



city commission agenda

Regular Meeting

3:30 p.m.
April 25, 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 David Barker, Aloma Baptist Church Pledge of Allegiance | |
| 3 | Approval of Agenda | |
| 4 | Mayor's Report | Projected Time |
| | a. WPHS Basketball Team Recognition b. Presentation by Dana Sussman of the 30 th Tree City USA Award, the 19 th , Growth Award and the grant check, from the State of Forestry, for \$18,000 for Hazardous Tree Pruning c. Proclamation - Occupational Safety and Health Week d. Proclamation - Administrative Professionals Week e. Donation to the Friend's of Mead Garden from the Florida Symphony Youth Orchestra f. Citizen and police recognition g. Thanks to City staff for a very successful 10 th Dinner on the Avenue | 5 minutes |

- h. Board applications and appointments for the City Commission meeting of May 9, 2011

| | | |
|-----------|---|---|
| 5 | City Manager's Report | Projected Time 5 minutes |
| 6 | City Attorney's Report | Projected Time |
| 7 | Non-Action Items a. Financial Report – March 2011 | Projected Time 5 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 a. Approve the minutes of 4/11/11. b. Approve the following purchases and contracts: 1. PR 146564 to Camp Dresser & McKee, Inc. for Comprehensive Water Rate Study, (Task Order CDM-2011-01); \$72,408 2. Blanket Purchase Order to GATSO USA, Inc. for administration of red light safety enforcement system; \$70,000 3. Deduct Change Order COR-011 to Community Center contract (RFQ-17-2009) with Turner Construction Company and authorize the Mayor to execute the change order document; deduct \$6,888 4. After the fact Change Order COR-013 to Community Center (RFQ-17-2009) to increase to project GMP but within overall budget and ratify the decision of the City Manager; \$18,175. 5. After the fact Change Order COR-014 to Community Center (RFQ-17-2009) to increase to project GMP but within overall budget and ratify the decision of the City Manager; \$21,010 6. Deduct Change Order COR-015 to Community Center contract (RFQ-17-2009) with Turner Construction Company and authorize the Mayor to execute the change order document; deduct \$7,387 7. Amendment #1 IFB-8-2010, Reforestation Services with Groundtek, Inc. and authorize the Mayor to execute Amendment #1 | Projected Time 5 minutes |
| 10 | Action Items Requiring Discussion a. City of Winter Park Fallen Hero's Memorial b. Offer of a sculpture <i>White "A"</i> by Winter Park resident Micheline Kramer to the City for a 10 year period on Morse Boulevard c. Administrative policy d. Purchasing Policy | Projected Time 10 minutes 10 minutes 20 minutes 20 minutes |

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|---|------------|
| e. Debt Policy | 10 minutes |
| f. Negotiation and approval of contract with Trane, U.S., Inc. - Guaranteed Energy and Water Savings Performance Contracting Retrofits, using Clean Energy and EECBG Grants and municipal lease purchase | 15 minutes |
| g. City of Winter Park representative to the Tri-County League of Cities | 5 minutes |
| h. Amendment of the Holler – Orlando RV Vehicle Sales Agreement | 10 minutes |
| i. Approval of additional architectural plans for the West Fairbanks vision | 10 minutes |
| j. Hours of sale and consumption of alcoholic beverages | 20 minutes |
| k. Community conversations | 5 minutes |
| l. Approval of agreement with Kulture, LLC – consulting services related to upcoming PERC election | 5 minutes |

| 11 Public Hearings | Projected Time |
|--|----------------|
| a. Ordinance -Moratorium regulating Pain Management Clinics (2) | 5 minutes |
| b. Ordinance – Authorizing the refunding of the General Obligation Bonds, Series 2001 (1) | 5 minutes |
| c. Ordinance -Revise the Conditional Use section of the Zoning Code to better outline the submittal requirements for preliminary and final conditional use applications (1) | 20 minutes |
| d. Conditional use request for a second story addition onto the existing building at 200 N. Park Avenue zoned C-2 (Quasi-Judicial Hearing) | 20 minutes |
| e. Resolution -Support of SunRail | 5 minutes |
| f. Ordinance -Advisory Board membership and roles (1) | 20 minutes |

| 12 City Commission Reports | Projected Time |
|---|-----------------|
| a. Commissioner Leary | 10 minutes each |
| b. Commissioner Sprinkel | |
| c. Commissioner Cooper | |
| d. Commissioner McMacken | |
| e. Mayor Bradley | |
| 1. Refer to the Ethics Board a Resolution governing the conduct of Winter Park elections | |
| 2. City Commission communication and e-mail newsletters to citizens | |
| 3. Policy regarding citizen and board member enforcement of municipal code | |

**PLEASE NOTE: AN EXECUTIVE SESSION IS SCHEDULED AFTER
THE COMPLETION OF THE REGULAR AGENDA. THIS IS NOT
OPEN TO THE PUBLIC.**

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."



city commission city manager's report

item type Non-Action Item

meeting date April 25, 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 the plans for the renovation except for the window fenestration in the screen porch area. The HPC agreed to hold a special meeting on this one topic following additional study by the architects in order to develop ways to utilize operable windows versus fixed light windows. The special meeting is anticipated to take place late this week (week beginning April 18th) or early next week. Architects are moving forward on construction documents to submit for a building permit within 3 weeks. | 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 | The City-wide programming survey has been completed and is being evaluated by GreenPlay. Turner estimates construction completion in July 2011. | Open |

| | | |
|-------------------------------|--|--------|
| Park Ave Area Task Force | Discovery sessions are complete. Engauge is now working on the creative development. | Open |
| Fairbanks Improvement Project | The City Commission eliminated medians from the plan base on citizen and businesses input. The 90% drawings are currently being modified and staff is working with FDOT to secure a timeline that will allow for the paving grant. A revised Task Order is being prepared by CH2M Hill to cover the additional design required to incorporate the requested changes. This will be brought to the City Commission for approval. | Open |
| Fairbanks/Orange/Pennsylvania | 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. | Open |
| ReLeaf | The planting contractor has completed replacement of unacceptable trees and is working on the final quadrant. Staff is recommending extension of the ReLeaf Contract for an additional year cycle. | Open |
| Hazardous Waste | Another round of comments have been forwarded to the County for review. We have requested and received permission to temporarily allow Winter Park residents to use the Orange County HHW disposal facility while the details of the Interlocal Agreement are being finalized. | Open |
| 1301 & 1303 Fairbanks Ave. | Properties have been purchased and renovations are underway. | Closed |

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.

Financial Report

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| For the Month of March (50% of fiscal year lapsed) | Fiscal Year 2011 |
|--|------------------|

General Fund

Financial results for the six 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. We are working with Tax Collector staff to determine if there will be a shortfall.
- Franchise fee revenues include only five 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 \$52,352 ahead of where they were at this point in the prior year. This is primarily due to \$29,277 in tennis franchise fee revenues from High Performance. 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 four 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 \$67,219 behind March 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 \$34,840 greater than March 2010.
- Building permit revenues are down \$5,565 in comparison to the first six 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 four months of half cent sales and local option gas tax revenues had been received through March. Sales tax may be about \$75,000 below budget by fiscal year end and local option gas tax is on track to exceed the budget by \$20,000. State revenue sharing may be about \$50,000 short of the annual budget.
- Charges for services are up \$506,495 in comparison to the prior year. Ambulance transport revenues are the main reason for this increase and are \$436,028 higher than March 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 \$450,000. General Fund revenues

include \$16,038 in off lease tag fees related to Fleet Peoples Park which could be refunded to the customers.

- 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 primarily due to the extraordinarily low interest rates. This revenue source could be approximately \$200,000 short of the annual budget.
- 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 \$375,377 in comparison to the prior year and is not too far behind budget through 50% of the year.

Bottom line shows YTD net income of \$1,136,459. After subtracting capital contributions (impact fees), net income is still \$447,263 for the six months ended March 31, 2011.

Electric Services Fund

Revenues are down \$609,030 in comparison to the prior year but very close to budget at 48% when we are 50% of the way through the year. Sales of kWh are running about 5% behind the prior year.

Bulk power costs are below budget as of March 2011. 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. Although sales of kWh are running about 5% behind the prior year our cost of purchasing power is almost 18% below the total through March 2010.

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 \$4,206,535 through March 31. After deducting \$1,183,763 in payments from Progress Energy for insurance funds, net income is still \$3,022,772.

The City of Winter Park, Florida
Monthly Financial Report - Budget vs. Actual
General Fund
Fiscal YTD March 31, 2011 and 2010
50% of the Fiscal Year Lapsed

| | Fiscal YTD March 31, 2011 | | | | | | Fiscal YTD March 31, 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 | \$ 12,234,155 | 168% | \$ 14,538,871 | \$ 14,538,871 | \$ 7,269,438 | \$ 4,964,717 | \$ 14,122,757 | \$ 15,895,265 | \$ 7,947,637 | \$ 6,175,120 |
| Franchise Fees | 459,892 | 81% | 1,130,000 | 1,130,000 | 565,000 | (105,108) | 407,540 | 1,088,094 | 544,047 | (136,507) |
| Utility Taxes | 2,864,336 | 83% | 6,921,536 | 6,921,536 | 3,460,768 | (596,432) | 2,931,555 | 6,712,270 | 3,356,135 | (424,580) |
| Occupational Licenses | 457,531 | 203% | 450,000 | 450,000 | 225,000 | 232,531 | 422,691 | 468,000 | 234,000 | 188,691 |
| Building Permits | 499,795 | 97% | 1,033,800 | 1,033,800 | 516,900 | (17,105) | 505,360 | 939,497 | 469,749 | 35,611 |
| Other Licenses & Permits | 15,205 | 152% | 20,000 | 20,000 | 10,000 | 5,205 | 12,531 | 16,100 | 8,050 | 4,481 |
| Intergovernmental | 2,173,702 | 73% | 5,995,605 | 5,995,605 | 2,997,803 | (824,101) | 2,060,814 | 5,660,612 | 2,830,306 | (769,492) |
| Charges for Services | 2,142,456 | 116% | 3,708,300 | 3,708,300 | 1,854,150 | 288,306 | 1,635,961 | 3,516,538 | 1,758,269 | (122,308) |
| Fines and Forfeitures | 112,022 | 28% | 797,500 | 797,500 | 398,750 | (286,728) | 230,003 | 664,570 | 332,285 | (102,282) |
| Miscellaneous | 261,956 | 98% | 504,610 | 533,810 | 266,905 | (4,949) | 237,208 | 499,414 | 249,707 | (12,499) |
| Fund Balance | - | - | - | 566,257 | 283,129 | (283,129) | - | 802,709 | 401,355 | (401,355) |
| Total Revenues | 21,221,050 | 119% | 35,100,222 | 35,695,679 | 17,847,843 | 3,373,207 | 22,566,420 | 36,263,069 | 18,131,540 | 4,434,880 |
| Expenditures: | | | | | | | | | | |
| City Commission | 9,065 | 39% | 47,057 | 47,057 | 23,529 | 14,464 | 11,689 | 19,477 | 9,739 | (1,950) |
| Legal Services - City Attorney | 177,564 | 175% | 202,800 | 202,800 | 101,400 | (76,164) | 179,118 | 266,596 | 133,298 | (45,820) |
| Legal Services - Other | 59,515 | 119% | 100,000 | 100,000 | 50,000 | (9,515) | 57,605 | 70,000 | 35,000 | (22,605) |
| Lobbyists | 45,041 | 173% | 52,000 | 52,000 | 26,000 | (19,041) | 65,860 | 112,000 | 56,000 | (9,860) |
| City Management | 220,258 | 92% | 476,603 | 476,603 | 238,302 | 18,044 | 236,656 | 478,863 | 239,432 | 2,776 |
| City Clerk | 103,033 | 90% | 229,966 | 229,966 | 114,983 | 11,950 | 109,794 | 235,547 | 117,774 | 7,980 |
| Communications Dept. | 181,265 | 82% | 440,584 | 441,384 | 220,692 | 39,427 | 185,269 | 481,212 | 240,606 | 55,337 |
| Information Technology Services | 657,511 | 94% | 1,252,217 | 1,399,459 | 699,730 | 42,219 | 663,402 | 1,362,712 | 681,356 | 17,954 |
| Finance | 394,379 | 100% | 789,862 | 789,962 | 394,981 | 602 | 409,772 | 807,357 | 403,679 | (6,093) |
| Human Resources | 137,336 | 91% | 300,859 | 300,859 | 150,430 | 13,094 | 115,427 | 353,479 | 176,740 | 61,313 |
| Purchasing | 63,099 | 54% | 202,494 | 232,988 | 116,494 | 53,395 | 100,959 | 210,825 | 105,413 | 4,454 |
| Planning & Community Development | 271,310 | 79% | 639,187 | 683,761 | 341,881 | 70,571 | 284,189 | 692,089 | 346,045 | 61,856 |
| Building & Code Enforcement | 579,723 | 90% | 1,289,136 | 1,293,628 | 646,814 | 67,091 | 582,151 | 1,275,919 | 637,960 | 55,809 |
| Public Works | 3,118,427 | 90% | 6,779,814 | 6,932,734 | 3,466,367 | 347,940 | 3,335,947 | 7,192,799 | 3,596,400 | 260,453 |
| Police | 4,990,880 | 89% | 11,044,550 | 11,225,620 | 5,612,810 | 621,930 | 5,339,760 | 11,672,252 | 5,836,126 | 496,366 |
| Fire | 4,165,266 | 96% | 8,643,108 | 8,656,723 | 4,328,362 | 163,096 | 4,449,280 | 9,162,232 | 4,581,116 | 131,836 |
| Parks & Recreation | 2,631,043 | 89% | 5,924,844 | 5,944,994 | 2,972,497 | 341,454 | 2,686,313 | 6,134,081 | 3,067,041 | 380,728 |
| Organizational Support | 743,106 | 105% | 1,411,212 | 1,411,212 | 705,606 | (37,500) | 825,290 | 1,386,212 | 693,106 | (132,184) |
| Non-Departmental | - | - | 239,000 | 2,171,404 | 1,085,702 | 1,085,702 | - | 961,735 | 480,868 | 480,868 |
| Total Expenditures | 18,547,821 | 87% | 40,065,293 | 42,593,154 | 21,296,580 | 2,748,759 | 19,638,481 | 42,875,387 | 21,437,699 | 1,799,218 |
| Revenues Over/(Under) Expenditures | 2,673,229 | -78% | (4,965,071) | (6,897,475) | (3,448,737) | 6,121,966 | 2,927,939 | (6,612,318) | (3,306,159) | 6,234,098 |
| Operating transfers in | 4,303,897 | 98% | 8,782,012 | 8,782,012 | 4,391,006 | (87,109) | 4,389,611 | 9,139,505 | 4,569,753 | (180,142) |
| Operating transfers out | (942,269) | 100% | (1,884,537) | (1,884,537) | (942,269) | - | (1,360,014) | (2,527,187) | (1,263,594) | (96,420) |
| Other Financing Sources/(Uses) | 3,361,628 | 97% | 6,897,475 | 6,897,475 | 3,448,737 | (87,109) | 3,029,597 | 6,612,318 | 3,306,159 | (276,562) |
| Total Revenues Over Expenditures | \$ 6,034,857 | | \$ 1,932,404 | \$ - | \$ - | \$ 6,034,857 | \$ 5,957,536 | \$ - | \$ - | \$ 5,957,536 |

* As adjusted through March 31, 2011

The City of Winter Park, Florida
Monthly Financial Report - Budget vs. Actual
Community Redevelopment Fund
Fiscal YTD March 31, 2011 and 2010
50% of the Fiscal Year Lapsed

| | Fiscal YTD March 31, 2011 | | | | | | Fiscal YTD March 31, 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 | \$ 2,309,578 | 200% | \$ 2,305,963 | \$ 2,305,963 | \$ 1,152,982 | \$ 1,156,597 | \$ 3,177,316 | 169% | 3,222,158 | \$ 1,611,079 | \$ 1,566,237 | |
| Intergovernmental | - | 0% | - | - | - | - | 116,463 | 0% | - | - | 116,463 | |
| Charges for services | 152,643 | 0% | 200,000 | 200,000 | 100,000 | 52,643 | 116,843 | - | - | - | 116,843 | |
| Miscellaneous | 28,694 | 49% | 117,200 | 117,200 | 58,600 | (29,906) | 54,701 | 227% | 234,400 | 117,200 | (62,499) | |
| Fund Balance | - | 0% | 338,821 | 7,625,256 | 3,812,628 | (3,812,628) | - | 0% | 3,161,179 | 1,580,590 | (1,580,590) | |
| Total Revenues | 2,490,915 | 49% | 2,961,984 | 10,248,419 | 5,124,210 | (2,633,295) | 3,465,323 | 72% | 6,617,737 | 3,308,869 | 156,454 | |
| Expenditures: | | | | | | | | | | | | |
| Planning and Development | 289,933 | 90% | 644,708 | 644,908 | 322,454 | 32,521 | 305,741 | 42% | 776,233 | 388,117 | 82,376 | |
| Capital Projects | 3,471,572 | 92% | - | 7,526,235 | 3,763,118 | 291,546 | 939,734 | 57% | 11,454,179 | 5,727,090 | 4,787,356 | |
| Debt service | 1,160,647 | 154% | 1,506,081 | 1,506,081 | 753,041 | (407,607) | 653,728 | 132% | 1,667,578 | 833,789 | 180,061 | |
| Total Expenditures | 4,922,152 | 102% | 2,150,789 | 9,677,224 | 4,838,612 | (83,540) | 1,899,203 | 40% | 13,897,990 | 6,948,996 | 5,049,793 | |
| Revenues Over/(Under) | | | | | | | | | | | | |
| Expenditures | (2,431,237) | -851% | 811,195 | 571,195 | 285,598 | (2,716,835) | 1,566,120 | 324% | (7,280,253) | (3,640,127) | 5,206,247 | |
| Debt proceeds | - | - | - | - | - | - | 8,100,000 | 0% | 8,100,000 | 4,050,000 | 4,050,000 | |
| Operating transfers out | (53,554) | 100% | (107,108) | (107,108) | (53,554) | - | (58,931) | 79% | (117,862) | (58,931) | - | |
| Other Financing Sources/(Uses) | (53,554) | 100% | (107,108) | (107,108) | (53,554) | - | 8,041,069 | 0% | 7,982,138 | 3,991,069 | 4,050,000 | |
| Total Revenues Over/(Under) | | | | | | | | | | | | |
| Expenditures | \$ (2,484,791) | | \$ 704,087 | \$ 464,087 | \$ 232,044 | \$ (2,716,835) | \$ 9,607,189 | | 701,885 | \$ 350,942 | \$ 9,256,247 | |

* As adjusted through March 31, 2011

The City of Winter Park, Florida
Monthly Financial Report - Budget vs. Actual
Water & Sewer Funds
Fiscal YTD March 31, 2011 and 2010
50% of the Fiscal Year Lapsed

| | Fiscal YTD March 31, 2011 | | | | Fiscal YTD March 31, 2010 | | |
|--|---------------------------|--------------------|----------------------|---------------|---------------------------|--------------------|---------------|
| | YTD Actual | Original Budget | Adjusted Budget * | Adjusted % | YTD Actual | Adjusted Budget | Adjusted % |
| Operating Revenues | | | | | | | |
| Intergovernmental | \$ - | \$ - | \$ - | 0% | \$ - | \$ - | 0% |
| Charges for services | 12,849,909 | 27,129,592 | 27,129,592 | 47% | 12,474,532 | 26,084,285 | 48% |
| Total Operating Revenues | 12,849,909 | 27,129,592 | 27,129,592 | 47% | 12,474,532 | 26,084,285 | 48% |
| Operating Expenses: | | | | | | | |
| General and Administration | 671,085 | 1,434,592 | 1,474,745 | 46% | 658,930 | 1,511,472 | 44% |
| Operations | 5,534,340 | 14,450,260 | 14,571,094 | 38% | 5,867,157 | 16,773,393 | 35% |
| Facility Agreements | 1,329,269 | 3,530,000 | 3,530,000 | 38% | 1,318,903 | 3,717,000 | 35% |
| Depreciation & Amortization | 2,248,160 | - | - | 0% | 2,424,654 | - | 0% |
| Total Operating Expenses | 9,782,854 | 19,414,852 | 19,575,839 | 50% | 10,269,644 | 22,001,865 | 47% |
| Operating Income (Loss) | 3,067,055 | 7,714,740 | 7,553,753 | 41% | 2,204,888 | 4,082,420 | 54% |
| Nonoperating Revenues (Expenses): | | | | | | | |
| Investment earnings | (39,133) | 238,920 | 238,920 | -16% | 73,107 | 745,900 | 10% |
| Debt Service | (1,603,754) | (5,999,908) | (5,999,908) | 27% | (1,973,530) | (4,106,638) | 48% |
| Miscellaneous revenue | 1,121 | 2,300 | 2,300 | 0% | - | - | 0% |
| Fund Balance | - | - | 160,987 | 0% | - | 1,459,718 | 0% |
| Total Nonoperating Revenues (Expenses) | (1,641,766) | (5,758,688) | (5,597,701) | 29% | (1,900,423) | (1,901,020) | 100% |
| Income (Loss) Before Operating Transfers | 1,425,289 | 1,956,052 | 1,956,052 | 73% | 304,465 | 2,181,400 | 14% |
| Capital Contributions | 689,196 | - | - | 0% | 78,379 | - | 100% |
| Operating transfers in | - | - | - | 0% | - | - | 0% |
| Operating transfers out | (978,026) | (1,956,052) | (1,956,052) | 50% | (1,149,278) | (2,181,400) | 53% |
| Total Contributions and Transfers | (288,830) | (1,956,052) | (1,956,052) | 15% | (1,070,899) | (2,181,400) | 49% |
| Net Income | \$ 1,136,459 | \$ - | \$ - | | \$ (766,434) | \$ - | |

* As adjusted through March 31, 2011

The City of Winter Park, Florida
Monthly Financial Report - Budget vs. Actual
Electric Services Funds
Fiscal YTD March 31, 2011 and 2010
50% of the Fiscal Year Lapsed

| | Fiscal YTD March 31, 2011 | | | | Fiscal YTD March 31, 2010 | | |
|--|---------------------------|--------------------|----------------------|---------------|---------------------------|--------------------|---------------|
| | YTD Actual | Original Budget | Adjusted Budget * | Adjusted % | YTD Actual | Adjusted Budget | Adjusted % |
| Operating Revenues | | | | | | | |
| Intergovernmental | \$ - | \$ - | \$ - | 0% | \$ 84,785 | \$ - | 0% |
| Charges for services | 25,680,935 | 53,805,025 | 53,805,025 | 48% | 26,205,180 | 57,337,970 | 46% |
| Total Operating Revenues | 25,680,935 | 53,805,025 | 53,805,025 | 48% | 26,289,965 | 57,337,970 | 46% |
| Operating Expenses: | | | | | | | |
| General and Administration | 605,626 | 1,117,722 | 1,117,758 | 54% | 479,121 | 3,593,846 | 13% |
| Operations | 2,362,022 | 8,931,951 | 7,107,216 | 33% | 1,925,885 | 7,038,744 | 27% |
| Purchased Power Cost | 14,090,652 | 33,914,312 | 33,914,312 | 42% | 17,163,896 | 37,592,170 | 46% |
| Deferred Purchased Power Fuel Cost | - | - | - | 0% | 651,160 | - | 0% |
| Transmission Power Cost | 971,595 | 1,772,000 | 1,772,000 | 55% | 920,489 | 1,771,875 | 52% |
| Depreciation & Amortization | 1,741,346 | - | - | 0% | 1,626,426 | - | 0% |
| Total Operating Expenses | 19,771,241 | 45,735,985 | 43,911,286 | 45% | 22,766,977 | 49,996,635 | 46% |
| Operating Income (Loss) | 5,909,694 | 8,069,040 | 9,893,739 | 60% | 3,522,988 | 7,341,335 | 48% |
| Nonoperating Revenues (Expenses): | | | | | | | |
| Investment earnings | (74,168) | (115,000) | (115,000) | 64% | (99,405) | (100,000) | 99% |
| Debt Service | (1,406,584) | (4,989,711) | (4,989,711) | 28% | (1,511,006) | (4,032,260) | 37% |
| Miscellaneous revenue | 1,172,649 | - | - | 0% | 74,352 | - | 0% |
| Fund Balance | - | - | 356,358 | 0% | - | - | 0% |
| Total Nonoperating Revenues (Expenses) | (308,103) | (5,104,711) | (4,748,353) | 6% | (1,536,059) | (4,132,260) | 37% |
| Income (Loss) Before Operating Transfers | 5,601,591 | 2,964,329 | 5,145,386 | 109% | 1,986,929 | 3,209,075 | 62% |
| Operating transfers in | - | - | - | 0% | - | - | 0% |
| Operating transfers out | (1,395,056) | (2,964,329) | (2,964,329) | 47% | (1,463,435) | (3,209,075) | 46% |
| Total Operating Transfers | (1,395,056) | (2,964,329) | (2,964,329) | 47% | (1,463,435) | (3,209,075) | 46% |
| Net Income (Loss) | \$ 4,206,535 | \$ - | \$ 2,181,057 | | \$ 523,494 | \$ - | |

* As adjusted through March 31, 2011

REGULAR MEETING OF THE CITY COMMISSION
April 11, 2011

The meeting of the Winter Park City Commission was called to order by Mayor Kenneth Bradley at 3:33 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida.

The invocation was provided by Pastor Jack Cain, Calvary Assembly of God, followed by the Pledge of Allegiance.

Members present:

Mayor Kenneth Bradley
Commissioner Steven Leary
Commissioner Sarah Sprinkel
Commissioner Tom McMacken
Commissioner Carolyn Cooper

Also present:

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

Approval of the agenda

Mayor Bradley requested that Item 7A be moved to Action Items Requiring Discussion and renumbered as Item 10G. **Motion made by Commissioner McMacken to approve the agenda with this change; seconded by Commissioner Sprinkel and approved by acclamation of the City Commission.**

Mayor's Report

a. Presentation from Orange County Property Appraiser Bill Donegan

Orange County Property Appraiser Bill Donegan presented a PowerPoint presentation titled "Valuation Presentation". He spoke about parcel information, property tax values and trends, new construction taxable values, Save Our Homes Capped Savings History and Recapture, CRA Potential Extension for Lee Road, West Fairbanks Ave and North Orange Ave, CRA boundaries and taxable values, Possible annexation of Lee Road/17-92 and the proposed outlook for 2011. Mr. Donegan answered questions.

b. Presentation of check from the Kenneth and Rachel Murrah City of Winter Park Tree Fund

Mr. Kenneth Murrah presented the City with a \$1,187.16 check for the purchase and planting of trees.

c. Proclamation – Toastmasters Awareness Day

Mayor Bradley proclaimed April 25, 2011 as Toastmasters Awareness Day and recognized the organization for their outstanding achievements.

d. Thanks to City Staff for their work on our recent storm

Mayor Bradley thanked City staff for doing a great job in keeping our City safe and running during the recent storm outages.

- e. Citizen board applications and appointments – Encourage applications by April 24 for initial appointments in May 2011

Mayor Bradley encouraged all applicants to submit their applications for consideration within the next 2 weeks if possible.

City Manager's Report

City Manager Knight provided a summary on the recent storm event that occurred on March 30, 2011. He mentioned that there were over 8,000 customers without power, 53 roads blocked and 27 driveways blocked. All were cleared within 24 hours with the exception of two. He said that 80-90% of the power was restored within 4 hours and all power was restored by mid-day Friday. He advised that last week there was an after action meeting with the senior staff and mid-managers to review the events of the storm. They discussed numerous ways to make improvements and provided a brief background.

City Manager Knight reminded the Commission that their photo session is scheduled for 2:15 p.m. prior the start of next Commission meeting.

City Attorney's Report

No items to report.

Non-Action Items

- a. Presentation on Economic Development Plan

CRA Director Dori DeBord provided background information. Over the past four years the City has commissioned several economic development activities to document an Economic Development Plan. The last plan was presented to the Commission in August 2009. This Plan did not receive approval and there was limited implementation by staff.

The President of EDAB Marc Reicher and Ms. DeBord provided a PowerPoint presentation which included the collaborative success, format of the plan, their mission, 5 key objectives and 2011 next steps. The plan presented incorporates the background analysis that helped create the 2009 draft with one important change. It is based on a new, time-driven goal that is attainable with appropriate funding and community activity. Staff requested that the Commission review the 5 strategies and the action items associated with each strategy realizing that as each action item is achieved, specific and measurable tasks will be defined for implementation.

Ms. DeBord explained that this is a three year plan which will allow them to do an evaluation every year to make sure they are on target and it also gives the Commission the ability to reprioritize. She noted that the budget for this plan is undescribed at this time and explained that they would like to get Commission approval so that when a budget is needed they already have an idea on what they need to do to move forward with the plan. She advised that not all of this is going to be performed in-house by staff since we do not have the individuals to do it so there will need to be funding addressed in this plan throughout the three year period. This plan provides the framework and guidelines which will help direct staff on each item. With

Commission direction, staff anticipates having a final document to the EDAB in May and the then to the Commission for a late May or early June 2011 approval. Once adopted, they can begin to put together prioritization and budgeting recommendations for the Commission to include in their budget for next year.

Motion made by Mayor Bradley for approval of the objectives and strategy in the draft format that has been presented to them and to be brought back in May/June 2011 with the final plan from EDAB; seconded by Commissioner Leary. Ms. DeBord and Mr. Reicher answered questions. **Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel and McMacken voted yes. Commissioner Cooper voted no.** A reason was not given for the 'no' vote. **The motion carried with a 4-1 vote.**

Consent Agenda

- a. Approve the minutes of 3/28/11. – **PULLED FROM CONSENT AGENDA FOR DISCUSSION – SEE BELOW**
- b. Approve the Park Avenue Recycling Program and authorize the purchase of ten recycling containers to be placed in strategic locations along Park Avenue. – **PULLED FROM CONSENT AGENDA FOR DISCUSSION – SEE BELOW**
- c. Approve the following purchases and contracts:
 1. PR 146459 to Helena Chemical Company for the purchase of agricultural chemicals; \$50,000
 2. PR 146471 to Petersen Industries, Inc. for the purchase of 2011 Debris Loader; \$118,088.31
 3. PR 146468 to Vision Ceramic Tile and Marble for the owner direct purchase of floor and wall tile for the Community Center; \$61,846.42
 4. Approve PR 146533 to Brown & Brown Insurance for the commercial property insurance renewal; \$233,443.23
 5. Amendment #2 to Various Print Jobs contract with Maitropolis, LLC and authorize the Mayor to execute Amendment #2 – **PULLED FROM CONSENT AGENDA FOR DISCUSSION – SEE BELOW**
 6. Piggybacking the City of Venice contract #R07-2854 with SunTrust Bank for Purchasing Card Services and authorize the Mayor to execute the Piggyback Contract
 7. Piggybacking the Orange County contract #Y10-1004 with Harcros Chemicals, Inc. for Hydrofluosilicic Acid, authorize the Mayor to execute the Piggyback Contract and approve Blanket Purchase Order for \$30,000
 8. Piggybacking the State of Florida/WSCA contract #1523 with Sprint Solutions, Inc. for Wireless Communication Services and Equipment and authorize the Mayor to execute the Piggyback Contract; estimated annual expenditure \$115,000
 9. Piggybacking the Lake County contract #11-0801D for agricultural chemicals, and authorize the Mayor to execute the Piggyback Contract
 10. Piggybacking the St. Johns River Water Management District contract #25457 for Liquid Aluminum Sulfate and authorize the Mayor to execute the Piggyback; \$24,999
 11. Piggybacking the National Joint Powers Alliance (NJPA) contract for Landscape Equipment contract #081209-FCC and authorize the Mayor to execute the Piggyback Contract

Motion made by Commissioner Cooper to approve Consent Agenda Items c-‘1-4’ and c-‘6-11’; seconded by Commissioner Sprinkel approved by acclamation of the City Commission.

Consent Agenda Item ‘a’ - Approve the minutes of 3/28/11.

Commissioner McMacken referenced page 9, paragraph 6 regarding the final roll call vote. He said the minutes currently reflect a yes vote given by Commissioner Cooper and McMacken and that it needs to be corrected to no vote.

Commissioner Cooper referenced page 7, paragraph 4. She said she wanted to make sure that the specific information that she provided to the Clerk was included. Mayor Bradley stated that the minutes need to reflect what happened at the time of the meeting and requested the City Clerk to listen to the audio and provide a verbatim on what Commissioner Cooper stated and put it in the minutes. Commissioner Cooper agreed.

Motion made by Commissioner Leary to approve Consent Agenda Item ‘a’ with the above changes; seconded by Commissioner Cooper and approved unanimously with a 5-0 vote.

Consent Agenda Item ‘b’ - Approve the Park Avenue Recycling Program and authorize the purchase of ten recycling containers to be placed in strategic locations along Park Avenue.

Commissioner Cooper said the price is a bit exorbitant and noticed the recommendation came from the Task Force. CRA Director Dori DeBord explained that this is a staff recommendation and that they reviewed the item and what they were proposing to do with the Environmental Review Board, the Park Avenue Area Task Force and the Keep Winter Park Beautiful Boards. She noted that these recycling containers will not need to be replaced and the color and style is what makes them expensive and that the cost is compatible to the money they currently spend on Park Avenue trash receptacles. Commissioner Cooper asked if there is a way to encourage recycling in the commercial area. Ms. DeBord said they asked the merchants if they wanted to do a recycling program on Center Street and they are interested however it will cost more than what they are currently spending and it will take more effort.

Motion made by Commissioner Cooper to approve Consent Agenda Item ‘b’, seconded by Commissioner McMacken and approved unanimously with a 5-0 vote.

Consent Agenda Item c-‘5’ - Amendment #2 to Various Print Jobs contract with Maitropolis, LLC and authorize the Mayor to execute Amendment #2

Commissioner Cooper commented that it looks like for the last 3 years they have not had any competition. She asked about the status of the Procurement Policy. City Manager Knight said they are hoping to present the Procurement Policy for approval at the next meeting. Communications Director Clarissa Howard clarified that this contract is currently under a 3 year extension and will expire on June 2, 2011. It will then go out for competitive bid and will come back to the Commission in June of this year.

Motion made by Commissioner Cooper to approve Consent Agenda Item c-‘5’; seconded by Commissioner Sprinkel and approved unanimously with a 5-0 vote.

Action Items Requiring Discussion:

a. Complete Streets / Pedestrian safe proposed resolution: Presentation by Dan Burden

Dan Burden, The Walkable and Livable Communities Institute, provided a PowerPoint presentation titled "Achieve Healthy Communities Team Winter Park". He explained that the Winter Park Health Foundation (WPHF) is administering a program through the CDC to improve health within communities across the country. The program is referred to as ACHIEVE and is being worked on first in Winter Park and will then be rolled out to Maitland and Eatonville. One of the initiatives being considered is to increase pedestrian and bicycle access within the community.

Mr. Burden provided other suggestions to include installation of roundabouts, more sidewalks and treed medians and multi-mode transportation features. Mr. Burden prepared a sample resolution that would complement the City's Transportation Plan which would show the City's support for the ACHIEVE efforts by highlighting the importance of maintaining a safe, walkable and livable community. Mr. Burden answered questions.

Mayor Bradley asked if staff has reviewed the proposed resolution. City Manager Knight stated that it has been reviewed by Public Works and Planning. He clarified that the Pedestrian and Bicycle Board did not review the resolution.

Commissioner Cooper stated that she does not think that they need to move a resolution for an entire program right now since it might not be consistent with what they have already adopted as a community. She mentioned that when it comes to the details of a specific plan she thinks they should have it reviewed by the experts on board at the City. She also suggested having a community discussion before adopting it.

Commissioner Sprinkel said she thinks it is an excellent resolution and would like to see them be able to make a statement about complete streets. She would like for staff to coordinate with the appropriate boards and review the item so they can act on this resolution at the next meeting.

Motion made by Commissioner Sprinkel for staff to review the resolution and take it to the appropriate committees in the City including the Pedestrian and Bicycle Safety Board and bring it back potentially at their next meeting; seconded by Mayor Bradley.

Commissioner Cooper suggested to look at some of the "whereas" clauses in the ordinance.

William Shallcross, 450 Bonnie Burn Circle, asked that the City upgrade the school crossing on Lakemont. He said they are getting ready to repave Lakemont and he thinks it is an excellent candidate for a road diet along with Denning from Lake Howell to Aloma.

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. Presentation and update of the Mead Gardens Master Plan and approve the proposed funding for the initial improvements to the "Environmental Learning Center"

Parks and Recreation Director John Holland stated that they have an ongoing relationship with Friends of Mead Gardens. He explained that during the March 23, 2011 Parks and Recreation Commission meeting a presentation of the Mead Garden Master Plan was given with the proposed modifications, sequences for the restoration of the Mead Botanical Garden collections and improvements to the Lake Lillian environment. The Parks and Recreation Commission unanimously approved the plans and the use of the Winderweede, Haines, Ward and Woodman donation toward the Master Plan improvements.

He advised that the Mead Garden Master Plan developed by PBS&J in 2007 includes seven objectives for the improvements currently being proposed by the Parks and Recreation Department and the Friends of Mead Garden. He said they are closely adhering to and following those seven objectives but there are a few items that they have relocated such as the new amphitheatre and the learning pavilion, an entryway modification, and an upgrade/renovation of the old amphitheatre.

He requested approval to move forward with the relocation of the issues mentioned above and approval to start to expend the \$150,000 grant they received from Winderweede. Mr. Holland clarified that before they actually spend the money or put anything in place it will go back through the Parks and Recreation Advisory Board and the Commission for specifics. He also clarified that they are only talking about the \$150,000 grant money and noted that if they receive any private donations through the Friends of Meads Gardens it will go back to the Commission so they are aware of receiving additional funding.

Commissioner McMacken shared his concerns with the governance and programming that was previously discussed. He said one of the issues they previously voted on was that they were going to seek out a Director for Mead Gardens so as they receive private and public funds there would be governance in place that would oversee the development of what is to come in the future. He said the reason he voted on it was on the assurance that this item was going to take place in a calendar year and not future years. Mr. Holland said the governance issue has been worked on substantially by the Friends of Mead Gardens and they do have it in the plans but it is not based upon funding being provided by the City at this time. He said they are looking at future funds, future grants and foundations and it is in place. He also said that type of a governance and a management system would be developed and come forth as they move forward and that this is just one little minor step in moving forward. Commissioner McMacken said he is comfortable with taking a minor step but he is not comfortable in taking a step beyond that until that governance is in place.

Motion made by Commissioner Sprinkel to accept this and provide the jurisdiction for them to move forward on spending the \$150,000 and with the understanding that they will be bringing back the rest of the story within the next couple of months; seconded by Mayor Bradley.

Motion amended by Commissioner Cooper that they authorize the requested changes to the Master Plan, moving the Learning Center from the entrance to the barn, the one-way drive and providing parameter parking, moving the amphitheatre out of the historic garden to the old City yard and moving the interpretive center out of the wetland to the

City yard and also to allow renovation of the existing amphitheatre and that prioritization of these actions come under the direction of our Parks Director; seconded by Mayor Bradley.

Commissioner Cooper wanted to make sure that everyone understands that they are not accepting all of the stipulations in the attached memos they received. Mayor Bradley stated they understand since her motion does not reference any memos.

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

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.

c. Appointment of Vice Mayor

Motion made by Mayor Bradley to appoint Commissioner Leary as Vice Mayor; seconded by Commissioner Sprinkel. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel and McMacken voted yes. Commissioner Cooper voted no. The motion carried with a 4-1 vote.

d. City Advisory Boards

Assistant City Manager Michelle del Valle provided background. Currently there are over 60 Ordinances and resolutions governing advisory boards and they are working on developing a Chapter within the Code of Ordinances to address the rules, procedures and duties of the boards and centralize the information into a single location within the code. At the same time it would allow the Commission to standardize certain procedures and review the duties of the boards. Ms. del Valle mentioned that there would be mini-sections on each board which will include any statutory, charter or code requirements and any specific membership requirements, duties and responsibilities to those individual boards. She said they are looking for a consensus on the general rules which will help guide them in preparing the ordinance. She then asked the Commission for their input on eight items.

There was consensus to instruct staff to move forward and bring back to the Commission the following eight items:

1. Role/Responsibility of Board Member – adopt general language about being advisory and rules prohibiting exceeding authority/enforcing code
2. Term/reappointment - 2 three year terms
3. Maintain the attendance policy – if you miss three consecutive meetings the position is automatically terminated
4. Participation by phone – allowed to participate by phone and be counted present. Vote only if a physical quorum is present

5. Membership - standardizing a set number of board members and alternates that are not determined by state statutes – This item will come back with the additional information noted below:
 - Mayor Bradley requested to see the State Statutes on this item. City Attorney Brown acknowledged the request.
 - Commissioner Sprinkel wanted to see a current list on where we are now with the number of board members and what it would look like if we had a specific number for all boards except those that are statutorily required. She would also like to see how the funding fits into this issue because some boards can or cannot do fundraising.
 - Commissioner Cooper requested to have this item moved from “General Rules” to “Specific Boards”. She wanted to see alternates that automatically progress on quasi judicial boards only. Mayor Bradley suggested they look at this under the statutory requirements and then look at the elimination or the inclusion under that section.
6. Board Member Evaluation process – creating a self evaluation process
7. Use of Task Forces – establish procedures for use of task forces not to exceed a certain number of days and to make sunset provisions. This item will come back with the additional information noted below:
 - Mayor Bradley proposed 180 days.
8. Sunset Provision – Establish a yearly timeline for all boards not statutorily required. This item will come back with the additional information noted below:
 - The Commission suggested having a 5 or 10 year sunset provision and/or possibly staggering it.
 - Mayor Bradley recommended that all boards that are not statutory and part of the quasi-judicial boards be called “Advisory Board” and others be called “Board”. An example he gave was the Board of Adjustment is statutorily required and the CRA is Advisory Board.
 - Commissioner Sprinkel requested that when they do the sunset provision they also put in a provision for adding a board so they can put a new board in place.
 - Commissioner Cooper spoke briefly about removal for cause. She said the way the current ordinance is put together the members of the Planning and Zoning Board, the Construction Board and the Board of Adjustment can lose their position with cause. Attorney Brown provided counsel and said it is not really clear. Mayor Bradley said our conflicts are in our ordinances in which we can adjust so the policy question is whether or not they should serve at the will of the Commission. There was consensus to bring this forward to look at it and discuss if they want to change this or not.
- e. City Facilities discussion (follow up from Strategic Planning)

Mayor Bradley summarized by noting that several items need to be addressed within the City Hall building such as the air conditioning system and lighting. He mentioned that last week during the Strategic Planning session the Commission agreed that it makes more sense to upgrade these items versus building a new structure in the hopes of getting another 10 to 20 years out of the current building. City Manager Knight advised that this item is scheduled to come to the Commission at the next meeting.

f. Community Conversations (follow up from Strategic Planning)

Motion made by Mayor Bradley to instruct staff to engage Marilyn Crotty to conduct the Community Conversations in the May/June timeframe within our City, seconded by Commissioner Leary.

Motion amended by Commissioner Cooper that the Commission have an opportunity to participate in the agenda preparation; Commissioner Cooper would like to have an opportunity to review the questions or surveys prior to the meeting. **Seconded by Commissioner McMacken.**

Assistant City Manager Michelle del Valle explained that there will be 5 generic topics and the meeting will flow around the general areas of concern related to those topics. She further explained they will have an outline but there will not be any specific questions because they do not know where the conversation will be going. She said they will be receiving a proposal tomorrow and will send that information to the Commissioners.

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

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.

A recess was taken from 5:48 p.m. to 6:08 p.m.

Public Comment

William Shallcross, 450 Bonnie Burn Circle, disagreed with the City spending approximately \$17,000 for 10 garbage can recycle containers on Park Avenue. He encouraged the Commission to look into a lower cost alternative.

Public Hearings

- a. ORDINANCE NO. 2837-11: 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 Second Reading

Attorney Brown read the ordinance by title. **Motion made by Commissioner Cooper to adopt the ordinance; 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.

- b. ORDINANCE NO. 2838-11: 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. Second Reading

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

Rod Sward, 292 Sylvan Boulevard, requested that they do not rescind the user fee.

Joseph Brock, 2341 Randall Road, indicated that all across America all dogs are required to have rabies vaccinations. They can require all dogs to show proof by wearing their rabies tags. He showed the size of FFP in comparison to other Florida parks and noted how much smaller FFP really is and that the other parks are free.

Nancy Shutts, 2010 Brandywine Drive, said that rescinding the fees is only the first step of the bigger plan. They need to discuss Friends Groups for all parks and to redesign the park so that everyone can use it.

Marti Miller, 1399 Aloma Avenue, asked for unity and said they need to compromise more by not spending more taxpayer dollars on this park.

Michael Palumbo, 559 Oak Reserve Lane, said this is not a single use park since you can fish, boat and play on the playground. But when you bring your dog to the park you are required to pay a fee and he feels it is not appropriate to have to pay for his dog to be off leash.

Mary Randall, 1000 South Kentucky Avenue, said she is in favor of keeping the fee and that it is very reasonable.

Rick Frazee, 1921 Englewood Road, said there is no scientific evidence that says there will be a problem with this park. He said there is a county and state law that says all dogs need to be vaccinated for rabies and if they are not then it should be reported.

Upon a roll call vote, Mayor Bradley and Commissioners Leary and Sprinkel voted yes. Commissioners Cooper and McMacken voted no. The motion carried with a 3-2 vote.

- c. ORDINANCE NO. 2839-11: 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 Second Reading

Attorney Brown read the ordinance by title. **Motion made by Commissioner Leary to adopt the ordinance; seconded by Commissioner Sprinkel. Upon a roll call vote, Mayor Bradley and Commissioners Leary and Sprinkel voted yes. Commissioners Cooper and McMacken voted no. The motion carried with a 3-2 vote.**

- d. AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, DECLARING A MORATORIUM AS TO THE FILING AND RECEIPT OF ANY APPLICATION FOR, OR ISSUANCE OF, BUSINESS TAX RECEIPTS, BUSINESS LICENSURE AND LAND USE APPROVALS FOR THE OPERATION OF "PAIN MANAGEMENT CLINICS" FOR 320 DAYS; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE First Reading

Attorney Brown read the ordinance by title. **Motion made by Commissioner Sprinkel to accept the ordinance on first reading; seconded by Commissioner Cooper. 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.**

- e. Adoption of fee schedule effective May 1, 2011

Motion made by Commissioner Cooper to adopt the Fee Schedule; seconded by Commissioner Sprinkel.

Motion amended by Commissioner McMacken that the fees be adopted except for those slated for the Tennis Center; seconded by Commissioner Cooper for discussion.

Parks and Recreation Director John Holland explained that these fees are part of the contract documents and that we are contractually obligated to use these fees. He said they renegotiated with the contractor and the fees are actually lower than they were initially. He clarified that they now have two tennis instructors that offer \$40-\$95 fees for private lessons and they are more comparative with other local tennis facilities.

Commissioner McMacken withdrew the amendment.

Nancy Shutts, 2010 Brandywine Drive, said the fee schedule includes the pavilion for FPP. She feels that some alterations need to be made to the park so the fee can be implemented like all of the other pavilions in the City.

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

Commissioner Reports:

- a. Commissioner Leary

Commissioner Leary applauded Ms. DeBord for the Economic Development Plan and appreciates all of their efforts. He also thanked City staff for doing an excellent job during the recent storm event.

- b. Commissioner Sprinkel

Commissioner Sprinkel indicated that she shares the same comments as Commissioner Leary.

c. Commissioner Cooper

Commissioner Cooper indicated that this past week she attended the Citizen Advisory Board and Committees Class that was held by Tri-County League of Cities and Marilyn Crotty. She noted that 22 persons attended and 10 were from our City. She said it was very enlightening and that she would be glad to share the information in the packet she received which includes a self evaluation and a committee evaluation to be used by each board.

d. Commissioner McMacken

Commissioner McMacken recalled that during their Strategic Planning Session there were some graphics that were presented on the Form Based Code that PlaceMakers is working on. Since the potential redevelopment of Fairbanks Avenue is a 5-20 year process he wanted to see if they could see some interim graphics of what it would look like as it progresses. Planning Director Jeff Briggs said they have some money in the budget if they would like him to do that. There was consensus for Mr. Briggs to prepare an agenda item to illustrate what they have graphically for discussion and action.

e. Mayor Bradley

i. Create a consistent hours of operation for establishments within the City of Winter Park. Review ordinances / discussion

Mayor Bradley explained that there are inconsistencies with numerous facilities in the City and in local neighborhoods that certain establishments can remain open until 2:00 a.m. and some that are not. He asked for support to go forward with something that will make it consistent throughout the community. Commissioner McMacken said there are two separate items here and explained the difference. He said there are general inconsistencies and then there are some establishments that were granted by the City based on part of a conditional approval. There was consensus for Mr. Briggs to prepare an agenda item for discussion and action.

ii. Resolution in support of SunRail

Mayor Bradley requested to schedule a Resolution in support of the continuation of SunRail for discussion at their next meeting. There was consensus to schedule this item for April 25.

iii. Tree Survey

Mayor Bradley spoke briefly about unsafe trees in the City and wanted to know what we are doing about it. He asked if we have an extensive tree survey of our City and if we know what trees are good or bad and what trees have been requested to be removed by our citizens. Parks and Recreation Director John Holland said we have a tree survey for trees within the City right-of-way that was done about 5 years ago. He said they have records when citizens call the Forestry Department and they record the visits they make. They also keep track of work orders for tree trimming or tree removals.

City Manager Knight said this is a debate that recurs in the City all of the time. He said there are citizens who do not want certain trees in their yard and then a Certified Arborist informs them that it is a healthy tree and that it cannot be removed. He said the City has a very strict

permitting process and we are very protective of the trees; however, if it is a public safety issue we can remove the tree. Mayor Bradley said there needs to be a way to handle the disagreements on removal of trees and he would like to find a happy medium. Commissioner Leary indicated that he does not want the process to get in the way of safety.

Code Enforcement Director George Wiggins explained if the tree is on private property Code Enforcement will coordinate with our Arborist Enforcement Officer and examine the tree. If it is determined to be hazardous they will notify the property owner and take the action required to remove the tree and if desired they could appeal that action to our Tree Preservation Board. He said if the tree is on the public right-of-way our Parks Department assesses the situation. He said with regard to the fairness of the tree ordinance regarding the removal of a tree next to a house, if it is denied by their department they can appeal it to the Tree Preservation Board and then to the City Commission. The issue on the cost is a fee schedule item and if they feel it is too expensive they have the ability to change it. Mayor Bradley said he will leave alone at this point but he is still very concerned.

iv. Resolution governing communications by Advisory Board members and Elected officials

Mayor Bradley spoke about the use of City Board titles and asked the City Manager if his letter that was sent out to board members last month was sufficient or if they need a resolution or ordinance that codifies his letter. City Manager Knight said they can place this as an agenda item on each citizen board meeting and have a conversation regarding the letter and the reasons for it. Mayor Bradley said he would encourage that to happen. City Manager Knight acknowledged.

Mayor Bradley asked Attorney Brown about the process of Commissioners sending out letters, surveys, etc. and would like to know how it relates to the Sunshine Law and how it relates to elected officials, political conversation and how it works. Attorney Brown provided legal counsel and noted that a Commissioner has a right to send out their personal viewpoint as a Commissioner. It is better practice for Commissioners not to send emails to each other. He explained that the Charter provides that individual Commissioners do not have the authority to actually interfere with or direct staff but they have a right to communicate ideas for improvement typically through the City Manager and they have a right to request information. He said the law does not prohibit an elected official from communicating with their constituents subject to ex-parte communications (if something is pending as a quasi judicial matter) or if a competitive procurement solicitation has been issued the purchasing manual that they are working on will address this.

Commissioner Sprinkel requested that they include this information in the Advisory Board ordinance they are working on. City Manager Knight acknowledged.

The meeting adjourned at 7:35 p.m.

Mayor Kenneth W. Bradley

ATTEST:

City Clerk Cynthia S. Bonham

city commission **agenda item**

| | | | |
|---------------------------------------|--|--------------|--|
| item type | Consent Agenda | meeting date | April 25, 2011 |
| prepared by department division | Purchasing Division | approved by | <input checked="" type="checkbox"/> City Manager <input 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. | Camp Dresser & McKee, Inc. | Comprehensive Water Rate Study (Task Order CDM-2011-01) | Total expenditure included in approved FY11 budget. Amount: \$72,408 | Commission approve PR 146564 to Camp Dresser & McKee, Inc. for Comprehensive Water Rate Study |
| Camp Dresser & McKee (CDM) is contracted with the City of Winter Park for continuing professional engineering services for Water & Wastewater under RFQ-17-2010. On February 14, 2011 the City Commission approved Task Order CDM-2011-01. | | | | |
| 2. | GATSO USA, Inc. | Administration of Red Light Safety Enforcement System | Contract will be cost neutral to the City as it guarantees the City will not pay any fees in excess of actual collections | Commission approve Blanket Purchase Order to GATSO USA, Inc. Amount: \$70,000 |
| GATSO USA, Inc. is contracted with the City of Winter Park for Red Light Safety Enforcement System under RFP-13-2009. The Blanket Purchase order be valid through FY11. | | | | |

Contracts

| | vendor | item | background | fiscal impact | motion | recommendation |
|--|-----------------------------|--|------------|--|---|----------------|
| 3. | Turner Construction Company | Deduct Change Order COR-011 to Community Center (RFQ-17-2009) | | Deduct of \$6,888 against the contract price | Commission approve Deduct Change Order COR-011 to Community Center contract (RFQ-17-2009) with Turner Construction Company and authorize the Mayor to execute the change order document | |
| The City contracted with Turner Construction Company for the Design-Build of Winter Park Community Center on August 24, 2009. This deduct change order of \$6,888 from the contract price is a result of modifications to the original scope which resulted in reduced cost. | | | | | | |
| 4. | Turner Construction Company | After the fact Change Order COR-013 to Community Center (RFQ-17-2009) | | Increase to project GMP but within overall budget. Amount: \$18,175. | Ratify the decision of the City Manager | |
| The City contracted with Turner Construction Company for the Design-Build of Winter Park Community Center on August 24, 2009. This after the fact change order includes modifying the standing seam roof color from galvalume to a Kynar color finish. | | | | | | |

| | | | | |
|---|-----------------------------|--|--|---|
| 5. | Turner Construction Company | After the fact Change Order COR-014 to Community Center (RFQ-17-2009) | Increase to project GMP but within overall budget. Amount: \$21,010. | Ratify the decision of the City Manager |
| The City contracted with Turner Construction Company for the Design-Build of Winter Park Community Center on August 24, 2009. This after the fact change order includes upgrading the door panic hardware to Von Duprin. | | | | |
| 6. | Turner Construction Company | Deduct Change Order COR-015 to Community Center (RFQ-17-2009) | Deduct of \$7,387 against the contract price | Commission approve Deduct Change Order COR-015 to Community Center contract (RFQ-17-2009) with Turner Construction Company and authorize the Mayor to execute the change order document |
| The City contracted with Turner Construction Company for the Design-Build of Winter Park Community Center on August 24, 2009. This deduct change order of \$7,387 from the contract price is a result of modifications to the pool equipment which resulted in reduced cost. | | | | |
| 7. | Groundtek, Inc. | Amendment #1 to IFB-8-2010 Reforestation Services | Total annual expenditure is included approved FY11 budget | Commission approve Amendment #1 to Reforestation Services contract with Groundtek, 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 March 22, 2010 for a period of one (1) year. The contract allows for up to four (4) one year renewal options, upon mutual agreement. The vendor is willing to enter into a renewal period with no price increase. The current contract term expires on May 11, 2011. | | | | |



city commission agenda item

| | | | |
|---------------------------------------|--|--|--|
| item type | Action Item Requiring Discussion | meeting date | April 25, 2011 |
| prepared by department division | Chief James White Fire Rescue Fire Administration | approved by | <input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A |
| board approval | Presented to Civil Service Board for information only – no vote | <input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A | final vote |

subject: City of Winter Park Fallen Heroes Memorial

motion | recommendation

Staff recommends approval of the preliminary plans to construct a memorial at the city's Public Safety Complex to be funded through a donation from the Winter Park Rotary Club.

Background

September 11, 2011 will mark the 10th anniversary of the tragic deaths of close to 3000 Americans of which more than 400 were public safety servants. Our goal is to work with a local architect to design a fitting memorial site at the Public Safety Complex to honor both those lost in this attack and those Winter Park Public Safety workers who have served and who have made the ultimate sacrifice. Funding for the project would be provided through a donation from the Winter Park Rotary Club with a memorial fund being established through the sale of engraved bricks along the memorial.

alternatives | other considerations:

This project is supported by both Public Safety agencies. We have only considered ideas that are appropriate in honoring those fallen public servants. We feel strongly that this memorial reflect the communities commitment to their public safety employees and the sacrifices made on 9-11.

fiscal impact

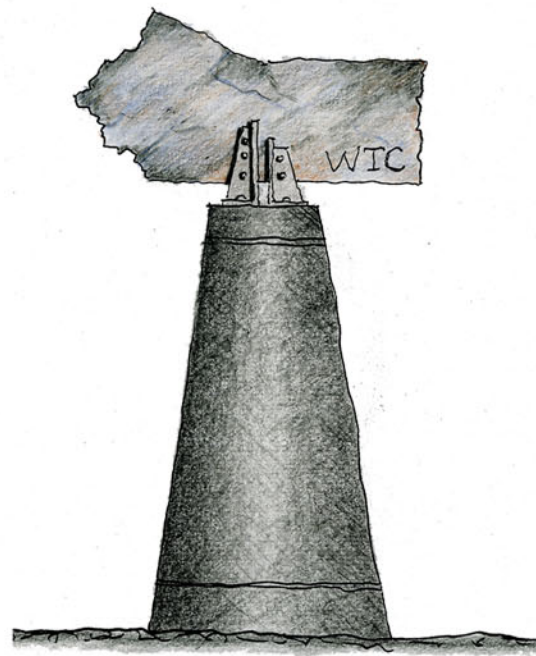
We do not anticipate any fiscal impact. This project will be funded through donations.

long-term impact

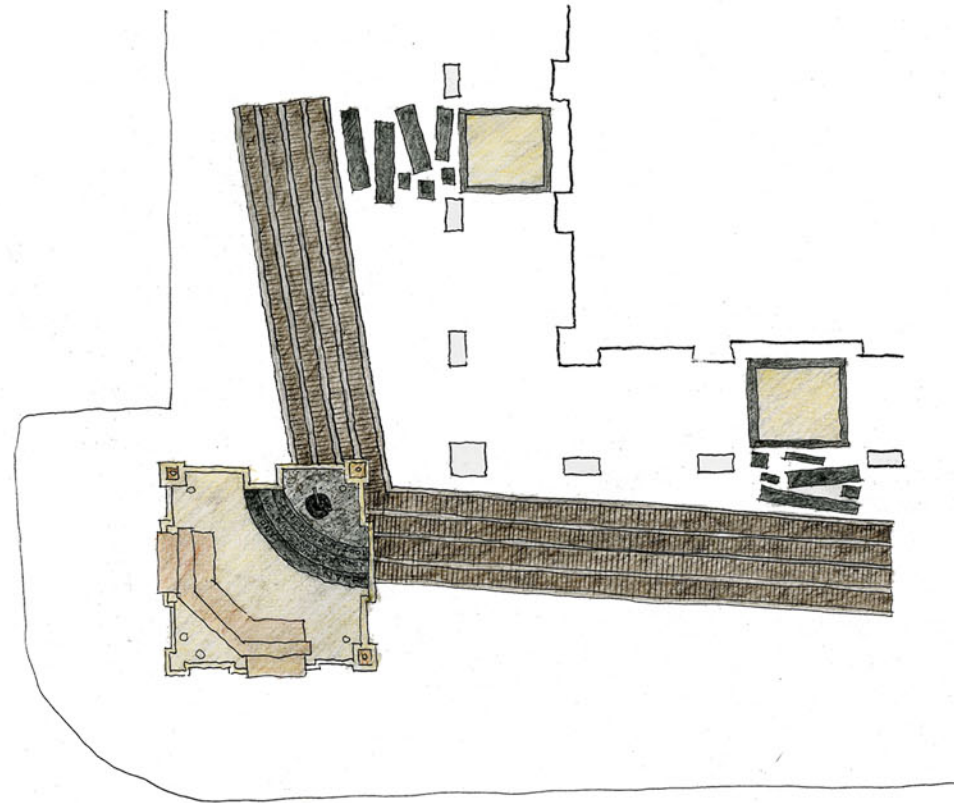
A perpetual care memorial fund will be established and supported through the sale of engraved bricks along the memorial walkways.

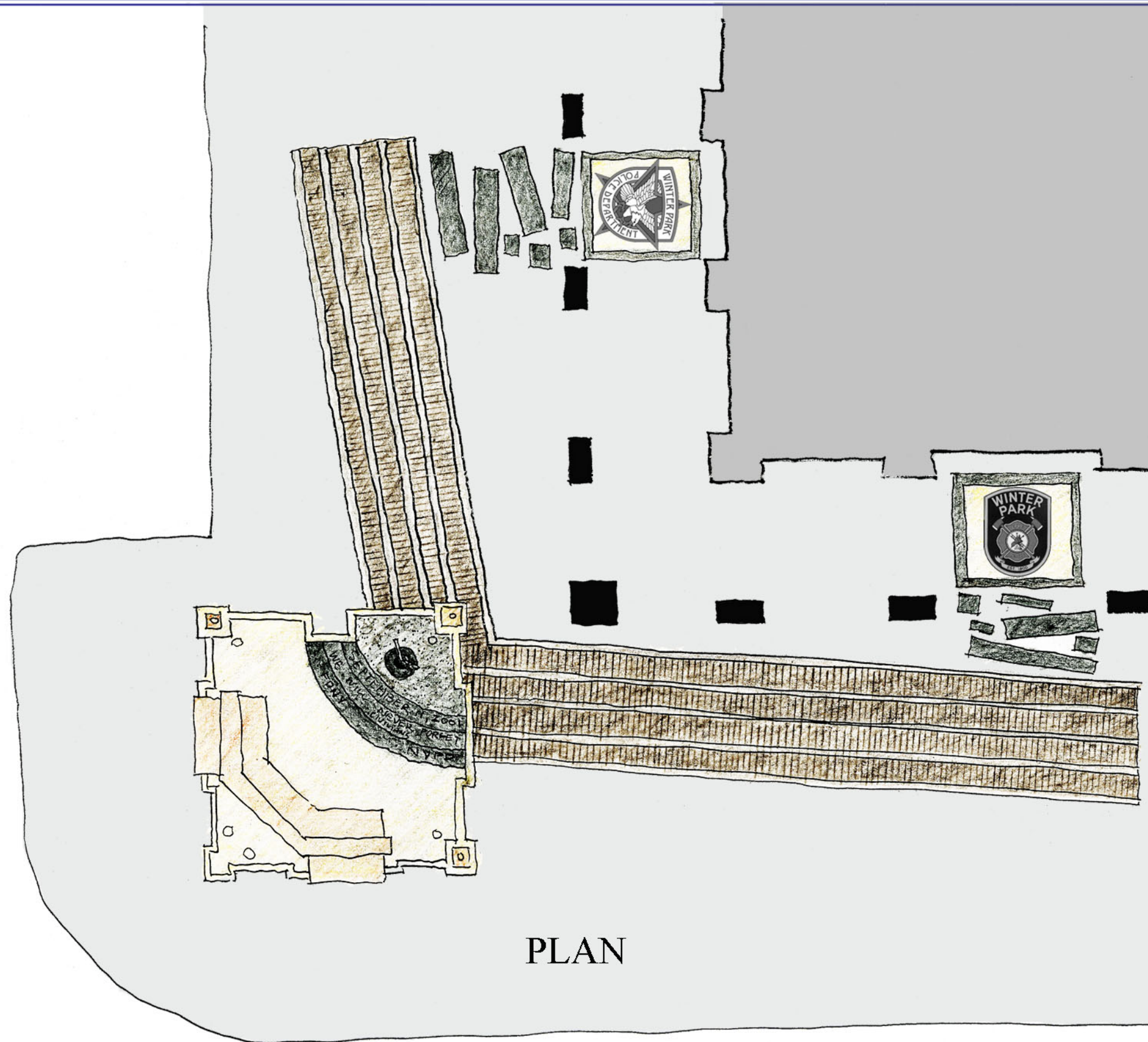
strategic objective

The memorial supports the city's goal of providing a Quality Environment through yet and other unique place as the memorial will allow visitors to share in the city's acknowledgement of the sacrifices of these heroes.



MEMORIAL ELEVATION





PLAN



city commission agenda item

| | | | |
|---------------------------------|----------------------------------|--|--|
| item type | Action Item Requiring Discussion | meeting date | April 25, 2011 |
| prepared by department division | Planning Department | approved by | <input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A |
| board approval | Public Art Advisory Board | <input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A | 9-0 final vote |

subject

Winter Park resident Micheline Kramer is offering to donate a sculpture, *White "A"* by noted artist Jane Manus, to the city for exhibition. Certain conditions are requested.

motion | recommendation

The sculpture is a work of fine art by a noted sculptor. The proposed site and conditions are appropriate for the artwork. The Public Art Advisory Board recommends receiving the sculpture gift, and requests approval for the city attorney to finalize a Deed of Gift between Ms. Kramer and the city.

background

Winter Park resident Ms. Micheline Kramer approached the Public Art Advisory Board with the proposal to give a sculpture to the city for exhibition at the eastern terminus of Morse Boulevard in the city owned green space right of way by Lake Osceola and the Winter Park Boat Tour. The sculpture entitled *White "A"* is by noted artist Jane Manus. Commissioned in 1993, it is 111 inches high x 80 inches wide x 60 inches deep and is made of welded aluminum painted with white aircraft paint. For reference, it is about the height of the smaller red sculpture (9.2 feet) by Barbara Sorensen that was recently exhibited in Central Park. Jane Manus received her Bachelor of Fine Art degree from Rollins College at the Art Institute of Boston in 1973 and has gone on to a distinguished career. Her sculptures are included in many prestigious public collections nationwide and would be a fine addition to the city's collection of fine art. The artist's bio and photos of the artwork and proposed sites follow.

Ms. Kramer would generously like to give the artwork to the city for the enjoyment of the public. Former PAAB member and current City Commissioner Tom McMacken and Parks Director John Holland met at the proposed site in 2009 when the discussion was initiated and agreed that the general site could support the sculpture on a concrete pad. On Friday, February 18, PAAB Chairman Joe Roviario and staff met with Mr. Ron Hightower, operator of the Scenic Boat Tour. Mr. Hightower was comfortable locating the sculpture in a landscaped area across the Boat Tour walkway just to the west of the first suggested site. He was assured that he had no obligation to maintain or insure the sculpture. Staff met with Ms. Kramer at the site to discuss the alternative. This alternative space between the masonry wall at the end of Morse Boulevard and the walkway to the Boat Tour also has her approval. Site photos are attached. Maintenance for the sculpture is hand washing with mild soap and water as needed.

Staff also met with the board of the Cloisters condominiums to provide information and answer questions on Monday, March 21. The board asked if the sculpture was on their property, and it isn't. It will be on the city right of way. They asked if the Cloisters were in anyway liable for the sculpture, however the sculpture would be included under the city's general insurance policy. The board had noise concerns and asked if maintenance would involve pressure washing. The sculpture would be cleaned similar to a car with a sponge and mild detergent. The board asked if the sculpture was connected to the enhancement of Morse Boulevard, and it is not. Since there were no concerns affecting the Cloisters, the board received the information and felt no need to take any action.

The PAAB is developing an Art on the Lakes guide of significant artwork visible from the Winter Park chain of lakes, and this sculpture would be a feature of this guide. An example of a lakeside art tour is the recent special Art Fest weekend trips organized by Terry Olson from Orange County Arts and Cultural Affairs when over 100 attendees filled six boats for a tour of the artworks visible from the lakes.

alternatives | other considerations

Ms. Kramer is requesting that the following conditions be included in the Deed of Gift:

- The sculpture would be displayed in the East Morse Boulevard easement for a minimum of ten years.
- If at the end of that period, the city wants to relocate the sculpture, Ms. Kramer would need to approve the new location.
- After 20 years, it would be the city's choice to determine a change of location if desired.
- The installation and base instructions would be provided by Ms. Kramer.
- The city will maintain the sculpture by washing it as needed.
- The city will contact Ms. Kramer or the artist before making any repairs should damage occur.
- Any publication or print materials will state that the sculpture was donated, "in honor of Sumner Kramer".

The PAAB has no objections to the requests.

fiscal impact

City staff could build the concrete pad and move and install the artwork with materials costs coming from the current public art budget. Estimated cost: \$700.00.

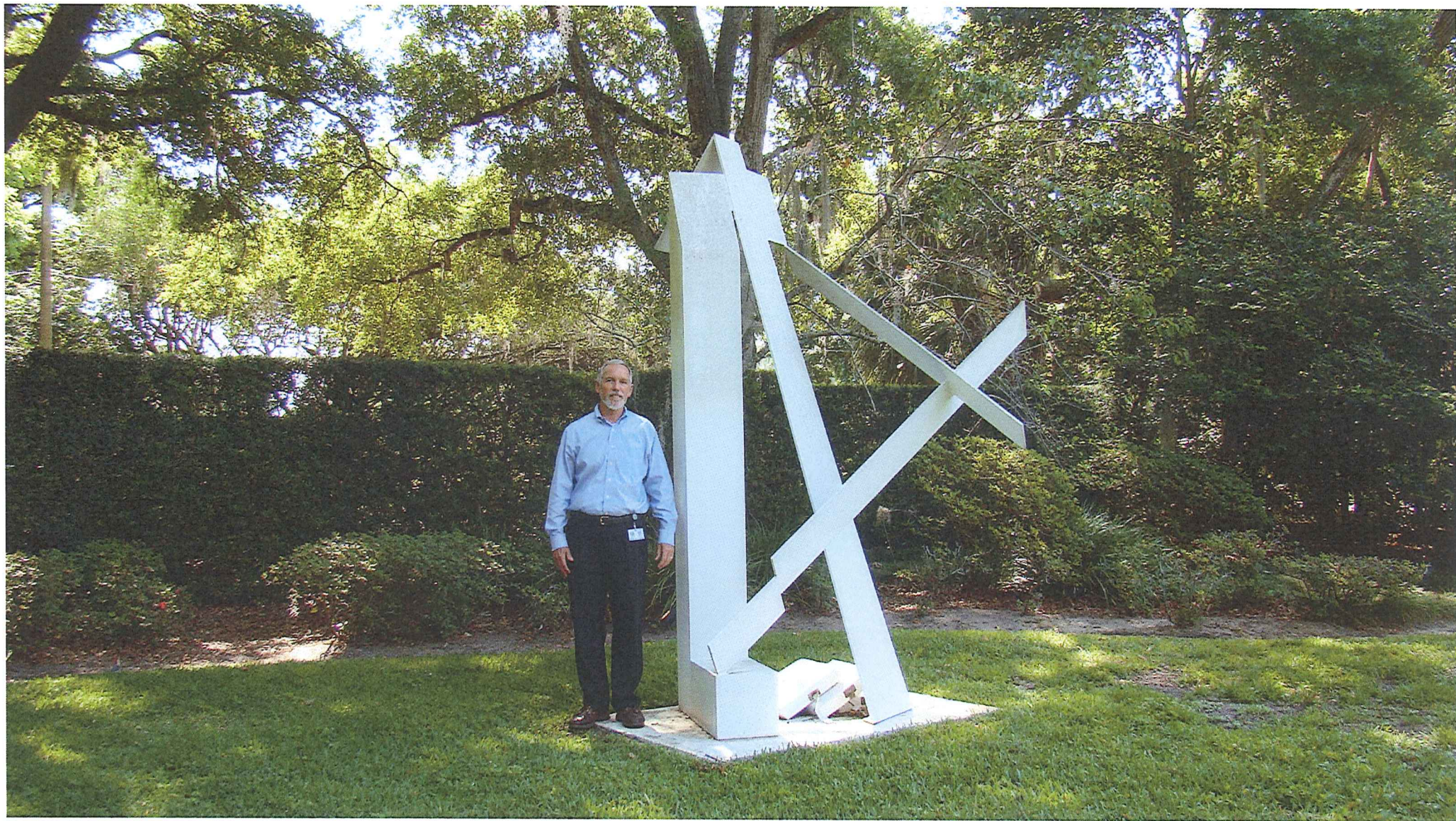
long-term impact

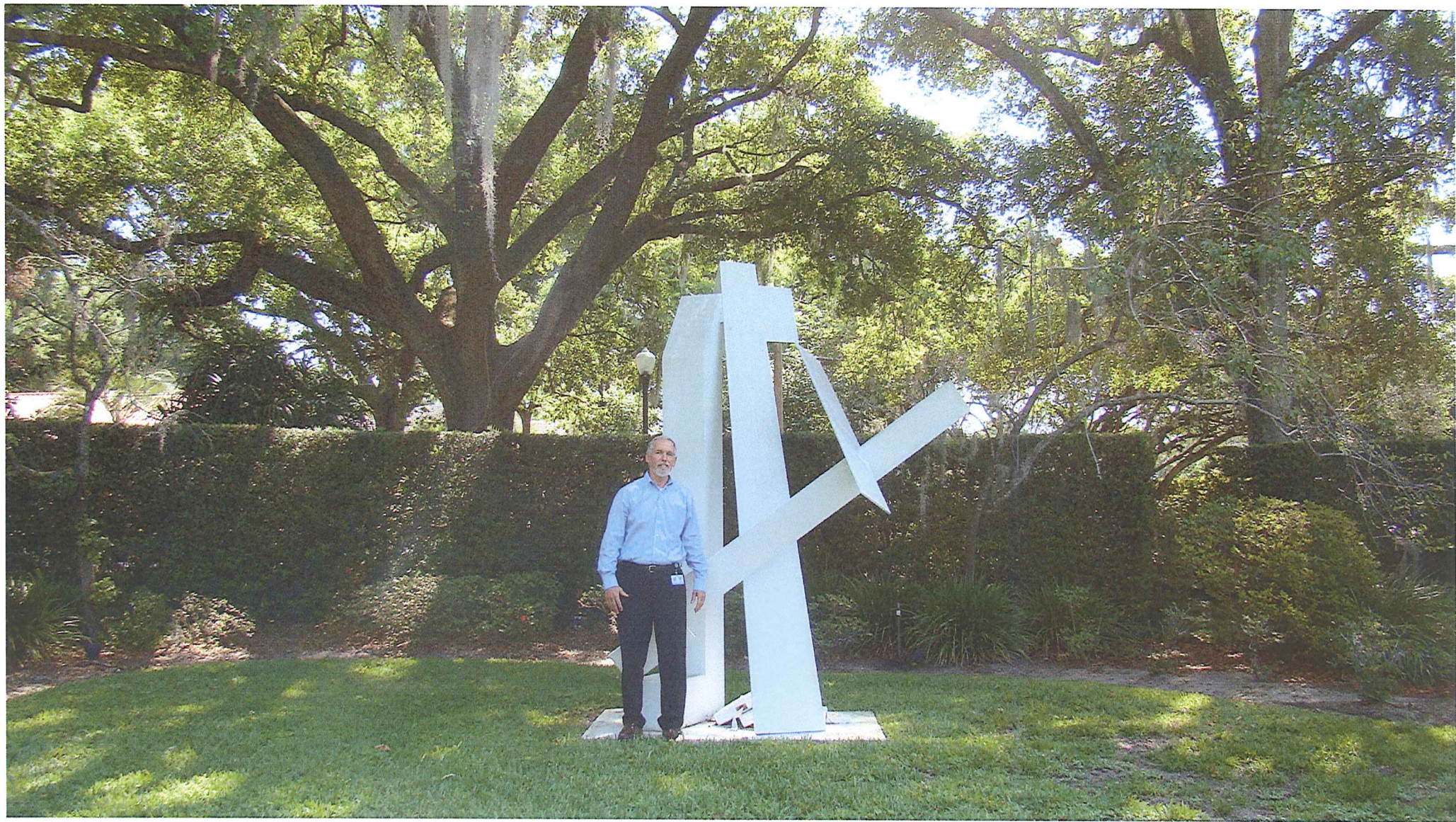
White "A" by Jane Manus will enhance the city's collection of public art and demonstrate the city's commitment to art and culture. The proposed location is by the Scenic Boat Tour, a popular destination providing excellent accessibility to the sculpture to visitors and residents alike.

strategic objective

Quality economic development.















Site 1



Site 2

PUBLIC COLLECTIONS:

The Lincoln Center/List Collection, New York, New York – “Box Trot” 2007

White Space, West Palm Beach, Florida – “Exit Row” 2006

Georgia Museum of Art, Athens, Georgia – “Red Vase” 1996, “Bill’s Table” 1995
“Rene’s Chair” 1995, “Matte Black II” 1994

The Columbus Museum, Columbus Georgia, “Rene” 1990

The Sagamore Collection, Miami Beach, Florida – “Ann” 1999, “Benchmark” 2007

Vero Beach Museum of Art, Vero Beach, Florida – “End of the Day” 1998

Museum of Art, Fort Lauderdale, Florida – “Red Light” 1985

City of Delray Beach, Florida, Art in Public Places Commission - Sculpture "Broken Open" 1988

American Bankers Insurance, Miami, Florida – “So Inclined” 1991 (Welded bronze)

Boca Raton Museum, Boca Raton, Florida – “Steps” 1987

Cornell Fine Arts Museum, Rollins College, Winter Park, Florida – “Girls Night Out” 1984

Mississippi Museum, Jackson, Mississippi – “Delta I” 1979

Flint Institute of Art, Flint, Michigan - “No Accent IV” 1996, “Three Piece Suit” 1999

Lowe Art Museum, University of Miami, Coral Gables, Florida - “Tete a Tete” 2000

The Butler Institute of American Art, Youngstown, Ohio

Art Gallery, University of Rochester, Rochester, New York

The Wichita Art Museum, Wichita, Kansas

John F. Kennedy University, Orinda, California

University of Wyoming Art Museum, Laramie, Wyoming

McDonald Stewart Art Center, Guelph, Ontario, Canada

Doctor's Hospital of Hyde Park, Hyde Park, Illinois – “R+B” 1995, “Red Line” 1991

Rollins College, Cornell Campus Center, Winter Park, Florida - “Red and Blue Wall Piece” 1996

Republic Security Bank, West Palm Beach, Florida – “WallStreet” 1997

David S. Brown & Co. Baltimore Maryland – “440” 2002, “Spider” 1995

Rollins College, Sun Trust Plaza Terrace, Winter Park, Florida – “Allure” 1999, “Just One Drink” 1999

Ringling School of Art and Design, Sarasota, Florida – “Hang Over” 2002

Byers Engineering Company, Atlanta, Georgia – “Untitled” 2004

Aspen Industrial, Farmington Hills Michigan – “Untitled” 2007

Snow Becker Krauss, New York, New York - “Almost Like Dancing” 2005

GRANTS AND AWARDS:

Mitzi Newhouse Juried Exhibition, First Prize, Sculpture competition, 1987

Bethlehem Steel Corporation, 1978

Delta Steel Company, Jackson, Mississippi, 1979

COMMITTEES:

Art in Public Places, City of West Palm Beach, 1999

Coordinator of Ann Norton Catalogue Raisonne', 1998

Juror, Martin County Arts Council Annual Juried Exhibition, March 27, 1998

Northwood Institute of Art Advisory Board, West Palm Beach, Florida, 1987 - 1992

Juror WXEL (PBS) Art Exhibition Preview, West Palm Beach, Florida, 1988

Chairman, Juried Art Show for Sunfest, West Palm Beach, Florida, 1986

BIBLIOGRAPHY:

Palm Beach Daily News, Palm Beach, Florida, Numerous Reviews

The Newspaper, Southampton, New York, August 1978

WAPT, ABC-TV, Jackson, Mississippi, September 27, 1979

WJTV, NBC-TV, Jackson, Mississippi, September 27, 1979

WLBT, CBS-TV, Jackson, Mississippi, September 27, 1979

Clarion Ledger, Jackson, Mississippi, September 28, 1979

Mississippi Museum of Art Calendar (cover) November, 1979

John F. Kennedy University Catalogue, 1980

Artsmagazine, New York, New York, February/March 1981

The Palm Beach Post, West Palm Beach, Florida, Numerous Reviews

The Sun Sentinel, Fort Lauderdale, Florida, Numerous Reviews

WPTV News, NBC-TV, West Palm Beach, Florida, September 21, 1984

Palm Beach Chronicle, Palm Beach, Florida, October 5, 1984

Palm Beach Chronicle, Palm Beach, Florida, March 29, 1985

WTVX News, CBS-TV, Fort Pierce, Florida, August 29, 1986

The Press-Journal, Vero Beach, Florida, September 1, 1986
 Florida Today, Indian River, Florida, September 1, 1986
 Palm Beach Polo Magazine, West Palm Beach, Florida, 1987 edition
 Florida Today, Indian River edition, Florida, March 30, 1987
 Palm Beach Council of the Arts Magazine, West Palm Beach, Florida, 1985-1986-1987-
 - 1988
 Miami Herald, Miami, Florida, January 31, 1987, April 5, 1996
 Boca Museum News, Boca Raton, Florida, January, 1989
 Palm Beach Life Magazine, Palm Beach, Florida, February 1989
 Gateway, Magazine of the Port of Palm Beach, Florida, May/June 1989
 Arts Magazine, New York, New York, January 1990
 Orlando Sentinel, Orlando, Florida, September 17, 1991
 Florida Design Magazine, Boca Raton, Florida, Volume 3, No. 1, 1993
 Idea's Magazine, Coral Gables, Florida, Volume 10, No. 3, 1993
 The Red Herring, Journal of Contemporary Arts & Issues, April 17 - 29, 1996
 Southern Living, April 1, 1996
 Museum Views, Athens, Georgia, Spring 1996
 The Athens Observer, Athens, Georgia, April 11, 1996
 The Atlanta Journal / The Atlanta Constitution, April 12, 13, 26, 1996
 The Athens Daily News and Athens Banner Herald, Athens, Georgia - August 25, 1996
 Treasures of the Cornell Fine Arts Museum, Winter Park, Florida, 1996
 Nazione, Florence, Italy, July 4, 1996
 Mattina Arte, Florence, Italy, June 21, 1996
 Polowest, Volume 4, Los Angeles, California, January and February, 1996
 Palm Beach Daily News, Palm Beach, Florida, May 17, 1997
 VI eme Biennale De Sculpture, Monte Carlo, 1997 Catalogue
 The Nice Martine Newspaper, Nice, France, August, 1997
 Palm Beach Illustrated Magazine, October, 1997
 The Pelican Press, Sarasota, Florida, December 11, 1997
 The Longboat Key Observer, Longboat Key, Florida, January 15, 1998
 The Longboat Key Observer, Longboat Key, Florida, February 19, 1998
 Art and Antiques, Annual Special Issue, New York, March, 1998
 Who's Who in American Art, R. R. Bowker & Co., 1991 - 1993 - 1995 - 1997 - 1999
 The Palm Beach Post, West Palm Beach, Florida, December 4, 1998
 Baltimore City Paper, "Two of a Kind" by Mike Giuliano, June 14 - 26, 2000
 Flint Institute of Arts, Volume 2K, July - August 2000
 The Daily Journal, New Smyrna Beach, Florida, October 21, 2000
 The Observer, "Jane Manus: Sculptures" by Sandy Carroll, October 7, 2000
 Sculpture Magazine "New Orleans Jane Manus, Heriard-Cimino Gallery" by Mark Price
 Vol. 19 No.9, November 2000
 Style (a magazine of the Herald-Tribune) Art Marks by Pat Ringling Buck, Sarasota,
 January 2001
 The News, "Artist Seating", by Brian Bixler, Stuart, Florida, January 10, 2001
 Simply The Best Magazine, "The Shape of Things" by Linda Marx, May 2001
 Florida International Magazine, "Where The Art Is", by Lotus Fragola, July / August
 2001
 New Times Broward - Palm Beach "Mistresses of Metal" by Michael Mills, November
 Palm Beach Daily News - "Forging Big Ideas" by Jan Sjostrom, December 4, 2002
 South Florida Times - Mutamentum on the Run, by Bruce Helander, Vol. Eight, 2003
 Street - cover (Miami Herald) Exposure by Dan Vidale, September 26 - October 2, 2003
 Florida International Magazine, "The Florida Contemporary" by Shawn Bean, October

2004

The Observer, Long Boat Key, Florida; "Heavy Metal, Medium Cool" by Marty Fugate
February 2005

e City of Style, "Geometric Collisions by Jane Manus", by Sylvia Smithson
October 19, 2005

New York Post, September 8 2005, Page Six, Richard Johnson

Baltimore City Paper, "Functional Sculpture" – Critic's Choice by Mike Giuliano
August 23, 2006

Palm Beach Life, "Raising the Bar for Tabletop Drama," Linda Marx, 2007

Florida Design's, Palm Beach Home & Décor, "Sculpture Trumps Space" Linda Marx,
Winter 2008

JANE MANUS

SOLO EXHIBITIONS:

- 2009: **Lincoln Center Collects**, featuring Jane Manus & Thomas Lollar,
Ann Norton Sculpture Garden, West Palm Beach, FL.
January 7 – February 15
Lincoln Center Collects, featuring Jane Manus & Thomas Lollar,
Karen Lynne Gallery, Boca Raton, FL.
March 5 – 30
- 2008: **"Synapse"**, Samuel P. Harn Museum of ART, Gainesville, FL.
October 10 – October 2010
- 2007: **Space**, WhiteSpace Gallery, West Palm Beach, FL
November 2007 – February 2008
Geometry, Larsen Gallery, Scottsdale, AZ
October 1 – November 30
Jane Manus, Galleria Ristori, Albenga, Italy
June 2 – July 31
- 2006: **Functional Sculpture**, Galerie Francoise et E.S.F., Baltimore, MD
August 27 – October 6
Extension 2006, Haskell Gallery, Jacksonville International Airport, FL.
July 22 – October 29
- 2005: **Extension**, 511 Gallery, New York, NY
September 8 – October 22
Modern Minimal, Modern Abstract, Wallace Fine Art, Longboat Key, FL.
January 21 – February 11
- 2004: **City Works**, Donna Tribby Fine Art, West Palm Beach, FL.
October 20 – November 15
- 2003: **Art Basel**, Official Closing Party (Featured Artist), Nikki Beach Club, Miami Beach, FL
December 3 – December 7
Jane Manus Sculpture, Art+ Gallery, Coral Gables, FL
September 18 – November 1
Jane Manus, The Cultural Exchange Gallery, Scottsdale, AZ
February 6 - March 6
Jane Manus New Work, Waddington & Tribby Fine Art, Boca Raton, FL
January 9 - February 10

- 2002: **Jane Manus "Framing" Spaces**, Ann Norton Sculpture Garden, West Palm Beach, FL
November 1 - December 10
Jane Manus, Heriard Cimino Gallery, New Orleans, LA
August 3 - September 3
Only Connect, Jane Manus, Andrea Pronto Arte Contemporanea, Crespano, Italy
February 2 - March 2
- 2001: **Jane Manus & Bruce Helander**, Sculptural Collaboration, Cima Gallery, West Palm Beach, FL.
December 21 - January 9, 2002
Jane Manus of Form and Color, Coral Springs Museum, Coral Springs, Florida
October 6 - December 30
15th Anniversary Celebration, Sculpture - Jane Manus, Corbino Galleries, Longboat Key, Florida
January 12 - January 26
- 2000: **Jane Manus**, Arts on Douglas, New Smyrna Beach, FL
October 7 - November 1
"Tete a Tete" Rotraut & Jane Manus, Galerie Francoise et E.S.F Lutherville, MD
June 3 - July 6
Jane Manus Sculpture, Heriard-Cimino Gallery, New Orleans, LA
April 1 - May 2
- 1999: **A Search for Serenity**, Corbino Gallery, Longboat Key, FL
February 28 - March 12
- 1998: **Summer Solstice Show**, Feature Sculptor, Galerie Francoise et E. S. F. Lutherville, MD
June 4 - October 1
- 1997: **Red, White, and Blue** - Sculpture Center at Esperante, West Palm Beach, FL
June 1 - October 10
Jane Manus "Sculpture" - Ken Elias Gallery, West Palm Beach, FL
January 15 - February 14
- 1996: **Art in Public Places Exhibition**, Comune di Bagno a Ripoli, Florence, Italy
June 14- July 4
Jane Manus Sculptor, Georgia Museum of Art, Athens, Georgia - one person indoor and outdoor show in cooperation with the opening of the new Museum and the 1996 Olympic Games
April 14 - August 25
Jane Manus Sculptor, Barbara Scott Gallery, Miami Beach, FL
March 9 - April 9
- 1994: **Jane Manus Sculptor**, Wahlstrom Sculpture Garden, Vero Beach Museum of Art, Vero Beach, Florida
March 26 - September 4

- 1992: **Peter Reginato & Jane Manus, "Two Visions of Abstract Constructive Sculpture",**
Museum of Art, Fl. Lauderdale, Fl.
September 14, 1991 - January 24
- 1991: **Jane Manus "73"** Cornell Fine Arts Museum, Rollins College, Winter Park, Florida
September 7 - November 21
- 1990: **Jane Manus,** Ann Norton Sculpture Garden, West Palm Beach, Florida,
November 21 - February 4, 1991
- 1989: **Jane Manus** Gallery Camino Real, Boca Raton, Florida,
April 7 - April 30
- 1987: **Jane Manus Sculptures** Ann Norton Sculpture Garden, West Palm Beach, Florida,
December 8 - January 24
- 1988: **Jane Manus** Palm Beach Community College, West Palm Beach, Florida,
January 7 - 29
- 1985: **Outdoor Sculpture** Ann Norton Sculpture Garden, West Palm Beach, Florida,
May 23 - June 30
- 1984: **Jane Manus** Center for Contemporary Art, West Palm Beach, Florida
September 21 - October 18
Jane Manus, Exposures Gallery, Dallas, Texas,
June 5 - July 2
- 1981: **Jane Manus** Olga Korper Gallery, Toronto, Canada,
March 22 - April 10
- 1978: **New Work - Jane Manus** Olga Korper Gallery, Toronto, Canada,
October 22 - November 10
- 1977: **Sculptures** Gallery Cassell, Palm Beach, Florida,
January 3 - February 6
- 1976: **Jane Manus** Gallery Cassel, Palm Beach, Florida,
March 2, 1976 - April 3

SELECTED GROUP EXHIBITIONS:

- 2008: Palm Beach 3, Stephen Rosenberg Fine Art, New York, NY
January 11 – 14
Focus, Larsen Gallery, Scottsdale, AZ
February 22 – March 30
Art / Love, Fay Gold Gallery, Atlanta, GA
July 16 – August 31
- 2007: Palm Beach 3, Fay Gold Gallery, Atlanta, GA
January 12 – 15
Focus, Larsen Gallery, Scottsdale, AZ
February 3 – March 15
Mid Century – Modern, Wallace Fine Art, Long Boat Key, FL
February 9 – March 3
Our Artists, Fay Gold Gallery, Atlanta, GA
July 11 – August 31
The Lincoln Center/List Collection, The Sagamore Hotel, Art Basel, Miami Beach, FL
December 6-9
- 2006: Palm Beach 3, 511 Gallery, New York, NY
January 13 -16
“From Private Walls”, Lighthouse Center for the Arts
Tequesta, FL Jan 18 – March 28
Larsen Gallery, Scottsdale, AZ
February 9 – March 31
Lincoln Center List Collection, The Sagamore Hotel, Art Basel, Miami Beach, FL
December 7-10
- 2005: Palm Beach 3, Fay Gold Gallery, Atlanta , GA
West palm Beach, FL.
January 13 – 17
Continuing Group Exhibition, Arts on Douglas, New Smyrna Beach, FL
January – May
Continuing Group Exhibition, Donna Tribby Fine Art, W. Palm Beach, FL
January – June
- 2004: Milano Flash Art Fair, Art+ Gallery, Milano, Italy
March 26 - 30
Exhibition of Art and Design, Art+ Gallery, Coral Gables, FL
March 20 – April 15
Peter Wallace Fine Arts, Long Boat Key, FL
February - April
Donna Tribby Fine Art Gallery, Opening Exhibition, West Palm Beach, FL
January – February

- 2003: Mutamentum - USA Grounds for Sculpture, Hamilton, NJ
 September 2 - October 8
 The Cultural Exchange Gallery, Scottsdale, AZ
 August 1 – August 31
 Mutamentum Armory Art Center, West Palm Beach, FL
 April 3 - May 3
 Continuing Group Exhibition, Arts on Douglas, New Smyrna Beach, FL
 January - May
 Art Palm Beach, Waddington & Tribby Fine Arts, West Palm Beach, FL
 January 10 - January 14
 San Francisco International Art Fair, San Francisco, CA
 January 16 - January 21
- 2002: Miniatures Exhibition 2002, Arts on Douglas, New Smyrna Beach, FL
 December 7 - 28
 “A Little Art” Waddington & Tribby Fine Art, Boca Raton, FL
 November 14 - December 9
 Coral Springs Museum of Art, Florida: December 13 - February 23
 Mutamentum - Italy
 Firenze, Via Larga: March 17 - April 26
 Impruneta, Chiostrì della Basilica di Santa Maria: May 11 – 19
 San Casciano, Centro storico e negozi: June 1 - 30
 Pontassive, La Barbaggianna: una casa per l’Arte Contemporanea: July 13 - August 10
 Mutamentum – Germany
 Fouled, Kunstakionen Museum: September 9 - October 30
 Frankfurt: November 1 – 30
 Continuing Group Exhibition, Arts on Douglas, New Smyrna Beach, FL
 January - May
- 2001: Miniatures Exhibitions 2001, Arts on Douglas, New Smyrna Beach, Florida
 December 1 - 27
 La via dell’arte, Arte Contemporanea al Museo “Manlio Trucco” Albisola, Italy
 October 27 - November 30
 Tete-a-Tete, Coral Springs Museum of Art, Coral Springs, Florida
 October 6 - December 30
 Jane Manus & Franco Scuderi, “Il colore che avvolge”, Arte Moderna Contemporanea
 Albenga, Italy
 July 7 - September 1
 Jane Manus & Franco Scuderi, “Il colore che avvolge”, La Corte Arte Contemporanea
 Florence, Italy
 May 31 - June 21
 Seating: The Artist’s Perspective, The Elliot Museum, Stuart, Florida
 January 13 - February 27
- 2000: “Monochromatic” Arts on Douglas, New Smyrna Beach, Florida
 July 1 - August 1
 Sculpture Garden, Corbino Gallery, Long Boat Key, Florida
 February - May

- 1999: "Summer Arts" Arts on Douglas, New Smyrna Beach, Florida;
May 4 - August 31
"Percorsi dell' Anima, Ken Elias Gallery, West Palm Beach, Florida,
February 16 - March 12
"Ceramics in Tuscany" Historic and Modern Exhibition of Ceramic, traveling exhibition
Of artists, designers and architects under the auspices of the Municipality of Sesto
Fiorentino and Regione
Toscana in Italy, German and USA.
- 1998: "Imposing Objects", Armory Art Center, West Palm Beach, Florida,
December 4 - January 2
"Percorsi dell' Anima", Greve, Italy; Hirschberg, Germany;
September - November
Gallery Artists - Corbino Gallery, Longboat Key, Florida,
February 19 - March 5
"Jane Manus and Jean Claude Rigaud", Longboat Key Art Center, Longboat Key,
Florida
January 9 - April 21
Donald Cram, Nobel Prize - Fred Rogers Tennis Shoes (Mr. Roger's Neighborhood)
Jane Manus
Sculpture, Untitled,
On loan to Rollins College, Orlando International Airport
- 1997: "Artisti in Viaggio 1997", Ann Norton Sculpture Garden, West Palm Beach, Florida,
November 22 - December 13
"Florida - Wyoming Tarot Project", Multiple Venues in Florida and Wyoming
Sculpture - Jane Manus and James Rosburg, The Schmidt Center Gallery - Florida
Atlantic University, Boca Raton, Florida,
October 9 - November 8
"Contemporary Visions" - Philharmonic Center for the Arts, Naples, Florida,
October 6 - November 15
VI Biennale de Sculpture de Monte - Carlo, Monte-Carlo, Monaco,
May 24 - October 31
- 1996: "Bright Lights" Barbara Scott Gallery, Miami Beach, Florida,
October 12 - November 8
"Summer Spectacular, Part One" Barbara Scott Gallery, Miami Beach, Florida,
July 13 - August 15
Provincial Government Exhibition, Via Larga, Florence, Italy,
June 13 - July 29
The Abstract Image: Painting, sculpture, graphics from the collection of the Vero Beach
Museum of Art, Vero Beach, Florida,
May 24 - September 21
Configuration: "Works in Relief" Lipworth International Fine Arts, Boca Raton, Florida,
May 2 - May 28
Materials: Steel, Wood, Glass, Bricks, Palm Beach Community College, Museum of
Art, Lake Worth, Florida,
March 9 - April 21
Art Miami, Barbara Scott Gallery, Miami Beach, Florida,
January 4 - January 9

- 1995: "A Group for the Summer" Joel Kessler Fine Arts, Miami Beach, Florida,
June 10 - September 6
Art Miami, Margaret Lipworth Gallery, Miami Beach, Florida,
January 6 - January 10
"From Start to Finish" The Armory Art Center, West Palm Beach, Florida
January 6 - January 28
- 1993: "Local Large Scale Works" Palm Beach Community College, Museum of Art, Lake
Worth, Florida,
June 5 - July 3
"Margulies Taplin Gallery Group Show: Margulies Taplin Gallery, Boca Raton, Florida,
May - June
- 1992: "Dorothy Gillespie and Jane Manus" on the sculpture terrace, Museum of Art, Fort
Lauderdale, Florida,
September 10 - November 30
"A Celebration of American Art" Cornell Museum, Rollins College,
Winter Park, Florida,
June 5 - September 13
"Art on Brickell" Downtown Development Authority & Brickell Avenue Associates,
Brickell Avenue, Miami, Florida,
May - October
"Annual South Florida Artists' Invitational" Margulies Taplin Gallery, Gallery Center,
Boca Raton, Florida,
July 3 - September 9
"Artists of South Florida" Margulies Taplin Gallery, Miami, Florida,
June 26 - August 15
"Group Show Gallery Artists" Margulies Taplin Gallery, Miami, Florida,
May 12 - June 24
- 1991: "Outdoor Sculpture" Greene Gallery, Kane Concourse, Bay Harbor Island, Florida,
June 21 - August 20
- 1990: "Greene Gallery Exhibition" Greene Gallery, Kane Concourse, Bay Harbor Island,
Florida
July 6 - August 4
"The Start of Something Big" Eastbourne Clark Gallery, West Palm Beach, Florida,
May 10 - June 23
- 1989: "Introductions and Previews" Kornbluth Gallery, Fairlawn, New Jersey,
August 26 - September 16
"Greene Gallery Selects" Greene Gallery, Coral Gables, Florida, "A World of Art in a
World Apart",
June 20 - July 29
Professional Artists' Committee, Palm Beach Council of the Arts, Martinique II, Singer
Island, Florida,
February 3 - February 12
- 1988: "Artists at Home" Palm Beach County Council of the Arts, Habitat Center,
West Palm Beach, Florida,
December 9 - December 24

- "Hortt Show" Museum of Art, Fort Lauderdale, Florida, (Juried by William Lieberman, Metropolitan Museum of Art, New York, New York),
September 17 - November 13
"37" Annual All Florida Juried Exhibition, Boca Raton Museum of Art, Boca Raton, (Juried by Lisa Phillips, Whitney Museum of Art, New York, New York),
August 12 - September 11
"Selected Florida Artists" Center for the Arts, Vero Beach, Florida,
July 2 - August 28
"The Artist as a Business Person" Northwood Institute, West Palm Beach, Florida,
March 15 - April 8
"Geometric Abstractions" Greene Gallery, Coral Gables, Florida,
January 8 - January 22
- 1987: Mitzi Newhouse Juried exhibition, Flagler Museum, Palm Beach, Florida,
March
"South Florida Sculptors 75th Diamond Jubilee" West Palm Beach, Florida,
January 22 - February 1
- 1986: Vero Beach Museum of Art, Opening Exhibition, Vero Beach, Florida,
October 1986 - May 1987
"Florida: Direction I": Helander Gallery, Palm Beach, Florida,
October 29 - November 16
"Highlights of the Seasons" Helander Gallery, Palm Beach, Florida,
April
"Art in Public Places" Sculpture Park, West Palm Beach, Florida
- 1985: "New York - New York" Helander Gallery, Palm Beach, Florida
"Hyattfest" West Palm Beach, Florida,
November 1-3
"Junior League Designer Show House" Miami, Florida,
March 9 - April 6
"Opus House XI", Boca West, Boca Raton, Florida,
February 25 - March 21
"Hearts by Artists" Helander Gallery, Palm Beach, Florida,
February 4 - February 14
"Art in Public Places" Government Center, West Palm Beach, Florida,
February 1 - October 3
- 1984: "New Emerging Artists" Helander Gallery, Palm Beach Florida, October– November
- 1978: "Group Show" Tower Gallery, Southampton, New York, June - September
- 1976: "Group Show" Womanart Gallery, New York, New York, December – February



city commission agenda item

| | | | |
|---------------------------------------|---|--------------|--|
| item type | Action Item Requiring Discussion | meeting date | April 25, 2011 |
| prepared by department division | Randy Knight City Manager n/a | approved by | <input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A |
| board approval | <input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A | | final vote |

Subject – Administrative Policies

motion | recommendation

Adopt the attached Administrative Policies.

background

The 2010 Strategic Plan called for the review of the City's budget policy. The attached Administrative Policies include a Budget Policy.

Staff reviewed various GFOA Best Practice policies and reviewed several policies adopted by other cities and compiled what it felt were the best fit for Winter Park. Most of the policies are not new and many that were not in writing in the past have been the practice of the City anyway.

The significant new or changed policies included are as follows:

I (8) – Establishes a policy that the City will fund the higher of the minimum required contribution or the annual pension cost of the police and fire defined benefit retirement plans each year.

I (9) – Established a policy of budgeting an operating contingency of no less than ½ of 1% of the budgeted General Fund expenditures.

I (11) – Modifies the City Manager budgetary level of control. Currently, any budget transfer between departments requires Commission approval. Under this proposed policy, the City Manager would be able move budgeted amounts between departments within the same fund. For example, if a situation arises that cause the Parks overtime budget to be exceeded the City Manager can budget transfer funds from another line item in another department (such as Public Works) to offset the overage and prevent an overall budget shortfall. This would currently require Commission approval. Note, if this policy is accepted, it would also need to be reflected in the budget ordinance that is adopted in September.

Sections II – IV. All of this is either covered by a separate adopted policy or has been past practice.

V (3) – Sets forth policy for what happens once the City reaches its Reserves goal of 30% of recurring expenditures.

V (5) – Establishes a policy for enterprise fund working capital levels.

Sections VI – IX. These sections formalize what has been past practice.

Section X. This section formalizes into a policy a motion that was adopted by the Commission at its meeting on August 9, 2010.

alternatives | other considerations

The City could continue with the policies and practices currently in place.

fiscal impact

A dollar impact cannot be determined but all of these policies are intended to create financial stability, sustainability and efficiency.

strategic objective

Quality government services and financial security. Specifically, this addresses the strategic initiative “Evaluate financial policies”.

City of Winter Park Administrative Policies

The City of Winter Park Administrative Policies provide the basic framework for the overall fiscal management and efficient operations of the City. The policies consist of: operating budget, revenue, cash management and investments, debt, reserves, capital improvement program, accounting and fiscal reporting, organizational, financial stability and scheduling of meetings. These policies are used in the development of current activities and planning for future programs and projects.

I. Operating Budget Policies

1. The City Manager will submit a proposed balanced budget to the City Commission before the first regular Commission Meeting in July. Each fund's revenues plus other sources must equal expenditures/expenses plus other uses.
2. The budget will support City Commission goals, objectives and policies in meeting the needs of the community.
3. The budget will support a scheduled level of maintenance and replacement of its infrastructure and fleet.
4. The City will comply with mandatory Federal, State and local laws and when appropriate will comply with industry and professional requirements or standards.
5. The operating impacts of the Capital Improvements Program (CIP) projects will be reviewed prior to any project being included in the annual budget.
6. The City will avoid budgetary procedures that balance the current budget at the expense of future years, such as postponing expenditures, underestimating expenditures, overestimating revenues, or utilizing short-term borrowing to balance the budget.
7. Utility enterprise funds will be self-supporting for operating and capital expenses and receive no General Fund tax support unless a specific exception is approved by the City Commission.
8. The budget will provide the full required funding for the Police and Fire defined benefit retirement plans as determined by the actuary. In any year in which the minimum required contribution is less than the annual pension costs of the plan, the budget will fund the higher amount and the

differential will be set aside and designated for future unfunded liabilities or to smooth future increases in required contributions.

9. Budget an annual general contingency amount for unanticipated expenses or revenue shortfalls equal to no less than ½ of 1% of budgeted expenditures. Any unspent contingency at the end of the year would be closed into reserves.
10. The City will maintain accounting and budgetary control systems to adequately safeguard the assets held in public trust and ensure compliance with the adopted budget.
11. Budget adjustments: The City Manager's level of budgetary control will be at the fund expenditure level. This means the City Manager can authorize budget adjustments between expenditure line items within an individual fund. Any budget adjustment crossing funds, increasing the total budget at the fund level or affecting a capital project requires City Commission approval.

II. Revenue Policies

1. The City will attempt to maintain a diversified and stable revenue system to avoid reliance on any one revenue source and will attempt to minimize the dependence on property taxes.
2. The City will pursue alternative revenue sources, such as grants and other state and federal funds, as an additional source of funds.
3. The City will establish user fees where appropriate to recover partial or full cost of providing a service.
4. The City will review fees/charges semi-annually to ensure they are fair and equitable to all users.
5. The City will consider market rates and charges levied by other public and private organizations for similar services in establishing fees.
6. The percentage of operating transfers to the General Fund from the utility funds will be established by ordinance.
7. Maintain aggressive policies on revenue collections.
8. One-time revenue sources such as proceeds from the sale of an asset or insurance settlements will not be used to fund on-going operating costs.
9. When more than one funding source is available for a project, the most restrictive source (e.g., impact fees and grants) will be applied first to the extent possible.

III. Cash Management and Investment Policies

1. The City will follow its adopted investment policy when handling public funds. The investment policy is contained in a separate document.
2. In general, the investment philosophy is safety, liquidity and return in that order of priority.
3. The City will consolidate cash balances from all funds for investment purposes and allocate investment earnings according to generally accepted accounting principles.
4. The City will collect revenues aggressively, including past due bills of any type and may utilize an outside collection agency when deemed appropriate.
5. The City will deposit all funds within twenty-four hours of receipt.
6. The City will pay all bills within thirty days of verifying obligation.

IV. Debt Policies

1. The City will follow its adopted debt policy when managing or issuing debt. The debt policy is contained in a separate document.
2. Obtain voter approval for the issuance of General Obligation Bonds, Revenue Bonds to finance enterprises or projects which involve the purchase, lease and or acquisition of real property (excluding park land), and revenue bonds which pledge specific non ad valorem taxes and which have a principal value in excess of the amount specified in the Charter.
3. The City will seek to maintain or improve its current bond ratings to minimize borrowing costs.
4. The City will review and evaluate its existing debt obligations at least annually to ascertain potential savings opportunities.
5. The City will not issue long-term debt to finance current operations.
6. The City will adhere to the bond covenant requirements of each debt issuance.
7. Capital projects financed by the issuance of bonded debt will be financed for a period not to exceed the expected useful life of the project.
8. The City will strive to maintain a high reliance on pay-as-you-go financing for its capital projects.

9. The City will maintain its net general obligation bonded debt at a level not to exceed two percent of the assessed valuation of taxable property with the City.

V. Reserves Policies

1. The City will work towards an undesignated reserve balance in the General Fund equaling thirty percent of the annual General Fund expenditures and transfers out for recurring operating costs reported in other funds.
2. The portion of the thirty percent undesignated reserve balance described in (1) above may be used at the discretion of the City Commission for emergency and non-emergency uses:
 - a. Emergency uses would include but not be limited to hurricanes, tornadoes, and other natural disasters, train wrecks, plane crashes, epidemics, etc. An emergency appropriation shall require a simple majority vote of the Commission. If an emergency prevents the Commission from convening, the City Manager and the Mayor can authorize the emergency use. In the Mayor's absence, the Vice-Mayor can stand in and if the Vice-Mayor is also unavailable, any Commissioner can stand in.
 - b. Non-emergency uses would include but not be limited to capital projects, purchase of capital items, contracted services, etc. A non-emergency appropriation shall require a simple majority of the Commission provided the amount does not exceed ten percent of the current undesignated reserve. If the appropriation exceeds ten percent of the current undesignated reserve it shall require approval of four of the five Commissioners.
3. Once the undesignated reserve balance in the General Fund exceeds thirty percent of the annual General Fund expenditures and transfers out for recurring operating costs reported in other funds, the amount in excess of thirty percent may be used at the discretion of the Commission to fund any nonrecurring costs such as a capital project contained in the five-year CIP, to pay down a debt balance or to fund a consulting study or survey.
4. Ten percent of any annual increase in General Fund balance as reported in the audited Comprehensive Annual Financial Report will be designated for the acquisition of land for parks.

5. For the utility enterprise funds, the City will maintain working capital (current assets less current liabilities) equal to a minimum of 45 days operating expenses excluding amortization. Note: The Electric Utility currently has a negative working capital and based upon current projections it will take approximately six years (FY 2017) to reach this target.
6. The City will maintain all debt service reserve amounts as required by bond covenants.

VI. Capital Improvements Program (CIP) Policies

1. The City will develop and update a five-year CIP on an annual basis.
2. The five-year CIP will include identified funding sources for each item.
3. All projects in the Comprehensive Improvement Element (CIE) of the City's Comprehensive Plan will be included in the CIP.
4. In development of the CIP, the City will review the operational impact of each project.

VII. Accounting and Fiscal Reporting Policies

1. An independent audit will be performed annually.
2. The City will produce a comprehensive annual financial report in accordance with Generally Accepted Accounting Principles (GAAP) as promulgated by the Governmental Accounting Standards Board within 180 days of year end.
3. The City will maintain an accounting and financial reporting system that conforms to GAAP and State laws.
4. The City will have a purchasing policy adopted by the City Commission to govern all purchases by City employees.

VIII. Organizational Policies

1. The City Manager will review the organizational structure regularly to assure that residents receive the highest level of service in the most efficient manner.

2. The City will be committed to maintaining and improving the productivity of staff through a productive working environment, appropriate equipment, necessary training and adequate supplies and materials.
3. Employee compensation will be reviewed regularly to ensure the City is competitive with benchmark entities.
4. The City Manager shall maintain appropriate performance measurements to evaluate departmental effectiveness. Such data should be available to the City Commission and the public upon request.
5. Department heads take their direction from the City Manager or the City Commission as a whole. If a department head believes that he/she is being directed to perform a task by an individual elected official or a citizen board member, then he/she should either request that that individual make the request through the City Manager or he/she should contact the City Manager for direction on the issue. If the City Manager has a question as to whether the Commission as a whole would want the task performed he/she should bring the matter to the Commission at the next available Commission meeting for direction.

IX. Financial Stability Policies

1. The City will maintain a report of the prior 10 years of revenues and expenses for the purpose of analyzing trends and for projecting future results.
2. The City will update its 10-year pro forma of projected future revenues and expenses on an annual basis as part of the budget process in order to assess the long-term financial implications of current and proposed operating and capital budgets, budget policies, cash management and investment policies, programs and assumptions.
3. The City will hold a strategic planning session at least bi-annually to review long-range goals of the City.
4. The City will prepare and update its five-year CIP annually.
5. The City will continuously monitor revenues and expenditure to ensure responsible fiscal management of the City.
6. At least quarterly, staff will report on the City's financial condition to the City Commission.

X. Scheduling of Meetings Policies

1. Any member of the City Commission may request a Commission work session or special meeting. In order to provide for the most open public notice as possible and to provide all members of the Commission an equal opportunity to participate and to increase efficiency of scheduling, all such work sessions or special meetings should be requested and if possible scheduled in a regularly scheduled public City Commission meeting.
2. The exception to the above is if an unforeseen, time-sensitive matter arises in which waiting for the next regularly scheduled Commission meeting could result in an adverse impact of some kind then the meeting can be called outside of a regularly scheduled Commission meeting.
3. See Section 2.08 of the City Charter for the notice provisions of special called meetings.

Current Policy

Major Policies

The following are the City's major policies for FY 2010-2011 and the future. Budgetary and operating policies form the foundation for effective management of the City's financial resources.

Revenues

Maintain a stable and diversified revenue base to offset possible shortfalls caused by short-term fluctuations.

Develop, investigate and implement new and expanded revenue sources.

Maintain aggressive policies on revenue collections.

Estimate revenues at realistic levels.

Analyze trends and regional data to accurately estimate revenues.

Regularly review and analyze fee structures to ensure cost-of-service coverage.

Utilize ten year projections to better evaluate long-term trends and weaknesses.

Apply property taxes as revenue of last choice.

Investments

Maximize investment earnings through prompt processing of monies received.

Achieve a reasonable rate of return while minimizing risk potential.

Review and manage investment instruments and practices to assure maximum cash flow.

Consolidate cash balances from all funds for investment purposes; allocate investment earnings according to generally accepted accounting principles.

Adhere to the written investment policy requiring the use of approved institutions, approved securities and delivery-versus-payment settlement terms and use highest rate source as approved by policy.

Maintain a quarterly investment reporting system to provide accurate performance information.

Debt Management

Limit the debt level so as not to adversely affect the City's credit rating.

Projects financed with long-term debt will have a minimum life of 20 years.

Human Resources:

Maintain internal consistency with established job classification guidelines.

Monitor implementation of the performance appraisal system and merit pay plan.

Community Involvement:

Encourage community interest in the budgetary process.

Foster resident involvement through appointments to Advisory Boards, City committees and media communications.

Identify methods to increase community relation's efforts for integration into City operations.

FINANCIAL SERVICES

Manage public funds, revenue collections and all municipal transactions to meet fiscal obligations and protect City resources.

Maintain a budgetary control system to assure compliance with existing ordinances and resolutions.

Furnish monthly reports comparing actual receipts and expenditures to budgeted amounts.

An independent audit will be performed annually.

Produce annual financial reports in accordance with principals set by the Government Accounting Standards Board and the Financial Accounting Standards Boards.

Explore methods to reduce expense while maintaining service levels.

Review alternative fund sources and implement where appropriate.

PLANNING AND COMMUNITY DEVELOPMENT

Strengthen the general economic base of the City.

Foster desirable utilization of land by preserving high quality housing, ensuring safe construction and upkeep of existing structures.

Conserve and preserve natural resources.

Protect the character of residential neighborhoods through traffic management, zoning and maintenance standards.

Encourage investment in neighborhoods and eliminate unsightly or unsanitary conditions.

Develop comprehensive planning and policy documents to guide management decisions.

Determine the future needs of the community through economic, social and political assessments.

Encourage partnerships with profit and non-profit organizations and private individuals to promote the above policies.

PUBLIC WORKS

Administration/Engineering:

Oversee design and construction of all capital projects.

Represent the City during design and construction of projects initiated by Orange County and the Florida Department of Transportation.

Provide technical support to other city departments as needed.

Capital Maintenance:

Maintain physical assets at a level adequate to protect the City's capital investment and to minimize future maintenance and replacement costs.

Provide adequate maintenance and orderly replacement of capital plant, equipment and roadways from current revenues where possible.

Maintain and improve the reliability of the electric distribution system.

Environmental Protection:

Produce safe, potable water for users of water system.

Maintain the wastewater system to meet the needs and growth of the community.

Monitor refuse collection, disposal and recycling programs to assure the sanitation needs of the community are being met.

Monitor and provide stormwater management to enhance the quality of the lakes.

Maintain a preventative maintenance program for water, wastewater and stormwater systems.

Investigate feasibility of expanded use of reclaimed water.

PUBLIC SAFETY

Law Enforcement:

Provide professional law enforcement services through effective hiring and training practices.

Maintain the integrity of Police Department personnel and practices through adherence to standard operating policies and procedures.

Encourage neighborhood and business involvement through Crime Watch Programs.

Provide and maintain an effective School Resource Program.

Fire Rescue:

Improve quality of life and safety through the delivery of proactive educational programs to the community.

Increase safety to life, property and the environment through the application of prevention programs, fire safety inspections, plans review and code enforcement.

Reduce pain and suffering and improve our quality of life by providing state of the art emergency medical services.

Reduce loss of life, property damage and environmental pollution through the rapid suppression of fire.

Protect life and the environment by providing rapid response and containment of hazardous materials leaks, spills and/or releases.

Protect life and property from windstorms and other environmental emergencies through rapid deployment of forces for search, rescue and hazard control as specified in our Emergency Management Plan.

PARKS AND RECREATION

Provide modern facilities for cultural and recreation activities.

Offer leisure programs and activities for all age groups.

Enhance culture and recreational opportunities for the City's youth and seniors.

Provide maintenance of parks, landscaping and forestry throughout the City.

CAPITAL PROJECTS

The City will maintain a five-year plan for capital improvements, updated annually to cover development, modernization and/or replacement of city facilities.

Capital projects detailed in the City's Comprehensive Plan will be given priority ranking.

Capital projects shall be brought into line with community objectives, anticipated growth, and the City's ability to pay.

The Capital Improvement Plan shall promote coordination among government agencies and provide a check for potential overlapping, duplicating, or conflicting projects.

Randy Knight

From: Cindy Bonham
Sent: Tuesday, March 22, 2011 10:25 AM
To: Randy Knight
Subject: Minutes regarding scheduling work sessions

This is from August 9, 2010

3. City Commissioners requirements within the City Charter on directing City staff or resources

Mayor Bradley mentioned that as discussed in the strategic planning meeting, one of the weaknesses of this Commission is micro-managing. He noted that they tried to create work sessions, noting there were four in the last two weeks and one of the goals to having work sessions was to try to streamline the Commission meetings with fewer hours and in his assessment it is not working. He felt they are having more meetings and longer meetings and one of the concerns is utilizing staff time for those meetings. He asked if there is any way that they can streamline and hold to the meetings that have originally been scheduled and try to schedule the items into that. He noted two upcoming meetings, August 16, 2010 which is dedicated to the budget and the City Commission meeting on August 23, 2010. An overall lengthy discussion resulted with each of the Commissioners providing their input with the pros and cons of having these bi-weekly work session meetings or discussions, the need or no need for staff's attendance, the scheduling of these meetings and if there is a need to continue them.

City Manager requested that extra work session meetings be called in a public meeting so that there is enough advance notice to allow staff the adequate time to prepare, coordinate, schedule and post the information to the public. The Commission stated that this is a fair request as the next step and there was an overall consensus to do so.



city commission agenda item

| | | | |
|---------------------------------------|----------------------------------|--|--|
| item type | Action Item Requiring Discussion | meeting date | April 25, 2011 |
| prepared by department division | Purchasing Division | approved by | <input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A |
| board approval | Ethics Board | <input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A | 3-0 final vote |

subject

Approval of the Purchasing Policies & Procedures Manual

motion | recommendation

Commission approve the Purchasing Policies & Procedures Manual

background

Ordinance 2335 adopted in 1999 states, "All purchases shall conform to such regulations as the City Commission may from time to time prescribe." This Ordinance allows for modification to the policy by approval of the Commission. The policy was last modified in 2002. The attached recommended document serves as a comprehensive review and update to the Purchasing Policy and Procedure Manual.

The Purchasing Policies & Procedures Manual was drafted utilizing the current policy as well as best practices from a total of eleven (11) purchasing policies from governmental agencies throughout Florida including City of Daytona Beach, City of Jacksonville, City of Lakeland, City of Palm Bay*, City of Titusville, Orange County*, Osceola County*, Polk County*, Seminole County*, St. Johns County and Toho Water Authority.

*indicates recipient of the Achievement of Excellence in Procurement from the National Purchasing Institute.

In February 2009, the Purchasing Manager conducted a survey of purchasing thresholds with thirteen (13) municipalities within Central Florida. In February 2011, the survey was issued again to obtain current information on purchasing thresholds.

The Purchasing Policies & Procedures Manual has gone through numerous levels of review, including City Management, Department Heads, the City Attorney and the Ethics Board.

alternatives | other considerations

fiscal impact

strategic objective

Quality government services & financial security

ORDINANCE NO. 2335

AN ORDINANCE OF THE CITY OF WINTER PARK,
FLORIDA RELATING TO PURCHASES; AMENDING
SECTION 2-188 TO PROVIDE THAT PURCHASES SHALL
CONFORM TO CITY REGULATIONS; PROVIDING AN
EFFECTIVE DATE.

BE IT ENACTED by the people of the City of Winter Park,
Florida as follows:

Section 1. Section 2-188 of the Code of Ordinances is hereby
amended to read as follows:

Sec. 2-188. Purchases.

All purchases shall conform to such regulations as
the city commission may from time to time prescribe.

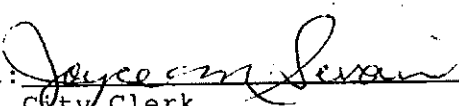
Section 2. All ordinances or parts of ordinances in conflict
herewith be and the same are hereby repealed.

Section 3. If any section, subsection, sentence, clause,
phrase of this ordinance, or the particular application thereof
shall be held invalid by any court, administrative agency, or other
body with appropriate jurisdiction, the remaining section,
subsection, sentences, clauses or phrases under application shall
not be affected thereby.

Section 4. This ordinance shall take effect immediately upon
its passage and adoption.

Adopted at a regular meeting of the City Commission of the
City of Winter Park, Florida, held at City Hall, Winter Park,
Florida on the 23rd day of November, 1999.


Mayor

Attest: 
City Clerk



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

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April 15, 2011

Carrie Woodell, Purchasing Director
City of Winter Park
401 Park Avenue South
Winter Park, FL 32789

***via email: cwoodell@cityofwinterpark.org
& regular U.S. Mail***

Re: Suggested Revisions to Purchasing Policy and Procedures Manual

Dear Carrie:

I suggest the following additions or modifications to the proposed Purchasing Manual. I think you have done an excellent job with this Manual, and invite your response to my suggestions.

1. Section 2, General Guidelines. Add the following provisions:
 - a. Add a statement at the end of the introductory sentence as follows:

"This Purchasing Manual shall have the force and effect of municipal local law as if fully stated in the City's Code upon approval and adoption by the Winter Park City Commission. Additionally, the terms and provisions of this Purchasing Manual shall be deemed by operation of law to be a part of the terms and conditions of each procurement, purchase order and contract involving the City of Winter Park as a party, except to the extent that an authorized official has expressly provided for a written exception to one or more of the requirements provided for in this Purchasing Manual with respect to a particular procurement, purchase order or contract."
 - b. No manipulation or separation of items to be purchased separately in order to avoid a competitive procurement threshold. If, in the ordinary

course of business or in a commercially reasonable manner items would be purchased together, there will be no separation of those items into separate purchases so as to avoid a competitive procurement requirement by reducing the total price to be paid. By way of illustration only and as examples not intended to be exclusive of all examples of improper separation of one purchase into multiple purchases, the following examples are offered:

- i. A department anticipates purchasing 1,000 units of an item during the fiscal year. 1,000 units will exceed the Category Four threshold of \$50,000.00. It would be improper to avoid competitive procurement under Category Four by dividing the 1,000 units by 12 and procuring the requirements for the units on a monthly basis. Similarly, it would be improper to purchase each unit separately in an effort to reduce the expenditure to a Category One purchase. It is the responsibility of the user department to report the complete quantity of product that will be required for use in the department for the fiscal year or, in the event the item will be warehoused or inventoried, the user department shall identify the quantity required for inventory. Disaggregation or reduction of the anticipated quantity for the purpose of avoiding a competitive procurement threshold or category is improper. Notwithstanding, for unique circumstances presented, the Director of Purchasing may, by written memorandum to the City Manager, justify in the interest of the City a reduction in the quantities proposed for purchase by the user department.
- ii. It is generally improper to unbundle a purchase of an item or group of items that should, in a commercially reasonable approach, be purchased together to accomplish a specific objective. It is always improper to unbundle the purchase of an item or to take any other action where the primary motivating factor is to reduce the dollar value of the purchase so as to avoid a higher category level of competitive procurement. For example, if a department user requests the purchase of a specialty vehicle, it would generally be improper to purchase integral components that are typically a fixture to the vehicle such as ladders, rigging, hoses, generators and other machines and equipment that are typically appurtenant to or a part of the specialty vehicle when purchased. Notwithstanding, if the Purchasing Director can justify to the City Manager in a written memorandum that the separate purchase of equipment will result in a benefit to the City or a cost savings if such items are purchased from another vendor, then the City Manager may authorize that approach in the procurement.

- c. I recommend that the Manual include a specific identification of the staff positions who are authorized to purchase at each category. For example, for Category One and Category Two, you may want to include Purchasing Director, Department Head, City Manager, Assistant City Manager, etc. You may also specify that any of these positions may delegate in writing specific positions who are authorized or designated to purchase at that level in their stead. For example, the Purchasing Director may designate assistant buyers or assistant purchasing agents as authorized to purchase up to a specific category or dollar threshold. I recommend generally that the delegation be in writing to the City Manager and that the Policy Manual will direct the City Manager to make provision for transparency so that members of the public and Commission may determine who is designated the authority to purchase and the limits on their authorization.
- d. I recommend addition of a requirement that the City Manager will make provision for periodic reporting to the City Commission and Mayor all purchases and the identity of persons who made each purchase (along with a statement of sufficient information indicating the purpose of the acquisition).
- e. Section 2.01(4) regarding the CRA. I recommend that it be clarified that these provisions and the Purchasing Manual apply only if the CRA elects to purchase using the City staff for purchasing. Unless the CRA Board directs differently, the CRA has the legal right to make purchases directly using its own staff or contractors.
- f. I recommend a new Section 2.04 be added as follows:

"2.04 Miscellaneous Guidelines That Are Generally Applicable For All Procurement

These general guidelines are mandatory requirements imposed on all City staff, vendors and others who are involved with the City of Winter Park in any matter respecting procurement, purchasing, contracting and purchase orders in which the City of Winter Park is involved as a party or potentially involved as a party. The following additional requirements apply:

- A. In Section 8.03 hereinafter, there is a provision that provides that after the issuance of the invitation to bid has been issued, there is a blackout period in which a vendor or prospective vendor will be disqualified if any representative directly or indirectly contacts any agent or employee of the City. This blackout provision shall apply to all methods of procurement specified or provided for in this Purchasing Manual, including without limitation, a Request for Proposal pursuant to Section

X and a CCNA acquisition pursuant to Section XIII. The same language in Section 8.03 regarding the blackout period will apply to these other methods of procurement.

- B. The requirements, rules and procedures specified in this Purchasing Manual shall have the force of law and shall be fully enforceable in a court of competent jurisdiction as the local law applicable in matters related to procurement involving the City of Winter Park.
 - C. In all instances in which the Purchasing Manager or City Manager determine to waive a requirement under this Purchasing Manual for reasons of emergency, necessity or other exigent circumstances in the best interest of the City of Winter Park, the Purchasing Manager or City Manager shall document and justify the reasons in writing. If the decision or procurement would be one subject to approval by the City Commission, then the written justification for a waiver shall be presented to the City Commission by the City Manager. This requirement applies in the case of a decision to allow unbundling or disaggregation of purchases that will result in a lower threshold for bidding or competitive procurement, and in the case where a decision is made to waive competitive procurement, and any other waiver of a requirement of this Purchasing Manual."
2. Add the following provision at the end of Section 3.01, ("Additional Approvals"):
- "G. A department that will provide additional approvals may also express a preference that durable goods and materials will be specified and purchased to achieve standardization and consistency of product. This may result in greater efficiency for stocking replacement parts, simplification of maintenance and repair, consolidation of warranty and service, uniform technological systems or for other reasons that are in the interest of the City of Winter Park. If there is a standardized system for things such as security alarm systems, software and other components and materials that will be used in multiple facilities or departments, or otherwise used throughout the municipal system, then the Purchasing Manager or City Manager shall document the justification in writing. Standardization will not be permitted when it is for the purpose of favoritism or intended to result in, or results in, a material diminishment of competitive procurement without substantial justification in the interest of the City of Winter Park."
3. Add the following paragraph at the end of Section 4.10, ("Change Orders"):
- "It is inappropriate to request a change order or approve one that results in a 'cardinal change' from the original purchase. A change order may not materially alter the initial goods or services being purchased. By way of

example and illustration only, it would be inappropriate to bid carpet flooring materials and award that bid and then request a change order that would supply wood floors instead of carpeting."

4. Revise the first sentence of the second paragraph of Section 5, ("Emergency Purchase"), so that it reads (inserted language is highlighted):

"An emergency shall require the approval of the Purchasing Manager or designee, in writing, prior to issuance of an emergency order. Emergency purchases exceeding CATEGORY FOUR may only be authorized by the City Manager or his designee in writing, and must be ratified by the City Commission."

5. Revise the subsections to Section 6, "Cooperative Purchasing and Piggyback Contracts", so that they reflect 3(a) through 3(d) to avoid subsections 3-1, 3-2, etc.

6. Revise Section 6.01(B)(3)(b) [this was previously (302)], to read as follows:

"None of the material or substantive requirements, terms and conditions may be modified from the original contract that is being piggybacked. Therefore, the product, price and any other material term of the contract being piggybacked may not be changed. However, notwithstanding the foregoing, minor changes are allowed as provided on the Standard Piggyback Contract (Exhibit 11 referred to in Section 6.02(D))."

7. Section 6, "Piggyback Contracts", add a new Section 6.03, entitled "Limitations" as follows:

"6.03 Limitations"

In addition to the requirements and limitations set out in Section 6.01, the types of governmental entities that may be used for piggyback contracts will be limited to state government, municipalities, counties, state agencies and any agency of the United States government. If it is in the interest of the City of Winter Park as determined by the Purchasing Manager or City Manager, a qualifying governmental entity from outside the State of Florida may be used."

In this section, we deleted the hyphen in "piggy-back" in the heading to be consistent with "piggyback" as used within the existing language.

8. Change the title for Section 8.03 to "Specifications" (deleting the words "Responsibility For").

9. Add the following statement at the end of Section 8.03:

"Notwithstanding the 'blackout' after issuance of the procurement or solicitation, a vendor or bidder may contact the Purchasing Manager to discuss the procurement. Additionally, the blackout will not prohibit contact with City staff where the vendor is doing business with the City on another contract and the communication is regarding that contract that is already let, or where the vendor meets with staff in connection with other matters unrelated to the contract or procurement at issue.

The solicitation or bid will be deemed to be 'issued' within the meaning of this provision at the earliest date and time upon its posting, electronic publication, or electronic posting on the City website. The manner of issuance is in the discretion of the Purchasing Division.

In any procurement that involves an interview, the person conducting the interview will request the interviewee and other staff to identify any contact after the blackout period commenced. The Purchasing Manager or City Manager may waive disqualification, in writing, for any communication that was inadvertent and was otherwise immaterial and resulted in no prejudice to another bidder.

The provisions herein concerning the blackout period and procedures related to this shall be deemed incorporated in the other sections of the Purchasing Manual related to other methods of procurement, including requests for proposals and CCNA pursuant to Section 287.055, Florida Statutes."

10. Add the following statement at the end of Section 8.10, ("Waiver of Minor Informalities"):

"The waiver and the reasons supporting the waiver shall be in writing and signed by the Purchasing Manager or City Manager."

11. Add the following statement at the end of the third paragraph in the introductory section of Section 10:

"This Section 10 is subject to the Competitive Consultants Negotiation Act (CCNA) for all procurement required to be made pursuant to the provisions of Section 287.055, Florida Statutes, as provided in Section 13 of this Purchasing Manual."

12. Add the following provision at the end of Section 11.02, ("Bid Security"):

"A bid bond is required in order to maintain a bid protest. Without a qualified bid bond, a protest is waived as a matter of jurisdiction and law. The amount of the bid bond and procedures regarding the bid bond are set forth in greater detail in Section 16 of this Purchasing Manual."

13. Add the following minimum contract terms in Section 12.02(B):

- “● Venue shall be in Orange County, Florida,
- Florida law shall apply,
- City will not indemnify a private party, but the vendor must indemnify and hold harmless the City from damages it causes (either directly or through an agent, subcontractor or employee) while working on or during the performance of the contract; for damages caused by a product or service supplied by or on behalf of the vendor; for damages caused by any negligence, breach of agreement or wrongdoing by the vendor, or any agent, subcontractor or employee of the vendor,
- City will not waive its sovereign immunity and shall reserve the limits of liability under Section 768.28, Florida Statutes, notwithstanding any implied or express term elsewhere in the contract or any other document furnished by the vendor,
- The contract will clearly set out that the product or service will be fit for all purposes intended, and that the quality of the product or service will be consistent with applicable commercial standards, and no implied or express limitation of warranty shall be permitted,
- To the extent reasonably possible, provide clearly stated and precise product and service performance standards. Product specifications and literature supplied by the vendor may be attached and incorporated as an exhibit to state the required performance standards,
- **Time is of the essence provision. Consider a liquidated damages provision for failure to adhere to the contract completion schedule, subject to a change order for time extension when the delay is not reasonably attributable to the vendor,**
- **Most favored nation clause which means that the vendor will amend the agreement to provide the City of Winter Park any contract term or provision, including price, that is more favorable to the City and is included in the vendor's agreement with any other party for the same type of goods or services. The City will have a right of examination to assure the performance of this provision.**

The Purchasing Manager or City Manager may waive one or more of these contract provisions that are standard in writing, based on necessity in the

interest of the City. By way of illustration only, it may be necessary to waive venue or choice of law provisions where a national vendor of a sole source or otherwise essential software product is located out of state and as a general rule insists upon choice of law or venue in a foreign jurisdiction. However, if the vendor has for another city modified these provisions, the City of Winter Park should insist on the same modification pursuant to the most favored nation clause.

These standard contract provisions should generally be included in all purchase orders and standard contract forms issued by the City of Winter Park, and should be included in bid specifications and requests for procurement under RFP's and CCNA."

14. Revise the second sentence in Section 16(B), ("Formal Written Protest") so that it reads as follows:

"Such protest shall be in writing, shall state the particular grounds on which it is based, shall include all pertinent documents and evidence and shall be accompanied by a cashier's check in the amount of five percent (5%) of the contract award amount, or, if the amount of the contract award cannot be reasonably determined at that time, then in the amount of One Thousand Two Hundred Fifty Dollars (\$1,250.00) made payable to the City of Winter Park (subject to the procedures and conditions hereinafter stated). The purpose of this bid bond shall be to reimburse the City for all administrative costs associated with the appeal process. Failure to submit a bid bond that is compliant with this provision with the bid protest shall be deemed a waiver of the bid protest and is a jurisdictional deficiency in the protest that will forfeit the right of the bidder to maintain the protest. If the amount of the contract award is not reasonably capable of being quantified at the time the protest is initiated, the initial bid bond shall be One Thousand Two Hundred Fifty Dollars (\$1,250.00), as previously stated. However, in such event, the City may require a bid bond in a greater amount not to exceed Ten Thousand Dollars (\$10,000.00) if the One Thousand Two Hundred Fifty Dollars (\$1,250.00) is clearly inadequate under the facts presented. If the City increases the required bid bond amount, the protester shall have seven (7) calendar days in which to pay to the City of Winter Park in the form of a cashier's check the difference between One Thousand Two Hundred Fifty Dollars (\$1,250.00) and the new amount of bid bond established by the City (which will not exceed Ten Thousand Dollars (\$10,000.00)). A failure to pay the additional amount of bid bond shall be deemed a waiver of the right to maintain the protest."

15. Modify Section 16(E) to provide that if the decision of the Purchasing Division is upheld, the City shall retain the bid bond (and delete the reference to \$1,250.00).

16. Add a Section 16(F) as follows:

"All references to 'City' shall include decisions by City staff when staff are authorized to take such action without formal Commission vote or approval."

17. Add a Section 16(G) as follows:

"The seven (7) calendar days within which a protestor may protest an intended decision or action shall run from the first issuance of the intended decision or action by the City. The issuance of an intended decision or action shall occur at the earliest date and time on which the decision is posted, served electronically or posted electronically on the City website."

18. Add the following statement at the end of Section 18.03, ("Receipt"):

"Any action by a subcontractor in connection with the receipt, care and custody of materials and products shall be as a subcontractor to the contractor and not acting as an agent on behalf of the City of Winter Park."

19. Add the following statement at the end of Section 18.05, ("Other Considerations" in the owner direct purchase program):

"Notwithstanding any provision in this Section 18, the City of Winter Park will comply with all statutory requirements and administrative requirements imposed by the Florida Department of Revenue in order to maintain a compliant direct purchase program. To the extent required by Florida law, the risk of loss with respect to product delivered shall be on the owner, but the City of Winter Park may, to the extent allowed by Florida law, require that the contractor and its subcontractors indemnify and hold harmless the City for any loss to products delivered as a result of contractor breach of contract or negligence. The City may also require that the scope of services in the contract shall include services to be delivered by the contractor or its subcontractors concerning scheduling, acceptance of products delivered, storage, sequencing of delivery and incorporation of products into the project. None of the provisions in this Section 18 shall be interpreted to provide any procedure for ODP different than the procedures required by the Florida Department of Revenue (except to the extent that a procedure imposed by DOR can be shown to be in contravention of Florida Sales Tax Law."

20. Add the following statement at the end of Section 19, ("Ethics in Public Purchasing"):

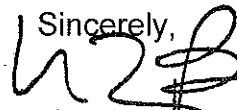
"The provisions in this Section 19 are subject to the statutory Code of Ethics contained in Chapter 112, Florida Statutes. The provisions stated in this Purchasing Manual shall be interpreted to be consistent with the requirements of Florida statutes, unless a more restrictive requirement is expressly provided in this Purchasing Manual and the subject of the more

April 15, 2011
Page 10

restrictive requirement is allowable to the City pursuant to Section 112.326, Florida Statutes."

We have received the Purchasing Manual in Word and have made these redline edits as noted above. The redline is enclosed for your review.

Please let me know if you have any questions or if you would like to discuss any of these edits.

Sincerely,

Usher L. Brown

SIGNED AND MAILED
IN MY ABSENCE TO
AVOID DELAY

ULB:tla

Enclosure

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

Michelle del Valle, Assistant City Manager (w/encl.)

G:\Docs\City of Winter Park\Purchasing\ltr.carrie woodell re purchasing manual edits.wpd



2011 Purchasing Policy & Procedures MANUAL

Purchasing Division

401 Park Avenue South ■ Winter Park, Florida 32789 ■ p 407-643-1627 ■ f 407-599-3448
purchasing@cityofwinterpark.org ■ www.cityofwinterpark.org

The purpose of this manual is to provide all departments with the procedures and policies to be used in the procurement of goods and services and to provide for the fair and equitable treatment of all persons involved in public purchasing by the City of Winter Park; to maximize the purchasing value of public funds; and to provide safeguards for maintaining a procurement system of quality and integrity.

The purchasing function involves the procurement of materials, supplies, equipment, and services at best value, consistent with the quality needed to meet the required standards established and approved by the City Commission. Our goal is the promotion of the best interest of the City of Winter Park through intelligent action and fair dealings, resulting in obtaining maximum savings for the City.

Rules and regulations are necessary for the proper operation of the purchasing function and it is essential all who are involved in the purchasing operation be well informed. This manual was developed to aid all employees directly or indirectly associated with the function of purchasing.

The objectives of the Purchasing Division are as follows:

- 1 To deal fairly and equitably with all vendors wishing to do business with The City of Winter Park.
- 2 Provide professional procurement services for all our customers within the City.
- 3 Assure adherence to all laws, regulations, and procedures related to City procurement.
- 4 Maximize competition for all procurements of the City.
- 5 Obtain maximum savings through innovative buying and application of value analysis techniques.
- 6 Purchase goods and services at the best value if not lowest price, consistent with quality performance, and delivery requirements from capable vendors meeting the City's requirements.

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List of Exhibits



- 1. Procurement Card Policies and Procedures**
- 2. Clothing and Apparel Order Form**
- 3. Blanket Purchase Order Request Form**
- 4. Change Order Request Form**
- 5. Professional Service/Construction Change Order Form**
- 6. Voucher Requisition Form**
- 7. Emergency Justification Form**
- 8. Emergency Purchase Order Form**
- 9. Sole Source Justification Form**
- 10. Memo to Request Piggyback**
- 11. Standard Piggyback Contract**
- 12. Agenda Template Form**
- 13. Selection Committee Guidelines**
- 14. Travel Policy**
- 15. Environmental Preferable Purchasing Policy**

Mission

The mission of the Purchasing Division is to procure quality goods and services at the lowest possible cost consistent with the quality needed to provide the very best service to the public, while assuring fair and equal opportunity to all qualified vendors.

Responsibilities, Purpose, Function, Objectives

The Purchasing Division shall be responsible for the implementation and administration of this Policy. Subject to the provisions of this Policy, the Purchasing Manager shall serve as the principal officer for the procurement of all goods and services required by the City.

All changes to this Policy require approval of the City Commission. This Policy supersedes all previously adopted purchasing policies.

1.01 Purpose

This Policy establishes a centralized purchasing system for the City of Winter Park, the purpose of which is to:

1. Establish the rules governing purchasing by the City;
2. Promote public confidence in the integrity and transparency of the procedures followed to procure the goods and services required by the City;
3. Ensure fair and equitable treatment of all people who participate in the purchasing system;
4. Maximize economy in purchasing activities and, to the fullest extent possible, the purchasing value of City funds.

1.02 Function

- A. Develop purchasing objectives, policies, programs and procedures for the acquisition of materials, equipment, supplies and services.
- B. Ensure all purchases are made as per Federal and State laws, and City Policy.
- C. Coordinate and supervise purchasing procedures of user departments.
- D. Initiate reports necessary for analysis of purchasing performance.
- E. Assemble specifications in cooperation with user departments that are subsequently included in Request for Information (RFI), Invitation for Bids (IFB), Invitation to Negotiate (ITN), Request for Proposals (RFP) and/or Request for Qualifications (RFQ).
- F. Contract for the purchase of supplies and services needed by any department of the City exceeding the thresholds for formal solicitations.
- G. Provide contract administration.

- H. Provide administration for the City's Purchasing Card program.
- I. Administer materials management in the form of a centralized store for printed materials.
- J. Manage the sale of the City's surplus items.
- K. Prepare and submit the annual operating budget for the Purchasing Division.
- L. Promote good will and public relations between the City of Winter Park and its vendors. Encourage full and open competition wherever possible. Assure fair and equitable business dealings with all vendors.
- M. Stay informed about current developments in the field of purchasing, including but not limited to prices, market conditions and new products, and secure for the City the benefits of research conducted in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations and private business and organizations.

Objectives

- A. To deal fairly and equitably with all vendors wishing to do business with the City of Winter Park.
- B. Provide professional procurement services for all departments and divisions within the City.
- C. Assure adherence to all laws, regulations and procedures related to City procurement.
- D. Maximize competition for all procurements of the City.
- E. Obtain maximum savings through innovative buying and application of value analysis techniques.
- F. Purchase goods and services from capable vendors at the lowest price, consistent with the quality, performance and delivery requirements of the City.



This section is an introduction to the general guidelines and/or rules for the purchasing process, which establishes policy. Subsequent sections provide those procedures and methods to be utilized to carry out this policy. This Purchasing Manual shall have the force and effect of municipal local law as if fully stated in the City's Code upon approval and adoption by the Winter Park City Commission. Additionally, the terms and provisions of this Purchasing Manual shall be deemed by operation of law to be a part of the terms and conditions of each procurement, purchase order and contract involving the City of Winter Park as a party, except to the extent that an authorized official has expressly provided for a written exception to one or more of the requirements provided for in this Purchasing Manual with respect to a particular procurement, purchase order or contract.

All City departments/divisions are required to follow the Purchasing Policy, unless otherwise governed under a specific policy.

NOTE: No item or service is to be ordered, received or paid for without a Purchase Order, Blanket Purchase Order, Emergency Purchase Order or Purchasing Card.

CATEGORY ONE: PURCHASES UP TO \$1,000.00

Purchases in this category require one verbal quote.

CATEGORY TWO: PURCHASES OF \$1,000.01 TO \$9,999.99

Purchases in this category require three verbal quotes.

CATEGORYTHREE: PURCHASES OF \$10,000.00 TO \$49,999.99

Purchases in this category require at least three written quotes. Written quote package shall be submitted to the Purchasing Manager for compliance review prior to issuing the PO.

CATEGORY FOUR: PURCHASES OVER \$50,000.00

Requires a formal solicitation through the Purchasing Division.

The City Commission, City Manager or his designee may waive formal bidding procedures when it is deemed advantageous to the City.

2.01 Approval Authority

1. For purchases and contracts up to CATEGORY THREE that have been adopted in the current or prior budget, the approval authority is the City Manager (Ordinance 2826-10).
2. For purchases and contracts in excess of CATEGORY FOUR, the approval authority is the City Commission.
3. All purchases within CATEGORY FOUR must be approved by the City Commission. To place an item on the City Commission's agenda, the department will forward all necessary documentation to the Purchasing Manager. The Purchasing Manager will prepare the request and submit to the City Clerk for inclusion on the Consent Agenda.
4. Purchases through the Community Redevelopment Agency (CRA), shall be made in accordance with the following process.

1. The CRA Agency will adopt a budget which includes project specific appropriations
2. The CRA Director will have the same signature authority as the City Manager, specifically for CRA Funds
3. Purchases above the Director/Manager's signature authority that have been previously approved by the CRA Agency in their adopted budget, will be approved by the Commission, for compliance with the Purchasing Policy, during regular Commission meetings.
4. Purchases above the Director/Manager's signature authority that have not been previously approved by the Agency will be approved by the Agency at a designated CRA Agency meeting.
5. These provisions and the Purchasing Manual apply only if the CRA elects to purchase using the City staff for purchasing. Unless the CRA Board directs differently, the CRA has the legal right to make purchases directly using its own staff or contractors.

2.02 Exclusions

The following purchases are excluded from the competitive requirements of Section II:

- A. Agreements between the City Commission and non-profit organizations or governmental entities including the procurement, transfer, sale or exchange of goods and/or services.
- B. Procurement of dues and memberships in trade or professional organizations; subscriptions for periodicals; advertisements; postage; used equipment; abstracts of titles for real property; title insurance for real property; real property; water, sewer, and electrical utility services; copyrighted materials; patented materials; art and artistic services; employment agreements; medical services; service required by proprietary ownership such as CSX Railroad carrier, original equipment manufacturers (OEM) and fees and costs of job-related travel, seminars, tuition, registration and training.
- C. Purchase of construction materials included in the scope of an awarded construction contract in order to realize sales tax savings, in accordance with Section 212.08(6), F.S.
- D. Purchases from State of Florida or Federal GSA Contracts as well as contracts awarded by any local, state, or national government agency, cooperative purchasing organizations or purchasing associations.
- E. Items purchased for resale to the general public.

Such purchases, transactions and expenditures listed above shall be authorized by the Purchasing Manager. Certain procurements within the above categories may be obtained via competitive means when it is determined that adequate sources for the goods or services required are available.

2.03 Procurement Card Purchases

The City recommends using the Procurement Card for all purchases when accepted by the vendor. All Procurement Card purchases must follow the rules and procedures in accordance with the **Procurement Card Policies and Procedures. (See Exhibit 1).**

2.04 Miscellaneous Guidelines That Are Generally Applicable For All Procurement

These general guidelines are mandatory requirements imposed on all City staff, vendors and others who are involved with the City of Winter Park in any matter respecting procurement, purchasing, contracting and

purchase orders in which the City of Winter Park is involved as a party or potentially involved as a party. The following additional requirements apply:

- A. In Section 8.03 hereinafter, there is a provision that provides that after the issuance of the invitation to bid has been issued, there is a blackout period in which a vendor or prospective vendor will be disqualified if any representative directly or indirectly contacts any agent or employee of the City. This blackout provision shall apply to all methods of procurement specified or provided for in this Purchasing Manual, including without limitation, a Request for Proposal pursuant to Section X and a CCNA acquisition pursuant to Section XIII. The same language in Section 8.03 regarding the blackout period will apply to these other methods of procurement.
- B. The requirements, rules and procedures specified in this Purchasing Manual shall have the force of law and shall be fully enforceable in a court of competent jurisdiction as the local law applicable in matters related to procurement involving the City of Winter Park.
- C. In all instances in which the Purchasing Manager or City Manager determine to waive a requirement under this Purchasing Manual for reasons of emergency, necessity or other exigent circumstances in the best interest of the City of Winter Park, the Purchasing Manager or City Manager shall document and justify the reasons in writing. If the decision or procurement would be one subject to approval by the City Commission, then the written justification for a waiver shall be presented to the City Commission by the City Manager. This requirement applies in the case of a decision to allow unbundling or disaggregation of purchases that will result in a lower threshold for bidding or competitive procurement, and in the case where a decision is made to waive competitive procurement, and any other waiver of a requirement of this Purchasing Manual.
- D. There shall be no manipulation or separation of items to be purchased separately in order to avoid a competitive procurement threshold. If, in the ordinary course of business or in a commercially reasonable manner items would be purchased together, there will be no separation of those items into separate purchases for the purpose of avoiding a competitive procurement requirement. By way of illustration only and as examples not intended to be exclusive of all examples, the following examples are offered:
 - 1. A department anticipates purchasing 1,000 units of an item during the fiscal year. 1,000 units will exceed the Category Four threshold of \$50,000.00. It would be improper to avoid competitive procurement under Category Four by dividing the 1,000 units by 12 and procuring the requirements for the units on a monthly basis. Similarly, it would be improper to purchase each unit separately in an effort to reduce the expenditure to a Category One purchase. It is the responsibility of the user department to report the complete quantity of product that will be required for use in the department for the fiscal year or, in the event the item will be warehoused or inventoried, the user department shall identify the quantity required for inventory. Disaggregation or reduction of the anticipated quantity for the purpose of avoiding a competitive procurement threshold or category is improper. Notwithstanding, for unique circumstances presented, the Director of Purchasing may, by

written memorandum to the City Manager, justify in the interest of the City a reduction in the quantities proposed for purchase by the user department.

2. It is generally improper to unbundle a purchase of an item or group of items that should, in a commercially reasonable approach, be purchased together to accomplish a specific objective. It is always improper to unbundle the purchase of an item or to take any other action where the primary motivating factor is to reduce the dollar value of the purchase so as to avoid a higher category level of competitive procurement. For example, if a department user requests the purchase of a specialty vehicle, it would generally be improper to purchase integral components that are typically a fixture to the vehicle such as ladders, rigging, hoses, generators and other machines and equipment that are typically appurtenant to or a part of the specialty vehicle when purchased. Notwithstanding, if the Purchasing Director can justify to the City Manager in a written memorandum that the separate purchase of equipment will result in a benefit to the City or a cost savings if such items are purchased from another vendor, then the City Manager may authorize that approach in the procurement.



Requisitions are used to initiate an order and to accurately describe the item(s) or services requested. In addition, the authorized requisition signifies authority to charge a specific account number and verifies there are sufficient funds available in the account specified.

- A. A requisition is required to start the procurement process for all purchase orders. Requisitions shall be made through the requisition entry process in the Sungard Public Sector financial package. The requisition consists of completed required data fields and all information necessary for the threshold of the requisition.
- B. Requisitions should be prepared far enough in advance to avoid creating an emergency and to allow competitive pricing. Prices must be found fair and reasonable.
- C. Exactness in preparing the requisition is essential. Incomplete or improperly completed requisitions will be returned to the department for correction. A member of the Purchasing Division will contact the requisitioner if the requisition is incomplete; if any changes are made to the requisition; or if the requisition cannot be processed.
- D. If there are insufficient funds for the purchase, the requisition will not be accepted in the Naviline system, and therefore cannot be processed, unless overrode by the Department Head.
- E. All purchase requisitions shall be authorized and approved by the Department Head. Requisitions not properly authorized will not be accepted. The Purchasing Division, after review of the price quotes and/or referenced contract information, will approve the requisition. The Purchasing Division reserves the right to verify quotations and pricing information and/or seek further competition.

For all purchases requisitions within CATEGORY FOUR, authorization from the City Commission must be granted prior to processing. 3.01 Additional Approvals

The following requests for purchases and service must receive additional approvals prior to an approved requisition:

- A. The Fleet Maintenance Department must approve vehicles, motorized equipment, roadway equipment and other related purchases. Allow sufficient time for the approval process. The Purchasing Division will process all such orders.
- B. The Information Technology Division must approve all requests for computer hardware, software and other technology related purchases. Allow sufficient time for the approval process. The Purchasing Division will process all such orders.
- C. The Communications Department shall review all products and materials that include the official city seal and any other city related logos prior to production.
- D. The Human Resources Division shall review all requests for the temporary hiring of employees, contracted employees and interns, and upon approval will process all such requests.
- E. City Management shall review all requests for new wireless device purchases and activations. Upon approval, the Purchasing Division will process all such orders.

- F. The Purchasing Division shall review all requests for non-public safety purchased uniform items and non-uniform clothing orders. Upon approval, the Purchasing Division will process all such orders.

To ensure compliance with Internal Revenue Code § 162; Reg. § 1.62-2©(1), this policy shall be in force for all non-uniform clothing and apparel purchases.

All purchases for non-uniform clothing items with the City seal will be ordered by the Purchasing Division.

Orders will be consolidated and processed on a quarterly basis in the months of December, March, June and September only. Order requests will be held and processed with the next quarterly order, no exceptions.

Each employee requesting the clothing items must complete and sign the **Clothing and Apparel Order Form (See Exhibit 2)**, located at Share/Purchasing Forms/Clothing and Apparel Order Form, and forward to Purchasing.

- G. A department that will provide additional approvals may also express a preference that durable goods and materials will be specified and purchased to achieve standardization and consistency of product. This may result in greater efficiency for stocking replacement parts, simplification of maintenance and repair, consolidation of warranty and service, uniform technological systems or for other reasons that are in the interest of the City of Winter Park. If there is a standardized system for things such as security alarm systems, software and other components and materials that will be used in multiple facilities or departments, or otherwise used throughout the municipal system, then the Purchasing Manager or City Manager shall document the justification in writing. Standardization will not be permitted when it is for the purpose of favoritism or intended to result in, or results in, a material diminishment of competitive procurement without substantial justification in the interest of the City of Winter Park.



4.01 Purchase Orders

A purchase order (PO) is an offer to purchase goods or services from the buyer (City of Winter Park) to the seller at a predetermined dollar value. A purchase order authorizes a vendor to ship and invoice the materials and services as specified. Purchase orders shall be clear, concise and complete. This will prevent any unnecessary misunderstanding during correspondence with vendors. Only the Purchasing Division shall issue purchase orders, blanket purchase orders and change orders as outlined in the Policy.

Pre-numbered, computer generated purchase orders shall be issued upon receipt of a properly authorized requisition, and after receipt of competitive bids, proposals or quotations, determination of funding availability and Commission approval as necessary.

4.02 Routing of Order

A standard purchase order form is used to make all purchases (except when p-card is used) and is routed as follows:

1. Vendor copy (white): mailed to vendor (with any attachments) by requesting department.
2. Department copy (green): retained by requesting department.
3. Finance copy (pink): submitted with invoice(s) and receiving report to Finance for payment processing.

4.03 Vendor Acknowledgement Forms

Some vendors send their own forms acknowledging a purchase order. Send these forms back to the supplier without signature. Our signature on their forms indicates we have accepted the supplier's terms and conditions, thereby making a new contract that supersedes the conditions of our purchase order. Contact the Purchasing Manager directly should the vendor refuse to ship without such a written agreement. If the vendor refuses to deliver products or services without a signed acknowledgement form, the Purchasing Manager will address the issue with the City Attorney and the vendor.

4.04 Receipt of Goods and Materials

The receiving Department/Division is responsible for inspecting and accepting or rejecting the goods and/or services.

- A. The receiving Department is responsible for inspecting incoming shipments for conformance with the purchase order or contract.
- B. Incoming shipments of goods and materials should be immediately checked for damage, shortages, overages and unauthorized substitutions.
- C. Interstate Commerce Commission regulations only require tailgate delivery unless an extra charge is paid for off-loading and setting in place or pricing includes "inside delivery".
- D. All deliveries should be FOB destination, freight prepaid; therefore Freight Collect deliveries should not occur. If a carrier has a COLLECT delivery, contact the Purchasing Division immediately.

4.05 Special Receiving Requirements

- A. Receipt of Vehicles/Equipment: deliveries will be directly to the Fleet Maintenance Department, who shall take receipt.
- B. Receipt of computer hardware, software and other technology related purchases will be directly to the Information Technology Division, who shall take receipt.
- C. Receipt of all wireless devices purchases will be directly to the Purchasing Division, who shall take receipt.

4.06 Blanket /Inverted Purchase Orders

A blanket purchase order (BPO) is a purchase order issued for the purchase of indeterminable miscellaneous items or materials, supplies, parts, etc., over a certain period of time. The BPO term may not extend beyond the end of the fiscal year in which it is created. Shipments are made, as requested by the user department, against the blanket purchase order number for the term of the BPO. The BPO generally establishes a maximum dollar limit, the period covered and the terms and conditions. However, since the specific items to be purchased are usually unknown at the time of issuance of the BPO, no line item pricing is generally shown.

Blanket purchase orders cannot be utilized for the purchase of inventory items.

An inverted purchase order is used for payment on contracts where retainage is withheld from the invoices received. Inverted purchase orders will be generated for non-commodity projects only. Inverted purchase orders use the dollar value of the contract as the quantity and receipts are issued against line items.

4.07 Requests for Blanket Purchase Order

The requesting department must complete a **Blanket Purchase Order Request Form (See Exhibit 3)** that indicates the specific vendor, the type of items to be purchased and total amount to be encumbered for the term of the BPO. If the total amount exceeds the threshold for additional quotes, the quotes must be attached to the form, or reference must be made to an established contract from another government agency that will be piggy-backed. The completed form must have the signature of the department head prior to submittal to the Purchasing Division.

Once the request has been received by the Purchasing Division, it will be reviewed for completeness and correctness prior to processing. If the total BPO amount exceeds CATEGORY FOUR, authorization from the City Commission must be granted prior to processing. Blanket purchase orders are numbered as regular purchase orders and contain the same information.

4.08 Usage of Blanket Purchase Order

BPO's are generally issued for no more than the current bid limit. The maximum total dollar amount cannot be exceeded for the term of the blanket purchase order. If it is apparent the amount will be exceeded, an additional amount must be requested by the user department via a change order request. The change order request may be denied by the Purchasing Division if it will cause the BPO to exceed the current bid limit.

The user department may purchase needed items against the blanket order number for the term of the BPO, or until reaching the BPO's total dollar amount. The user department is responsible for receipt of orders placed.

Partial payments are made as orders are delivered until the BPO's total dollar amount is reached. To liquidate the BPO prior to the end of the fiscal year, submit a change order request form to the Purchasing Division requesting cancellation of the remaining balance.

4.09 Requests for Inverted Purchase Order

Requests for an inverted purchase order shall be made through the requisition entry process in the Sungard Public Sector financial package.

4.10 Change Orders

Certain conditions surrounding purchases may change in the course of a procurement, which necessitates a clarification or modification to the existing procurement document to fulfill legal requirements.

A change order is defined as a modification to an existing procurement document (purchase order, blanket purchase order, contract, etc.)

Change orders must be processed for all changes affecting the original purchase order such as quantity increases or decreases that reflect a 5% difference in the original unit price dollar value. Requests for changes in the funding source or vendor are unallowable. Change order requests submitted in an attempt to circumvent the bid process are prohibited. Source justification or competition may be required based on the requested increase amount.

For contracts awarded through the formal solicitation process, change order requests below CATEGORY FOUR, the City Manager shall have approval authority. Change order requests that exceed CATEGORY FOUR shall require approval by the City Commission.

It is inappropriate to request a change order or approve one that results in a 'cardinal change' from the original purchase. A change order may not materially alter the initial goods or services being purchased. By way of example and illustration only, it would be inappropriate to bid carpet flooring materials and award that bid and then request a change order that would supply wood floors instead of carpeting.

4.11 Procedure to Request a Change Order

The department requesting a change order to a purchase order or blanket purchase order shall submit to the Purchasing Division a completed **Change Order Request Form (See Exhibit 4)** indicating the original purchase order number and the reason for the changes.

Unsigned change order requests, or those listing a price change with no explanation for the increase or decrease will be returned to the originator. Source justification or competition will be required based on the requested increase amount. Upon receipt of all proper documentation, the Purchasing Division will modify the purchase order or blanket purchase order to reflect the change.

Professional Services and Construction change orders will be processed using the **Professional Service/Construction Change Order Form (See Exhibit 5)**. Upon receipt of all proper documentation, and City Manager or Commission approval when necessary, the Purchasing Division will modify the purchase order or blanket purchase order to reflect the change.

All Professional Services and Construction change orders below CATEGORY FOUR will be approved by the City Manager. All Professional Services and Construction change orders exceeding CATEGORY FOUR must receive prior approval from the City Commission.

4.12 Vouchers

Vouchers may be used as a form of payment only in certain situations agreed to by Purchasing and Finance, such as the following:

- Petty cash reimbursements
- Travel expenses paid directly to City employees based on approved Advance Travel Authorization & Request Forms
- Check replacements
- Payments not for purchase of goods or services (e.g. payroll deductions or pension contributions)
- Utility billing refunds

To request payment via a voucher, the **Voucher Requisition Form (See Exhibit 6)** must be completed including signature approval from both the Department Head and City Manager or designee.

At no time shall vouchers be used in an attempt to circumvent the Purchasing Policy or reporting purchases to the City Commission for approval as outlined in this Policy.



Emergency Purchases

An emergency purchase is the purchase of goods and/or services made with or without competition because such acquisition is necessary to remedy or lessen the harmful effects of any actual or threatened occurrence which may interfere with the conduct of normal business operations or remedy or correct conditions which may pose an imminent or existing threat to the health, safety or welfare of persons or property within the City of Winter Park or in the event that the City may suffer a financial loss due to inaction. Departments shall not use the emergency purchase procedure to abuse or otherwise purposely circumvent established purchasing policies.

An emergency shall require the approval of the Purchasing Manager or designee, in writing, prior to issuance of an emergency order. Emergency purchases within CATEGORY FOUR may only be authorized by the City Manager or his designee in writing, and must be ratified by the City Commission.

5.01 Procedure

If an emergency occurs during regular City business hours, the user department shall immediately contact the Purchasing Division to explain the nature of the emergency. Prior to awarding the emergency order to a vendor, an **Emergency Justification Form (See Exhibit 7)**, including a full written explanation of the emergency purchase and signed by the Department Head must be forwarded by the person who initiated the emergency purchase to the Purchasing Manager along with any supporting documentation. If the purchase is approved, the Purchasing Division shall either purchase the required supplies or contractual services or authorize the user department to do so by providing a pre-numbered **Emergency Purchase Order Form (See Exhibit 8)**. Pcards may be used as a form of payment only after receiving the pre-numbered **Emergency Purchase Order Form**.

If an emergency occurs at a time other than during regular City business hours, the user department may purchase directly the required supplies or contractual services. The following business day, the user department must complete the steps outlined above.

Prior to making an emergency purchase, the Purchasing Division, or the user department, whichever makes the purchase, shall whenever practicable, secure competitive quotes and order delivery to be made by the lowest responsive vendor.

Emergency purchases within CATEGORY FOUR require the City Manager's signature prior to submittal to the Purchasing Manager.

5.02 General Information

When emergency purchases are made, the Purchasing Division or user department will make the purchase at the best possible price. A true emergency will often occur as a result of parts and labor needed for repairs to vehicles or equipment that must be kept in operating order. Emergencies are also created through negligence and are to be avoided. Lack of planning or funding surpluses does not constitute an emergency.

Emergency purchases are costly and should be kept to a minimum. They are usually made hurriedly, on a non-competitive basis and at top prices. Most vendors charge a premium when supplies must be obtained immediately.

Sole Source Purchases

Sole source purchases are defined as purchases of supplies, equipment and contractual services that meet **both** of the following criteria:

1. It is the only item that will produce the desired results or possess a unique performance capability?
2. It is available from only one source?

Sole source services must be available only from vendors (firms or individuals) who are uniquely qualified to perform such services.

5.03 Procedure

Sole source and proprietary source purchases are exempt from competitive requirements upon certification by the Purchasing Manager stating the conditions and circumstances necessitating the purchase via the **Sole Source Justification Form (See Exhibit 9)**. This certification shall set forth the purpose and need in addition to why the item is the only one that will produce the desired results.

The user department shall attempt to locate competition. If no other sources are found, user department must forward a completed **Sole Source Justification Form** signed by the Department Head to the Purchasing Division. The completed **Sole Source Justification Form** must be accompanied by a letter from the recommended vendor, signed and on company letterhead stating they are the sole supplier for this commodity/service. If the Purchasing Division determines the request to be a valid sole source, per Florida Statute 287.057(5)(c), the **Sole Source Justification Form** shall be posted electronically for a period of seven (7) business days to allow the vendor community to review the requested goods/services. Only after that period of time has passed can the purchase be made.

The user department shall be notified of disapproved requests and the purchase shall be made in accordance with standard procedures.

Sole Source Justification Forms shall expire annually on September 30th.



Cooperative Purchasing

The City may participate in, sponsor, conduct or administer a cooperative procurement agreement with one or more public bodies or agencies for the purpose of combining requirements to achieve economies of scale, increase efficiency or reduce administrative expenses.

This procedure applies to the acquisition and/or disposition of all tangible personal property by pooling common requirements; preparing common specifications and purchasing supplies from contracts awarded by/available to other governmental entities.

6.01 Procedure

- A. The Purchasing Manager shall be responsible for identifying requirements in common with other government agencies; for standardizing/modifying requirements to meet common goals and for developing specifications suitable for solicitation and award of competitive, cooperative contracts.
- B. Purchasing shall provide technical assistance during requirements planning and specification preparation and shall accomplish all actions relating to cooperative purchases initiated by the City.

Piggyback Contracts

The City may opt to fulfill its requirements by purchasing goods and services from contracts made available by Federal, State or other governmental agencies. Such purchases may be made without bidding, provided they are in the best interest of the City.

1. State Contracts – prior to requisitioning services or equipment utilizing a state contract, the Department must evaluate whether the contract includes **all** of their requirements. If all requirements are not covered, they must decide whether they want the entire purchase to be made on the open market or whether they want to use the state contract for the covered items only.
2. Purchase orders for Federal GSA contracts must be issued directly to the contractor that is listed on the contract. A dealer's offer to quote the GSA price does not equate to an order under a GSA contract since such orders are not supported by the terms and conditions of the contract. In essence, the dealer's quote is simply an open market bid. The Purchasing Division must verify the GSA Schedule for the contractor prior to approving the purchase order.
3. Piggyback purchases may also be made utilizing contracts from other governmental entities provided they have been awarded through a competitive process and the following criteria are met:
 - a. The work/services/commodities must be specifically within the scope of the contract and the contract must be **active**. A purchase cannot be made utilizing a contract that has expired.
 - b. None of the material or substantive requirements, terms and conditions may be modified from the original contract that is being piggybacked. Therefore, the product, price and any other material term of the contract being piggybacked may not be changed. However,

notwithstanding the foregoing, minor changes are allowed as provided on the Standard Piggyback Contract (Exhibit 11 referred to in Section 6.02(D)).

- c. The contract must include language that authorizes outside agencies to piggy-back the contract.
- d. A bid tabulation if solicited by an IFB, or scoring matrix if an RFP was issued, proof of award and a copy of the contract must be obtained and provided to the Purchasing Division for review.

Insurance and/or bonds, as applicable, in accordance with the City's standard procedures shall be obtained from the contractor for contracts involving: construction services performed at a City facility or on City property, or services performed for the City in which liability may be an issue.

6.02 Procedure

- A. Requesting department must obtain a complete hard copy of the contracting agencies bid document and fully executed contract, including awarded pricing. Upon receipt, a thorough review of both documents must occur to ensure that the contract can fulfill the user department's requirements and meets the above criteria.
- B. Requesting department must complete a **Memo to Request Piggyback (See Exhibit 10)** and submit to the Purchasing Manager along with all bid and contract documents. Memo must include description of analysis completed by the requesting department to ensure this is the most advantageous contract and pricing.
- C. All requests to piggyback a contract with a projected annual spend within CATEGORY FOUR must be granted authorization by the City Commission. Requests to piggyback a contract with a projected annual spend under CATEGORY FOUR may be authorized by the City Manager.
- D. Once appropriate approval has been received, a **Standard Piggyback Contract (See Exhibit 11)** will be submitted to the contracted vendor by the Purchasing Division. Only after the document has been fully executed by both parties can the purchase take place.

6.03 Limitations

In addition to the requirements and limitations set out in Section 6.01, the types of governmental entities that may be used for piggyback contracts will be limited to state government, municipalities, counties, state agencies and any agency of the United States government. If it is in the interest of the City of Winter Park as determined by the Purchasing Manager or City Manager, a qualifying governmental entity from outside the State of Florida may be used.



7.01 Price Reasonableness

The City shall pay a fair and reasonable price for goods and services. This price is what a willing buyer would pay a willing seller. This applies to all purchases including those under \$1,000.

7.02 Order Splitting Prohibition

Submitting multiple requests within other than a reasonable time period for the same, like or related goods or services to avoid using the appropriate procurement method is prohibited. Order splitting is an inefficient practice and results in higher administrative costs to the City.

7.03 Quotes

Either the User Department or the Purchasing Division can obtain quotes. City employees should seek additional quotes if a price is not fair and reasonable. It is important to document the name and address of vendors contracted, item description or service offered, price quoted including shipping/freight, delivery dates, shipping point, names of persons giving and receiving the prices and the date the information was obtained. **Do not share quotes from one vendor with other vendors before the quote process is complete and all the quotes have been received.** Employees are prohibited from allowing a vendor to provide a revised quote after the quote deadline has passed in an effort to utilize a specific vendor.

7.04 Freight Charges – Shipping and Handling

When obtaining a quote, ask the vendor to quote FOB Destination (Free on Board Destination). FOB Destination is the City's preferred shipping and handling method.

FOB Destination definition: The vendor retains title to the goods until the goods are received by the City. The vendor pays the shipping costs and is responsible for claims against the carrier. Be sure to specify **inside delivery** if the item needs to be delivered indoors to an office building or worksite.

FOB Plant/Origin definition: The City accepts title for the goods from the moment it is picked up by the carrier. The City pays shipping costs and is responsible for claims against the carrier. Occasionally a vendor may want to quote FOB Plant/Origin. FOB Destination should be quoted instead. Accepting a quote of FOB Plant/Origin has financial consequences for the city if the shipment is lost or damaged.

Invitation for Bid (IFB), also known as sealed competitive bidding, is the preferred method of procuring a good or service. Award is made to the lowest responsive and responsible bidder and is based solely on the specifications set forth without negotiation or discussion with the vendor.

A term contract is a formal contract (not a purchase order) issued for specified time intervals as a result of a competitive solicitation process for specific items to be purchased for the duration of the contract. Each item on the term contract has a firm price or percentage discount which is known at the time of execution of the term contract. Term contracts are used to meet a recognized continuing City requirement.

8.01 Definitions

Responsive bidder/offeror: a contractor, business entity or individual who has submitted a bid or proposal that fully conforms in all material respects to the IFB/RFP and all of its requirements; including all form and substance.

Responsible bidder/offeror: A contractor, business entity or individual who is fully capable to meet all of the requirements of the solicitation and subsequent contract. Must possess the full capability, including financial and technical, to perform as contractually required. Must be able to fully document the ability to provide good faith performance.

8.02 Procedure

The Purchasing Division shall request formal sealed bids on purchases within CATEGORY FOUR. In cases where a "purchase" or contract may extend over multiple periods or years, the total cumulative amount to be paid over the duration of the contract term will be the determining amount of the requirement for requesting formal sealed bids.

The Purchasing Division shall issue the IFB. A pre bid meeting may be held which may or may not be mandatory. Prospective bidders will have an opportunity to request clarification and ask questions. Answers to inquiries will be compiled in the form of an addendum which will be posted on the City's website for download. Bids will be received by the City Clerk's office and date/time stamped in until the date and time specified in the IFB document. Bids received after the deadline will be returned and not considered for award.

The Purchasing Division shall solicit bids from responsible prospective vendors obtained from publications, recommendations from the user department/division, previous vendors, internet, newspaper advertisements, etc. The Purchasing Division shall attempt to secure at least three (3) bids.

These same bidding requirements shall apply to all purchases, including leases, non-professional services, general consulting, and professional services (non-CCNA).

In conjunction with the initiating Department, the Purchasing Manager shall have the right to cancel a solicitation and/or reject all bids and authorize the entire transaction to be rebid.

8.03 Specifications

The preparation of technical specifications is the responsibility of the user division or department with review by the Purchasing Division. Specifications shall permit competition except on proprietary materials or services. (See Section 2).

In general, specifications should define the level of performance required rather than specific design or brand name. For the benefit of vendors and the division, specifications must be clear and concise. The Purchasing Division reserves the right to challenge specifications to allow open competition.

Once the specifications have been approved by all parties, the Purchasing Division will submit a Solicitation Approval Form to City Management detailing the solicitation. Upon signed approval by the City Manager or Assistant City Manager, the formal solicitation will be issued.

Once the formal solicitation has been issued, communication from a prospective bidder is prohibited, whether direct or indirect, regarding the subject matter or the specifications by any means whatsoever (whether oral or written), with any City employee, elected official, selection committee member, or representative of the City of Winter Park, from the issuance of the specifications until the Commission makes the award. Communications initiated by a bidder may be grounds for disqualifying the offending bidder from consideration for award of the bid or any future bid. The only exceptions to the foregoing rule are as follows: (1) an invitation to give an oral presentation to the selection committee is received; (2) any questions relative to interpretation of specifications or the formal solicitation process shall be addressed to the Purchasing Division, in writing, via fax (407-599-3448) or email (purchasing@cityofwinterpark.org). No questions will be answered seven (7) or fewer business days from the date and time of the public opening.

Notwithstanding the 'blackout' after issuance of the procurement or solicitation, a vendor or bidder may contact the Purchasing Manager to discuss the procurement. Additionally, the blackout will not prohibit contact with City staff where the vendor is doing business with the City on another contract and the communication is regarding that contract that is already let, or where the vendor meets with staff in connection with other matters unrelated to the contract or procurement at issue.

The solicitation or bid will be deemed to be 'issued' within the meaning of this provision at the earliest date and time upon its posting, electronic publication, or electronic posting on the City website. The manner of issuance is in the discretion of the Purchasing Division.

In any procurement that involves an interview, the person conducting the interview will request the interviewee and other staff to identify any contact after the blackout period commenced. The Purchasing Manager or City Manager may waive disqualification, in writing, for any communication that was inadvertent and was otherwise immaterial and resulted in no prejudice to another bidder.

The provisions herein concerning the blackout period and procedures related to this shall be deemed incorporated in the other sections of the Purchasing Manual related to other methods of procurement, including requests for proposals and CCNA pursuant to Section 287.055, Florida Statutes.

8.04 Bid Invitations

Upon request, the Invitation for Bid is provided to prospective bidders. Public notice of bids shall be posted in the City Hall lobby and advertised in a newspaper distributed in the City. Additional advertising may include publications, trade journals and purchasing web sites. All formal solicitations shall be made available on the City's internet site.

8.05 Pre-Bid or Pre-Proposal Conference

Pre-Bid/Pre-Proposal Conferences shall comply with the State of Florida's Sunshine and Public Records Law. Reasonable notice of the date, time and place of the meeting shall be given. The meeting shall be recorded,

but not transcribed. The meeting recordings shall be available for public review by appointment with the Purchasing Division.

A Pre-Bid/Pre-Proposal Conference shall be held whenever deemed appropriate by the Purchasing Division in coordination with the user department or division. The meeting may be mandatory or non-mandatory based on the specific bid type and will be determined by the user department and Purchasing representative. In attendance shall be the Purchasing Division representative (who chairs the meeting), a representative of the user department or division (who shall be prepared to answer technical questions), staff with special expertise and any other City staff member as deemed appropriate by the Purchasing Manager.

8.06 Issuance of Addenda

An addendum is a revision or amendment to the bid documents. If an issue is raised by a prospective bidder, at the pre-bid conference or subsequently via fax or email, that requires revision to the specification or solicitation documents, the revision is made in a written addendum. Verbal changes must not be made and interpretations of a material consequence must not be made verbally to potential bidders. Any such prohibited verbal changes or interpretations will not be considered valid. The following requirements must be met for issuance of an addendum:

- A. Issues for clarification will be received in writing by the Purchasing Division who will draft an addendum and submit to the user department for additional information.
- B. In no instance shall consultants working on behalf of the City issue an addendum without prior review and approval by the Purchasing Manager.
- C. The Purchasing Division shall process the addendum promptly upon completion and post to the City's website for download.

Prior to issuing an addendum, the Purchasing Division and the user department must consider the period of time remaining until the bid opening. If additional time is likely to be required by the bidder, the addendum should extend the opening date for a reasonable period of time to obtain the greatest level of competition and fairness to the potential vendor.

Bidders must acknowledge receipt of all addendums in their bid response at the designated time, date and location. Bids may be rejected due to failure of vendors to acknowledge receipt of addendums. The Purchasing Manager, however, has discretion to not consider an addendum material to a bid process and may consider a bid responsive without an addendum acknowledgement.

8.07 Disposition of Bids

Bids and proposals shall be opened in public at the time and place stated in the public notice. No bids or proposals shall be accepted after the designated due date and time. Bids or proposals received after the specified date and time will be returned to the vendor unopened.

Offers by telephone, fax or email shall not be accepted. Bidders are responsible for delivery of bid documents directly to the City Clerk's Office. If the bid or proposal is delivered by an express mail carrier or by any other means, it is the bidder's responsibility to ensure delivery to the required address.

Pursuant to Florida Statute 119.071 (1)(b)1.a., sealed bids or proposals received by an agency pursuant to invitations to bid or requests for proposals are exempt from s. 119.07(1) and s. 24(a), Art. I of the State

Constitution until such time as the agency provides notice of a decision or intended decision pursuant to s. 120.57(3)(a) or within 10 days after bid or proposal opening, whichever is earlier.

8.08 Site Visits

It may be a requirement for bidders to inspect the proposed work location prior to bidding. The user department will be available to direct bidders to the general work areas by appointment. Bidders are required to contact the Purchasing Division and set up a site visit for each location listed; this information is provided in the bid documents.

8.09 Award of Bids

The City shall consider other factors, in addition to price, when determining the lowest responsive and responsible bidder. These factors include but are not limited to:

1. The ability, capacity, equipment and skill of the bidder to perform the contract.
2. Whether the bidder can perform the contract within the time specified, without delay or interference.
3. The character, integrity, reputation, judgment, experience and efficiency of the bidder.
4. The quality of performance on previous contract.
5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract.
6. The sufficiency of the bidder's financial resources to perform the contract or to provide the service.
7. The quality, availability and adaptability of the supplies or contractual services to the particular use required.
8. The ability of the bidder to provide future maintenance and service and the financial impact upon the City to receive such future maintenance and service.
9. The number and scope of conditions attached to the bid.

Invitation for Bid (IFB) is the least formal review process and the award of the contract is to the lowest priced, responsive, responsible bidder. The Purchasing Division coordinates with the user department or division to determine if the lowest price bid is responsive (i.e., complies with the City's specification). A review of the bid is required to determine if it conforms to the requirements stated in the solicitation. If the lowest priced bid is found non-responsive, then the next low bidder will be evaluated and so on until a responsive contractor is found.

The Purchasing Division reserves the right to challenge any award recommendations of the user department or division.

The user department or division shall assist the Purchasing Division with completion of the **Agenda Template Form (See Exhibit 12)** for award recommendation. Bid award recommendations for which the annual award to each vendor exceeds CATEGORY FOUR shall be submitted by the Purchasing Division to the City Clerk for inclusion on the Consent Agenda. Award shall not be final until issuance of a purchase order or contract by the Purchasing Division.

8.10 Waiver of Minor Informalities

The Purchasing Division shall have the authority to waive any and all minor informalities in any and all formal bids. The waiver and the reasons supporting the waiver shall be in writing and signed by the Purchasing Manager or City Manager.

8.11 Tie Bids

Award of all tie bids under the Commission approval limit shall be made by the City Manager or designee. All tie bids in excess of the Commission approval limit shall be awarded by the City Commission. In accordance with Florida Statute 287.087, a firm certified as having implemented a drug-free workplace program shall have precedence. In the event that both or neither firm certifies that it has implemented a drug-free workplace program, local preference will be invoked and award made to the firm closest in proximity, or at the discretion of the City Manager or designee.



In developing the specifications for a Request for Proposals (RFP), it may be determined that the user department does not have sufficient expertise or a sufficiently specific idea of the good or service sought. In that case, the Purchasing Manager will work with the user department to develop a Request for Information (RFI) before the RFP is developed.

The RFI will be sent to vendors on the registered vendors list, or other responsible prospective suppliers whose names and addresses are obtained from publications and various other sources. The RFI requests information on the specific goods or services sought or the desired results of a project if the specific process has not been determined. Minimum qualifications for proposers may be included in the RFI along with a general time line or other pertinent information. Additionally, request for "estimated" pricing elements may be included in the RFI, however, the vendors must be advised that the solicitation is for "informational purposes only" and no contract will be awarded as a result of their participation.

The RFI process should be considered if the following statements are true:

1. Time is not an issue;
2. The overall cost of the project warrants the additional time and expense of the RFI;
3. The user department does not have sufficient information to develop definite specifications for the RFP.



Although competitive sealed bidding (Invitation for Bid) is the preferred method of acquiring commercial off-the-shelf equipment, supplies or services in excess of the mandatory bid limit, another method should be used for those circumstances when the selection of a firm should not be based on price alone. Many times Purchasing must take into consideration the potential need for presentations, discussions or negotiations and use evaluation factors other than price to determine what is in the best interest of the City. Proposals shall be evaluated based on the requirements set forth in the solicitation.

In Requests for Proposals (RFP), the greatest emphasis should be on adequately defining the work or service needed and on adequately evaluating the capability of those firms interested in performing the service using established evaluation criteria stated in the RFP.

The RFP process allows for more flexibility than the IFB process. Negotiations and discussions can be conducted with all proposers along with minor changes of the scope. To finalize these negotiations and clarifications a Best and Final Offer (BAFO) request may be issued to all offerors remaining in the competitive range. This Section 10 is subject to the Competitive Consultants Negotiation Act (CCNA) for all procurement required to be made pursuant to the provisions of Section 287.055, Florida Statutes, as provided in Section 13 of this Purchasing Manual.

10.01 Responsibility for Specifications

The user department or division shall develop the specifications and/or scope of work for the RFP. The user department or division shall submit the specifications and/or scope of work along with the evaluation criteria which should include price wherever possible. The Purchasing Division, in conjunction with the user department or division, will finalize the criteria that may include modifications to the criteria and/or weights. Such criteria shall be stated in the RFP document.

The user department or division shall assign a weight to each of the evaluation criteria by its relative importance, with the total weights equaling 100. The Purchasing Manager shall determine the use of these criteria and their respective weights as applicable to each project.

Once the specifications have been approved by all parties, the Purchasing Division will submit a Solicitation Approval Form to the City Management detailing the solicitation. Upon signed approval by the City Manager or Assistant City Manager, the formal solicitation will be issued.

Once the formal solicitation has been issued, communication from a prospective proposer is prohibited, whether direct or indirect, regarding the subject matter or the specifications by any means whatsoever (whether oral or written), with any City employee, elected official, selection committee member, or representative of the City of Winter Park, from the issuance of the specifications until the Commission makes the award. Communications initiated by a bidder may be grounds for disqualifying the offending bidder from consideration for award of the bid or any future bid. The only exceptions to the foregoing rule are as follows: (1) an invitation to give an oral presentation to the selection committee is received; (2) any questions relative to interpretation of specifications or the formal solicitation process shall be addressed to the Purchasing Division, in writing, via fax (407-599-3448) or email (purchasing@cityofwinterpark.org). No questions will be answered seven (7) or fewer business days from the date and time of the public opening.

10.02 Selection Committee

Members of a Selection Committee are to be selected and should include representatives from the user department or division, and other department/division(s) involved, as well as any other individual(s) with

specialized expertise. A representative of the Purchasing Division shall chair the committee as a non-voting member.

The Selection Committee, except where specified by Charter, will consist of not less than three members, consisting of an odd amount of members, not to exceed five (5) members, except in special circumstances pre-approved by the Purchasing Manager. The members of the Selection Committee shall be identified prior to the solicitation issuance and a list sent to the Purchasing Division for review. Final approval of Selection Committee members rests with City Management.

Once the members of the Selection Committee have been identified, they are to review the **Selection Committee Guidelines (See Exhibit 13)**, to gain a clear understanding of their responsibilities while serving on the Committee for the duration of the bid process.

The evaluation process is a key function in the selection of a quality contractor/consultant. It is very important that this process be conducted in a professional and consistent manner, therefore committee members need to be flexible and available for all meetings during the evaluation process, including demonstrations and presentations.

Selection Committee and all other meetings during the evaluation period prior to final selections must comply with the State of Florida Sunshine and Public Record Laws. Reasonable notice of the date, time and place of the meeting must be given. The meeting shall be recorded, but not transcribed. The meeting recordings shall be available for public review by appointment with the Purchasing Division.

On the date of RFP issuance, a copy of the document shall be provided to each member of the Selection Committee.

10.03 Procedure

The Purchasing Division shall issue the RFP. A pre-proposal conference will be held which may or may not be mandatory. Prospective proposers will have an opportunity to request clarification and ask questions. Answers to inquiries will be compiled in the form of an addendum which will be posted on the City's website for download. Proposals will be received by the City Clerk's office and date/time stamped in until the date and time specified in the RFP document. Proposals received after the deadline will be returned and not considered for further evaluation.

Once the public acknowledgement of responses received has occurred, the Purchasing Division will review the responses to ensure compliance with the requirements detailed within the RFP document. Responsive proposals will be distributed to each of the selection committee members upon receipt of signed Evaluator's Statement of Independence and Non-Conflict of Interest form, located within the Selection Committee Guidelines.

The Purchasing Division will provide the committee members with all the necessary forms for the evaluation process. The Purchasing Division will monitor the evaluation process and provide guidance at the start of each formal evaluation. If requested, training on the evaluation process can be provided to the members with little or no previous evaluation experience. The Purchasing Division will review forms for completeness and compliance with the policy. Any forms that are not properly completed or which lack appropriate comments or documentation to support the award recommendation may result in the delay of the award recommendation.

Selection Committee members shall review the responsive proposals and independently score each proposal for each criteria. These scores will be used to individually rank the proposals. Then each member's rankings will be accumulated to determine the group rankings.

A summary of total scores for all vendors shall be prepared after all members of the Selection Committee have reviewed and evaluated the written proposals. This will occur during a publicly noticed Selection Committee meeting. A copy of all evaluation forms and notes (and the committee's consensus score) shall be maintained by the Purchasing Division as part of the official file.

In conjunction with the initiating Department, the Purchasing Manager shall have the right to cancel a solicitation and/or reject all proposals and authorize the entire transaction to be re-solicited.

10.04 Oral Presentations

Unless otherwise determined, all RFP processes will include oral presentations as part of the evaluation process. Oral presentations must comply with the State of Florida's Sunshine and Public Record Laws. Once the short listed firms have been identified, Purchasing staff must ensure compliance with the following process:

- a. Notify the contractors/consultants by mail, fax or e-mail of the City's determination. The notification shall include details of the oral presentations including but not limited to the following:
 - i. Date and time of the oral presentations
 - ii. Location of the meeting
 - iii. Time allotted for each firm
 - iv. Additional information if requested by the Selection Committee
- b. Purchasing staff will coordinate the schedule of the oral presentations with the Selection Committee and confirm attendance of members.
- c. Once the oral presentations are completed, the Selection Committee will conduct a post-presentation ranking and determine the overall top ranked firm.
- d. Other options that may be considered by the Selection Committee are to reject all proposals, and/or reissue the formal solicitation with revised specifications.

10.05 Award Recommendation

The user department or division shall assist the Purchasing Division with completion of the **Agenda Template Form (See Exhibit 12)** for award recommendation. Award recommendations for which the award to each vendor exceeds the Commission approval limit shall be submitted by the Purchasing Division to the City Clerk for inclusion on the Consent Agenda. Award shall not be final until execution of a contract is complete.



11.01 Bonds

Bonds are assurance that the vendor will perform accordingly, as specified in the bid or contract. Bonds shall conform to the minimum standards as set forth in Florida Statutes Chapter 255, Section 255.05(1)(a).

- (a) A performance bond is a contract of guarantee, executed subsequent to award by a successful bidder/proposer, to protect the City from loss due to the bidder's inability to complete the contract as agreed.
- (b) Payment bond assures the payment of sub-contractors and materials suppliers.
- (c) A maintenance bond assures that the contractor will perform those services required by the contract regarding warranty and guarantee of the project.
- (d) Both Payment and Performance Bonds must be in the amount of at least one hundred percent (100%) of the contract price.
- (e) Occasionally, and always in the case of construction contracts exceeding \$200,000 payment, performance and maintenance bonds should be required.

11.02 Bid Security

When the Purchasing Manager or designee deems necessary, bid security shall be required by the Invitation for Bids/Request for Proposals and for construction contracts. If required, all bids shall be accompanied by either a bid bond executed by a surety company meeting the qualification as specified in the bid documents or money order, certified check, "cashier" check of any national or state bank (United States) payable to the City of Winter Park and conditioned upon the successful bidder executing the contract and providing the required performance and payment bond and evidence of required insurance within a reasonable amount of time after notification of award of the contract. A PERSONAL CHECK OR A COMPANY CHECK OF A BIDDER SHALL NOT BE DEEMED A VALID BID SECURITY. Security of the successful bidder shall be forfeited to the City of Winter Park for the cost and expense incurred should said bidder fail to execute the contract, provide the required bonds and certificate(s) of insurance, and/or fail to comply with any other requirements set forth in the bid documents. Bid securities of the unsuccessful bidders will be returned after award of the contract.

A bid bond is required in order to maintain a bid protest. Without a qualified bid bond, a protest is waived as a matter of jurisdiction and law. The amount of the bid bond and procedures regarding the bid bond are set forth in greater detail in Section 16 of this Purchasing Manual.

11.03 Insurance

In construction and other contracts, insurance protecting the City against liability, property damage and contractual risks is essential. While it is acknowledged that such requirements do add to the initial costs of any project, the reduction of risks involved (injury, fire, theft, vandalism, loss of life) far outweighs those costs. Worker's compensation, property damage, liability, and automotive property damage & liability are required. Additional coverage may be required, depending upon the nature of the project.

The City must determine, prior to issuance of the Invitation for Bids or Request for Proposals which projects or materials (communications equipment, for instance) should have extra protection of bonds and insurance (and amount and type thereof); regardless of how reputable the awarded vendor may be. The Purchasing Division will assist the Risk Manager and the user department/division in determination of when such requirements are needed.

11.04 Indemnification Statement

It is the City's standard policy to require vendors and contactors who do business with the City to indemnify the City.



12.01 Purpose

The purpose of this section is to provide procedures for the proper review and approval of contracts entered into by the City of Winter Park. Contract administration begins when it is determined that a contract is either desirable or necessary. Various aspects of contract administration include negotiation between the parties, preparation of contracts and other written documents, review and comment by various departments and public officials, proper approval and execution of contracts, distribution and filing of contracts, and implementation and monitoring of contracts.

The contract process is assigned to provide understanding of how contracts are managed to ensure that contracts administered by the City are both legal and in the best interest of the City. Good contract administration also minimizes duplicity of effort and provides for the proper coordination and participation of those who are necessarily involved in the contract process.

A contract represents a legal obligation on the part of each party to the contract, which results from the parties' agreement, plus some additional obligations imposed by law. The mutual promises exchanged by the parties to a contract represent the consideration, which entitles each party to rely on the promise of the other. Various legal requirements must be satisfied in order to create a legally binding contract. The parties to an agreement must have the legal capacity to enter into a contract. There must be mutual consent to the terms of the contract. Certain formal requisites to a contract are also necessary, such as proper signing of the agreement, which is called execution of the contract.

Contracts which violate constitutional or statutory provision, or are deemed by law to be against public policy, or which are otherwise illegal can have serious ramifications on one or more parties to the contract.

12.02 Contract Development, Approval and Execution

Contract Development

Subsequent to the receipt of bids, proposals and quotes and prior to approval of the recommended vendor, a written contract shall be prepared and shall be in accordance with the following procedures:

- A. Draft contract shall be prepared by the Purchasing Division in conjunction with the user department and City Attorney. Not all purchases require a written contract. Many contracts can be finalized with issuance of a Purchase Order.
- B. When applicable, draft contract shall include, but not limited to the:
 - Type of product or service to be provided,
 - Method of payment schedule,
 - Termination clause,
 - Change order statement,
 - Time schedule of project,
 - Remedies,
 - Right of audit,
 - Governing law,

- Successors and assignees,
- Insurance statement and copy of certificate of insurance,
- Performance bond, or other applicable bonds,
- Entire agreement statement,
- Signature authority,
- An acceptable level of legal and liability protection,
- A scope of work statement according to various phases, if any, time restriction of each phase and addendum, etc. that materially represent the provisions called for during the IFB/RFP selection process.
- Venue shall be in Orange County, Florida,
- Florida law shall apply,
- City will not indemnify a private party, but the vendor must indemnify and hold harmless the City from damages it causes (either directly or through an agent, subcontractor or employee) while working on or during the performance of the contract; for damages caused by a product or service supplied by or on behalf of the vendor; for damages caused by any negligence, breach of agreement or wrongdoing by the vendor, or any agent, subcontractor or employee of the vendor,
- City will not waive its sovereign immunity and shall reserve the limits of liability under Section 768.28, Florida Statutes, notwithstanding any implied or express term elsewhere in the contract or any other document furnished by the vendor,
- The contract will clearly set out that the product or service will be fit for all purposes intended, and that the quality of the product or service will be consistent with applicable commercial standards, and no implied or express limitation of warranty shall be permitted,
- To the extent reasonably possible, provide clearly stated and precise product and service performance standards. Product specifications and literature supplied by the vendor may be attached and incorporated as an exhibit to state the required performance standards,

The Purchasing Manager or City Manager may waive one or more of these contract provisions that are standard in writing, based on necessity in the interest of the City. By way of illustration only, it may be necessary to waive venue or choice of law provisions where a national vendor of a sole source or otherwise essential software product is located out of state and as a general rule insists upon choice of law or venue in a foreign jurisdiction. However, if the vendor has for another city modified these provisions, the City of Winter Park should insist on the same modification pursuant to the most favored nation clause.

These standard contract provisions should generally be included in all purchase orders and standard contract forms issued by the City of Winter Park, and should be included in bid specifications and requests for procurement under RFP's and CCNA.

Contract Approval

All contracts that are within the signing authority of the City Manager shall be executed by the City Manager and reported to the City Commission on a monthly basis.

All contracts that exceed the signing authority of the City Manager shall be presented to the City Commission for its approval and authorization of the Mayor to execute the contract.

Contract Execution

Upon obtaining approval of the contract by the appropriate authority, the execution of the contract shall adhere to the following:

- A. The Purchasing Manager shall forward at least three (3) original copies of the formal contract to the vendor. The vendor must sign the document before the City. The signor must be prepared to provide proof of his or her authority to bind the vendor.
- B. The vendor's signature must be attested by one other person, preferably an officer of the corporation or notary, or if the vendor uses a corporate seal, it must be affixed then one signature and corporate seal will suffice.
- C. Upon receipt of the signed contracts and all required documentation, the Purchasing Manager shall forward the contracts to either the City Manager (if within his/her signing authority) or the Mayor for proper execution.

Upon receipt of the executed contract, one copy shall be forwarded to the vendor, City Clerk, and the user department. A copy shall be retained by the Purchasing Division for the bid file. The user department shall be responsible for issuing the written Notice to Proceed in the manner described in the contract. In no instance shall work begin without issuance of the written Notice to Proceed.

12.03 Contract Monitoring/Administration

User Department

The user department will:

- A. Determine the expected quality or performance level required
- B. Establish schedules for the duration and completion of contracts
- C. Assign a Project Manager or contact person
- D. Monitor performance
- E. Document contract performance deficiencies and provide full document trail to the Purchasing Division for the bid file
- F. Prepare closeout and other final payment reports

Purchasing Division

The Purchasing Division will assist the user department in the monitoring and administration of contracts. The Purchasing Division will assist to:

- A. Require from the contractor full conformance to specifications
- B. Ensure the correct legal name is contained in the contract documents and further confirm status of legal entity
- C. Hold contractor responsible for damages suffered by the City resulting from the contractor's failure to perform as agreed
- D. Work with the user department to ensure that the City does not fail to perform its obligations, thereby relieving the contractor of performance responsibilities
- E. Preclude the issuance of unnecessary or excessively priced change orders
- F. Maintain standard clauses for contractual terms and conditions, which promote the best interest of the City
- G. Initiate "cure" process to ensure vendor cures contract deficiencies within a reasonable period of time
- H. Maintain records of the following information:
 - 1. Contract or PO number
 - 2. Bonds and certificates of insurance
- I. Maintain records of vendor performance

12.04 Certificates of Insurance

The Purchasing Division will ensure that the vendor maintains the proper insurance requirements with the use of a Certificate of Insurance, which they will retain and monitor. The City of Winter Park shall be named as ADDITIONAL INSURED on all certificates and policies of insurance. The City of Winter Park shall be added to the bidder's policy by way of an endorsement and shall be named as an additional insured. Insurance companies must be licensed to do business in the State of Florida with a Best's Key Rating Guide rate of A. This information will be verified and may be grounds for disqualification if not in order.



Contracts for professional services as defined in F.S. 287.055 are required, at a minimum, to follow the guidelines as established in Florida Statutes for competitive negotiations for the acquisition of professional engineering, architectural, landscape architectural, or surveying and mapping services. All contracts which exceed the F.S. CATEGORY TWO requirements for CCNA shall follow the procedure as defined in Section 287.055 F.S., as amended.

13.01 Responsibility for Specifications

The user department or division will notify the Purchasing Manager of their need for professional services. The Purchasing Manager will ascertain if the project to be performed meets the requirements set forth for Professional Services acquisition.

The user department or division shall develop the specifications and/or scope of work for the RFQ. The user department or division shall submit the specifications and/or scope of work along with the evaluation criteria, weights and a list of proposed Selection Committee members. The Purchasing Division, in conjunction with the user department or division, will finalize the criteria that may include modifications to the criteria and/or weights. Such criteria shall be stated in the RFQ document.

The user department or division shall assign a weight to each of the evaluation criteria by its relative importance, with the total weights equaling 100. The Purchasing Manager shall determine the use of these criteria and their respective weights as applicable to each project. Criteria must comply with F.S. 287.055 requirements.

13.02 Selection Committee

Members of a Selection Committee are to be selected and shall include representatives from the user department or division, and other department/division(s) involved, as well as any other individual(s) with specialized expertise. A representative of the Purchasing Division shall chair the committee as a non-voting member. The Selection Committee will consist of not less than three members, consisting of an odd amount of members, not to exceed five (5) members, except in special circumstances pre-approved by the Purchasing Manager.

The members of the Selection Committee shall be identified prior to the solicitation issuance and a list sent to the Purchasing Division. Final approval of Selection Committee members rests with City Management.

Once the members of the Selection Committee have been identified, they are to review the **Selection Committee Guidelines (See Exhibit 13)**, to gain a clear understanding of their responsibilities while serving on the Committee for the duration of the bid process.

The evaluation process is a key function in the selection of a quality contractor/consultant. It is very important that this process be conducted in a professional and consistent manner, therefore committee members need to be flexible and available for all meetings during the evaluation process, including demonstrations and presentations.

Selection Committee and all other meetings during the evaluation period prior to final selections must comply with the State of Florida Sunshine and Public Record Laws. Reasonable notice of the date, time and place of the meeting must be given. The meeting shall be recorded, but not transcribed. The meeting recordings shall be available for public review by appointment with the Purchasing Division.

Prior to the issuance of the RFQ, a copy of the document shall be provided to each member of the Selection Committee for review when possible. If this is not possible, each member shall receive a copy of the document upon issuance.

13.03 Procedures

Once the specifications have been approved by all parties, the Purchasing Division will submit a Solicitation Approval Form to the City Management detailing the solicitation. Upon signed approval by the City Manager or Assistant City Manager, the Request for Qualifications (RFQ) will be issued.

Once the formal solicitation has been issued, communication is prohibited, whether direct or indirect, regarding the subject matter or the specifications by any means whatsoever (whether oral or written), with any City employee, elected official, selection committee member, or representative of the City of Winter Park, from the issuance of the specifications until the Commission makes the award. Communications initiated by a respondent may be grounds for disqualifying the offender from consideration for award or any future formal solicitation. The only exceptions to the foregoing rule are as follows: (1) an invitation to give an oral presentation to the selection committee is received; (2) any questions relative to interpretation of specifications or the formal solicitation process shall be addressed to the Purchasing Division, in writing, via fax (407-599-3448) or email (purchasing@cityofwinterpark.org). No questions will be answered seven (7) or fewer business days from the date and time of the public opening.

Responses will be received by the City Clerk's office and date/time stamped in until the date and time specified in the RFQ document. Responses received after the deadline will be returned and not considered for further evaluation.

Once the public acknowledgement of responses received has occurred, the Purchasing Division will review the responses to ensure compliance with the requirements detailed within the RFQ document. Responsive responses will be distributed to each of the selection committee members upon receipt of signed Evaluator's Statement of Independence and Non-Conflict of Interest form, located within the Selection Committee Guidelines.

The Purchasing Division will provide the committee members with all the necessary forms for the evaluation process. The Purchasing Division will monitor the evaluation process and provide guidance at the start of each formal evaluation. If requested, training on the evaluation process can be provided to the members with little or no previous evaluation experience. The Purchasing Division will review forms for completeness and compliance with the policy. Any forms that are not properly completed or which lack appropriate comments or documentation to support the award recommendation may result in the delay of the award recommendation.

Selection Committee members shall review the responsive responses and independently score each response for each criteria. These scores will be used to individually rank the responses. Then each member's rankings will be accumulated to determine the group rankings.

A summary of total scores for all vendors shall be prepared after all members of the Selection Committee have reviewed and evaluated the responses. This will occur during a publicly noticed Selection Committee meeting. A copy of all evaluation forms and notes (and the committee's consensus score) shall be maintained by the Purchasing Division as part of the official file.

A selection of at least three consultant firms deemed most qualified will be required to provide an oral presentation to the Selection Committee regarding their qualifications, approach to the project and ability to furnish the required services. In the case where less than three responses are received, oral presentations will be provided by all respondents.

In conjunction with the initiating Department, the Purchasing Manager shall have the right to cancel a solicitation and/or reject all responses and authorize the entire transaction to be resolicited.

13.04 Oral Presentations

All RFQ processes will include oral presentations as part of the evaluation process. Oral presentations must comply with the State of Florida's Sunshine and Public Record Laws. Once the short listed firms have been identified, Purchasing staff must ensure compliance with the following process:

- e. Notify the contractors/consultants by mail, fax or e-mail of the City's determination. The notification shall include details of the oral presentations including but not limited to the following:
 - v. Date and time of the oral presentations
 - vi. Location of the meeting
 - vii. Time allotted for each firm
 - viii. Additional information if requested by the Selection Committee
- f. Purchasing staff will coordinate the schedule of the oral presentations with the Selection Committee and confirm attendance of members.
- g. Once the oral presentations are completed, the Selection Committee will conduct a post-presentation ranking and determine the final ranking.
- h. Other options that may be considered by the Selection Committee are to reject all proposals, and/or reissue the formal solicitation with revised specifications.

13.05 Recommendation of Firms

The user department or division shall assist the Purchasing Division with completion of the **Agenda Template Form (See Exhibit 12)** to present the committee's recommendation of the three (3) most qualified firms to the City Commission and request the Commission to approve the ranking and authorize staff to negotiate a contract with the top firm.

Completed Agenda Template Form shall be submitted by the Purchasing Division to the City Clerk for inclusion on the Consent Agenda.

13.06 Negotiations

Upon approval by City Commission to enter into negotiations with the top ranked firm, the Purchasing Manager will schedule a meeting between the top ranked firm and the negotiation team. The negotiation team will consist of essentially the same personnel as the Selection Committee to the extent possible. Detailed discussions will be held by the firm and the City to clearly establish the scope of the project and the exact services to be performed by the Consultant.

The negotiation team shall negotiate a contract for professional services with the most qualified firm at a compensation which the City determines is fair, competitive and reasonable. In making such determination, the City shall conduct a detailed analysis of the cost of the professional services required in addition to considering their scope and complexity.

Negotiations must comply with F.S. 287.055(5). Should the City be unable to negotiate a satisfactory contract with the top ranked firm, negotiations with that firm must be formally terminated. The City shall then undertake negotiations with the second ranked firm. Failing accord with the second ranked firm, the City must terminate negotiations. The City shall then undertake negotiations with the third ranked firm.

Should the City be unable to negotiate a satisfactory contract with any of the selected firms, the City shall select additional firms in order of their competence and qualification and continue negotiations in accordance with the prior requirements until an agreement is reached.

Professional services less than the thresholds in Florida State Statute 287.055(4)(c) shall be awarded using a procurement method authorized by the Purchasing Manager.



Contracts for the design-build of public construction projects for the City shall be awarded in accordance with this procedure.

Section 287.055(9)(c), F.S., provides two methods for the award of a design-build contract: (1) use of a competitive proposal selection process as described in §287.055(9)(c), F.S.; or (2) by the use of a qualifications-based selection process pursuant to §287.055(3)-(5), F.S., for entering into a contract whereby the selected firm will subsequently establish a guaranteed maximum price and guaranteed completion date. Further, §287.055(9)(a), F.S., provides that: "[e]xcept as provided in this subsection [i.e., §287.055(9), F.S.], this section [§287.055, F.S.] is not applicable to the procurement of design-build contracts by any agency, and the agency must award design-build contracts in accordance with the procurement laws, rules, and ordinances applicable to the agency." The rules applicable to the City of Winter Park as it pertains to the use of the design-build process are as follows:

14.01 Definitions

The following words, terms and phrases, when used in connection with the design-build process, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. A "design criteria package" means concise, performance-oriented drawings or specifications of the public construction project. The purpose of the design criteria package is to furnish sufficient information to permit design-build firms to prepare a bid or a response to the City's request for proposal, or to permit the City to enter into a negotiated design-build contract. The design criteria package must specify performance-based criteria for the public construction project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements applicable to the project.
2. A "design criteria professional" means a firm who holds a current certificate of registration under chapter 481, F.S., to practice architecture or landscape architecture or a firm who holds a current certificate as a registered engineer under chapter 471 F.S., to practice engineering and who is employed by or under contract to the agency for the providing of professional architect services, landscape architect services, or engineering services in connection with the preparation of the design criteria package.
3. A "design-build contract" means a single contract with a design-build firm for the design and construction of a public construction project.

A "design-build firm" means a partnership, corporation, or other legal entity that:

Is certified under s.489.119, F.S., to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or

Is certified under s. 471.023, F.S., to practice or to offer to practice engineering; certified under s. 481.219, F.S., to practice or to offer to practice architecture; or certified under s. 481.319, F.S., to practice or to offer to practice landscape architecture.

"Firm" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice architecture, engineering, or surveying and mapping in the state.

"Professional services" means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.

14.02 General

Regardless of the method utilized under the design-build process, the following shall apply:

1. **Non-exclusion of Public.** The public shall not be excluded from any proceedings under these regulations. Reasonable notice of the date, time and place of the meeting must be given. The meeting shall be recorded, but not transcribed. The meeting recordings shall be available for public review by appointment with the Purchasing Division.
2. **Reuse of Existing Plans.** Notwithstanding any other provision of these regulations pertaining to the design-build process, there shall be no public notice requirement or utilization of the selection process as provided in these regulations for projects in which the City is able to reuse existing plans from a prior project of the City; provided, however, public notice for any plans that are intended to be reused at some future time must contain a statement that provides that the plans are subject to reuse in accordance with the provisions of State statutes.
3. **Conflict.** To the extent of any conflicts between the procedures provided herein and the Consultants' Competitive Negotiations Act, the provisions of the Consultants' Competitive Negotiations Act shall prevail.

14.03 Competitive Proposal Selection Process

Procedures for the use of a competitive proposal selection must include at least the following:

1. **Design Criteria Package.** A design criteria package must be prepared and sealed by a design criteria professional employed by or retained by the City for the design and construction of the public construction project. If the City elects to enter into a professional services contract for the preparation of the design criteria package, then the design criteria professional must be selected and contracted with under the requirements of subsections 287.055(4) and (5).
A design criteria professional who has been selected to prepare the design criteria package is not eligible to render services under a design-build contract executed pursuant to the design criteria package.
2. **Creation of a Committee**—For each design-build project for which an RFP or RFQ is to be solicited, a design-build selection committee, consisting of the Department Head or their designee, the Purchasing Manager, a requesting department representative and any other person(s) as requested by the City Manager or the City Commission (the "Selection Committee"), shall be established. The purposes of the Selection Committee include the review of the design-build proposal, qualifying the design-build firms, and recommending an award and/or providing a short-list of the design-build firms.

3. **Preparation of Evaluation Guidelines and Evaluating Matrix.** Prior to the solicitation, the Selection Committee shall prepare the criteria, procedures, and standards for the evaluation of design-build contract proposals or bids, based on, at a minimum, price, technical, and design aspects of the public construction project, weighted for the project. Such criteria, procedures, and standards may be set forth as evaluation guidelines and an evaluating matrix for the RFP or RFQ with a weighted value assigned to each important aspect of the project.
4. **Qualification and Selection.** The qualification and selection of no fewer than three design-build firms as the most qualified shall be made, based on, at a minimum, the qualifications, availability, and past work of the firms, including the partners or members thereof.
5. **Public Announcement.** In accordance with §255.0525(2), F.S., The solicitation of competitive bids or proposals for any county, municipality, or other political subdivision construction project that is projected to cost more than \$200,000 shall be publicly advertised at least once in a newspaper of general circulation in the county where the project is located at least 21 days prior to the established bid opening and at least 5 days prior to any scheduled prebid conference. The solicitation of competitive bids or proposals for any county, municipality, or other political subdivision construction project that is projected to cost more than \$500,000 shall be publicly advertised at least once in a newspaper of general circulation in the county where the project is located at least 30 days prior to the established bid opening and at least 5 days prior to any scheduled prebid conference. Bids or proposals shall be received and opened at the location, date, and time established in the bid or proposal advertisement.
6. **Solicitation.** The solicitation of competitive proposals shall be made pursuant to the design criteria package, from those qualified design-build firms and the evaluation of the responses or bids submitted by those firms based on the evaluation criteria and procedures established prior to the solicitation of competitive proposals.
7. **Evaluation.** The employed or retained design criteria professional shall be consulted concerning the evaluation of the responses submitted by the design-build firms, the supervision or approval by the City of the detailed working drawings of the project; and for evaluation of the compliance of the project construction with the design criteria package by the design criteria professional.

14.04 Qualifications-Based Selection Process

The following procedures, at a minimum, shall apply for the use of the qualifications-based selection process:

1. **Selection of City Representative**—In accordance with §287.055(9)(c), F.S., the City shall employ or retain a licensed design professional appropriate to the project to serve as the City's representative.
2. **Design Criteria Package.** A design criteria package must be prepared and sealed by a design criteria professional employed by or retained by the City for the design and construction of the public construction project. If the City elects to enter into a professional services contract for the preparation of the design criteria package, then the design criteria professional must be selected and contracted with under the requirements of subsections 287.055(4) and (5). A design criteria professional who has been selected to prepare the design criteria package is not eligible to render services under a design-build contract executed pursuant to the design criteria package.

3. **Creation of a Committee**— For each design-build project for which an RFP or RFQ is to be solicited, a design-build selection committee, consisting of the Department Head or their designee, the Purchasing Manager, a requesting department representative and any other person(s) as requested by the City Manager or the City Commission (the “Selection Committee”), shall be established. The purpose of the Selection Committee includes the review of the design-build proposal, qualifying the design-build firms, and recommending an award and/or providing a short-list of the design-build firms.
4. **Preparation of Evaluation Guidelines and Evaluating Matrix.** Prior to solicitation, the Selection Committee shall prepare evaluation guidelines and an evaluating matrix for the RFQ which will be part of each solicitation. A weighted value will be assigned to each important aspect of the project. At a minimum, the following factors shall be considered: (a) design form and function, (b) general experience or capabilities of the professional firms to be involved, (c) experience or adequacy of the professional personal within a firm who will be part of the firm’s team, (d) technical aspects of all members of a vendor’s team, (e) other relevant aspects of the project such as whether a firm is willing to meet time and budget requirements, past experience of all members of a team, location, recent workloads of the firm, current workloads of the firm, projected workloads of the firm, past performance and the volume of work previously awarded to each firm, (f) specific experience with the particular project, (g) scheduling of the project, (h) total package conformity, (i) consideration as to whether the firm is a certified minority business enterprise in accordance with §287.055(3)(d), F.S. Other criteria may be included.
5. **Public Announcement.** Pursuant to §287.055(3), F.S., the City shall publicly announce its request for qualifications and such public notice shall include a general description of the project and indicate how interested firms may apply for consideration. Each agency shall publicly announce, in a uniform and consistent manner, each occasion when professional services must be purchased for a project the basic construction cost of which is estimated by the agency to exceed the threshold amount provided in s. [287.017](#) for CATEGORY FIVE or for a planning or study activity when the fee for professional services exceeds the threshold amount provided in s. [287.017](#) for CATEGORY TWO, except in cases of valid public emergencies certified by the agency head. The public notice must include a general description of the project and must indicate how interested consultants may apply for consideration.
6. **Certification.** Any firm or individual desiring to provide professional services to the City must first be certified by the City as fully qualified to render the required services pursuant to law and the regulations of the City. Among the factors to be considered in making this determination include the capabilities, adequacy of personnel, past record, and experience of the firm or individual and such other factors determined by the City to be applicable to the project. If a firm which is not currently certified, or is not certified for a project under consideration, applies for consideration, the firm shall make a statement of qualification and performance data and any other information deemed relevant by the firm or the City on such form required by the City. A determination of whether the firm is to be certified shall then be made by the City.
7. **Competitive Selection.** For each project, the Selection Committee shall evaluate current statements of qualifications and performance data on file with the City, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with, and may require public presentations by, no fewer than three firms regarding their qualifications, approach to the project, and ability to furnish the required services. The Selection Committee shall select in order of preference no fewer than three firms (unless there be fewer than three qualified firms requesting

consideration) deemed to be the most highly qualified which shall then be the recommendation to the City Commission. The City Commission may accept the recommendation of the Selection Committee or make its own determination, as provided for herein, and select in order of preference no fewer than three firms deemed to be the most highly qualified and authorize negotiations in accordance with the paragraph entitled "Competitive Negotiation."

In making its determination of no fewer than three firms deemed to be the most highly qualified and order of preference, the Selection Committee or, if applicable, the City Commission, shall use grading sheets to assign a weighted value to the various items of each response submitted based on the evaluation matrix. The results thereof are to be tabulated and totaled. The three (3) highest scoring respondents (or whatever number is decided by the Selection Committee (or, if applicable, the City Commission)—provided its 3 or more) will be notified by the Purchasing Manager of their selection. If necessary, further evaluation of the respondents may be had for purposes explaining or clarifying particular areas of their responses. The City may request, accept, and consider proposals for the compensation to be paid under the contract only during competitive negotiations under the paragraph entitled "Competitive Negotiation."

8. **Competitive Negotiations.** Approval to hold contract negotiations with the highest ranking respondent shall be made by the City Commission. The City shall negotiate a contract with the most qualified firm for professional services at compensation which the City determines is fair, competitive, and reasonable. In making such determination, the City shall conduct a detailed analysis of the cost of the professional services required in addition to considering their scope and complexity. For any lump-sum or cost-plus-a-fixed-fee professional service contract over the threshold amount provided in s. 287.017 for CATEGORY FOUR, the City shall require the firm receiving the award to execute a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any professional service contract under which such a certificate is required must contain a provision that the original contract price and any additions thereto will be adjusted to exclude any significant sums by which the City determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract adjustments must be made within 1 year following the end of the contract.

Should the City be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price the City determines to be fair, competitive, and reasonable, negotiations with that firm must be formally terminated. The City shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the City must terminate negotiations. The City shall then undertake negotiations with the third most qualified firm. Should the City be unable to negotiate a satisfactory contract with any of the selected firms, the City shall select additional firms in the order of their competence and qualification and continue negotiations in accordance with this subsection until an agreement is reached.



Contracts for the performance of auditing services in connection with annual financial audits shall be procured in accordance with the provisions of Florida Statutes, Section 218.391 and the City Charter.

The City shall establish an audit committee per the City Charter. The primary purpose of the audit committee is to assist the City in selecting an auditor to conduct the annual financial audit required in F.S. Section 218.39. The public shall not be excluded from the proceedings under this section.

A. The audit committee shall:

1. Establish factors to use for the evaluation of audit services to be provided by a certified public accounting firm duly licensed under F.S. Chapter 473 and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy. Such factors shall include, but are not limited to, ability of personnel, experience, ability to furnish the required services, and such other factors as may be determined by the committee to be applicable to its particular requirements.
2. Publicly announce Request for Proposals. Public announcements must include, at a minimum, a brief description of the audit and indicate how interested firms can apply for consideration.
3. Provide interested firms with the Request for Proposal document. The RFP shall include information on how proposals are to be evaluated and such other information the committee determines is necessary for the firm to prepare a proposal.
4. Evaluate proposals provided by qualified firms. If compensation is one of the factors established, it shall not be the sole or predominant factor used to evaluate proposals.
5. Rank and recommend in order of preference no fewer than three firms deemed to be the most highly qualified to perform the required services after considering the factors established. If fewer than three firms respond to the RFP, the committee shall recommend such firms as it deems to be the most highly qualified.

The method used by the City to select a firm recommended by the audit committee must ensure that the agreed upon compensation is reasonable to satisfy the requirements of F.S. 218.39 and the needs of the governing body.

15.01 Selection Committee

Members of a Selection Committee are to be selected and should include representatives from the user department or division, and other department/division(s) involved, as well as any other individual(s) with specialized expertise. A representative of the Purchasing Division shall chair the committee as a non-voting member. The Selection Committee, except where specified by Charter, will consist of not less than three City employees, consisting of an odd amount of members, not to exceed five (5) members, except in special circumstances pre-approved by the Purchasing Manager. The members of the Selection Committee shall be identified prior to the solicitation issuance and a list sent to the Purchasing Division for review. Final approval of Selection Committee members rests with City Management.

Once the members of the Selection Committee have been identified, they are to review the **Selection Committee Guidelines (See Exhibit 13)**, to gain a clear understanding of their responsibilities while serving on the Committee for the duration of the bid process.

The evaluation process is a key function in the selection of a quality contractor/consultant. It is very important that this process be conducted in a professional and consistent manner, therefore committee members need to be flexible and available for all meetings during the evaluation process, including demonstrations and presentations.

Selection Committee and all other meetings during the evaluation period prior to final selections must comply with the State of Florida Sunshine and Public Record Laws. Reasonable notice of the date, time and place of the meeting must be given. The meeting shall be recorded, but not transcribed. The meeting recordings shall be available for public review by appointment with the Purchasing Division.

On the date of RFP issuance, a copy of the document shall be provided to each member of the Selection Committee.

15.02 Procedure

Once the specifications have been approved by all parties, the Purchasing Division will submit a Solicitation Approval Form to the City Management detailing the solicitation. Upon signed approval by the City Manager or Assistant City Manager, the formal solicitation will be issued.

Once the formal solicitation has been issued, communication is prohibited, whether direct or indirect, regarding the subject matter or the specifications by any means whatsoever (whether oral or written), with any City employee, elected official, selection committee member, or representative of the City of Winter Park, from the issuance of the specifications until the Commission makes the award. Communications initiated by a bidder may be grounds for disqualifying the offending bidder from consideration for award of the bid or any future bid. The only exceptions to the foregoing rule are as follows: (1) an invitation to give an oral presentation to the selection committee is received; (2) any questions relative to interpretation of specifications or the formal solicitation process shall be addressed to the Purchasing Division, in writing, via fax (407-599-3448) or email (purchasing@cityofwinterpark.org). No questions will be answered seven (7) or fewer business days from the date and time of the public opening.

The Purchasing Division shall issue the RFP. A pre-proposal conference will be held which may or may not be mandatory. Prospective proposers will have an opportunity to request clarification and ask questions. Answers to inquiries will be compiled in the form of an addendum which will be posted on the City's website for download. Proposals will be received by the City Clerk's office and date/time stamped in until the date and time specified in the RFP document. Proposals received after the deadline will be returned and not considered for further evaluation.

Once the public acknowledgement of responses received has occurred, the Purchasing Division will review the responses to ensure compliance with the requirements detailed within the RFP document. Responsive proposals will be distributed to each of the selection committee members upon receipt of signed Evaluator's Statement of Independence and Non-Conflict of Interest form, located within the Selection Committee Guidelines.

The Purchasing Division will provide the committee members with all the necessary forms for the evaluation process. The Purchasing Division will monitor the evaluation process and provide guidance at the start of each formal evaluation. If requested, training on the evaluation process can be provided to the members with little or no previous evaluation experience. The Purchasing Division will review forms for completeness and compliance with the policy. Any forms that are not properly completed or which lack appropriate comments or documentation to support the award recommendation may result in the delay of the award recommendation.

Selection Committee members shall review the responsive proposals and independently score each proposal for each criteria. These scores will be used to individually rank the responses. Then each member's rankings will be accumulated to determine the group rankings.

A summary of total scores for all vendors shall be prepared after all members of the Selection Committee have reviewed and evaluated the written proposals. This will occur during a publicly noticed Selection Committee meeting. A copy of all evaluation forms and notes (and the committee's consensus score) shall be maintained by the Purchasing Division as part of the official file.

In conjunction with the initiating Department, the Purchasing Manager shall have the right to cancel a solicitation and/or reject all proposals and authorize the entire transaction to be resolicited.

15.03 Oral Presentations

Unless otherwise noted, all RFP processes will include oral presentations as part of the evaluation process. Oral presentations must comply with the State of Florida's Sunshine and Public Record Laws. Once the short listed firms have been identified, Purchasing staff must ensure compliance with the following process:

- i. Notify the contractors/consultants by mail, fax or e-mail of the City's determination. The notification shall include details of the oral presentations including but not limited to the following:
 - ix. Date and time of the oral presentations
 - x. Location of the meeting
 - xi. Time allotted for each firm
 - xii. Additional information if requested by the Selection Committee
- j. Purchasing staff will coordinate the schedule of the oral presentations with the Selection Committee and confirm attendance of members.
- k. Once the oral presentations are completed, the Selection Committee will conduct a post-presentation ranking and determine the overall top ranked firm.
- l. Other options that may be considered by the Selection Committee are to reject all proposals, and/or reissue the formal solicitation with revised specifications.

15.04 Award Recommendation

The user department or division shall assist the Purchasing Division with completion of the **Agenda Template Form (See Exhibit 12)** for award recommendation. Award recommendations for which the award to each vendor exceeds the Commission approval limit shall be submitted by the Purchasing Division to the City Clerk for inclusion on the Consent Agenda. Award shall not be final until execution of a contract is complete.

Every purchase of audit services shall be evidenced by a written contract embodying all provisions and conditions of the purchasing of such services. For purposes of this section, an engagement letter signed and executed by both parties shall constitute a written contract. The written contract shall, at a minimum, include the following:

1. A provision specifying the services to be provided and fees or other compensation for such services.
 2. A provision requiring that invoices for fees or other compensation be submitted in sufficient detail to demonstrate compliance with the terms of the contract.
 3. A provision specifying the contract period, including renewals, and conditions under which the contract may be terminated or renewed.
- D. Written contracts entered into may be renewed. Such renewals may be done without the use of the auditor selection procedures provided in this section. Renewal of a contract shall be in writing.



The City of Winter Park encourages prompt and fair handling of all complaints and disputes with the business community. In order to resolve disputed matters in an equitable manner without fear of retribution on the part of a vendor or person, the following protest procedures are adopted:

All purchasing notices of intended decisions, with respect to contract awards, suspensions and debarments, shall set forth the following statement:

“FAILURE TO FOLLOW THE PURCHASING PROTEST PROCEDURE REQUIREMENTS WITHIN THE TIME FRAMES PRESCRIBED HEREIN AS ESTABLISHED BY THE CITY OF WINTER PARK, FLORIDA, SHALL CONSTITUTE A WAIVER OF YOUR PROTEST AND ANY RESULTING CLAIMS”.

Right to Protest

Any actual or prospective bidder, proposer, vendor or person who is allegedly aggrieved in connection with a contract award, suspension or debarment may protest to the Purchasing Manager.

A. POSTING: The Purchasing Division shall post all award actions, suspensions and debarments available for review by the General Public on the front lobby bulletin boards of the Purchasing Division within City Hall. Vendors who submit a bid, or who are being suspended or debarred, will be notified by mail.

B. FORMAL WRITTEN PROTEST: Any person adversely affected by an intended decision or action with respect to the award of any formal solicitation, suspension, debarment or any other procurement issues shall file with the City's Purchasing Manager a written notice of protest within seven (7) calendar days of the city's recommendation for an award. Such protest shall be in writing, shall state the particular grounds on which it is based, shall include all pertinent documents and evidence and shall be accompanied by a cashier's check in the amount of five percent (5%) of the contract award amount, or, if the amount of the contract award cannot be reasonably determined at that time, then in the amount of One Thousand Two Hundred Fifty Dollars (\$1,250.00), made payable to the City of Winter Park, (subject to the procedures and conditions hereinafter stated). The purpose of this bid bond shall be to reimburse the City for all administrative costs associated with the appeal process. Failure to submit a bid bond that is compliant with this provision with the bid protest shall be deemed a waiver of the bid protest and is a jurisdictional deficiency in the protest that will forfeit the right of the bidder to maintain the protest. If the amount of the contract award is not reasonably capable of being quantified at the time the protest is initiated, the initial bid bond shall be One Thousand Two Hundred Fifty Dollars (\$1,250.00), as previously stated. However, in such event, the City may require a bid bond in a greater amount not to exceed Ten Thousand Dollars (\$10,000.00) if the One Thousand Two Hundred Fifty Dollars (\$1,250.00) is clearly inadequate under the facts presented. If the City increases the required bid bond amount, the protester shall have seven (7) calendar days in which to pay to the City of Winter Park in the form of a cashier's check the difference between One Thousand Two Hundred Fifty Dollars (\$1,250.00) and the new amount of bid bond established by the City (which will not exceed Ten Thousand Dollars (\$10,000.00)). A failure to pay the additional amount of bid bond shall be deemed a waiver of the right to maintain the protest.

Any grounds not stated shall be deemed waived. The formal written protest shall contain the following:

1. City formal solicitation number and title
2. Name and address of the department, division or agency affected

3. The name and address of the affected party, and the title or position of the person submitting the protest.
4. A statement of disputed issues of material fact. If there are no disputed material facts, the written letter must indicate so.
5. Concise statement of the facts alleged and of the rules, regulations, statutes, ordinances and constitutional provisions entitling the affected party to the relief requested.
6. The statement shall indicate the relief to which the affected party deems himself/herself entitled.
7. Such other information as the affected party deems to be material to the issue.

C. **PROTEST MEETING:** The Purchasing Manager will notify and schedule a bid protest meeting. The meeting shall be scheduled with the protesting party within fourteen (14) working days (excluding Saturdays, Sundays and legal City holidays) of receipt of the formal written protest. The purpose of the protest meeting is: 1) to question and review the basis of the protest; 2) to evaluate the facts and merits of the protest; 3) if possible, to reach a solution of the protest that is acceptable to the affected parties; and 4) if possible, to satisfy the protestor to the extent that the protest might be withdrawn.

D. In the event that the protest cannot be resolved by mutual agreement, the Purchasing Manager shall refer the protest to the City Manager within five (5) working days with a recommendation, in writing, for resolution of the protest. The City Manager may conduct an evidentiary hearing, if there are disputed issues of material fact. The City Manager will conduct a review and make an attempt to resolve the issue in a manner amicable to all parties within ten (10) working days after receipt of the recommendation, date of the hearing or the review, whichever is later. If the protesting party is not amicable to a solution, they are entitled to address the City Commission at a regularly scheduled bi-weekly public meeting and present their concerns. The party must first request such an appearance and schedule with City Management to be placed on a Commission agenda. The City Commission's decision shall be final and binding.

E. After completion of the review by the Purchasing Manager, City Manager, City Commission and any subsequent court proceedings, if the decision of the Purchasing Division is upheld, the City shall retain the bid bond to defray the costs and expenses incurred during consideration of the protest. If the person protesting the award prevails, the person protesting shall recover the cashier's check.

F. All references to 'City' shall include decisions by City staff when staff are authorized to take such action without formal Commission vote or approval.

G. The seven (7) calendar days within which a protestor may protest an intended decision or action shall run from the first issuance of the intended decision or action by the City. The issuance of an intended decision or action shall occur at the earliest date and time on which the decision is posted, served electronically or posted electronically on the City website.

STAY OF PROCUREMENTS DURING PROTEST: In the event of a timely protest under this Section, the Purchasing Manager shall not proceed further with the solicitation or award of the contract until a written determination is made by the Purchasing Manager, City Manager or City Commission, or until the City Manager makes a determination for the record that award of a contract, without delay, is necessary to protect substantial interests of the City.



The City shall solicit offers from, award to and consent to subcontracts with responsible contractors only. To effectuate this policy, the debarment of contractors from City work may be undertaken. The serious nature debarment requires that this sanction be imposed only when it is in the public interest for the City's protection and not for the purposes of punishment. Debarment shall be imposed in accordance with the procedures contained in this section. Debarment is intended as a remedy in addition to, and not in substitution of, the evaluation of the responsibility of City bidders and contractors, and the rejection or termination of City bidders and contractors based on findings of non-responsibility on a case-by-case basis.

The Purchasing Manager shall review cases in which probably cause for disqualification (debarment) exists. The review by the Purchasing Manager will consist of information from the affected department and from the vendor or contractor. The City Manager must ratify any debarment.

17.01 Causes for Disqualification (Debarment):

- A. Vendor defaults or fails to fully comply with the conditions, specifications, or terms of a bid, quotation, proposal or contract with the City; or
- B. Vendor commits any fraud or misrepresentation in connection with a bid, quotation, proposal or contract with the City; or
- C. Vendor is charged by a court of competent jurisdiction with the commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract; or
- D. Vendor is charged by a court of competent jurisdiction with the following; embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects the responsibility as a City government contractor.

If charges are dismissed or the vendor is found not guilty, the suspension shall be lifted automatically upon written notification and proof of final court disposition provided by the vendor to the City; or

- E. Vendor becomes insolvent, has proceedings in bankruptcy instituted against it or, compounds its debts or assigns over its estate or effects for payment thereof, or has a receiver or trustee appointed over its property; or
- F. Vendor omission to perform any act which is grounds for disqualification; or
- G. Vendor violates the ethical standards set forth in local, State or Federal law; or
- H. Documented repeated and uncorrected poor performance on a previous project awarded by the City of Winter Park; or
- I. Any other cause the Purchasing Manager determines to be so serious and compelling as to materially and adversely affect responsibility of a vendor as a City government contractor, including but not limited to suspension by another government entity for legally-sufficient cause.

17.02 Permanent Disqualification

A vendor may be permanently disqualified for the following:

- A. Default or failure to fully comply with the conditions, specifications, drawings, or terms of a bid, proposal or contract with the City twice in any three year period.
- B. Conviction by or judgment obtained in a court of competent jurisdiction for commission of those offenses in connection with the Vendor's commercial enterprise stated previously in this section. If the conviction or judgment is reversed through the appellate process, the disqualification shall be removed immediately upon written notification and proof of final court disposition from the vendor to the City.

17.03 Decision

After the Purchasing Manager has determined he/she has cause to suspend or disqualify a vendor, and the action has been ratified by the City Manager, the Purchasing Manager shall notify the vendor in writing of the disqualification and the period of suspension and the reasons for the action taken.

17.04 Public Entity Crime

Any vendor who has been convicted of a "Public Entity Crime" (F.S. 287.133), shall not be able to transact business with the City to the extent as specified in F.S. 287.133(3)(a).

17.05 Finality of Decision

The suspension or disqualification shall be final and conclusive.



When deemed to be in the best interest of the City, the City shall have the option to utilize Sales Tax Recovery for construction projects, renovation projects or other purchases as needed to take advantage of the City's Sales Tax exemption status. It will be determined prior to the IFB or RFP if the use of Sales Tax Recovery will be utilized and nothing herein shall prohibit the City from deleting items within the IFB or RFP and purchasing said items directly from a supplier in an effort to benefit the City.

When Sales Tax Recovery is utilized, the City will utilize the awarded Vendor's suppliers and shall place Purchase Orders for the purchase of the supplies needed by the awarded Vendor without further competition, who shall take receipt of such supplies, and shall utilize said supplies on the awarded project. The City shall pay all invoices associated with the Purchase Orders and shall deduct the invoice cost plus the sales tax from the Contract amount.

For contracts awarded through the formal solicitation process, owner direct purchases shall be coordinated with the awarded contractor, and the City Manager shall have approval authority.

When the City exercises this option, the following procedures shall be used for ordering, receiving and paying for the component(s) selected.

18.01 Ordering

The City may exercise its right to direct purchase any component of the bid in order to save the sales tax on the selected component, which may include equipment, materials, and supplies contained within the bid. The items selected would then be purchased directly from vendors the contractor used to submit their bid to the City and therefore made a part of the construction contract executed with the City. The Contractor shall fully cooperate with the City, providing information for the preparation of purchase orders for these direct purchases, monitoring deliveries, and approving invoices.

The City will issue a purchase order to the material supplier for the component selected for owner direct purchase (ODP). The purchase order will be sent to the Contractor, who shall verify that the order was issued correctly, and if so, send to the material supplier. If the City will be utilizing the pcard as the form of payment (in lieu of a purchase order), a document that itemizes the products being ordered must be obtained by the requesting department.

The contract will be reduced by the amount of all construction materials selected by the City, for direct purchase.

18.02 Expediting

The Contractor shall be responsible for expediting delivery to ensure that material is received on time to maintain the construction schedule.

18.03 Receipt

The Contractor shall sign for and receive all materials; and retain packing slips and delivery tickets for all materials delivered for the project. The Contractor and subcontractors shall be responsible for the safe care, custody and control of all materials. Any action by a subcontractor in connection with the receipt, care and

custody of materials and products shall be as a subcontractor to the contractor and not acting as an agent on behalf of the City of Winter Park.

18.04 Billing/Payments

All ODP's shall be billed to the City in care of **the Contractor**.

The Contractor shall check all invoices for accuracy and completeness when received. The Contractor shall be responsible for immediately notifying the supplier of any billing errors and requesting corrected invoices as necessary.

Receipts and invoices must be processed in a timely manner in order to take advantage of any discount payment terms and all discounts shall accrue to the City.

The Contractor shall prepare a direct purchase report for the City upon submittal of each pay request.

18.05 Other Considerations

The City shall have title to all items of which any payment has been made under these provisions.

The selection of ODP for any item contained within the bid does not relieve the Contractor from liability for that item as it may related to the quantity ordered, the maintenance and care of the item when delivered, or the installation or incorporation of the item in the work to be performed in accordance with the contract documents. The Contractor shall maintain products liability insurance, which shall include ODP items, as required for the normal practice of general contracting.

The City shall have access to all necessary records in order to conduct audits to determine the correctness and accuracy of any item purchased in accordance with these provisions.

Notwithstanding any provision in this Section 18, the City of Winter Park will comply with all statutory requirements and administrative requirements imposed by the Florida Department of Revenue in order to maintain a compliant direct purchase program. To the extent required by Florida law, the risk of loss with respect to product delivered shall be on the owner, but the City of Winter Park may, to the extent allowed by Florida law, require that the contractor and its subcontractors indemnify and hold harmless the City for any loss to products delivered as a result of contractor breach of contract or negligence. The City may also require that the scope of services in the contract shall include services to be delivered by the contractor or its subcontractors concerning scheduling, acceptance of products delivered, storage, sequencing of delivery and incorporation of products into the project. None of the provisions in this Section 18 shall be interpreted to provide any procedure for ODP different than the procedures required by the Florida Department of Revenue (except to the extent that a procedure imposed by DOR can be shown to be in contravention of Florida Sales Tax Law.



Conflict of Interest

The purpose of this Section is to provide guidance to employees engaged in any aspect of the Purchasing function concerning the avoidance of conflict of interest.

Employees engaged in the Purchasing function are expected to be free of interests or relationships which are actually or potentially conflicts of interest or detrimental to the best interest of the City, and shall not engage or participate in any commercial transaction involving a company, its affiliates, divisions or subsidiaries in which they have a significant undisclosed financial interest.

Employees engaged in purchasing who have assumed, or are about to assume, a financial or other outside business relationship that might involve a conflict of interest must immediately inform their supervisor of the circumstances involved. This information will be reviewed at an appropriate level for decision on whether a conflict of interest is present, and, if so, what course of action will be taken.

In this connection, a conflict of interest exists where an employee:

- A. Has an outside interest that materially encroaches on time or attention that should be devoted to the affairs of the City.
- B. Has a direct or indirect interest in or relationship with an outsider that is inherently unethical or that might be implied or construed to be, or make possible personal gain due to the employee's ability to influence dealings.
- C. Is partial toward an outsider for personal reasons or whose business judgment is impartial or otherwise inhibited.
- D. Places himself or the City in an equivocal, embarrassing or ethically questionable position.
- E. Takes personal advantage of an opportunity that properly belongs to the City.
- F. Uses City property without approval.

Ethics in Public Purchasing

Acceptance of gifts at any time, of any nature from vendors is prohibited. Employees must not become obligated to any vendors and shall not conduct any transactions from which they may personally benefit. No City of Winter Park employee or officer shall bid for, enter into or be in any manner interested in any City of Winter Park contract nor shall any employee or officer seek to influence the purchase of a product or service from any offeree. Such restrictions shall not be construed to restrict persons from evaluating and appraising the quality and value of the product to be purchased or service to be rendered where the person's scope of employment contemplates advice and counsel with respect to the purchase. No City employee or officer shall receive any gift or benefit of any nature from prospective bidders. The avoidance of actual or apparent conflicts of interest is a prime requisite to the efficient and sound operation of government and maintenance of the public trust.

All City of Winter Park employees shall adhere to the ethical standards contained in Florida Statutes Chapter 112, Part III, Code of Ethics for Public Officers and Employees, as well as those contained in the City of Winter Park's personnel policy, Sections 1 and 8.

The Purchasing Division supports the National Institute of Governmental Purchasing (NIGP) Code of Ethics and adheres to their philosophy of protecting the public trust.

Additionally, Purchasing Division employees will abide by the Universal Public Procurement Certification Council (UPPCC) Code of Ethics in the performance of their duties on behalf of the City as follows:

- A. Seek or accept a position in procurement only when fully in accord with the professional principles applicable thereto and when confident of possessing the qualifications to serve under those principles to the advantage of the City.
- B. Believe in the dignity and worth of the service rendered by the City, and the societal responsibilities assumed as a trusted public servant.
- C. Be governed by the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and inspire the confidence of the City and the public being served.
- D. Believe that personal aggrandizement or personal profit obtained through misuse of public or personal relationships is dishonest and non tolerable.
- E. Identify and eliminate participation of any situations where a conflict of interest may be involved.
- F. Believe that they should at no time, or under any circumstances accept directly or indirectly, gifts, gratuities, or other things of value from suppliers, which might influence or appear to influence procurement decisions.
- G. Keep the City informed, through appropriate channels, on problems and progress of applicable operations by emphasizing the importance of the facts.
- H. Handle all personal and professional matters on a merit basis, and in compliance with applicable laws prohibiting discrimination in employment on the basis of politics, religion, color, national origin, disability, gender, age, pregnancy and other protected characteristics.
- I. Seek or dispense no personal favors. Handle each administrative problem objectively and empathetically, without discrimination.

The provisions in this Section 19 are subject to the statutory Code of Ethics contained in Chapter 112, Florida Statutes. The provisions stated in this Purchasing Manual shall be interpreted to be consistent with the requirements of Florida statutes, unless a more restrictive requirement is expressly provided in this Purchasing Manual and the subject of the more restrictive requirement is allowable to the City pursuant to Section 112.326, Florida Statutes.

Lobbying

Lobbying of evaluation committee members, City employees, or elected officials regarding any type of formal solicitation or contract, during the selection process or bid protest, by the bidder/proposer/protester or any member of the bidder's/proposer's staff, an agent of the bidder/proposer/protester, or any person employed by any legal entity affiliated with or representing an organization that has responded to a formal solicitation or contract or has a pending bid protest is strictly prohibited either upon publication of the formal solicitation until either an award is final or the protest is finally resolved by the City. Nothing herein shall prohibit a prospective bidder/proposer from contacting the Purchasing Division to address situations such as clarification and/or questions related to the purchasing process as outlined in the formal solicitation documents. For purposes of this provision, lobbying activities shall include but not be limited to, influencing or attempting to influence action or non-action in connection with any formal solicitation or contract, through direct or indirect oral or written communication, or an attempt to obtain goodwill of persons and/or entities specified in this provision. Such actions may cause any formal solicitation or contract to be rejected.



20.01 Guidance for Working with Vendors

City employees are subject to the laws and policies that apply to all public employees. All employees involved in purchasing transactions shall conduct business with vendors in a fair and impartial manner that avoids impropriety or the appearance of impropriety.

20.02 Vendor Performance

Assuring proper performance by vendors requires cooperation and communication between user department and the Purchasing Division. Timely actions on the part of the user department and the Purchasing Division is required for enforcing the terms of Purchase Orders and contracts and protecting the City's financial and legal interests. Below are guidelines to improve vendor's performance:

- A. Failure by vendors to deliver on time, in the proper quantities or to meet is a problem that must be handled in a prompt, uniform and fair manner.
- B. In the event of a problem, the user department should promptly contact the vendor to request resolution. A complete record should be made of the contact to include the name, title and telephone number of the person contacted and any promises made by that person.
- C. If the vendor continues to be noncompliant after the first contact, contact the Purchasing Division, who will issue a Cure Notice to the contractor. The Cure Notice will provide written notice of the failure and allow a specified time for cure (remedy) of the failure before issuing a termination notice. If the contractor fails to comply with the terms of the contract or order after this notice, the Purchasing Division may cancel the purchase order or contract and order from another source.

20.03 Public Disclosure

Florida's Public Records Law provides that City records shall at all times be open for personal inspection by any person. Information and materials received by the Purchasing Division in connection with a formal solicitation shall be deemed to be public records subject to public inspection upon award, recommendation for award, or ten (10) days after public opening, whichever occurs first. Certain exemptions to the public records law are statutorily provided for in Section 119.07 Florida Statutes.

If the vendor believes any of the information contained in his or her response to a formal solicitation is exempt from the Public Records Law, then the vendor must in her or her response, specifically identify the material which is deemed to be exempt and cite the legal authority for the exemption. The City's determination of whether an exemption applies shall be final, and the vendor agrees to defend, indemnify, and hold harmless the City and the City's officers, employees and agents, against any loss or damages incurred by any person or entity as a result of the treatment of records as public records.



21.01 Purpose

The purpose of this section is to establish procedures for the transfer and disposal of excess and surplus property consistent with the requirements set forth in Chapter 274, Florida Statutes. It is also the purpose to maximize returns on excess, and surplus property by transferring the property or disposing of it through a public auction, formal solicitation, trade-in, or donation.

21.02 Responsibility

When a department determines that it no longer requires or can use an item of equipment or other Property which has been identified as surplus or obsolete material, it must be reported to the Purchasing Division. Determination will be made as to whether the property should be transferred to another department, sold, traded or donated.

21.03 Classification of Surplus Property

Items identified as surplus may be classified as follows:

- A. Excess – materials and supplies that are acquired by a government agency but are not required or can no longer be used by the agency but have a residual value.
- B. Obsolete – materials and supplies that are out of date, no longer in use or effectively usable.
- C. Scrap – salvageable material that is damaged, defective, or deteriorated to the extent that it has no value except for its basic material content.

21.04 Procedure

Departments are to provide Purchasing with an itemized list of surplus property, including condition, unique features and estimated value.

Purchasing will first attempt to reallocate surplus to any department that can utilize such. For items not reallocated, Purchasing will determine the most advantageous method for disposal of surplus property. Purchasing will contact appropriate vendor(s) while maintaining a listing of items released to said vendor(s) for sale.

All City assets that have resale value will be sold through a public auction. City employees will not have the opportunity to purchase surplus goods outside of the public auction process.

Upon sale of surplus property, vendor(s) will generate a check (less commission) and mail directly to the Purchasing Division. Purchasing will retain a copy of the check along with itemized listing of sale proceeds in surplus file. A memo will be generated and forwarded to Finance along with the check for deposit into the general fund.



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city commission agenda item

| | | | |
|---------------------------------------|--|--------------|--|
| item type | Action Item Requiring Discussion | meeting date | April 25, 2011 |
| prepared by department division | Wes Hamil Finance Director n/a | approved by | <input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A |
| board approval | <input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A final vote | | |

Subject – Debt Management Policy

motion | recommendation

Adopt the attached updated Debt Management Policy.

background

The 2010 Strategic Plan called for the review of the City's debt management policy.

Staff reviewed GFOA Best Practices policy, those of similar sized cities and received assistance from Public Financial Management (PFM), our Financial Advisor, in revising the debt management policy. The attached policy reflects the following significant changes from the current policy:

1. Discussion of revenue, accounting and budgeting matters and reserve policies was removed. An expanded discussion of these areas is now included in the proposed Administrative Policies document.
2. Discussion of debt instruments no longer being issued in the market such as auction rate securities was deleted.
3. Discussion of using insurance to enhance credit ratings was updated to reflect current market conditions.
4. Discussion of including call features in bonds was updated to reflect current market conditions.
5. Discussion of ratings of banks providing liquidity facilities (Winter Park does not currently have any) was updated to reflect current market conditions.
6. Discussion of the investment of bond proceeds and continuing disclosure requirements were added to the policy.

Attached is the red-lined version of the previous debt management policy.

alternatives | other considerations

The City could continue with the policy currently in place.

fiscal impact

A dollar impact cannot be determined but this policy is intended to create financial stability, sustainability and efficiency.

strategic objective

Quality government services and financial security. Specifically, this addresses the strategic initiative "Evaluate financial policies".

DEBT MANAGEMENT POLICY
CITY OF WINTER PARK, FLORIDA

1. **Administration of debt policy:** The Finance Director of the City of Winter Park, Florida (the "City") is charged with overseeing and implementing the provisions of this policy. It shall be his/her specific responsibility to recommend to the City Manager/Assistant City Manager and subsequently to the City Commission the selection of any external agents (bond counsel, financial advisors, underwriters, arbitrage rebate consultants, paying agents, trustees, printers, etc.), to review the proposed annual capital expenditures and financing plan, to recommend specific projects for debt financing ~~and~~ to participate as members of the financing team in the issuance of any debt obligations of the City, and to ensure all continuing disclosure requirements are met following the sale of bonds.

The City Manager and Finance Director are responsible for administration of the City's financial policies. The City Commission is responsible for the approval of any form of the City's borrowing and the details associated therewith. Unless otherwise designated, the Finance Director coordinates the administration and issuance of debt.

2. **Purpose and Objective:** The adoption of a written debt policy by the ~~City's~~ City Commission and its active use help ensure a consistent approach to debt issuance which will benefit existing and future holders of City debt. Access to capital markets at reasonable interest rates and credit terms is a fundamental goal that is facilitated through the adoption of appropriate debt policies taking into consideration the amount and types of fixed and variable rate debt given the City's risk tolerance to market fluctuations, capital market outlook, future capital needs, credit, rating agency considerations, tax implications and industry competition.

Additionally, the following items will be considered:

Revenues ~~DO WE WANT TO DELETE THIS SECTION?~~

- ~~— The City will maintain a stable and diversified revenue base to offset possible shortfalls caused by short term fluctuations.~~
- ~~— The City will develop, investigate and implement new and expanded revenue sources.~~
- ~~— The City will maintain aggressive policies on revenue collections.~~
- ~~— The City will estimate revenues at realistic levels.~~
- ~~— The City will analyze trends and regional data to accurately estimate revenues.~~
- ~~— The City will regularly review and analyze fee structures to ensure cost of service coverage.~~
- ~~— The City will begin development of three-year projections to better evaluate long term trends and weaknesses.~~
- ~~The City will apply property taxes as revenue of last choice.~~

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3. **Scope:** This policy shall apply to all debt obligations of the City, whether for the purpose of acquisition or construction of City assets, the refunding of existing debt and for all interest rate hedging products and derivatives.

4. **Exceptions:** Exceptions to this policy will be approved by the City Commission.

5. **Accounting, Budgeting and Reporting Practices:**

~~a. Quarterly financial statements prepared on a budget basis and annual financial statements prepared on a GAAP basis are to be prepared by the Finance Department and submitted to the City Commission at their regularly scheduled meeting dates.~~

~~b. An annual budget shall be prepared by the Finance Department and approved by the City Commission. The budget should provide reasonable detail as to the operating, capital and debt service expenditures in the coming year.~~

~~c. Five Year Capital Improvement Budgets should be prepared by the Finance Department and approved by the City Commission. Details of the anticipated capital expenditures should be provided such that financing plans can be developed. These financing plans should be reviewed and approved as part of the budget approval process.~~

~~d.~~ The Finance Department or designees will promptly notify the rating agencies of any debt restructuring, derivative products entered into or any other transaction, which does not involve issuance of debt but has an impact on the overall rate of interest on its debt or its debt structure. The Department or designees shall also respond to all inquiries from creditors, investors, and ~~credit evaluation~~rating agencies ~~organizations~~ in a complete and prompt fashion.

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6. **General Debt Issue Policies:**

a. **Structure:** The City's capital structure ~~shall~~may consist of fixed rate and variable rate debt in both traditional ~~as well as~~and synthetic form along with hedging instruments such as interest rate swaps, caps, collars and other non-speculative derivative products. The percentage of total debt that may be variable rate-based may from time-to-time change, as debt management strategies change given interest rate environments and appropriate approvals. The risks associated with any given structure and the financial instruments used shall be fully explained to those who must decide and approve any final financing structure.

b. **Borrowing:** The City Commission shall have the authority to borrow money, contract loans and issue bonds in accordance with the provisions of the Constitution of the State of Florida and the general laws of the state. However, approval by voter referendum shall be required prior to the issuance of any of the following categories of bonds per the City Charter:

1. General obligation bonds which pledge the full faith and credit of the taxing power of the City,

2. Revenue bonds intended to finance enterprises or projects which involve the purchase, lease and/or acquisition of real property by the City or agencies thereof, with the exception of revenue bonds issued to finance the purchase, lease and/or acquisition of park real property and/or park projects by the City or agencies thereof, or

3. Revenue bonds which pledge specific non ad valorem taxes as the primary source(s) of revenue to pay principal and interest and which have a principal value in excess of one (1) million dollars. This dollar limitation shall be adjusted annually as of the end of each fiscal year in accordance with changes in the cost-of-living index as published by the federal government. Revenue bonds issued to finance the purchase, lease and/or acquisition of park real property and/or park projects by the City or agencies thereof would not be limited by this requirement.

c. **Pay-As-You-Go:** The City will strive to maintain a high reliance on pay-as-you-go financing for its capital improvements and capital assets.

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d. **General Obligation Debt Levels:** As a goal, the City will maintain its net general obligation bonded debt at a level not to exceed two (2) percent of the assessed valuation of taxable property within the City unless otherwise directed by the City Commission.

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e. **Reserves:** The City will maintain revenue bond reserves to comply with the covenants of the bond issues and ensure adherence to federal arbitrage regulations.

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~~f. To the extent that the unreserved General Fund balance exceeds 30% of General Fund expenditures and transfers out for recurring operational costs reported in other funds as of the most recent audited financial statements, the City may draw upon the excess to provide pay-as-you-go financing for capital projects as approved by the City Commission.~~

~~g. Purpose and Projects:~~ Long-term borrowing will not be used to finance current operating expenditures. However, this does not preclude the City from using debt to meet short-term operating needs in the event of an emergency such as a natural or man-made disaster.

~~For any enterprise fund that is supporting debt, an annual rate study will be performed by staff to ensure that the fees or rates are sufficient to meet the debt service requirements.~~

~~h. Term:~~ The following guidelines should govern the issuance of new money financing.

- The maturities of debt will be equal to or less than the useful economic life of the item financed.

~~All debt issues, including lease-purchase methods, will be repaid within a period not to exceed the expected useful lives of the improvements or capital assets financed by the debt.~~

- Where practicable the debt service structure on new money financing should be level debt service if economically feasible.
- The use of credit enhancement should be evaluated on a maturity-by-maturity basis and only used where the economic benefits exceed the costs of issuing rated or unrated debt obligations.

~~In addition, all features are preferred and should be analyzed closely utilized when financially prudent in order to provide future flexibility.~~

- The use of a fully funded debt service reserve should always be evaluated against the use of a surety or other debt service reserve product.

~~i. Reserves~~

~~The City will work towards an unreserved General Fund Balance equaling thirty percent (30%) of General Fund expenditures and transfers out for recurring operational costs reported in other funds. The City will not reduce unreserved General Fund Balance below fifteen percent (15%) of General Fund expenditures and transfers out for recurring operational costs reported in other funds.~~

~~Ten percent of any increase in General Fund balance as reported in the audited Comprehensive Annual Financial Report will be designated for the acquisition of land for parks.~~

~~The City will budget an annual general contingency amount for unanticipated expenses or increases in service levels.~~

~~The General Fund Undesignated Contingency may be used at the discretion of the City Commission for emergency and non-emergency uses:~~

~~Emergency uses would include but are not limited to hurricanes, tornadoes, and other natural disasters, train wrecks, plane crashes, epidemics, etc. Non-emergency uses would include but are not limited to capital projects, purchase of capital, contracted services, etc.~~

~~An emergency appropriation shall require a sample majority vote of the Commission. If an emergency prevents the Commission from convening, the City Manager and the Mayor, in his absence, the Vice Mayor and in their absence, any Commissioner.~~

~~A non-emergency appropriation shall require a simple majority of the Commission provided the amount does not exceed ten percent to the current undesignated contingency reserve.~~

~~A non-emergency appropriation exceeding ten percent of the current undesignated contingency reserve shall require approval by four of the five Commissioners.~~

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jh. Bond Insurance: Bond insurance is an insurance policy purchased by an issuer or an underwriter for either an entire issue or specific maturities, which guarantees the payment of principal and interest. This insurance provides a higher credit rating and must result in a lower borrowing cost for an issuer after consideration of the premium rate and underlying ratings.

Bond insurance can be purchased directly by the City prior to the bond sale (direct purchase) or at the underwriter's option and expense (bidder's option). ~~The City will attempt to qualify its bond issues for insurance with bond insurance companies rated AAA by Moody's Investors Service, Fitch Rating Services and/or Standard & Poor's Corporation.~~

When insurance is purchased directly by the City, the present value of the estimated debt service savings from insurance should be at least equal to or greater than the insurance premium. The bond insurance company will usually be chosen based on an estimate of the greatest net present value insurance benefit (present value of debt service savings less insurance premium).

Credit enhancement may take other forms such as LOCs or other securitization products and may be used if economically beneficial to the City.

ki. Credit Ratings: Credit ratings have wide investor acceptance as tools for differentiating credit quality of investments. ~~Credit ratings tend to close credit risk arbitrage opportunities in capital markets, thus benefiting the City by reducing interest rate expense.~~ The City shall attempt to continually improve its credit ratings. Comprehensive annual credit rating reviews should be provided to the rating agencies as well as semi-annual-periodic updates and ongoing communication of events affecting the City's overall credit, including asset and liability management issues.

lj. Non-Rated: Non-rated securities may be issued if the credit rating on the issue does not perform any economic benefit or add any value to capital market participants.

mk. Tax Status: The City has traditionally issued tax-exempt debt which results in significant interest cost savings compared with the interest cost on taxable debt. Accordingly, all of the City's debt should be issued to take advantage of the exemption from federal income taxes unless prohibited by federal law or applicable federal regulations.

nl. Subordinated Debt: The lien status and credit rating on this type of debt is inferior and protection to the bondholder is lower, therefore, this type of debt should be minimized to protect-reduce the City's credit-ratingoverall borrowing costs, unless it is the only method available to finance a project. There may be occasions when this type of debt is issued for potential restructuring reasons, when current senior-lien debt covenants are undesirable and this debt is soon to be retired or refunded.

em. Capital Leasing: Over the lifetime of a lease, the total cost to the City will generally be higher than purchasing the asset outright. As a result, the use of lease/purchase agreements and certificates of participation in the acquisition of vehicles, equipment and other capital assets shall generally be avoided, particularly if smaller quantities of the capital asset(s) can be purchased on a "pay-as-you-go" basis.

~~**pn. Certificates of Participation:** Under this type of financing, payments to holder of the securities are made from rental payments or other revenues which are subject to annual appropriation. The holders typically have no legal recourse against the City if it fails to make the necessary appropriation. Although this type of financing arrangement is not considered debt under a legal analysis, it is viewed as a financial obligation of the City and failure to make timely payments would damage the City's reputation in the credit markets and increase the cost of future borrowings. Accordingly, the City may utilize this financing vehicle, but it should be considered as debt of the City and, absent compelling extraordinary circumstances, non-appropriation should not be considered.~~

~~**qq. CABS: Capital Appreciation Bonds, Strips, Zero Coupon Bonds.** Capital appreciation bonds and other similar debt instruments pay no interest until their stated maturity. Although there may be extraordinary circumstances in which the use of capital appreciation bonds is fiscally prudent, in most cases the debt service deferral is not appropriate and should be discouraged. Accordingly, only when a compelling City interest is demonstrated should capital appreciation bonds be issued.~~

fp. Callable Bonds: Call provisions on bonds provide future flexibility to refinance or restructure debt and eliminate onerous covenants. Consequently, the City shall attempt to always have call provisions on its debt. Standard call provisions are five to ten years. Ideally, each case
Call provisions on each transaction should be analyzed upon marketing the bond issue and determined at the time, upon recommendation of the Financial Advisor.

sq. Refunding Criteria: Generally, the City issues refunding bonds to achieve debt service savings on its outstanding bonds by redeeming high interest rate debt with lower interest rate debt. Refunding bonds may also be issued to restructure debt or modify covenants contained in the bond documents. Current tax law limits to one time the issuance of tax-exempt advance refunding bonds to refinance bonds issued after 1986. There is no similar limitation for tax-exempt current refunding bonds. The following guidelines should apply to the issuance of refunding bonds, unless circumstances warrant a deviation therefrom:

- refunding bonds should generally be structured to achieve level annual debt service savings;
- the life of the refunding bonds should not exceed the remaining life of the bonds being refunded or the assets financed, whichever is longer;

- advance refunding bonds issued to achieve debt service savings should have a minimum target savings level measured on a present value basis equal to 35% of the par amount of the bonds being refunded; ~~and~~
- current refunding bonds issued to achieve debt service savings should have a minimum target savings level measured on a present value basis equal to 3% of the par amount of the bonds being refunded; and
- refunding bonds which do not achieve debt service savings may be issued to restructure debt or provisions of bond documents only if such refunding serves a compelling City interest or under extraordinary conditions.

The ~~3%~~ minimum target savings level for refundings should be used as a general guide to guard against prematurely using the one advance refunding opportunity for post-1986 bond issues. However, because of the numerous considerations involved in the sale of refunding bonds, the ~~3%~~ target should not prohibit refundings when the circumstances justify a deviation from the guideline.

tr. Debt Service Coverages: Debt service coverages shall conform to bond resolutions and remain at those levels to ensure that the City's credit rating is not diminished.

7. Method of Sale

The City's policy is to sell public debt using the method of sale expected to achieve the best result, taking into consideration short-term and long-term implications. ~~However, there is a divergence of views as to the merits of the competitive and negotiated methods of sale due to lack of comprehensive, empirical evidence that favors one method over the other.~~ The following section of this policy is intended to ensure that the most appropriate method of sale is selected in light of financial, market, transaction-specific and issuer conditions.

a. Competitive vs. Negotiated Preference: Competitive method sale should be preferred and considered when the following conditions are present:

- The City has been a stable and regular borrower in the public market.
- There is an active secondary market for the City's debt.
- The City has an underlying credit rating of A or above.
- The issue is neither too large to be absorbed by the market or too small to attract investors.

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- The issue is not composed of complex or innovative features ~~(e.g., a refunding issue)~~.
- Interest rates are stable, market demand is strong and the market is able to absorb reasonable levels of buying and selling with reasonable price reliability.

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If conditions for a competitive bond sale are not available then the following practice will apply to negotiated bond sales:

- A competitive underwriter-selection process that ensures that multiple proposals are considered will be used.
- The City's staff and the Financial Advisor will remain actively involved in each step of the negotiation and sale processes to uphold the public trust.
- The City's staff and Financial Advisor, who are familiar with and abreast of the condition of the municipal market shall assist in structuring the issue, pricing, and monitoring sales activities.
- The Financial Advisor will not serve as underwriter of an issue.
- The City will require that financial professionals disclose the name(s) of any person or firm compensated to promote the selection of the underwriter; any existing or planned arrangements between outside professionals to share tasks, responsibilities and fees; the name(s) of any person or firm with whom the sharing is proposed; and the method used to calculate the fees to be earned.

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~~b. Pricing a Negotiated Sale:~~

~~One of the most important outcomes of a bond sale, the cost of borrowing, is established through the pricing process. Unlike a competitive sale, bond pricing in a negotiated sale requires a much greater degree of issuer involvement. The issuer negotiates both the yield on the bonds and the underwriters' compensation, which includes the takedown (or sales commission), management fee, underwriting risk, and expenses.~~

~~It is the City's policy to strive for the best balance between the yield for each maturity and the takedown (sales commission) to achieve the lowest overall cost of financing. The following actions by the City's staff and its advisors are required in the pricing process:~~

- ~~— Take steps during the underwriter selection process and prior to final pricing to manage and establish the compensation to underwriters.~~
- ~~— Develop an understanding of prevailing market conditions, evaluate key economic and financial indicators, and assess how~~

these indicators likely will affect the outcome of the pricing. Among the types of information that will be helpful are:

c. ~~Payment of the Expense Component of Underwriter Discount:~~

~~When using the negotiated method of sale for tax-exempt bonds, the underwriter's compensation consists of various costs incurred by the underwriter on behalf of the issuer. To insure that these expenses are reasonable and explicitly identified, the City's policy is to:~~

- ~~— Require firms proposing to serve as senior managing underwriters to present an itemized list of expenses that they expect to incur.~~
- ~~— Require staff to convey clearly to the firm selected as senior managing underwriter, the expenses that the issuer regards as legitimate and those that the issuer does not view as reasonable.~~

d. ~~Private Placements:~~ The City may determine to seek funding by way of a private placement or bank loan where the size and structure of the borrowing does not ~~justify warrant the incurrence issuance of typical issuance expensespublically offered debt.~~ The City's Financial Advisor will compare the overall costs of a private placement with those of a public offering and recommend the most cost effective approach.

e. ~~Allocation of Bonds:~~ ~~The City should have underwriting firms under contract who have access to institutional, retail, regional and local buyers of debt. As markets change, so do potential buyers of tax-exempt or taxable debt. In order to achieve the lowest overall cost of borrowing, flexibility to access different markets is essential.~~

8. Plan of FinanceCapital Improvement Plan

The Finance Department will prepare, ~~from time to time~~as part of the annual budget process, a Plan of FinanceCapital Improvement Plan that will be submitted to the City Commission for ~~information purposesapproval.~~ Such ~~Plan of FinanceCapital Improvement Plan~~ will address at a minimum the amount of debt projected to be issued during the next five fiscal years ~~and whether such debt is senior or subordinated, fixed and/or variable and the possible use of hedging instruments.~~

a. ~~Factors to be considered in the final projections are:~~

- The forecast of spending levels for capital projects.
- The availability of internal funds to pay for capital projects.
- Desired debt service coverage levels consistent with a highly-rated municipality.
- The additional bonds test calculation outlined in the applicable bond ordinances or related documents.

b. ~~Tax-exempt vs. Taxable~~

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~~As a municipality, the City is authorized to issue tax-exempt debt and must comply with appropriate tax regulations. The City will endeavor at all times to issue tax-exempt debt. For certain transactions, due to tax regulations, it may be necessary for the City to issue taxable debt. Such prevailing circumstances may include excessive transferred proceeds, volume cap limitations, and private use restrictions. The Finance Department will monitor current tax regulations and utilize tax-exempt financing whenever possible.~~

e. ~~Fixed vs. Variable Debt~~

~~The City will utilize a mix of fixed and variable rate debt to lower the overall cost of capital. Variable rate debt will generally be used as an efficient way to fund new construction requirements and as a permanent component of a long-term funding strategy. The amount of variable rate debt outstanding shall be based on any one or a combination of the following factors:~~

~~(1) Interest Rates~~

~~The absolute level of interest rates, the forecasted direction of interest rates and the shape of the yield curve are all factors in managing the amount of variable rate debt outstanding. If fixed rates are high relative to the current cycle of rates and the yield curve is steep, a higher percentage of net variable rate debt may be desirable. Conversely, if interest rates are low relative to the current cycle of rates and the yield curve is flat, a higher percentage of net fixed rate debt may be desirable.~~

~~(2) Capital Structure and Liquidity Levels~~

~~Given that the City has capital programs with projects beginning at various points in time and the lack of correlation between low interest rate environments and the need to begin a project, having a variable rate program will allow for financing as needed while providing for market timing flexibility. Additionally, variable rate debt adds flexibility for capital structure changes like accelerating the pay-down of debt. The City's overall liquidity levels will be positively correlated to its levels of variable rate debt.~~

~~(3) Other Related Variable Rate Risks~~

~~The City will take into consideration, when determining the appropriate variable rate risk levels, the potential exposure to variable rate risk on joint financing programs with other related agencies.~~

~~To assist in the decision making process, a forecast of interest rate volatility over the short and long terms and expected performance of various financial products (debt or hedging instruments) under various interest rate scenarios will be modeled on a periodic basis. In determining when to use alternative financing arrangements including variable, fixed, and synthetic structures, the availability of internal and external technical expertise to properly manage risk will be~~

~~evaluated along with ongoing administrative costs. These analyses will be reviewed on a quarterly basis by the Finance Director and City Management.~~

~~d. As needed/“Just in Time” Financing.~~

~~The cash flow forecast for budgeted capital projects is the main factor used in determining the appropriate timing of new money debt transactions. The goal is to issue new debt as outstanding debt proceeds are spent. However, the timing of debt transactions may also depend upon factors including:~~

~~Desired debt service coverage levels
Budget, financial statement and ratings impacts
Ability to earn positive arbitrage
Interest rate environment~~

~~All of the above factors are considered prior to making the final determination of the most optimal time to issue new debt to fund capital projects.~~

~~e. Credit Ratings~~

~~The City recognizes that strong credit ratings are necessary to ensure the lowest possible borrowing costs which will factor into maintaining low tax rates for our citizens.~~

~~The City will strive to achieve the highest possible municipal ratings.~~

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9. Fixed Rate Debt

a. Overview

Fixed rate debt is authorized to finance capital projects and for any other allowable purpose as stipulated in the governing bond ordinances and tax regulations.

b. Type

The City may issue any type of fixed rate debt as authorized by the City's various bond ordinances and recommended by the City's Financial Advisor. ~~Some of the various types of debt authorized include, but are not limited to, serial and term bonds issued at par, discount or premium, capital appreciation bonds, and bullet bonds (e.g., refundable principal installments).~~

c. Maturity, Structure, and Call Provisions

Prudent debt management requires that there be a proper matching of the lives of the assets and the length of the debt, whether taxable or tax-exempt, used to finance such asset. In addition, the City will, at all times, structure the amortization and maturity of any fixed rate debt to comply with the appropriate tax regulations.

To provide the maximum amount of flexibility, the City will utilize ~~(five) year or less par-call provisions~~ whenever possible. City staff, along with the financial advisor and underwriter, will assess the market at the time of pricing to determine its ability to issue bonds with such features while minimizing interest costs.

d. Providers

The City is allowed to sell debt by either negotiated sale or competitive bid. The determination of the method is to be made prior to each financing.

If the City selects the "competitive sale" method, determination of the winning bid will be based on the underwriting firm with the lowest True Interest Cost (TIC) proposal.

The City will employ staff or an outside professional financial advisor, other than the underwriter, who is familiar with and abreast of the conditions of the municipal market, and is available to assist in structuring the issue, pricing, and monitoring of sales activities. The City shall not use a firm to serve as both the financial advisor and underwriter. Selection of underwriters, financial advisors, bond counsel, and other necessary consultants involved in the debt transactions will be selected as outlined in the City Purchasing Policy.

e. Debt Service ~~Sinking Fund~~ Reserve Funds

Unless otherwise recommended by the City's financial adviser and approved by the City Commission, a debt service ~~reservesinking-fund reserve~~ will be funded, maintained, and held for the benefit of bondholders as specified in the ordinance authorizing the sale of the bonds to pay principal and/or interest on the bonds should revenues from operations not be sufficient for such purpose in accordance with the appropriate bond ordinance.

- The debt service ~~sinkingreserve~~ fund ~~reserve~~ may be in the form of cash and/or investments funded from the proceeds of bonds and/or revenues from operations or other pledged sources.
- If allowed by the ordinance, a surety issued by a financial institution nationally recognized in the industry to issue such policies may be used in place of a cash-funded debt service reserve.
- If allowed under the respective bond ordinance, any other form of financial instruments may be used in place of cash-funded or surety-funded debt service reserve, provided such financial instruments are issued by firms of nationally recognized standing.
- The City will weigh the benefits of each method of funding the debt service ~~sinking-reserve~~ fund ~~reserve~~ prior to each issue and will choose the method

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most beneficial to the City based upon the facts and circumstances of each issue.

~~A debt service sinking fund reserve may also be maintained if, in the opinion of the underwriter or the financial advisor, it is reasonably required to provide security for the payment of debt service with respect to the City's bonds and is consistent with normal practice in respect of bonds of the same general type as those being issued by the City. Selection of a surety provider or provider of any financial instrument acceptable to fund the debt service sinking fund reserve requirement under the appropriate ordinance will be pursuant to the City Purchasing Policy.~~

f. Approvals

The structure, maturity, and call provisions for each fixed rate financing must be approved ~~in writing~~ by the Finance Director or designee on or prior to the date of pricing. Negotiation with the underwriter on negotiated bond transactions will be conducted by the Financial Advisor. Final transaction approval must be obtained from the City Commission.

g. Compliance/Reporting Requirements

All outstanding debt will be reported annually in the Comprehensive Annual Financial Report as required by ~~GASB~~generally accepted accounting principles.

The City will monitor and report any arbitrage rebate liability due to the U.S. Treasury on bond proceeds from fixed rate transactions.

10. Variable Rate Debt Instruments

a. Overview

Variable rate debt is authorized to finance capital projects and for any other allowable purpose as stipulated in the governing bond ordinances and tax regulations.

The City must adhere to the variable rate debt limits outlined in this Policy.

b. Type

The City may issue any type of variable rate debt as authorized by the various bond ordinances and recommended by the City's Financial Advisor. Some of the various types of debt authorized include, but are not limited to, Commercial Paper, Variable Rate Demand Obligations, ~~Auction Rate Securities~~, and Medium Term Notes.

c. Management

On a periodic basis, the Director of Finance or designee will make decisions regarding any changes to the interest mode for variable rate ~~demand obligations~~.

~~auction period for auction rate securities and desired maturities for commercial paper obligations based on current and projected market conditions.~~

d. Maturity and Call Provisions

~~As with fixed rate debt, the City will structure the maturity dates of the variable rate debt to match the lives of the assets being financed. The City will, at all times, structure the amortization and maturity of any variable rate debt to comply with the appropriate tax regulations. For any City commercial paper program, the maturity of a Commercial Paper Note shall not exceed 270 days and the term of a commercial paper program shall not exceed 30 years in order to stay within the current safe harbor rules to be treated as part of a single issue. For variable rate debt with tender rights, the current safe harbor rules limit the maturity to no longer than 35 years.~~

e. Providers

Underwriters, remarketing agents or dealers of the City's variable rate debt program will be selected pursuant to the City's Purchasing Code.

Banks providing Liquidity Facilities for variable rate debt shall be reviewed regularly with the Financial Advisor and minimum short and long term ratings ~~should be maintained in order to ensure good trading performance established for these providers shall be AA- or its equivalent from at least two of the three rating agencies: Fitch, Moody's, and Standard & Poor's.~~

~~If bond insurance is necessary for variable rate debt, the insurance provider will be selected pursuant to the City's Purchasing Policy. Financial institutions which insure bonds for investors of the City must have the top rating of AAA from at least two of the three rating agencies: Fitch, Moody's, and Standard & Poor's.~~

f. Variable Rate Debt Amount [NEED TO DISCUSS FURTHER]

The City's total variable rate debt outstanding ~~shall not exceed 40% as a percentage~~ of its total debt will not exceed rating agency guidelines for highly rated municipalities. Variable rate debt synthetically fixed through a swap agreement will not be considered variable rate debt for this criterion.

g. Approvals

The structure and maturity for each variable rate financing must be approved ~~in writing~~ by the Finance Director or designee prior to the transaction. Final transaction approval must be obtained from the City Commission.

h. Compliance/Reporting Requirements

All outstanding debt will be reported annually in the Comprehensive Annual Financial Report as required by ~~GASB~~ generally accepted accounting principles.

The City will monitor and report any arbitrage rebate liability due to the U.S. Treasury on bond proceeds from variable rate transactions.

~~11. Debt Refunding~~

~~a. Overview~~

~~Refunding of outstanding debt represents unique opportunities for the City to realize savings in debt service cost. Refunding also allows the City to restructure its existing debt or debt profile to enable the City to operate in a more competitive manner. Many of the policies and practices applicable to new money fixed and variable rate financings are applicable to debt refundings as well and those policies and practices shall be adhered to in any debt refunding issue unless specifically addressed below.~~

~~b. Management~~

~~Periodic reviews of all outstanding debt will be undertaken to determine refunding opportunities. Refundings will be considered within federal tax law constraints. The City and the financial advisor shall monitor the municipal bond market for opportunities to obtain interest savings. Current tax regulations permit one Advance Refunding opportunity for a post 1986 issue of bonds. There are no similar limitations with respect to a current refunding of bonds. The following guidelines should apply to the issuance of refunding bonds:~~

- ~~(1) Any refunding will be evaluated on the economic savings or structure advantages relating to issuing the new debt. For a fixed rate refunding, a five percent savings target is a general guideline. However, refunding issues that produce a net present value savings less than three percent (3%) may be issued for various business and/or economic purposes. Examples include but are not limited to (a) restructuring debt, (b) amending provisions of a bond document, and (c) taking savings based on structure or low interest rate environment considerations. Savings below the five percent guideline must be approved by the Department of Administration/Finance or designee prior to the execution of the refunding transaction.~~
- ~~(2) Refundings involving variable rate debt generally do not produce savings and will not have a savings guideline. These transactions are usually executed to take advantage of structuring opportunities or may be utilized to take advantage of low long term interest rates.~~

~~c. Fixed and Variable~~

~~The City can utilize fixed or variable rate debt for refunding purposes and must adhere to the variable rate debt limits outlined in this Policy.~~

~~d. Maturity and Call Provisions~~

~~The maturity of refunding bonds shall be in accordance with the safe harbor rules for the creation of replacement proceeds found in the tax regulations.~~

~~To provide the maximum amount of flexibility, the City will utilize five year or less par calls whenever possible. The City staff along with the financial advisor and underwriter will assess the market at the time of pricing to determine its ability to issue bonds with such features while minimizing interest costs.~~

~~e. Debt Service Sinking Fund Reserve~~

~~To the extent of an existing cash funded debt service sinking fund reserve, in the event of a refunding that reduces the debt service reserve requirement, the City will deposit any such reduction into the escrow for the refunded bonds or utilize the reduction for any lawful purpose.~~

~~f. Approvals~~

~~The structure, maturity, and call provisions for each refunding must be approved, in writing, by the Finance Director or designee on or prior to the date of pricing. Negotiations with the underwriter on negotiated bond transactions will be conducted by the Financial Advisor. Final transaction approval must be obtained from the City Commission.~~

121. Interest Rate Swaps, Caps, Options, and Collars

a. Overview

The prudent use of hedging instruments, including interest rate swaps, caps, options, and collars, can be an effective tool in meeting funding needs and structuring a balance sheet while managing risk associated with the movement of interest rates. Utilizing hedging products can provide the City with cost effective alternatives to traditional debt financing choices.

Utilizing interest rate swaps to achieve substantially lower interest cost is a main component in building the desired capital structure to allow the City to finance efficiently. There are three types of interest rate swaps the City is authorized to enter into:

- Floating to fixed rate swaps,
 - Hedge interest rate risk on variable rate debt,
 - Lock in fixed rates on refunding bonds that will be issued in the future or
 - Take advantage of opportunities to obtain fixed swap rates that are lower than comparable fixed rate bonds.
- Fixed rate to floating rate swaps
 - Increase the amount of variable rate exposure without incurring the remarketing and liquidity costs.
 - Eliminate the put risk associated with variable rate debt.
- Basis swaps manage the risk associated with
 - The mismatch between two benchmarks.

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- Methodologies used to set interest rates.

b. Risks

Interest rate swaps and related hedging instruments may introduce additional risks to the City's credit profile. These risks include, but are not necessarily limited to, termination risk, counterparty risk, re-execution risk, amortization risk, Basis Risk, [market risk](#), and tax event risk. Prior to entering into each interest rate swap transaction, these risks are evaluated to ensure adequate provisions are in place to minimize the downside and provide the maximum benefit the transaction originally intended.

c. ~~Fixed-to-Floating~~[Interest](#) Rate Swap Management

The Finance Director or designee shall have the overall responsibility, from an overview standpoint, for the execution and management of ~~fixed-to-floating~~ interest rate swaps.

The Finance Director or designee shall determine the size of the total interest rate swap program and the maturity date for the swaps within the parameters of the Policy which has been approved by the City Commission.

Interest rate caps, [collars](#) and [other](#) related hedging instruments may be utilized to help manage interest rate risk in the Debt Management Program.

~~From time to time, the Finance Director or designee will evaluate the use of collar (cap and floor instrument) transactions as a hedging tool to minimize cost and risk.~~

Forecasts of interest rate volatility ~~over the intermediate term (4 to 7 years)~~ and expected performance of the swaps, caps, collars, and related hedging instruments under various interest rate scenarios shall be updated on ~~not less than a semi-annual~~[periodic](#) basis. Short and long term interest rates will be monitored over varying time periods ~~and adjustments to the interest rate swap program will be modified~~. If current interest rates are either above or below the moving averages as measured by varying time periods, the Finance Director or designee may elect to alter the timing of adding additional fixed-to-variable swaps to either increase or decrease the amount of variable exposure. Furthermore, the Finance Director or designee may elect to enter into "reversing" swaps to take advantage of market opportunities. In the event a fixed to floating swap is "reversed", any associated floor will be simultaneously "reversed". Any associated cap will be evaluated and "reversed" if approved by the City Commission.

d. ~~Floating to Fixed~~ Rate Swap Management

The Finance Director or designee shall have the overall responsibility regarding the execution and management of floating to fixed interest rate swaps. An additional component of the debt management strategy is to use floating to fixed rate swaps to lock in the lowest possible borrowing costs over a long period of time. Floating to fixed rate swaps can be used in

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~~conjunction with issuing variable rate debt to obtain the lowest fixed rate when compared to traditional forms of fixed rate financings. In addition, floating to fixed swaps may be desirable when the cycle of long term rates moves down to or near historical lows and "fixing" a portion of the outstanding variable rate debt appears advantageous. Swaps will be evaluated as alternatives to traditional financing instruments considering their comparable costs, ease of entry and exit provisions, and the amount of potential risk exposure.~~

~~Interest rate swaps will be executed for notional amounts, maturities and other related terms and conditions as determined by the Finance Director or designee. Re-execution risk, amortization risk, tax event risk and Basis Risk will be evaluated in order to minimize any potential negative results.~~

~~Forecasts of interest rate volatility over the term of the swaps and expected performance of the swaps under various interest rate scenarios shall be analyzed prior to the execution of the swaps. Short and long term interest rates will be monitored over varying time periods. The Finance Director or designee may elect to enter into "reversing" swaps to take advantage of market opportunities.~~

~~ed.~~ Compliance/Reporting Requirements

~~The City shall perform an annual review relating to fixed to floating interest rate swap management.~~

Collateral reports will be updated on a monthly basis providing information relating to specific swap transactions that may require collateral posted based on mark to market valuations.

All outstanding debt will be reported annually in the Comprehensive Annual Financial Report as required by ~~GASB~~generally accepted accounting principles.

~~fe.~~ Optional Termination

The City shall consider including a provision that permits ~~t~~The City optionally to terminate the agreement at the market value of the agreement at any time. In general, the counterparty shall not have the right to optionally terminate an agreement. As practical as possible, ~~T~~he City shall have the right to assign its obligation to other counterparties.

~~g.~~ Events of Default

~~Events of default of a counterparty shall include the following:~~

- ~~Failure to make payments or transfer collateral when due~~
- ~~Breach of representations and warranties~~
- ~~Illegality~~
- ~~Failure to comply with downgrade provisions~~
- ~~Failure to comply with any other provisions of the agreement after a specified notice period~~

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- ~~_____ Bankruptcy~~
- ~~_____ Other events as defined by insurance and rating agencies~~

~~An event of default by the counterparty shall lead to termination of the agreement with The City being the affected party for purposes of calculating the termination payment owed.~~

hf. Aspects of Risk Exposure Associated with Such Contracts

Before entering into a ~~n interest rate swap~~derivative, The City shall evaluate all the risks inherent in the transaction. These risks to be evaluated should include the counterparty risk, market risk, termination risk, rollover risk, basis risk, tax event risk and amortization risk.

The City shall endeavor to diversify its exposure to counterparties. To that end, before entering into a transaction, it should determine its exposure to the relevant counterparty or counterparties and determine how the proposed transaction would affect the exposure. ~~The exposure should not be measured solely in terms of notional amount, but rather how changes in interest rates would affect the City's exposure ("Value at Risk"). The Value at Risk should be based on all outstanding derivative transactions by The City. The City may also elect to take into account the exposure of the City and any related entities to a particular counterparty.~~

i. ~~Provisions for Collateralization~~

~~If the rating (a) of the counterparty, if its payment obligations are not unconditionally guaranteed by another entity, or (b) of the entity unconditionally guaranteeing its payment obligations, if so secured, does not meet or falls below the rating required by "Providers" below, then the obligations of such counterparty shall be fully and continuously collateralized by 100% cash, direct obligations of, or obligations the principal and interest on which are guaranteed by, the United States of America or any agency thereof with a net market value of at least 102% of the net market value of the contract (subject to minimum threshold amounts specified by the City) to the authorized issuer and such collateral shall be deposited with the City or an agent thereof.~~

ig. Approvals

The structure of each interest rate swap must be approved in writing by the Finance Director or designee prior to the transaction. Final transaction approval must be obtained from the City Commission.
~~The Finance Director or designee must sign all interest rate swap, cap, option, or collar confirmations.~~

~~The Finance Director or designee must approve the interest rate swap term sheet prior to execution. In addition, the purpose of the transaction, (asset~~

~~matched, debt management, etc.) will be included as part of the swap paperwork file kept for each executed swap transaction.~~

kh. Providers

Financial Institutions and Dealers executing interest rate swaps, caps, options, and other hedging instruments for the City shall be selected pursuant to the City Purchasing Policy. The City shall require that all institutions and dealers entering into interest rate swap, cap, option, and other hedging instrument agreements execute a Master Swap Agreement (the ISDA Master Agreement must be used as a part of the Master Swap Agreement) that is signed by both parties. All transactions entered into shall adhere to the requirements of the Master Swap Agreement.

The Master Swap Agreement will contain, among other things, language regarding credit rating maintenance standards. All providers will either, (1) be rated AA-/Aa3 or better by at least 2 of the rating agencies (Fitch, Moody's, or Standard & Poor's) at the time of execution and enter into a collateral agreement to provide collateral as determined by the Credit Support Annex in the event that the credit rating falls below the AA-/Aa3 level or (2) be rated A/A2 or better by at least 2 of the rating agencies at the time the Agreement is entered into, and enter into a collateral agreement. The Finance Department will obtain an update of each provider's credit ratings on a quarterly basis.

l. ~~Diversification~~

~~No more than 60% of net interest rate swap and cap or other hedging instruments shall be outstanding in the aggregate with any one provider or affiliate thereof. This provision includes all interest rate swap, cap, option, and other hedging instruments the City may utilize to manage interest rate risk including, but not limited to, debt management, and 100% investment/asset matched program.~~

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mi. Bid/Swap Advisor and Counterparty Procurement

~~All "initial" interest rate swap and cap transactions shall be competitively bid by at least (3) three providers or shadow pricing providers obtained by the Financial Advisor that have executed interest rate swap agreements with the City. Upon approval by the City Commission, 1) a "reversing transaction" resulting in an upfront payment to the City may be negotiated with the original swap, cap, option, or collar counterparty, or 2) a negotiated swap with a counterparty may be executed as part of a debt financing.~~ Interest rate swaps can be procured on a competitive or negotiated basis. The appropriate procurement method depends on the structure of the interest rate exchange agreement as well as the market conditions. For all interest rate swaps, the City will engage a Swap Advisor to assist with the pricing and structuring of the agreement as well as to recommend the appropriate procurement method.

12. Investment of Bond Proceeds

The proceeds of the bond sales will be invested until expended for the intended project in order to maximize the utilization of the public funds. The investments will comply with the City's investment policy unless superseded by a bond covenant or related agreement. All bond proceeds shall be invested in manner to avoid, if possible, and minimize any potential negative arbitrage over the life of the bond issue. Bond proceeds to be used for the construction or acquisition of the capital assets shall be conservatively invested according to draw schedules which will be amended as needed.

13. Continuing Disclosure Requirements

The Finance Director with the assistance of the Financial Advisor and Bond/Disclosure Counsel will produce all the necessary documents for disclosure. All debt issues will meet the disclosure requirements of the Securities and Exchange Commission and other government agencies before and after the bond sales take place. The City's CAFR will be the primary vehicle for compliance with the continuing disclosure requirements. The CAFR may be supplemented with additional documentation if necessary. The City will follow a policy of "full disclosure" in its CAFR and bond official statements. The Finance Director will be responsible for filing the CAFR and providing disclosure on the status of all material events to the Municipal Securities Rulemaking Board, (MSRB) via the Electronic Municipal Market Access (EMMA) system.

1324. Effective Date

This Policy will become effective upon adoption by the City Commission. This Policy shall be reviewed and amended from time to time as necessary with the approval of the City Commission.

1435. Definitions

Advance Refunding - A bond is treated as issued to advance refund another bond if it is issued more than 90 days before the redemption of the refunded bond.

Amortization Risk – the potential cost to the issuer resulting from a mismatch between the outstanding underlying bond amortization and the outstanding notional amount of the swap.

~~**Auction Rate Bonds** – means "Short-term Adjustable Rate Securities" which are issued and outstanding under the "Auction Rate Mode" and which bear interest for each Auction Period, payable in arrears, at the Auction Rate in effect on the Auction Date (as defined in the respective Supplemental Ordinance) for the Auction Period as defined. Such securities do not normally require Liquidity Facility support, but may require Bond Insurance.~~

Basis Risk – movement in the underlying variable rate indices may not be perfectly in tandem, creating a cost differential that could result in a net cash outflow from the issuer. Also, ~~the a~~ mismatch ~~that~~ can occur in a swap with both sides using floating, but different, rates.

BMA-SIFMA Index – The [Securities Industry and Financial Markets Association Swaps Index](#)~~Bond Market Association Municipal Swap Index~~, the principal benchmark for the floating rate payments for tax-exempt issuers. The index is a national rate based on a market basket of high-grade, seven-day tax-exempt variable rate bond issues.

~~**Capacity Expansion** – Capital expansion projects are those projects designed to accommodate new customers, acquisitions, and expansion of existing system capacity.~~

Commercial Paper Note - shall mean any Bond which has a maturity date which is not more than 270 days after the date of issuance thereof.

Competitive Bid - a method of submitting proposals for the purchase of new issue of municipal securities by which the securities are awarded to the underwriting syndicate presenting the best bid according to stipulated criteria set forth in the notice of sale.

~~**Construction Loan Credit Facility** – means obligations of the City of a particular credit facility for construction advance purposes which shall be similar to Bond Anticipation Notes.~~

Counterparty risk – the risk that the other party in the derivative transaction fails to meet its obligations under the contract.

Credit Enhancement - shall mean, with respect to the Bonds of a Series, a maturity within a Series or an interest rate within a maturity, the issuance of an insurance Policy, letter of credit, surety bond or any other similar obligation, whereby the issuer thereof becomes unconditionally obligated to pay when due, to the extent not paid by the City or otherwise, the principal of and interest on such Bonds.

Credit Support Annex - is a standard supporting document that is made part of the ISDA Master Swap Agreement that governs the use of posting collateral when required.

Current Refunding - A bond is treated as issued to current refund another bond if the refunding issue is issued not more than 90 days before the redemption of the refunded bond.

Hedge – a transaction entered into to reduce exposure to market fluctuations.

Interest rate swap – a transaction in which two parties agree to exchange future net cash flows based on predetermined interest rate indices calculated on an agreed notional amount. The swap is not a debt instrument between the issuer and the counterparty, and there is no exchange of principal.

ISDA – International Swap Dealers Association, the global trade association with over 550 members that include dealers in the derivatives industry.

ISDA Master Agreement – the standardized master agreement for all swaps between the Issuer and the dealer that identifies the definitions and terms governing the swap transaction.

LIBOR – the principal benchmark for floating rate payments for taxable issuers. The London Inter Bank Offer Rate (LIBOR) is calculated as the average interest rate on Eurodollars traded between banks in London and can vary depending upon the maturity (e.g. one month or six months).

Long-dated swap - a swap with a term of more than ten years. Often used in the municipal market, as issuers often prefer to use a hedge that matches the maturity of the underlying debt or investment.

Mark-to-market – calculation of the value of a financial instrument (like an interest rate swap) based on the current market rates or prices of the underlying instrument (i.e. the variable on which the derivative is based).

Medium Term Note - any bond which has a maturity date which is more than 365 days, but not more than 15 years, after the date of issuance and is designated as a medium term note in the supplemental ordinance authorizing such bond.

Negotiated Sale - the sale of a new issue of municipal securities by an issuer through an exclusive agreement with an underwriter or underwriting syndicate selected by the issuer.

Tax Event Risk - the risk that tax laws will change, resulting in a change in the marginal tax rates on swaps and their underlying assets or, in a more extreme situation, remove the tax-exempt status of the issue and, therefore, its contractual obligations priced as tax-exempt facilities.

Termination risk – the risk that a swap will be terminated by the counterparty before maturity that could require the issuer to make a cash termination payment to the counterparty.

True Interest Cost - is the rate, compounded semi-annually, necessary to discount the amounts payable on the respective principal and interest payment date to the purchase price received for the bonds.

Variable Rate Bond - shall mean any Bond not bearing interest throughout its term at a specified rate or specified rates determined at the time of initial issuance.

Variable Rate Demand Obligations (VRDO) - A long term maturity security which is subject to a frequently available put option or tender option feature under which the holder may put the security back to the issuer or its agent at a predetermined price (generally par) after giving specified notice or as a result of a mandatory tender. Optional tenders are typically available to investors on a daily basis while in the daily or weekly mode and mandatory tenders are required upon a change in the interest rate while in the flexible or term mode. The frequency of a change in the interest rate of a variable rate demand obligation is based upon the particular mode the security is in at the time.

DEBT MANAGEMENT POLICY
CITY OF WINTER PARK, FLORIDA

1. **Administration of debt policy:** The Finance Director of the City of Winter Park, Florida (the "City") is charged with overseeing and implementing the provisions of this policy. It shall be his/her specific responsibility to recommend to the City Manager/Assistant City Manager and subsequently to the City Commission the selection of any external agents (bond counsel, financial advisors, underwriters, arbitrage rebate consultants, paying agents, trustees, printers, etc.), to review the proposed annual capital expenditures and financing plan, to recommend specific projects for debt financing, to participate as members of the financing team in the issuance of any debt obligations of the City, and to ensure all continuing disclosure requirements are met following the sale of bonds.

The City Manager and Finance Director are responsible for administration of the City's financial policies. The City Commission is responsible for the approval of any form of the City's borrowing and the details associated therewith. Unless otherwise designated, the Finance Director coordinates the administration and issuance of debt.

2. **Purpose and Objective:** The adoption of a written debt policy by the City Commission and its active use help ensure a consistent approach to debt issuance which will benefit existing and future holders of City debt. Access to capital markets at reasonable interest rates and credit terms is a fundamental goal that is facilitated through the adoption of appropriate debt policies taking into consideration the amount and types of fixed and variable rate debt given the City's risk tolerance to market fluctuations, capital market outlook, future capital needs, credit, rating agency considerations, tax implications and industry competition.
3. **Scope:** This policy shall apply to all debt obligations of the City, whether for the purpose of acquisition or construction of City assets, the refunding of existing debt and for all interest rate hedging products and derivatives.

4. **Exceptions:** Exceptions to this policy will be approved by the City Commission.

5. **Reporting Practices:**

The Finance Department or designees will promptly notify the rating agencies of any debt restructuring, derivative products entered into or any other transaction, which does not involve issuance of debt but has an impact on the overall rate of interest on its debt or its debt structure. The Department or designees shall also respond to all inquiries from creditors, investors, and rating agencies in a complete and prompt fashion.

6. General Debt Issue Policies:

- a. **Structure:** The City's capital structure may consist of fixed rate and variable rate debt in both traditional and synthetic form along with hedging instruments such as interest rate swaps, caps, collars and other non-speculative derivative products. The percentage of total debt that may be variable rate-based may from time-to-time change, as debt management strategies change given interest rate environments and appropriate approvals. The risks associated with any given structure and the financial instruments used shall be fully explained to those who must decide and approve any final financing structure.
- b. **Borrowing:** The City Commission shall have the authority to borrow money, contract loans and issue bonds in accordance with the provisions of the Constitution of the State of Florida and the general laws of the state. However, approval by voter referendum shall be required prior to the issuance of any of the following categories of bonds per the City Charter:
 - 1. General obligation bonds which pledge the full faith and credit of the taxing power of the City,
 - 2. Revenue bonds intended to finance enterprises or projects which involve the purchase, lease and/or acquisition of real property by the City or agencies thereof, with the exception of revenue bonds issued to finance the purchase, lease and/or acquisition of park real property and/or park projects by the City or agencies thereof, or
 - 3. Revenue bonds which pledge specific non ad valorem taxes as the primary source(s) of revenue to pay principal and interest and which have a principal value in excess of one (1) million dollars. This dollar limitation shall be adjusted annually as of the end of each fiscal year in accordance with changes in the cost-of-living index as published by the federal government. Revenue bonds issued to finance the purchase, lease and/or acquisition of park real property and/or park projects by the City or agencies thereof would not be limited by this requirement.
- c. **Pay-As-You-Go:** The City will strive to maintain a high reliance on pay-as-you-go financing for its capital improvements and capital assets.
- d. **General Obligation Debt Levels:** As a goal, the City will maintain its net general obligation bonded debt at a level not to exceed two (2) percent of the assessed valuation of taxable property within the City unless otherwise directed by the City Commission.
- e. **Reserves:** The City will maintain revenue bond reserves to comply with the covenants of the bond issues and ensure adherence to federal arbitrage regulations.
- f. **Purpose and Projects:** Long-term borrowing will not be used to finance current operating expenditures. However, this does not preclude the City from using

debt to meet short-term operating needs in the event of an emergency such as a natural or man-made disaster.

- g. **Term:** The following guidelines should govern the issuance of new money financing.

- The maturities of debt will be equal to or less than the useful economic life of the item financed.
- Where practicable the debt service structure on new money financing should be level debt service if economically feasible.
- The use of credit enhancement should be evaluated on a maturity-by-maturity basis and only used where the economic benefits exceed the costs of issuing rated or unrated debt obligations.
- Call features are preferred and should be utilized when financially prudent in order to provide future flexibility.
- The use of a fully funded debt service reserve should always be evaluated against the use of a surety or other debt service reserve product.

- h. **Bond Insurance:** Bond insurance is an insurance policy purchased by an issuer or an underwriter for either an entire issue or specific maturities, which guarantees the payment of principal and interest. This insurance provides a higher credit rating and must result in a lower borrowing cost for an issuer after consideration of the premium rate and underlying ratings.

Bond insurance can be purchased directly by the City prior to the bond sale (direct purchase) or at the underwriter's option and expense (bidder's option).

When insurance is purchased directly by the City, the present value of the estimated debt service savings from insurance should be at least equal to or greater than the insurance premium. The bond insurance company will usually be chosen based on an estimate of the greatest net present value insurance benefit (present value of debt service savings less insurance premium).

Credit enhancement may take other forms such as Letters of Credit (LOC) or other securitization products and may be used if economically beneficial to the City.

- i. **Credit Ratings:** Credit ratings have wide investor acceptance as tools for differentiating credit quality of investments. The City shall attempt to continually improve its credit ratings. Comprehensive annual credit rating reviews should be provided to the rating agencies as well as periodic updates and ongoing communication of events affecting the City's overall credit, including asset and liability management issues.

- j. **Non-Rated:** Non-rated securities may be issued if the credit rating on the issue does not perform any economic benefit or add any value to capital market participants.

- k. **Tax Status:** The City has traditionally issued tax-exempt debt which results in significant interest cost savings compared with the interest cost on taxable debt. Accordingly, all of the City's debt should be issued to take advantage of the exemption from federal income taxes unless prohibited by federal law or applicable federal regulations.
- l. **Subordinated Debt:** The lien status and credit rating on this type of debt is inferior and protection to the bondholder is lower, therefore, this type of debt should be minimized to reduce the City's overall borrowing costs, unless it is the only method available to finance a project. There may be occasions when this type of debt is issued for potential restructuring reasons, when current senior-lien debt covenants are undesirable and this debt is soon to be retired or refunded.
- m. **Capital Leasing:** Over the lifetime of a lease, the total cost to the City will generally be higher than purchasing the asset outright. As a result, the use of lease/purchase agreements and certificates of participation in the acquisition of vehicles, equipment and other capital assets shall generally be avoided, particularly if smaller quantities of the capital asset(s) can be purchased on a "pay-as-you-go" basis.
- n. **Callable Bonds:** Call provisions on bonds provide future flexibility to refinance or restructure debt and eliminate onerous covenants. Consequently, the City shall attempt to always have call provisions on its debt. Call provisions on each transaction should be analyzed upon marketing the bond issue and determined at the time, upon recommendation of the Financial Advisor.
- o. **Refunding Criteria:** Generally, the City issues refunding bonds to achieve debt service savings on its outstanding bonds by redeeming high interest rate debt with lower interest rate debt. Refunding bonds may also be issued to restructure debt or modify covenants contained in the bond documents. Current tax law limits to one time the issuance of tax-exempt advance refunding bonds to refinance bonds issued after 1986. There is no similar limitation for tax-exempt current refunding bonds. The following guidelines should apply to the issuance of refunding bonds, unless circumstances warrant a deviation therefrom:
- refunding bonds should generally be structured to achieve level annual debt service savings;
 - the life of the refunding bonds should not exceed the remaining life of the bonds being refunded or the assets financed, whichever is longer;
 - advance refunding bonds issued to achieve debt service savings should have a minimum target savings level measured on a present value basis equal to 5% of the par amount of the bonds being refunded;
 - current refunding bonds issued to achieve debt service savings should have a minimum target savings level measured on a present value basis equal to 3% of the par amount of the bonds being refunded;

- refunding bonds which do not achieve debt service savings may be issued to restructure debt or provisions of bond documents only if such refunding serves a compelling City interest or under extraordinary conditions.

The minimum target savings level for refundings should be used as a general guide to guard against prematurely using the one advance refunding opportunity for post-1986 bond issues. However, because of the numerous considerations involved in the sale of refunding bonds, the target should not prohibit refundings when the circumstances justify a deviation from the guideline.

- p. **Debt Service Coverages:** Debt service coverages shall conform to bond resolutions and remain at those levels to ensure that the City's credit rating is not diminished.

7. Method of Sale

The City's policy is to sell public debt using the method of sale expected to achieve the best result, taking into consideration short-term and long-term implications. The following section of this policy is intended to ensure that the most appropriate method of sale is selected in light of financial, market, transaction-specific and issuer conditions.

- a. **Competitive vs. Negotiated Preference:** Competitive method sale should be preferred and considered when the following conditions are present:
 - The City has been a stable and regular borrower in the public market.
 - There is an active secondary market for the City's debt.
 - The City has an underlying credit rating of A or above.
 - The issue is neither too large to be absorbed by the market or too small to attract investors.
 - The issue is not composed of complex or innovative features.
 - Interest rates are stable, market demand is strong and the market is able to absorb reasonable levels of buying and selling with reasonable price reliability.

If conditions for a competitive bond sale are not available then the following practice will apply to negotiated bond sales:

- A competitive underwriter-selection process that ensures that multiple proposals are considered will be used.
- The City's staff and the Financial Advisor will remain actively involved in each step of the negotiation and sale processes to uphold the public trust.

- The City's staff and Financial Advisor, who are familiar with and abreast of the condition of the municipal market shall assist in structuring the issue, pricing, and monitoring sales activities.
 - The Financial Advisor will not serve as underwriter of an issue.
 - The City will require that financial professionals disclose the name(s) of any person or firm compensated to promote the selection of the underwriter; any existing or planned arrangements between outside professionals to share tasks, responsibilities and fees; the name(s) of any person or firm with whom the sharing is proposed; and the method used to calculate the fees to be earned.
- b. **Private Placements:** The City may determine to seek funding by way of a private placement or bank loan where the size and structure of the borrowing does not warrant the issuance of publically offered debt. The City's Financial Advisor will compare the overall costs of a private placement with those of a public offering and recommend the most cost effective approach.

8. **Capital Improvement Plan**

The Finance Department will prepare, as part of the annual budget process, a Capital Improvement Plan that will be submitted to the City Commission for approval. Such Capital Improvement Plan will address at a minimum the amount of debt projected to be issued during the next five fiscal years.

Factors to be considered in the final projections are:

- The forecast of spending levels for capital projects.
- The availability of internal funds to pay for capital projects.
- Desired debt service coverage levels consistent with a highly-rated municipality.
- The additional bonds test calculation outlined in the applicable bond ordinances or related documents.

9. **Fixed Rate Debt**

a. Overview

Fixed rate debt is authorized to finance capital projects and for any other allowable purpose as stipulated in the governing bond ordinances and tax regulations.

b. Type

The City may issue any type of fixed rate debt as authorized by the City's various bond ordinances and recommended by the City's Financial Advisor.

c. Maturity, Structure, and Call Provisions

Prudent debt management requires that there be a proper matching of the lives of the assets and the length of the debt, whether taxable or tax-exempt, used to finance such asset. In addition, the City will, at all times, structure the amortization and maturity of any fixed rate debt to comply with the appropriate tax regulations.

To provide the maximum amount of flexibility, the City will utilize call provisions whenever possible. City staff, along with the financial advisor and underwriter, will assess the market at the time of pricing to determine its ability to issue bonds with such features while minimizing interest costs.

d. Providers

The City is allowed to sell debt by either negotiated sale or competitive bid. The determination of the method is to be made prior to each financing.

If the City selects the “competitive sale” method, determination of the winning bid will be based on the underwriting firm with the lowest True Interest Cost (TIC) proposal.

The City will employ staff or an outside professional financial advisor, other than the underwriter, who is familiar with and abreast of the conditions of the municipal market, and is available to assist in structuring the issue, pricing, and monitoring of sales activities. The City shall not use a firm to serve as both the financial advisor and underwriter. Selection of underwriters, financial advisors, bond counsel, and other necessary consultants involved in the debt transactions will be selected as outlined in the City Purchasing Policy.

e. Debt Service Reserve Fund

Unless otherwise recommended by the City's financial adviser and approved by the City Commission, a debt service reserve fund will be funded, maintained, and held for the benefit of bondholders as specified in the ordinance authorizing the sale of the bonds to pay principal and/or interest on the bonds should revenues from operations not be sufficient for such purpose in accordance with the appropriate bond ordinance.

- The debt service reserve fund may be in the form of cash and/or investments funded from the proceeds of bonds and/or revenues from operations or other pledged sources.
- If allowed by the ordinance, a surety issued by a financial institution nationally recognized in the industry to issue such policies may be used in place of a cash-funded debt service reserve.
- If allowed under the respective bond ordinance, any other form of financial instruments may be used in place of cash-funded or surety-funded debt service reserve, provided such financial instruments are issued by firms of nationally recognized standing.

- The City will weigh the benefits of each method of funding the debt service reserve fund prior to each issue and will choose the method most beneficial to the City based upon the facts and circumstances of each issue.

f. Approvals

The structure, maturity, and call provisions for each fixed rate financing must be approved by the Finance Director or designee on or prior to the date of pricing. Negotiation with the underwriter on negotiated bond transactions will be conducted by the Financial Advisor. Final transaction approval must be obtained from the City Commission.

g. Compliance/Reporting Requirements

All outstanding debt will be reported annually in the CAFR as required by generally accepted accounting principles.

The City will monitor and report any arbitrage rebate liability due to the U.S. Treasury on bond proceeds from fixed rate transactions.

10. Variable Rate Debt Instruments

a. Overview

Variable rate debt is authorized to finance capital projects and for any other allowable purpose as stipulated in the governing bond ordinances and tax regulations.

The City must adhere to the variable rate debt limits outlined in this Policy.

b. Type

The City may issue any type of variable rate debt as authorized by the various bond ordinances and recommended by the City's Financial Advisor. Some of the various types of debt authorized include, but are not limited to, Commercial Paper, Variable Rate Demand Obligations, and Medium Term Notes.

c. Management

On a periodic basis, the Director of Finance or designee will make decisions regarding any changes to the interest mode for variable rate obligations based on current and projected market conditions.

d. Maturity and Call Provisions

The City will structure the maturity dates of the variable rate debt to match the lives of the assets being financed. The City will, at all times, structure the amortization and maturity of any variable rate debt to comply with the appropriate tax regulations

e. Providers

Underwriters, remarketing agents or dealers of the City's variable rate debt program will be selected pursuant to the City's Purchasing Code.

Banks providing Liquidity Facilities for variable rate debt shall be reviewed regularly with the Financial Advisor and minimum short and long term ratings should be maintained in order to ensure good trading performance.

f. Variable Rate Debt Amount

The City's total variable rate debt outstanding as a percentage of its total debt will not exceed rating agency guidelines for highly rated municipalities. Variable rate debt synthetically fixed through a swap agreement will not be considered variable rate debt for this criterion.

g. Approvals

The structure and maturity for each variable rate financing must be approved by the Finance Director or designee prior to the transaction. Final transaction approval must be obtained from the City Commission.

h. Compliance/Reporting Requirements

All outstanding debt will be reported annually in the CAFR as required by generally accepted accounting principles.

The City will monitor and rebate any arbitrage liability due to the U.S. Treasury on bond proceeds from variable rate transactions.

11. Interest Rate Swaps, Caps, Options, and Collars

a. Overview

The prudent use of hedging instruments, including interest rate swaps, caps, options, and collars, can be an effective tool in meeting funding needs and structuring a balance sheet while managing risk associated with the movement of interest rates. Utilizing hedging products can provide the City with cost effective alternatives to traditional debt financing choices.

Utilizing interest rate swaps to achieve substantially lower interest cost is a main component in building the desired capital structure to allow the City to finance efficiently. There are three types of interest rate swaps the City is authorized to enter into:

- Floating to fixed rate swaps,
 - Hedge interest rate risk on variable rate debt,
 - Lock in fixed rates on refunding bonds that will be issued in the future or

- Take advantage of opportunities to obtain fixed swap rates that are lower than comparable fixed rate bonds.
- Fixed rate to floating rate swaps
 - Increase the amount of variable rate exposure without incurring the remarketing and liquidity costs.
 - Eliminate the put risk associated with variable rate debt.
- Basis swaps manage the risk associated with
 - The mismatch between two benchmarks.
 - Methodologies used to set interest rates.

b. Risks

Interest rate swaps and related hedging instruments may introduce additional risks to the City's credit profile. These risks include, but are not necessarily limited to, termination risk, counterparty risk, re-execution risk, amortization risk, Basis Risk, market risk, and tax event risk. Prior to entering into each interest rate swap transaction, these risks are evaluated to ensure adequate provisions are in place to minimize the downside and provide the maximum benefit the transaction originally intended.

c. Interest Rate Swap Management

The Finance Director or designee shall have the overall responsibility, from an overview standpoint, for the execution and management of interest rate swaps.

The Finance Director or designee shall determine the size of the total interest rate swap program and the maturity date for the swaps within the parameters of the Policy which has been approved by the City Commission.

Interest rate caps, collars and other related hedging instruments may be utilized to help manage interest rate risk in the Debt Management Program.

Forecasts of interest rate volatility and expected performance of the swaps, caps, collars, and related hedging instruments under various interest rate scenarios shall be updated on a periodic basis. Short and long term interest rates will be monitored over varying time periods and adjustments to the interest rate swap program will be modified.

d. Compliance/Reporting Requirements

Collateral reports will be updated on a monthly basis providing information relating to specific swap transactions that may require collateral posted based on mark to market valuations.

All outstanding debt will be reported annually in the CAFR as required by generally accepted accounting principles.

e. Optional Termination

The City shall consider including a provision that permits the City optionally to terminate the agreement at the market value of the agreement at any time. In general, the counterparty shall not have the right to optionally terminate an agreement. As practical as possible, the City shall have the right to assign its obligation to other counterparties.

f. Aspects of Risk Exposure Associated with Such Contracts

Before entering into an interest rate swap, The City shall evaluate all the risks inherent in the transaction. These risks to be evaluated should include the counterparty risk, market risk, termination risk, rollover risk, basis risk, tax event risk and amortization risk.

The City shall endeavor to diversify its exposure to counterparties. To that end, before entering into a transaction, it should determine its exposure to the relevant counterparty or counterparties and determine how the proposed transaction would affect the exposure.

g. Approvals

The structure of each interest rate swap must be approved by the Finance Director or designee prior to the transaction. Final transaction approval must be obtained from the City Commission.

h. Providers

Financial Institutions and Dealers executing interest rate swaps, caps, options, and other hedging instruments for the City shall be selected pursuant to the City Purchasing Policy. The City shall require that all institutions and dealers entering into interest rate swap, cap, option, and other hedging instrument agreements execute a Master Swap Agreement (the ISDA Master Agreement must be used as a part of the Master Swap Agreement) that is signed by both parties. All transactions entered into shall adhere to the requirements of the Master Swap Agreement.

The Master Swap Agreement will contain, among other things, language regarding credit rating maintenance standards. All providers will either, (1) be rated AA-/Aa3 or better by at least 2 of the rating agencies (Fitch, Moody's, or Standard & Poor's) at the time of execution and enter into a collateral agreement to provide collateral as determined by the Credit Support Annex in the event that the credit rating falls below the AA-/Aa3 level or (2) be rated A/A2 or better by at least 2 of the rating agencies at the time the Agreement is entered into, and enter into a collateral agreement. The Finance Department will obtain an update of each provider's credit ratings on a quarterly basis.

i. **Swap Advisor and Counterparty Procurement**

Interest rate swaps can be procured on a competitive or negotiated basis. The appropriate procurement method depends on the structure of the interest rate exchange agreement as well as the market conditions. For all interest rate swaps, the City will engage a Swap Advisor to assist with the pricing and structuring of the agreement as well as to recommend the appropriate procurement method.

12. Investment of Bond Proceeds

The proceeds of the bond sales will be invested until expended for the intended project in order to maximize the utilization of the public funds. The investments will comply with the City's investment policy unless superseded by a bond covenant or related agreement. All bond proceeds shall be invested in manner to avoid, if possible, and minimize any potential negative arbitrage over the life of the bond issue. Bond proceeds to be used for the construction or acquisition of the capital assets shall be conservatively invested according to draw schedules which will be amended as needed.

13. Continuing Disclosure Requirements

The Finance Director with the assistance of the Financial Advisor and Bond/Disclosure Counsel will produce all the necessary documents for disclosure. All debt issues will meet the disclosure requirements of the Securities and Exchange Commission and other government agencies before and after the bond sales take place. The City's CAFR will be the primary vehicle for compliance with the continuing disclosure requirements. The CAFR may be supplemented with additional documentation if necessary. The City will follow a policy of "full disclosure" in its CAFR and bond official statements. The Finance Director will be responsible for filing the CAFR and providing disclosure on the status of all material events to the Municipal Securities Rulemaking Board, (MSRB) via the Electronic Municipal Market Access (EMMA) system.

14. Effective Date

This Policy will become effective upon adoption by the City Commission. This Policy shall be reviewed and amended from time to time as necessary with the approval of the City Commission.

15. Definitions

Advance Refunding - A bond is treated as issued to advance refund another bond if it is issued more than 90 days before the redemption of the refunded bond.

Amortization Risk – the potential cost to the issuer resulting from a mismatch between the outstanding underlying bond amortization and the outstanding notional amount of the swap.

Basis Risk – movement in the underlying variable rate indices may not be perfectly in tandem, creating a cost differential that could result in a net cash outflow from the issuer. Also, a mismatch can occur in a swap with both sides using floating, but different, rates.

SIFMA Index – The Securities Industry and Financial Markets Association Swaps Index, the principal benchmark for the floating rate payments for tax-exempt issuers. The index is a national rate based on a market basket of high-grade, seven-day tax-exempt variable rate bond issues.

Commercial Paper Note - shall mean any Bond which has a maturity date which is not more than 270 days after the date of issuance thereof.

Competitive Bid - a method of submitting proposals for the purchase of new issue of municipal securities by which the securities are awarded to the underwriting syndicate presenting the best bid according to stipulated criteria set forth in the notice of sale.

Counterparty risk – the risk that the other party in the derivative transaction fails to meet its obligations under the contract.

Credit Enhancement - shall mean, with respect to the Bonds of a Series, a maturity within a Series or an interest rate within a maturity, the issuance of an insurance Policy, letter of credit, surety bond or any other similar obligation, whereby the issuer thereof becomes unconditionally obligated to pay when due, to the extent not paid by the City or otherwise, the principal of and interest on such Bonds.

Credit Support Annex - is a standard supporting document that is made part of the ISDA Master Swap Agreement that governs the use of posting collateral when required.

Current Refunding - A bond is treated as issued to current refund another bond if the refunding issue is issued not more than 90 days before the redemption of the refunded bond.

Hedge – a transaction entered into to reduce exposure to market fluctuations.

Interest rate swap – a transaction in which two parties agree to exchange future net cash flows based on predetermined interest rate indices calculated on an agreed notional amount. The swap is not a debt instrument between the issuer and the counterparty, and there is no exchange of principal.

ISDA – International Swap Dealers Association, the global trade association with over 550 members that include dealers in the derivatives industry.

ISDA Master Agreement – the standardized master agreement for all swaps between the Issuer and the dealer that identifies the definitions and terms governing the swap transaction.

Letter of Credit (LOC) – A financial product generally purchased from a bank to provide credit enhancement and liquidity on variable rate bonds.

LIBOR – the principal benchmark for floating rate payments for taxable issuers. The London Inter Bank Offer Rate (LIBOR) is calculated as the average interest rate on

Eurodollars traded between banks in London and can vary depending upon the maturity (e.g. one month or six months).

Long-dated swap - a swap with a term of more than ten years. Often used in the municipal market, as issuers often prefer to use a hedge that matches the maturity of the underlying debt or investment.

Mark-to-market – calculation of the value of a financial instrument (like an interest rate swap) based on the current market rates or prices of the underlying instrument (i.e. the variable on which the derivative is based).

Medium Term Note - any bond which has a maturity date which is more than 365 days, but not more than 15 years, after the date of issuance and is designated as a medium term note in the supplemental ordinance authorizing such bond.

Negotiated Sale - the sale of a new issue of municipal securities by an issuer through an exclusive agreement with an underwriter or underwriting syndicate selected by the issuer.

Tax Event Risk - the risk that tax laws will change, resulting in a change in the marginal tax rates on swaps and their underlying assets or, in a more extreme situation, remove the tax-exempt status of the issue and, therefore, its contractual obligations priced as tax-exempt facilities.

Termination risk – the risk that a swap will be terminated by the counterparty before maturity that could require the issuer to make a cash termination payment to the counterparty.

True Interest Cost - is the rate, compounded semi-annually, necessary to discount the amounts payable on the respective principal and interest payment date to the purchase price received for the bonds.

Variable Rate Bond - shall mean any Bond not bearing interest throughout its term at a specified rate or specified rates determined at the time of initial issuance.

Variable Rate Demand Obligations (VRDO) - A long term maturity security which is subject to a frequently available put option or tender option feature under which the holder may put the security back to the issuer or its agent at a predetermined price (generally par) after giving specified notice or as a result of a mandatory tender. Optional tenders are typically available to investors on a daily basis while in the daily or weekly mode and mandatory tenders are required upon a change in the interest rate while in the flexible or term mode. The frequency of a change in the interest rate of a variable rate demand obligation is based upon the particular mode the security is in at the time.



city commission agenda item

| | | | |
|---------------------------------------|--|--------------|--|
| item type | Action Item Requiring Discussion | meeting date | April 25, 2011 |
| prepared by department division | Lena Petersen Public Works | approved by | <input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A |
| board approval | <input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A final vote | | |

Subject: Guaranteed Energy and Water Savings Performance Contracting Retrofits, with Trane.

Motion | recommendation: Approve the City Manager and Staff to negotiate a contract and enter into an agreement with Trane U.S. Inc. for the implementation of a Guaranteed Energy and Water Savings Performance Contract for the City Facilities. The financing of the improvements will be brought back to the City Commission for approval consistent with the exact terms of the contract once negotiated.

This action follows a previous Board approval of the execution of agreements between the Florida Department of Energy and the City of Winter Park: \$360,207 from the EECBG and \$325,000 from the Clean Energy Grant; a total of \$685,207 grant funding.

Background: In 2009, The City of Winter Park entered into an agreement with Trane to evaluate the City's energy efficiencies in its buildings and determine potential energy saving opportunities.

There is specific language within the state statutes that regulate a type of process called "Guaranteed Performance Contracting," whereby energy audits are performed, and evaluations are made to develop energy and water savings improvements. Through this process, the cost of the capital projects necessary to gain the energy/water savings is repaid through future energy savings and the contractor guarantees the amount of energy/water savings as a part of the program. Trane is an authorized contractor to provide this service under the state's program, and is an approved state term contract holder. Understanding that there are significant City building needs in HVAC and since the City has standardized on Trane equipment with its buildings, Trane was the contractor of choice.

During late 2009 and 2010, Trane performed Energy Audits in over 25 City Facilities covering approximately 195,000 ft². The audits included numerous walk-throughs, testing, monitoring, building modeling, utility bill analysis, baseline calculations, equipment sampling / monitoring and project development to create this Guaranteed Energy and Water Savings program for the City. This proposed Guaranteed Energy and Water Saving program will implement \$2,410,863 worth of improvements in our facilities, particularly new HVAC system for City Hall and upgrades to the Library HVAC.

In addition, Trane assisted the City in submitting for and securing two (2) Grants to assist and providing funding for these energy savings projects. These grants consist of a Clean Energy Grant and EECBG Grant and are specifically for energy efficiency improvement projects. These

grants became available due to the American Reinvestment and Recovery Act stimulus dollars.

Typically these programs are funded via a Municipal Lease Purchase or bank loan. The annual cost of the lease or loan is offset by the Annual Guaranteed Energy Savings, Operational Savings, Annualized Capital Cost Avoidance and these two (2) Grants. All improvement will be performed between now and March 2012. Below is a chart showing where improvement will occur. A chart is also attached detailing the cost estimate and incremental savings of each energy improvement component within the program. In addition the program includes two (2) energy efficiency seminars: one for the residents and the other for the commercial business owners in our community.

| Energy Conservation Measures To Be Retrofitted In Each Building ("Y" if included in ECM) | | | | | | | | | | | | | | | | |
|---|-----------|---------------|---------|--------------|--------------|----------------|----------------|-------------------------|------------------|-----------------------|--------------|-----------------|-----------------|---------------------|------------------|------------------|
| Energy Conservation Measures | City Hall | Public Safety | Library | Civic Center | Public Works | Farmers Market | Welcome Center | Fire Stations #62 & #64 | Golfview Terrace | Golf Course Clubhouse | Meade Garden | Police Training | Antrack Station | Fleete Peoples Park | Lake Island Area | McKean Arboretum |
| Retrofit Energy Efficient Lighting Retrofits | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| New Occupancy Based Lighting Controls | Y | Y | Y | | Y | | | Y | | Y | Y | | | | Y | |
| New Building Energy Management and Control Systems / Upgrades | Y | Y | Y | | | | | | | | | | | | | |
| New Chiller | Y | | | | | | | | | | | | | | | |
| Chiller Plant Optimization, VFD's, & Valve / Pipe Configuration | Y | Y | | | | | | | | | | | | | | |
| New Air Handlers | Y | | Y | | | | | | | | | | | | | |
| New Energy Efficient Cool Roof Coating | | | Y | | | | | | | | | | | | | |
| New Packaged RTUs | | | Y | | | | | | | | | | | | | |
| New / Retrofit Domestic Water Retrofits | Y | | Y | | | | | | | | | | | | | |
| Residential Energy Awareness Campaign | Y | | | | | | | | | | | | | | | |
| Commercial & Industrial Energy Conservation Workshops | Y | | | | | | | | | | | | | | | |
| Building Automation System Maintenance | Y | | Y | | | | | | | | | | | | | |
| Mechanical Maintenance for New HVAC equipment | Y | | Y | | | | | | | | | | | | | |

How The Guarantee Works – During the energy audit, Trane evaluated and established a utility baseline for the City buildings. If the program is approved, Trane will make the improvements as outlined in the program. During the construction period, the City will realize energy savings benefits from our retrofits. Once the project is complete and turned over to the City, Trane will begin to monitor the energy performance of the enhancements. Trane will collect utility consumption monthly and monitor & track the performance. During the Guarantee period Trane will follow the International Performance Measurement and Verification Protocol (IPMVP) for tracking and reporting the energy savings. (The IPMVP is the industry standard for measuring and reporting savings).

On an annual basis the Trane M&V Engineers will compile a report to present the annual savings achieved to the City. The report will outline and compare the baseline performance to the actual energy performance. In addition the M&V engineers will convert the unit savings to dollar savings. In the event of an energy savings shortfall, Trane will write a check to the City for the difference in the guaranteed savings and the actual savings. In the event excess savings are achieved, the City will keep the excess savings. This savings guarantee is reconciled

annually.

Alternatives | other considerations:

- 1) The City could perform the major HVAC projects (\$1.89 mil) on their own without performing the other lighting and water savings retrofits. The City would gain minimal energy savings and would have to forego the grants. Therefore, the City would expend \$1.89 mil and have very little energy savings and no water savings or grants to offset this capital expenditure.
- 2) The City could perform all of the improvements and not enter into a performance contracting agreement with Trane. The city would be required to repay Trane for the cost of the audit and analysis (\$28,000) and would receive no guarantee of the amount of energy savings. One key factor with energy savings projects is the optimization of the system operation which is provided for within the program and guarantee. Without this periodic important feedback function, it is doubtful that the systems will achieve maximum efficiency.

Fiscal impact: Fiscal impact to the City would be neutral. The Guarantee Savings program would be funded via the Grants and a Municipal Lease Purchase. The first year assumptions and cash flow projections are below. Trane Services would provide all design, project management, labor, materials, equipment and installation for the completion of each project.

Capital Project Cost

| | |
|--|--------------------|
| Total Capital Project Cost | \$2,410,863 |
| - EECBG & Clean Energy Grants | \$685,207 |
| = Net Project Cost to be Financed | \$1,725,656 |

Project Cost Per Year

| | |
|--|-------------------|
| Annual Lease Payment * | \$ 211,738 |
| + Maintenance on new HVAC Equipment | \$40,000 |
| + Energy Savings Measurement & Verification | |
| = First Year Total Project Cost\$ | 251,738 |

* Based on April, 2011 conservation with Wes Hamil - Assumptions: 10 year lease at 3.75%

Project Savings Per Year

| | |
|--|------------------|
| Guaranteed Utility Savings | \$126,017 |
| + HVAC Repair & Lighting Material Savings | \$26,000 |
| + Capital Cost Avoidance Annualized (Portion of Capital Renewal Fund) | \$99,721 |
| = First Year Total Project Savings | \$251,738 |

Net Neutral Cost to the City of Winter Park

The capital cost avoidance portion is a portion of the current City funding (Building Renewal Fund) already reserved for replacing such large items as the HVAC in the City's largest buildings. The City would continue to fund the Building Renewal Fund; however, this portion of the funding would be a part of the performance contract as the HVAC systems would be updated / replaced through the program.

Strategic objective: Upon completion, City Hall and the Library will have much needed new HVAC equipment and comfort enhancements to be paid for out of Grants, Guaranteed Energy and Operational Savings.

Info Sheet

Input

Print

Cashflow

Escrow

Trane US Inc.
PACT Program Customer Report
City of Winter Park, Florida

| Cash Flow | ECM # | Building or Facility | ECM Description | Simple Payback | Energy Savings | | | | Operational Savings | | | Total Savings | Utility Rebate | ECM Sell Price | Annual Service Sell Price | Sched Service Sell Price |
|-----------|-------|------------------------|-----------------------------|----------------|----------------|-----------|----------|----------|---------------------|----------|-------|---------------|----------------|----------------|---------------------------|--------------------------|
| | | | | | Elec KW | Elec KWh | Therm | Other | Labor | Material | Other | | | | | |
| x | 1 | City Hall | Lighting Retrofit | 8.23 | \$ 831 | \$ 5,986 | \$ (103) | \$ - | \$ - | \$ - | \$ - | \$ 6,713 | \$ - | \$ 55,226 | \$ - | \$ - |
| x | 2 | City Hall | Water Conservation | 7.62 | \$ - | \$ - | \$ 6 | \$ 1,361 | \$ - | \$ 705 | \$ - | \$ 2,072 | \$ - | \$ 15,791 | \$ - | \$ - |
| x | 3 | City Hall | Setpoint/BAS | n/a | \$ 149 | \$ 13,056 | \$ 514 | \$ (19) | \$ - | \$ - | \$ - | \$ 13,700 | \$ - | \$ - | \$ - | \$ - |
| x | 4 | City Hall | Schedule Setback/BAS | 35.06 | \$ (398) | \$ 1,720 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 1,322 | \$ - | \$ 46,337 | \$ - | \$ - |
| x | 5 | City Hall | East Wing Renovations | 236.88 | \$ (846) | \$ 5,615 | \$ 1,049 | \$ - | \$ - | \$ - | \$ - | \$ 5,818 | \$ - | \$ 1,378,093 | \$ 10,833 | \$ - |
| x | 6 | City Hall | Demand Control Ventilation | 2.75 | \$ 101 | \$ 3,183 | \$ - | \$ (264) | \$ - | \$ - | \$ - | \$ 3,020 | \$ - | \$ 8,309 | \$ - | \$ - |
| x | 7 | City Hall | Chiller Replacement | 24.45 | \$ 319 | \$ 541 | \$ - | \$ - | \$ - | \$ 4,500 | \$ - | \$ 5,360 | \$ - | \$ 131,036 | \$ 5,000 | \$ - |
| x | 8 | City Hall | Variable Flow Chilled Water | 5.99 | \$ 280 | \$ 6,388 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 6,668 | \$ - | \$ 39,957 | \$ - | \$ - |
| x | 10 | Public Safety | Variable Flow Chilled Water | 3.85 | \$ 488 | \$ 10,740 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 11,228 | \$ - | \$ 43,244 | \$ - | \$ - |
| x | 12 | Public Safety | Setpoint/BAS | 0.57 | \$ 676 | \$ 7,584 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 8,260 | \$ - | \$ 4,724 | \$ - | \$ - |
| x | 13 | Public Safety | Schedule Setback/BAS | 3.46 | \$ (81) | \$ 755 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 674 | \$ - | \$ 2,330 | \$ - | \$ - |
| x | 15 | Public Safety | Demand Control Ventilation | 3.81 | \$ 737 | \$ 7,940 | \$ - | \$ (994) | \$ - | \$ - | \$ - | \$ 7,683 | \$ - | \$ 29,242 | \$ - | \$ - |
| x | 16 | Library | 2nd Floor AHU Replacement | n/a | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 158,304 | \$ - | \$ - |
| x | 17 | Library | Water Conservation | 4.08 | \$ - | \$ - | \$ 22 | \$ 3,420 | \$ - | \$ 804 | \$ - | \$ 4,246 | \$ - | \$ 17,324 | \$ - | \$ - |
| x | 20 | Library | Lighting Retrofit | 6.57 | \$ 899 | \$ 7,543 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 8,442 | \$ - | \$ 55,464 | \$ - | \$ - |
| x | 21 | Library | Setpoint/BAS | n/a | \$ 38 | \$ 1,085 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 1,122 | \$ - | \$ - | \$ - | \$ - |
| x | 22 | Library | Schedule Setback/BAS | 123.26 | \$ - | \$ 583 | \$ - | \$ (50) | \$ - | \$ - | \$ - | \$ 534 | \$ - | \$ 65,785 | \$ 7,500 | \$ - |
| x | 23 | Library | RTU Replacement | 306.76 | \$ 100 | \$ 155 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 255 | \$ - | \$ 78,131 | \$ - | \$ - |
| x | 24 | Library | Cool Roof Retrofit | 581.19 | \$ - | \$ 77 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 77 | \$ - | \$ 44,461 | \$ - | \$ - |
| x | 25 | Civic Center | Lighting Retrofit | 4.16 | \$ 268 | \$ 2,852 | \$ - | \$ (20) | \$ - | \$ - | \$ - | \$ 3,101 | \$ - | \$ 12,907 | \$ - | \$ - |
| x | 28 | Public Works Building | Lighting Retrofit | 3.58 | \$ 262 | \$ 2,356 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 2,618 | \$ - | \$ 9,361 | \$ - | \$ - |
| x | 29 | Public Works Building | Lighting Controls | 4.08 | \$ - | \$ 663 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 663 | \$ - | \$ 2,704 | \$ - | \$ - |
| x | 36 | Farmers Market | Lighting Retrofit | 3.45 | \$ 125 | \$ 1,126 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 1,251 | \$ - | \$ 4,319 | \$ - | \$ - |
| x | 37 | Welcome Center | Lighting Retrofit | 5.94 | \$ 178 | \$ 1,602 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 1,780 | \$ - | \$ 10,580 | \$ - | \$ - |
| x | 38 | Fire Station #62 | Lighting Retrofit | 4.37 | \$ 284 | \$ 2,554 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 2,838 | \$ - | \$ 12,410 | \$ - | \$ - |
| x | 39 | Fire Station #62 | Lighting Controls | 1.14 | \$ - | \$ 299 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 299 | \$ - | \$ 341 | \$ - | \$ - |
| x | 40 | Fire Station #64 | Lighting Retrofit | 4.85 | \$ 37 | \$ 337 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 374 | \$ - | \$ 1,817 | \$ - | \$ - |
| x | 41 | Golfview Terrace | Lighting Retrofit | 1.93 | \$ 12 | \$ 110 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 123 | \$ - | \$ 236 | \$ - | \$ - |
| x | 42 | Golf Course Club House | Lighting Retrofit | 3.36 | \$ 221 | \$ 1,989 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 2,210 | \$ - | \$ 7,426 | \$ - | \$ - |
| x | 43 | Golf Course Club House | Lighting Controls | 5.46 | \$ - | \$ 47 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 47 | \$ - | \$ 256 | \$ - | \$ - |
| x | 44 | Meade Garden | Lighting Retrofit | 2.16 | \$ 340 | \$ 3,058 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 3,398 | \$ - | \$ 7,341 | \$ - | \$ - |
| x | 45 | Meade Garden | Lighting Controls | 5.27 | \$ - | \$ 139 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 139 | \$ - | \$ 731 | \$ - | \$ - |
| x | 46 | Police Training Area | Lighting Retrofit | 2.39 | \$ 307 | \$ 2,765 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 3,072 | \$ - | \$ 7,341 | \$ - | \$ - |
| x | 48 | Fleet Peoples Park | Lighting Retrofit | 2.95 | \$ 40 | \$ 361 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 401 | \$ - | \$ 1,184 | \$ - | \$ - |
| x | 49 | Lake Island Area | Lighting Retrofit | 7.04 | \$ 107 | \$ 965 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 1,073 | \$ - | \$ 7,551 | \$ - | \$ - |
| x | 50 | Lake Island Area | Lighting Controls | 4.35 | \$ - | \$ 39 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 39 | \$ - | \$ 170 | \$ - | \$ - |
| x | 51 | McKean Arboritum | Lighting Retrofit | 1.22 | \$ 19 | \$ 169 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 188 | \$ - | \$ 230 | \$ - | \$ - |
| x | 53 | Dinky Dock | Lighting Retrofit | 2.96 | \$ 40 | \$ 362 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 402 | \$ - | \$ 1,191 | \$ - | \$ - |
| x | 55 | ITS | Lighting Retrofit | 8.21 | \$ 65 | \$ 584 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 649 | \$ - | \$ 5,329 | \$ - | \$ - |
| x | 56 | Bongart Plant Area | Lighting Retrofit | 2.32 | \$ 277 | \$ 2,495 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 2,772 | \$ - | \$ 6,419 | \$ - | \$ - |
| x | 57 | Bongart Plant Area | Lighting Controls | 1.19 | \$ - | \$ 1,264 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 1,264 | \$ - | \$ 1,507 | \$ - | \$ - |
| x | 58 | Azalea Rec Center | Lighting Retrofit | 2.92 | \$ 163 | \$ 1,468 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 1,631 | \$ - | \$ 4,756 | \$ - | \$ - |
| x | 59 | Azalea Rec Center | Lighting Controls | 5.04 | \$ - | \$ 438 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 438 | \$ - | \$ 2,207 | \$ - | \$ - |
| x | 60 | Azalea Tennis Tower | Lighting Retrofit | 4.51 | \$ 32 | \$ 290 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 322 | \$ - | \$ 1,456 | \$ - | \$ - |
| x | 61 | Magnolia Plant | Lighting Retrofit | 6.18 | \$ 275 | \$ 2,473 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 2,748 | \$ - | \$ 16,990 | \$ - | \$ - |
| x | 62 | PWC Area | Lighting Controls | 4.44 | \$ - | \$ 272 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 272 | \$ - | \$ 1,207 | \$ - | \$ - |
| x | 63 | PWC Area | Lighting Retrofit | 6.90 | \$ 89 | \$ 802 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 891 | \$ - | \$ 6,143 | \$ - | \$ - |
| x | 64 | PWC Lakes Building | Lighting Retrofit | 4.61 | \$ 57 | \$ 516 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 574 | \$ - | \$ 2,646 | \$ - | \$ - |
| x | 65 | PWC #4 | Lighting Retrofit | 5.47 | \$ 27 | \$ 242 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 269 | \$ - | \$ 1,473 | \$ - | \$ - |
| x | 66 | PWC #11 | Lighting Retrofit | 4.32 | \$ 125 | \$ 1,124 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 1,249 | \$ - | \$ 5,392 | \$ - | \$ - |
| x | 67 | PWC #12 | Lighting Retrofit | 7.91 | \$ 68 | \$ 614 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 682 | \$ - | \$ 5,392 | \$ - | \$ - |
| x | 68 | PWC #14 | Lighting Retrofit | 2.51 | \$ 30 | \$ 270 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 300 | \$ - | \$ 753 | \$ - | \$ - |
| x | 69 | PWC #20 | Lighting Retrofit | 5.64 | \$ 351 | \$ 3,161 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 3,512 | \$ - | \$ 19,810 | \$ - | \$ - |
| x | 70 | PWC #LS-70 | Lighting Retrofit | 3.65 | \$ 55 | \$ 499 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 554 | \$ - | \$ 2,022 | \$ - | \$ - |

Trane US Inc.

PACT Program Customer Report

City of Winter Park, Florida

| Cash Flow | ECM # | Building or Facility | ECM Description | Simple Payback | Energy Savings | | | | Operational Savings | | | Total Savings | Utility Rebate | ECM Sell Price | Annual Service Sell Price | Sched Service Sell Price |
|----------------|-------|----------------------|--------------------------------------|----------------|----------------|------------|----------|----------|---------------------|-----------|-----------|---------------|----------------|----------------|---------------------------|--------------------------|
| | | | | | Elec KW | Elec KWh | Therm | Other | Labor | Material | Other | | | | | |
| x | 71 | PWC Storage 1 | Lighting Retrofit | 4.03 | \$ 29 | \$ 259 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 288 | \$ - | \$ 1,163 | \$ - | \$ - |
| x | 72 | PWC Storage 2 | Lighting Retrofit | 5.34 | \$ 73 | \$ 657 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 730 | \$ - | \$ 3,897 | \$ - | \$ - |
| x | 73 | PWC Storage 3 | Lighting Retrofit | 4.39 | \$ 43 | \$ 383 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 425 | \$ - | \$ 1,866 | \$ - | \$ - |
| x | 75 | PWC Fuel Island | Lighting Retrofit | 4.33 | \$ 30 | \$ 272 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 302 | \$ - | \$ 1,309 | \$ - | \$ - |
| x | 79 | City Wide | Owner insalled Pgm Stats | n/a | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 9,849 | \$ - | \$ - |
| x | 80 | Project Wide | Measurement & Verification | n/a | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 16,667 | \$ - |
| x | 81 | Project Wide | T-12 Lighting maint savings per Stev | n/a | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 20,632 | \$ - | \$ 20,632 | \$ - | \$ - | \$ - | \$ - |
| x | 89 | City Hall & Library | Capital Renewal (Annualized) | n/a | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 99,080 | \$ 99,080 | \$ - | \$ - | \$ - | \$ - |
| x | 91 | Energy Seminar | Energy Seminar | n/a | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 40,000 | \$ - | \$ - |
| Project Totals | | | | 9.58 | \$ 7,322 | \$ 113,773 | \$ 1,487 | \$ 3,436 | \$ - | \$ 26,641 | \$ 99,080 | \$ 251,738 | \$ - | \$ 2,410,863 | \$ 40,000 | \$ - |



city commission agenda item

| | | | |
|----------------|----------------------------------|--|--|
| item type | Action Item Requiring Discussion | meeting date | April 25, 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 checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A | final vote |

Subject: Amendment of the Holler – Orlando RV Vehicle Sales Agreement

When the Holler Chevrolet business closed and the properties were largely vacant for three years, the Zoning rules (which now prohibit car/vehicle sales on Fairbanks) did not allow any subsequent vehicle sales dealership use to be re-started. Both the Hollers and the City are hopeful that redevelopment will occur on these properties but given the state of the economy those prospects were/are limited. The City was open to restoring vehicle sales on an interim basis but did not want a 15-20 lease that would discourage the redevelopment that we all hope for.

In November 2008, the City Commission approved an interim agreement to allow the Orlando RV business to operate at 860 West Fairbanks for up to seven years. Annual extensions are permitted at the City's discretion thereafter. The Owners agreed in return to heavily landscape the property and have done so.

A year later the Agreement was extended to the former Holler Corvette property at 710 W. Fairbanks Avenue on the corner of Capen and Fairbanks Avenue, subject to the same time limits. It is currently being used for Orlando RV inventory.

This request is to extend the Agreement for additional Orlando RV inventory on the former Holler "truck lot" property on the north side of Fairbanks Avenue at 805 W. Fairbanks Avenue, subject to the same time limits and in return for a landscaping upgrade and removal of the chain link fence which has already been done. All three properties would then be on the same time limit schedule.

Recommendation:

Staff recommendation is for Approval. All three properties will be on the same time limit. A future developer then can negotiate with the Hollers with a time certain on the lease termination rather than have to buy both the property and the business lease.

VEHICLE SALES AGREEMENT

THIS VEHICLE SALES AGREEMENT (the "Agreement") is made and entered into this _____ day of _____ 2011, by and between the **CITY OF WINTER PARK, FLORIDA**, a Florida municipal corporation (the "City"), whose address is 401 Park Avenue South, Winter Park, Florida 32789, and **DI PARTNERS LLLP**, ("Owner"), 1011 N. Wymore Road, Winter Park, Florida 32789;

WHEREAS, the City of Winter Park has established zoning regulations which prohibit vehicle sales businesses in many parts of the City including Fairbanks Avenue and including the property at 805 West Fairbanks Avenue, more particularly described as The South 15.04 feet of Lot 6 and Lots 7 through 9 (less west 5 feet thereof), Block 72, Town of Winter Park Subdivision as recorded in Plat Book "A", Page 67 and Plat Book B, Page 86, and Miscellaneous Plat Book B 00K 3/220, Public Records of Orange County, Florida. (Tax ID # 05-22-30-9400-72-070) and 710 West Fairbanks Avenue, more particularly described as the West Half of Lot 5 and All of Lot 6, Overstreet Turpentine Co. Subdivision as recorded in Plat Book "F", Page 73 of the Public Records of Orange County, Florida (Tax ID# 07-22-30-6512-91-052) herein referred to as "Properties"; and

WHEREAS, this Agreement is intended to supercede and replace the existing vehicle sales agreement for the 710 West Fairbanks property, and

WHEREAS, the Property Owner wishes to park Owner vehicle sales inventory or Orlando RV vehicle sales inventory on the Properties and has entered or intends to enter into a lease for such purposes from the adjacent Orlando RV business; and,

WHEREAS, the City is willing, given the special circumstances, to voluntarily allow for Owner's and Orlando RV vehicle sales inventory to be parked on the Properties for a short term finite period of time given absolute assurances that such use will be terminated in the future in return for landscaping upgrades to the property;

NOW, THEREFORE, in consideration of the premises hereof and of the mutual covenants set forth herein, the parties hereby agree as follows:

1. ***Recitals***: The recitals above are true and correct and incorporated herein.
2. ***Temporary Permission for Parking Orlando RV Vehicle Sales Inventory***

and Owner Vehicle Sales Inventory: At its discretion and in consideration of the commitment by the Owner to replant and continuously maintain a street side perimeter landscape buffer as the parties have mutually agreed to, the City agrees to permit the parking of Orlando RV vehicle sales inventory from the Properties for a period equal to and to match exactly the time period permitted by the Settlement and Use Agreement for the property at 860 W. Fairbanks entered into by the same parties on November 10, 2008 and City further agrees that said time limit will be automatically extended for the same time period granted by the City if the City Commission continues to permit vehicle sales from the adjacent property at 860 West Fairbanks Avenue. This approval only applies to Orlando RV vehicle sales inventory or their successor businesses at 860 W. Fairbanks Avenue and does not apply to any other independent third parties not specifically mentioned in this Agreement. However, this agreement shall also permit the use of the Properties for the parking of vehicle sales inventory of the Owner and their affiliated companies. After the expiration of such time period, this Agreement prohibits vehicle sales inventory to be parked on the Properties at any such time thereafter that vehicle sales are discontinued on 860 W. Fairbanks Avenue and then thereafter no parking of vehicle sales inventory shall be permitted from the Properties and such restriction and limitation is agreed to by the Owner. However, either the Owner or tenant, if said business otherwise meets all applicable requirements for permitting and licensing, may petition the City Commission for additional annual extensions to this Agreement which shall be considered at the sole discretion of the City. As part of the automated occupational license renewal process, should any occupational license renewal be mailed and renewed in violation of the time limits or extensions as may be granted by the City Commission, such license shall have no effect of altering the terms of this Agreement. However, Owner or Tenant shall be entitled to a full refund of any such fees paid if no vehicle sales use may be made of the Property under the Land Development Code or this Agreement.

3. ***Enforcement:*** Owner recognizes that the City's Code Enforcement Board is empowered to enforce the terms of this Agreement and may, following appropriate notice and public hearing, levy fines of up to \$250 per day for violations of this Agreement.

4. All other terms and conditions of the Agreement remain in full force and effect.

5. This Agreement is intended to be recorded in the Public Records of Orange County, Florida and to run with title to the Property and be in full force and effect upon future Owners.

IN WITNESS WHEREOF, the parties have caused these presents to be executed as of the date and year first above written.

Signed, sealed and delivered in the presence of

OWNER:

Print Name _____

By: _____

DI Partners LLLP

Print Name _____

STATE OF FLORIDA

COUNTY OF _____

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared _____, who [] is personally known to me or [] produced _____ as identification, and that he acknowledged executing the same in the presence of two subscribing witnesses, freely and voluntarily, for the uses and purposes therein expressed.

WITNESS my hand and official seal in the County and State last aforesaid this _____ day of _____, 2011.

Signature of Notary

Name of Notary (Typed, Printed or Stamped)

Commission Number (if not legible on seal): _____

My Commission Expires (if not legible on seal): _____

Signed, sealed and delivered in the presence of:

CITY:

CITY OF WINTER PARK, FLORIDA

Print Name:_____

By:_____
Kenneth Bradley, Mayor

Print Name:_____

STATE OF FLORIDA
COUNTY OF ORANGE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Kenneth Bradley, personally known to me to be the Mayor of the **CITY OF WINTER PARK, FLORIDA** and that he acknowledged executing the same in the presence of two subscribing witnesses, freely and voluntarily under authority duly vested in him by said municipality.

WITNESS my hand and official seal in the County and State last aforesaid this _____ day of _____, 2011.

Signature of Notary

Name of Notary (Typed, Printed or Stamped)

Commission Number (if not legible on seal):_____



city commission agenda item

| | | | |
|----------------|----------------------------------|--|--|
| item type | Action Item Requiring Discussion | meeting date | April 25, 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 checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A | final vote |

Subject: Approval of additional architectural plans for the West Fairbanks vision

As part of the Placemakers contract, templates were developed to show with site plans and building elevations, showing how representative properties along the Fairbanks corridor 'could' look as part of the West Fairbanks vision when redeveloped following the provisions of the Form Based Code and the City's Comp. Plan/Zoning rules. Those plans are attached.

These plans or templates show the most intense or greatest density of the redevelopment that is possible. They all depict multi-story mixed use building examples, which are what the Form Based Code intends to encourage. They show the ultimate redevelopment form.

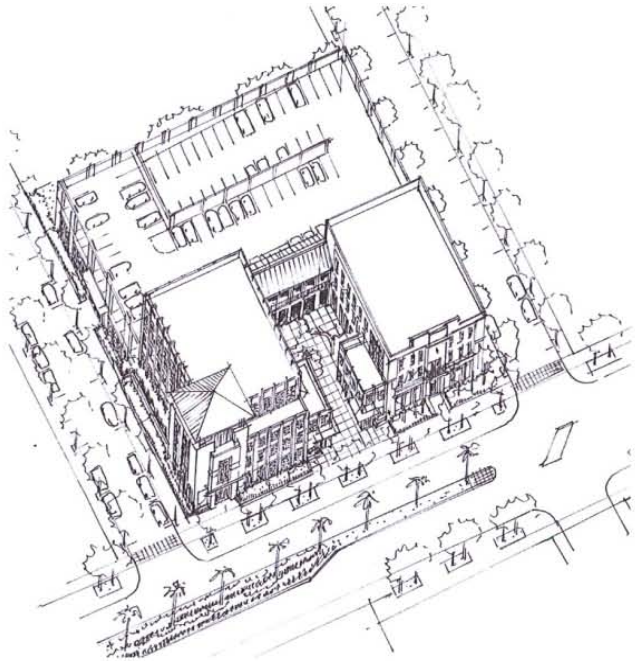
The Commission briefly discussed at the last meeting engaging Placemakers to depict some less intense, more interim redevelopment scenarios. For example, how would a stand alone Wendy's or a stand alone CVS pharmacy building or a stand alone Embassy Suites hotel be developed consistent with the provisions of the Form Based Code and Comp. Plan/Zoning rules.

While we would all like to see the ultimate redevelopment occur from both a visual and tax base perspective, the other scenarios are probably more likely in the near term given the current state of the economy. It is also likely that the current property owners can relate to the interim vision more easily than the ultimate redevelopment scenarios.

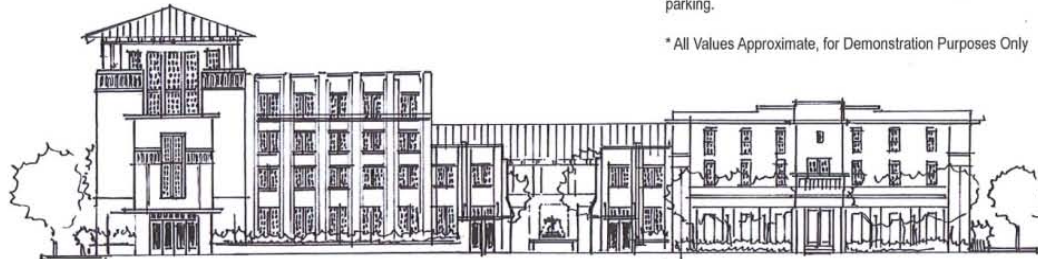
Recommendation:

Staff is supportive of the suggestion to spend \$10,000 which would provide three more interim templates for the corridor.

There is money in the Planning Dept. budget for this contract. Last year, Senate Bill 360 was requiring a re-write of the City's transportation element so some consultant funds were budgeted to meet that deadline. However, when SB 360 was ruled unconstitutional that project was put on hold.



Aerial View of Site



Conceptual Facade along West Fairbanks

Site 1: FBC Demonstration

Description: Demonstration of the proposed Form Based Code (FBC) and Architectural Design Guidelines. This site plan served to inform the development of the FBC.

Total Site Area: 80,000sf

Building Footprint

Office Footprint: 22,400sf

Garage Footprint: 28,000sf

Total Footprint: 50,400 (63% coverage)

Gross Floor Area

Office: 74,800sf in 2-4 story buildings

Garage: 56,000sf in 2 story parking garage

Total GFA: 130,800 (1.635 FAR)

Parking

Required Office @ 2.0/1000sf: 150 spaces

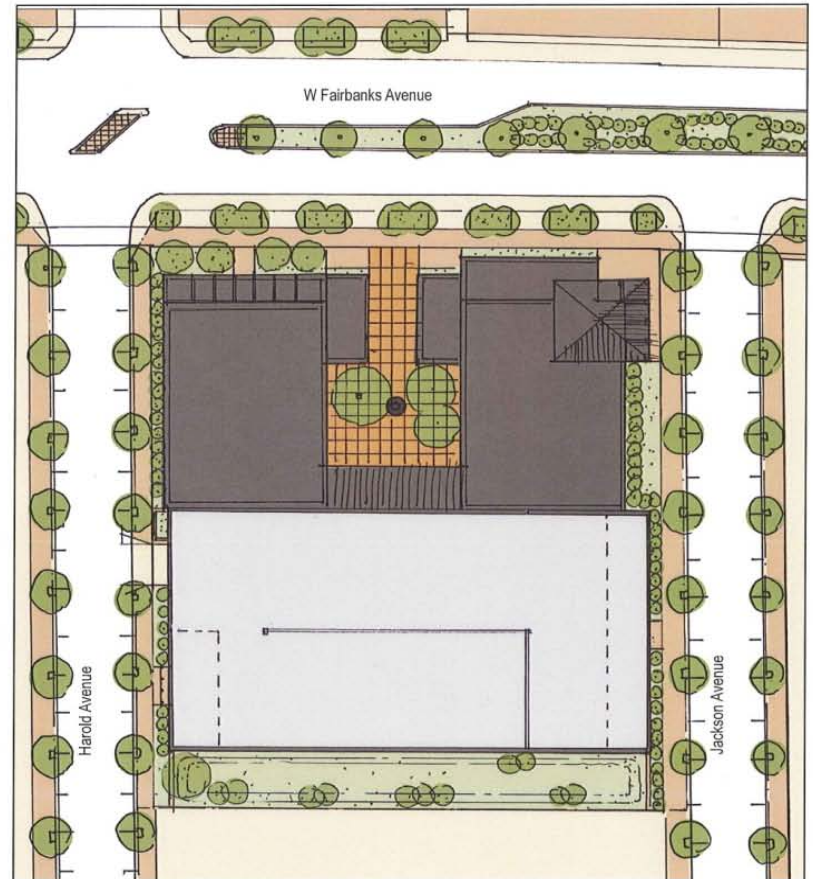
Parking Provided: 150 in Garage

Note: Shallow "Liner Buildings" are shown on the first floor of the parking garage that can have an active use (office). These provide a better building interface to the street and can be incentivized by allowing less setbacks for the garage. The liners provide 3300sf of additional office and take away 18 parking spaces.

Total Landscaped Area: 29,600sf (37%) including courtyard, sidewalk improvements, and storm water retention at rear.

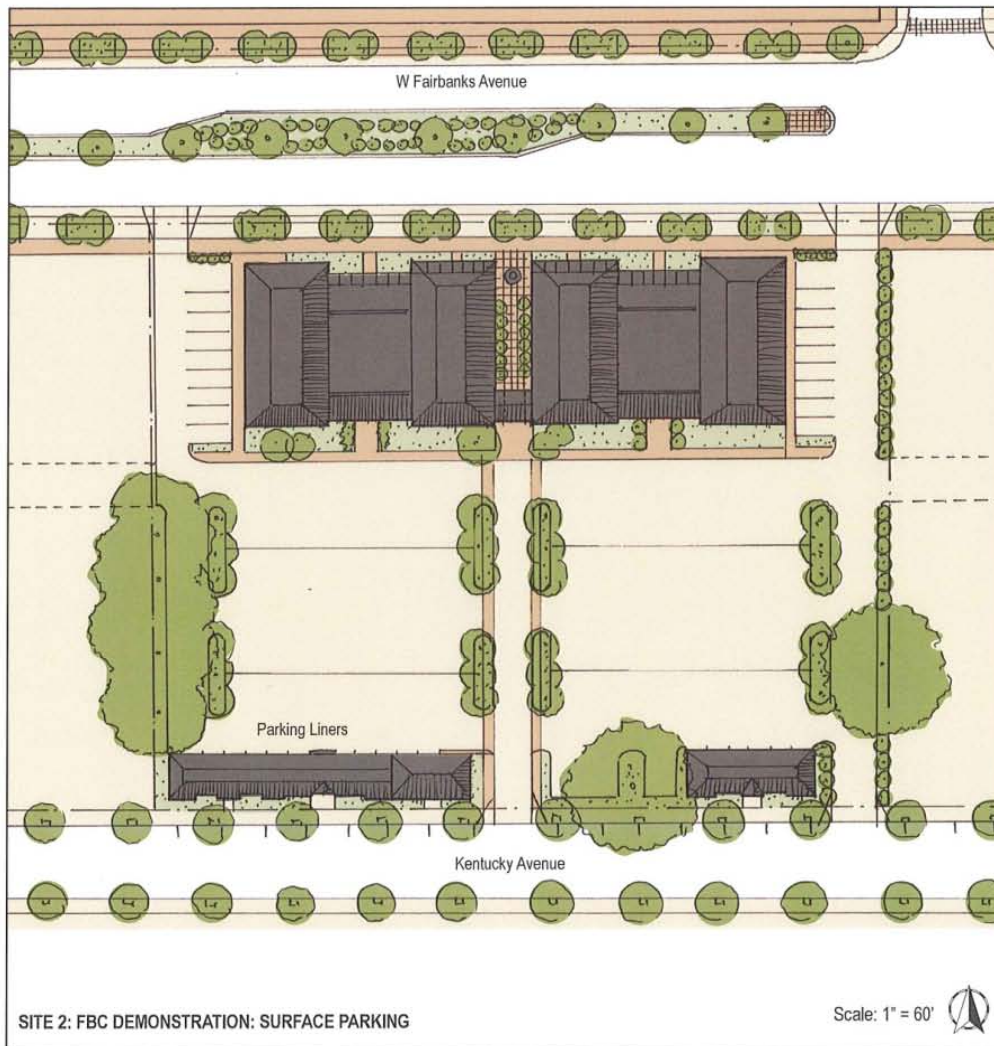
Conclusion: Pedestrian friendly streetscape is maintained while maintaining substantial landscaping. Reduced parking standards reduce FAR, but a 2.0FAR is recommended at a minimum for all PD developments utilizing structured parking.

* All Values Approximate, for Demonstration Purposes Only



SITE 1: FBC DEMONSTRATION

Scale: 1" = 60'



Conceptual Facade along West Fairbanks

Site 2: FBC Demonstration- Surface Parking

Description: Demonstration of the proposed Form Based Code (FBC) and Architectural Design Guidelines. This site plan served to inform the development of the FBC. This concept also illustrates how minor retail might be integrated at the corners, and liner buildings at the rear.

Total Site Area: 96,000sf

Building Footprint

Main Footprint: 16,800sf
 Liner Footprint: 4800sf
Total Footprint: 21,600 (22.5% coverage)

Gross Floor Area

Retail: 4800sf
 Office: 57,600sf in 3-5 story buildings
 Liners: 5762sf over parking in 2-3 story buildings. (7 residential units or office)
Total GFA: 68,162 (.71 FAR)

Parking

Required Retail @ 3.0/1000sf: 24
 Required Office @ 2.0/1000sf: 114 spaces
 Total Required: 138
 Parking Provided: 140 in Surface Lot

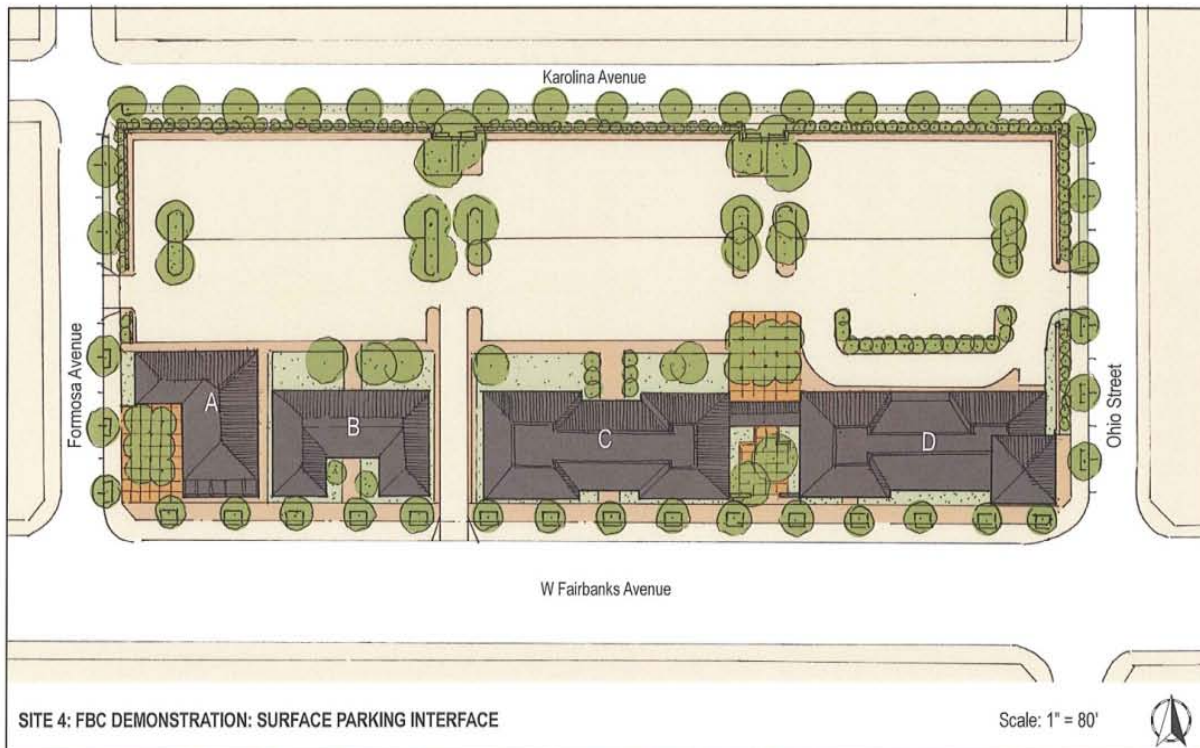
Total Landscaped Area: 26,000sf (27%)

Conclusion: A significant office development with minor retail can be achieved without a parking garage. A substantial landscaped area can be achieved through other means than a blanket 25% per site requirement. The liner buildings such as those built along Welbourne Avenue are achievable and provide a more suitable interface to Kentucky Avenue.

* All Values Approximate, for Demonstration Purposes Only



Liner buildings along Welbourne Avenue



Site 4: Fairbanks North Side

Description: Demonstration of redevelopment on the north side of Fairbanks showing a parking lot interface to Karolina Avenue.

Total Site Area: 146,000sf

Building Footprint

Building A: 5,100sf

Building B: 5,000sf

Building C: 9,600sf

Building D: 9,600sf

Total Building Footprint: 29,300 SF (20% Coverage)

Gross Floor Area

Retail (Floor 1): 29,300sf

Office (Floor 2): 29,300sf

Additional Office (Floor 3 or additional footprint): 26,000sf

Total GFA: 84,600 (.58 FAR)

Parking

Required Retail @ 3.0/1000sf: 90

Required Office @ 2.0/1000sf: 110 spaces

Total Required: 200

Parking Provided: 200 in surface lot (70,000sf)

Total Landscaped Area: 46,700sf (32%)

Conclusion: Although two story buildings were contemplated in the concept, an additional 29,000sf of office is possible and may either be placed in larger building footprints or third stories. Again, significant landscaping is achieved through the regulations themselves, rather than a blanket 25% requirement.

* All Values Approximate, for Demonstration Purposes Only



Possible Massing of Building 'A'



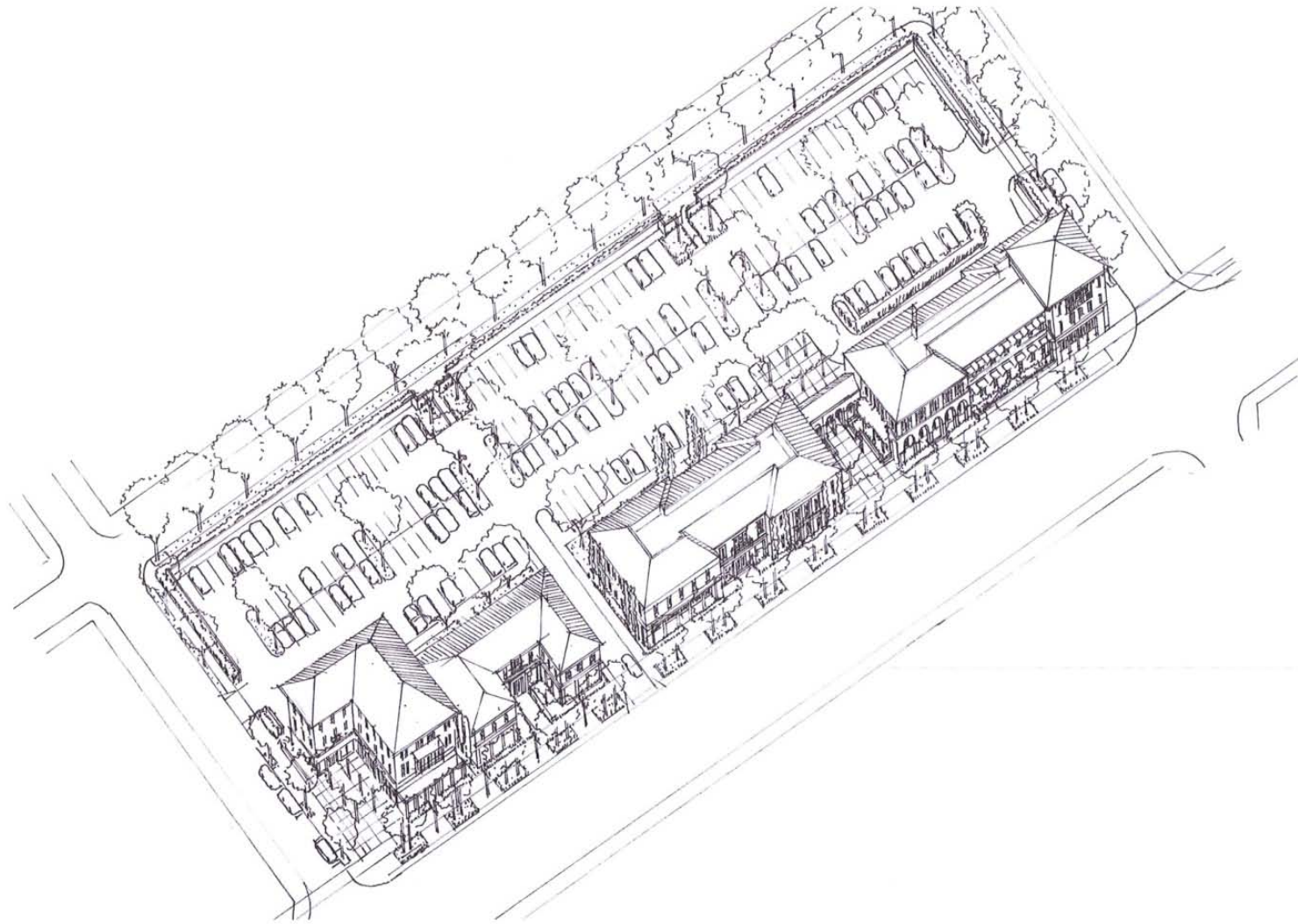
Possible Massing of Building 'B'



Possible Massing of Buildings 'C' & 'D' - Consider 3rd Story



Landscaping Interface to Karolina Avenue in addition to Street Trees





city commission agenda item

| | | | |
|---------------------------------------|--|--------------|--|
| item type | Action Item Requiring Discussion | meeting date | April 25, 2011 |
| prepared by department division | Jeff Briggs Planning Dept. | approved by | <input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A |
| board approval | <input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A final vote | | |

Subject: Hours of Sale and Consumption of Alcoholic Beverages

Since the late 1980's the Planning Dept. and the Police Dept. have been working together using the zoning code and noise ordinance rules to try to provide peace and tranquility for the people who live in close proximity to restaurants which evolve into bars/nightclubs after 9:00 pm. Depending on the location, there are differing hours of operation and the ability to have live bands. The City Commission asked to discuss this topic in order to decide whether to consider a change to a uniform set of hours of sale and consumption of alcoholic beverages, particularly in the Hannibal Square neighborhood.

Circa, Luma, 310 Park Avenue, Spice, Dexters, Chez Vincent/Hannibals, Shipyard Emporium, Boathouse/Drakes and Fiddlers Green are all very successful restaurants that evolve after 9:00 pm into bars or nightclubs where the predominant activity is the sale and consumption of alcoholic beverages.

On Park Avenue, which does not have many apartment/condo residents in close proximity to restaurants that can be open until 2:00 am, the complaint has been guests trying to sleep in the Park Plaza Hotel. While the noise from the sidewalk dining/drinking patrons can be mildly disturbing, most of the complaints have been the live bands that would play and continually be disturbing to guests in the hotel. That problem has been solved with the Police Dept. enforcement of the noise ordinance regulations for the Central Business District. The noise ordinance for the CBD says that after 10:00 pm, if you can hear the live band music across the street, it has to stop. So the places on Park Avenue may have a folk singer or piano player after 10:00 pm but it is at a low volume.

In the Hannibal Square neighborhood it is more complicated. One reason is because a major justification for the CRA was the "blight" caused by the previous bars/nightclubs that once dominated that area. So when the City decided in 1996-1998 to allow new restaurants in Hannibal Square, the City wanted a restaurant district but not a nightclub district with live bands playing late into the night. So it was decided that earlier closing hours were advisable and the City adopted by ordinance an 11:00 pm closing on Sundays-Thursdays and Midnight on Friday-Saturday. It also was in recognition that so many apartments were close by in the buildings on New England Avenue as were nearby homes on the adjacent streets. Most of the noise disturbances are not from inside the business. They are from the loud customers on their way to their cars or walking away. A full history is attached.

Chez Vincent/Hannibal's and Dexters have expressed that it is not fair that they have to close before the Park Avenue restaurants. However, Hannibals and Dexters do not have to abide by the 10:00 pm live band cut-off, as their live band music can continue later into the evening. If they were willing to do that, there is no problem. That is fine with Chez Vincent/Hannibals. However, Dexters has live bands playing until 11:30 pm on weekends and they are not willing to give that up. The Planning staff, Planning Commission and CRA Advisory Board have never been able to support changing the rules that would then allow live amplified bands and loud customers out until 2:00 am in the morning so close to residential apartments and homes.

On Fairbanks Avenue, where zoning conditional use controls restaurants when they are within 300 feet of residential, the City has established conditional use approvals with conditions regarding 10:00 pm closing hours (Shipyard) or no live bands (Hot Olives). PR's closes at Midnight except for special events. Fiddlers Green and Boathouse/Drakes which pre-date the requirement for the conditional use approvals have an employee in the parking lot, late at night to make sure patrons leave quietly given their proximity to residential homes.

Unfortunately, it is not a 'one size fits all' situation. Based on the proximity of residential properties and how the business operates (emphasis on dining vs. drinking; live bands or not) determines what city controls including limited hours of operation need to be in place to protect those nearby residents so they can live and sleep in peace.

HISTORY OF THE ALCOHOLIC BEVERAGE HOURS IN THE WESTSIDE – HANNIBAL SQUARE NEIGHBORHOOD

In 1996-1998, when the CRA redevelopment of the Hannibal Square neighborhood first began, the City reviewed conditional use requests to establish the Dexters restaurant, Chez Vincent restaurant and the Barbeque restaurant (former Hot Olives). At that time there was a concern about the potential impact of late night activity associated with these establishments. One major reason for the CRA in the first place and the "finding of blight" were the negative effects from the previous bars and nightclubs. Since we knew that restaurants many times can evolve into bars during the later night hours, the City was concerned primarily over the potential to regenerate late night noise and traffic activity becoming a nuisance to the nearby residential homes and apartments. In summary, the City worked to close bars and nightclubs because they were a problem and now we were being asked to open up new restaurant/bars, albeit catering to a different clientele.

As a result, the Planning and Zoning Commission and the City Commission approved these conditional uses for these three establishments with a one year trial period to insure that the character of their operation was not detrimental to the surrounding neighborhood. The other condition imposed on these restaurants was the more restrictive hours of operation. Later on these hours were put into the Zoning Code and the Alcoholic Beverage Code. This way the more restrictive hours for the sale and consumption of alcoholic beverages would apply to any and all restaurant establishments in the Hannibal Square neighborhood. This is the neighborhood area bounded by Denning Drive, Webster Avenue, New York Avenue and Comstock Avenue. While typically the hours permitted for the sale and consumption of alcoholic beverages in Winter Park are up until 2:00 am each day except midnight on

Sundays, the regulations now in effect for the Hannibal Square neighborhood are up until 11:00 pm Sundays thru Thursdays and Midnight on Fridays and Saturdays.

The City had learned over the years that restaurant and bar activity in proximity to residences can cause late night noise from patrons that can be very disturbing to surrounding residents. It is not so much noise from the establishments themselves as it is the loud behavior of customers when they leave the restaurants/bars together with the traffic activity that is disturbing in the late night quiet. While there was not much the City felt it could do about existing restaurants/bars on Fairbanks Avenue or elsewhere that already were open until 2:00 am, the City was resolved not to allow another late night scenario in the Hannibal Square neighborhood.

The City has been asked formally three times to revisit these adopted hours of alcoholic beverage sales in the Hannibal Square neighborhood. After the original adoption in 1997, Dexters restaurant made a formal request to the City in July, 2000 to change the hours. That request was denied by the Planning and Zoning Commission and subsequently denied by the City Commission.

This exact same request came before the Planning Commission again in March 2006. The Planning Commission voted for denial by a 4-1 vote. When the matter was referred to the City Commission, they tabled the request and asked that the CRA Advisory Board to provide a recommendation as the City Commission felt the CRA Advisory Board had a better feel for the opinions of the area. That public hearing was held in August 2006 at the Community Center and drew a large turnout. The CRA Advisory Board voted 5-1 for denial of the change in hours. At that point, having received two recommendations for denial, Mr. Richardson (Dexters) withdrew his request.

In 2008 the same request was made again by Chez Vincent/Hannibals. On January 24, 2008 the CRA Advisory Board held another public hearing and voted unanimously to deny the request for extended hours. The Planning and Zoning Commission also held a public hearing on March 4, 2008 and voted unanimously to deny the request. It was scheduled for action by the City Commission on April 14, 2008 but withdrawn by the applicant given the two previous recommendations for denial.

One hears the words about a "promise" because for many people this issue is a matter of trust with the Hannibal Square neighborhood. One major reason for the creation of the CRA in 1994 was to encourage redevelopment of the Hannibal Square commercial district which was composed almost entirely of bars that were causing great distress and problems to the surrounding neighborhood. The City "promised" the residents that future restaurants would not cause the same late night noise and nuisance problems that had been experienced before. One way to help insure this, was in part, to require the hours for sale/consumption to end earlier than 2:00 am. The promise was that while the City would permit Hannibal Square to become a restaurant district, the City was not intending to allow it to become a nightclub district.



city commission agenda item

| | | | |
|---------------------------------------|--|--------------|--|
| item type | Action Item Requiring Discussion | meeting date | April 25, 2011 |
| prepared by department division | City Management | approved by | <input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A |
| board approval | <input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A final vote | | |

subject

Community Conversations

motion | recommendation

1. Authorize Staff to enter into a \$3,600 contract with the Florida Institute of Government to hold Community Conversations as described in the proposal
2. Determine and specify if there are specific topics the City wants to discuss at the workshops (if so, they should be kept to a minimum)
3. Decide if the City wants to host a 5th session directed at participation by our future leaders (WP High & Rollins students) – cost additional \$900

background

During the strategic planning session, the Commission was introduced to the concepts of Community Conversations where a wide variety of community members are encouraged to participate in group meetings to discuss the future of the City. Topics to be included in the Community Conversations are as follows:

- Identification of treasures and values in Winter Park
- Identification of needs and opportunities
- Specific Input as needed

To obtain maximum participation, participants will be asked to only participate in one session (they may come and watch the other sessions) and the sessions are being held at a variety of times and locations. Dates are still being finalized, but the following locations and times have been selected in maximize participation.

- Welcome Center; 8:30 am – Noon; target group businesses
- Mt. Vernon Inn; 6:30 pm – 9:30 pm; target group residents at large
- Winter Park Presbyterian Church Social Hall; Saturday 10 am – 1 pm; target group residents at large
- Winter Park Library; 1 pm – 4 pm; target group seniors, businesses, residents
- Possible 5th target group; Students/youth; TBD if funded

alternatives | other considerations

fiscal impact

\$3,600 – 4,400 plus refreshments.

strategic objective

Quality government services & financial security

**PROPOSAL
CITY OF WINTER PARK
April 12, 2011
COMMUNITY CONVERSATIONS**

The Florida Institute of Government will design and facilitate a series of informal meetings for the City of Winter Park where residents, the business community, civic and religious organizations, and other community stakeholders can share their hopes and aspirations for the future of the city. During these three-hour workshops, participants will: identify the treasures and values they think are significant for the community; explore needs and opportunities that will enhance the city; and provide input to the Mayor, City Commissioners, and staff that will be in attendance to listen to the conversations. The meetings will be held on a variety of dates, times and places to accommodate as many people as possible.

A minimum of four workshops will be held, with two of them being scheduled on weekday nights; one on a weekday morning or afternoon; and one on a Saturday morning. The IOG will design and facilitate all of the workshops, using the same format and agenda at each.

The IOG will provide the following for each workshop:

- Facilitators
- Agendas
- Participant worksheets
- Evaluation forms for participant completion
- Written report of the findings

In addition, the IOG will consult with the City on its outreach and promotional efforts to encourage broad citizen involvement.

The City will be responsible for:

- Providing appropriate facilities
- Refreshments (if desired)
- Promotional activities and invitations
- Nametags

The fee for this project is \$3,600 based on holding four workshops. Additional workshops may be added at a cost of \$900 per session.

CITY OF WINTER PARK
COMMUNITY CONVERSATIONS

DRAFT AGENDA

Objectives

- *Allow participants to identify the treasures and values of Winter Park they want preserved into the future*
- *Discuss and allow participants to identify needs and opportunities to inform the City Commission*
- *Solicit input from community stakeholders on specific issues*

Registration and refreshments

Welcome and introductions

Overview of Community Conversations initiative

Identification of community treasures and values

Identification of needs and opportunities in small groups

Small group reports

Facilitated discussion of issues

Closing comments and adjournment

Suggested time frames:

Morning workshops would begin registration at 8:30 a.m.; workshop would begin at 9:00 a.m.; and adjourn at 12:00 noon

Afternoon workshops would begin registration at 12:30 p.m.; workshop would begin at 1:00 p.m.; and adjourn at 4:00 p.m.

Evening workshops would begin registration at 6:00 p.m.; workshop would begin at 6:30 p.m.; and adjourn at 9:30 p.m.

WORKSHEETS

Treasures and Values Exercise

What are the treasures and values of Winter Park....the things (whether physical places, or intangibles like community character) you love about the city and want to see continued, protected or improved? What would you want to ensure is preserved as Winter Park plans for the future?

Identification of Needs and Opportunities

Please identify the following:

Needs – Something, not now in place, that would improve the general quality of life or the business environment in Winter Park

Opportunities – Conditions or features that have potential to contribute to a better quality of life or business environment if used wisely.

The one thing you would change about the city is.....



city commission agenda item

| | | | |
|---------------------------------------|--|--------------|--|
| item type | Action Item Requiring Discussion | meeting date | April 25, 2011 |
| prepared by department division | Randy Knight City Manager n/a | approved by | <input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A |
| board approval | <input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A final vote | | |

Subject –

Engage Kulture, LLC to perform consulting services related to the upcoming PERC election.

motion | recommendation

Authorize the Mayor to execute the attached agreement to engage Kulture, LLC to assist the city in a campaign to prevail in the PERC election involving Public Employees Council 79, AFSCME.

background

The Public Employee Council 79, AFSCME has filed a petition with the Public Employees Relations Commission (PERC) to hold an election to unionize approximately 150 employees in the public works, parks, fleet maintenance and water utilities departments. The election will likely be held in June or July.

Kulture would assist the city in training and coaching managers and conducting a series of topical small group meetings with the impacted employees.

alternatives | other considerations

The City could attempt to prevail in the election without outside help.

fiscal impact

The contract is for a not to exceed amount of \$105,000 plus reasonable expenses.

strategic objective n/a

KULTURE, LLC

Improving the culture of American business.

Private & Confidential

Charles R. Fawsett
Partner, Co-Chair, Labor & Employment Practice Group
Shutts & Bowen LLP
300 South Orange Avenue
Suite 1000
Orlando, FL 32801

Dear Robin:

As per your request, we are providing to you this written proposal with regard to your municipal client in Central Florida. The purpose of this proposal is to provide a broad outline of services to Shutts & Bowen's client, as well as a cost estimate for said services.

Background

As you know, Kulture is an employee and labor relations firm that specializes in preventive labor relations. As such, we are often called upon by management-side labor attorneys to provide assistance to clients who may be targeted by third-party unions. In this capacity, more often than not, we are engaged as communications specialists to interact directly with affected employees.

Scope of Services

Per our discussion, it is anticipated that our services on behalf of your client will encompass the preparation of materialsⁱ, training and coaching of (non-voting unit) managers and/or supervisors (one week prior to employee meetings), conducting a series of topical small group meetings each week with employees over five successive weeks leading up to the yet-to-be scheduled election, as well as one-on-one discussions with employees.

Estimated Cost of Services

As you may recall, Kulture's fees are an hourly-based fee, plus actual and reasonable expenses. Our rates are \$350 per hour, per consultant, which includes one-way travel, plus actual and reasonable expensesⁱⁱ. However, given the budgetary constraints that many municipalities are facing, we believe that the most effective way of being cost sensitive for you and your client is to charge a per diem rate (\$2500 per day, per consultant) based on what is expected to be a eight to ten-hour day, plus actual and reasonable expenses.

In addition, due to the size of the unit, it is anticipated that two consultants will be involved (Ronn English and myself). As such, for ease of calculation, it is estimated that a total of seven days per week (four days and three days, respectively), for six weeks.

Based on the above, it is estimated that the cost of services will be \$105k, plus actual and reasonable expenses.

Note: Given that this estimate is based on cursory information only, the estimate may be revised upon receipt of additional details.

Robin, following your review of this proposal, please let us know if you have any questions.

With best regards,



Peter A. List
Founder & CEO

Copy to: Ronn English, VP Western U.S.

ⁱ All materials, including PowerPoint presentations, letters and handouts to be forwarded to counsel for review, prior to actual dissemination to Shutts & Bowen's client or its employees.

ⁱⁱ Actual and reasonable expenses include (but are not limited to) airfare, vehicle rental, parking and fuel fees, hotel and lodging, as well as meals.

ORDINANCE NO. 2840-11

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, DECLARING A MORATORIUM AS TO THE FILING AND RECEIPT OF ANY APPLICATION FOR, OR ISSUANCE OF, BUSINESS TAX RECEIPTS, BUSINESS LICENSURE AND LAND USE APPROVALS FOR THE OPERATION OF "PAIN MANAGEMENT CLINICS" FOR 320 DAYS; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

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

WHEREAS, there has been a recent proliferation of pain clinics, pain management clinics, and cash only pharmacies throughout the State of Florida; and

WHEREAS, the Prescription Drug Monitoring Program set forth in Florida law, Section 893.055, Florida Statutes, was purported to commence by December 1, 2010, but the Program has not been funded as of this date, or is otherwise not operational, and there is a present discussion in the Florida Legislature whether the Program will be implemented, and therefore there is a current absence of effective regulation of the dispensing of controlled substances and prescriptions for controlled substances for physicians; and

WHEREAS, it has been reported that the implementation of Florida's Prescription Drug Monitoring Program will be delayed as a result of a pending bid protest and other challenges as reported in the 2010 Annual Report concerning Florida's Prescription Drug Monitoring Program, issued by the Executive Office of the Governor, Office of Drug Control; and

WHEREAS, the state's Program under current law may not be funded using state revenues and the ultimate implementation of the Program at this time is in doubt or at a minimum, is subject to substantial uncertainty; and

WHEREAS, the U.S. Department of Health and Human Services has released data showing that prescription drug deaths are now the fourth leading cause of death in the United States, after heart disease, cancer and stroke; and

WHEREAS, various studies and reports have been conducted concerning the proliferation of pain management clinics in Florida, and in 2008, prescription drugs were attributed to an average of nearly 13.5 deaths per day in Florida; and

WHEREAS, the Florida Department of Law Enforcement released the Florida Medical Examiners Commission Report on Drugs Identified in Deceased Persons on December 2, 2010, which report shows the lethal consequences of the diversion and abuse of prescription drugs; and .

WHEREAS, reports have found that burglaries and robberies in the areas where pain management clinics are located have increased; drug trafficking in prescription drugs and street level sales of prescription drugs have increased; and identity theft and organized criminal activities have increased; and

WHEREAS, on-site dispensing of prescription drugs requires additional security measures be in place to assure the public health, safety, and welfare; and

WHEREAS, according to a study reported by the New York Times in 2008, while 38 other states have prescription drug monitoring programs that track sales, Florida does not, resulting in, according to federal, state and local law enforcement officials, Florida becoming a source of prescription drugs that are illegally sold across the country; and

WHEREAS, Florida Statutes require physicians and other persons dispensing prescription drugs through pain clinics, facilities, or offices to register with the State Department of Health in order to conduct such businesses; and

WHEREAS, several counties and municipalities in Florida have established moratoria on certain new pain management clinics to curb the immediate negative impacts created by these clinics, such as illegal prescription drug trafficking and sales of illegal drugs around the clinics, and loitering in areas surrounding the clinics; and

WHEREAS, the negative impacts associated with certain pain management clinics create an urgent situation necessitating immediate investigation into regulation of such clinics in the City; and

WHEREAS, the Board of County Commissioners of Orange County, Florida, imposed a moratorium on new pain clinics in Orange County, beginning December 15, 2010, and continuing through December 14, 2011, for a term of one year, during which time no new occupational licenses may be issued for pain management clinics; and

WHEREAS, under its home rule authority, the City can pass additional legislation to further regulate pain management clinics as long as these additional regulations are not preempted in the law and are not inconsistent with the statutory provisions; and

WHEREAS, the City believes that by establishing a moratorium for three hundred twenty (320) days on the issuance of business tax receipts or land use approvals for pain management clinics, the City will have the opportunity to research and study various regulatory options; and

WHEREAS, the City Commission finds it is the best interest of the citizens of the City to minimize and control the adverse effects of pain clinics and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life and preserve property values by adopting appropriate regulations regulating thereto; and

WHEREAS, the City Commission of the City of Winter Park, Florida, hereby finds this Ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Winter Park.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF WINTER PARK HEREBY ORDAINS, AS FOLLOWS:

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

Section 2. **Definition of Pain Management Clinic.**

For the purposes of this Ordinance, a “pain management clinic” is a clinic required to be registered with the Department of health pursuant to Section 458.3265 or Section 459.0137, Florida Statutes. Said clinics are generally defined as:

All privately owned pain-management clinics, facilities, or offices, which advertise in any medium for any type of pain-management services, or employ a physician or an osteopathic physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications, unless:

1. That clinic is licensed as a facility pursuant to Chapter 395;
2. The majority of the physicians who provide services in the clinic primarily provide surgical services;
3. The clinic is owned by a publicly held corporation whose shares are traded on a national exchange or on the over-the-counter market and whose total assets at the end of the corporation’s most recent fiscal quarter exceeded \$50 million;
4. The clinic is affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows;

5. The clinic does not prescribe or dispense controlled substances for the treatment of pain; or
6. The clinic is owned by a corporate entity exempt from federal taxation under 26 U.S.C. § 501(c)(3).

Section 3. Temporary Moratorium Upon the Issuance of Pain Management Clinics.

All activities relating to the acceptance, review and action upon applications related to a pain management clinic are temporarily suspended in order for the City of Winter Park, through its officials and staff, to have adequate time and opportunity to conduct a study or studies and comprehensively analyze the adequacy of application criteria, standards, and other approved processes and procedures related to the issuance of said permits within the City of Winter Park. Accordingly, there is hereby established and imposed a temporary moratorium on the receipt and/or acting upon applications for any and all land use approvals or business tax receipts related to pain management clinics for a period of three hundred twenty (320) days from the effective date of this Ordinance in order to permit the City to research the nature and scope of possible measures of mitigation and regulation of pain management clinics.

During the time the temporary moratorium is in effect, the City will not accept any applications or act on any pending applications for any land use approvals or business tax receipts or other license or permit of any type for pain management clinics and no pain management clinics shall be permitted within the City. In addition, the City shall not accept payments of the business tax for pain management clinics and shall return any funds accepted for pending applications during the period of time the moratorium is in effect.

It is unlawful for any person or entity to own or operate a pain management clinic in violation of the moratorium enacted by this Ordinance. Any person or entity owning or operating a pain management clinic in violation of this Ordinance shall be subject to the maximum penalty of three hundred dollars (\$300.00) per day pursuant to Chapter 1 of the Municipal Code of Ordinances and Chapter 162, Florida Statutes. Further, any person or entity owning or operating a pain management clinic in violation of this Ordinance is subject to all applicable provisions of the Municipal Code, including Chapter 1 thereof, relating to the enforcement of violations of the Municipal Code.

Section 4. Existing Businesses. Except as provided in Section 7 of this Ordinance, this moratorium shall not affect any business currently operating within the City pursuant to a validly issued business tax receipt as long as the business and property are in compliance with applicable local, county, state and federal laws.

Section 5. New Business Tax Receipts. Applications for business tax receipts for operation of pain management clinics received after the date the City Commission directed this moratorium be enacted shall be returned to the applicant along with any funds accepted for pending applications.

Section 6. Renewal of Business Tax Receipts. The City Manager, or his or her designee, is authorized to renew the business tax receipt of any existing business affected by this moratorium with a valid business tax receipt in the event such receipt expires before the expiration of this moratorium, upon a finding that the business is in compliance with applicable local, county, state and federal laws.

Section 7. No Cash Only. During the moratorium established herein, no pain management clinic in operation as of the effective date of this Ordinance shall limit patient payment options to cash only.

Section 8. Hours of Operation. During the moratorium established herein, the hours of operation of a pain management clinic in operation as of the effective date of this Ordinance shall be limited to 7:00 a.m. to 9:00 p.m. of the same day.

Section 9. Extension of Time. Notwithstanding the time limit on the moratorium herein established, in the event the City Commission finds that additional time is needed for staff to conclude its review of the problems associated with pain management clinics within the City and for the drafting of regulations of those businesses, then the term of this Ordinance may be extended by the City Commission for an additional ninety (90) days by resolution.

Section 10. 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 11. 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 12. Effective Date. This Ordinance shall become effective immediately upon adoption by the City Commission of the City of Winter Park, Florida, and pursuant to City Charter.

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: April 11, 2011
Second Reading: _____, 2011



city commission public hearing

| | | | |
|---------------------------------------|--|--------------|---|
| item type | Public Hearing | meeting date | April 25, 2011 |
| prepared by department division | Wes Hamil Finance | 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 type="checkbox"/> N/A final vote | | |

subject

Ordinance authorizing the refunding of the General Obligation Bonds, Series 2001

motion | recommendation

Approve first reading of Bond Ordinance and schedule second reading for May 9, 2011.

summary

The City has an opportunity to refund the outstanding General Obligation Bonds, Series 2001 for a net present value savings of \$587,200 and 8.3% of the refunded bonds. Average annual debt service will be reduced from \$907,000 to \$852,500, for average annual savings of \$54,500. These numbers are based on projections prepared by the City's Financial Advisor, (PFM), on March 24, 2011.

Based on current year taxable values, this refunding would allow the City to reduce its debt service millage by 0.015 mills. This would save a property owner with \$300,000 in taxable value \$5 on an annual basis.

board comments

N/A

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AUTHORIZING THE REFUNDING OF THE OUTSTANDING GENERAL OBLIGATION BONDS, SERIES 2001, OF THE CITY; PROVIDING FOR THE PAYMENT OF SUCH BONDS FROM AD VALOREM TAXES OF THE CITY LEVIED WITHOUT LIMITATION AS TO RATE OR AMOUNT ON ALL TAXABLE PROPERTY IN THE CITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER PARK, FLORIDA:

SECTION 1. AUTHORITY FOR THIS ORDINANCE. This ordinance is enacted pursuant to the provisions of Chapter 166, Parts I and II, Florida Statutes; Sections 2.11 and 2.14 of the Charter Laws of the City of Winter Park, Florida; and other applicable provisions of law.

SECTION 2. FINDINGS. It is hereby ascertained, determined and declared that:

A. On May 16, 2000, the qualified electors in the City of Winter Park, Florida (the "Issuer"), approved by bond referendum, the issuance by the Issuer of its not exceeding \$11,000,000 General Obligation Bonds, Series 2000 (the "Series 2000 GOB's"), to finance the cost of the acquisition and construction of certain municipal public safety improvements.

B. The Series 2000 GOB's were issued on November 15, 2001 pursuant to Ordinance 2374 in an aggregate principal amount of \$11,000,000 of which \$7,625,000 remains currently outstanding and were designated as the City of Winter Park General Obligation Bonds, Series 2001 (the "Series 2001 Bonds").

C. Based upon the advice of Public Financial Management, Inc., Orlando, Florida, the financial advisor to the Issuer (the "Financial Advisor"), it is necessary and desirable to refund all of the outstanding Series 2001 Bonds. Such refunding of the Series 2001 Bonds will result in a savings with respect to the debt service that would otherwise be attributable to the Series 2001 Bonds.

D. The Financial Advisor has represented that the general obligation bonds of the Issuer necessary to refund the Series 2001 Bonds (the "Refunding GOB'S") will bear a lower net average interest cost rate than the Series 2001 Bonds, and will otherwise be in compliance with the provisions of Section 132.35(2), Florida Statutes.

E. The Refunding GOB's will be secured by a pledge of the full faith, credit and unlimited ad valorem taxing power of the Issuer.

SECTION 3. AUTHORIZATION OF BONDS. The issuance by the Issuer of not exceeding \$8,000,000 Refunding GOB's, for the purpose and secured as specified above; to be dated, to bear interest at a rate or rates not exceeding the maximum legal rate per annum, to be payable, to mature, to be subject to redemption and to have such other characteristics as shall be provided by subsequent resolution of the Commission prior to their delivery; is hereby authorized. The Commission may adopt a specific bond resolution (including any resolutions supplemental to the bond resolution), supplemental to this ordinance, which sets forth the maturities of the Series 2001 Bonds to be refunded, the fiscal details of the Refunding GOB's and other covenants and provisions necessary for the marketing, sale and issuance of the Refunding GOB's.

SECTION 4. REPEAL OF INCONSISTENT PROVISIONS. All ordinances, resolutions or parts thereof in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect immediately upon its final passage and adoption.

ENACTED after reading by title at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, Florida, on this ____ day of April, 2011.

Mayor

ATTEST:

City Clerk



city commission public hearing

| | | | |
|---------------------------------------|------------------------------------|--|--|
| item type | Public Hearing | meeting date | April 25, 2011 |
| prepared by department division | Jeff Briggs Planning Department | approved by | <input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A |
| board approval | Planning and Zoning Comm. | <input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A | 5-0 final vote |

Subject

This ordinance was requested by the City Commission to revise the Conditional Use section of the Zoning Code to better outline the submittal requirements for preliminary and final conditional use applications. The secondary purpose of this ordinance is to revise the standards for approval of conditional uses involving drive-in businesses given the experience gained in recent applications.

Recommendation

The Planning Commission voted 5-0 to recommend approval at their April 5th meeting. This revision was also discussed by the Planning Commission at their work session on January 26, 2011.

Summary

The major change is to split into two separate subsections, the submittal requirements for preliminary and final conditional uses. The 'track changes' feature shows the deletions with red strike-thru and the additions in blue underlined text on the attached ordinance.

The recent conditional use (drive-in) request by McDonald's (which was withdrawn) has illuminated some concerns about the submittal requirements and standards for approval. As a result, staff has proposed some modifications to those standards for approval of drive-in business requests to better track the evaluations that occur with respect to levels of service and traffic impacts.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" SECTION 58-90 "CONDITIONAL USES", SO AS TO REVISE APPLICATION SUBMITTAL REQUIREMENTS AND APPROVAL PROCEDURES FOR CONDITIONAL USES, REVISE THE STANDARDS FOR DRIVE-IN CONDITIONAL USES, PROVIDING FOR SEVERABILITY, CONFLICTS, PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Winter Park has recommended approval of this Ordinance at its April 5, 2011 meeting; and

WHEREAS, the City Commission of the City of Winter Park held duly noticed public hearings on the proposed zoning change set forth hereunder and considered findings and advice of staff, citizens, and all interested parties submitting written and oral comments and supporting data and analysis, and after complete deliberation, hereby finds the requested change consistent with the City of Winter Park's Comprehensive Plan and that sufficient, competent, and substantial evidence supports the zoning change set forth hereunder; and

WHEREAS, the City Commission hereby find that this Ordinance serves a legitimate government purpose and is in the best interests of the public health, safety, and welfare of the citizens of Winter Park, Florida.

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER PARK:

SECTION 1. That Chapter 58 "Land Development Code", Article III "Zoning" of the Code of Ordinances is hereby amended and modified by repealing and adopting within Section 58-90 "Conditional Uses", a new subsection 58-90 (i) "Conditional Use Submittal Requirements" to read as follows:

Sec. 58-90. Conditional uses.

(i) Conditional Use Submittal Requirements.

(1) For conditional use approvals involving buildings over 10,000 square feet, ~~or~~ for three story buildings within the central business district geographic area as defined in this code, or two-story buildings in O-2 the applicant for approval of a conditional use shall submit to the city, plans and all supplemental materials required to accompany such plans, as outlined in this subsection. The maximum sheet size for plans shall not exceed 24 inches by 36 inches. Provide one copy at that size. In addition, the applicant shall provide twelve copies of each site or development plan sheet reduced to no larger than 11 inches by 17 inches. Applicants shall also provide a copy of the application submittals in electronic format.

(2) ~~All site and development plans~~ Applications for preliminary conditional use approval shall contain the following data and information:

~~Plan sheet format. The maximum sheet size for plans shall not exceed 24 inches by 36 inches. Provide one copy at that size. In addition, the applicant shall provide twelve copies of each site or development plan sheet reduced to no larger than 11 inches by 17 inches. Applicants shall also provide a copy of the application submittals in electronic format.~~

- a. General information including a legend, including the name of development; legal description; acreage; scale; north arrow; existing zoning and other special districts; preparation/revision date.
- b. Application, application fee, name, address and phone number of owner; owner's authorized agent; engineer; surveyor and others involved in application.
- c. Vicinity map;
- d. Existing conditions survey showing existing streets structures and topographic contours on the subject property and adjacent to and within fifty (50) feet of site and also including: name; location; right-of-way width; driveway approaches; medians and median cuts and existing on-site trees of nine inch caliper or greater.
- e. Proposed buildings and structures, individually identified by number, symbol or other appropriate system, including the following information: location; proposed use for each building or portion thereof; dimensions and height; gross floor area, in square feet by building, use and total; preliminary architectural elevations and proposed fences or walls.
- f. Required yards, setbacks, buffers and distances; indicate location and dimensions of all required yards, setbacks and buffers. Also indicate distance between buildings.
- g. Proposed on-site vehicular circulation system, and parking areas; include location, dimensions, and typical construction specifications of the driveways, approaches and curb cuts; vehicular access points, access ways, and common vehicular access points; off-street parking spaces and comparison of numbers provided with applicable code requirements; other vehicular use areas; sidewalks and other pedestrian use areas; and proposed dumpsters and other waste removal receptacles.
- f. Landscaping plan; ~~which may be conceptual~~ landscape plan which for preliminary approval but for final approval shall include the location and specifications for plantings for parking lot landscaping, buffers, open spaces, recreation areas, and other landscaped areas and landscape. ~~Indicate provisions and method made for the continued maintenance of landscaped areas, open spaces, and recreational areas.~~
- g. Existing tree protection; identify existing trees from tree survey to be removed and/or protected and explain or illustrate method to preserve such trees or compensate for their removal. ~~both during and after construction.~~ Applicants ~~shall~~ should meet on-site with city staff to develop such tree protection and tree compensation plan.
- h. Storm Water retention and Drainage plan; in accordance with the requirements of the St. Johns River Water Management District and City Code for preliminary approval the submission shall detail the conceptual design approach and method of code compliance including preliminary storm water retention calculations to demonstrate adequate capacity. In cases where underground storm water exfiltration is planned, the

preliminary submission shall also include soil boring(s) and determination of water table to address the adequacy and design parameters of this approach. and for final approvals show all existing and proposed grades, proposed guttering on buildings and storm water management details, including swales, berms, piping or other methods used to achieve compliance.

i. Street signs graphics and outdoor lighting; include the locations and sizes of all street signs and the method proposed for outdoor lighting .intensity and nature of all proposed lighting (required only for final approval).

j. Flood plain; provide contours and elevation of 100-year floodplain and floodway, when applicable.

k. Transportation; a transportation analysis of the net trip generation for the proposed project and the analysis of whether the transportation level of service criteria of the city's comprehensive plan and concurrency regulations are affected.

l. For projects meeting the requirements for city-wide public notice, applicants for preliminary conditional use approval shall also submit at the time of application fully rendered 3-D digital architectural perspective images and elevations that show all sides of the proposed building(s), parking areas, parking structures and any other site improvement. Additionally, all adjacent buildings and site improvements within one hundred (100) feet of the proposed site must should be included within the digital 3-D images for review of the context with the immediately surrounding properties.

(9) Applications for final conditional use approval shall submit the following data and information:

(a) Project overview; for final approval, applicants shall resubmit the information provided for the preliminary approval as approved by the City Commission as revised with any changes or modifications required pursuant to the preliminary approval incorporating all conditions of approval or other modifications made as a result of the preliminary approval process.

(b) Landscape plan; for final approval, applicants shall indicate the locations and specifications for plantings for parking lot landscaping, buffers, open spaces, recreation areas and other landscape areas and landscape. The plans shall include a plant list, size at planting, plant count and spacing. Plan shall indicate the method for continued maintenance of the landscaped areas such as by the property owner, tenant, HOA, etc. Additionally, a final irrigation plan must be included.

(c) Storm Water retention and Drainage plan; for final approval, in accordance with the requirements of the St. Johns River Water Management District and City Code, applicants shall submit the final storm water design and calculations including all existing and proposed grades, swales, berms, piping, guttering on buildings as necessary for building permit submittal. In addition, a storm water retention system maintenance plan shall be submitted in cases where underground exfiltration is planned.

(d) Development Agreement; for final approval the submission shall include a draft of the proposed development agreement prepared to accompany such application in accordance with Section 58-90 (f).

(e) Transportation: a transportation impact report in compliance with the requirements of the city's comprehensive plan and concurrency management regulations outlining the impacts and the methods of compliance with those regulations.

SECTION 2. That Chapter 58 "Land Development Code", Article III "Zoning" of the Code of Ordinances is hereby amended and modified by repealing and adopting within Section 58-90 "Conditional Uses", a new subsection 58-90 (n) "Drive-in business" to read as follows:

n) *Drive-in business.*

(1) The city, as an existing urbanized area, does not lend itself to the establishment of new transportation corridors or to the expansion of existing streets. As a result, the city must strive to maintain the most effective and efficient movement of traffic on the existing road network. Since the drive-in components of any business can increase traffic congestion, create safety hazards on and off site and adversely impact adjacent neighborhoods or existing streets when they are improperly designed or located, the city has determined that in order to protect the health, safety, welfare and convenience of its citizens, drive-in components of any business shall be conditional uses to be disapproved, approved or approved with conditions. In addition to the site plan and building plan submittals previously outlined, all applications for drive-ins shall contain the following information if required by the city planning staff:

(2) Applicants shall submit appropriate traffic data and a transportation impact analysis, including but not limited to the current average daily traffic on adjacent streets and the current peak-hour(s) traffic on adjacent streets. This data shall also include estimated daily and a.m. and p.m. peak-hour traffic generation to and from the site utilizing current Institute of Transportation Engineers (ITE) data or data collected specifically for the site, as well as the documented distribution of trips to the various entrances and exits. The peak hour analysis shall be for the peak hour(s) of the business as well as the peak hours of the adjacent roadways. This data shall also include a detailed analysis of internal traffic flow including a queuing analysis completed with a city approved methodology, an analysis of the nature and adequacy of stacking areas on site for average and peak periods, and an analysis of the impact of vehicle queuing on site ingress and egress. Relevant accident history data near the proposed site and at sites with similar uses shall also be presented by the Applicant and considered by the City.

(3) Applicants shall submit projections of the anticipated number of customers and the location and patron characteristics of other similar businesses within this specific area of the city to which the site is located.

(4) In order for the city to undertake its own analysis of these applications, all the above data shall be submitted no less than thirty (30) days prior to the planning and zoning commission meeting date. This shall allow sufficient time for the city to conduct, if necessary, or require the Applicant to collect new traffic counts, turning movement studies, capacity analysis and for the city to determine the adequacy of data submitted, as well as to question conclusions and findings by requesting supplementary information to back up previous submissions.

(5) It is the intention of the city to permit drive-in businesses only when the use they imposes no substantial adverse traffic and safety impacts on adjacent streets, no substantial internal circulation and safety impact on the actual site and when the use is are consistent with existing character of the area. It is not the intention to permit drive-ins for a parcel which is not suited by location or configuration for such use. Thus, no permit shall be issued unless the city commission shall first determine that:

- a. It is generally necessary or appropriate for the general welfare and public interest;
- b. That the proposed use is consistent with the character of the surrounding neighborhood and that the property values are reasonably safeguarded;
- c. That the size of the property is appropriate enough to accommodate the use during peak periods of the use and during the peak periods of the adjacent streets without substantial adverse effect on adjacent streets and on-site;
- d. That no significant deterioration of traffic flow, facility capacity, excessive queuing and/or turning movements will result on adjacent streets from this use;
- e. That no undue traffic safety or traffic hazards will be created on site, at site ingress and egress, and on the adjacent roadway network.

SECTION 3. Severability. If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

SECTION 4. Conflicts. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 5. Effective Date. This ordinance shall become effective immediately upon its final passage and adoption.

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

Mayor

ATTEST:

City Clerk

REQUEST OF THE CITY OF WINTER PARK FOR: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" SECTION 58-90 "CONDITIONAL USES", SO AS TO REVISE APPLICATION SUBMITTAL REQUIREMENTS AND APPROVAL PROCEDURES FOR CONDITIONAL USES, PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

Planning Director Jeffrey Briggs gave the staff report. He explained that the primary purpose of this ordinance is to update the Conditional Use section of the Zoning Code to better outline the submittal requirements for preliminary and final conditional use applications. He noted that his revision was suggested by the City Commission and discussed by the Planning Commission at the work session on January 26, 2011. Mr. Briggs added that the secondary purpose of this ordinance is to revise the standards for approval of conditional uses involving drive-in businesses given the experience gained in recent applications. He highlighted the major changes of the proposed ordinance. Staff recommended approval of this request. Mr. Briggs responded to Board member questions and concerns.

Mrs. Whiting inquired that the previous request did not seem to include all the submittals that this ordinance says should be provided. Mr. Briggs indicated that the code allows "judgment calls" by the staff which can waive submittal requirements to meet the needs of the particular circumstances. For example, in that case with just a second floor addition onto an existing building, there is no landscape area or changes to the storm water or parking arrangements.

No one wished to speak in favor of or in opposition to the request. Public Hearing closed.

Mr. Dick suggested two modification related to requiring a maintenance plan for underground storm water exfiltration systems at the final review and to clarify the text related to development agreements. The Board members voiced their support of these modifications.

The Board members concurred that this revision should make it clearer to everyone what is required to be submitted now that we have a section for the preliminary approval and then a separate section for what is required for the final approval.

Motion made by Mr. Krecicki, seconded by Mr. Dick to approve the request subject to the following conditions:

- 1. That the final review application is to add the exfiltration maintenance plan**
- 2. That the development agreement shall be submitted, but not necessarily by the applicant.**

Motion carried with a 5-0 vote.

SITE PLAN REVIEWS

SPR 1:11 Request of Mr. Trivison for approval of a one-story addition to his single-family, two-story home located at 199 Osceola Court on Lake Osceola, zoned R-1AAA.

Senior Planner gave the staff report. She noted that the applicant requested that review of the second story balcony be removed from consideration. It will need a variance to proceed. She explained that the applicant, Mr. Trivison, is requesting approval for a one-story addition to his two-story home located at 199 Osceola Court on Lake Osceola. The existing home is 4,858 square feet and the proposed addition will be adding 480 sq. ft. for a total of 5,338 (which was in error on the staff report). The new total square footage of 5,338 is within the permitted maximum of 33% FAR. She noted that this home meets the 50% required front yard landscape coverage. She reviewed square footage, impervious coverage, height, tree preservation, views from the lake, views of the adjacent neighbors, and storm water retention. Staff recommended approval of the request. Ms. Scowden responded to Board member questions and concerns.

Ken Trivison, 199 Osceola Court, and Bronson Enos, of Phil Kean Designs, were present to address Board member concerns and respond to any questions. No one else wished to speak concerning this request. Public Hearing closed.

Motion made by Mr. Swisher, seconded by Mr. Krecicki to approve the request. Motion carried unanimously with a 5-0 vote.

New Business:

There were no items of new business.

Upcoming Meeting Schedule:

Regular meeting – May 3, 2011 at 7:00 pm
Work Session – May 25, 2011 at 12:00 noon

There was no further business. The meeting adjourned at 7:45 p.m.

Respectfully submitted,

Lisa Smith
Recording Secretary



city commission public hearing

| | | | |
|---------------------------------------|------------------------------------|--|--|
| item type | Public Hearing | meeting date | April 25, 2011 |
| prepared by department division | Jeff Briggs Planning Department | approved by | <input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A |
| board approval | Planning and Zoning Comm. | <input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A | 5-0 final vote |

Subject

This is a conditional use request by Lulu 1 LLC (Larry Williams) to construct a second story addition onto the existing building at 200 N. Park Avenue, zoned C-2, at the corner of Park and Lincoln Avenues. This qualifies as a conditional use, as it is an addition of more than 500 square feet onto a building over 10,000 square feet.

Recommendation

Planning Commission voted 5-0 to recommend final conditional use approval with the following three conditions:

1. That the approval permits the second floor addition with or without the balcony/loggia.
2. That the applicant record a binding lot restriction for the remote parking lots to tie them to the main property as the required parking for the second floor addition.
3. That the applicant consider additional landscaping or other methods to soften the blank wall facing Lincoln Avenue.

Summary

The existing building at 200 N. Park Avenue is a commercial multi-tenant building with a partial existing second floor of 8,540 square feet. The conditional use request is to finish off the second floor adding approximately 7,800–8,500 square feet. This addition meets all of the C-2 zoning requirements, in terms of setbacks, floor area ratio, building height, etc.

The plans submitted also show a pedestrian bridge over the rear Center Street alley connecting this second floor to the second floor of the Roger, Lovelock & Fritz (RLF) offices at 145 Lincoln Avenue. RLF is a prospective tenant for some or all of this second floor office space. There is no lease at this time. However, this zoning approval would permit the pedestrian bridge, if the lease occurs. This is similar to the arrangement the City undertook with Mr. Bellows regarding the pedestrian bridge over the Hannibal Square, East street linking the parking garage to the 444 W. New England building. Regardless of whether the pedestrian bridge is built or whether RLF leases this space, the applicant desires this conditional use zoning approval so that they may finish out the second floor of their existing building.

Parking: The required parking for this new building space is based on one space for each 250 square feet. In the Central Business District, the existing buildings are grandfathered-in with respect to whatever parking they have or don't have. Parking is only required for new net additions. Thus, the addition proposed requires between 31-34 spaces.

Mr. Williams understood that someday he would need parking for this addition. So back in 2001, Mr. Williams bought two parking lot parcels on the east side of Center Street from the Cone family for \$500,000. The Cone's had been using these parking lots as monthly rental spaces for decades and they were not tied to any specific building as they had been purchased and developed by the Cone family independently. One parking lot holds 11 spaces and the second parking lot holds 21 spaces. (see area map attached) So together these parking lots meet the requirement for the additional parking needed for this building addition.

It is also relevant to recall that in 2008 when Mr. Williams created the adjacent "Shoppes on Park" at 222 N. Park Avenue with the internal arcade/coy ponds, they eliminated 3,215 square feet of leasable floor space, thereby reducing parking demand.

Park Avenue Façade Design Guidelines: There are two goals of the Park Avenue Façade Guidelines that apply. One is to "preserve features of building facades with historic importance" and the second is "promote a uniform architectural style within each building façade". The proposed design of the second floor addition meets the first goal but is questionable with respect to meeting the second façade coordination goal. Basically, when you create the proposed second floor balcony or loggia on the Park Avenue frontage, the proposal lacks architectural unity with the second floor as a whole; creating a completely different appearance in that portion of the building.

RLF, as the prospective tenant likes the idea of the balcony/loggia so that the employees can interact and enjoy the Park Avenue location. Mr. Williams doesn't care one way or the other. However, if RLF is not going to be the tenant then Mr. Williams would prefer to have the option to complete the second floor entirely as enclosed leasable space, without the balcony/loggia. Staff is not energized about this issue in part because there are two big oak trees right in front of this portion of the facade screening the view of this second story addition from Park and Lincoln Avenues.. So the recommendation of staff, with the agreement of the applicant, is to approve either option of with or without the balcony/loggia. That is why the request varies from 7,800 to 8,500 square feet in size.

P.O. Box 3347
Winter Park, FL 32790

Phone: 407-645-4700
Email: mgt@EucalyptusProperties.com
LWilliams@EucalyptusProperties.com

Fax: 407-628-0863

EUCALYPTUS PROPERTIES

March 8, 2011

Planning & Zoning Commission
City of Winter Park
401 Park Avenue South
Winter Park, FL 32789

Attn: Jeffrey Briggs, Director
Planning Department

Attached for your review are concept drawings for a second floor expansion of our office property at 210 Park Avenue.

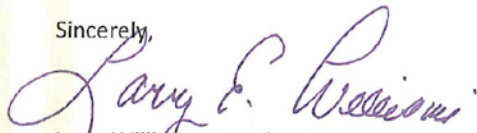
This expansion will enable RLF, my neighbors to the east, to remain in Winter Park; their continuous home office location for the last 75 years. Eucalyptus Properties' existing 2nd floor lease area of 8,540 sf will be renovated, an additional 7,812 sf will be added to the south; RLF's existing 15,650 sf will be connected by a bridge with highway clearance over Center Street. The structure will be similar to the existing bridge between RLF's east and west buildings, facing Lincoln Avenue. The resulting 32,002 sf will provide Class "A" office space for RLF's staff of 130 architects, engineers and interior designers.

We believe that RLF's design solution respects the established architecture of Park Avenue and meets the requirements of our city's Comprehensive Plan. The stucco framed balcony openings at the corner of Park and Lincoln allow the introduction of textured natural wood and planter boxes with bougainvillea; and provide an opportunity for subtle back-lighting to add warmth, depth and color to an evening stroll on Park Avenue.

Parking requirements for additional building square foot area are exceeded by Eucalyptus Properties' 50 spaces. RLF's 42 parking spaces, together with long-term arrangements with neighboring property owner Judith Myers and shared parking agreement with the Methodist Church, bring the total to 120 spaces. As you know, a few RLF employee's also use the first-come-first-serve "Panera" parking structure.

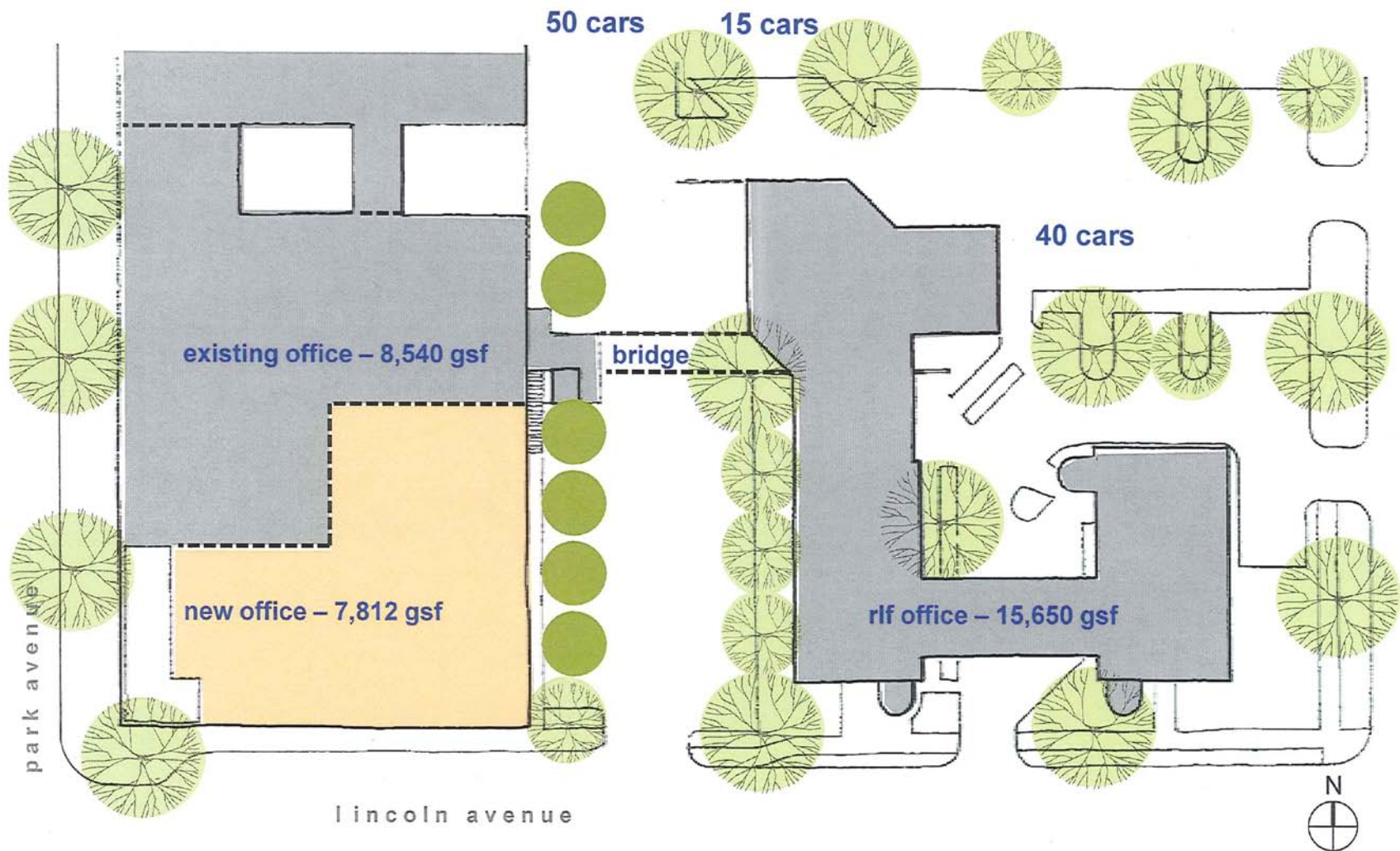
We appreciate your consideration of what we believe is a compelling solution to retain the long-term financial contribution of one of Winter Park's oldest and largest firms to our downtown business and retail core.

Sincerely,



Larry Williams, President
Eucalyptus Properties

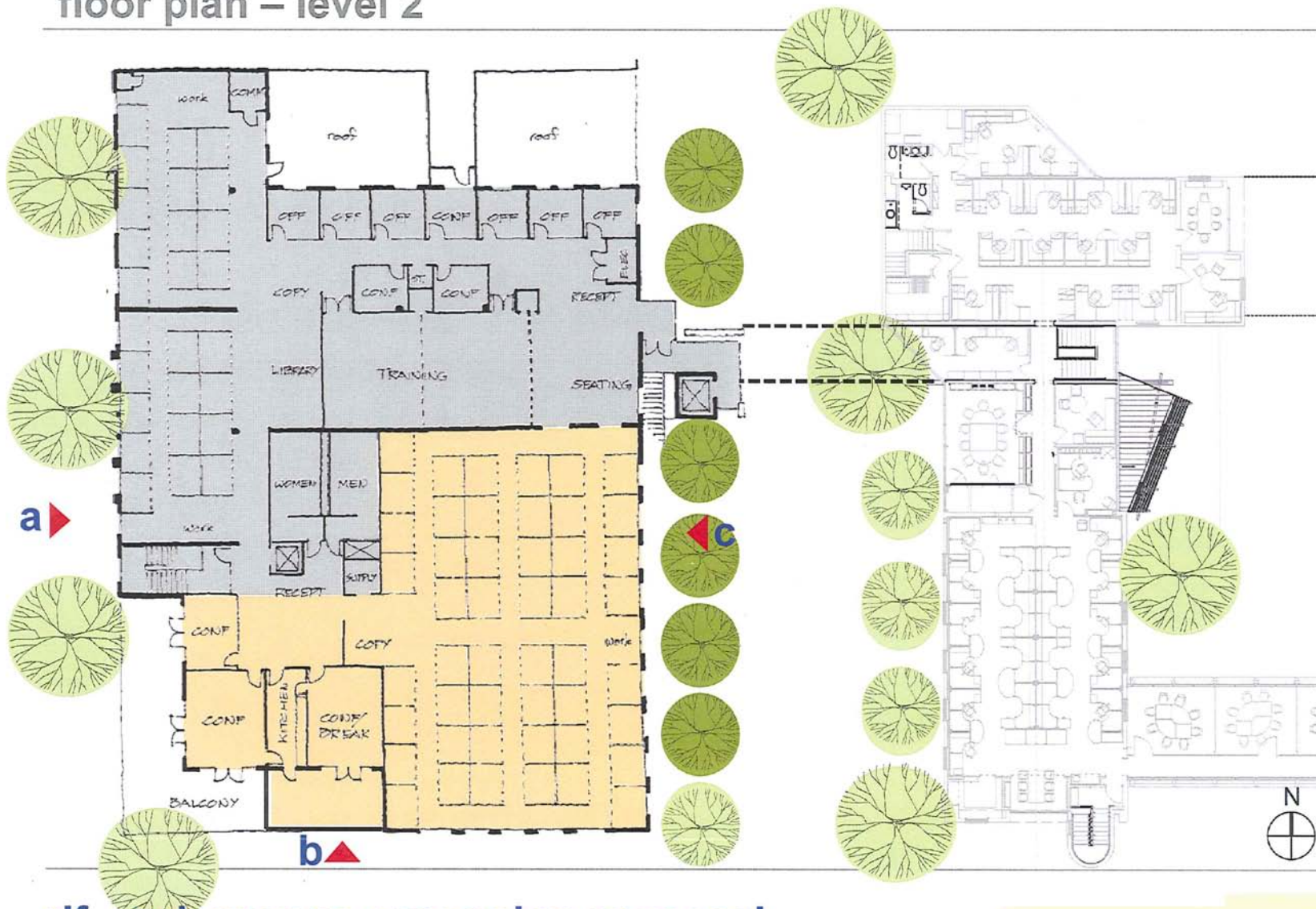
site plan



rlf park avenue expansion proposal

EUCALYPTUS PROPERTIES

floor plan – level 2



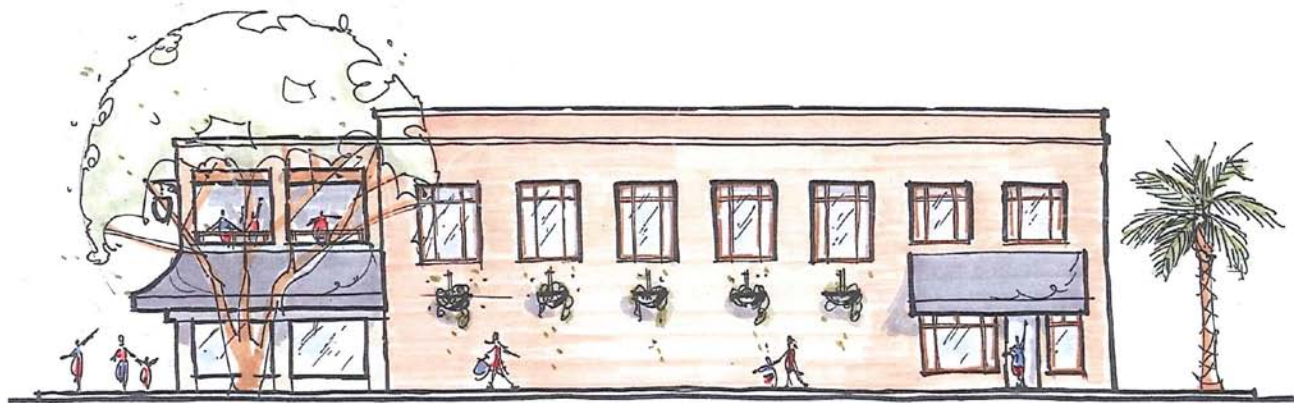
rlf park avenue expansion proposal

EUCALYPTUS PROPERTIES

elevations



park avenue west elevation - a

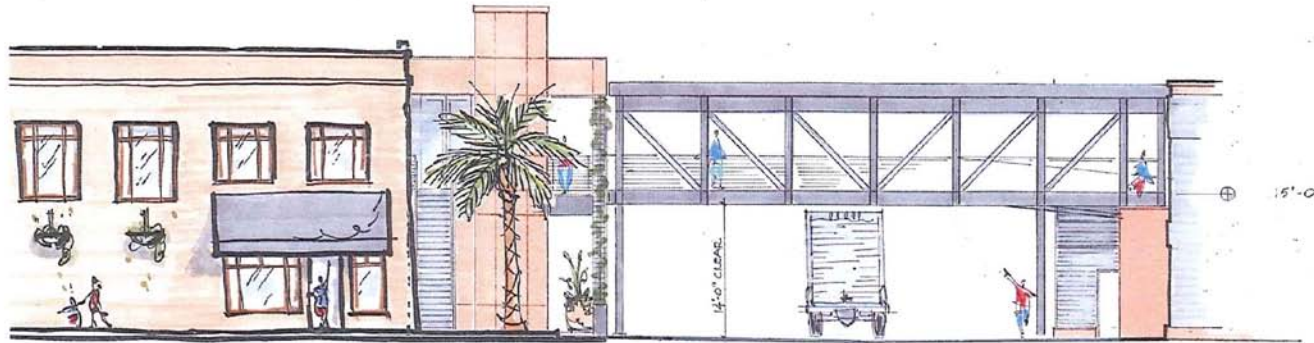


lincoln avenue south elevation - b

rlf park avenue expansion proposal

EUCALYPTUS PROPERTIES

elevations



Center street bridge south elevation - d



center street west elevation - c

rlf park avenue expansion proposal

EUCALYPTUS PROPERTIES

elevations



Center street bridge south elevation - d



center street west elevation - c

rlf park avenue expansion proposal

EUCALYPTUS PROPERTIES

perspective sketches

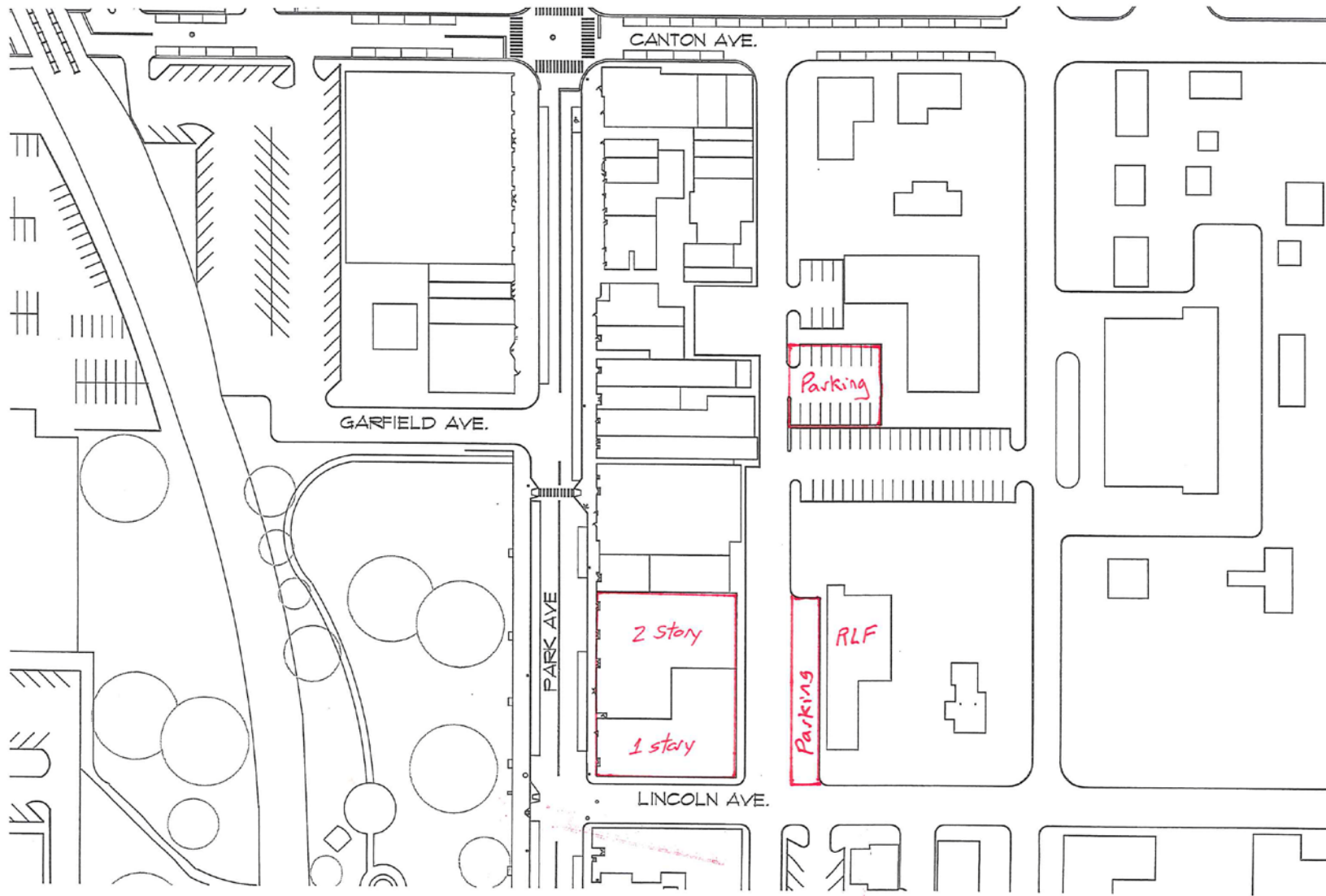


corner of park avenue and lincoln avenue

rlf park avenue expansion proposal

EUCALYPTUS PROPERTIES

Area Map w/ Building & Remote Parking



Existing Park Avenue Facade





Second Floor Addition



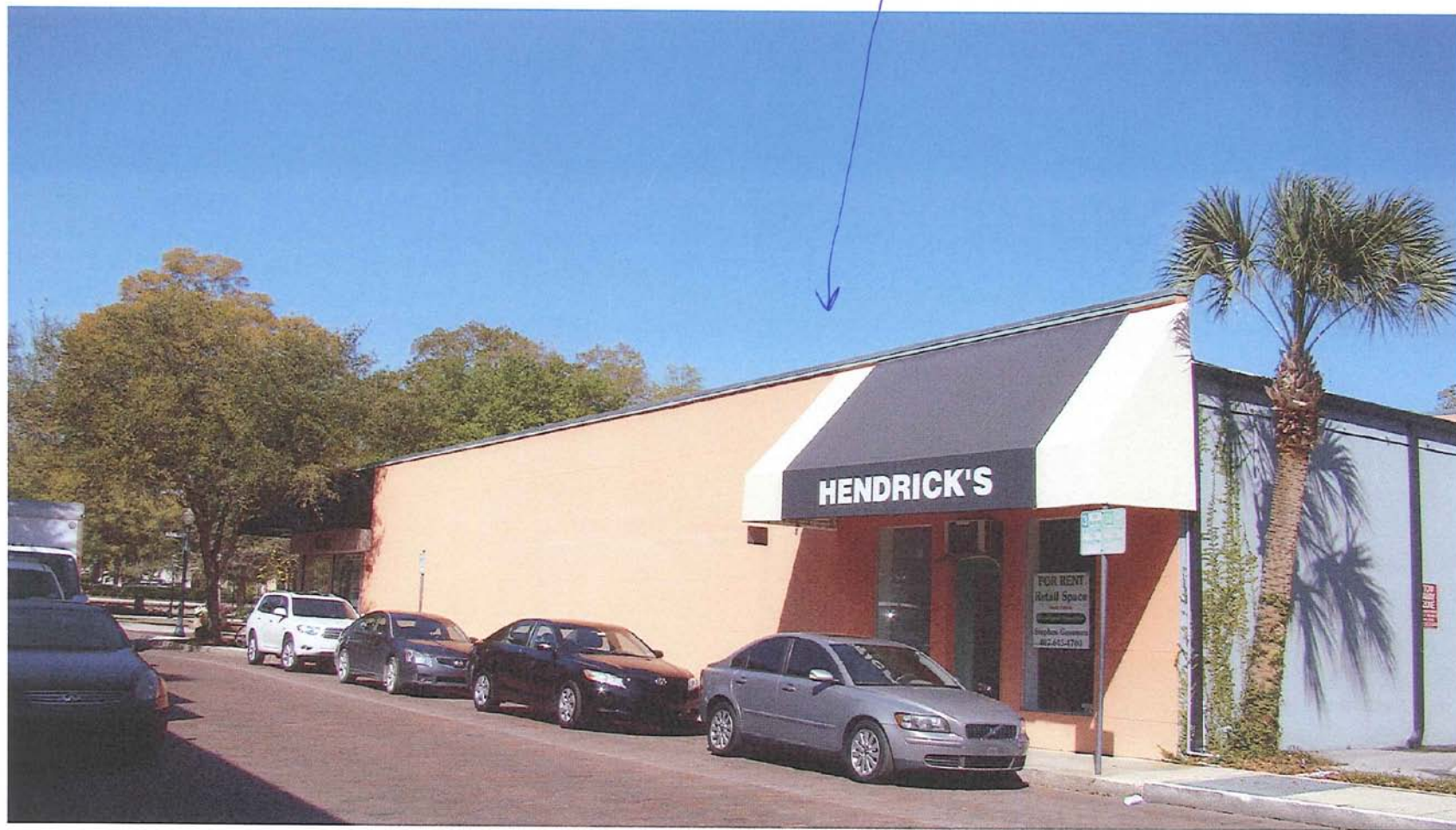
Second Floor Addition



Second Floor Addition



Second Floor Addition



Second Floor Addition



Existing Elevator/Stairs on
Rear where bridge
connects.



*Open Balcony
Sample*





CITY OF WINTER PARK Planning & Zoning Commission

Regular Meeting
Commission Chambers

April 5, 2011
7:00 p.m.

MINUTES

Mr. Krecicki called the meeting to order at 7:00 p.m. in the Commission Chambers of the Winter Park City Hall.

Present: Chairman Drew Krecicki Vice-Chairman Rick Swisher, Michael Dick, Sarah Whiting and George Livingston. Absent: Wendell Hays. Staff: Planning Director Jeffrey Briggs, Sr. Planner Stacey Scowden, Planning Technician Caleena Shirley and Recording Secretary Lisa Smith.

Approval of minutes – March 1 and 16, 2011

PUBLIC HEARINGS

REQUEST OF LULU 1 LLC FOR: CONDITIONAL USE APPROVAL TO CONSTRUCT A SECOND STORY ADDITION OF 7,812 SQUARE FEET ONTO THE EXISTING BUILDING AT 200 N. PARK AVENUE, ZONED C-2.

Planning Director Jeffrey Briggs presented the staff report. He explained that the applicant is requesting conditional use approval to construct a second story addition onto the existing building at 200 N. Park Avenue, zoned C-2, at the corner of Park and Lincoln Avenues. He noted that this qualifies as a conditional use because it is an addition of more than 500 square feet onto a building that is over 10,000 square feet.

Mr. Briggs gave an overview of the proposed project, and the history of the building in question. He explained that the existing building at 200 N. Park Avenue is a commercial multi-tenant building with a partial existing second floor of 8,540 square feet. The conditional use request is to finish off the second floor adding approximately 7,800 – 8,500 square feet. He added that the proposed addition meets all of the C-2 zoning requirements, in terms of setbacks, floor area ratio, building height, etc.

He showed the plans submitted that also show a pedestrian bridge over the rear Center Street alley connecting this second floor to the second floor of the Rogers, Lovelock & Fritz (RLF) offices at 145 Lincoln Avenue. RLF is a prospective tenant for some or all of this second floor office space. Currently, there is no lease. He said that zoning approval would permit the pedestrian bridge, if the lease occurs. Regardless of whether the pedestrian bridge is built or whether RLF leases this space, the applicant desires this conditional use zoning approval so that they may finish out the second floor of their existing building. Mr. Briggs said that the required parking for this new building space is based on one space for each 250 square feet. He explained that parking is only required for new net additions, therefore, the proposed addition requires between 31-34 spaces. He stated that in 2001, Mr. Williams

purchased two parking lot parcels on the east side of Center Street from the Cone family for \$500,000. The Cone's had been using these parking lots as monthly rental spaces for decades and they were not tied to any specific building as they had been purchased and developed by the Cone family independently. One parking lot holds 11 spaces and the second parking lot holds 21 spaces. He showed the area map with the parking details. So together these parking lots meet the requirement for the additional parking needed for this building addition.

Mr. Briggs reviewed the Park Avenue Façade Design Guidelines as relates to this request. He stated that the goal to "promote a uniform architectural style within each building facade" is questionable with respect to meeting the second façade coordination goal. Basically, when you create the proposed second floor balcony or loggia on the Park Avenue frontage, the proposal lacks architectural unity with the second floor as a whole; creating a completely different appearance in that portion of the building. He said that RLF, as the prospective tenant likes the idea of the balcony/loggia so that the employees can interact and enjoy the Park Avenue location. Mr. Williams doesn't care one way or the other. However, if RLF is not going to be the tenant then he would prefer to finish it off as enclosed leasable space. Staff is not energized about this issue in part because there is a big oak tree right in front of this portion of the facade making it hard to see this second story addition or see Park Avenue from it. So the recommendation of staff, with the agreement of the applicant, is to approve either option of with or without the balcony/loggia. That is why the request varies from 7,800 to 8,500 square feet in size.

Staff recommended final conditional use approval with the following conditions:

1. That the approval permits the second floor addition with or without the balcony/loggia.
2. That the applicant record a binding lot restriction for the remote parking lots to tie them to the main property as the required parking for the second floor addition.

Mr. Briggs responded to Board members questions and concerns.

Larry Williams, the applicant, stated that he is in agreement with staff recommendations. Mr. Williams provided the Board with a brief history of this particular building. He said that if additional parking is needed over the required 31 spaces, he has an additional lot with excess parking. He responded to Board member questions and concerns.

Woody Woodall, 328 North Park Avenue, spoke in favor of the request. He said that he feels that the project will be a benefit to Park Avenue.

No one wished to speak in support or opposition to this request. Public Hearing closed.

The Board members expressed support of the request as it meets all codes, is architecturally compatible and will help support the downtown. They express support with or without the second-story loggia and that the existing trees limit any conflict with the CBD Design Guidelines. Mrs. Whiting expressed concern with the length of the blank building wall along the Lincoln Avenue frontage and asked if anything could be done with landscaping or other architectural features to add visual interest to that wall. Mr. Williams indicated his willingness to work with the City in this regard.

Motion made by Mr. Krecicki, seconded by Mrs. Whiting to approve the request subject to the following conditions:

1. That the approval permits the second floor addition with or without the balcony/loggia.
2. That the applicant records a binding lot restriction for the remote parking lots to tie them to the main property as the required parking for the second floor addition.
3. That the applicant consider additional landscaping or other methods to soften the blank wall facing Lincoln Avenue.

Motion carried unanimously with a 5-0 vote.

RESOLUTION NO.

A RESOLUTION OF THE CITY OF WINTER PARK, FLORIDA, SUPPORTING SUNRAIL, CENTRAL FLORIDA'S FIRST PASSENGER RAIL PROJECT

WHEREAS, alternative forms of transportation must be provided at the local, regional and state level to provide a sustainable future for the State of Florida; and

WHEREAS, travel demand in Central Florida is growing and expected to rapidly increase in the coming decades; and

WHEREAS, there is currently a lack of transportation alternatives for commuters in Orange, Osceola, Seminole, and Volusia Counties in Central Florida;

WHEREAS, following more than a decade of planning, SunRail, Central Florida's first passenger rail line, was unanimously approved by the governing bodies of Orange, Osceola, Seminole, and Volusia Counties, and the City of Orlando ("Local Government Partners"); and

WHEREAS, the 61.5 mile commuter rail project from Volusia County to Osceola County provides a transportation alternative for 15 percent of the state's population and direct connections with two of the region's largest employers; and

WHEREAS, an economic impact analysis of the planned system shows more than \$981 million in commercial business sales and 11,523 jobs tied to construction and operation of the system over the next 30 years; and

WHEREAS, an economic impact analysis of future transit-oriented development plans along the 61.5 mile system shows such development within a half-mile radius of the station stops is expected to directly account for an additional 38,310 permanent jobs in Orange, Osceola, Seminole and Volusia Counties; and

WHEREAS, an economic impact analysis shows a secondary impact, realized when workers spend earnings in the area, is forecasted to exceed \$2.5 billion; and

WHEREAS, implementation of SunRail will result in overall social and environmental benefits, improve the quality of life in the state, stimulate economic growth, create new employment opportunities, and serve as a positive growth management catalyst; and

WHEREAS, SunRail will greatly benefit all of the citizens of and visitors in the region, and is needed in order to relieve traffic congestion in the I-4 corridor.

WHEREAS, it is more critical than ever to provide the traveling public with transportation alternatives as proposed revisions to federal air quality standards put Central Florida at risk of being declared a non-attainment area, which could result in sanctions and loss of federal transportation funding; and

WHEREAS, SunRail serves as the backbone for a larger transit plan for the region and provides a foundation for new passenger rail projects throughout the state's urban areas; and

WHEREAS, SunRail represents a strong partnership between the local, state, and federal governments; and

WHEREAS, financial commitments for SunRail have been made by the Local Government Partners and state funding is contained in the Five-Year Work Program of the Florida Department of Transportation; and

NOW THEREFORE, BE IT RESOLVED by the City of Winter Park Commission that:

Section 1. The City of Winter Park supports the design, construction, and implementation of the Commuter Rail Project in the Central Florida area; and

Section 2. The City of Winter Park requests the Florida Legislature and Governor continue to work in cooperation with citizens and local governments throughout Central Florida to finalize the project; and

Section 3. The City of Winter Park requests Governor Scott to approve releasing the contracts submitted by the Florida Department of Transportation to begin construction of the project and provide much needed jobs in Central Florida.

ADOPTED by the City of Winter Park, Florida Commission this 25th day of April, 2011.

Mayor Kenneth W. Bradley

ATTEST:

City Clerk Cynthia S. Bonham



city commission public hearing

| | | | |
|---------------------------------|---|--------------|---|
| item type | Public Hearing | meeting date | April 25, 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 type="checkbox"/> N/A | | |
| | | final vote | |

subject

Master Board Ordinance

motion | recommendation

1. Approve first reading of Master Board Ordinance and schedule second reading for May 9, 2011.
2. Make a final decision on number of board members

summary

Currently there are over 60 Ordinance and resolutions governing Advisory Boards within the City of Winter Park. Development of a Chapter within the Code of Ordinances to address the rules, procedures and duties of the Boards would centralize the information into a single location within the Code. At the same time it would allow the Commission to standardize certain procedures and review the duties of the Boards. At the last meeting the Commission was asked to find consensus on many of the standard rules associated with participating on advisory boards.

One remaining issue for discussion in determining the number of board members per board and if alternates will remain. Attached is a document that provides the current membership of each board and any specific requirements of the board.

board comments

N/A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA CONSOLIDATING CITY BOARDS AND COMMISSIONS, DEFINING THE DUTIES OF BOARDS AND COMMISSIONS OF THE CITY OF WINTER PARK, AND REPEALING CERTAIN ORDINANCES AND RESOLUTIONS RELATING TO SUBSIDIARY BOARDS AND COMMISSIONS; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Winter Park has at this time several ordinances and resolutions regarding City boards and commissions that are codified in several sections of the Code of the City of Winter Park; and

WHEREAS, the City has the authority under the City Charter, Section 2(b), Article VIII of the State Constitution, and Section 166.021(1), Florida Statutes, to exercise any power for municipal purposes except where expressly prohibited by law; and

WHEREAS, the City Commission has determined that it is in the interest of the residents of Winter Park and other persons doing business with the City to provide for a uniform and comprehensive division within the City Code, to the extent allowed by law, concerning all subsidiary boards and commissions of the City, and to provide for a consolidation of the rules pertaining to such boards.

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 by reference.

Section 2. Replacement of Chapter 2, Article III. Chapter 2, Article III entitled "Boards and Commissions" in the City Code is hereby repealed, and is replaced with the following provisions:

DIVISION ONE

General Rules Applicable to Subsidiary Boards of the City of Winter Park

- a. Date of Appointment of Members. The members of all boards of the City shall be appointed by the Mayor, subject to the approval of the City Commission, at the first Commission meeting in May of each year.
- b. Removal of Members. Members of City boards shall serve at the will of the City Commission and shall be subject to removal at any time, with or without cause, by a majority vote of the City Commission. This provision is intended to be supplemental to, and not in conflict with, the provisions of Section 112.501, Florida Statutes, which concerns the procedure for removal or suspension of a member of a municipal board for cause. In instances when a

member is removed for cause, the procedures in Section 112.501, Florida Statutes shall apply.

- c. Resignations. Members of all boards shall be entitled to resign at any time by delivery of written notice thereof to the City Commission.
- d. Quorum. A quorum shall be a majority of the board in attendance physically at a meeting.
- e. Applicability of Rules of Ethics. No member shall take any action or vote if such vote or action is prohibited by a standard of conduct or voting conflict of interest as defined or prohibited in the Code of Ethics for Public Officers and Employees stated in Chapter 112, Florida Statutes, or if such action or vote is in violation of the Code of the City of Winter Park.
- f. Vacancies. The Mayor, subject to approval of the City Commission, shall promptly fill all vacancies, including alternate members, occurring on City boards. A vacancy shall be filled for the unexpired term of the member whose term becomes vacant.
- g. Automatic Advancement of Alternate In the Event of Vacancy. In the event a regular member of a board is removed from office or vacates his or her office prior to the end of the appointed term, the alternate of said board, will automatically advance to the vacated position for the remainder of the regular term without additional action of the City Commission. If there is no alternate, the Mayor shall appoint subject to Commission approval.
- h. Representation By Member of Third Parties. No member of a board shall represent a third party in any proceeding before such board to which the member belongs.
- i. Exception to Automatic Advancement. If a vacancy occurs in a board position within sixty (60) days before the end of the term of the member, the position shall remain vacant until filled as part of the regular appointment process by which the Mayor shall appoint the member, subject to the approval of the City Commission, at the first Commission meeting in May of each year.
- j. Role and Responsibility of Members of Subsidiary Boards of the City of Winter Park. Members of subsidiary municipal boards shall have such authority as provided by law, including ordinances of the City of Winter Park and the City Charter. No member of a board shall exceed his or her delegated authority, and except to the extent Florida law or an ordinance or Charter provision expressly requires the board to perform an adjudicatory function as a quasi-judicial board, the function and duty of each subsidiary board and the members of those boards is limited to acting in an advisory capacity only, by which the members of the various City boards are authorized to receive and gather information, attend board meetings, and apply their best efforts to render advice and recommendations to the Commission of the City of Winter Park in the interest of the City and its residents. Although City boards may make recommendations concerning provisions of the City Code, no member of a City board shall, by virtue of such office, have the authority to represent the City of Winter Park in any action to enforce the City Code or any provision thereof.

- k. Term In Office and Reappointment. Unless otherwise required by Florida Statutes or City Charter, each member of the City's boards shall have an initial term of three (3) years in office and may be reappointed to one (1) additional consecutive three (3) year term. Following a break in service of at least one (1) term, a former member may be appointed again in the future to the same board subject to the limitation expressed herein, that the term shall be for three (3) years with an opportunity to be reappointed for one (1) three (3) year term immediately following the expiration of the initial three (3) year term. For good cause shown, the Mayor may waive this term limitation, subject to approval by majority vote of the Commission.
- l. Attendance, Participation By Telephone, and Procedures If There Is Lack Of A Quorum. Each member of a City board shall be automatically terminated from the board if the member misses three (3) consecutive meetings. Each member of a City board may participate in a meeting by telephone if he or she gives good cause for the need to appear by telephone, and in such instances the appearance by telephone shall be counted as the member being present at the meeting. However, a member participating by telephone may only vote if a physical quorum is present at the meeting, and votes and other action may not be taken at a meeting unless a quorum of members is physically present at the meeting. Notwithstanding, if a quorum is not physically present, the members who are in attendance may vote to adjourn the meeting for lack of a quorum. And, so long as a meeting is properly noticed and is in compliance with the requirements of the Sunshine Law, less than a quorum of a board may meet for purposes of discussion so long as there is no action or vote taken at such meeting.
- m. Evaluation Process. Each City board shall make provision for an annual self-evaluation process by which it and the individual board members are evaluated, and the activity and accomplishments of each board shall thus be annually evaluated and reported to the Commission. The City Manager shall work with the presiding officer or designee of each City board to insure that the report concerning the evaluation of each board member and each board is presented to the City Commissioner prior to the first day of April each year to insure that the information is available before the annual appointment of members at the first meeting in May of each year.
- n. Number of Board Members and Alternates. Unless otherwise specifically provided by Florida Statutes or City Charter, each subsidiary board of the City shall have five (5) members and one (1) alternate. The alternate shall be selected and identified as an alternate, and appointed by the same process as the selection of the members of each board.
- o. Task Forces. The City Commission may, from time to time, establish a task force for the study of a particular issue. A task force established by the City Commission will have a limited scope of responsibility and will address only the issue or issues designated, and following the study of such matters shall report the findings of the task force to the Commission with recommendations. Unless otherwise established by the City Commission or extended by action of the Commission, no task force shall continue in

existence beyond one hundred eighty (180) consecutive calendar days following the effective date of the decision, Resolution or Ordinance providing for the establishment of the task force.

- p. Sunset Of Boards Unless A Board Is Required By Statute Or Charter. Except for those boards that are required to be in existence pursuant to Florida Statute or City Charter, each City board shall sunset and terminate every five (5) years following May 1, 2011, unless the board is renewed by a majority vote of the Commission. This will allow the Commission to evaluate the effectiveness and need for the particular board on a regular basis.
- q. Expenses and Reimbursement. No member of any board shall receive a salary or fee for service as a member. However, the City Manager may authorize reimbursement of necessary expenses for travel, per diem or other expenses if the same are documented in advance and approved by the City Manager in writing in advance of the member incurring such expense while on official business for the City, it being a requirement that no expense will be reimbursable unless it is reasonably related to City business performed by a member of a subsidiary board of the City of Winter Park.
- r. Internal Rules of Conduct. Each board shall adopt such rules as are necessary to the conduct of its business. Each board shall elect a chair and vice chair from its membership on an annual basis. All meetings of the board shall be in accordance with the Sunshine Law, Section 286.011, Florida Statutes, and the records thereof shall be public records as required by Chapter 119, Florida Statutes, unless the record is specifically subject to a statutory exemption. The City Manager and the City Attorney shall be reasonably available upon request to provide technical support and advice to assure each board that it is operating in conformance with the requirements of law. Each board shall be responsible to keep minutes of its proceedings as required by law, showing at a minimum the date, time and place of the meeting, members physically in attendance, appearing by telephone, and absent, and also showing each matter discussed, moved, and voted upon. The records of each matter voted upon shall show the vote of each member on each question, and those members absent or abstaining or otherwise failing to vote. All of such records shall be kept, and the minutes and records of official actions shall be public records and retained in the office of the City Clerk.
- s. Residency Requirement. Unless residency in the City of Winter Park is a requirement of the City Charter or Florida Statutes, the City Commission shall endeavor to appoint to the City Boards persons who are residents in the City of Winter Park. However, for good cause, the Mayor may nominate and the City Commission may approve a person who is not a resident for membership so long as such appointment does not violate a provision of the City Charter or state law. Without limitation, such good cause may include circumstances where a particular type of expertise is advisable or required in the membership of the particular board, and such qualifications are not reasonably available in a resident willing to serve, or, where appropriate qualifications are held by a person who owns a business or works in the City, although he or she may not be a resident.

- t. Provision Of Legal and Staff Services. To the extent not specifically mentioned in Division Two of this Chapter and Article, a subsidiary board of the City of Winter Park may request from the City Manager that the City Manager direct staff or the City Attorney to provide technical and legal support to the board with respect to such matter or matters that may be identified by the board.
- u. Frequency Of Meetings. Unless otherwise provided with respect to a specific board of the City of Winter Park, each board shall provide in its internal rules of procedure the frequency and schedule for its meetings. The board shall notify the City Clerk and City Manager in writing with respect to the schedule of meetings established by such board. Unless a board determines otherwise for good cause, it shall meet monthly. However, if it is not necessary to hold monthly meetings to conduct the business of the board, the board shall provide for an alternative schedule of meetings.

DIVISION TWO

Establishment and Description of City Boards

- a. Establishment of City Boards. There shall be established in this Division all boards of the City of Winter Park. If a board is required to be in existence by Florida Statute or City Charter, the section providing for the board shall so provide, as well as any special requirements. If, by Florida Statute or Charter there is a requirement with respect to the board that is different than the general rules in this Chapter and Article, then the requirements of State statute and the Charter shall control.
- b. Division One Applies To All City Boards. Except as otherwise provided in this Division, the Charter, or Florida Statutes, the requirements governing City boards stated in Division One of this Chapter and Article and Article shall apply to each City board.
- c. Construction Board of Adjustments and Appeals.
 - (1) Membership. There is established a board to be called the Construction Board of Adjustments and Appeals. This Construction Board of Adjustments and Appeals shall be deemed a “local construction regulation board” as defined in Section 489.101(12), Florida Statutes, which means a board composed of not fewer than three (3) residents of the City, appointed to maintain the proper standard of construction within the City of Winter Park. To the extent reasonably possible, the Construction Board of Adjustments and Appeals shall consist of residents, at least one of whom is a practicing architect, one a structural engineer, one a licensed general contractor, and the remaining two positions consisting of a master electrician, master plumber, or mechanical contractor or mechanical engineer.
 - (2) Quasi-Judicial Proceedings. The Construction Board of Adjustments and Appeals shall comply with the requirements of Florida law in the conduct of quasi-judicial proceedings in all matters deemed quasi-judicial, including appeals from the enforcement of the application of

any provision of an applicable building code, and a request for a modification of an order of the building official. Upon request, the City Attorney or City Manager will provide technical support and advice to the Construction Board of Adjustments and Appeals for purposes of conducting quasi-judicial proceedings in accordance with the requirements of Florida law.

- (3) Secretary of the Construction Board of Adjustments and Appeals. The building official shall act as secretary of the Construction Board of Adjustments and Appeals and shall be responsible to make minutes of the official proceedings of the Board as required by law. The Construction Board of Adjustments and Appeals shall notify all persons who appear before it that it is the obligation of a party to insure that a court reporter or other means for a verbatim transcript acceptable to a court is available if a party wishes to make a record for judicial review of any action.
- (4) Authority. The Construction Board of Adjustments and Appeals shall have the power to hear appeals of decisions and interpretations of the building official of the Florida Building Code as modified by the City of Winter Park, and shall also have the authority to suspend or revoke the certificate of competency or certification to provide services within the City of Winter Park of any contractor, including any specialty contractor doing work in the City who is found by the Construction Board of Adjustments and Appeals to be guilty of one or more of the following acts or omissions:
 - (A) Fraud or deceit in obtaining a certificate of competency.
 - (B) Negligence, incompetence, or misconduct in the practice of contracting within the meaning of the City's Code, including its Land Development Code.
 - (C) Willful and deliberate disregard of, or violation of the City's Code, including its Land Development Code, or of any state statute concerning contractor licenses.
- (5) Decision of the Building Official. An owner of a building, structure, service system or other construction component, or duly authorized agent thereof, may appeal a decision of the building official to the Construction Board of Adjustments and Appeals whenever any of the following conditions are alleged:
 - (A) It is alleged that the building official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.
 - (B) It is alleged that the provisions of the City Code do not apply to the specific case at issue.
 - (C) It is alleged that an equally good or more desirable form of installation or construction may be employed in the specific case at issue.

- (D) It is alleged that the intent or meaning of the building code or any of the regulations thereunder are misconstrued or incorrectly interpreted by the building official.
- (6) Procedures. The Construction Board of Adjustments and Appeals shall establish rules and regulations for its own procedure, but its rules and regulations must be consistent with any provision of the Code and Charter of the City of Winter Park, and Florida law. The Construction Board of Adjustments and Appeals shall meet as soon as reasonably possible after a notice of appeal is received, and shall endeavor to hear appeals within thirty (30) calendar days after an appeal is filed. However, for good cause shown the Construction Board of Adjustments and Appeals may continue appeals for a reasonable period of time, either on the motion of a party, including the building official, or in the interest of justice, which may include the reasonable need to delay the hearing to facilitate the receipt of complete information necessary for rendering a decision.
- (7) Procedures for Filing Notice of Appeal. The notice of appeal shall be in writing and filed within thirty (30) calendar days after the first occasion on which the subject decision at issue is rendered by the building official. The appeal shall contain sufficient information such that the building official may reasonably understand the issue presented for appeal and the general nature of the argument and alternative proposals made by the party initiating the appeal. If the building official requires clarification of the appeal, he shall request clarification from the party making the appeal within three (3) business days from the date on which the appeal is filed. The appellant shall thereafter have ten (10) business days to file the clarification requested by the building official, and if the clarification is filed timely, then the appeal shall be considered timely.
- (8) Unsafe Or Dangerous Buildings Or Service Systems. If a building, structure or service system is unsafe, unsanitary or dangerous in the opinion of the building official, then the building official shall have the authority to order a shorter period of time for the appeal, which shortened period of time shall be reasonable under all of the circumstances presented, and the building official under such conditions may order a suspension of the work pending the resolution of the appellate process.
- (9) Decisions. The Construction Board of Adjustments and Appeals shall reach a decision without unreasonable or unnecessary delay. Each decision of the Construction Board of Adjustments and Appeals shall be in writing and shall include the reasons for the decision. If the decision reverses or modifies a refusal, order or disallowance originally made by the building official, or varies the application of any provision of the Code, the building official shall immediately take action in accordance with the decision. Each decision will be filed promptly in writing in the office of the building official and open to public inspection. A copy of the decision will be sent by mail or hand delivery to the appellant, and a

copy shall be maintained as a public record in the office of the building official.

Each decision of the Construction Board of Adjustments and Appeals is final, subject to such remedies as the aggrieved party may have in law or equity. Appeals from the decisions of the Construction Board of Adjustments and Appeals relating to the Florida Building Code, other than appeals regarding local amendments to the Building Code, may be appealed to the Florida Building Commission pursuant to Section 120.569, Florida Statutes. Other decisions may be subject to judicial review as provided by law.

- (10) Incorporation Into Land Development Code. These provisions relating to the Construction Board of Adjustments and Appeals shall be deemed to be a part of the City's Land Development Code and are incorporated into the Land Development Code by this reference.
- d. Board of Adjustments. There is established within the City of Winter Park, pursuant to the provisions hereof, a Board of Adjustment, subject to the following provisions:
 - (1) Membership. The Board of Adjustments shall consist of five (5) members and one (1) alternate, each of whom shall be a resident within the City of Winter Park.
 - (2) Quasi-Judicial Proceedings. The Board of Adjustments shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The City Manager and City Attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the Board of Adjustment is in accordance with the requirements of Florida law.
 - (3) Authority. The Board of Adjustment shall have the jurisdiction to hear appeals in specific cases where an owner or authorized owner's representative requests a variance from sections of the Land Development Code. A request for variance shall be subject to the requirements of the public interest and the Land Development Code, and may be appropriate where, because of special conditions, an interpretation of the provisions of the Code relating to zoning or signs will result in an unnecessary hardship.
 - (4) Scope Of Relief. A variance is authorized to be issued by the Board of Adjustment only for height, area, size of structure, size of yards or landscaped open spaces, size of impervious surfaces and number of parking spaces, or the size of a particular sign. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.
 - (5) Procedures. The Board of Adjustment shall establish rules and regulations for its own procedures, so long as its rules and regulations are not inconsistent with any provision of the Code of the City of Winter Park, the Charter of the City of Winter Park, and Florida law. The

Board of Adjustment shall meet as soon as reasonably possible after a request for variance in accordance with the requirements of the Land Development Code has been received, and shall endeavor to hear such matters within thirty (30) calendar days after a request for a variance is filed. However, for good cause shown, the Board of Adjustment may continue a proceeding for a reasonable period of time, either on the motion of a party, or in the interest of justice, which may include the reasonable need to delay the hearing to facilitate the receipt of complete information necessary for rendering a decision.

- (6) Procedure For Requesting Variance. The procedure for requesting a variance shall be set out in the City's Land Development Code.
- (7) Decisions. The Board of Adjustment shall reach a decision without unreasonable or unnecessary delay. Each decision of the Board shall be in writing and shall include the reasons for the decision. Each decision will be filed promptly in writing with the City Clerk and City Manager, or designee of the City Manager, and open to public inspection. A copy of the decision will be sent by mail or hand delivery to the party requesting a variance.

Review of each decision of the Board of Adjustment shall be in accordance with the City Code, including its Land Development Code.

- (8) Incorporation Into Land Development Code. The requirements and procedures set out in Chapter 58 of the Code of the City of Winter Park, entitled the "Land Development Code", including Article III thereof for zoning, shall apply to the conduct of the business of the Board of Adjustments, and all of the activity of the Board of Adjustments shall be subject to the provisions of the City's Land Development Code, including the provisions concerning notice and procedures stated in Sections 58-91 and 58-92 of the City Code. By this reference this section is incorporated into the City's Land Development Code.

e. Civil Service Board. There is established pursuant to the authority in Article 3, Section XIV of the Florida Constitution, and Section 4.07 of the City Charter, a Civil Service Board, subject to the following provisions:

- (1) Membership. Membership of the Civil Service Board shall be as provided in Section 74-52 of the City Code. The provisions of Division One of this Chapter and Article and Article shall apply to the extent those general provisions are not in conflict with Section 74-52 of the City Code. In the event of any conflict between Division One of this Chapter and Article and Article and Section 74-52, the provisions of Section 74-52 of the City Code shall control. The Civil Service Board shall have seven (7) members. Five (5) members shall be appointed by the City Commission in the manner provided in Division One of this Chapter and Article and Article, and such appointees shall be persons of different vocations residing in the City who are not employed by the City. The remaining two (2) members shall be chosen, one (1) by the members of the police department and one (1) by the members of the

fire department, according to election procedures set out in Chapter 74, Article III, Section 74-51, et seq., of the City Code. The Chief of Police and Chief of the Fire Department shall be ex officio members of the Civil Service Board and shall be permitted to address matters in any proceeding, but shall have no vote. The terms of all civilian members of the Board will be three (3) years and each term shall commence on the third Tuesday in January. The terms of the police and fire department members shall be for one (1) year. The remaining details concerning membership are set out in Section 74-52 of the City Code. The appointment of an alternate member as provided in Division One of this Chapter and Article and Article is supplemental to these provisions and an alternate shall be appointed as provided in Division One hereof.

- (2) Quasi-Judicial Proceedings. The Civil Service Board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The City Manager and City Attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the Civil Service Board is in accordance with the requirements of Florida law.
- (3) Authority. The Civil Service Board shall have such authority and responsibility as set out in Chapter 74, Article III, Sections 74-51, et seq., of the City Code, which concerns the Civil Service Board. In performing its function, the Civil Service Board shall abide by the procedural and substantive requirements set out in Chapter 74, Article III, Sections 74-51, et seq., of the City Code which concern the Civil Service Board. To the extent the general provisions in Division One of this Chapter and Article and Article are not in conflict with Chapter 74, then the provisions in Division One of this Chapter and Article and Article shall also apply, but only to the extent that the provisions in Division One of this Chapter and Article and Article supplement and are not in conflict with the provisions in Chapter 74, Article III, Sections 74-51, et seq.

f. Code Enforcement Board. There is established within the City of Winter Park pursuant to Section 162.05, Florida Statutes, and by the authority of the City Commission, a Code Enforcement Board, subject to the following provisions:

- (1) Membership. The Code Enforcement Board shall consist of seven (7) members, plus one (1) alternate. The term of service and the method of appointment shall be as provided in Division One of this Chapter and Article and Article. Members shall be residents of the City. In accordance with subsection 162.05(2), Florida Statutes, the membership of the Code Enforcement Board shall, whenever possible, include an architect, a businessperson, an engineer, a general contractor, a subcontractor, and a realtor.
- (2) Quasi-Judicial Proceedings. The Code Enforcement Board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The City Manager and City Attorney shall provide technical support and resources upon request to assure that the quasi-

judicial activity of the Code Enforcement Board is in accordance with the requirements of Florida law.

- (3) Authority. The Code Enforcement Board shall have such responsibility and jurisdiction to respond to such matters as are set out in Chapter 162, Florida Statutes, and, Chapter 2, Article III, Sections 2-101, et seq., of the City Code. In performing its function, the Code Enforcement Board shall be governed by the procedures set out in Florida law and Sections 2-101, et seq., of the City Code.

The provisions in Division One of this Chapter and Article and Article shall apply to the conduct of the Code Enforcement Board except to the extent that the provisions in Division One conflict with a provision in Chapter 2, Article III, Division Four, Sections 2-101, et seq., of the City Code or Florida law.

- g. Community Redevelopment Agency. There is established within the City of Winter Park pursuant to the provisions hereof, a Community Redevelopment Agency, subject to the following provisions:

- (1) Membership. Pursuant to Section 163.356, Florida Statutes, the term of office of the members of the Community Redevelopment Agency shall be for four (4) years, and the members are referred to as commissioners in said statute. The City Commission may remove a commissioner of the Community Redevelopment Agency for inefficiency, neglect of duty, or misconduct in office only after a hearing, and only if he or she has been given a copy of the charges at least ten (10) days prior to such hearing and has had an opportunity to be heard in person or by counsel, as provided in subsection 163.356(4), Florida Statutes. Otherwise, the provisions in Division One of this Chapter and Article and Article shall apply to the Community Redevelopment Agency with respect to the membership thereof, the procedure for appointment of members and other attributes of membership on the Community Redevelopment Agency.
- (2) Scope Of Authority. The Community Redevelopment Agency shall constitute a separate and distinct entity to the extent provided under Florida law and shall have such powers as are provided to community redevelopment agencies as set out in Part III, of Chapter 163, Florida Statutes, Sections 163.330, et seq., relating to community redevelopment.

- h. Community Redevelopment Advisory Board. There is established within the City of Winter Park, pursuant to the provisions hereof, a Community Redevelopment Advisory Board, subject to the following provisions:

- (1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions in Division One of this Chapter and Article and Article.
- (2) Advisory Board. The Community Redevelopment Advisory Board is an advisory body and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its

internal rules and procedures, give advice and recommendations to the City Commission concerning matters related to community redevelopment. The Community Redevelopment Advisory Board shall have no adjudicatory or enforcement authority.

- (3) Procedures. The procedures and rules for operation of the Community Redevelopment Advisory Board shall be in accordance with the general requirements stated in Division One of this Chapter and Article and Article.

- (4) Consolidation Of Responsibilities Of The Economic Development Advisory Board. The responsibilities and issues previously considered by the Economic Development Advisory Board are consolidated with the function and responsibility of the Community Redevelopment Advisory Board, and the Community Redevelopment Advisory Board shall include within its scope of responsibility the receipt of information, deliberation and delivery of advice and recommendations to the City Commission with respect to matters involving economic development within the City of Winter Park.

- i. Ethics Board. Pursuant to the City Charter, there is established within the City of Winter Park and Ethics Board, subject to the following provisions:

- (1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions in Division One of this Chapter and Article and Article.
- (2) Advisory Board. The Ethics Board is an advisory body and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the City Commission concerning matters related to ethics in the governance of the City of Winter Park. The Ethics Board shall have no adjudicatory or enforcement authority.
- (3) Procedures. The procedures and rules for operation of the Ethics Board shall be in accordance with the general requirements stated in Division One of this Chapter and Article and Article.

- j. Historic Preservation Board. There is established within the City of Winter Park, pursuant to the provisions hereof, a Historic Preservation Board, subject to the following provisions:

- (1) Membership. The membership shall be constituted in accordance with the general requirements stated in Division One of this Chapter and Article and Article. In addition to these general requirements, for membership, the following specific requirements shall apply:
 - (A) Members of the Historic Preservation Board shall be residents of the City and shall have demonstrated civic pride, interest in historic preservation, and the knowledge, experience and mature judgment to act in the public interest to make informed, and equitable decisions concerning the conservation of historic resources.
 - (B) At a minimum, one (1) member of the Historic Preservation Board shall be an architect. Other members may have experience,

expertise or demonstrated interest in one or more areas such as architecture, history, archaeology, urban planning, landscape, historic preservation, real estate, law, cultural anthropology and building construction.

- (2) Functions, Powers and Duties Of the Historic Preservation Board. The Historic Preservation Board shall be responsible for the development and administration of a comprehensive historic preservation program, and shall identify and maintain the City's historic resources for the benefit of both present and future residents. The responsibility of the Historic Preservation Board shall include the following:
- (A) The Historic Preservation Board shall recommend to the City Commission incentives for historic preservation, and shall recommend for or against rezonings, demolitions, developments, lot splits, lot consolidations or conditional uses that could impact historic resources identified in the Florida Master Site File survey of the City of Winter Park. In conducting these responsibilities, the Historic Preservation Board shall be an advisory board.
 - (B) The Historic Preservation Board shall identify potential historic landmarks and potential historic districts for designation, and will provide assistance to and education of owners of properties for potential designation. In providing these services, the Historic Preservation Board shall act as an advisory and educational board and shall not have adjudicatory or enforcement authority.
 - (C) The Historic Preservation Board shall develop and maintain a register of historic places within the City of Winter Park and will review National Register nominations within the City. These functions shall be advisory only.
 - (D) The Historic Preservation Board shall recommend guidelines based upon the Secretary of the Interior's Guidelines for use in reviewing applications for certificates of review. The Historic Preservation Board may suggest to the City Commission other guidelines to be used in reviewing applications, but in this function the Historic Preservation Board is advisory in nature and does not have adjudicatory or enforcement functions.
 - (E) The Historic Preservation Board shall review applications for certificates of review for designated landmarks, resources and property within designated districts, and shall give advice and recommendations concerning the same to the City Commission.
 - (F) The Historic Preservation Board shall review requests for variances that may be appropriate for the preservation of historic resources in conjunction with applications for certificates of review, and shall make such recommendations to the Board of Adjustments and the City Commission as may be appropriate in the determination of the Historic Preservation Board. In conducting this function, the Historic Preservation Board is

advisory in nature only, and does not have quasi-judicial or enforcement authority.

- (G) The Historic Preservation Board will conduct ongoing surveys and inventory of historically, culturally or architecturally significant buildings, structures, districts and archaeological sites within the City, and shall coordinate survey results with the Florida Master Site File.
- (H) The Historic Preservation Board may request the City Manager to provide funds, technical support, consultants and staff with professional expertise as may be necessary to conduct projects determined by the Historic Preservation Board to be advisable. The Historic Preservation Board does not have the authority to incur expenses on behalf of the City of Winter Park, but may recommend such projects to the City Manager as it deems to be in the interest of the City of Winter Park, consistent with the mission of the Historic Preservation Board.
- (I) The Historic Preservation Board will develop educational programs to stimulate public interest and involvement in the City's history and preservation, and shall develop programs to continuously inform the public of the City's preservation opportunities and the activities of the Historic Preservation Board.
- (J) The City Manager may authorize the Historic Preservation Board or members thereof to work with other local governments or state and federal government authorities with respect to preservation activities, and the City Manager may authorize the expenditure of City funds for such purpose.
- (K) The members of the Historic Preservation Board are encouraged to attend relevant educational meetings, workshops and conferences, and the City Manager may authorize, subject to the requirements in Division One of this Chapter and Article and Article, the expenditure of City funds for such purposes.

k. Housing Authority Board. There is established within the City of Winter Park pursuant to the provisions hereof, a Housing Authority Board subject to the following provisions:

- (1) Membership. The provisions of Division One of this Chapter and Article and Article shall apply to the membership and means of appointment thereof, subject to the provisions in Chapter 421, including Section 421.05, Florida Statutes. The membership of the Housing Authority Board shall be five (5) members with one (1) alternate member as provided in Division One of this Chapter and Article and Article.
- (2) Independent Authority. The Housing Authority Board is an independent housing authority established pursuant to Chapter 421, Florida Statutes.
- (3) Declaration Of Need. Pursuant to Section 421.04, Florida Statutes, the City declares that there is a need for the establishment of the Housing

Authority Board pursuant to the requirements and provisions of Chapter 421, Florida Statutes.

- (4) Authority and Scope Of Responsibility. The Housing Authority Board shall perform such duties and have such functions as are provided under Florida law for housing authorities, including those requirements specified in Chapter 421, Florida Statutes and rules promulgated by administrative agencies of the State of Florida pursuant to Chapter 421.
 - (5) Incorporation of Division One of this Chapter and Article and Article. The provisions of Division One of this Chapter and Article and Article are incorporated herein, and shall apply except to the extent of any conflict with state law, in which event any conflicting provision of state law shall control.
1. City Beautification Advisory Board. There is established within the City of Winter Park, pursuant to the provisions hereof, a City Beautification Advisory Board subject to the following provisions:
 - (1) Membership. The City Beautification Advisory Board shall be appointed and constituted pursuant to the requirements in Division One of this Chapter and Article and Article.
 - (2) Advisory Board Except With Respect To Certain Issues Involving Tree Preservation and Protection. Except as stated hereinafter, the City Beautification Advisory Board is an advisory board and shall have no quasi-judicial or enforcement authority. Notwithstanding, when the City Beautification Advisory Board sits as the Tree Preservation and Protection Board pursuant to the provisions in Chapter 58, Division Six, Sections 58-281, et seq., of the City Code (relating to tree preservation and protection), the City Beautification Advisory Board shall act as a quasi-judicial board. When sitting as the Tree Preservation and Protection Board in a quasi-judicial matter, the City Beautification Advisory Board shall conduct its proceedings in conformance with the requirements of Florida law. The City Manager and City Attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the City Beautification Advisory Board is in accordance with the requirements of Florida law. Specifically, pursuant to Section 58-286(d), City Code, the Tree Preservation Board shall consider appeals related to tree removal permits, and the final decision of the Tree Preservation Board shall be sent to the applicant by certified and regular mail within ten (10) days following the decision. An applicant may appeal the decision of the City Beautification Advisory Board sitting as the Tree Preservation Board to the City Commission if a further appeal is filed within fifteen (15) days of the date of the decision by the Tree Preservation Board, in accordance with Section 58-286(d)(3), City Code.
 - (3) Incorporation Of City Code When the City Beautification Advisory Board Sits As the Tree Preservation Board. The City Beautification Advisory Board shall be subject to the provisions of Chapter 58, Division Six, Sections 58-281, et seq., City Code (relating to tree

preservation and protection) when the City Beautification Advisory Board sits as the Tree Preservation Board to consider matters that come within the purview of Chapter 58, Division Six of the City Code.

- (4) Applicability Of Division One of this Chapter and Article and Article. Except as expressly provided herein to the contrary, or in cases where Chapter 58, Division Six of the City Code require otherwise, the requirements in Division One of this Chapter and Article and Article shall apply and control with respect to the operations of the City Beautification Advisory Board. Unless it is sitting as the Tree Preservation Board in a quasi-judicial context, the City Beautification Advisory Board shall act in a purely advisory capacity and shall perform the following advisory functions:

(A) The City Beautification Advisory Board shall perform such advisory, educational and training functions as previously provided by Keep Winter Park Beautiful and the Lakes and Waterways Board.

(B) The City Beautification Advisory Board shall consider previous resolutions and ordinances directing the scope of service of Keep Winter Park Beautiful and the Lakes and Waterways Board, and shall adopt rules of procedure identifying the specific mission and efforts to be undertaken by the City Beautification Advisory Board in fulfillment of its responsibility to gather information, deliberate and give advice to the City Commission on a periodic basis on matters related to beautification, enhancement and utilization of the natural resources of the City of Winter Park in the interest and benefit of all residents of the City. This scope of service shall include the provision of information and education to the public and the City Commission.

- m. Independent Personnel Review Board. There is established within the City of Winter Park, pursuant to the provisions hereof, an Independent Personnel Review Board pursuant to the requirements in Section 4.05 of the City Charter and Chapter 74, Article II, Sections 74-26, et seq., of the City Code, subject to the following provisions:

(1) Membership. The Independent Personnel Review Board shall consist of members and an alternate appointed as provided in Division One of this Chapter and Article and Article.

(2) Quasi-Judicial Proceedings. The Independent Personnel Review Board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law and Chapter 74, Article II, Section 74-26, et seq., of the City Code. The City Manager and City Attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the Independent Personnel Review Board is in accordance with the requirements of Florida law.

(3) Authority and Responsibility. The duties and responsibility of the Independent Personnel Review Board are set out in Chapter 74, Article II, Sections 74-26, et seq., of the City Code and Section 4.05 of the City

Charter. These provisions in the Code and Charter are incorporated herein and shall control the operation of this Independent Personnel Review Board.

- n. Parks and Recreation Board. There is established within the City of Winter Park, pursuant to the provisions hereof, a Parks and Recreation Board, subject to the following provisions:
- (1) Membership. The Parks and Recreation Board shall be established in accordance with the requirements in Division One of this Chapter and Article and Article.
 - (2) Advisory Board. The Parks and Recreation Board is strictly an advisory board and shall have no adjudicatory or enforcement authority. If any provision of the Code requires processing of any matter through the Parks and Recreation Board, then the purpose of such requirement is for the Parks and Recreation Board to consider the request and to give advice to the City Manager and the City Commission (if the matter will reach the City Commission). The purpose of such proceeding will not be quasi-judicial in nature.
 - (3) Purpose and Duties. The Parks and Recreation Board shall promote the parks and recreation programs of the City and will guide, advise and recommend to the City Commission policies and actions regarding the promotion, planning, design, construction and utilization of City parks and recreation programs. The duties of the Parks and Recreation Board will generally be to:
 - (A) Advise and assist the City Commission, the City Manager and the various boards of the City in all matters involving or affecting parks and recreation.
 - (B) The Parks and Recreation Board shall recommend policies for the improvement, creation, use and maintenance of City parks and recreation programs.
 - (C) The Parks and Recreation Board shall recommend budgetary or special appropriations for parks and recreation programs.
 - (D) The Parks and Recreation Board shall recommend plans for the future growth, development, use and beautification of City parks.
 - (E) The Parks and Recreation Board shall periodically provide the City Commission the public regarding the programs and facilities related to parks and recreation.
- o. Pedestrian and Bicycle Board. There is established within the City of Winter Park, pursuant to the provisions hereof, a Pedestrian and Bicycle Board, subject to the following provisions:
- (1) Membership. The Pedestrian and Bicycle Board shall be established pursuant to the provisions in Division One of this Chapter and Article and Article.
 - (2) Advisory Board. The Pedestrian and Bicycle Board is an advisory board and shall have no enforcement or adjudicatory power or responsibility. The provisions of Division One of this Chapter and Article and Article

shall apply with respect to the operations of the Pedestrian and Bicycle Board.

- (3) Function and Responsibilities. The Pedestrian and Bicycle Board shall meet and provide for its internal governance procedures as provided in Division One of this Chapter and Article. The responsibility of the Pedestrian and Bicycle Board shall be the following:

(A) To receive information and following deliberation, make recommendations and give advice to the City Commission concerning opportunities for improvement, maintenance, construction and facilitation of pedestrian and bicycle traffic in the City of Winter Park.

(B) The Pedestrian and Bicycle Board, following receipt of information and deliberation, shall determine ways in which pedestrian and bicycle utilization and traffic may be improved, enhanced and made more safe within the City of Winter Park.

(C) Following the receipt of information and deliberation, the Pedestrian and Bicycle Board shall recommend to the City Commission ideas for promoting safe pedestrian and bicycle utilization in the City of Winter Park.

(D) The Pedestrian and Bicycle Board shall provide education to the public and the City Commission concerning the current infrastructure for pedestrian and bicycle transport in the City of Winter Park and the ways in which that infrastructure may be used safely for the enjoyment and benefit of the citizenry.

- p. Planning and Zoning Board. There is established within the City of Winter Park, pursuant to Section 163.3174, Florida Statutes, and Section 58-3 of the City Code, a Planning and Zoning Board, subject to the following provisions:

- (1) Membership. The membership of the Planning and Zoning Board shall be appointed pursuant to the provisions in Division One of this Chapter and Article.

- (2) Quasi-Judicial Proceedings. The Planning and Zoning Board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The City Manager and City Attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the Planning and Zoning Board is in accordance with the requirements of Florida law.

- (3) Authority and Responsibilities. The Planning and Zoning Board shall have such authority and responsibilities as are set out in the Land Development Code, including the provisions in Chapter 58 of the City Code, and Sections 58-88, et seq., of the Code. The procedures that the Planning and Zoning Board shall abide by are those set out in the City's Land Development Code, subject to the requirements of Florida law with respect to quasi-judicial proceedings involving land use decisions. By this reference, this section is incorporated into the City's Land Development Code.

- q. Public Art Advisory Board. There is established within the City of Winter Park, pursuant to the provisions hereof, a Public Art Advisory Board, subject to the following provisions:
- (1) Membership. The Public Art Advisory Board shall be established in accordance with the requirements of Division One of this Chapter and Article. The procedures set out in Division One of this Chapter and Article shall control the operation of the Public Art Advisory Board, subject to the specific provisions hereinafter provided. If reasonably available, consideration shall be given to include in the membership of the Public Art Advisory Board an architect, including a landscape architect, an artist, a representative from a museum or art gallery, an experienced business person and a resident representative of the residential community.
 - (2) Advisory Board. The Public Art Advisory Board is an advisory board and shall have no adjudicatory or enforcement responsibilities or authority.
 - (3) Responsibilities and Function of the Public Art Advisory Board. The Public Art Advisory Board shall set out its rules for conducting business in accordance with the requirements of Division One of this Chapter and Article, and following the receipt of information and deliberation, the Public Art Advisory Board shall have the following responsibilities and scope of service:
 - (A) Following the receipt of data from various sources and deliberation, the Public Art Advisory Board shall provide advice and recommendations to the City Commission for the siting of public art, and in making these recommendations, the Public Art Advisory Board shall endeavor to perform visual inspections of sites to ascertain the physical, cultural and historical aspects of sites being recommended to the City Commission.
 - (B) The Public Art Advisory Board shall develop and facilitate a composite map identifying signature opportunities within the City for public art.
 - (C) The Public Art Advisory Board shall interview and recommend public art projects and assist in the selection of artists for possible public art projects, but in such respect, the action shall be strictly as an advisory board for the purpose of making recommendations to the City Commission.
 - (D) The Public Art Advisory Board shall develop a public arts action plan and recommend the same to the City Manager and City Commission for the implementation of educational and organizational opportunities related to and concerning public art.
 - (E) The Public Art Advisory Board shall establish and maintain liaison with other public and private agencies involved with public art.
 - (F) The Public Art Advisory Board shall advise the City Commission and City Manager in all matters involving or affecting public art.

- (G) The Public Art Advisory Board shall periodically inform the City Commission and the general public regarding programs involving public art within the City of Winter Park.
- r. Winter Park Firefighters Pension Board. There is established within the City of Winter Park a Firefighters Pension Board established pursuant to the requirements of Sections 74-153, et seq., of the City Code, subject to the following provisions:
- (1) Membership. The Board of Trustees of the Firefighters Pension Board shall be appointed pursuant to the provisions in Section 74-153, City Code.
 - (2) Responsibilities and Function. The Firefighters Pension Board shall operate in accordance with the requirements of Florida law and Sections 74-153, et seq., of the City Code as the Code relates to the Firefighters Pension Board and the duties and responsibilities of that Board.
- s. Winter Park Police Officers' Retirement System Board. There is established within the City of Winter Park a Police Officers' Retirement System Board established pursuant to the requirements of Sections 74-203, et seq., of the City Code, subject to the following provisions:
- (1) Membership. The Board of Trustees of the Police Officers' Retirement System Board shall be appointed pursuant to the provisions in Section 74-203, City Code.
 - (2) Responsibilities and Function. The Police Officers' Retirement System Board shall operate in accordance with the requirements of Florida law and Sections 74-203, et seq., of the City Code as the Code relates to the Police Officers' Retirement System Board and the duties and responsibilities of that Board.
- t. Utility Advisory Board. There is established within the City of Winter Park pursuant to the provisions hereof a Utility Advisory Board subject to the following provisions:
- (1) Membership. The Utility Advisory Board shall be established pursuant to the procedures in Division One of this Chapter and Article. To the extent reasonably possible, the membership shall consist of licensed professionals without conflict of interest who have expertise in the utilities and infrastructure for provision of utility services, or the legal and business aspects of providing the subject utility services to the customers of the municipal utility systems within the City of Winter Park.
 - (2) Advisory Board. The Utility Advisory Board is an advisory board and shall have no enforcement or adjudicatory authority or responsibility.
 - (3) Functions and Responsibility. The Utility Advisory Board shall organize itself and develop rules for procedure in accordance with the requirements of Division One of this Chapter and Article. Following the receipt of information and deliberation, the Utility Advisory Board shall advise the City Commission, City Manager and the management of the various utility service departments and authorities servicing the City of Winter Park regarding the following matters:

- (A) The Utility Advisory Board shall make recommendations concerning opportunities for enhancement, expansion, maintenance, improvement and development of utility services within the City of Winter Park.
- (B) The Utility Advisory Board shall make recommendations regarding improvements to safety and procedures in the provision of utility services within the City of Winter Park.
- (C) The Utility Advisory Board shall make recommendations concerning the improvement of fiscal responsibility in connection with the provision of utility services, and will explore opportunities to make utility services available at a reasonable rate to the customers and residents of the City of Winter Park.

Section 3. Codification. The previous Section 2 of this Ordinance shall be codified in the City Code as specified therein. Any section, paragraph number, letter or heading within the Code may be changed or modified as necessary to effectuate the codification. Grammatical, typographical and similar or like errors may be corrected in the Code, and additions, alterations and omissions not affecting a material substantive change in the construction or meaning of this Ordinance may be freely made.

Section 4. Repeal As A Result Of This Consolidation. As a matter of revision to codification, the following resolutions, ordinances and sections within the City Code are hereby repealed as a result of the consolidation effective as a result of this Ordinance, and the same shall be stricken and deemed repealed as of the effective date of this Ordinance, and shall no longer have further force or effect:

- a. Repeal of Resolutions.
 - A. The following CRA Advisory Board Resolutions are hereby repealed: 0001; 0002.
 - B. The following Economic Development Advisory Board Resolutions are hereby repealed: 2022-09; 1951-06; 1948-06; 1865-04; 1805-02; 1766-01.
 - C. The following Ethics Board Resolutions are hereby repealed: 2818-10; 2011-08; 1986-08.
 - D. The following Keep Winter Park Beautiful Board Resolutions are hereby repealed: 1977-07; 1555.
 - E. The following Lakes and Waterways Board Resolutions are hereby repealed: 1486; 876.
 - F. The following Parks and Recreation Commission (now identified as the Parks and Recreation Board) Resolutions are hereby repealed: 1949-06; 607; 582.
 - G. The following Pedestrian and Bicycle Board Resolutions are hereby repealed: 1950-06; 1806-02.
 - H. The following Utilities Advisory Board Resolutions are hereby repealed: 1716; 1492; 1465.
- b. Repeal of Ordinances and Code Section Provisions.

- A. The following Public Art Advisory Board Ordinances are hereby repealed: 2675-06; 2562-04; 2494-03; 2487-02.
- B. Chapter 58, Article VIII, Division Two, Sections 58-441 through 58-446 (related to the Historic Preservation Commission) and the Ordinances establishing these Code sections, 2688-06, 2446-01, and 2425-01.
- C. Chapter 66, Article II, Sections 66-26 through 66-28 (related to the Parks and Recreation Commission, now known as the Parks and Recreation Board) and Ordinance number 2055.
- D. Repeal Of Chapter 114, Article II, Sections 114-31 through 114-34 (related to the Lakes and Waterways Advisory Board).
- E. Repeal of Chapter 2, Article III, Division Five, Sections 2-121 through 2-124 (related to the Public Art Advisory Board) in the City Code.

With respect to all Code sections that are repealed, the Sections shall be returned to the category of "Reserved" in the Municipal Code.

Section 5. 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, 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 portion or portions hereof or hereto.

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 Of Ordinance. This Ordinance shall become effective immediately upon adoption of 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 assembled on the ____ day of _____, 2011.

Mayor Kenneth W. Bradley

ATTEST:

Cindy Bonham, City Clerk

First reading: April 25, 2011

Second reading: _____

Cindy Bonham

To: CBonham@cityofwinterpark.org
Subject: RE: Statutory membership for Code Enforcement, P & Z etc.

From: "Usher L. Brown" <lbrown@orlandolaw.net>
Date: April 18, 2011 11:43:30 AM EDT
To: "Ken Bradley" <KBradley@cityofwinterpark.org>
Cc: "Randy Knight" <Rknight@cityofwinterpark.org>, "Michelle del Valle" <Mdelvalle@cityofwinterpark.org>
Subject: RE: Statutory membership for Code Enforcement, P & Z etc.

I'm working on this ordinance now. Let me review:

1. P&Z is covered by statute 163.3174. It doesn't require a specific number of members, but says a school board representative must be on, either as a voting or nonvoting member as stated in your ordinance or charter. If silent in local law, the school bd rep is nonvoting. Statute says Commission may designate itself to act in this role so long as you add a school bd rep.

This statute limits school bd rep's required attendance to comp plan and zoning actions that can increase residential densities.

2. Police and Fire pension boards are statutes 185.05 and 175.061. These statutes require 5 persons on these boards, consisting of 2 residents, and 2 firemen/police officers (for their respective boards) and the 5th member is voted in by the other 4.

3. If the City declares a need for such, you have a Housing board under statute 421.04. If there is such a Board, section 421.05 provides that the Mayor shall appoint at least 5 and no more than 7 members. Interestingly, 421.05 trumps the City charter and says you appoint the members of this board.

4. Article 3 section 14 of the Florida Constitution provides for a Civil Service Board as an option, which the city has enacted by Charter. The number of members is not specified in state law.

5. Code Enforcement is covered by Chapter 162, Florida Statutes. You can delegate these duties to a hearing officer, but if the City has a Code Enforcement Board, then for cities with more than 5000 persons the Board must have 7 persons. See, section 162.05(1).

6. Construction Board of Adjustment in City code section 22-406 appears to be a "Local Construction Regulation board" defined by statute 489.105(12), which must have at least 3 members.

The only statutory board with more than 5 mandated is Code Enforcement, with 7.

-----Original Message-----

From: Ken Bradley [<mailto:KBradley@cityofwinterpark.org>]
Sent: Sunday, April 17, 2011 5:30 PM
To: Usher L. Brown
Cc: Randy Knight; Michelle del Valle
Subject: Statutory membership for Code Enforcement, P & Z etc.
Importance: High

Larry:

I heard in our discussion on April 11 on City Boards from you that the number of members on Planning and Zoning etc. are governed by statute. Is this an accurate statement? Could you cite the specific State statute which governs

this?

For reference, I reviewed the City of Orlando's Municipal Planning Board, which has 11 + 1 members.

This is very important as we are preparing to make appointments in May and need this information for our Advisory Board ordinance.

Thank you.

KWB

| Board | # of Members | Alternate | Specific Requirements |
|---|-----------------|-----------|--|
| Board of Adjustments | 6 | Yes | WP Resident |
| Civic Service | 7 | No | 5 of various vocations appointed by the Commission. 2 chosen by members by secret ballot, 1 police and 7 fire Whenever possible, members shall include the following: (1) An architect (2) A businessperson (3) An engineer (4) A general contractor (5) A subcontractor and (6) A realtor. |
| Code Enforcement Board | 7 | Yes | Winter Park City Commission plus one Orange County representative designated by the Orange County Commission |
| Community Redevelopment Agency | 6 | No | |
| CRA Advisory Board | 7 | Yes | Required to be a resident of WP and a majority of the members shall be residents and/or business owners within the community redevelopment area. Not required to be residents of WP due to difficulty of filling all of the technical positions. "The board shall be comprised of two (2) licensed contractors (building, residential or general), one (1) practicing architect, one (1) structural engineer, one (1) master electrician, one (1) master plumber and one (1) mechanical contractor or mechanical engineer." |
| Construction Board of Adjustments and Appeals | 7 | Yes | |
| Economic Development Advisory Board | 7 | Yes | (i) current president of the WP Chamber of Commerce, (ii) three WP property owners with at least two of the individuals owning commercial property, (iii) three WP business owners or managers with at least one individual having experience in commercial leasing |
| Ethics Board | 5 | Yes | Winter Park Resident |
| Historical Preservation Commission | 5 | Yes | (1) Members of the HPC be residents of the city and shall have demonstrated civic pride, interest in historic preservation, and the knowledge, experience, and mature judgment to act in the public interest to make informed and equitable decisions concerning the conservation of historic resources. (2) At a minimum, one members shall be an architect. (3) Other members may have experience. expertise, or demonstrated interest in one or more of the following areas: architecture, history, architectural history, archaeology, urban planning, landscape architecture, historic preservation, real estate, law, cultural anthropology, building construction, or related fields. |
| Housing Authority | | | Not administered by WP |
| Keep Winter Park Beautiful | 11 | No | No Specific Requirements |

| | | |
|--|-------|--|
| Lakes and Waterways Board | 7 Yes | Winter Park Resident |
| Parks and Recreation Commission | 7 Yes | No specific requirements Members shall be residents of the City with an interest in pedestrian and bicycle activities to include at the minimum representatives from local schools, the ADA, pedestrians (2), cyclists (2) and the Neighborhood Council (1) |
| Pedestrian & Bicycle Board | 7 Yes | Winter Park Resident |
| Planning and Zoning Commission | 5 Yes | Members must be residents of the city. The membership of the board shall be made on the basis of experience or interest in the subject matter of the board, in the sole discretion of the mayor and city commission, but consideration shall be given, whenever possible, to include the following: an architect, a landscape architect, an artist, a business person, a representative from a museum or art gallery, a representative of the residential community. |
| Public Art Advisory Board | 11 | Required to be residents of WP.: One member is from the planning and zoning commission, the board of adjustment, the parks and recreation board; and two citizens at large |
| Tree Preservation Board | 5 Yes | 2 must be legal residents of the City appointed by governing body, 2 full time Firefighters elected by majority vote of the membership, the fifth member is chosen by majority vote of the previous four members and as ministerial duties of the governing body appointed to the board. |
| Winter Park Firefighters' Pension Board | 5 | 2 must be legal residents of the City appointed by governing body, 2 full time Firefighters elected by majority vote of the membership, the fifth member is chosen by majority vote of the previous four members and as ministerial duties of the governing body appointed to the board. |
| Winter Park Police Officers' Retirement Sy | 5 | Members shall be residents of the City or customers of the utility whenever possible, include the following: a civil engineer, a person with expertise in the eclectic utility, a person with expertise in the telecommunication utility industry, a certified public accountant, a customer of the City's water and sewer system located outside the city's limits. |
| Utility Advisory Board | 9 | |



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

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Fax (407) 425-9596

Usher L. Brown
Board Certified Civil Trial Lawyer

ulbrown@orlandolaw.net

March 14, 2011

Randy Knight, City Manager
Michelle del Valle, Assistant City Manager
City of Winter Park
401 Park Avenue South
Winter Park, FL 32789

via email & regular U.S. Mail

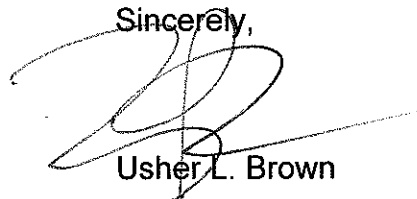
Re: Policy regarding citizen and Board Member enforcement of Municipal Code

Dear Randy and Michelle:

Enclosed please find a proposed resolution concerning the City's position regarding citizen enforcement of Code and municipal law. This is consistent with a recent discussion at a Commission meeting.

If you would rather this just be a policy, advise and I will rewrite the resolution and make it into a simple policy for Commission approval. I recommend, however, that this be adopted as a resolution.

Sincerely,



Usher L. Brown

ULB:tla
Enclosure

G:\Docs\City of Winter Park\Ordinances and Resolutions\citizen and board member enforcement of municipal code\lrr.knight and del valle re citizen enforcement resolution.wpd

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, RESOLVING THAT IT IS THE POLICY OF THE CITY OF WINTER PARK THAT CITIZEN MEMBERS OF BOARDS AND AUTHORITIES OF THE CITY OF WINTER PARK SHALL NOT HAVE THE RESPONSIBILITY OR AUTHORITY TO UNILATERALLY ENFORCE PERCEIVED MUNICIPAL CODE VIOLATIONS.

WHEREAS, it has come to the attention of the City Commission of the City of Winter Park that on occasion individual members of citizen boards, authorities, and advisory bodies of the City of Winter Park may take it upon themselves to individually enforce perceived infractions or violations of the Municipal Code; and

WHEREAS, the City has great concern that unilateral enforcement by citizen members may result in a disruption of the peace, and such unilateral action presents a risk of injury or municipal liability; and

WHEREAS, the City of Winter Park desires that Municipal Code violations and other infractions will be processed and handled through the appropriate professional practices and procedures established by the City for enforcement.

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

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

Section 2. It is the policy of Winter Park that individual members of any board or authority of the City of Winter Park shall not unilaterally enforce perceived Municipal Code violations, and individual members should not take any action to enforce Municipal Code violations other than reporting the perceived violations to the City Manager or appropriate professional staff.

Section 3. The authorities and boards of the City of Winter Park only have authority to act by majority vote of quorum present at a duly convened meeting of such authority or board, and under the circumstance that the meeting is duly noticed and is compliant with the requirements of Florida's Sunshine Law.

Section 4. Individual members of boards and authorities of the City of Winter Park do have the responsibility to engage in fact finding that is relevant to the position of such person as a member of a board or authority of the City of Winter Park, but fact finding or requests for information shall not include any effort to individually enforce the Municipal Code.

Section 5. Individual members of boards and authorities of the City of Winter Park are encouraged to report any perceived violation of the Municipal Code to Code Enforcement, law enforcement, or the City Manager, for their appropriate response, giving due regard to the discretion afforded local government with respect to the enforcement of law.

Section 6. All Resolutions or parts of Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 7. If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or application of this Resolution.

Section 8. This Resolution shall become effective immediately upon its passage and adoption.

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

Kenneth W. Bradley, Mayor

Attest: _____
Cynthia S. Bonham, City Clerk