissioner Anderson restated his motion "to amend the \$50 fee should include all additional dogs in the household after the first \$75". **Upon a roll call vote on the second amendment Mayor Bradley voted no. Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried with a 4-1 vote.**

Commissioner Anderson stated that he wanted to be able to vote for this but the rules have become so restrictive that he would like to consider them a bit longer. **Motion amended by Commissioner Anderson to table, seconded by Mayor Bradley. Upon a roll call vote, Mayor Bradley and Commissioner Anderson voted yes. Commissioners Dillaha, Cooper and McMacken voted no. The motion failed with a 3-2 vote.**

Upon a roll call vote on the main motion as amended; Mayor Bradley and Commissioner Anderson voted no. Commissioners Dillaha, Cooper and McMacken voted yes. The main motion as amended carried with a 3-2 vote.

January 10, 2011 Commission Meeting

- a. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, RELATING TO ANIMAL CONTROL AND PENALTIES FOR VIOLATION OF CERTAIN ANIMAL CONTROL REGULATIONS OF THE CITY OF WINTER PARK; AMENDING SECTIONS 18-14 AND 18-45 TO AUTHORIZE THE CITY COMMISSION TO IMPOSE A FEE FOR ENTRY INTO THE DOG PARK AT FLEET PEEPLES PARK, AND PROVIDING THAT A VIOLATION OF THE REQUIREMENT THAT A FEE BE PAID FOR ENTRY INTO THE DOG PARK UNDER SPECIFIED CONDITIONS IS A CLASS 1 VIOLATION; AMENDING CHAPTER 18, ARTICLE I, SECTION 18-14 AND CHAPTER 18, ARTICLE II, SECTION 18-45 OF THE CODE OF ORDINANCES TO PROVIDE FOR A CIVIL PENALTY FOR A VIOLATION OF SECTIONS 18-14 AND 18-45 OF THE CODE OF ORDINANCES; AMENDING CHAPTER 1, ARTICLE II, SECTION 1-24 TO ADD THAT VIOLATIONS OF SECTIONS 18-14 AND 18-45 ARE CLASS 1 VIOLATIONS; REPEALING THE ENTRY FEE FOR FLEET PEEPLES PARK CURRENTLY SET OUT IN SECTION 98-142 OF THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. First Reading

Attorney Brown read the ordinance by title. City Manager Knight provided a brief summary and indicated that this is the formal ordinance to codify the action taken by the Commission in November when they decided to impose a fee. He explained that this establishes the fee and the violations/penalties. He clarified that this consistent with other violations of the City code in establishing this type of structure. Attorney Brown provided clarity and said it repeals an antiquated provision which provided for payment of an entrance fee for all vehicles entering Fleet Peoples Park because the equipment has not been in place to do that and according to staff reports the fee has not been collected for years.

Attorney Brown provided clarification on repeat violations and said that presently it is a \$60 fine Class 1 violation per Section 1-23 of the City code. He indicated if the Commission instructs him to do so, he will clarify the language that subsequent or repeat violations would be increased to a Class 2 or Class 3 violation to be consistent with all other violations, but if everyone is comfortable with the current language he will leave it alone.

Motion made by Commissioner Cooper to accept the ordinance on first reading; seconded by Commissioner Dillaha.

Commissioner Anderson asked about the fee and if it covers the registration of the animals that frequent the park and the permit fee. Attorney Brown clarified that one has to pay a fee to get the registration permit and in his view, it would cover the fee and the permit.

Motion amended by Commissioner Anderson to limit the fees to a Class 1 fee level; seconded by Commissioner McMacken.

Carla Lubet, 1501 Oneco Avenue, spoke in opposition to the fees and asked the Commission to take their time and get it together before moving forward with the ordinance.

Joe Terranova, 700 Melrose Avenue, said this is not the right time to impose a fee upon the citizens for dog registrations and violation fees and urged the Commission to do away with this.

Joseph Brock, 2341 Randall Road, shared his concern with the fees and the penalties and said this is unfair to the residents who own dogs and want to use this park. He said other communities in the area do not charge fees.

Michael Palumbo, 559 Oak Reserve Lane, spoke in opposition to both the fees and fines. He shared his frustration regarding the amount of money being spent on the dog issue especially when they have reduced both the police and fire department budget which is much more important to the residents.

Nancy Shutts, 2010 Brandywine Drive, indicated that she has no problem with the fees.

Upon a roll call vote on the amendment, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

Upon a roll call vote on the ordinance as presented, Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. Mayor Bradley voted no. The motion carried with a 4-1 vote.

January 24, 2011 Commission Meeting

- a. ORDINANCE NO. 2835-11: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, RELATING TO ANIMAL CONTROL AND PENALTIES FOR VIOLATION OF CERTAIN ANIMAL CONTROL REGULATIONS OF THE CITY OF WINTER PARK; AMENDING SECTIONS 18-14 AND 18-45 TO AUTHORIZE THE CITY COMMISSION TO IMPOSE A FEE FOR ENTRY INTO THE DOG PARK AT FLEET PEEPLES PARK, AND PROVIDING THAT A VIOLATION OF THE REQUIREMENT THAT A FEE BE PAID FOR ENTRY INTO THE DOG PARK UNDER SPECIFIED CONDITIONS IS A CLASS 1 VIOLATION; AMENDING CHAPTER 18, ARTICLE I, SECTION 18-14 AND CHAPTER 18, ARTICLE II, SECTION 18-45 OF THE CODE OF ORDINANCES TO PROVIDE FOR A CIVIL PENALTY FOR A VIOLATION OF SECTIONS 18-14 AND 18-45 OF THE CODE OF ORDINANCES; AMENDING CHAPTER 1, ARTICLE II, SECTION 1-24 TO ADD THAT VIOLATIONS OF SECTIONS 18-14 AND 18-45 ARE CLASS 1 VIOLATIONS; REPEALING THE ENTRY FEE FOR FLEET PEEPLES PARK CURRENTLY SET OUT IN SECTION 98-142 OF THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. Second Reading

Attorney Brown read the ordinance by title. **Motion made by Commissioner McMacken to adopt the ordinance; seconded by Commissioner Dillaha.**

Pat Fishback, 180 Chelton Circle, said that this is the wrong time to charge fees. She said the majority of the people that usually come to the park no longer attend because they cannot afford it. She asked the Commission to reconsider their decision.

Lori Martin, 2271 Wairn Drive, indicated that she is a taxpayer, consumer and a registered voter and is very upset that they chose to charge fees and take away a free dog park.

Joe Terranova, 700 Melrose Avenue said he opposes the dog fee and the penalty along with a vast majority of the people in the City. He suggested instead of voting on the second reading, that they table this item until they have the two new Commissioners that can vote on this. He predicted that the ordinance will be overturned when the new Commission is elected.

Sandy Womble, 940 Old England Avenue, spoke on behalf of Carla Howell who had to leave the meeting. There was a presentation showing photos of numerous citizens that are opposed to the dog fee. She then asked to verify the dog park rules and said they do not have the right to take away a park from the community and destroy the Friends Organizations.

Michael Palumbo, 559 Oak Reserve Lane, stated that local businesses are losing tons of money because less people are using the park. He indicated that businesses are having hard times right now with the economy and they are making it worse by doing this.

John Fishback, 180 Chelton Circle, said it will cost the taxpayers more money to implement the fees and take care of the park than what they will receive in dog registration fees and funds.

Marti Miller, 1399 Aloma Avenue, said even though she does not agree with this decision they should not table the item and urged the Commission to move ahead.

Kim Allen, 271 Virginia Drive, spoke about the rules and regulations and said they are consistent with national dog park rules. She said that everyone should help pay for maintaining the dog park and the citizens of Winter Park should not be the only ones burdened with the cost.

Per Commissioner Cooper's request, Attorney Brown clarified what the ordinance covers. City Manager Knight confirmed Commissioner Coopers' understanding that this ordinance does not

cover the dollar value of the fee which is covered under the fee schedule which is updated twice a year.

Commissioner Anderson asked if this ordinance is adopted and at a later date a successive Commission chooses to remove the fees if they can change the fee schedule and if the registration and license requirements and personal responsibility remain intact which to him is the most important part of this. Attorney Brown said yes and provided a recommendation that if they want to remove the fees but keep the owner responsibility provisions in the code of ordinances they should amend the fee schedule to remove the fee and amend Chapter 18 which deals with animals, animal control and personal responsibility to add in specific requirements since it does not currently state that information. Upon questioning, Attorney Brown said it would not necessarily require someone to formally and actively accept that responsibility by signing a form with their dog's name, or paying a fee at the daily registration box.

Attorney Brown said there is nothing that would stop a future Commission from repealing the fee, amending Chapter 18 and saying if they want their dog in the park they have to have a permit or a license and in order to obtain the permit or license they do not have to pay a fee, but they have to demonstrate vaccinations, the age of the dog(s) and that the dog(s) is not aggressive.

Upon a roll call vote on the motion, Mayor Bradley voted no. Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried with a 4-1 vote.



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Usher L. Brown
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March 21, 2011

Randy Knight, City Manager
City of Winter Park
401 Park Avenue South
Winter Park, FL 32789

via email & regular U.S. Mail

Re: Partial repeal of Ordinance #2835-11 (as it relates to fees for the Dog Park)
Repeal of Ordinance 2828-10 (regarding the increase in Commissioners'/Mayor's compensation)

Dear Randy:

As directed at the March 14 Commission meeting, enclosed please find proposed ordinances repealing the fee for entry into the Dog Park, and repealing the increase in Commissioners'/Mayor's compensation. If these are in order, please place them on the next available agenda for first reading.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Usher L. Brown

ULB:tla

Enclosure

cc: Cindy Bonham, City Clerk

Michelle Bernstein, Assistant City Clerk

G:\Docs\City of Winter Park\Ordinances and Resolutions\Animal Ordinance\Dog Permit Fees Resolution\ltr. randy knight with ordinance repealing entry fee to dog park.wpd

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA,
REPEALING ORDINANCE NO. 2828-10 RELATING TO SETTING
OF SALARY FOR THE MAYOR AND CITY COMMISSIONERS,
PROVIDING FOR CONFLICTS, SEVERABILITY AND AN
EFFECTIVE DATE.**

WHEREAS, the citizens of Winter Park by referendum vote on March 9, 2010, amended the City Charter to authorize the City Commission to determine the annual salary of the Mayor and Commissioners by ordinance; and

WHEREAS, the City is granted the authority under the City Charter and Section 2(b), Article VIII of the State Constitution to exercise any power for municipal purposes except where expressly prohibited by law; and

WHEREAS, given the current economic downturn and the circumstances confronting the citizens of Winter Park and the professional staff employed by the City it is determined by the City Commission that it is appropriate to repeal Ordinance No. 2828-10 which provided for an increase in the annual salaries of the Mayor and Commissioners.

NOW, THEREFORE, the City Commission of the City of Winter Park, Florida, hereby ordains as follows:

Section 1. Recitals. The recitals set forth above are hereby adopted and incorporated herein by reference.

Section 2. Repeal of Ordinance No. 2828-10. Ordinance No. 2828-10 is hereby repealed and is null, void and of no effect, although it is acknowledged that pursuant to the City Charter a future Commission shall have the authority to change by duly enacted ordinance the compensation payable to the Commissioners and Mayor.

Section 3. Repeal Of Prior Inconsistent Ordinances and Resolutions. All prior inconsistent ordinances and resolutions adopted by the City Commission, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 4. Incorporation Into Code. This Ordinance shall be incorporated into the winter Park City Code at any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions, not affecting the construction or meaning of this Ordinance and the City Code may be freely made. All references to an increase in compensation as a result of Ordinance

No. 2828-10 shall be deleted from the Municipal Code and the amount of compensation payable to the Mayor and Commissioners shall be restored to that amount of compensation established within the City as if Ordinance No. 2828-10 had never taken effect. Accordingly, unless a future Commission by ordinance changes the amount of compensation, the compensation payable to the Mayor on an annual basis shall be \$3,000.00 and the compensation payable to each Commissioner on an annual basis shall be \$2,400.00. The salary of the Mayor and City Commissioners shall be paid in equal monthly installments.

Section 5. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 6. Conflicts. All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed.

Section 7. Effective Date. This Ordinance shall become effective immediately upon its final passage and adoption by the City Commission of the City of Winter Park, Florida.

ADOPTED by the City Commission of the City of Winter Park, Florida, in a regular meeting held on the _____ day of _____, 2011.

Kenneth W. Bradley, Mayor

Attest: _____
Cynthia S. Bonham, City Clerk

Approved as to legal form and sufficiency for
the City of Winter Park, Florida only:

Usher L. Brown, City Attorney

First Reading: _____

Second Reading: _____

Minutes regarding Commission salaries:

9/13/2010 Commission meeting:

Fourth proposed amendment item is to modify Commission salaries.

Motion made by Commissioner Dillaha to transfer the lobbyist money to the Commission which has received the same pay since 1953 and is basically a transfer; seconded by Commissioner Anderson. Commissioner Anderson asked if they were just talking about a number for now and Commissioner Dillaha stated yes. Mayor Bradley asked for clarity on the dollar amount. **Commissioner Dillaha clarified her motion by stating that Amendments 3 and 4 are related and instead of funding a lobbyist it was to use that money to fund a future Commission. Commissioner Anderson said but the number was \$50,000; Commissioner Dillaha said \$50,000 a year. Commissioner Anderson seconded that for discussion.**

Commissioner Dillaha noted that the Commission has been paid \$200 a month since 1953 and that the complexity of the job and the time requirements are a lot greater than they were in 1953. She hoped the increase would encourage more residents to run. Commissioner McMacken addressed what the dollar bought in 1953 and what it goes for now, whereby they would be making \$19,000 a year and the Mayor would be making \$24,000 year and that Commissioner Dillaha allocated \$50,000. Commissioner Dillaha noted that amount is between 5 people. He said that if they brought the salary up to \$10,000 a year for a Commissioner and \$12,000 for the Mayor, they cannot act on that until March 2011, which would be half of the \$50,000, so she would actually be asking for \$26,000. Commissioner McMacken said rather than the \$50,000 for this budget he would be in support of the \$26,000 and that would bring them half way and would be supportive of a lesser number.

Motion made by Commissioner Dillaha to amend the amendment to \$26,000 instead of \$50,000; seconded by Commissioner Anderson. Mayor Bradley asked if that was an annual number. Commissioner Anderson noted that this is for this fiscal year's budget and it will commence in March. Commissioner Anderson stated that he would like to see a competitive analysis done before this gets implemented, to determine what the compensation should be. He noted that both Commissioner Dillaha and his terms expire in March so they will have absolutely nothing to benefit from this.

Mayor Bradley objected to the statement of not getting good commissioners if they pay more or not. He stated that each one of them knew the salary when they ran for the position. He stated that he will be voting against this amendment even though he knows he is worth a lot more than \$26,000 year. He stated he will be voting no because he cannot in good conscious negotiate with our firefighters or policemen, or City workers, a reduction or decrease in their salary and vote for one for himself.

Commissioner Dillaha said she does not think it is fair for it to be a volunteer job and it is very time consuming. She said if you want to do a good job and she believes in compensating people even if it is just a little bit and thinks it is the right thing to do. **Upon a roll call vote, Mayor Bradley voted no. Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The amendment carried with a 4-1 vote.**

9/27/2010 Commission meeting:

- a. ORDINANCE NO. 2822-10: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA ADOPTING THE ANNUAL BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2010 AND ENDING SEPTEMBER 30, 2011; APPROPRIATING FUNDS FOR THE GENERAL FUND, DESIGNATIONS TRUST FUND, STORMWATER UTILITY FUND, AFFORDABLE HOUSING FUND, COMMUNITY REDEVELOPMENT FUND, POLICE GRANT FUND, DEBT SERVICE FUND, WATER AND SEWER FUND, GOLF COURSE FUND, ELECTRIC UTILITY FUND, FLEET MAINTENANCE FUND, VEHICLE/EQUIPMENT REPLACEMENT FUND, EMPLOYEE INSURANCE FUND, GENERAL INSURANCE FUND, CEMETERY TRUST FUND, GENERAL CAPITAL PROJECTS FUND AND STORMWATER CAPITAL PROJECTS FUND; PROVIDING FOR MODIFICATIONS; PROVIDING FOR AMENDMENTS TO SAID ANNUAL BUDGET TO CARRY FORWARD THE FUNDING OF PURCHASE ORDERS OUTSTANDING AND UNSPENT PROJECT BUDGETS AS OF SEPTEMBER 30, 2010; AND AUTHORIZING TRANSFER OF FUNDS HEREIN APPROPRIATED BETWEEN DEPARTMENTS SO LONG AS THE TOTAL FUND APPROPRIATIONS SHALL NOT BE INCREASED THEREBY. Second Reading

Attorney Brown read the ordinance by title. **Motion made by Commissioner Cooper to adopt the ordinance with the addition of \$50,000 for the Golf Pro Shop; seconded by Commissioner Dillaha.** Commissioner McMacken asked if the \$50,000 is in addition to the \$125,000 that has already been allocated under the 2010 budget. Commissioner Cooper said yes.

Motion amended by Commissioner Dillaha to remove the state lobbyist position; seconded by Commissioner Cooper. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Cooper and McMacken voted no. Commissioner Dillaha voted yes. The amendment failed with a 4-1 vote.

Motion amended by Commissioner Dillaha to put the \$26,000 back in for future Commission compensation; seconded by Commissioner Cooper. Upon a roll call vote, Mayor Bradley and Commissioners Anderson voted no. Commissioners Dillaha, Cooper and McMacken voted yes. The amendment carried with a 3-2 vote.

Commissioner Dillaha mentioned the Tree Fund and that she really wants to see if it can be listed as a separate line item in the budget, in its own separate fund.

Peter Weldon, 700 Via Lombardy, asked if the Commission has the on-going authority during the year to approve the expenditure of reserves for \$50,000 or \$100,000. Mr. Knight stated yes. He submitted his written comments and asked that they be added to the minutes.

Joe Terranova, 700 Melrose Avenue, complimented the city staff for the great work they did on the budget presented. He said he is totally opposed to increasing the Commissioners salaries while refusing to provide a pay raise for employees this year and last year along with reducing their pension amounts, increasing their insurance deductibles and reducing their health care coverage. He said that it is unacceptable for them to receive a salary increase.

Nancy Shutts, 2010 Brandywine Drive, submitted an article from the Orlando Business Journal published on May 21, 2010 showing the salaries for the Mayors of Central Florida's largest cities and is ranked by current population with Winter Park being ranked 10 out of 25. She said the residents voted last year on the Charter amendment that the Commissioners could increase their pay and that the employee benefits are a separate issue. She asked if the city events such as the Easter egg hunt were going to be eliminated. Mr. Knight stated those events are still in the budget and will be held.

Commissioner Anderson said he agrees that Commissioner's salaries should be increased but he also thinks it looks bad and as soon as employees start to receive pay increases again, maybe that should be the time to do it. He said his position long term has not changed but his position short term has.

Mayor Bradley wanted to make it clear that they are rolling back the millage rate of 9.5%. He said as a Commission and City it is important to belt tighten. He commended everyone for their efforts so that they did not have to vote on a millage rate increase for this year and that is a very positive move for them. He also noted that he will be voting against the budget as presented and even though there is a lot to like, it is because he does not want to raise his salary in this environment when the employees are not receiving raises again this year.

Upon a roll call vote, Mayor Bradley voted no. Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried with a 4-1 vote.

11/8/2010 Commission meeting:

Public Hearings

- a. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, CREATING SECTION 2-26 OF THE CODE OF ORDINANCES SETTING THE SALARY FOR THE MAYOR AND CITY COMMISSIONERS AND PROVIDING FOR CONFLICTS AND AN EFFECTIVE DATE First Reading

Attorney Garganese read the ordinance by title. **Motion made by Commissioner Dillaha to accept the ordinance on first reading; seconded by Commissioner McMacken.** Commissioner Dillaha asked what the difference is between compensation and salary. It was clarified. Commissioner Anderson said he agrees with being compensated but he is not sure on the timing of it and recommended that it be more concurrent with the timing when employee's salaries are unfrozen. **Motion made by Commissioner Anderson to amend the motion that this has an effective date on the fiscal year where they withdraw the freeze on employee's salaries; seconded by Mayor Bradley.**

Commissioner Dillaha stated that she is not in favor of the amendment. Commissioner Cooper shared her concerns and mentioned that she does not mind voting against herself having a raise, but she does mind voting against any new commissioner that wants to come on board having a raise because she does not think they are representative of the total population. She said that if they can think of a way to make sure that any new commissioner was given the increased compensation she would feel better about it because she believes that it does make a difference.

Motion made by Commissioner Cooper to amend the amendment that new commissioners coming on board at the next election would be compensated based on the salary that they are approving tonight. Motion failed for lack of a second.

Peter Weldon, 700 Via Lombardy, said he supports the need for the increase in salaries but also agrees with Commissioner Anderson that the timing is very important.

Joe Terranova, 700 Melrose Avenue, said this is a timing issue and now is not the time. He said that it will be perceived as highly wrong and they should not approve it now.

Charles E. Gordon, 720 Virginia Drive, said this is not the time to do it considering the City's finances and maybe they should do it when there is a new Commission so they can all receive raises at the same time.

Motion made by Commissioner Cooper to amend the amendment that this salary increase take place at new elections of any sitting board member so they are not giving themselves a raise. Motion failed for lack of a second.

Mayor Bradley said that he is disturbed at the remarks made regarding the comments about affluence and that the increase in salaries will give them better commissioners or broader groups of people. He said the timing of this is bad and that is why he is voting no.

Upon a roll call vote on the amendment, Mayor Bradley and Commissioner Anderson voted yes. Commissioners Dillaha, Cooper and McMacken voted no. The amendment failed with a 3-2 vote.

Upon a roll call vote on the full ordinance, Mayor Bradley and Commissioner Anderson voted no. Commissioners Dillaha, Cooper and McMacken voted yes. The motion carried with a 3-2 vote.

11/22/2010 Commission meeting:

- a. ORDINANCE NO. 2828-10: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, CREATING SECTION 2-26 OF THE CODE OF ORDINANCES SETTING THE SALARY FOR THE MAYOR AND CITY COMMISSIONERS AND PROVIDING FOR CONFLICTS AND AN EFFECTIVE DATE Second Reading

Attorney Brown read the ordinance by title.

Julie Zimmerman, 250 Carolina Avenue, shared concerns with Section 7 of the ordinance regarding the effective date and the timing. She asked that they vote no on this issue for the sake of the City residents and City employees since the timing is not right during these current economic conditions.

Motion made by Commissioner Dillaha to adopt the ordinance; seconded by Commissioner McMacken. Upon a roll call vote, Mayor Bradley and Commissioner Anderson voted no. Commissioners Dillaha, Cooper and McMacken voted yes. The motion carried with a 3-2 vote.