



city commission agenda

Regular Meeting Commission Chamber

June 10, 2013
3:30 p.m.

commissioners				mayor	commissioners			
seat 1	Steven Leary	seat 2	Sarah Sprinkel	Kenneth W. Bradley	seat 3	Carolyn Cooper	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 Reverend John D. Williams Sr., Ward Chapel AME Pledge of Allegiance

3 Approval of Agenda

4 Mayor's Report

- Proclamation - Edyth Bush Charitable Foundation 40th Anniversary Day
- 2013 Second Quarter Business Recognition Award – Rangers Pet Outpost & Retreat
- Proclamation – Norman Brown Day
- Proclamation - **Code Compliance Officer's Appreciation Week**
- Presentation – National Parks & Recreation Association Finalist for the 2013 National Gold Medal Award
- Board appointments:
 - Police Officers' Pension Board – Kevin Roesner (May 2013-April 2015) (Elected by PD members)
 - Firefighters' Pension Board – Stuart (Trey) Merrick (May 2013-April 2015) (Elected by FD members)
 - Auditor Selection Committee

40 minutes

5	City Manager's Report	Projected Time
	a. 90 day plan	10 minutes
6	City Attorney's Report	Projected Time
	a. Request for Executive Session	5 minutes
7	Non-Action Items	Projected Time
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)	
9	Consent Agenda	Projected Time
	a. Approve the minutes of 5/13/13. b. Approve the following purchases, contracts and formal solicitations: <ol style="list-style-type: none"> PR 152282 to Wesco Distribution for ReliaPad dead front padmount circuit breaker for Underground Project #3; \$77,491.10. PR 152289 to Heart Utilities of Jacksonville for undergrounding of electric; \$63,177.59. PR 152312 to Musco Lighting, Inc. for the purchase of new field lighting for Ward B & C; \$244,354.00. Authorize the Mayor to execute the new agreement with Centurylink Sales Solutions, Inc. for analog circuits at a reduced price. Approve contract renewal with Brick America for IFB-15-2011, Purchase of Pavers for Clay Street and authorize the Mayor to execute Amendment 2. Approve award and PR 152401 to Electric Supply of Tampa for IFB-21-2013, Material for Underground Electrical Projects; \$917,313.89. Approve award to Graybar Electric for IFB-21-2013, Material for Underground Electrical Projects; \$4,342.66. Approve award and PR 152409 to Gresco Utility Supply, Inc. for IFB-21-2013, Material for Underground Electrical Projects; \$623,981.42. Approve award to HD Power Supply Power Solutions for IFB-21-2013, Material for Underground Electrical Projects; \$18,487.50. Approve award to Mayer Electric Supply for IFB-21-2013, Material for Underground Electrical Projects; \$2,193.00. Approve award and PR 152411 to Stuart C. Irby for IFB-21-2013, Material for Underground Electrical Projects; \$332,759.29. Approve award and PR 152410 to Wesco Distribution for IFB-21-2013, Material for Underground Electrical Projects; \$112,432.50. c. Ratify the agreement between the City of Winter Park, Florida and Teamsters Local Union No. 385.	5 minutes

10 Action Items Requiring Discussion	Projected Time
11 Public Hearings	Projected Time
a. Ordinance – Vacating and abandoning certain streets within the Ravaudage Planned Development and Home Acres Subdivision area including the right-of-way of Elvin Avenue lying between Bennett Avenue and Loren Avenue; the right-of-way of Loren Avenue lying between Elvin Avenue and Glendon Parkway; and the right-of-way of Kindel Avenue lying between Bennett Avenue and Lewis Drive (2)	20 minutes
b. <u>Establishing City zoning on the non-Ravaudage properties in the Home Acres annexation area:</u> - Ordinance – Amending the Comprehensive Plan Future Land Use Map to establish Commercial (C-3) District zoning and Low Density Residential (R-2) District zoning on recently annexed properties at 970, 1000, 1008, 1306 and 1308 Loren Avenue; 933, 1101, 1123, 1211, 1253 and 1313 Lewis Drive; 1141 Benjamin Avenue; 600, 1449, 1471, 1501 and 1531 Lee Road and at 1175 N. Orlando Avenue (2) - Ordinance – Amending the official zoning map to establish Commercial (C-3) District zoning and Low Density Residential (R-2) District zoning on recently annexed properties at 970, 1000, 1008, 1306 and 1308 Loren Avenue; 933, 1101, 1123, 1211, 1253 and 1313 Lewis Drive; 1141 Benjamin Avenue; 600, 1449, 1471, 1501 and 1531 Lee Road and at 1175 N. Orlando Avenue (2)	20 minutes
c. <u>Request of the Jewett Orthopedic Clinic:</u> - Conditional use approval: To construct a two story, 25,000 square foot medical office building on the properties at 1235/1245 Orange Avenue and the south 10 feet of 955 Oak Place. - Ordinance – Amending the Comprehensive Plan the Future Land Use designations of Medium Density Residential to Parking Lot on the rear of the property at 1285 Orange Avenue and on 951 and 955 Oak Place and to Office Future Land Use on the south 10 feet of 955 Oak Place (1) - Ordinance – Amending the official zoning map to change the Medium Density Multi-Family Residential (R-3) District zoning to Parking Lot (PL) district on the rear of the property at 1285 Orange Avenue and on 951 and 955 Oak Place and to Office (O-1) District on the south 10 feet of 955 Oak Place (1)	20 minutes
d. Ordinance – Regulating massage therapy businesses conducted or located in the City of Winter Park, and to prohibit residential use of such commercial and office space held out as a massage therapy business (1)	20 minutes

- | | |
|--|------------|
| e. Ordinance – Amending Section 42-1, Definitions, and 42-7, Qualification of Candidates and Clerk’s Certification, of Chapter 42, Elections, to add definitions for “Qualification Deadline”, “Qualification Documents”, and “Qualification Period”, and to clarify qualification requirements (1) | 10 minutes |
| f. Ordinance – Adopting the City seal retroactive to the formal adoption of the seal on May 10, 2004 (1) | 5 minutes |
| g. Ordinance – Amending Section 1-7 to amend the penalty for violating municipal ordinances to comply with State law (1) | 5 minutes |
| h. Resolution – Determining the rights between the City, Orange County, and two private billboard companies | 15 minutes |

12 City Commission Reports

Projected Time

- a. Commissioner Leary
- b. Commissioner Sprinkel
- c. Commissioner Cooper
- d. Commissioner McMacken
- e. Mayor Bradley

10 minutes each

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.”

April 15, 2013

Hi, Dori -

Please accept my nomination of Rangers Pet Outpost & Retreat for the 2013 Second Quarter Business Recognition Award.

Two years ago at their new Winter Park location, Rangers started out with 23 employees, which consisted of 14 full time and 9 part time positions. Currently, they employ 24 full time positions, with two more in consideration, and 19 part time positions. All are very well trained, kind and considerate - they know your dog and they know you.

When Rangers was considering moving to Winter Park from Orlando, they were adamant about contacting the other "doggie" businesses to reassure them that they wanted to work together and not take away from their already existing niches. After getting everything approved, they took the majority of an empty building and turned it into a 17,000-square-foot dog heaven, which now includes feline boarding. They created a welcoming façade, built out the big-dog yard, upgraded to more energy-efficient lighting, buy and sell recycled products (about 1/3) as well as have regular pick-ups for their recyclable waste.

Rangers' customer service is second to none and it's obvious that they care about every one of their 4-legged friends along with the owners. As of October 2012, they were unable to take on any more clients until March 2013 due to overwhelming response. They were exceeding their own expectations within six months, able to finish play areas much sooner than projected. Rangers have up to, and sometimes over, 100 dogs stopping by to play for the day. Boarding, grooming and training are also services they offer along with a great food line, breathe freshener (that actually works), unique big-dog toys, and much more. Some of the quiet and compassionate things they do are tend to special needs dogs as well as provide drop-off and pick-up service when owners are going out of town so they can be greeted at the door upon their return.

Not only are they an asset to Winter Park, but also surrounding communities. They contribute to over 30 entities throughout the central Florida area (see attached list), with a fifth of them within the City of Winter Park. Due to the overwhelming welcome to the city, they have only had the extra time to volunteer at the Rescue Fest held by Pookies Bow Wow Bakery, also in Winter Park. Rangers even reached out of state (Colorado), and they now have real deer antlers (a similar treat like rawhide) provided by a family member, which will sponsor one of their young nephew's baseball team from now through high school with the proceeds.

Rangers are definitely deserving of the recognition and would be graciously humble and over joyed if given the award.

Sincerely,

A handwritten signature in cursive script that reads "Theresa Broman". The signature is fluid and elegant, with a long, sweeping underline that extends to the right.

Theresa Broman

List of charitable contributions:

1. Canine Companions for Independence
2. Hope and Help
3. Alzheimer's and Dementia resource Center
4. La Amistad Foundation
5. United Way
6. SPCA of Central Florida
7. Central Care Mission and Compassion Corner
8. Coalition for the Homeless
9. Siberian Husky Rescue of Florida
10. Marine Toys for Tots Foundation
11. Rescue Fest Pookies Bow Wow Bakery
12. Scooters for Hooters
13. First Presbyterian Church of Orlando
14. St. Margaret Mary Catholic School
15. Blankner School K-8
16. Trinity Lutheran
17. Audubon Park Elementary School
18. Methodist School for Early Education
19. Hillcrest Elementary
20. Central Florida Softball League
21. Florida Highway Patrol
22. Orlando Youth Alliance
23. Lake Highland Prep.
24. Winter Park Public Library
25. Dommerich Elementary School PTA
26. Women Playing for T.I.M.E.
27. Festival of Trees
28. JDRF Imagine Gala
29. Orange County History Center
30. Orlando Fringe Festival
31. Orlando Deamery Girls Choir
32. Harbor House
33. Matland Arts Festival
34. D2 Productions

Volunteer
@ RescueFest

Cindy Bonham

From: Jeff Templeton <jeffpattitempleton@gmail.com>
Sent: Wednesday, May 08, 2013 5:01 PM
To: Cindy Bonham
Subject: <no subject>

8 May 2013

Good Afternoon Cindy,

Please advise the Mayor, City Commission and the City Manager that the following employees have been elected to serve two years on their respective boards.

Winter Park Police Officers Retirement System – Kevin Roesner (May 2013 – April 2015)

Winter Park Fire Fighters' Pension Trust Fund – Stuart Merrick (May 2013 –April 2015)

Jeff Templeton
Pension Administrator



city commission agenda item

item type	Mayor's Report	meeting date	June 10, 2013
prepared by department division	Wes Hamil, Finance Director Finance	approved by	<input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	N/A	<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N/A	8-0 final vote

subject

Establishment of an Auditor Selection Board to solicit and evaluate proposals from independent CPA firms to perform financial statement audits for fiscal years 2013 – 2015.

motion | recommendation

Approve the recommended committee members or other persons if desired and select a member of the Commission to serve on the Auditor Selection Board.

background

The City's Charter requires the Commission to establish an Auditor Selection Board consisting of five (5) members. One (1) member of this board shall be a city commissioner appointed by the commission. The remaining four (4) members shall be residents of the city who have the qualifications of electors therein and are not city employees. This board shall be charged with the responsibility to solicit proposals and to screen and evaluate the proposals received. The Auditor Selection Board shall submit its recommendations to the City Commission which shall then select an auditor and award a contract for a term not to exceed three (3) years.

The following residents are qualified to serve on the Auditor Selection Board and have agreed to do so if approved by the City Commission:

John Gill, economist
Jim Moye, Chief Deputy - Orange County Comptroller's Office
David Satcher, practicing CPA
Joe Terranova, retired CPA

alternatives | other considerations

An audit of the City's financial statements is required by Florida Statute 218.39.

fiscal impact

An estimate of the annual audit fee based on historical audit fees has been included in the budget for FY 2014.



city commission city manager's report

item type City Manager's Report

meeting date June 10, 2013

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	date
Lee Road Median Update	Revised permit documents for palm trees submitted and currently under review. Expect permit in two weeks.	June 2013
Fairbanks Improvement Project	<p>Contract has been awarded to Masci General Contractor, Inc.</p> <p>Progress Energy continuing to study transmission/distribution lines between I-4 and 17-92. FDOT has approved funding for PEF project engineering. PEF has draft engineering agreement.</p> <p>Project website has been set up at www.cityofwinterpark.org/fairbanks</p>	<p><u>Construction Project</u> <u>On schedule</u> <u>Communication Notices</u></p> <ul style="list-style-type: none">• <i>Force main work complete.</i>• <i>Jackson lift station is largely complete.</i>• <i>Gravity sewer is complete.</i>• <i>Streetlight conduit and pole foundations are complete.</i>• <i>Decorative lights are being installed.</i>• <i>Mast arm foundations and poles complete.</i>• <i>Contractor working on installing laterals. Work began at I-4 and is progressing to the East. Approximately 60% done.</i>
Tree Team Updates	Individual educational sessions must be rescheduled for July based on tree inventory study being scheduled with City Commission.	July 2013
Wayfinding Signs	All non-FDOT wayfinding signs are installed. Permitting of the FDOT signs continues. Private property agreements for nine (9) locations in process.	Installation of FDOT signs is approximately 65% complete.
ULI Fairbanks Avenue TAP	Staff is working on the vision session.	July 2013
Post Office Discussions	Work session with Congressman Mica held on April 15, 2013. Staff to develop a plan based on information revealed at meeting.	

Organizational Support	Will be discussed along with preliminary FY14 budget	June 24, 2013
Utility Billing/Recurring credit cards	Staff is coordinating efforts between the new bill payment and presentment program and the City's cash receipting and utility billing application.	July 2013
Amtrak/SunRail Station	Site clearing and underground utilities construction underway.	Building complete December 2013 SunRail complete May 2014
Quiet Zones	FDOT consultant still reviewing concept plans.	July 2013
Wholesale Power Supply	Ongoing negotiations with multiple suppliers.	June 24, 2013
Territory/CR-3 Negotiations	Ongoing discussions with Progress Energy/Duke	July 2013
New Hope Baptist Church Project	They have resubmitted their request for status change as a Religious Exempt child Care Facility which takes about 2-3 weeks to receive new license number for DCF. After that is received, DCF will come and review their compliance with its standards for health, safety and sanitation of their facilities. They will then receive the green light to open. They have received power to both portables which now allows them to move forward with the skirting and landscaping. Their next board meeting is June 5 whereby an update will be provided then.	Fall of 2013 (per Pastor)
Downtown Parking Study	Draft has been received and is being reviewed. Additional information has been requested of consultant. Anticipate bringing back to Commission in June.	June 24, 2013

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.

Legislative Summary 2013 The City of Winter Park

Bill Title/Number (Sponsor)	Bill Summary	Action/Fiscal Impact
Prohibition of Electronic Gambling Devices HB 155 (Committee on Gaming/Trujillo)	The bill updates the definition of slot machine and creates a rebuttable presumption that a device is a prohibited slot machine if it stimulates a game of chance; requires payment to play and awards something of value. It also broadens the definition of “racketeering activity” in the RICO statute to include the gaming statute (Chapter 849).	Passed. Signed by Governor.
Regulation of Local Government Utilities HB 733 (Mayfield) & SB 1620 (Garcia)	The bill proposed authorizing the Public Service Commission regulatory jurisdiction over public utilities providing electric, water or wastewater and natural gas services. It also proposed limiting municipal corporate powers for the provision of utility services in unincorporated areas without consent of county. Bills were not heard.	Died. Fiscal Impact – Indeterminate. However, the proposals would have had significant impact on the ability of municipalities to provide utility services.
CST/ Prepaid HB 435 (Davis) & SB 290 (Galvano)	The bill proposed to amend the definition of “prepaid calling arrangement” applicable to State Sales & Use Tax, Communications Services Tax and Gross Receipts Tax. It would have broadened the definition by two factors:	Died. The Fiscal Impact Conference did not prepare a fiscal impact statement.

Legislative Summary 2013 The City of Winter Park

	including prepaid services originating by any means and including communications services other than telephone calls.	
E911/Prepaid HB 807 (Steube)/ SB 1070 (Hays)	The bill proposed a mechanism for collection of E911 fees on prepaid wireless services by retailers at the point of sale. It proposed a fee of \$0.46 beginning November 1, 2013. The bill also proposed various increases in distribution of wireless funds to counties and expanded the list of authorized uses.	Died. Fiscal Impact – Proposal was designed to be revenue neutral. Allowing E911 board to adjust fee after January 1, 2015 by two-thirds vote.
Campus Development Agreements PCB APC 13-04 (Appropriations Committee)	The bill proposed eliminating the requirement that universities enter into campus development agreements with local government host communities. The campus master plan would be required to identify the level-of-service standard established by the local government and the entity that would provide the service to the campus facilities.	Died. Fiscal Impact – Indeterminate. However, local government host communities would receive less money from concurrency cost associated with universities under existing campus development agreements.
Growth Management/Concurrency HB 321 (LaRosa)/ HB 1716 (Garcia)	The bill proposed to exempt certain types of development from impact fees, proportionate share and concurrency tools used by local governments for a period of three years.	Died. Fiscal impact – Indeterminate.

Legislative Summary 2013 The City of Winter Park

Growth Management/Concurrency HB 319 (Ray)	The bill provides that an alternative funding system must provide a means for new development to pay for its impacts and proceed. It allows local governments to pool contributions from multiple applicants toward one planned facility improvement and clarifies when 163.3180(5)(h) applies to local governments implementing transportation concurrency or development agreements. Lastly, the bill requires local governments implementing an alternative mobility funding system to follow the same general principles as “transportation concurrency” and provides that an alternative mobility funding system may not be used to deny approvals if the developer agrees to pay for the identified transportation impacts.	Passed.
Community Development/Housing/Property Tax HB 437 (Davis)	The bill allows local housing finance authorities (HFAs) to utilize a more expansive federal definition for qualified housing developments and revises an HFAs loan making eligibility parameters. The result should be HFAs promoting more mixed income affordable housing in the state. The bill also repeals a charitable property tax exemption for property held by non-profit	Passed.

Legislative Summary 2013 The City of Winter Park

	corporations or a Florida based limited partnership whose sole general partner is a corporation not for profit. The repeal eliminates an unintended consequence created in 2011 allowing for profit developers to create a nonprofit partner for the purpose of qualifying for the exemption.	
Communications Services Tax Reform HB 303 (Grant) & SB 1422 (Richter)	The bill proposed technical changes to Chapter 203 relating to Communications Services Tax. It would have deleted and/or modified several definitions including “enhanced zip code”, “video service”, and eliminating exemption for separately stated residential service.	Died. The Fiscal Impact Conference did not review this bill.
Local Business Tax Reform HB 7109 (Finance & Tax/Workman)	The bill would have eliminated existing rate structure for local business tax and established a new-tiered system for cities and counties. The bill would have authorized cities to levy within municipal jurisdictions and counties to impose in unincorporated areas of the county.	Died.
Public Meetings SB 50 (Negron)	The bill creates a new section requiring members of the public to be given a reasonable opportunity to be heard on a proposition being considered by a board, council or commission of a state agency or local government.	Passed.

Legislative Summary 2013 The City of Winter Park

Publicly-funded Defined Benefit Retirement Plans SB 534 (Brandes)	<p>The bill requires each public pension plan (except FRS), to submit the following information to the Department of Management Services:</p> <ul style="list-style-type: none">• Annual financial statements including GAAB 67 and GAAB 68;• Annual financial statements which use an assumed rate of return and an assumed discount rate that are equal to 200 basis points less than the plan's assumed rate of return;• Report including number of months/years for the which the current market value are adequate to sustain payment of expected benefits; and <p>Report including the recommended contributions to the plan based on the plans latest actuarial value.</p>	<p>Passed.</p>
Public-Private Partnerships HB 85 (Steube)	<p>The bill authorizes public-private partnerships to contract for public service work with not-for-profit organizations. It creates an alternative procurement process and requirements for public-private partnerships to facilitate the construction of public purpose projects. The bill adds provisions for contracts for parkland and public education facilities.</p>	<p>Passed.</p> <p>The League of Cities is requesting veto by the Governor.</p>

Legislative Summary 2013 The City of Winter Park

Firefighter and Police Officer Pension Plans SB 458 (Ring) HB 1399 (Rooney)	The bill would have established 1999 as base year funding for insurance premium taxes and eliminated ability for cities and local unions to negotiate benefits below 1999 levels. Prospectively, it provided a distribution mechanism for increases in insurance tax revenues to be split between new benefits and existing benefits.	Died.
Communications Services Tax Reform PCB (Workman)	The bill would have consolidated local communications services taxes and expanded the tax base to include prepaid calling arrangements. It would have distributed revenues to cities and counties based on a new proposed allocation formula. The base year would have been 2012 with growth revenue distributed based on specific criteria.	Died.
Open Records/Internal Investigations HB 1075 (Rangel)	The bill provides an exemption from the public records requirements from information obtained during an internal investigation by an agency (state or local public entity) until a final determination is made by the agency.	Passed.
Red Light Cameras/Highway Safety & Motor Vehicles HB 7125 (Raburn)	The bill makes numerous changes to the administration of Department of Highway Safety and Motor Vehicles. In addition, the bill contains provisions that revise procedures related to red light camera enforcement. It provides a 60-	Passed.

Legislative Summary 2013 The City of Winter Park

	day window in which a person must pay fines, identify a separate driver at the time of the infraction or request a hearing before a local hearing officer.	
--	--	--

90 Day Plan
(Draft for discussion purposes)

June 24

- Power supply agreements (tentative – could be delayed)
- Parking study
- Organization support policy

July 8

- Present 2014 proposed budget
- Duke territorial agreement (tentative)

July 22

- Adopt tentative millage rate
- Rollins Lacrosse/Softball stadiums request (goes to Parks and Rec in June and P&Z July 2nd)
- CBD Restaurant Ordinance (Scheduled for P&Z July 2nd)

August 12

- Budget discussions

August 26

- Award audit contract
- Budget discussions

September 9

- First budget hearing (and CIP)
- Fairbanks ULI

September 23

- Second budget hearing

Other items still to be scheduled

- Ravaudage infrastructure cooperation agreement
- Potential Rollins/Minor League baseball stadium
- Budget work session(s)
- Comp Plan review report
- Mt. Vernon site redevelopment

REGULAR MEETING OF THE CITY COMMISSION
May 13, 2013

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

A moment of silence was given in honor of the recent passing of Winter Park resident and Orange County Clerk of the Court Lydia Gardner. The invocation was provided by Pastor David Barker, Aloma Baptist Church, followed by the Pledge of Allegiance.

Mayor Bradley proclaimed May 17, 2013 as a day of remembrance and sympathy for Lydia Gardner and requested that all City flags be flown at half mast.

Members present:

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

Also present:

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

Approval of the agenda

Mayor Bradley requested Public Hearing item 'g' be postponed to the June 10, 2013 meeting. **Motion made by Mayor Bradley to approve the agenda with this adjustment; seconded by Commissioner Cooper and approved by acclamation with a 5-0 vote.**

Mayor's Report

a. Presentation – Habitat for Humanity, dedication of 626 W. Comstock

Habitat for Humanity Chairman Dr. Thaddeus Seymour and President Hal George announced the dedication of the 49th house located at 626 W. Comstock Avenue. They thanked the City for the continued partnership.

b. Proclamation – Robert Melanson Day

Mayor Bradley proclaimed May 15, 2013 as Bob Melanson Day in recognition of 25 years of service to the Winter Park Public Library. A special thank you was given to Mr. Melanson for his contributions to our community by making our library one of the best in the country.

c. Proclamation - Building Safety Month

Mayor Bradley proclaimed May 2013 as Building Safety Month. He gave special recognition to Building Director George Wiggins and the entire team in Building and Permitting Services for the work they perform.

d. Proclamation - Emergency Medical Services Week May 19-25, 2013

Mayor Bradley proclaimed the week of May 19-25, 2013 as "Emergency Medical Services Week" and thanked the EMS department for their continuous support. Citizens, Bill Rose and Ronald Staler thanked the City's EMS team for providing immediate medical intervention which saved their lives.

Fire Chief James White noted that last year they were asked to participate in the creation of the next edition of the EMS Technician Instructor book. Chief White provided Mayor Bradley with a copy of the book and noted that both the City and the Mayor are recognized in this edition.

e. Award from the Insurance Services Office (ISO) of their Class 1 Public Protection Classification for Fire Protection

Fire Chief James White and ISO representative Ralph Roberts briefed the Commission on the ISO ratings and how it affects property owner reductions in premium rates. Mr. Roberts announced that the City recently went from a Class 2 rating to a Class 1; making Winter Park rank number ten in the state. Chief White thanked Lieutenant Dan Hagedorn and his staff for making this certification possible through their efforts and hard work.

f. 2013 Board appointments

Mayor Bradley thanked all the citizens who previously served and/or applied for board positions. The following appointments were made:

Board of Adjustment:

Robert Trompke (Re-appointment) (2013-2016)

Jeffrey Jontz (Appoint to regular position from alternate to replace Cynthia Strollo) (2013-2016)

Patrice Shirer (Appoint to alternate position) (2011-2014)

Motion made by Mayor Bradley that the Board of Adjustment appointments are accepted as presented; seconded by Commissioner Sprinkel and carried unanimously with a 5-0 vote.

Code Enforcement Board

Burley Adkins (Appoint to regular position to replace Larry Sadler) (2013-2016)

Alternate position remained open (Camille Goodin resigned).

Note: Sheila De Ciccio was appointed to the Planning and Zoning Board which created a vacancy (one more full time position exists).

Motion made by Mayor Bradley that the Code Enforcement Board appointment is accepted as presented; seconded by Commissioner McMacken and carried unanimously with a 5-0 vote.

CRA Advisory Board (all 2013-2016)

John Dowd (Re-appointment)
Hal George (Re-appointment)
Joe Terranova (Re-appointment)

Mayor Bradley sought counsel from the Commission regarding the reappointment of Hal George for a third term so that he can continue to work on updating the board's strategic plan. Following a brief discussion regarding the current ordinance and what is allowed, **motion made by Mayor Bradley that the CRA Advisory Board appointments are accepted as presented; seconded by Commissioner Sprinkel and carried unanimously with a 5-0 vote.**

Construction Board of Adjustment and Appeals (all 2013-2016)

Robert Harris (Re-appointment)
Raymond Holloway (Re-appointment)
Mark Kirby (Re-appointment)
Mark Sylvain (Re-appointment)

Motion made by Mayor Bradley that the Construction Board of Adjustment and Appeals appointments are accepted as presented; seconded by Commissioner McMacken and carried unanimously with a 5-0 vote.

Economic Development Advisory Board (all 2013-2016)

Marc Reicher (Re-appointment)
John Caron (Appoint to regular position; replaced Daniel Smith)

Motion made by Mayor Bradley that the Economic Development Advisory Board appointments are accepted as presented; seconded by Commissioner Sprinkel and carried unanimously with a 5-0 vote.

Ethics Board

Simon Snyder (Re-appointment) (2013-2016)

Motion made by Mayor Bradley that the Ethics Board appointment is accepted as presented; seconded by Commissioner Sprinkel and carried unanimously with a 5-0 vote.

Fire Pension Board

Anthony Grey (Re-appointment) (2013-2015)-2 year term

Motion made by Mayor Bradley that the Fire Pension Board appointment is accepted as presented; seconded by Commissioner McMacken and carried unanimously with a 5-0 vote.

Historic Preservation Board (all 2013-2016)

Candace Chemtob (Re-appointment)
Michael Miller (Appoint to regular position; replaced Patrick Doyle who resigned)
Rebecca Talbert (Re-appointment)
Christi Underwood (Re-appointment)
Louise Sprimont (Appoint to alternate position)

Motion made by Mayor Bradley that the Historic Preservation Board appointments are accepted as presented; seconded by Commissioner Sprinkel and carried unanimously with a 5-0 vote.

Housing Authority Board (all 2013-2016)

Hal George (Re-appointment)
Michael Miller (Re-appointment)
Joseph E. Regner, Jr. (Re-appointment)

Motion made by Mayor Bradley that the Housing Authority Board appointments are accepted as presented; seconded by Commissioner Leary and carried unanimously with a 5-0 vote.

Keep Winter Park Beautiful and Sustainable Board (all 2013-2016)

Michele Hipp (Appoint to regular position; replaced Brad James)
Michael Poole (Appoint to regular position; replaced Martha McHenry)
Raymond Randall (Re-appointment)
James Robinson (Re-appointment)
Julie Tensfeldt (Re-appointment)
Carol Kostick (Appoint to alternate position)

Motion made by Mayor Bradley that the Keep Winter Park Beautiful and Sustainable Board appointments are accepted as presented; seconded by Commissioner Sprinkel and carried unanimously with a 5-0 vote.

Lakes and Waterways Board

David Moorhead (Re-appointment) (2013-2016)
Todd Weaver (Re-appointment) (2013-2016)
Thomas Smith (Appoint to regular position from alternate) (2013-2016)
Macauley (Mike) Whiting (Appoint to alternate position) (2012-2015)

Motion made by Mayor Bradley that the Lakes and Waterways Board appointments are accepted as presented; seconded by Commissioner Sprinkel and carried unanimously with a 5-0 vote.

Parks and Recreation Advisory Board (all 2013-2016)

Michael Palumbo (Re-appointment)
Joel Roberts (Re-appointment)

Motion made by Mayor Bradley that the Parks and Recreation Advisory Board appointments are accepted as presented; seconded by Commissioner McMacken and carried unanimously with a 5-0 vote.

Pedestrian and Bicycle Safety Advisory Board

Thomas Hiles (Re-appointment) (2013-2016)
Scott Redmon (Re-appointment) (2013-2016)
Jill Hamilton Bus (Appoint to regular position; replaced Gordon Blitch who resigned) (2011-2014)

Motion made by Mayor Bradley that the Pedestrian and Bicycle Safety Advisory Board appointments are accepted as presented; seconded by Commissioner Sprinkel and carried unanimously with a 5-0 vote.

Planning and Zoning Board (all 2013-2016)

Robert Hahn (Re-appointment)
Peter Weldon (Appoint to regular position from alternate; replaced Sara Whiting)
Sheila De Ciccio (Appoint to regular position; replaced Drew Krecicki)
Ross Johnston (Appoint to alternate position)

Motion made by Mayor Bradley that the Planning and Zoning Board appointments are accepted as presented; seconded by Commissioner Sprinkel and carried unanimously with a 5-0 vote.

Police Pension Board

Robert Harvie (Re-appointment) (2013-2015 – 2 year term)

Motion made by Mayor Bradley that the Police Pension Board appointment is accepted as presented; seconded by Commissioner McMacken and carried unanimously with a 5-0 vote.

Public Art Advisory Board

Francine Newberg (Appoint to regular position; replaced Chuck Robbins who moved) (2013-2016)
Robert Lemon (Re-appointment) (2013-2016)
Joan Pohl (Re-appointment) (2013-2016)
Joseph Roviario (Re-appointment) (2013-2016)
Jan Clanton (Appoint to regular position; replaced Susan League who resigned) (2012-2015)
Leonard Feinberg (Appoint to regular position; replaced Michele Hipp who moved to the KWPB&S Board) (2013-2016)

Motion made by Mayor Bradley that the Public Art Advisory Board appointments are accepted as presented; seconded by Commissioner Cooper and carried unanimously with a 5-0 vote.

Tree Preservation Board

Christine Menkin (Appoint to regular position from alternate) (2013-2016)

Paul Mandelkern (Appoint to alternate position) (2012-2015)

Motion made by Mayor Bradley that the Tree Preservation Board appointment is accepted as presented; seconded by Commissioner Sprinkel and carried unanimously with a 5-0 vote.

Utilities Advisory Board (all 2013-2016)

Mukesh Joshi (Appoint to regular position; replaced Donald Doyle)

Michael Smith (Appoint to regular position; replaced Ron Ellman who resigned)

Katherine Johnson (Re-appointment)

Dan Swanson (Re-appointment)

Motion made by Mayor Bradley that the Utilities Advisory Board appointments are accepted as presented; seconded by Commissioner McMacken and carried unanimously with a 5-0 vote.

City Manager's Report:

1) City Manager Knight explained that per the request of the CDD, the Ravadauge Infrastructure Cooperation Agreement was pulled from the agenda to schedule a work session with the intent of bringing the item back to the Commission for formal discussion on June 10. Following a brief discussion, a work session was scheduled for May 22 from 3:00-5:00 p.m.

2) City Manager Knight provided a follow-up on the possible acquisition of the Minnesota Avenue property near Azalea Lane. He said the property is for sale and the asking price is \$575,000. At this price staff recommended not pursuing this at this time unless directed otherwise by the Commission. Mayor Bradley thanked him for investigating this option.

3) City Manager Knight acknowledged the receipt of an email this week regarding street musicians on Park Avenue. He explained that on July 9, 2011, during the 90 day plan discussion, the Commission directed staff to remove the street musician ordinance from the list. Recently, he received feedback from one of the Commissioners saying that **maybe it's time** for them to consider the ordinance. He asked for direction. Following a brief discussion, a majority of the Commission agreed to schedule the item for discussion.

4) Building Director George Wiggins addressed Commissioner Sprinkel concerns regarding the proposed childhood development/daycare facility at the New Hope

Baptist Church by providing an update regarding the safety barriers which are in place and the recent improvements/inspections completed to date. He said a letter addressed to the Pastor and contractor has been prepared giving them further notice about their insufficiency to proceed. Commissioner Cooper asked if the City has the authority to remove the modular buildings if they do not use them for a childcare and education center. Mr. Wiggins said yes since the Commission approved a conditional use permit request for that specific purpose.

City Attorney's Report – No items.

Non-Action Item

a. Financial Report – March 2013

Finance Director Wes Hamil provided the financial report and answered questions.

Motion made by Commissioner McMacken to approve the report as presented; seconded by Commissioner Sprinkel and approved unanimously with a 5-0 vote.

Consent Agenda

- a. Approve the minutes of 4/22/13. – **PULLED FOR DISCUSSION, SEE BELOW**
- b. Approve the following purchases, contracts and formal solicitations:
 - 1. PR 152089 to Garland/DBS, Inc. for roof replacement at Police Training Building; \$140,360.00
 - 2. PR 152089 to Schuller Contractors, Inc. for construction on Canton Avenue Stormwater Outfall Project; \$78,461.05.
 - 3. PR 152056 to Vermeer Southeast Sales & Service for purchase of bore equipment; \$55,487.99.
 - 4. After-the-fact PO149915 to Brown & Brown of Florida, Inc. for City property insurance renewal (April 2013-April 2014) and authorize the Mayor to execute the Commercial Property Insurance Application; \$375,523.99.
 - 5. Contract renewal with Universal Engineering Sciences, Inc. for RFQ-2-2012 Continuing Contracts for Professional, Architectural & Engineering Services (Environmental Services) and authorize the Mayor to execute Amendment 1.
 - 6. Contract renewal with John J. Christie & Associates for RFQ-2-2012 Continuing Contracts for Professional, Architectural & Engineering Services (Mechanical & Electrical Engineering) and authorize the Mayor to execute Amendment 1.
 - 7. Contract renewal with BASE Consultants, P.A. for RFQ-2-2012 Continuing Contracts for Professional, Architectural & Engineering Services (Structural Engineering) and authorize the Mayor to execute Amendment 1.
 - 8. Contract renewal with Florida Bridge & Transportation, Inc. for RFQ-2-2012 Continuing Contracts for Professional, Architectural & Engineering Services (Structural Engineering) and authorize the Mayor to execute Amendment 1.

9. Piggybacking the City of Wilton Manors contract RFP 2012-11-06-01 for purchasing card services with SunTrust Bank, Inc. and authorize the Mayor to execute the Piggyback Contract.
 10. Piggybacking Orange County contract Y9-1063 for gravity main and manhole lining with Layne Inliner, LLC and authorize the Mayor to execute the Piggyback Contract.
 11. Award RFP-16-2013, Pest Control Services, to Massey Services and authorize the Mayor to execute the Contract.
 12. Award ITN-6-2013, Utility Vegetation Management, to The Davey Tree Expert Co. and authorize the Mayor to execute the Contract.
- c. Approve the Winter in the Park holiday ice rink contract with Magic Ice.

Motion made by Commissioner McMacken to approve Consent Agenda items 'b.1-12' and 'c'; seconded by Commissioner Cooper and approved unanimously with a 5-0 vote.

Consent Agenda Item 'a' – Approve the minutes of 4/22/13:

Mayor Bradley requested to amend the minutes by adding a sentence on page 4, paragraph 6 regarding "Surplus of Blake Yard property" and amend the first sentence on page 8, paragraph 3 regarding "Resolution 2123-13".

Motion made by Mayor Bradley to approve Consent Agenda item 'a' as amended; seconded by Commissioner Cooper and approved unanimously with a 5-0 vote.

Action Items Requiring Discussion

- a. Proposal to swap 645 Symonds Avenue in exchange for 813 W. New England Avenue

Planning Director Jeff Briggs advised that a proposal was received by CRDI, LLC (Dan Bellows) requesting to exchange or swap the city owned lot at 645 Symonds Avenue for his lot at 813 W. New England Avenue. The lot at 645 Symonds is 6,250 sq. ft. in size and the lot at 813 W. New England is 5,500 sq. ft. in size. Both lots are zoned R-2.

The City purchased the lot at 645 Symonds in 2006 with funding from the Affordable Housing Trust Fund. The intention was/is to use the lot for a home built either by Habitat for Humanity or the Hannibal Square Community Land Trust. Mr. Briggs said the City could just as easily build that home on New England as we could on Symonds.

Mr. Briggs advised that CRDI, LLC (Mr. Bellows) owns the lot directly to the east of the City lot at 631 Symonds and is in the process of buying the next adjacent lot at 621 Symonds. With the exchange, it would give them a combined three lots. Under the R-2 zoning, the three lots in combination could be used for up to four

townhomes. Mr. Briggs answered questions and noted that staff has no objection to the property exchange provided the applicant pays all of the closing costs.

Motion made by Commissioner McMacken to approve; seconded by Commissioner Sprinkel. No public comments were made. **Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried with a 5-0 vote.**

b. Request for extension of Vehicle Sales Agreement and Settlement and Use Agreements for the Orlando RV properties

Planning Director Jeff Briggs explained that the property owners at 860, 805 and 710 W. Fairbanks Avenue are seeking approval to extend the vehicle sales and settlement/use agreement permitted on these properties for an additional five years. The City previously approved agreements to allow vehicle sales on these properties until December 1, 2015 (the initial term was for seven years). The property owners are requesting another five year extension and the tenant, Orlando RV is requesting a three year extension.

Mr. Briggs advised that the City changed the zoning code in 2006 to make car/vehicle sales a prohibited use rather than a conditional use. In order to be fair to other property owners, the City has similar agreements at three other locations at 1891, 2250 and 2286 W. Fairbanks that permit car/vehicle sales until the same December 1, 2015 date. So any action on this request may likely lead to requests from those other three Fairbanks Avenue properties for a similar time extension for equitable treatment. Mr. Briggs answered questions.

Attorney Frank Hamner, 405 Balmoral Avenue, spoke on behalf of the applicant and provided background history. He explained that they have modified their request to a three year extension which would take them through the end of December 2018.

Motion made by Mayor Bradley to approve the extension for three years (ending December 1, 2018); seconded by Commissioner Cooper.

Mary Randall, 1000 S. Kentucky Avenue, spoke about the obstruction of traffic on Holt Avenue due to RV trailers being parked on the road and asked the City to address this matter with the merchant.

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

A recess was taken from 5:30 p.m. to 5:47 p.m.

c. High Performance Sports Management, Inc. contract (RFP-7-2013)

Motion made by Mayor Bradley to approve the contract as presented; seconded by Commissioner McMacken. No public comments were made. **Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried with a 5-0 vote.**

d. Video broadcasting of City Commission meetings

Communications Director Clarissa Howard explained the three options for video broadcasting, the estimated costs including the one-time setup fee and what is included in the monthly costs. Ms. Howard answered questions and asked for direction on how they would like to proceed.

A brief discussion transpired regarding the different options presented including the need for a part time camera operator. Commissioner McMacken and Mayor Bradley addressed the need to make sure that whatever choice is made that we have the ability to upgrade in the future to keep up with the current technology.

Motion made by Mayor Bradley to approve the pursuit of videoing our Commission meetings at a price up to \$50,000 for a one time capital investment, to be determined with a start time based on our capital schedule and would want that preferably ASAP or by October 1; seconded by Commissioner Sprinkel. No public comments were made. **Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried with a 5-0 vote.**

Public Hearings:

- a. Request of SunTrust Bank: To extend until August 27, 2014, the conditional use approval granted to permit the redevelopment of the property at 301 S. New York Avenue with a new drive-in bank teller facility on this property zoned C-3.

Planning Director Jeff Briggs explained that this public hearing is to consider a request to extend, for one additional year, until August 27, 2014, the conditional use approval granted for the new SunTrust drive-thru branch bank to be developed at 301 S. New York Avenue.

Motion made by Mayor Bradley to approve the conditional use to August 27, 2014; seconded by Commissioner Cooper.

Dan Bellows, 558 W. New England Avenue spoke in opposition.

Commissioner Cooper shared her concern with approving another drive-thru bank in the downtown area. She spoke about the need to focus on retaining the

walkability character in the Hannibal Square/Park Avenue district and thought that if they deny the conditional use request that the drive-in bank teller will not be built. Mr. Briggs clarified that the applicant has submitted their construction plans and have until August 27 to apply for a permit so it is just a matter of time when the drive-thru bank will be built, but it will not go away.

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.

- b. Request of the Jewett Orthopedic Clinic on the properties at 930, 950 and 960 Minnesota Avenue:

ORDINANCE NO. 2918-13: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE I "COMPREHENSIVE PLAN" FUTURE LAND USE MAP SO AS TO CHANGE THE FUTURE LAND USE DESIGNATION OF MEDIUM-DENSITY RESIDENTIAL TO PARKING LOT ON THE PROPERTIES AT 930, 950 AND 960 MINNESOTA AVENUE, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE. Second Reading

ORDINANCE NO. 2919-13: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE THE ZONING DESIGNATION OF MEDIUM DENSITY MULTI-FAMILY (R-3) DISTRICT TO PARKING LOT (PL) DISTRICT ON THE PROPERTIES AT 930, 950 AND 960 MINNESOTA AVENUE, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE. Second Reading

Attorney Brown read both ordinances by title. Mayor Bradley and Commissioner McMacken recused themselves from voting due to a conflict of interest. See Form 8B attached.

Motion made by Commissioner Leary to adopt the first ordinance (comprehensive plan); seconded by Commissioner Sprinkel.

Motion made by Commissioner Leary to adopt the second ordinance (zoning); seconded by Commissioner Sprinkel.

Planning Director Jeff Briggs advised that the ordinance was revised from the first reading to incorporate the condition that the parking lot is not to be leased for any alternate commercial use, such as off-site restaurant parking.

Commissioner Sprinkel requested staff to include all redline changes made to the ordinance in the agenda packet for ease of reference.

No public comments were made.

Upon a roll call vote on the first ordinance (comprehensive plan), Commissioners Leary, Sprinkel and Cooper voted yes. The motion carried unanimously with a 3-0 vote. Mayor Bradley and Commissioner McMacken abstained from voting.

Upon a roll call vote on the second ordinance (zoning), Commissioners Leary, Sprinkel and Cooper voted yes. The motion carried unanimously with a 3-0 vote. Mayor Bradley and Commissioner McMacken abstained from voting.

- c. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AND ABANDONING CERTAIN STREETS WITHIN THE RAVAUDAGE PLANNED DEVELOPMENT AND HOME ACRES SUBDIVISION AREA INCLUDING THE RIGHT-OF-WAY OF ELVIN AVENUE LYING BETWEEN BENNETT AVENUE AND LOREN AVENUE; THE RIGHT-OF-WAY OF LOREN AVENUE LYING BETWEEN ELVIN AVENUE AND GLENDON PARKWAY; THE RIGHT-OF-WAY OF KINDEL AVENUE LYING BETWEEN LEWIS DRIVE AND BENJAMIN AVENUE; THE RIGHT-OF-WAY OF KINDEL AVENUE LYING BETWEEN BENNETT AVENUE AND LEWIS DRIVE AND THE RIGHT-OF-WAY OF BENJAMIN AVENUE SOUTH OF GLENDON PARKWAY TO A POINT 50 FEET NORTH OF KINDEL AVENUE, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

Attorney Brown read the ordinance by title.

Planning Director Jeff Briggs explained that Benjamin Partners LLC has requested the City to vacate certain streets within the Ravaudage PD area as listed within the ordinance. Those streets are:

1. The right-of-way of Elvin Avenue lying between Bennett Avenue and Loren Avenue;
2. The right-of-way of Loren Avenue lying between Elvin Avenue and Glendon Parkway;
3. The right-of-way of Kindel Avenue lying between Lewis Drive and Benjamin Avenue;
4. The right-of-way of Kindel Avenue lying between Bennett Avenue and Lewis Drive; and
5. The right-of-way of Benjamin Avenue, south of Glendon Parkway to a point 50 feet north of Kindel Avenue.

Mr. Briggs noted that the City advertised the public hearing and notices were mailed out to all property owners within the Ravaudage area. Mr. Briggs explained that we have received clearance from the utilities; therefore, it is at the discretion of the Commission whether to act on any of these matters. The Public Works Department recommended adoption of this ordinance. Mr. Briggs answered questions.

Motion made by Commissioner McMacken to accept items 1, 2 and 4 and that we do not permit at this time items 3 and 5 on first reading of the ordinance; seconded by Mayor Bradley.

Motion amended by Commissioner Cooper that they not move forward with item 4 at this time but that they maintain access and egress to the long standing company; the business that is on the corner of Benjamin and Lewis Drive. Motion failed for lack of a second.

Commissioner Sprinkel asked for clarification as she recalled from the last meeting that City Manager Knight and Attorney Brown were preparing a policy/agreement which would clearly define the proper process and procedures regarding the various permits and approvals that will be required within the Ravaudage CDD. City Manager Knight said as of this date the policy has not been agreed to by all parties so it has not been completed by the City Attorney's office and staff.

Motion amended by Commissioner Cooper to table. Motion failed for lack of a second.

Commissioner Sprinkel said the Commission previously agreed upon a specific course of action and since a city policy/agreement has not been established as of this date she felt it is premature to move forward with this new action. After hearing Commissioner Sprinkel's rationale; **Commissioner McMacken agreed and withdrew his original motion.**

Commissioner Leary felt that since all of the appropriate parties are present that it would be advantageous to hear what the applicant is proposing so that everyone involved can gain a better understanding regarding the vacation of easements and the attached detailed street map that was provided by the applicant.

Motion made by Commissioner Leary to approve all five of the vacations simply to have this discussion; seconded by Mayor Bradley. Attorney Brown provided legal counsel and agreed that it would be helpful to have the applicant clarify their request. **Mayor Bradley withdrew his second. Commissioner Leary withdrew his motion.**

Kim Booker, Booker & Associates, spoke on behalf of the applicant and provided clarity regarding the existing and proposed right-of-way access points. She reassured the Commission that the existing property owners would not be landlocked.

Stumpy Harris of the Harris, Harris, Bauerle, Sharma Law Firm, 1500 Bonnie Burn Circle, spoke on behalf of Doug and Ronda Loft, owners of one of the outparcels. He shared concerns with the vacating of Benjamin Avenue since that is the only way to access 17/92 northbound. He recalled that the issues pertaining to access on all excluded parcels would be covered in the City policy statement that is still

being drafted. He commented that it is inappropriate to discuss this item since it is premature and that this matter should be tabled or put aside until such time so that everyone involved, including the affected property owners can meet and determine if an agreement can be reached. He said as of this date that opportunity has not occurred.

Motion made by Commissioner Leary to proceed with the vacation of items 1, 2 and 4. Motion failed for lack of a second.

A brief discussion transpired regarding whether or not a policy should be drafted since a meeting is to take place and if a policy is drafted if it should come back to the Commission. Attorney Brown provided legal counsel regarding the denial, approval or tabling of the item.

Motion made by Commissioner McMacken to table; seconded by Mayor Bradley. Upon a roll call vote, Mayor Bradley and Commissioner McMacken voted yes. Commissioners Leary, Sprinkel and Cooper voted no. The motion failed with a 3-2 vote.

City Manager Knight advised the Commission that should they pass this on first reading they can amend/modify the ordinance on second reading prior to adoption.

Motion made by Mayor Bradley to approve the abandonment of items 1, 2 and 4; seconded by Commissioner Sprinkel.

Commissioner Cooper expressed that item #4 should not be abandoned until Morgan Avenue is in place and paved providing for ease of access and egress.

Stumpy Harris, 1500 Bonnie Burn Circle, explained the reasoning for the policy and spoke in favor of the facilitation of a meeting between all involved parties.

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. Establishing City zoning on the non-Ravaudage properties in the Home Acres annexation area:

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" FUTURE LAND USE MAP SO AS TO ESTABLISH LOW DENSITY RESIDENTIAL AND COMMERCIAL FUTURE LAND USE DESIGNATIONS TO THE RECENTLY ANNEXED PROPERTIES AT 970, 1000, 1008, 1306 AND 1308 LOREN AVENUE; 933, 1101, 1123, 1211, 1253 AND 1313 LEWIS DRIVE; 1141 BENJAMIN AVENUE; 600, 1449, 1471, 1501 AND 1531 LEE ROAD AND AT 1175 N. ORLANDO AVENUE; MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE. First Reading

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO ESTABLISH COMMERCIAL (C-3) DISTRICT ZONING AND LOW DENSITY RESIDENTIAL (R-2) DISTRICT ZONING ON THE RECENTLY ANNEXED PROPERTIES AT 970, 1000, 1008, 1306 AND 1308 LOREN AVENUE; 933, 1101, 1123, 1211, 1253 AND 1313 LEWIS DRIVE; 1141 BENJAMIN AVENUE; 600, 1449, 1471, 1501 AND 1531 LEE ROAD AND AT 1175 N. ORLANDO AVENUE; MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE. First Reading

Attorney Brown read both ordinances by title. Planning Director Jeff Briggs explained that we are establishing the City's zoning on these properties that were not part of the Ravaudage PD. He said they will retain the same commercial or residential zoning designation just as they have today.

Motion made by Mayor Bradley to accept the first ordinance (comprehensive plan) on first reading; seconded by Commissioner Sprinkel.

Motion made by Mayor Bradley to accept the second ordinance (zoning) on first reading; seconded by Commissioner Leary.

Mr. Briggs answered questions. No public comments were made.

Upon a roll call vote on the first ordinance (comprehensive plan), Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried with a 5-0 vote.

Upon a roll call vote on the second ordinance (zoning), Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried with a 5-0 vote.

A recess was taken from 7:09 p.m. to 7:19 p.m.

- e. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT REGULATIONS", ARTICLE III, "ZONING" SECTION 58-84 "GENERAL PROVISIONS FOR NON-RESIDENTIAL ZONING DISTRICTS" SO AS TO ESTABLISH HOURS OF OPERATION FOR STATE LICENSE MASSAGE THERAPY BUSINESSES AND TO PROHIBIT RESIDENTIAL USE OF SUCH COMMERCIAL AND OFFICE SPACE, PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE. First Reading

Attorney Brown read the ordinance by title.

Planning Director Jeff Briggs explained that this ordinance is in response to complaints about all night activity and noise at 24 hour massage spas. One major purpose of zoning laws is to protect the peaceful enjoyment of residential properties and also to protect property values. This proposed ordinance establishes hours of

operation for state license massage therapy businesses from 7:00 am until 10:00 pm. It would also prohibit using any massage therapy business as a residential occupancy which is in effect, how they can operate when they are open 24 hours a day. The exception would be for massage therapy provided in hotels where guests may be arriving late from flights or other late travel.

Mr. Briggs answered questions and advised that the Planning and Zoning Board voted 4-1 in favor of the ordinance with a recommendation that a medical necessity exemption be provided. The Code Enforcement and the Police Department fully support this.

A brief discussion ensued regarding the overall intent of the ordinance. City Attorney Larry Brown provided legal counsel including regulation and enforceability. He mentioned that the proposed ordinance could be improved by adding some 'findings of fact' or 'Whereas clauses' to better buttress any legal challenges. A majority of the Commission favored this idea and directed him to do so.

Motion made by Commissioner Leary to accept the ordinance on first reading; seconded by Commissioner McMacken. No public comments were made. **Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried with a 5-0 vote.**

- f. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, TO AMEND CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" SECTION 58-75 "COMMERCIAL (C-2) DISTRICT", TO REVISE THE PERMITTED USES ALONG PARK AVENUE, SOUTH OF COMSTOCK AVENUE AND AMENDING SECTION 58-95 "DEFINITIONS" TO PROVIDE DEFINITIONS FOR FAST CASUAL AND FINE DINING RESTAURANTS, PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE. First Reading

Attorney Brown read the ordinance by title.

Planning Director Jeff Briggs explained that last November the Planning and Zoning Board (P&Z) voted 7-0 by approving the proposed ordinance as presented to revise the definitions for restaurants. On November 26, 2012 the City Commission tabled the proposed ordinance to a time uncertain since there was no consensus on how they should address this situation regarding the proposed changes to amend the C-2 commercial zoning rules along Park Avenue for the one block south of Comstock Avenue.

Since the time of tabling, Mr. Briggs advised that Firehouse Subs is planning to open up a location on Park Avenue next to Burger Fi. In order to meet the **definition in the code for "fine dining"** they have committed to be the only Firehouse Sub franchise in America that is going to offer table service with waiters and waitresses. Due to this request, staff felt a necessity to bring back a partial change to the definitions in the ordinance to tighten up the rules **on what qualifies "fine dining"**.

Mr. Briggs explained that the City's C-2 zoning code, in effect along Park Avenue and New England Avenue makes "fine dining" restaurants a permitted use. Other restaurants (not meeting that definition) are conditional uses which require the provision of parking in order to create a new restaurant location. In effect, "fine dining" restaurants are given a 'free pass' or parking variance if they meet that definition. The intent was to allow, as has occurred, for new restaurants such as Luma, Prato, Paris Bistro, Cocina 214 and Nelore Steakhouse to start up on Park Avenue without having to provide parking. Unfortunately the only differentiator for "fine dining" versus other restaurants is table service versus counter service.

Mr. Briggs advised that the proposed definition change tightens the rules to accomplish the original intent and to clarify what table service means. The proposed definition change is also patterned after Worth Avenue in Palm Beach that prohibits "formula restaurants" with more than three locations in the nation, which in our case will be more than three in the Orlando Metro area. The proposed definition changes will also help staff deal with the coffee shops and bakeries that now sell breakfast and lunch items.

Mr. Briggs explained that due to the upcoming holiday there is a four week timeframe prior to second reading. He said they could refer the item back to P&Z for discussion at their June 4 meeting since they have not seen the most recent changes.

Motion made by Commissioner Leary to accept the ordinance on first reading; seconded by Commissioner McMacken for discussion.

Discussion ensued regarding the proposed changes to the current ordinance and how it affects the current/future businesses on Park Avenue, if franchise restaurants should be permitted on Park Avenue if they can meet the parking requirements and if a designated food court area should be created to allow these businesses establishments an opportunity to operate within our City.

Commissioner Cooper suggested amending the language in Section 59-95 Definitions, regarding franchises. She felt that we need to be careful not to define it as "with no more than three locations in the Orlando area" because that totally negates what we are trying to do. As a way to protect the branding of Park Avenue she recommended adding "and non-fine dining establishments" to the last sentence in Section 58-75 Commercial (C-2) District, item (b) Permitted uses.

Motion amended by Mayor Bradley that this also be referred to the P&Z Board and Economic Development Advisory Board (EDAB) before the second reading; seconded Commissioner Leary. Commissioner McMacken recommended that this be reviewed by the City Attorney. **Mayor Bradley and Commissioner Leary agreed and added it to this amended motion.**

Motion amended by Commissioner Cooper to amend Section 58-95 Definitions, Fine dining, third sentence, to delete "in the greater Orlando metropolitan area"; seconded by Commissioner McMacken.

Motion amended by Commissioner Cooper to amend Section 58-75 Commercial (C-2) District, item (b) Permitted uses, where it says "bars, taverns and cocktail lounges" she would like to prohibit "non-fine dining" in this zoning district.

Attorney Brown advised that in order for this to be added the ordinance would have to come back for another first reading since the title of the ordinance was never changed from the last time it was presented. **Commissioner Cooper said she would like to make this amendment to this particular ordinance with the understanding that after it goes to P&Z and EDAB it will come back to them for first reading; seconded by Commissioner McMacken.**

Frank Hamner, 1011 North Wymore Road, agreed that this ordinance will need to come back for a first reading since there is no definition of fast casual and/or fine dining restaurants.

Attorney Brown answered questions and provided legal counsel. City Manager Knight requested that the ordinance be tabled so that staff can take it to P&Z, EDAB and the Park Avenue Area Task Force for feedback prior to moving forward.

Motion made by Mayor Bradley to table the ordinance as presented; seconded by Commissioner Leary. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried with a 5-0 vote.

Patrick Chapin, Winter Park Chamber of Commerce, recommended that we also reach out to the local merchants for feedback.

Lambrine Macejewski, 151 E. Welbourne Avenue, recommended that we add another category/definition for "casual dining" in the ordinance.

Joe Terranova, 151 N. Virginia Avenue, agreed with the tabling of this item and urged the Commission to take their time and get it right prior to adoption.

- g. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING SECTION 42-1, DEFINITIONS, AND 42-7, QUALIFICATION OF CANDIDATES AND CLERK'S CERTIFICATION, OF CHAPTER 42, ELECTIONS, TO ADD DEFINITIONS FOR "QUALIFICATION DEADLINE", "QUALIFICATION DOCUMENTS", AND "QUALIFICATION PERIOD", AND TO CLARIFY QUALIFICATION REQUIREMENTS; PROVIDING FOR SEVERABILITY, CODIFICATION, CONFLICTS AND AN EFFECTIVE DATE. First Reading

This item was postponed to the next meeting, June 10, 2013.

City Commission Reports:

- a. Commissioner Leary – No items.
- b. Commissioner Sprinkel – No items.

Commissioner Sprinkel mentioned that Winter Park was well represented at the Orange County Law Enforcement Memorial event and that she was delighted to kick off the Relay for Life cancer walk event held at Showalter Field this past Friday.

- c. Commissioner Cooper – No items.
- d. Commissioner McMacken - No items.
- e. Mayor Bradley

Mayor Bradley sent his deepest condolences to Lydia Gardner's family during this difficult time.

The meeting adjourned at 8:45 p.m.

Mayor Kenneth W. Bradley

ATTEST:

City Clerk Cynthia S. Bonham



city commission agenda item

item type	Consent Agenda	meeting date	June 10, 2013
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 \$50,000

	vendor	item background	fiscal impact	motion recommendation
1.	Wesco Distribution	PR152282 for ReliaPad Dead Front Padmount Circuit Breaker for Underground Project #3.	Total expenditure included in approved FY13 Citywide Undergrounding budget. Amount: \$77,491.10	Commission approve PR 152282 to Wesco Distribution.
Wesco Distribution is a sole source vendor for these circuit breakers.				
2.	Heart Utilities of Jacksonville	PR152289 for Undergrounding for Electric	Total expenditure included in approved FY13 Citywide Undergrounding budget. Amount: \$63,177.59	Commission approve PR 152289 to Heart Utilities of Jacksonville
This purchase will be made utilizing IFB-1-2008. The City Commission approved award of IFB-1-2008 on January 14, 2008. Award was made to provide a complete functional system. Project is still in progress.				
3.	Musco Lighting, Inc.	PR152312 for Purchase of New Field lighting for Ward B & C	Total expenditure included in approved FY13 budget. Amount: \$244,354.00	Commission approve PR 152312 to Musco Lighting, Inc.
This purchase will be made utilizing a piggyback contract through Clay County. The city Commission approved the piggyback contract on February 11, 2013.				

Contracts

	vendor	item background	fiscal impact	motion recommendation
4.	Centurylink Sales Solutions, Inc.	Renewal of Analog circuits at reduced price.	Total expenditure included in approved FY13 IT Budget	Commission authorize Mayor to execute new agreement.
Revised agreement due to price decrease.				
5.	Brick America	Amendment 2 for IFB-15-2011 Purchase of pavers for Clay Street	Total expenditure included in approved FY13 budget	Commission approve contract renewal with Brick America and authorize the Mayor to execute Amendment 2
The City utilized a formal solicitation process to award this contract. The City Commission approved award to Brick America on May 9, 2011. The contract term was for a period of one (1) year with a total of four (4) one year renewal options, not to exceed five (5) years in total. The current contract will expire June 11, 2013.				

Formal Solicitations

	vendor	item background	fiscal impact	motion recommendation
6.	Electric Supply of Tampa	IFB-21-2013 Material for Underground Electrical Projects	Total expenditure included in approved FY13 budget. Amount: \$917,313.89	Commission approve award and PR 152401 to Electric Supply of Tampa
The City utilized a formal solicitation process to award this contract to overall low bid per line items.				
7.	Graybar Electric	IFB-21-2013 Material for Underground Electrical Projects	Total expenditure included in approved FY13 budget. Amount: \$4,342.66	Commission approve award to Graybar Electric.
The City utilized a formal solicitation process to award this contract to overall low bid per line items.				
8.	Gresco Utility Supply, Inc.	IFB-21-2013 Material for Underground Electrical Projects	Total expenditure included in approved FY13 budget. Amount: \$623,981.42	Commission approve award and PR 152409 to Gresco Utility Supply, Inc.
The City utilized a formal solicitation process to award this contract to overall low bid per line items.				
9.	HD Power Supply Power Solutions	IFB-21-2013 Material for Underground Electrical Projects	Total expenditure included in approved FY13 budget. Amount: \$18,487.50	Commission approve award to HD Power Supply Power Solutions
The City utilized a formal solicitation process to award this contract to overall low bid per line items.				
10	Mayer Electric Supply	IFB-21-2013 Material for Underground Electrical Projects	Total expenditure included in approved FY13 budget. Amount: \$2,193.00	Commission approve award to Mayer Electric Supply.
The City utilized a formal solicitation process to award this contract to overall low bid per line items.				
11	Stuart C. Irby	IFB-21-2013 Material for Underground Electrical Projects	Total expenditure included in approved FY13 budget. Amount: \$332,759.29	Commission approve award and PR 152411 to Stuart C. Irby.
The City utilized a formal solicitation process to award this contract to overall low bid per line items.				
12	Wesco Distribution	IFB-21-2013 Material for Underground Electrical Projects	Total expenditure included in approved FY13 budget. Amount: \$112,432.50	Commission approve award and PR 152410 to Wesco Distribution.
The City utilized a formal solicitation process to award this contract to overall low bid per line items.				



city commission agenda item

item type	Consent Agenda	meeting date	June 10, 2013
prepared by department division	Michelle del Valle City Management	approved by	<input checked="" type="checkbox"/> City Manager <input checked="" type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	Union Members	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A	final vote

subject

Agreement Between City of Winter Park, Florida and Teamsters Local Union No.385

motion | recommendation

Ratify the Agreement Between City of Winter Park, Florida and Teamsters Local Union No. 385

background

This is the second collective bargaining agreement between the City of Winter Park and Teamsters Local Union No. 385. It is a one year agreement beginning **October 1, 2012 and ending September 30, 2013**. The agreement calls for a 2.5% merit based pay increase and modifies the definition of salary for pension purposes in accordance with recently adopted state law. Additionally, the shoe allowance as well as the on-call pay was adjusted to match the adjustments made city-wide.

Negotiations for the next contract have already begun.

alternatives | other considerations

Not applicable

fiscal impact

The 2.5% COLA wage increase is already in the budget

long-term impact

This is a one year contract.

strategic objective

AGREEMENT BETWEEN CITY OF WINTER PARK, FLORIDA

AND

TEAMSTERS LOCAL UNION NO. 385

2012 - 2013

TABLE OF CONTENTS

	Page
PREAMBLE	i
ARTICLE 1 - RECOGNITION	1
ARTICLE 2 - APPENDICES AND AMENDMENTS.....	2
ARTICLE 3 - HUMAN RIGHTS	3
ARTICLE 4 - GENDER	4
ARTICLE 5 - UNION DUES	5
ARTICLE 6 - BULLETIN BOARDS	6
ARTICLE 7 - MANAGEMENT RIGHTS	7
ARTICLE 8 - GRIEVANCE AND ARBITRATION PROCEDURE.....	8
ARTICLE 9 - RULES AND REGULATIONS	14
ARTICLE 10 - UNION BUSINESS	15
ARTICLE 11 - HOURS OF WORK AND OVERTIME	17
ARTICLE 12 - COMPENSATION	21
ARTICLE 13 - EMPLOYEE MANAGEMENT COMMITTEE.....	22
ARTICLE 14 - CALL-BACK PAY / ON-CALL / STAND-BY PAY.....	23
ARTICLE 15 - WITNESS SERVICE.....	26
ARTICLE 16 - TRANSFERS AND REASSIGNMENTS	27
ARTICLE 17 - UNIFORMS AND EQUIPMENT	28
ARTICLE 18 - REPLACEMENT OF PERSONAL PROPERTY	29
ARTICLE 19 - PERSONAL USE OF CITY VEHICLES.....	30
ARTICLE 20 - EDUCATIONAL REIMBURSEMENT.....	31
ARTICLE 21 - LONGEVITY PAY.....	32
ARTICLE 22 - EDUCATIONAL LEAVE.....	33
ARTICLE 23 - UNION POOL TIME.....	34
ARTICLE 24 - MILITARY LEAVE	35
ARTICLE 25 - INSURANCE.....	36
ARTICLE 26 - RETIREMENT BENEFIT	37
ARTICLE 27 - PENSION.....	38
ARTICLE 28 - PROBATIONARY PERIOD.....	40
ARTICLE 29 - SAVINGS CLAUSE.....	41
ARTICLE 30 - DURATION.....	42

PREAMBLE

This Agreement is entered into by and between **City of Winter Park, Florida;** hereinafter referred to as the “City” and **Teamsters Local Union 385**, hereinafter referred to as the “Union.”

ARTICLE 1 - RECOGNITION

The City recognizes the Union as the exclusive bargaining agent for the following bargaining unit of the City's employees employed in the Winter Park Police Department:

INCLUDED: All full-time sworn, certified law enforcement officers in the classifications of police officer and police officer/detective.

EXCLUDED: All other employees employed in the police department in the City of Winter Park, and all other employees employed by the City of Winter Park.

1.1 The Union recognizes that the City Manager and his designees are the collective bargaining representatives for the City. The Union recognizes its obligation to bargain solely and exclusively with the City Manager and/or his designees, and to refrain from any negotiations with the legislative body of the City or any of its members.

ARTICLE 2 - APPENDICES AND AMENDMENTS

Appendices and Amendments (if any) to this Agreement shall be lettered or numbered, dated, and signed by the parties, and shall constitute part of this Agreement.

ARTICLE 3 - HUMAN RIGHTS

The parties agree that the race, color, sex, national origin, religion, age, marital status, handicap not affecting qualifications for a particular position or the disability of a qualified individual with a disability shall not be a basis for the application of this agreement.

ARTICLE 4 - GENDER

Where the words “he”, “him” or “his” are used in this agreement, it shall be understood, unless the context requires otherwise, that such words include the words “she”, “her” and “hers”.

ARTICLE 5 - UNION DUES

5.1 The City agrees that upon receipt of a voluntary written individual authorization signed by a bargaining unit employee the City shall deduct from the pay due such employee his Union dues and uniform assessments, if any. Such authorization may be revoked by an employee within thirty (30) days written notice to the City or Union. Dues so deducted from each employee's salary shall be forwarded by the City to the Union within thirty (30) calendar days of the deduction. However, the City shall have no responsibility for any liability for the improper deduction of dues.

5.2 Dues shall be deducted each pay period and those monies shall be remitted to the Union thereafter.

5.3 The Union agrees to save and hold the City harmless from any and all suits, claims or judgments arising because of the City's compliance with the provisions of this Article.

5.4 The Union will notify the City as to the amount of dues for each affected unit employee in writing signed by a representative of the Union. Any change in Union membership dues will be similarly certified to the City and shall be done thirty (30) days in advance of the effective date of any such changes.

ARTICLE 6 - BULLETIN BOARDS

6.1 The City shall furnish the Union with space for a bulletin board of a size agreed upon by Police Chief or his designee and authorized Union representative in the Post-briefing area.

6.2 The Union shall provide glass-enclosed and lockable bulletin board for the aforementioned location. The Union shall utilize the bulletin boards only to post the following:

- A. Notice of Union Meetings.
- B. Notice of Union elections and Union election results.
- C. Copies of the Union's Constitution and By-laws and Amendments thereto.
- D. Notice of recreational and social affairs of the Union.
- E. Copy of this Agreement.
- F. Notices of dues (changes).
- G. Names of Local Union officials (and changes thereto).
- H. Local Union and International Union newsletter (i.e., monthly, quarterly, annual, or special publication).
- I. Minutes of Union meetings.

6.3 All materials placed upon the bulletin boards by the Union will be on official Union letterhead and signed by the Chief Steward or his designee. Under no circumstances shall the Union post any notice containing material of a political nature or material tending to directly or indirectly disparage or demean the City or any of its elected or appointed officials or employees. The Police Chief or his designee shall be furnished with a copy of any material to be posted, 24 hours prior to posting. Anything not posted in accordance with this Article may be removed by Police Chief or his designee or authorized Union representative.

ARTICLE 7 - MANAGEMENT RIGHTS

It is the right of the City to determine unilaterally the purpose of the Winter Park Police Department, to set standards of services to be offered to the public, to exercise control and discretion over the operations of the Winter Park Police Department and to direct its employees in that Department.

ARTICLE 8 - GRIEVANCE AND ARBITRATION PROCEDURE

8.1 Members of the bargaining unit will follow all written and verbal orders given by superiors even if such orders are alleged to be in conflict with this agreement. Compliance with such orders will not prejudice the right to file a grievance within the time limits contained herein, nor shall compliance affect the ultimate resolution of the grievance.

8.2 A “grievance” is a claimed violation of this agreement. No grievance will or need be entertained or processed unless prepared in writing in the manner described herein, and unless filed in the manner provided herein within the time limit prescribed herein. A grievance may be filed by either a bargaining unit employee (“employee” as used herein being understood to include the plural for purposes of this Article) or by the Union. Grievances are limited to claims which are dependent for resolution exclusively upon interpretation or application of one or more express provisions of this agreement. The City (the City Manager or his designee) need not entertain or process under this article and may refuse to entertain or process any dispute, claim or complaint or other matter not meeting this definition.

8.3 Grievances will be processed in the following manner and strictly in accordance with the following stated time limits.

Step 1: An aggrieved employee or the Union shall present in writing the grievance to the aggrieved employee’s immediate supervisor within ten (10) calendar days of the aggrieved employee’s or Union’s knowledge of the occurrence of the action giving rise to the grievance. The immediate supervisor shall reach a decision and communicate it in writing to the grievant within ten (10) calendar days from the date the grievance was presented to him. The failure of the aggrieved employee or the Union to make the grievance known in writing to the immediate supervisor within ten (10) calendar days of such knowledge of the occurrence of the action giving rise to the grievance shall constitute a final and conclusive bar on the merits of the

grievance. The phrase “action giving rise to the grievance” shall include a final decision made by a representative of the City which results at a later time in the action which is the subject of the grievance. In any case in which a grievance is presented to the City without the Union’s knowledge, and that fact is known to the City, the City shall within one (1) business day forward a copy of the grievance to a member of the Union’s Executive Board.

Step 2: If the grievance is not resolved with finality at the first step, the aggrieved employee or the Union, within ten (10) calendar days following receipt of the answer in the first step, may forward it to the Division Commander of the Division to which the grievant is assigned at the time of occurrence of the facts giving rise to the grievance. The Division Commander shall, within ten (10) calendar days of receipt of the written grievance, conduct a meeting with the aggrieved employee. The aggrieved employee may be accompanied at this meeting by a Union representative. The Division Commander shall notify the aggrieved employee in writing of the decision not later than ten (10) calendar days following the meeting date.

Step 3: If the grievance is not fully resolved at the second step, the aggrieved employee or Union may forward the written grievance to the Police Chief within ten (10) calendar days of receipt of the answer provided in Step 2. The decision of the Police Chief shall be determinative of the grievance. The City shall notify the aggrieved employee and the Union of the Police Chiefs decision within ten (10) calendar days following the meeting.

8.4 If the grievance is not resolved by the foregoing grievance procedure, the Union, within fourteen (14) calendar days after the Police Chief’s decision in Step 3, may give to the Police Chief, by hand delivery or by registered or certified mail, a written notice of its desire to submit the matter to arbitration; said written notice to include a written statement of the position of the Union with respect to the arbitrable issues.

8.5 Within fourteen (14) calendar days from receipt of such notice, the parties shall meet to select an arbitrator. In the event the parties fail to agree on an arbitrator, both parties shall, within fourteen (14) calendar days, jointly request a list of nine (9) qualified arbitrators from the Federal Mediation and Conciliation Service. The Union and then the City will alternately eliminate one at a time from said list of names or persons not acceptable until only one remains and this person will be the arbitrator. The City and the Union will alternate in the right to first strike names in successive arbitrations.

8.6 As promptly as possible after the arbitrator has been selected, he shall conduct a hearing between the parties and consider the grievance. The decision of the arbitrator will be served upon the employee or employees aggrieved the City and the Union in writing. It shall be the obligation of the arbitrator to rule within twenty-one (21) calendar days after the hearing. The expense of the arbitration, including the fee and expenses of the arbitrator, shall be paid by the losing party. Each party shall be exclusively responsible for compensating its own representatives and witnesses.

8.7 The submission to the arbitrator shall be based exclusively on the written grievance as submitted in Steps 1, 2 and 3 of the grievance procedure, and shall include a copy of this agreement.

8.8 The power and authority of the arbitrator shall be strictly limited to determination and interpretation of the express terms of this agreement. He shall not have the authority to add to or subtract from or modify any of said terms, or to limit or impair any right that is reserved by this agreement, by statute or otherwise to the City or the Union or the employees, or to establish or change any wages or rate of pay in this agreement.

8.9 No decision of any arbitrator or of the City in one case shall create a basis for retroactive adjustment in any other case.

8.10 In settlement or resolution by arbitration of any grievance resulting in retroactive adjustment, including back wages, such adjustment shall be limited to a maximum of thirty (30) calendar days prior to the date of the filing of the grievance at Step 1. All claims for back wages shall be limited to the amount of wages that the employee otherwise would have earned from the City, less any unemployment compensation or compensation from other sources that he may or might have received during the period for which the back pay was awarded.

8.11 The decision of the arbitrator is final and binding on both parties, and the grievance shall be considered permanently resolved, subject to any judicial relief available to either party under Florida law.

8.12 It is agreed, with respect to this grievance and arbitration procedure, that:

A. It is the intent of the parties that grievances must be raised at the earliest possible time. Any grievance, in order to be entertained and processed, must be submitted in writing at Step 1 within ten (10) calendar days after initial knowledge of the action allegedly giving rise to the grievance, which means, as indicated in Step 1 above, within ten (10) days calendar days after knowledge of a final decision which results in the action which is the subject of the grievance.

B. A matter otherwise constituting a grievance not presented at Step 1 within the time limit prescribed in Step 1 and in compliance with paragraph A above shall be conclusively barred on the merits following expiration of the prescribed time limit. Such a time-barred grievance need not be entertained or processed, and only factual disputes as to timing will be the subject of any arbitration resulting from the matter. A grievance which is for any reason not advanced to Step 2, Step 3 or to arbitration within the time limits prescribed herein for such advancement shall be similarly permanently withdrawn and barred. Failure on the part of the City to respond within the time limit set forth at any step shall require the aggrieved employee or

Union to proceed to the next step, and failure on the part of the aggrieved employee or Union to so proceed within the time limit after expiration of the time limit for the City's response shall cause the matter to be barred as set forth in this paragraph.

C. A time limit at any stage of the grievance procedure may be extended by written mutual agreement of the Union and the Police Chief.

D. All grievances shall be dated and signed by the aggrieved employee or Union representative. Any decision rendered shall be in writing and shall be dated and signed by the City's representative at that step.

E. In any grievance there shall be set forth in space provided on the grievance form or on attachments, if necessary, all of the following:

1. a complete statement of the grievance and facts upon which it is based;
2. the section or sections of this agreement claimed to have been violated; and
3. the remedy or correction requested.

F. Unless mutually agreed, all grievance hearings will be during working hours.

G. Any grievances filed on behalf of or for the benefit of any employee or employees must specifically name all such employees, and may not be amended after completion of Step 2 to add names. No monetary or other relief shall be granted or awarded to any employee not so named. The only exception to this is that if the Union claims that a grievance affects the entire unit, it may describe the unit generally.

H. In all cases requiring the aggrieved employee or the Union to timely present or advance a grievance to a designated City official, hand delivery during the hours of 9:00 a.m. until 5:00 p.m., Monday through Friday, except holidays hereunder, to the office of

that official shall be sufficient for compliance with prescribed time limits if the designated official is not personally available for service.

I. Nothing in this agreement shall prohibit the presence of a Union representative at Steps 1, 2 or 3 of this procedure.

ARTICLE 9 - RULES AND REGULATIONS

9.1 The employees covered hereunder shall comply with all rules, regulations, policies, procedures and operating bulletins of the City, the Department and the Division, and any amendments thereto.

9.2 Should the City, the Department, or the Division amend or modify any of the aforesaid rules, regulations, policies, or procedures, a courtesy copy of any such new (or amended) rule, regulation, policy, procedure, or operating bulletin shall be mailed, e-mailed, or delivered to the Union and the Union's employee representative within the Police Department at least ten (10) business days prior to implementation. Nothing herein shall restrict the City, the Department, or the Division from implementing any new (or amended) rule, regulation, policy, procedure, or operating bulletin prior to the expiration of ten (10) days if operational necessity requires such earlier implementation.

9.3 The Union shall be furnished a copy of all current and subsequently amended written rules, regulations, policies, procedures, and operating bulletins pertaining to employer-employee relations and distributed to members of the bargaining unit.

ARTICLE 10 - UNION BUSINESS

10.1 Nothing contained in this Collective Bargaining Agreement shall preclude any employee covered by this Agreement from pursuing any right or remedy available under this Agreement without representation of the Union. Further, nothing contained in this Agreement shall preclude any employee from discussing a problem directly with his immediate non-bargaining unit supervisor or any other Departmental official without the intervention of the Union; provided, however, that such non-bargaining unit supervisor or other Departmental official is agreeable to having such discussion. Any resolution made by an employee covered hereunder with his non-bargaining unit supervisor shall not set a precedent for the settlement of any other disagreement involving the same or other employees.

10.2 The City shall recognize the Chief Steward and Assistant Stewards selected by the Union to occupy those positions. A written list of the Union Stewards shall be furnished to the Human Resources Manager and the Department Head prior to the effective date of the Union Stewards assuming their duties. Prompt written notification of changes in the Union Stewards shall be provided to the Human Resources Manager and the Department Head. No Union Steward will be recognized by the City unless such written notification was presented prior to such Union Steward assuming his duties.

10.3 Union Stewards shall not be permitted to process formal grievances under the grievance procedure herein while on duty.

10.4 The Chief Steward, or his designee, shall have the authority to forward any information necessary to enforce this contract, process grievances, or in representation of any member any e-mail, electronic document, video or audio recording, standard operation procedure or personnel policy, or other material not prohibited by state or federal regulation to Union

Officers, Business Agents or Attorneys without delay with the approval of the Division Commander.

ARTICLE 11 - HOURS OF WORK AND OVERTIME

11.1 Unit employees will work hours and schedules as set forth in this Article. However, employees will be paid only for hours and fractions thereof actually worked, regardless of scheduled hours. The City shall make the assignments and transfers of personnel necessary to implement the provisions of this Article.

A. Uniform Patrol Officers will work one of two rotating shifts: Day Shift (0645 hours until 1900 hours), or Night Shift (1845 hours until 0700 hours.) All Uniform Patrol Officers will be scheduled to work fourteen days of each 28 day pay period. During a two week period, the work days of two squads (one working Day Shift and one working Night Shift) include Monday, Tuesday, Friday, Saturday, Sunday, Wednesday and Thursday, while the work days of the other two squads during the 2 week period include Wednesday, Thursday, Monday, Tuesday, Friday, Saturday and Sunday. Each squad rotates from Day Shift to Night Shift or vice-versa every 56 days. The only exception to the above schedule is that two officers selected by their supervisor from each Night Shift squad arrive at 1800 hours daily and leave at 0615 hours to handle typically high call volume during those hours. Uniform Patrol Officers routinely work all recognized City holidays that fall on their regularly scheduled workdays, and receive 12 hours of additional pay at the member's normal hourly rate of pay while doing so. Subject to prior approval of their supervisor based on the operational needs of the Department, officers have the option of being absent on the holiday and receiving 12 hours of pay at the normal hourly rate in lieu of working. Should the holiday fall on the officers' regularly scheduled day off, they will receive 8 hours of compensation at their normal rate of pay.

B. General Assignment Detectives will work from 0800 hours until 1800 hours each day, four days a week. The detectives' scheduled regular days off always include Saturday and Sunday. Each detective is also assigned a permanent day off during the week

determined by the supervisor to ensure adequate staffing is available. Detectives will be compensated 10 hours of holiday pay at his normal rate of pay if a recognized City holiday falls on a regularly scheduled work day. Detectives not scheduled to work on a recognized City holiday will receive 8 hours of compensation at their normal rate of pay.

C. All Traffic Enforcement Officers will either work from 0700 hours until 1700 hours or 0800 hours until 1800 hours each day, four days per week. The officers' scheduled regular days off always include Saturday and Sunday, and rotate their third day off. Traffic Enforcement Officers do not work on recognized City holidays, but are compensated with 10 hours of pay at their normal hourly rates if said holiday falls on their regularly scheduled work day. If said holiday falls on a regularly scheduled day off, the officer will be compensated at his normal hourly rate for 8 hours. The City may conduct periodic reviews of traffic volume and accident volume and based on the results change starting and ending times for the shifts of Traffic Enforcement Officers, with a minimum of 14 days' notice to affected personnel.

D. The Canine Handlers will work from 1830 hours until 0330 hours daily, four days per week. Canine Handlers will receive pay for 10 hours each day rather than the 9 that they actually work to compensate them for care and maintenance of their canines. When taking Personal Leave, Canine Handlers are entitled to receive the equivalent of 4 hours pay per 40 hours of Personal Leave taken or can optionally use 4 hours less of Personal Leave to cover canine care and maintenance. The officers' regularly scheduled days off are staggered to provide seven-day-a-week coverage, although both handlers work concurrently every Thursday to facilitate training opportunities. The handlers' regularly scheduled days off change each week. Handler number one's days off (over a two-week period) include Tuesday, Wednesday, Sunday, Monday, Friday and Saturday. Handler number two's days off (for the same period) include Monday, Friday, Saturday, Tuesday, Wednesday and Sunday. Canine handlers frequently work

on recognized City holidays when the holidays fall on the handler's regularly scheduled workday, and receive 10 hours of additional pay at the handler's normal hourly rate while doing so. The handlers also have the option of being absent on the holiday (with the prior approval of their supervisor based on the operational needs of the Department) and receiving 10 hours of pay at the normal hourly rate in lieu of working. Should the holiday fall on the officers' regularly scheduled day off, they will receive 8 hours of compensation at their normal rate of pay.

E. Community Policing Officers will work eight hour shifts between 0700 hours and 1800 hours each day, Monday through Friday. Community Policing Officers do not work on recognized City holidays, but are compensated with 8 hours of pay at their normal rate of pay. School Resource Officers start and ending times will be determined by the Chief or his designee based on school start and ending times as set forth by the Orange County School Board.

F. Street Crimes Unit: Street Crimes Unit will work forty (40) hours per week. Given the ever-changing nature of their assignment, the Street Crimes Unit hours will be determined by the current task.

11.2 The City elects to employ and compensate unit employees on a 14 consecutive day work period, as allowed by Section 7(k) of the Fair Labor Standards Act, 29 U.S.C. §207(k), and regulations in effect thereunder. Employees will be compensated at one-and-one-half times the regular rate at which they are employed for any actual hours worked in the 14 consecutive day work period in excess of eighty-five and one-half (85.5) hours. No paid hours not actually worked, such as, but not limited to, paid time off and holidays shall be counted as hours worked for purposes of calculating and paying overtime compensation.

11.3 Meal periods are paid, and shall be no longer than forty-five (45) minutes in duration. Employees shall notify Dispatch of the beginning and end of their meal periods.

Employees shall be available for duty as necessary during meal periods. Meal periods begin when the employee leaves his City vehicle and end upon his return to the vehicle.

11.4 Off-Duty Details:

A. The City will continue its existing practice regarding unit employees engaging in compensated off-duty details, with the following modifications or clarifications. It is understood that all such details are for an employer separate and independent from the City. The City reserves the right to control, regulate, deny or approve all off-duty details, including details in which employees perform general or specifically requested police duties for a business or individual.

B. Employees working off-duty details in excess of 6 hours are entitled to a meal break, which shall be no longer than forty-five (45) minutes in duration. Employees shall notify Dispatch of the beginning and end of their meal periods. Employees shall be available for duty as necessary during meal periods. Meal periods begin when the employee leaves his City vehicle and end upon his return to the vehicle. When the separate employer is on site such employer shall be notified of the start and end of these meal periods. Officers working details lasting 6 hours or less are not entitled to a meal period. The timing for taking the meal period and permission to leave said detail shall be contingent upon approval by the on duty Department supervisor.

C. The City, at its discretion, may allow members of other law enforcement agencies that have jurisdiction within the City to work off-duty details only after reasonable attempts to cover such off-duty details with Department personnel have been exhausted.

ARTICLE 12 - COMPENSATION

12.1 During the term of this Agreement unit employees will be compensated at their respective rates of pay in effect on the effective date of this Agreement. All such employees are and will remain in pay grade 410. The minimum annual base compensation shall be \$40,115.92 and the maximum annual base compensation shall be \$62,179.73. The minimum hourly rate of pay shall be \$19.2685 and the maximum hourly rate of pay shall be \$29.8941.

12.2 Unit employees will be paid in 14 consecutive day pay periods.

ARTICLE 13 - EMPLOYEE MANAGEMENT COMMITTEE

13.1 There shall be an Employee Management Committee consisting of the following Management and Union representatives:

The Chief Steward of the Union (or his designee), three (3) bargaining unit employees, the Police Chief (or his designee), the Human Resources Manager, and two (2) command level officers designated by the Police Chief

13.2 The Employee Management Committee shall meet quarterly on dates mutually agreed upon by the participants or more frequently if the parties so agree. The sole function of the Committee shall be to discuss general matters pertaining to employee relations and Departmental operations, including safety and health. The Committee shall not engage in collective bargaining or resolution of grievances. Union representatives attending Committee meetings during their off-duty hours shall not be compensated for the time spent in such meetings. The Union representatives attending Committee meetings during on-duty hours will be released from duty without loss of pay or benefits; provided, however, that no Union representative attending such meeting shall be released from duty if his release will result in the City incurring overtime or other additional costs.

ARTICLE 14 - CALL-BACK PAY / ON-CALL / STAND-BY PAY

14.1 Call-back pay is provided to compensate employees required to return to work after completing a regularly assigned shift. Eligibility for call-back pay is as follows:

A. Any employee who is off duty and required to return to work on an unscheduled basis shall be eligible for call-back pay at his regular straight-time rate or overtime rate, whichever is applicable.

B. Any employee who is on duty and is instructed and assigned to return to work or remain on duty shall be ineligible for call-back pay, but eligible for compensation at his straight-time rate or overtime rate, whichever is applicable.

C. Any employee eligible for call-back pay shall be paid for his actual hours worked with a minimum guarantee of two (2) hours pay at his straight-time rate or overtime rate, whichever is applicable.

14.2 Effective the first payroll period after final approval of this Agreement, the SWAT Team members, who are assigned to “on-call” status, shall receive an additional \$100.00 per week for the week(s) in which they are so assigned. (Note: There are approximately sixteen (16) SWAT Team members divided into an A Team and a B Team, and under the established practice, each Team is scheduled to be “on-call” for an aggregate twenty-six (26) weeks in one year.)

14.3 Effective the first payroll period after final approval of this agreement, the Traffic Homicide Investigators (2) who are assigned “on-call” status shall receive an additional \$100.00 per week for the week(s) in which they are so assigned.

14.4 Effective the first payroll period after final approval of this agreement, general assignment detectives who are assigned “on-call” status by their Division Commander shall receive an additional \$100.00 per week for the week(s) in which they are so assigned. General

assignment detectives not scheduled for on-call status that are requested to report for duty will be compensated for mileage from their residence to the police station in compliance with IRS standard mileage rates.

14.5 Effective the first payroll period after final approval of this agreement, Crisis Team members who are assigned “on-call” status by their team Commander shall receive an additional \$100.00 per week for the week(s) in which they are so assigned.

14.6 Effective the first payroll period after final approval of this agreement, canine officers who are assigned “on-call” status by their Unit Commander shall receive an additional \$100.00 per week for the week(s) in which they are so assigned.

14.7 Effective the first payroll period after final approval of this agreement, the Public Information Officer who is assigned “on-call” status by their Unit Commander shall receive an additional \$100.00 per week for the week(s) in which they are so assigned, provided such officer is covered under this agreement.

14.8 Notwithstanding any other provisions of this contract, no unit employee shall receive more than \$2,600 (for twenty-six on-call periods) in on-call pay during any fiscal year.

14.9 Effective the first payroll period after the final approval of this agreement, officers that have been called and placed on stand-by status by a representative of the court thereby restricting their activities shall receive two (2) hours compensatory time, for each day they are placed on stand-by. The compensatory time will be at a straight-time rate and not be calculated for overtime purposes. If an officer is on stand-by for multiple cases during the same period of time, only two (2) hours of compensatory time will be allowed to be accrued for each day on stand-by. This clause will only apply when stand-by is required during an officer’s off-duty time. Stand-by status will begin when the officer is actually called, text, or emailed by the witness coordinator within the two week trial period notifying them that the trial is set to be

heard, and only for the day(s) they are told they will be needed for court appearance. Stand by status will end once the officer is notified the case has been resolved or their testimony will not be required or when the officer responds to court. Stand-by status will not apply to subpoenas received for a trial period or for the two week notice of trial unless the officer is notified (called, text, or emailed) by a court representative that the trial is set to be heard and their appearance is required. This clause is not applicable for any day an officer is required to respond to court.

ARTICLE 15 - WITNESS SERVICE

15.1 Employees who are required to serve during scheduled duty as witnesses for the City in any judicial or administrative proceeding, or who are required to serve during scheduled duty as witnesses for any party under a valid and lawfully served subpoena in connection with any non-personal matter which arose from the course or scope of their employment, shall be given time off with pay to serve, and shall return to duty immediately upon completion of such service.

15.2 Employees who are required to serve in either capacity during times other than their scheduled duty time shall be paid a minimum of two (2) hours at their base hourly rate or for the actual hours of time, whichever greater, spent by them at the courthouse or other required place of attendance. All such paid time must be documented by the employee.

15.3 Actual time spent by an employee serving as a witness for the City, regardless of whether the employee is on scheduled duty during such time; and actual time spent serving as a witness under a valid and lawfully served subpoena for any party in connection with any non-personal matter which arose from the course or scope of the employment of such employee, shall be counted as hours worked for purposes of computing statutory overtime under the overtime regulations promulgated under the Fair Labor Standards Act.

15.4 All witness fees payable to an employee for or in connection with such service must be endorsed and tendered to the City by the affected employee as a condition to being paid by the City for the time taken off for witness service under the foregoing language of this article.

15.5 An off-duty employee who is subpoenaed to appear in court as a witness on a matter which arose from his performance of his official duties shall receive a minimum of two (2) hours pay. All fees paid to the employee shall be submitted to the employer.

ARTICLE 16 - TRANSFERS AND REASSIGNMENTS

16.1 Except as otherwise provided in this Agreement, transfers and reassignments shall be within the discretion of management.

ARTICLE 17 - UNIFORMS AND EQUIPMENT

17.1 Uniforms will be supplied and altered or replaced as needed upon approval of the member's supervisor. The City also agrees to provide dry cleaning of uniforms and detectives' clothing worn in lieu of uniforms at City's expense. Should the City decide to change the style of the uniform, said change will be at the City's expense.

17.2 Upon termination of an employee, the uniforms and equipment issued will be surrendered by the employee in like condition as when issued, reasonable wear and tear expected.

17.3 In the event an employee is transferred or leaves the Department, he/she shall return all uniforms and equipment to the Department as a condition precedent to receipt of final pay.

17.4 If requested, and while required to wear a uniform, a maternity uniform shall be issued to a uniformed bargaining unit employee upon medical verification of pregnancy. The uniform shall be returned to the Department upon commencement of the employee's leave for the birth of the child.

17.5 Effective with the ratification and approval of this Agreement, the clothing allowance for Detectives shall be \$150.00 quarterly.

17.6 The City will pay to each member an annual shoe allowance of \$120 in the first paycheck in November of each year. Members will be responsible for wearing shoes appropriate for their assignment and maintaining shoes in acceptable condition. Failure to do so may result in disciplinary action.

ARTICLE 18 - REPLACEMENT OF PERSONAL PROPERTY

18.1 Replacement of lost or damaged personal property shall normally be the responsibility of the employee. However, the Police Chief, in his discretion, may authorize replacement of (or reimbursement for) eyeglasses, contact lenses, or wrist watches which are damaged as a result of an employee being involved in an unavoidable incident (e.g. physical altercation) in the line of duty. The employee making the request for replacement of (or reimbursement for) damaged or lost property must provide a detailed report describing the incident from which the damage or loss resulted and the cause of the damage or loss. The employee must also provide a certified estimate of the cost of repair or replacement of the damaged or lost property. Reimbursement for damaged eyeglasses or contact lenses shall be addressed on a case-by-case basis. All other property may be reimbursed at the maximum amount of \$150, at the discretion of the Police Chief.

ARTICLE 19 - PERSONAL USE OF CITY VEHICLES

19.1 Unit employees residing within the City limits of Winter Park will be assigned a take home vehicle for personal use within the city limits of Winter Park, provided such employees adhere to all City rules regarding use of official vehicles. Eligible employees will not be required to pay a stipend to the City for such use.

19.2 Unit employees who are assigned as Detectives and Traffic Homicide Investigators may take City vehicles assigned to them to their homes at the end of their shifts when such employees are on on-call status.

19.3 Unit employees who are assigned to a task force may take City vehicles assigned to them to their homes during the period of such assignment provided such employees adhere to all City rules and task force rules, if any, regarding use of official vehicles.

19.4 Unit employees who are assigned to the canine unit may take City vehicles assigned to them to their homes to facilitate the transportation of the canine.

19.5 Bargaining unit members are encouraged to operate City vehicles with great care at all times. Should a bargaining unit member be involved in an off-duty crash in which the investigating officer determines the member to be at-fault, the City will suspend the officer's personal vehicle use under this Article for the following terms:

- A. Total damage incurred by the City over \$500, but under \$5,000 – 1 month.
- B. Total damage incurred by the City \$5,001, but under \$10,000 – 6 months.
- C. Total damage incurred by the City in excess of \$10,000 – 1 year.

ARTICLE 20 - EDUCATIONAL REIMBURSEMENT

20.1 Subject to budgetary limitations, educational reimbursement payments made on behalf of unit employees are limited to a maximum amount of \$1,396 per calendar year. This shall apply to fiscal year October 1, 2012—September 30, 2013. This does not preclude the use of grant or other funding to supplement secondary education if available, subject to the City's decision that such grant funding is in the City's best interest. Educational reimbursement is limited to tuition and books and required supplies, if any, for academic education above the high school level in compliance with the Florida Department of Law Enforcement Guidelines regarding approved accredited post-secondary education providers. No expenditure will be approved for classes not deemed beneficial to the Winter Park Police Department's operation. Employees in the DROP Plan are not eligible for reimbursement.

ARTICLE 21 - LONGEVITY PAY

Unit employees shall not receive longevity pay.

ARTICLE 22 - EDUCATIONAL LEAVE

22.1 If an employee is directed by the City to enroll in a course, the City shall pay the actual time spent in attending the course at the employee's base rate. The Chief shall direct an employee in writing and the employee so directed shall attend without having to exchange time or use any PTO or compensatory time.

22.2 If the City does not require attendance at a course, the time in attending the course shall not be paid by the City. An employee seeking an unpaid leave of absence for this purpose shall make written application to the Chief of Police. Approval of such application must be made by the City Manager. An employee may request to use comp time or PTO leave to attend courses not required by the City.

22.3 If an employee chooses for his own reasons to enroll in a job-related academic course sponsored by an accredited law enforcement training academy or other institution, and approval for the reimbursement of the cost of tuition, books and fees in accordance with the City's Educational Reimbursement Policy has been obtained, the employee may request, through the Chief, time off to attend the course. With the Chief's approval, the employee may attend such course while on duty without loss of pay. Such employee may report back to duty at the conclusion of the class and report to work for the balance of the shift, or take PTO (if available and with supervisory approval) through the end of that shift. Time paid under this Section 22.3 shall not count as hours worked for the purpose of potential overtime compensation.

22.4 When an employee attends a scheduled class that is mandated by the City on a day when he is not scheduled to work, he shall be paid at his base rate for the actual time spent attending the class.

22.5 Actual time spent in class and paid under Article 22.4 will count as hours worked for the purpose of potential overtime compensation.

ARTICLE 23 - UNION POOL TIME

23.1 The City agrees to establish a unit time pool utilizing unit approved voluntarily donated hours derived from personal time hours accrued by unit members. The time is to be used by the unit's executive board or those members designated by the Chief Steward for the purpose of attending conferences, seminars, unit meetings, conventions, as deemed necessary by the Chief Steward.

23.2 When time is required for the above mentioned purposes, the Chief Steward shall submit to the Chief or his designee the required form specifying the number of hours needed for any member of the executive board or his designee. The Chief or his designee will submit the required form for the Chief's administrative assistant for forwarding to payroll.

23.3 Unit members have the option of donating any amount of personal time hours on April 1 of each year to maintain the Union Pool Times.

23.4 All use of the Union Pool Time shall require coordination with the unit member's supervisor to ensure overtime is not incurred by the Department. Under no circumstances will the use of the Union Pool Time cause the Department to incur overtime costs to maintain minimum staffing.

ARTICLE 24 - MILITARY LEAVE

24.1 Both the City and the Union agree to comply with Chapter 38 of the United States Code regarding employees and their military service.

ARTICLE 25 - INSURANCE

The city will make available the same health insurance (including dental), life insurance, accidental death and dismemberment insurance, and long term disability insurance benefits on a group basis to unit employees to the same extent and in the same manner that such benefits are provided to all city employees up to Department Head level. The city shall have the same rights with respect to unit employees to make, or to agree upon with the provider or providers, changes in such benefits including reductions, and/or the costs thereof to the city and/or to employees as with all non-union represented city employees.

ARTICLE 26 - RETIREMENT BENEFIT

26.1 Unit members who retire with at least 20 years of service, or who retire with at least 10 years of service and age 55, shall be eligible to receive either their department service weapon or the City retirement bonus of \$25 for each year of service upon such retirement. Unit members who retire at any time with a medical retirement as a result of work-related injuries shall receive this benefit.

ARTICLE 27 - PENSION

The defined benefit plan applicable to unit employees covered by it (“members”) will be changed in the following respects.

27.1 The cost of living adjustment (“COLA”) applicable to members whose employment with the City terminates for any reason, voluntary or involuntary, prior to early or normal retirement eligibility with at least ten years of credited service was eliminated effective October 1, 2010. As to such members, retirement benefits are not payable until such member reaches the age of fifty-five years.

27.2 No interest will be paid to members on refunds of accumulated contributions in the event of termination of employment with the City for any reason, voluntary or involuntary.

27.3 The City and the Union agree to seek any required cooperation from any Pension Board or like entity which may be necessary to effect the foregoing changes.

27.4 For the purposes of this Article 27, *Salary* means the total compensation for services rendered to the City as a Police Officer reported on the Member's W-2 form, except compensation for special details, duty indirectly paid for by private parties, tuition reimbursement, and emergency payment for unused Personal Leave, but including all tax deferred items of income deferred pursuant to Sections 457 (employee contributions only) and 414(h) of the Code and tax exempt income exempt pursuant to Section 125 of the Code, and tax sheltered items of income derived from elective employee payroll deductions or salary reductions. Notwithstanding the preceding sentence, for Credited Service on and after October 1, 2011, Salary shall exclude payments for overtime in excess of 300 hours per calendar year and payments for accrued unused sick or annual leave, except as follows: payments for accrued unused sick or annual leave accrued as of October 1, 2011 may be included in Salary for pension purposes even if payment is not actually made until on or after October 1, 2011; provided, the

amount of accrued annual leave accrued as of October 1, 2011 that may be included in Salary for pension purposes shall be reduced by the actual amount of annual leave used by the Member on or after October 1, 2011. For employees hired on or before October 1, 1998, the amount of accrued annual leave included in Salary shall be calculated by reducing the amount of accrued annual leave as of October 1, 2011 by the actual amount of annual leave used by the Member on or after that date on a last in first out (LIFO) basis; and for employees hired after October 1, 1998, the amount of annual leave included in Salary shall be calculated by reducing the amount of accrued annual leave as of October 1, 2011 by the actual amount of annual leave used by the Member on or after that date on a first in first out (FIFO) basis.

ARTICLE 28 - PROBATIONARY PERIOD

28.1 An employee initially employed into the unit shall be on probationary status for 12 months (365 days). The City may, at its sole discretion, terminate the employment of a probationary employee at any time for any reason during the probationary period.

ARTICLE 29 - SAVINGS CLAUSE

29.1 If any provision of this Agreement, or the application of such provision, should be rendered or declared invalid by a court of competent jurisdiction or by reason of any existing or subsequently enacted legislation, the remaining parts or portions of this Agreement shall remain in full force and effect.

ARTICLE 30 - DURATION

30.1 This agreement shall take effect in accordance with Section 447.309(1), Florida Statutes, on October 1, 2012 and shall terminate on September 30, 2013. If either party wishes to bargain collectively before October 1, 2013 for a new Agreement that party must give written notice to the other to that effect which must be received on or before June 1, 2013. If either party gives such timely written notice, then the initial proposals of each party must be presented and received on or before July 15, 2013. If timely written notice under this Article 30 is not given by one or both parties, this Agreement will continue in effect from fiscal year to fiscal year thereafter, except for the “re-opener” below.

SIGNATURE PAGE

Executed: **CITY OF WINTER PARK, FLORIDA**

Randy B. Knight, City Manager
(Chief Executive Officer)

WITNESS:

Rene Brogan
Human Resources Manager

Date

Executed: **TEAMSTERS LOCAL UNION 385**

Robert Walker, Business Agent

ATTEST:

_____, President

Date

Ratified this ____ day of _____, 20__

CITY OF WINTER PARK, FLORIDA

Kenneth W. Bradley, Mayor

ATTEST:

City Clerk

Ratified this ____ day of _____, 20__

TEAMSTERS LOCAL UNION 385

Robert Walker, Business Agent

ATTEST:

_____, _____



city commission public hearing

item type	Public Hearing	meeting date	June 10, 2013
prepared by department division	Troy Attaway Public Works Department	approved by	<input checked="" type="checkbox"/> City Manager <input checked="" type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	N/A	<input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A	final vote

Subject: Ordinance to Vacate Certain Streets within Ravaudage. **Second Reading**

This Ordinance was amended at the first reading to only include the three road sections outlined below. The Ordinance has been revised accordingly.

Benjamin Partners LLC has requested the City to vacate certain streets within the Ravaudage PD area. Those streets are:

1. The right-of-way of Elvin Avenue lying between Bennett Avenue and Loren Avenue;
2. The right-of-way of Loren Avenue lying between Elvin Avenue and Glendon Parkway;
3. The right-of-way of Kindel Avenue lying between Lewis Drive and Benjamin Avenue;
4. The right-of-way of Kindel Avenue lying between Bennett Avenue and Lewis Drive;
and
5. The right-of-way of Benjamin Avenue, south of Glendon Parkway to a point 50 feet north of Kindel Avenue.

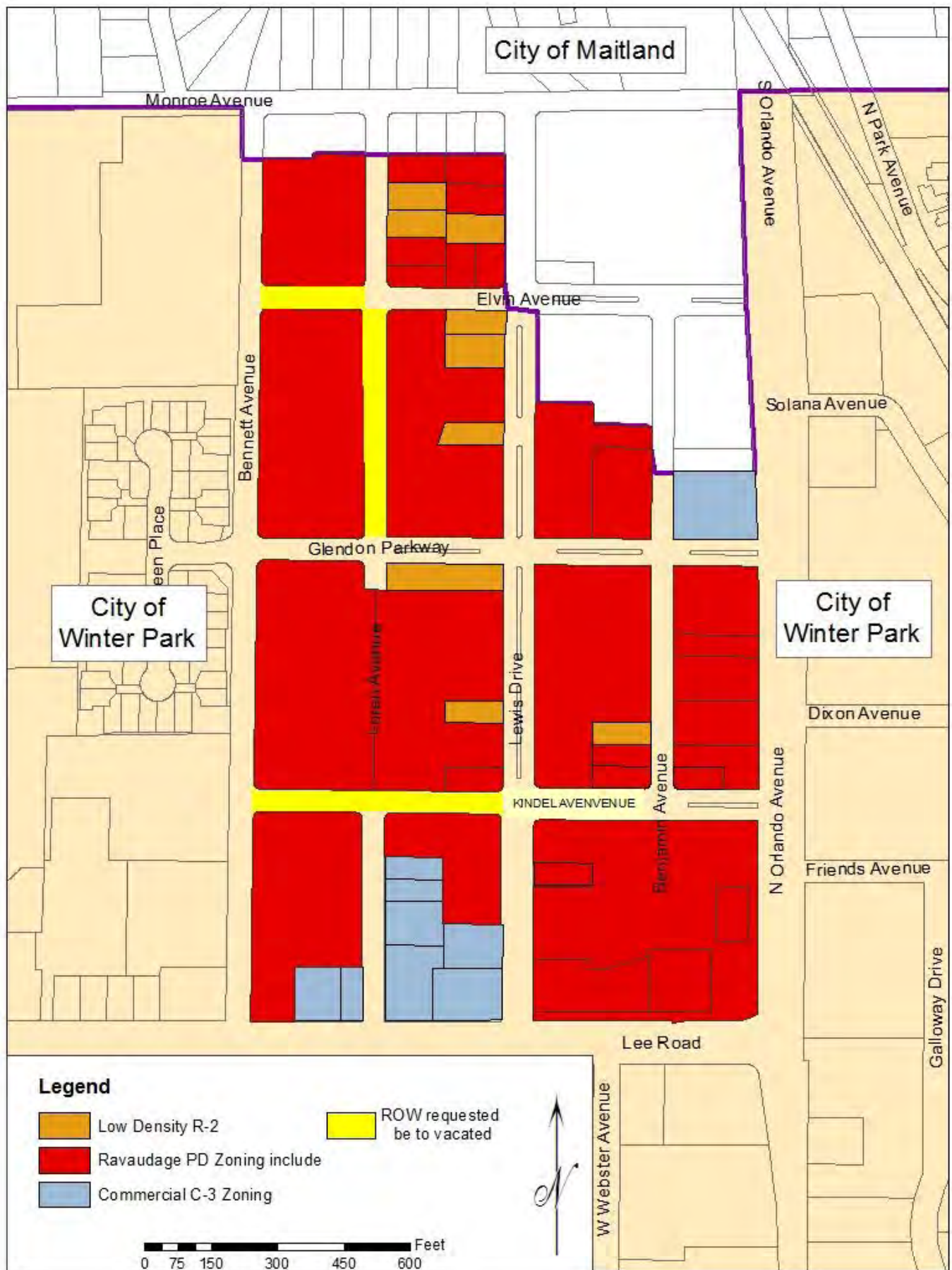
Since that time the City has received objections from one (22% interest) of the owners of properties on Loren Avenue objecting to the abandonment of Kindel (#4) because they do not want to be dead-ended. If that concern is raised at the public hearing then, staff is recommending the deletion of #4 (**Exhibit "C"**) until the issue is remedied.

Staff Recommendation:

The Public Works Department recommends adoption of this Ordinance.

Summary:

The development of the Ravaudage PD contemplates the vacating of certain streets and the construction of other new streets to better form the street pattern for its development. The Ravaudage PD, as approved by **Orange County and the City's annexation agreement recognizes** that these Ordinances would be requested. However, since you cannot bind the actions of a future Commission (County or City) the prior approvals simply say that the government will process the petitions to vacate and does not commit to such actions. The procedure is to advertise the ordinances to effect the vacating, provide mailed notices to the affected parties and hold advertised public hearings, as has been done for this matter.



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AND ABANDONING CERTAIN STREETS WITHIN THE RAVAUDAGE PLANNED DEVELOPMENT AND HOME ACRES SUBDIVISION AREA INCLUDING THE RIGHT-OF-WAY OF ELVIN AVENUE LYING BETWEEN BENNETT AVENUE AND LOREN AVENUE; THE RIGHT-OF-WAY OF LOREN AVENUE LYING BETWEEN ELVIN AVENUE AND GLENDON PARKWAY AND THE RIGHT-OF-WAY OF KINDEL AVENUE LYING BETWEEN BENNETT AVENUE AND LEWIS DRIVE, MORE PARTICULARLY DESCRIBED HEREIN.

WHEREAS, the City Commission desires to foster the development of the Ravaudage Planned Development by vacating and abandoning certain platted streets within the Home Acres subdivision as platted in Plat Book "M", Page 97 of the Public Records of Orange County, Florida, so that an alternate street system can be developed to better serve the economic growth of this area, and

WHEREAS, this Ordinance meets the criteria established by Chapter 166, Florida Statutes and pursuant to and in compliance with law, notice has been given to abutting property owners and to the public by publication in a newspaper of general circulation to notify the public of this proposed Ordinance and of public hearings to be held.

WHEREAS, the city public works department has provided for participation by the public in the process by providing information as requested and has also rendered its recommendations to the City Commission; and

WHEREAS, the Winter Park City Commission has reviewed the proposed Ordinance and held advertised public hearings at which the City Commission has provided for public participation in the process in accordance with the requirements of state law.

NOW, THEREFORE, BE IT ENACTED as follows:

Section 1. The City Commission of the City of Winter Park hereby vacates and abandons the right-of-way of Elvin Avenue lying between Bennett Avenue and Loren Avenue, as more particularly described in Exhibit "A".

Section 2. The City Commission of the City of Winter Park hereby vacates and abandons the right-of-way of Loren Avenue lying between Elvin Avenue and Glendon Parkway, as more particularly described in Exhibit "B".

Section 3. The City Commission of the City of Winter Park hereby vacates and abandons the right-of-way of Kindel Avenue lying between Bennett Avenue and Lewis Drive, as more particularly described in Exhibit "C".

Section 4. All ordinances or portions of ordinances in conflict herewith are hereby repealed.

Section 5. 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, on the _____ day of _____, 2013.

Mayor

ATTEST:

City Clerk

SKETCH OF DESCRIPTION

OF
A PORTION OF ELVIN WAY
(THIS IS NOT A SURVEY)

Exhibit "A"

LEGAL DESCRIPTION:

THAT PORTION OF ELVIN WAY LYING EAST OF BENNETT AVENUE, AND WEST OF LOREN AVENUE, HOME ACRES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK "M", PAGE 97, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF LOT 1, BLOCK "M", HOME ACRES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK "M", PAGE 97, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE RUN N 00°39'48"E ALONG THE WEST LINE OF SAID LOT 1 A DISTANCE OF 40.18 FEET FOR A POINT OF BEGINNING; THENCE CONTINUE N 00°39'48"E A DISTANCE OF 80.01 FEET TO A POINT ON A CURVE CONCAVE NORTHEASTERLY; SAID CURVE HAVING A RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 90°39'48" AND A CHORD BEARING OF S 44°40'06"E; THENCE RUN ALONG THE ARC OF SAID CURVE A DISTANCE OF 23.74 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE RUN N 90°00'00"E ALONG THE NORTH LINE OF AFORESAID ELVIN WAY, A DISTANCE OF 205.44 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 15.00 FEET AND A CENTRAL ANGLE OF 89°54'35"; THENCE RUN ALONG THE ARC OF SAID CURVE A DISTANCE OF 23.54 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF LOREN AVENUE, THENCE RUN S 00°05'24"W ALONG SAID WEST LINE A DISTANCE OF 64.98 FEET; THENCE RUN S 90°00'00"W ALONG THE SOUTH LINE OF AFORESAID ELVIN WAY A DISTANCE OF 221.26 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY, SAID CURVE HAVING A RADIUS OF 15.00 FEET AND A CENTRAL ANGLE OF 89°20'12"; THENCE RUN ALONG THE ARC OF SAID CURVE A DISTANCE OF 23.39 FEET TO THE POINT OF BEGINNING.

CONTAINING 11,937 SQUARE FEET MORE OR LESS.

SURVEYOR'S NOTES:

1. The above described land lies within Section 1, Township 22 South, Range 29 East, Orange County, Florida.
2. Bearings shown hereon are based on the East Line of Bennett Avenue, Home Acres, having a bearing of N 00°39'48" E, (Assumed).
3. See Sketch on Sheet 2 of 2.

SHEET 1 OF 2

HENRICH-LUKE & SWAGGERTY, LLC




surveyors & mappers
165 Middle Street
Suite 1101
Lake Mary, Florida 32746
(407) 647-7346
FAX (407) 647-8097
Licensed Business No. 7276

Job No: E-8974
Date: 4-2-13
Drawn By: MIL
Scale: 1"=100'

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

NOT VALID WITHOUT SHEET 2 OF 2.


Mark I. Luke
Professional Surveyor & Mapper
Florida Registration #5006

Mark I. Luke
Professional Surveyor & Mapper
Florida Registration #5006

SKETCH OF DESCRIPTION
OF
A PORTION OF LOREN AVENUE
(THIS IS NOT A SURVEY)

Exhibit "B"

LEGAL DESCRIPTION:

THAT PORTION OF LOREN AVENUE LYING NORTH OF GLENDON PARKWAY AND SOUTH OF ELVIN WAY HOME ACRES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK "M", PAGE 97, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE POINT OF INTERSECTION OF THE SOUTHERLY EXTENSION OF THE WEST LINE OF BLOCK "L", AND A LINE LYING 30 FEET NORTH OF THE CENTER LINE OF GLENDON PARKWAY, HOME ACRES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK "M", PAGE 97, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE RUN N 90°00'00"W ALONG SAID LINE LYING 30 FEET NORTH OF THE CENTER LINE OF GLENDON PARKWAY A DISTANCE OF 53.80 FEET TO A POINT ON A CURVE CONCAVE WESTERLY; SAID CURVE HAVING A RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 41°43'14", AND A CHORD BEARING N 20°57'01"E, THENCE RUN ALONG THE ARC OF SAID CURVE A DISTANCE OF 10.92 FEET TO THE POINT OF TANGENCY; SAID POINT LYING ON THE WEST LINE OF AFORESAID LOREN AVENUE; THENCE RUN N 00°05'24"E. ALONG SAID WEST LINE A DISTANCE OF 490.00 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 15.00 FEET AND A CENTRAL ANGLE OF 90°05'23"; THENCE RUN ALONG THE ARC OF SAID CURVE A DISTANCE OF 23.59 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF AFORESAID ELVIN WAY; THENCE RUN S 90°00'00"E A DISTANCE OF 80.00 FEET TO A POINT ON A CURVE CONCAVE SOUTHEASTERLY, SAID CURVE HAVING A RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 89°54'37", AND A CHORD BEARING S 45°02'42"W; THENCE RUN ALONG THE ARC OF SAID CURVE A DISTANCE OF 23.54 FEET TO THE POINT OF TANGENCY; THENCE RUN S 00°05'24"W A DISTANCE OF 500.02 FEET TO THE POINT OF BEGINNING.

CONTAINING 28,859 SQUARE FEET MORE OR LESS.

SURVEYOR'S NOTES:

1. The above described land lies within Section 1, Township 22 South, Range 29 East, Orange County, Florida.
2. Bearings shown hereon are based on the East Line of Loren Avenue, Home Acres, having a bearing of S 00°05'24" W, (Assumed).
3. See Sketch on Sheet 2 of 2.

SHEET 1 OF 2

**HENRICH-LUKE &
SWAGGERTY, LLC**




surveyors & mappers
165 Middle Street
Suite 1101
Lake Mary, Florida 32746
(407) 647-7346
FAX (407) 647-8097
Licensed Business No. 7276

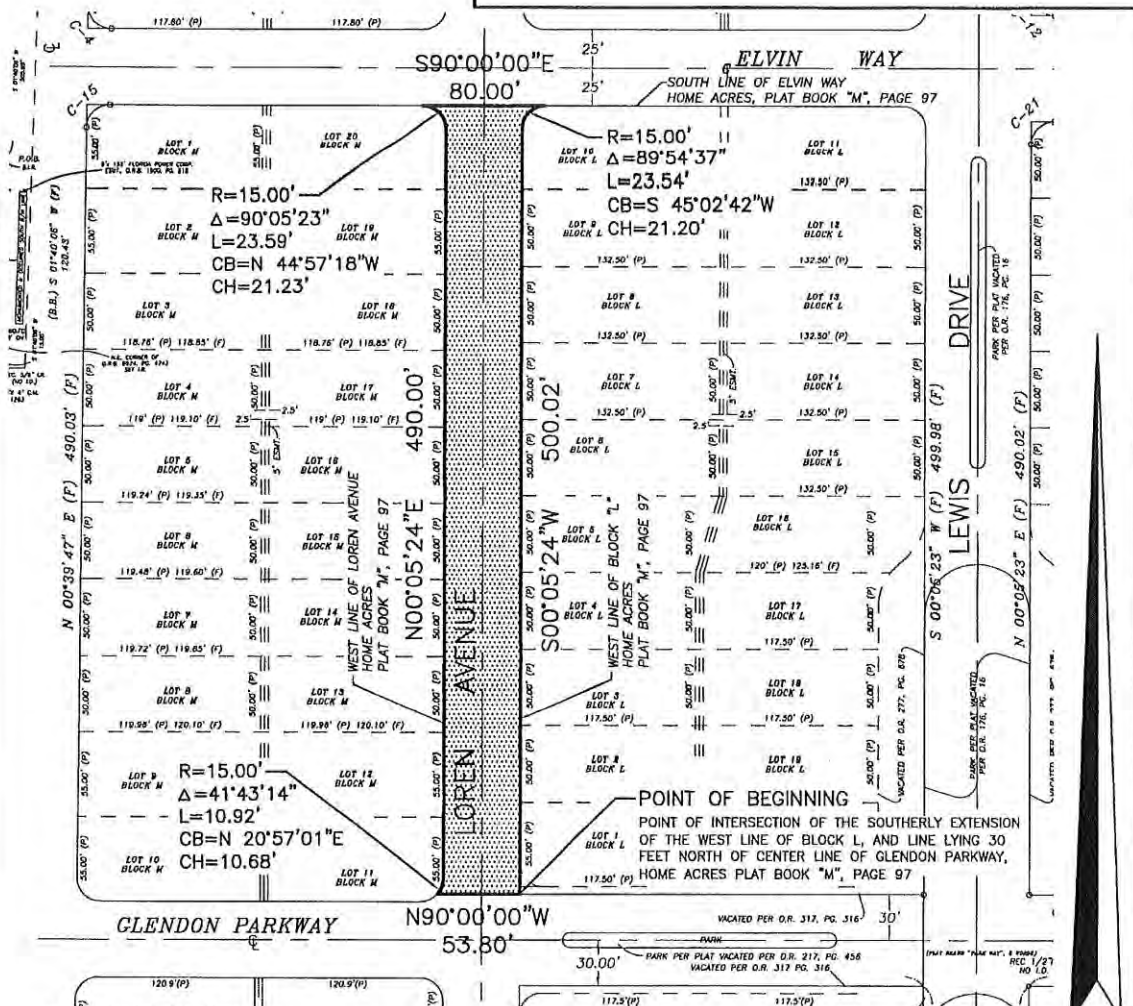
Job No: E-8974
Date: 4-2-13
Drawn By: MIL
Scale: 1"=100'

NOT VALID WITHOUT THE SIGNATURE AND THE
ORIGINAL RAISED SEAL OF A FLORIDA LICENSED
SURVEYOR AND MAPPER.

NOT VALID WITHOUT SHEET 2 OF 2


Mark J. Luke
Professional Surveyor & Mapper
Florida Registration #5006

SKETCH OF DESCRIPTION OF A PORTION OF LOREN AVENUE (THIS IS NOT A SURVEY)



SURVEYOR'S NOTES:

1. The above described land lies within Section 1, Township 22 South, Range 29 East, Orange County, Florida.
2. Bearings shown hereon are based on the East Line of Loren Avenue, Home Acres, having a bearing of S 00°05'24" W, (Assumed).
3. See Legal Description on Sheet 1 of 2.

SHEET 2 OF 2

HENRICH-LUKE & SWAGGERTY, LLC



surveyors & mappers
165 Middle Street
Suite 1101
Lake Mary, Florida 32746
(407) 647-7346
FAX (407) 647-8097
Licensed Business No. 7276

Job No: E-8974
Date: 4-2-13
Drawn By: MIL
Scale: 1"=100'

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

NOT VALID WITHOUT SHEET 1 OF 2

Mark I. Luke
Professional Surveyor & Mapper
Florida Registration #5006

SKETCH OF DESCRIPTION

OF
A PORTION OF KINDEL AVENUE
(THIS IS NOT A SURVEY)

Exhibit "C"

LEGAL DESCRIPTION:

THAT PORTION OF KINDEL AVENUE LYING EAST OF BENNETT AVENUE, AND WEST OF LEWIS DRIVE HOME ACRES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK "M", PAGE 97, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF LOT 13, BLOCK "D", HOME ACRES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK "M", PAGE 97, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE RUN N 00°39'48"E ALONG THE WEST LINE OF SAID LOT 13 A DISTANCE OF 35.74 FEET FOR A POINT OF BEGINNING; THENCE CONTINUE N 00°39'48"E A DISTANCE OF 80.00 FEET TO A POINT ON A CURVE CONCAVE NORTHEASTERLY; SAID CURVE HAVING A RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 90°39'47" AND A CHORD BEARING OF S 44°40'06"E; THENCE RUN ALONG THE ARC OF SAID CURVE A DISTANCE OF 23.74 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE RUN N 90°00'00"E ALONG THE NORTH LINE OF AFORESAID KINDEL AVENUE, A DISTANCE OF 531.85 FEET; TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 15.00 FEET AND A CENTRAL ANGLE OF 89°54'37"; THENCE RUN ALONG THE ARC OF SAID CURVE A DISTANCE OF 23.54 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF LEWIS DRIVE, THENCE RUN S 00°02'43"W ALONG SAID WEST LINE A DISTANCE OF 79.95 FEET TO A POINT ON A CURVE CONCAVE SOUTHWESTERLY; SAID CURVE HAVING A RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 89°55'38" AND A CHORD BEARING OF N 45°02'11"W; THENCE RUN ALONG THE ARC OF SAID CURVE A DISTANCE OF 23.54 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE RUN S 90°00'00"W ALONG THE SOUTH LINE OF AFORESAID KINDEL AVENUE A DISTANCE OF 532.71 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY, SAID CURVE HAVING A RADIUS OF 15.00 FEET AND A CENTRAL ANGLE OF 89°20'13"; THENCE RUN ALONG THE ARC OF SAID CURVE A DISTANCE OF 23.39 FEET TO THE POINT OF BEGINNING.

CONTAINING 28,305 SQUARE FEET MORE OR LESS.

SURVEYOR'S NOTES:

1. The above described land lies within Section 1, Township 22 South, Range 29 East, Orange County, Florida.
2. Bearings shown hereon are based on the East Line of Bennett Avenue, Home Acres, having a bearing of N 00°39'48" E, (Assumed).
3. See Sketch on Sheet 2 of 2.

SHEET 1 OF 2


HENRICH-LUKE & SWAGGERTY, LLC



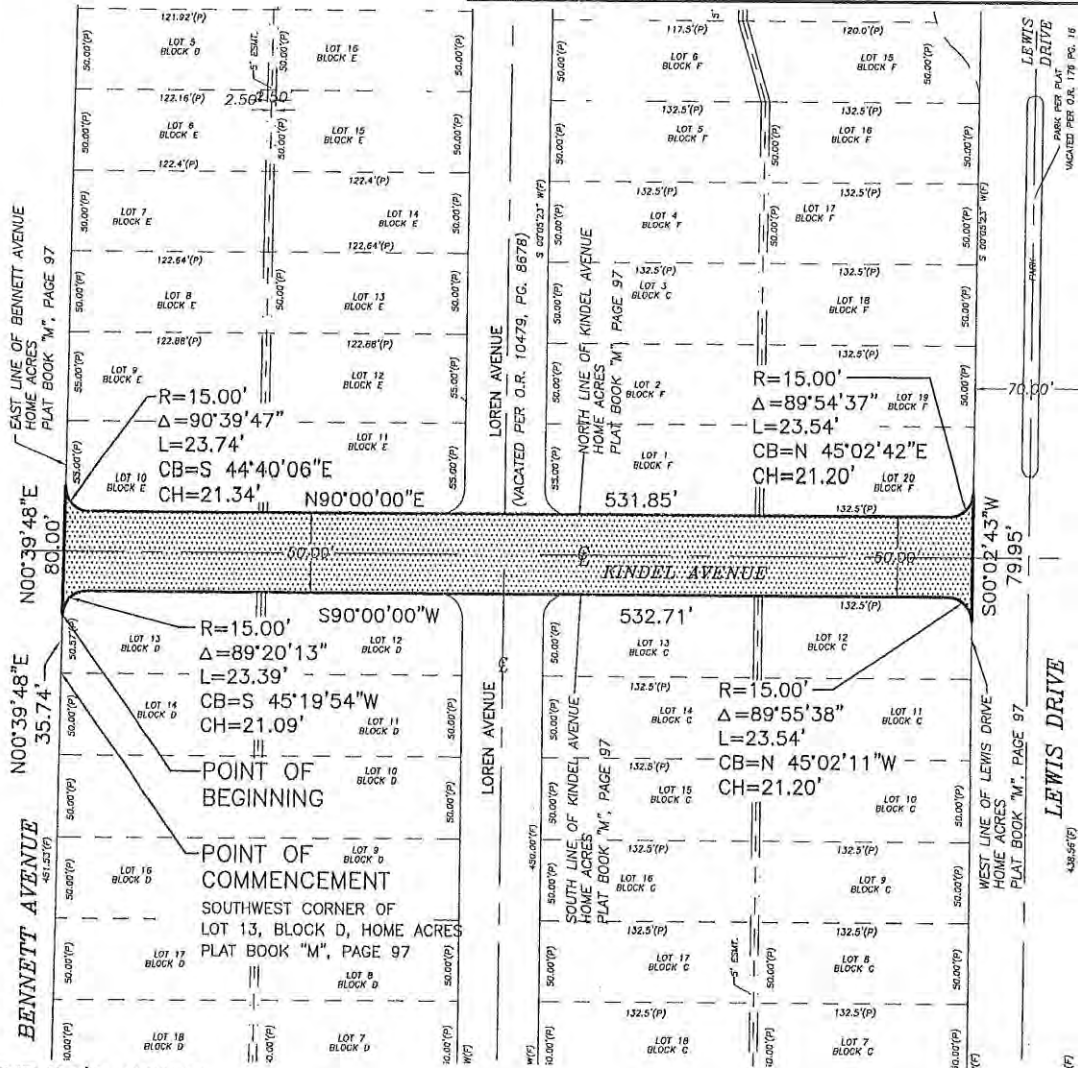
surveyors & mappers
165 Middle Street
Suite 1101
Lake Mary, Florida 32746
(407) 647-7346
FAX (407) 647-8097
Licensed Business No. 7276

Job No: E-8974
Date: 4-2-13
Drawn By: MIL
Scale: 1"=100'

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
NOT VALID WITHOUT SHEET-2 OF 2


Mark I. Luke
Professional Surveyor & Mapper
Florida Registration #5006

SKETCH OF DESCRIPTION OF A PORTION OF KINDEL AVENUE (THIS IS NOT A SURVEY)



SURVEYOR'S NOTES:

1. The above described land lies within Section 1, Township 22 South, Range 29 East, Orange County, Florida.
2. Bearings shown hereon are based on the East Line of Bennett Avenue, Home Acres, having a bearing of N 00°39'48" E, (Assumed).
3. See Legal Description on Sheet 1 of 2.

SHEET 2 OF 2

**HENRICH-LUKE &
SWAGGERTY, LLC**



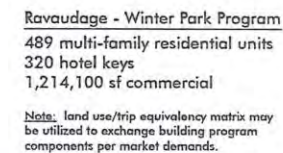
surveyors & mappers
165 Middle Street
Suite 1101
Loka Mary, Florida 32746
(407) 647-7346
FAX (407) 647-8097
Licensed Business No. 7276

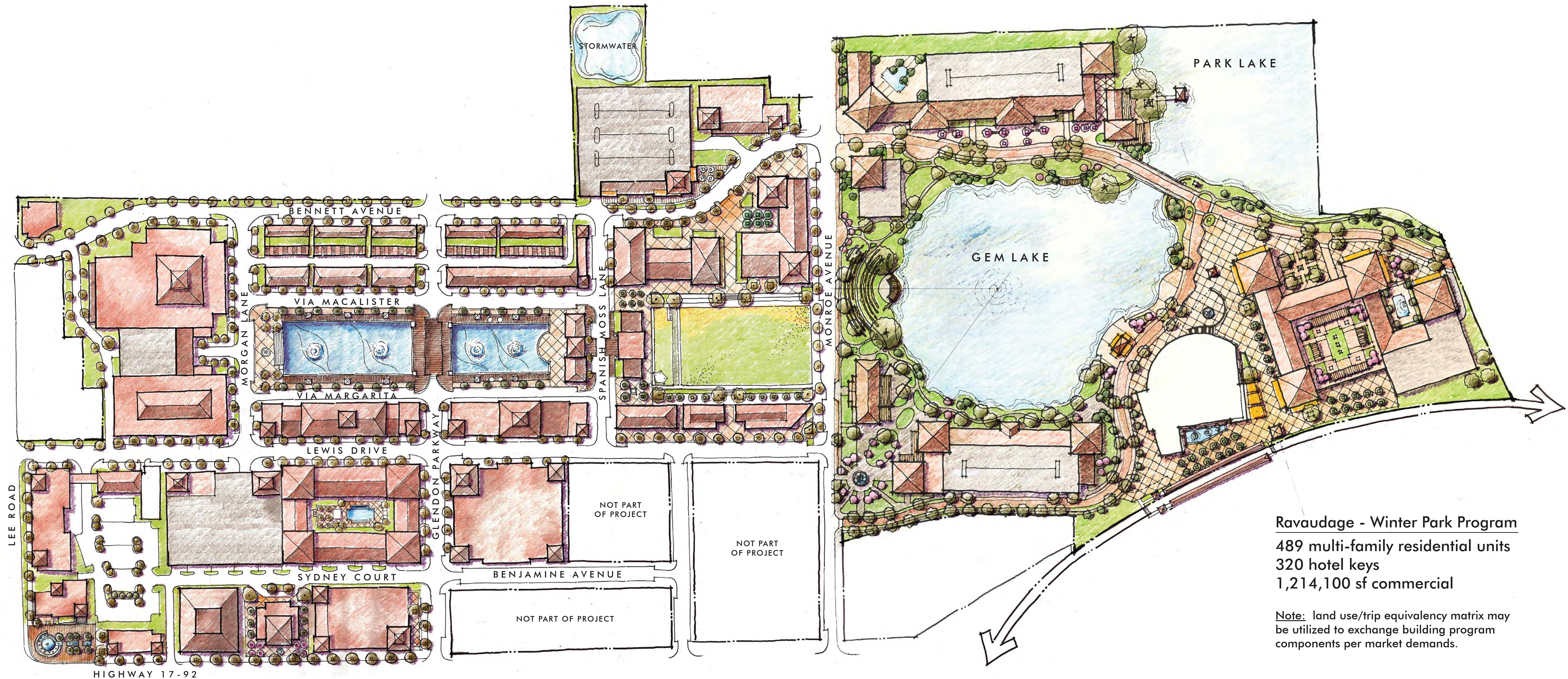
Job No: E-8974
Date: 4-2-13
Drawn By: MIL
Scale: 1"=100'

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

NOT VALID WITHOUT SHEET 1-OF 2

Mark I. Luke
Professional Surveyor & Mapper
Florida Registration #5006





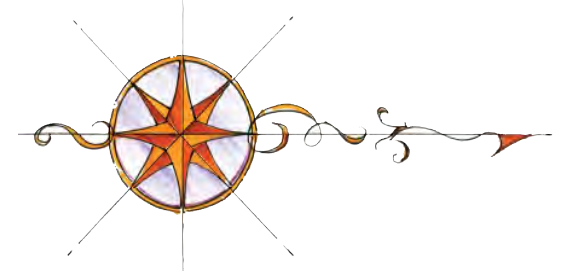
Ravaudage - Winter Park Program

489 multi-family residential units
320 hotel keys
1,214,100 sf commercial

Note: land use/trip equivalency matrix may be utilized to exchange building program components per market demands.

Ravaudage - Maitland Program

1,140 multi-family residential units
(market rate/senior living)
64,700 sf commercial
40,000 sf performing arts center
(1,200 seats)
Proposed SunRail Commuter Rail Station
(future phase)
1,500 seat amphitheater



0' 120' 240'

Scale: 1" = 120'-0"

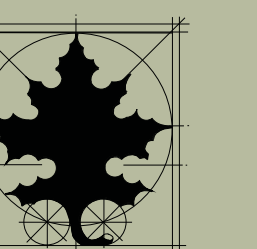
SYDGAN
CORPORATION

May 2013

RAVAUDAGE

overall master plan
winter park and maitland, florida

cph



DIX LATHROP
AND ASSOCIATES, INC.



city commission public hearing

item type	Public Hearing	meeting date	June 10, 2013
prepared by department division	Jeff Briggs Planning Department	approved by	<input checked="" type="checkbox"/> City Manager <input checked="" type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	Planning and Zoning Board	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A	5-0 final vote

Subject: Ordinance to Establish City Zoning on the Non-Ravaudage Properties in the Home Acres Annexation area. (Second Reading)

On November 12, 2012 the City of Winter Park annexed the 51+ acres of the Ravaudage /Home Acres area. These two ordinances establish the low density residential or commercial FLU designations on the City's Comprehensive Plan maps and the low density residential (R-2) zoning and commercial (C-3) zoning on the City's official zoning map to match what these properties were designated in Orange County. The City Commission adopted these Ordinances on first reading on May 13th with no input or objection from any of the property owners, who were all notified by letter of that public hearing. The ordinance is unchanged.

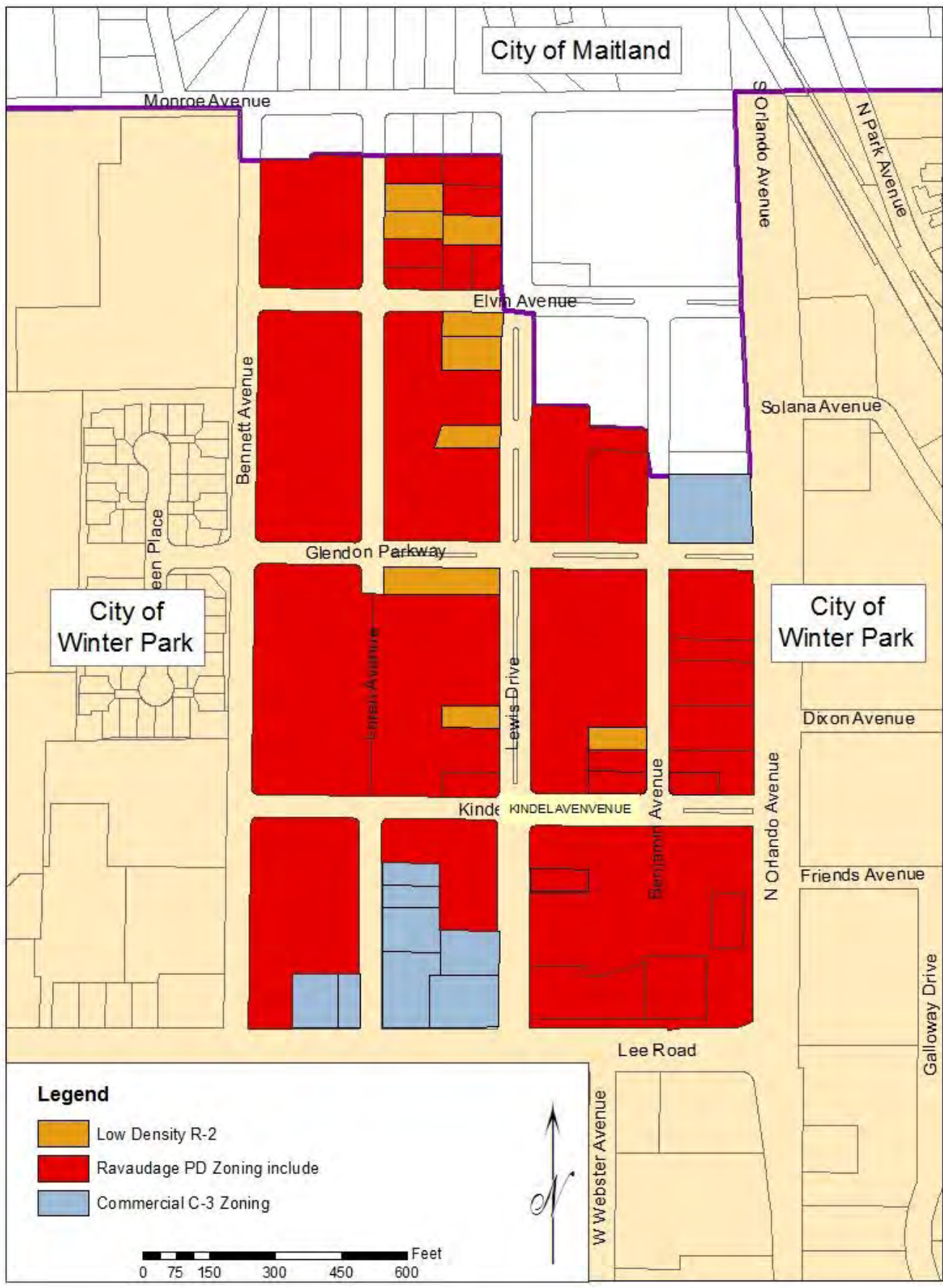
Planning and Zoning Board Recommendation:

Motion made by Mr. Sacha, seconded by Mr. Gottfried to amend the Comprehensive Plan future land use map so as to establish low density residential and commercial land use designations on the recently annexed properties at 970, 1000, 1008, 1306 and 1308 Loren Avenue; 933, 1101, 1123, 1211, 1253 and 1313 Lewis Drive; 1141 Benjamin Avenue; 600, 1449, 1471, 1501 and 1531 Lee Road and at 1175 N. Orlando Avenue. Motion carried unanimously with a 5-0 vote.

Motion made by Mr. Sacha, seconded by Mr. Gottfried to amend the Official Zoning Map so as to establish Commercial (C-3) district zoning and Low Density Residential (R-2) district zoning on the recently annexed properties at 970, 1000, 1008, 1306 and 1308 Loren Avenue; 933, 1101, 1123, 1211, 1253 and 1313 Lewis Drive; 1141 Benjamin Avenue; 600, 1449, 1471, 1501 and 1531 Lee Road and at 1175 N. Orlando Avenue. Motion carried unanimously with a 5-0 vote.

Summary:

This is for the 17 properties that are not part of the Ravaudage PD. They are getting the same zoning they now have in Orange County. These ordinances do not include any of the properties that were part of the Ravaudage Planned Development approval of May 24, 2011. The annexation agreement approved by the City Commission on April 9, 2012 provides that the Ravaudage PD properties will be governed by the Orange County PD zoning and land development code. So those properties remain with their Orange County PD future land use and Orange County PD zoning.



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" FUTURE LAND USE MAP SO AS TO ESTABLISH LOW DENSITY RESIDENTIAL AND COMMERCIAL FUTURE LAND USE DESIGNATIONS TO THE RECENTLY ANNEXED PROPERTIES AT 970, 1000, 1008, 1306 AND 1308 LOREN AVENUE; 933, 1101, 1123, 1211, 1253 AND 1313 LEWIS DRIVE; 1141 BENJAMIN AVENUE; 600, 1449, 1471, 1501 AND 1531 LEE ROAD AND AT 1175 N. ORLANDO AVENUE; MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, the aforementioned properties have been annexed into the City of Winter Park, and

WHEREAS, the City Commission intends to amend its Comprehensive Plan to establish a municipal Comprehensive Plan future land use map designation identical to the future land use designations that exist on these properties when they were part of unincorporated Orange County, as a small scale amendment to the Comprehensive Plan, and

WHEREAS, the amendment of the Comprehensive Plan maps and the establishment of a future land use designation meets the criteria established by Chapter 163, Florida Statutes and Rule 9J-5, Florida Administrative Code and pursuant to and in compliance with law, notice has been given to Orange County and to the public by publication in a newspaper of general circulation to notify the public of this proposed Ordinance and of public hearings to be held.

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

SECTION 1. That Chapter 58 "Land Development Code", Article I, "Comprehensive Plan" future land use plan map is hereby amended so as to establish a Commercial future land use designation on the annexed properties at 970, 1000, 1008 Loren Avenue; 933 Lewis Drive; at 1175 N. Orlando Avenue; and at 600, 1449, 1471, 1501, 1531 Lee Road and that all other maps in the Comprehensive Plan shall also be amended to reflect the addition and annexation of this property into the City of Winter Park, said properties being more particularly described as follows:

970 Loren Avenue	Property Tax ID# 01-22-29-3712-03-170
1000 Loren Avenue	Property Tax ID# 01-22-29-3712-03-160
1008 Loren Avenue	Property Tax ID# 01-22-29-3712-03-150
933 Lewis Drive	Property Tax ID# 01-22-29-3712-03-060

1175 N. Orlando Avenue Property Tax ID# 01-22-29-3712-10-011

600 Lee Road	Property Tax ID# 02-22-29-0000-00-042
1449 Lee Road	Property Tax ID# 01-22-29-3712-03-030
1471 Lee Road	Property Tax ID# 01-22-29-3712-03-010
1501 Lee Road	Property Tax ID# 01-22-29-3712-04-050
1531 Lee Road	Property Tax ID# 01-22-29-3712-04-030

SECTION 2. That Chapter 58 "Land Development Code", Article I, "Comprehensive Plan" future land use plan map is hereby amended so as to establish a Low Density Residential future land use designation on the annexed properties at 1306 and 1308 Loren Avenue, at 1101, 1123, 1211, 1253, 1313 Lewis Drive;; and at 1141 Benjamin Avenue and that all other maps in the Comprehensive Plan shall also be amended to reflect the addition and annexation of this property into the City of Winter Park, said properties being more particularly described as follows:

1306 Loren Avenue	Property Tax ID# 01-22-29-3712-16-041
1308 Loren Avenue	Property Tax ID# 01-22-29-3712-16-051
1101 Lewis Drive	Property Tax ID# 01-22-29-3712-06-170
1123 Lewis Drive	Property Tax ID# 01-22-29-3712-06-100
1211 Lewis Drive	Property Tax ID# 01-22-29-3712-12-160
1253 Lewis Drive	Property Tax ID# 01-22-29-3712-12-110
1313 Lewis Drive	Property Tax ID# 01-22-29-3712-16-131
1141 Benjamin Ave.	Property Tax ID# 01-22-29-3712-07-180

SECTION 3. This ordinance shall become effective 31 days after adoption but shall not become effective if this Ordinance is challenged pursuant to Florida Statutes Section 163.3187 within 30 days after adoption. In that case it will not become effective until the State Land Planning Agency or the Administration Commission, respectively, issues a Final Order determining the Ordinance is in compliance with Chapter 163, Florida Statutes.

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 _____, 2013.

Mayor

Attest:

City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO ESTABLISH COMMERCIAL (C-3) DISTRICT ZONING AND LOW DENSITY RESIDENTIAL (R-2) DISTRICT ZONING ON THE RECENTLY ANNEXED PROPERTIES AT 970, 1000, 1008, 1306 AND 1308 LOREN AVENUE; 933, 1101, 1123, 1211, 1253 AND 1313 LEWIS DRIVE; 1141 BENJAMIN AVENUE; 600, 1449, 1471, 1501 AND 1531 LEE ROAD AND AT 1175 N. ORLANDO AVENUE; MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the properties more particularly described herein have in compliance with Chapter 171, Florida Statutes, been annexed into the City of Winter Park, and

WHEREAS, the City Commission intends to establish a municipal zoning designation on this property in compliance to correspond with the establishment of a similar Comprehensive Plan future land use designation for said property, and

WHEREAS, the establishment of municipal zoning meets the criteria established by Chapter 166, Florida Statutes and pursuant to and in compliance with law, notice has been given to Orange County and to the public by publication in a newspaper of general circulation to notify the public of this proposed Ordinance and of public hearings to be held.

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

SECTION 1. That Chapter 58 "Land Development Code", Article III, "Zoning" and the Official Zoning Map is hereby amended so as to establish Commercial (C-3) district zoning on the annexed properties at 970, 1000, 1008 Loren Avenue; at 933 Lewis Drive at 1175 N. Orlando Avenue; and at 600, 1449, 1471, 1501, 1531 Lee Road, more particularly described as follows:

970 Loren Avenue	Property Tax ID# 01-22-29-3712-03-170
1000 Loren Avenue	Property Tax ID# 01-22-29-3712-03-160
1008 Loren Avenue	Property Tax ID# 01-22-29-3712-03-150
933 Lewis Drive	Property Tax ID# 01-22-29-3712-03-060
1175 N. Orlando Avenue	Property Tax ID# 01-22-29-3712-10-011
600 Lee Road	Property Tax ID# 02-22-29-0000-00-042
1449 Lee Road	Property Tax ID# 01-22-29-3712-03-030
1471 Lee Road	Property Tax ID# 01-22-29-3712-03-010
1501 Lee Road	Property Tax ID# 01-22-29-3712-04-050

1531 Lee Road

Property Tax ID# 01-22-29-3712-04-030

SECTION 2. That Chapter 58 "Land Development Code", Article III, "Zoning" and the Official Zoning Map is hereby amended so as to establish Low Density Residential (R-2) district zoning on the annexed properties at 1306 and 1308 Loren Avenue; at 1101, 1123, 1211, 1253, 1313 Lewis Drive;; and at 1141 Benjamin Avenue, more particularly described as follows:

1306 Loren Avenue	Property Tax ID# 01-22-29-3712-16-041
1308 Loren Avenue	Property Tax ID# 01-22-29-3712-16-051

1101 Lewis Drive	Property Tax ID# 01-22-29-3712-06-170
1123 Lewis Drive	Property Tax ID# 01-22-29-3712-06-100
1211 Lewis Drive	Property Tax ID# 01-22-29-3712-12-160
1253 Lewis Drive	Property Tax ID# 01-22-29-3712-12-110
1313 Lewis Drive	Property Tax ID# 01-22-29-3712-16-131

1141 Benjamin Ave.	Property Tax ID# 01-22-29-3712-07-180
--------------------	---------------------------------------

SECTION 3. This Ordinance shall become effective upon the effective date of Ordinance _____. If Ordinance _____ does not become effective, then this Ordinance shall be null and void.

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 _____, 2013.

Mayor

Attest:

City Clerk



CITY OF WINTER PARK Planning & Zoning Board

Regular Meeting
City Hall, Commission Chambers

May 7, 2013
7:00 p.m.

MINUTES

Acting Chair Johnston called the meeting to order at 7:00 p.m. in the Commission Chambers of City Hall. Present: James Johnston, Randall Slocum, Tom Sacha, Peter Gottfried, and Peter Weldon. Absent: Sarah Whiting, Drew Krecicki, Robert Hahn. Staff: Planning Director Jeffrey Briggs and Recording Secretary Lisa Smith.

Approval of minutes – April 2, 2013

Motion made by Mr. Sacha and seconded by Mr. Weldon, to approve the April, 2013, meeting minutes. Motion carried unanimously with a 5-0 vote.

PUBLIC HEARINGS

REQUEST OF THE CITY OF WINTER PARK TO: AMEND THE COMPREHENSIVE PLAN FUTURE LAND USE MAP SO AS TO ESTABLISH LOW DENSITY RESIDENTIAL AND COMMERCIAL FUTURE LAND USE DESIGNATIONS TO THE RECENTLY ANNEXED PROPERTIES AT 970, 1000, 1008, 1306 AND 1308 LOREN AVENUE; 933, 1101, 1123, 1211, 1253 AND 1313 LEWIS DRIVE; 1141 BENJAMIN AVENUE; 600, 1449, 1471, 1501 AND 1531 LEE ROAD AND AT 1175 N. ORLANDO AVENUE.

REQUEST OF THE CITY OF WINTER PARK TO: AMEND CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO ESTABLISH COMMERCIAL (C-3) DISTRICT ZONING AND LOW DENSITY RESIDENTIAL (R-2) DISTRICT ZONING ON THE RECENTLY ANNEXED PROPERTIES AT 970, 1000, 1008, 1306 AND 1308 LOREN AVENUE; 933, 1101, 1123, 1211, 1253 AND 1313 LEWIS DRIVE; 1141 BENJAMIN AVENUE; 600, 1449, 1471, 1501 AND 1531 LEE ROAD AND AT 1175 N. ORLANDO AVENUE; 600, 1449, 1471, 1501 AND 1531 LEE ROAD AND AT 1175 N. ORLANDO AVENUE.

Planning Director Jeffrey Briggs presented the staff report and explained that on November 12, 2012, the City of Winter Park annexed the 51+ acres of the Ravaudage /Home Acres area. These two ordinances establish the same low density residential or commercial FLU designations on the City's Comprehensive Plan maps and the low density residential (R-2) zoning and commercial (C-3) zoning on the City's official zoning map as now exists for these properties in Orange County. Thus, there is no change. The only change is that they will be under the terms of the Winter Park land development code versus Orange County's. This is customary for the City to establish its FLU and Zoning to match what was in place in Orange County. These ordinances do not include any of the properties that were part of the Ravaudage Planned Development approval of May 24, 2011. The annexation agreement approved by the City Commission on April 9, 2012 in Section 5 provides that the Ravaudage PD properties will be governed by the Orange County PD zoning and land development code. So those properties remain with their Orange County PD future land use and Orange County PD zoning. Staff recommended approval. Mr. Briggs responded to Board member questions and concerns. He indicated that notices were mailed to every property owner involved.

No one wished to speak concerning the request. Public Hearing closed.

The Board members concurred that this was largely a house keeping item to complete the transion of these properties into the City of Winter Park.

Motion made by Mr. Sacha, seconded by Mr. Gottfried to amend the comprehensive plan future land use map so as to establish low density residential and commercial land use designations on the recently annexed properties at 970, 1000, 1008, 1306 and 1308 Loren Avenue; 933, 1101, 1123, 1211, 1253 and 1313 Lewis Drive; 1141 Benjamin Avenue; 600, 1449, 1471, 1501 and 1531 Lee Road and at 1175 N. Orlando Avenue. Motion carried unanimously with a 5-0 vote.

Motion made by Mr. Sacha, seconded by Mr. Gottfried to amend chapter 58 "Land Development Code", Article III, "Zoning" and the Official Zoning Map so as to establish Commercial (C-3) district zoning and Low Density Residential (R-2) district zoning on the recently annexed properties at 970, 1000, 1008, 1306 and 1308 Loren Avenue; 933, 1101, 1123, 1211, 1253 and 1313 Lewis Drive; 1141 Benjamin Avenue; 600, 1449, 1471, 1501 and 1531 Lee Road and at 1175 N. Orlando Avenue. Motion carried unanimously with a 5-0 vote.



city commission public hearing

item type	Public Hearing	meeting date	June 10, 2013
prepared by department division	Jeff Briggs Planning Department	approved by	<input checked="" type="checkbox"/> City Manager <input checked="" type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	Planning and Zoning Board	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A	5-0 final vote

Subject: Request of the Jewett Clinic for a Surgery Center building at 1285 Orange.

The Jewett Clinic is seeking approval to build a new two-story medical office and surgery center building and is requesting:

1. Conditional Use approval for that 25,000 square foot medical office and surgery center building at 1235/1245 Orange Avenue on the corner of Oak Place; and
2. Change from the existing Multi-Family Residential (R-3) designation to Parking Lot (PL) zoning for the properties along Balch Avenue and Oak Place that provide the required parking for the Jewett Clinic campus.

Planning and Zoning Board Recommendation:

Motion made by Mr. Gottfried, seconded by Mr. Sacha to approve the conditional use request to construct a two-story 25,000 square foot medical office building on the properties at 1235 and 1245 Orange and the south 10 feet of 955 Oak Place. Approval is with the provision that the off-site parking lot buffer wall be eliminated along Minnesota Avenue in lieu of upgraded landscaping and trees, as determined by staff, for both the new and existing off-site parking lots. Motion carried unanimously with a 5-0 vote.

Motion made by Mr. Gottfried, seconded by Mr. Sacha to amend the comprehensive plan future land use designations of medium density residential to parking lot on the rear of the property at 1285 Orange Avenue and on 951 and 955 Oak Place and to office future land use on the South 10 feet of 955 Oak Place. Motion carried unanimously with a 5-0 vote.

Motion made by Mr. Gottfried, seconded by Mr. Sacha to amend the official zoning map so as to change the medium density multi-family residential (R-3) district zoning to parking lot (PL) district on the rear of the property at 1285 Orange Avenue and on 951 and 955 Oak Place and to Office (O-1) district on the south 10 feet of 955 Oak Place. Motion carried unanimously with a 5-0 vote.

Summary:

Project Plans and Parking: The Jewett Clinic desires to expand their medical facilities on the campus at 1285 Orange Avenue. The site plan (attached) shows a prospective new two story medical office building to include an ambulatory surgery center on the corner of Oak Place. The companion Comp. Plan future land use map and rezoning request is to provide the parking spaces needed for that new medical building project. The site plan and conceptual architectural elevation plan shows the new two story building at the corner meeting the 10 foot front building setback which is exactly in line with the current Jewett Clinic building. To the rear is a new parking lot area along Kelly Place and Oak Place for part of the new required parking.

You will recall on last month's agenda, the approval granted by the City Commission for the zoning change from R-3 to Parking Lot (PL) zoning on the properties at 930, 950 and 960 Minnesota Avenues in order to use these properties for an expanded off-site parking lot for these prospective building expansions on the Jewett Clinic campus. The final design of that off-site parking lot is now complete and the yield is 67 spaces. Together with the 29 new parking spaces created on-site and the 4 on-street parallel parking spaces created on Oak Place yields a total of 100 new parking spaces.

Parking Needs: The parking requirements for a surgery center are much different than for typical medical office space. That is due to the size of the operating rooms, hallway sizes for gurneys, recovery rooms, etc. In 1988, the Planning Board and City Commission looked at this parking issue, in depth when the Winter Park Ambulatory Surgery Center was built at 1000 S. Orlando Avenue (just north of McDonald's). It was determined at that time that a parking requirement of one space for each 350 sq. ft. of building was adequate and that facility did function very well with that amount of parking provided. In this case, we have some ancillary use of this building for more traditional medical (pain management) office space and waiting room area (one space per 200 sq. ft.) but the vast majority of the space is the surgery center including recovery area (one space per 350). So the staff has suggested that they aim for a one space for 250 square feet allotment or 100 spaces which they are achieving. It should be more than sufficient.

Parking Lot design; landscape and wall plan: At the previous P&Z meeting there was considerable discussion about night lighting in the new parking lot and the effect on the neighbors. The neighbors have expressed that night lighting is something they desire for security and safety. The Police Dept. similarly also recommends night security lighting so they can see into the parking lot and the public can see when driving by. Thus, the design of the new parking lot at Minnesota/Kelly Place has night lighting with box type fixtures controlling light spillage. The existing parking lot on the opposite corner has night lighting via street light (cobra head) type fixtures.

The neighbors have also expressed some concern to staff about the proposed buffer wall along Minnesota Avenue. Again it is a security concern that the wall provides a hiding place. The neighbors have asked the City staff if the wall can be removed from the plans. Of course, the staff thinks the YMCA wall template has worked out to be a great buffer for a parking lot. But staff admits it will look unusual to have a wall for the new parking lot but none for the existing parking lot on the opposite corner of Minnesota and Kelly Place from each other. The applicant will do whatever the City decides. However, they have offered to upgrade the

landscape standard for the existing lot (new hedges plus the podocarpus trees) if the wall requirement is removed. The staff has come around to that position as well.

The parking lot plans do save some of the nicest trees on the two redeveloped properties. All of the trees to be removed are older laurel oaks in poor condition and one pine tree. There are four nice live oak trees, one nice laurel oak and a pine tree being saved that are on the boundaries of the development. New trees will be added as part of the landscape package as well within the interior of the new parking lots. Staff is also requesting two new oaks in street tree locations where they are needed.

Summary: It is very good to see the commitment of the Jewett Clinic to grow in place versus relocation. There will be ample parking for the building uses as proposed and the new parking lots are designed to meet code and be sensitive to the landscaping and tree preservation desires of the City.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO CHANGE THE FUTURE LAND USE DESIGNATIONS OF MEDIUM DENSITY RESIDENTIAL TO PARKING LOT FUTURE LAND USE ON THE REAR OF THE PROPERTY AT 1285 ORANGE AVENUE AND ON 951 AND 955 OAK PLACE AND TO OFFICE FUTURE LAND USE ON THE SOUTH 10 FEET OF 955 OAK PLACE, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, the Winter Park City Commission adopted its Comprehensive Plan on February 23, 2009 via Ordinance 2762-09, and

WHEREAS, the owner of the property more particularly described herein has requested an amendment to the Comprehensive Plan for this property, and such amendment meets the criteria established by Chapter 166, Florida Statutes and pursuant to and in compliance with law, notice has been given to Orange County and to the public by publication in a newspaper of general circulation to notify the public of this proposed Ordinance and of public hearings to be held.

WHEREAS, the Winter Park Planning and Zoning Commission, acting as the designated Local Planning Agency, has reviewed and recommended adoption of the proposed Comprehensive Plan amendment, having held an advertised public hearing on May 7, 2013, provided for participation by the public in the process and rendered its recommendations to the City Commission; and

WHEREAS, the Winter Park City Commission has reviewed the proposed Comprehensive Plan amendment and held advertised public hearings and provided for public participation in the process in accordance with the requirements of state law and the procedures adopted for public participation in the planning process.

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

SECTION 1. That Chapter 58 "Land Development Code", Article I, "Comprehensive Plan" future land use plan map is hereby amended so as to change the future land use map designation of medium density multi-family residential and to parking lot on the properties at the rear of 1285 Orange Avenue; on 951 and 955 Oak Place and to Office future land use on the south 10 feet of 955 Oak Place, being more particularly described as follows:

To Parking Lot future land use: Lots 39 and 40 and Lots 52 through 60, (less the south 10 feet of Lots 52 and 53), Palmetto Addition as recorded in Plat Book "E", Page 14 of the Public Records of Orange County, Florida.

To Office future land use: The south 10 feet of Lots 52 and 53, Palmetto Addition as recorded in Plat Book "E", Page 14 of the Public Records of Orange County, Florida.

SECTION 2. 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 3. Conflicts. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 4. Effective Date. This Ordinance shall become effective 31 days after adoption. If challenged within 30 days after adoption, this Ordinance may not become effective until the state land planning agency or the Administrative Commission, respectively, issues a final order determining that this Ordinance is in compliance.

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 _____, 2013.

Mayor

Attest:

City Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL (R-3) DISTRICT ZONING TO PARKING LOT (PL) DISTRICT ON THE REAR OF THE PROPERTY AT 1285 ORANGE AVENUE AND ON 951 AND 955 OAK PLACE AND TO OFFICE (O-1) DISTRICT ON THE SOUTH 10 FEET OF 955 OAK PLACE, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the owner of the property more particularly described herein has requested rezoning in compliance with the Comprehensive Plan, and the requested zoning will achieve conformance with the Comprehensive Plan future land use designation for this property, and such municipal zoning meets the criteria established by Chapter 166, Florida Statutes and pursuant to and in compliance with law, notice has been given to Orange County and to the public by publication in a newspaper of general circulation to notify the public of this proposed Ordinance and of public hearings to be held; and

WHEREAS, the Planning and Zoning Board and City Staff of the City of Winter Park have recommended approval of this Ordinance at their May 7, 2013 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 Comprehensive Plan and that sufficient, competent, and substantial evidence supports the zoning change set forth hereunder; and

WHEREAS, the City Commission hereby finds 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 CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, AS FOLLOWS:

SECTION 1. That Chapter 58 "Land Development Code", Article III, "Zoning" and the Official Zoning Map are hereby amended so as to change the existing zoning designation of medium density multi-family residential (R-3) district to parking lot (PL) district zoning at the rear of 1285 Orange Avenue; on 951 and 955 Oak Place and to Office future land use on the south 10 feet of 955 Oak Place, being more particularly described as follows:

To Parking Lot (PL) zoning: Lots 39 and 40 and Lots 52 through 60, (less the south 10 feet of Lots 52 and 53), Palmetto Addition as recorded in Plat Book "E", Page 14 of the Public Records of Orange County, Florida.

To Office (O-1) zoning: The south 10 feet of Lots 52 and 53, Palmetto Addition as recorded in Plat Book "E", Page 14 of the Public Records of Orange County, Florida.

SECTION 2. 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 3. Conflicts. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

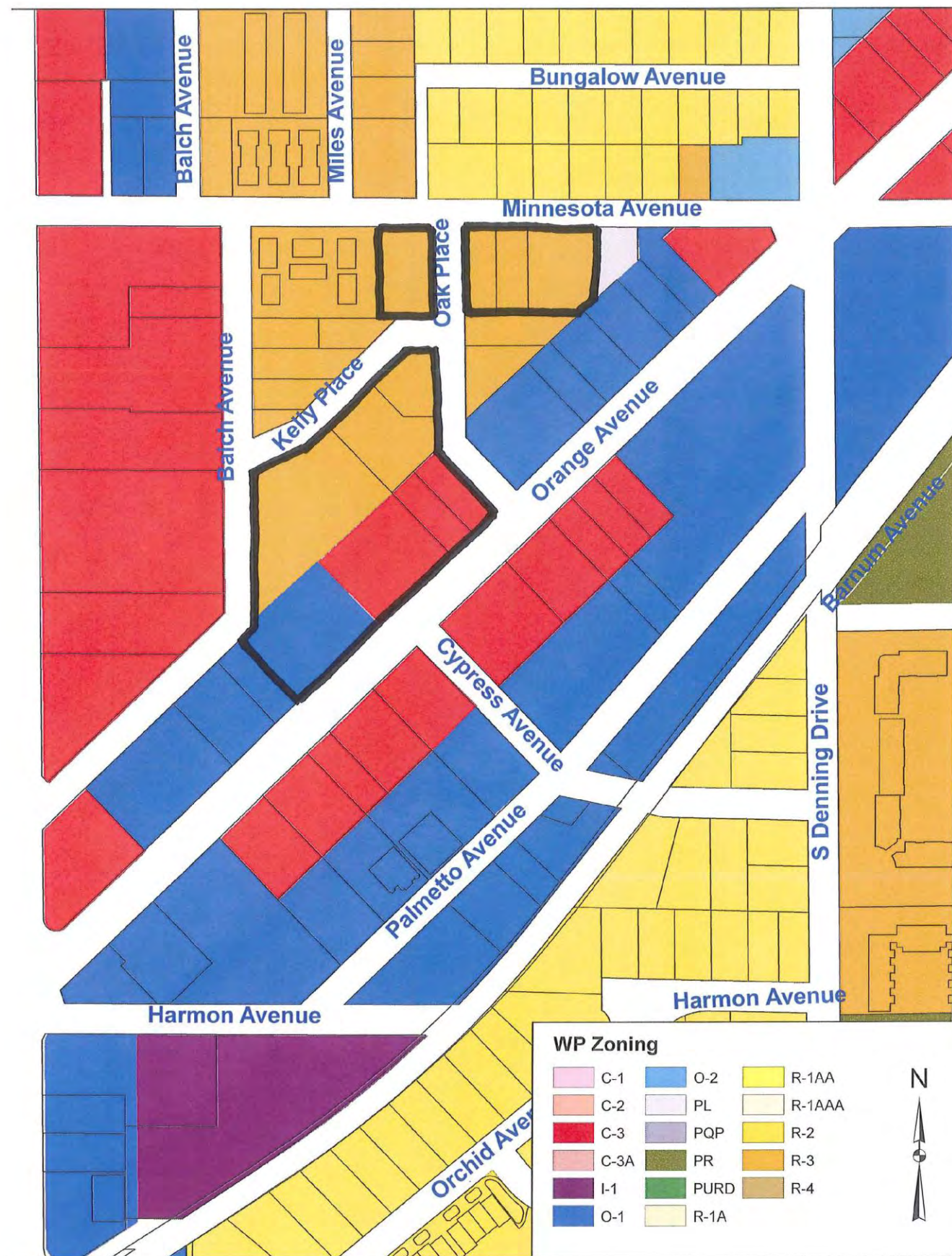
SECTION 4. Effective Date. This Ordinance shall become effective upon the effective date of Ordinance _____. If Ordinance _____ or if either Section of that Ordinance does not become effective, then that Section or this Ordinance shall be null and void.

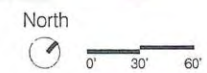
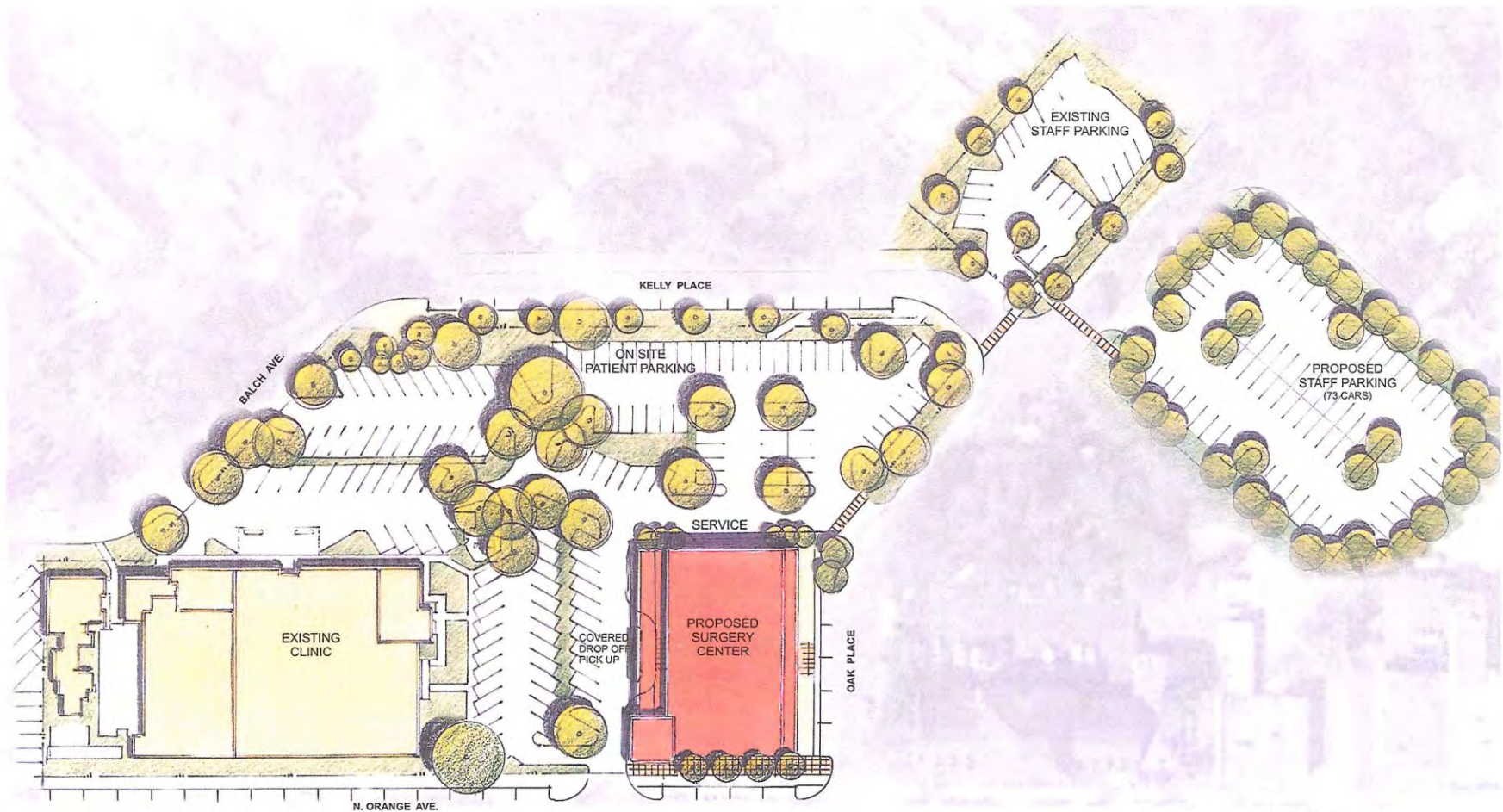
ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this _____ day of _____, 2013.

Mayor

Attest:

City Clerk







BONNETT design group, llc
landscape architecture
community planning
FL 1C 000011

151 Circle Drive
Blomfield, FL 32721
407-221-1501 ext. 400
407-328-5511 fax

Klima
Weeks
CIVIL ENGINEERING

395 Douglas Avenue, Ste 210
Altamonte Springs, FL 32714
Telephone: 407-470-8171
Facsimile: 407-470-8171
Certificate of Authorization No. 22

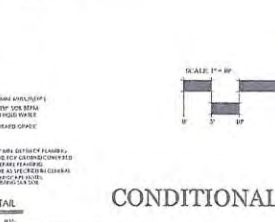
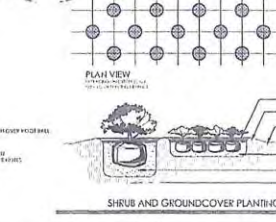
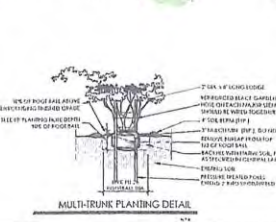
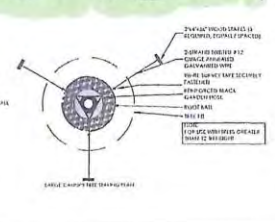
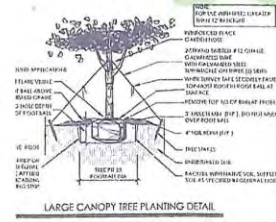
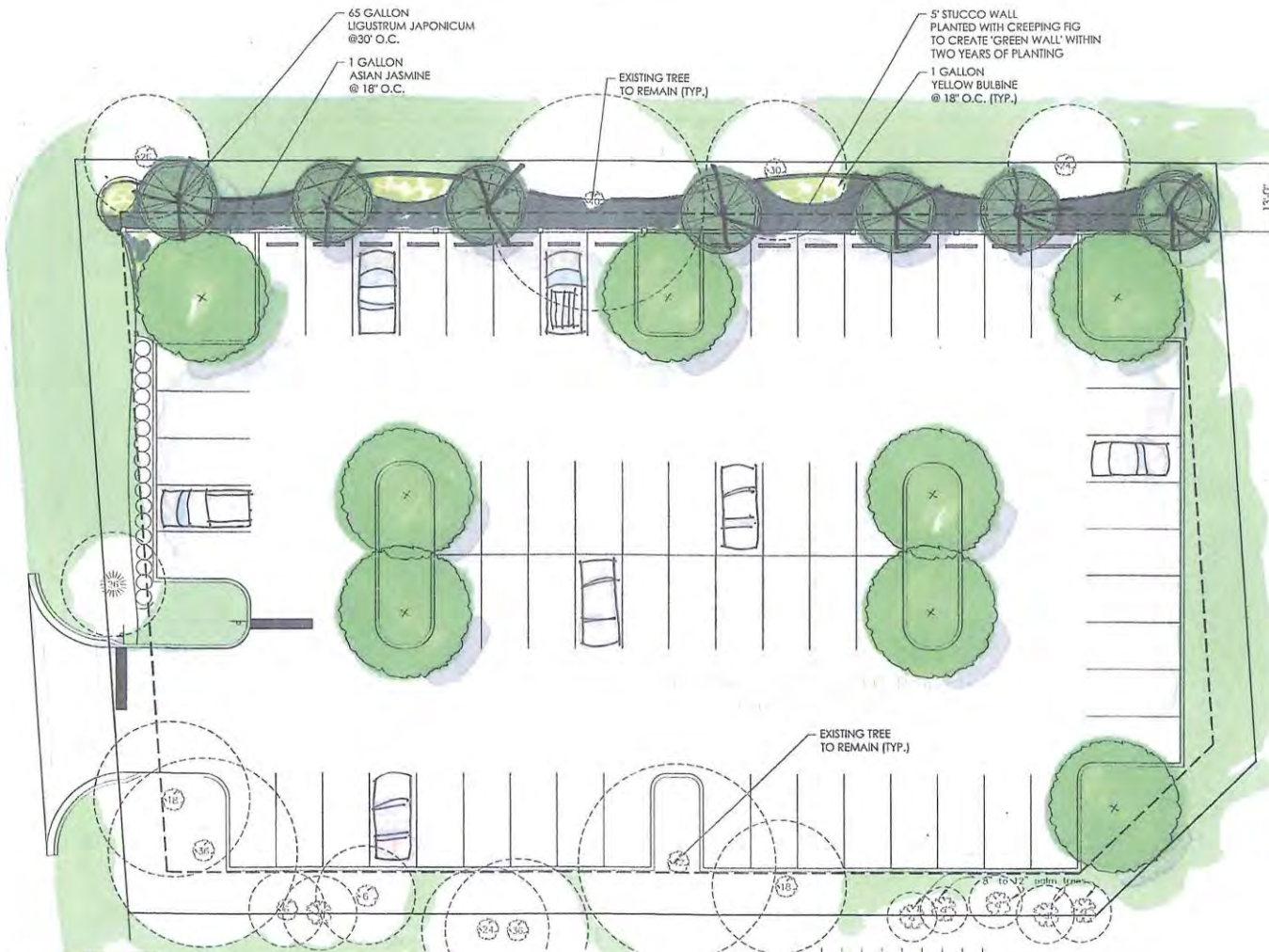
Todd W. Bonnett, RLA FL #14999

SUS SURGERY CENTER
FOR
SUS PROPERTIES
LANDSCAPE PLAN

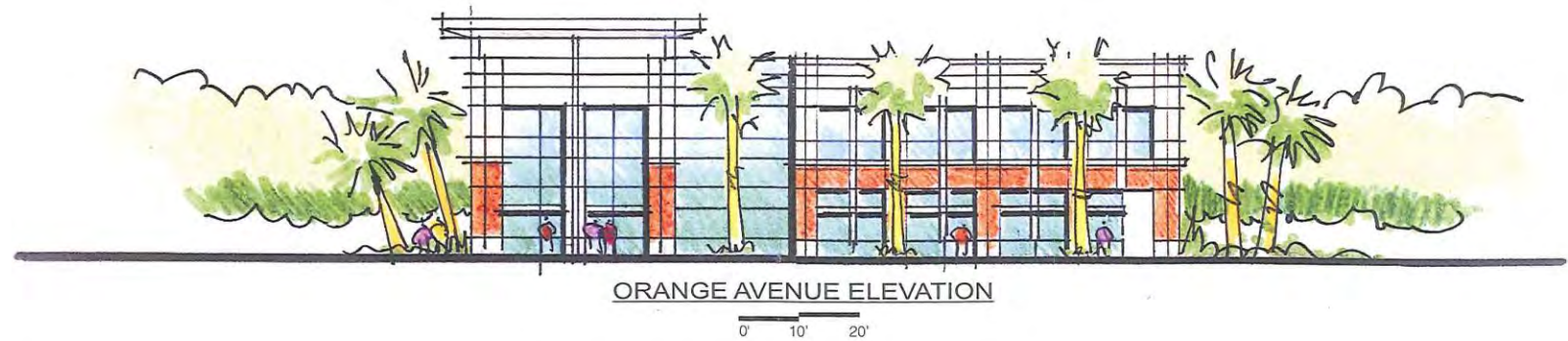
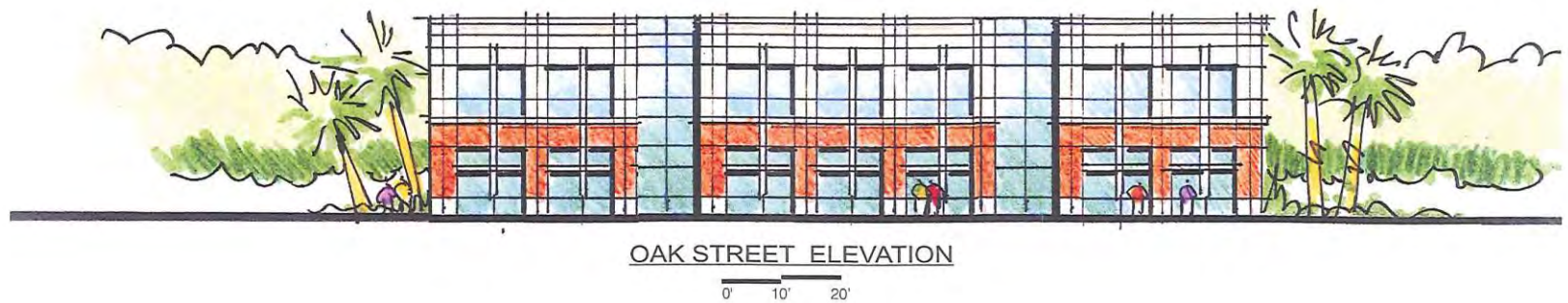
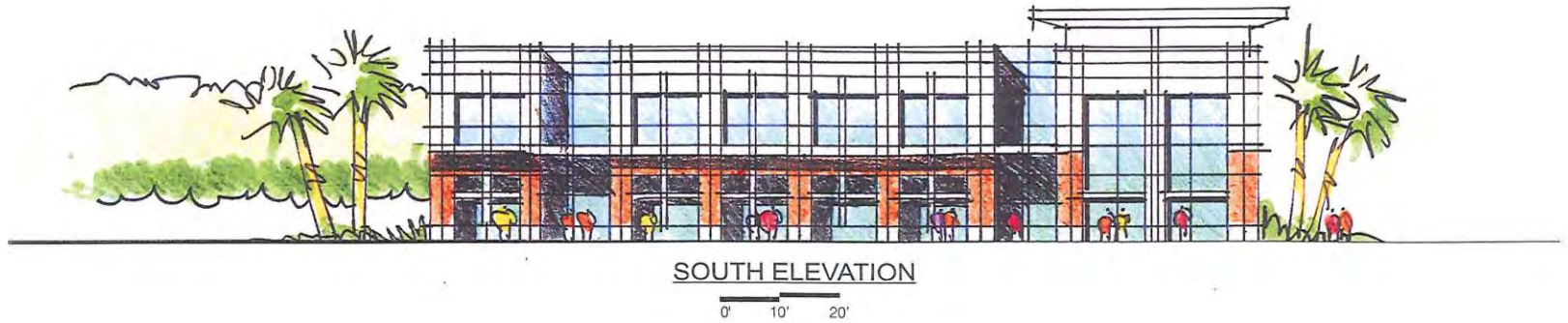
revision	description	d
1		
2		
3		
4		
5		

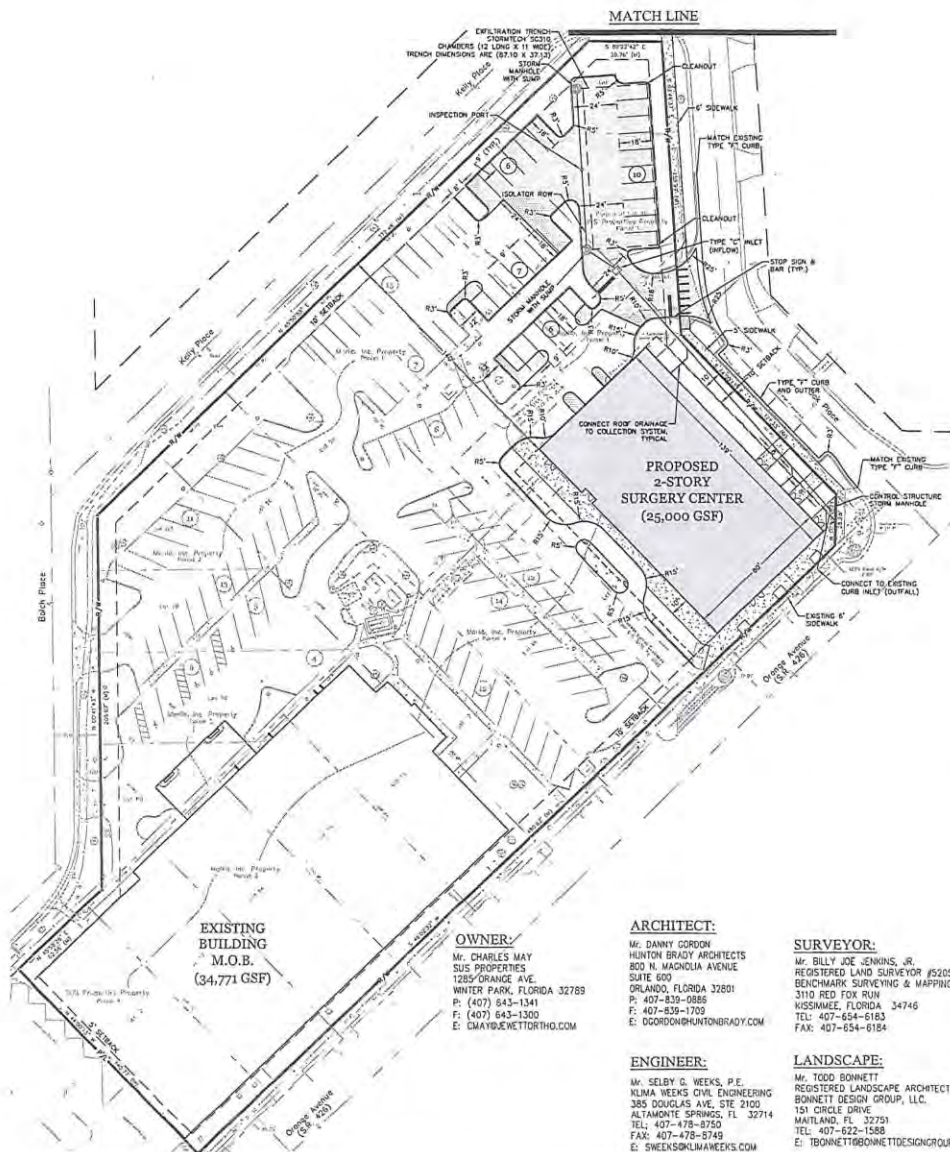
drawn by: TWB
checked by: TWB
date: 06/02/13
plot scale: AS SHOWN
project number: 2013.01 / 130100

L 100



CONDITIONAL USE SUBMITTAL





DATA:

TOTAL LAND AREA:
BUILDING SITE - 134,165 SF (3.08 AC)
PROPOSED OFF-SITE PARKING - 31,175 SF (0.72 AC)

BUILDING GROSS AREA:

EXISTING:
34,771 SF
PROPOSED:
25,000 SF

Total Building Area: 59,771 SF

BUILDING HEIGHT:

PROPOSED BUILDING HEIGHT:
TWO STORY, TOP OF BUILDING - 31'-0"
TOP OF PARAPET - 34'-0"
TOP OF CORNER FEATURE - 40'-0"

BUILDING PURPOSE/USE:

SURGERY CENTER

PARKING LOT:

SEC. 58-B1, OFF-STREET PARKING AND LOADING REGULATIONS.
R. OFFICE PROFESSIONAL OR PUBLIC BUILDINGS
ONE PARKING SPACE FOR EACH 200 SQUARE FEET OF GROSS FLOOR SPACE.
PROPOSED PARKING FOR SURGERY CENTER:
ONE PARKING SPACE FOR EACH 250 SQUARE FEET OF GROSS FLOOR SPACE.

THEREFORE:

PARKING PROVIDED:
Existing Parking to Remain 105 Parking Spaces
New Parking On-Site 25 Parking Spaces
New Off-Site Parking 67 Parking Spaces
Leased Parking 30 Parking Spaces
Existing Off-Site Parking 24 Parking Spaces
Total Parking Provided 255 Parking Spaces

THEREFORE, 19 SPACE PARKING DEFICIT

(FAR)=0.45 OR 45% ALLOWABLE
59,771/134,165 SF = 0.45 OR 45% PROPOSED

(SR = 0.85 OR 85% ALLOWABLE (C-3 AND PL DISTRICTS)
BUILDING SITE = 99,257/134,165 = 0.74 OR 74% PROPOSED
OFF-SITE PARKING = 22,155/31,175 = 0.71 OR 71% PROPOSED

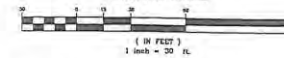
ON-STREET PARKING ADJACENT TO SITE:

EXISTING (ORANGE AVE. AND KELLY PLACE) - 37
PROPOSED (OAK PLACE) - 4

TOTAL ON-STREET PARKING - 41 SPACES
THEREFORE, 46% OF ON-STREET PARKING REQUIRED



GRAPHIC SCALE



ZONING

1311 N. Orange Avenue	O-1
1285 N. Orange Avenue	O-1, C-3 and R-3
1245 & 1235 N. Orange Ave. 1	C-3
951 & 955 Oak Place 2	R-3
960, 950 & 930 Minnesota Ave. 3	R-3

1. Proposed Building development site is primarily C-3.
2. On-Site parking redevelopment is R-3.
3. Proposed Off-Site parking area is in rezoning process (R-3 to PL)

SETBACKS:

REQUIRED	PROVIDED
ORANGE AVE. (FRONT) = 10 FT	10 FT
OAK PLACE (FRONT) = 10 FT	10 FT
KELLY PLACE (FRONT) = 10 FT	140 FT
SOUTHWEST (SIDE) = 5 FT	383 FT

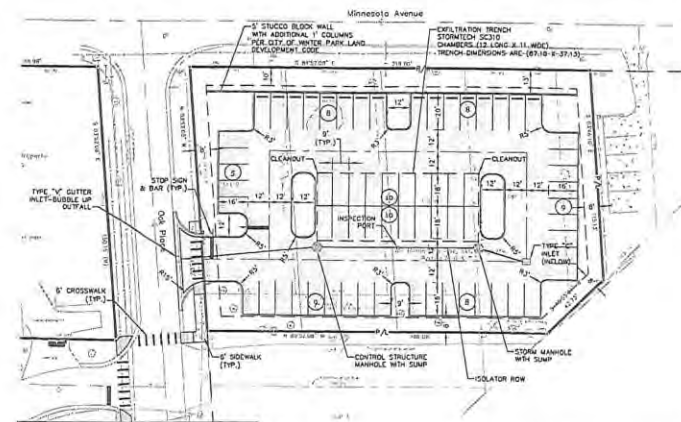
UTILITIES:

SEWER- CITY OF WINTER PARK
WATER- CITY OF WINTER PARK
POWER- CITY OF WINTER PARK
TELEPHONE- EMBARO

FEMA FLOOD DATA:

THIS SITE IS LOCATED IN ZONE R PER FEMA MAP No. 12095C0253 F, SEPTEMBER 25, 2009.

VICINITY MAP:



CONDITIONAL USE SUBMITTAL

Klima

385 Douglas Ave.
Altamonte Springs
Telephone
(407) 438-1111
Fax
(407) 438-1111
Certificate of Authority

Billy G. Weeks

SUS SURGERY CENTER
FOR

revision
1
2
3
4
5
6
7
8
9
10
11
12

drawn by: B
checked by: B
date: 6
plot scale: A
project number: 12

C3



CITY OF WINTER PARK Planning & Zoning Board

Regular Meeting
City Hall, Commission Chambers

May 7, 2013
7:00 p.m.

MINUTES

Acting Chair Johnston called the meeting to order at 7:00 p.m. in the Commission Chambers of City Hall. Present: James Johnston, Randall Slocum, Tom Sacha, Peter Gottfried, and Peter Weldon. Absent: Sarah Whiting, Drew Krecicki, Robert Hahn. Staff: Planning Director Jeffrey Briggs and Recording Secretary Lisa Smith.

Approval of minutes – April 2, 2013

Motion made by Mr. Sacha and seconded by Mr. Weldon, to approve the April, 2013, meeting minutes. Motion carried unanimously with a 5-0 vote.

PUBLIC HEARINGS

REQUEST OF THE JEWETT ORTHOPAEDIC CLINIC FOR: CONDITIONAL USE APPROVAL TO CONSTRUCT A TWO STORY, 25,000 SQUARE FOOT MEDICAL OFFICE BUILDING ON THE PROPERTIES AT 1235/1245 ORANGE AVENUE AND THE SOUTH 10 FEET OF 955 OAK PLACE.

REQUEST OF THE JEWETT ORTHOPAEDIC CLINIC TO: AMEND COMPREHENSIVE PLAN THE FUTURE LAND USE DESIGNATIONS OF MEDIUM DENSITY RESIDENTIAL TO PARKING LOT ON THE REAR OF THE PROPERTY AT 1285 ORANGE AVENUE AND ON 951 AND 955 OAK PLACE AND TO OFFICE FUTURE LAND USE ON THE SOUTH 10 FEET OF 955 OAK PLACE.

REQUEST OF THE JEWETT ORTHOPAEDIC CLINIC TO: AMEND THE OFFICIAL ZONING MAP SO AS TO CHANGE MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL (R-3) DISTRICT ZONING TO PARKING LOT (PL) DISTRICT ON THE REAR OF THE PROPERTY AT 1285 ORANGE AVENUE AND ON 951 AND 955 OAK PLACE AND TO OFFICE (O-1) DISTRICT ON THE SOUTH 10 FEET OF 955 OAK PLACE.

Planning Director Jeffrey Briggs provided the staff report and explained that the Jewett Clinic is seeking approval to build a new two-story medical office and surgery center building and is requesting:

1. Conditional Use approval for that 25,000 square foot medical office and surgery center building at 1235/1245 Orange Avenue on the corner of Oak Place; and
2. Change from the existing Multi-Family Residential (R-3) designation to Parking Lot (PL) zoning for the properties along Balch Avenue and Oak Place that provide the required parking for the Jewett Clinic campus.

He reviewed the details of the project with regard to site and context, project plans, parking to meet the needs of the facility, parking lot design, landscaping and tree preservation. There was detailed discussion about parking lot lighting, the safety concerns of neighbors and the neighbor's advocacy for landscaping buffer instead of the wall buffer along Minnesota Avenue. He summarized by explaining that the City is pleased to see the commitment of the Jewett Clinic to grow in place versus relocation. There will be ample parking for the proposed building and the new parking lots are designed to meet code and be sensitive to the landscaping and tree preservation desires of the City. Staff recommended approval with the provision that the off-site parking lot buffer wall be eliminated along Minnesota Avenue in lieu of upgraded landscaping and

trees, as determined by staff, for both the new and existing off-site parking lots. Mr. Briggs responded to Board member questions and concerns.

Danny Gordon, Hunton & Brady Architects, 800 North Magnolia Avenue, represented the applicant. He stated that the Jewett Clinic agrees with the comments and conditions detailed in the staff report. He responded to Board member questions and concerns.

John McCutchen, President, Jewett Clinic, 1285 Orange Avenue, addressed the Board with regard to what type of medical services will be provided in this new building. He responded to Board member questions and concerns.

Allan Trovillion, spoke in favor of the request.

No one else wished to speak in favor of or in opposition to the request. Public Hearing closed.

Consensus of the Board members was support for the project. There was concurrence amongst the Board members that the growth of the Jewett Clinic was good for this neighborhood and the city at large. They agreed that for consistency the buffer wall could be eliminated, provided that the Minnesota Avenue frontages would be heavily landscaped both for the new remote lot and the existing lot as well. Upon questioning about the types of medical services to be provided in the new building, that adequate parking is being provided.

Motion made by Mr. Gottfried, seconded by Mr. Sacha to approve the conditional use request to construct a two-story 25,000 square foot medical office building on the properties at 1235 and 1245 Orange and the south 10 feet of 955 Oak Place. Approval is with the provision that the off-site parking lot buffer wall be eliminated along Minnesota Avenue in lieu of upgraded landscaping and trees, as determined by staff, for both the new and existing off-site parking lots. Motion carried unanimously with a 5-0 vote.

Motion made by Mr. Gottfried, seconded by Mr. Sacha to amend the comprehensive plan future land use designations of medium density residential to parking lot on the rear of the property at 1285 Orange Avenue and on 951 and 955 Oak Place and to office future land use on the South 10 feet of 955 Oak Place. Motion carried unanimously with a 5-0 vote.

Motion made by Mr. Gottfried, seconded by Mr. Sacha to amend the official zoning map so as to change the medium density multi-family residential (R-3) district zoning to parking lot (PL) district on the rear of the property at 1295 Orange Avenue and on 951 and 955 Oak Place and to Office (O-1) district on the south 10 feet of 955 Oak Place. Motion carried unanimously with a 5-0 vote.



city commission public hearing

item type	Public Hearing	meeting date	June 10, 2013
prepared by department division	Jeff Briggs Planning Department	approved by	<input checked="" type="checkbox"/> City Manager <input checked="" type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	Planning and Zoning Board	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A	4-1 final vote

Subject: Ordinance to Establish Hours of Operation for Massage Therapy Businesses.

Dear Commissioners, Randy, Michelle, Cindy and Jeff:

Attached is the red-line and black line of the massage ordinance that will be on the agenda. Because the changes are significant it will be first reading.

This does the following:

1. Adopts State law definition of “massage”.
2. Prohibits massage services in the City except by State licensed therapists.
3. Restricts licensed massage to non-residential zoning and limits hours of operation. There are exceptions to the limitation on hours of operation that we took from State law, e.g., massage by physicians/osteopathic physicians/chiropractors (these licensed professionals are also an exception to the requirement that the massage therapist be licensed under Chapter 480, F.S.) ; massage at hospitals/nursing homes; home care services, etc...
4. Makes detailed legislative findings that support the regulation.
5. Provides for enforcement in City Code Chapter 62 and section 1-7 for violations.

Please let me know if there are any questions or comments.

Larry

This agenda item proposes amending the commercial and office zoning rules to establish hours of operation for state license massage therapy businesses. The city staff is proposing to establish hours of operation for these massage therapy businesses from 7:00 am until 10:00 pm. generally with some exceptions. This proposed ordinance would also prohibit using any massage therapy business as a residential occupancy which is in effect, how they can operate when they are open 24 hours a day.

The Ordinance was adopted at first reading on May 13, 2013. At that time the City Commission directed the City Attorney to revise the Ordinance to provide additional legislative findings (the Whereas clauses) and to also revise the text as necessary. The City Attorney has made substantial additions to the Ordinance that necessitates that this new version (as revised by the City Attorney) be adopted again as a first reading.

Planning and Zoning Board Recommendation:

Motion made by Mr. Gottfried, seconded by Mr. Sacha to amend Article III, "Zoning" so as to establish hours of operation for state licensed massage therapy businesses and to prohibit residential use of commercial and office tenant space. Motion carried 4-1. Mr. Weldon voted in opposition to the motion.

Summary:

Most all of the commercial areas of the City are very close to residential properties. If you look at the Fairbanks, Orlando, Orange Avenues and Lee Road corridors, you see residential properties within 100-150 feet (typically behind) the commercial properties. The City has some late night businesses (restaurants) but virtually no other 24 hour businesses except for an occasional gas station or pharmacy.

This ordinance is in part in response to complaints about all night activity and noise at 24 hour massage spas. One major purpose of zoning laws is to protect the peaceful enjoyment of residential properties and also to protect property values. The ordinance also addresses property values in response to complaints from owners of other commercial properties that the character and property values along the major commercial roads in the City is diminished if characterized by all night/flashing "24 hour massage" signs.

The Miami Herald

Posted on Thu, Mar. 28, 2013

Bill seeks to limit hours for massage parlors

By BRUCE SCHREINER
Associated Press

Florida's massage parlors would close at midnight and face more scrutiny under a bill that breezed through a state House panel on Thursday.

The bill's sponsor said his proposal is a response to requests from law enforcement to clamp down on an unsavory side of an industry dotting some urban centers in the Sunshine State.

The measure targets massage parlors that "are really just a cover-up for human trafficking, where young women are brought over to this country unlawfully," said state Rep. Dave Kerner, D-Lake Worth.

The measure (HB 7005) easily cleared the House Justice Appropriations Subcommittee.

It would require the parlors to be closed from midnight to 5 a.m., though local governments would have the option to allow parlors to operate for longer hours to coincide with big events in the area.

"If you're getting a massage at 3 in the morning, that's probably not a legitimate massage establishment," Kerner said after the committee hearing.

Law enforcement report that some women employees are confined to live in squalid conditions at the parlors, he said. Parlor owners would face criminal charges if their employees are forced to live in the parlors.

Violations of the bill's provisions would strengthen the hand of law enforcement in seeking to close the establishments, he said.

The bill is being tracked closely by Florida Attorney General Pam Bondi.

"Attorney General Bondi is dedicated to making Florida a zero-tolerance state for human trafficking, and we look forward to following this bill as it moves through the legislative process," Bondi spokeswoman Jenn Meale said in a statement.

The bill also would ban parlors from advertising sexual acts and would require parlor owners to have government IDs.

Kerner said the parlors operate "on the periphery of society" but have proliferated in areas like his district in South Florida.

"When you drive through the district, you'll see neon signs, you'll see tinted out windows, you'll see massage parlors operating at all hours of the night," he said.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA; AMENDING CHAPTER 58 “LAND DEVELOPMENT REGULATIONS”, ARTICLE III “ZONING”, SECTION 58-84 “GENERAL PROVISIONS FOR NON-RESIDENTIAL ZONING DISTRICTS” SO AS TO FURTHER REGULATE MASSAGE THERAPY BUSINESSES CONDUCTED OR LOCATED IN THE CITY OF WINTER PARK, AND TO PROHIBIT RESIDENTIAL USE OF SUCH COMMERCIAL AND OFFICE SPACE HELD OUT AS A MASSAGE THERAPY BUSINESS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

RECITALS AND LEGISLATIVE FINDINGS

WHEREAS, Section 480.052, Florida Statutes, expressly allows a municipality to regulate persons and establishments licensed as massage therapists, so long as such regulation does not exceed the powers of the State of Florida under Chapter 480, Florida Statutes, (which relates to the regulation of massage therapists and massage therapy establishments); and

WHEREAS, Section 480.052, Florida Statutes, expressly provides that the Florida laws regulating massage therapy and massage therapists (found in Chapter 480, Florida Statutes and in the implementing regulations found, in relevant part, in Chapter 64B7-26 and 64B7-30, Florida Administrative Code) shall not be construed to prohibit a municipality from regulating persons or establishments not licensed pursuant to Chapter 480, Florida Statutes; and

WHEREAS, the Florida courts have held that a city, under its general police power may regulate occupations or businesses, which by their nature, location or the manner in which they are conducted, if conducted without restriction, are or may be materially injurious to public health, morals, comfort, prosperity or convenience, or otherwise detrimental to the general welfare (see, e.g., *Rotenberg v. City of Ft. Pierce*, 202 So.2d 782 (Fla. 4th DCA 1967) (Regarding the regulation by the City of Ft. Pierce of junkyards); *City of Miami Beach v. Austin Burke, Inc.*, 185 So.2d 720 (Fla. 3d DCA 1966) (Allowing for the regulation of liquidation and distressed goods sales and special licensing thereof as a means of protection of the buying public from false or misleading advertising and deception)); and

WHEREAS, the Florida Attorney General presented a report to the Florida House Criminal Justice Subcommittee on January 16, 2013, in connection with then proposed legislation concerning “massage establishments”; and

WHEREAS, the summary analysis of the House of Representatives Staff for PCBCRJS 13-01 regarding massage establishments is presented of record and is incorporated into these legislative findings by the City Commission of the City of Winter Park; and

WHEREAS, the City Commission of the City of Winter Park adopts and incorporates by reference the findings reported by the House of Representatives Staff Analysis in its report on Bill CS/CS/CS/HB 7005 regarding massage establishments and the articles reported in the media incorporated in that Staff Analysis; and

WHEREAS, the staff analysis supporting the regulation of massage establishments states that the majority of massage establishments engage in the legitimate practice but “some [massage

establishments] have been recognized as sites where illegal activity, such as human trafficking occurs.”; and

WHEREAS, in October, 2010, the Center for the Advancement of Human Rights at Florida State University provided the Florida Task Force on Human Trafficking a “statewide strategic plan on human trafficking”, and in that plan it was found that Florida is the third most popular American destination for human traffickers and that sex trafficking is the most underreported offense; and

WHEREAS, the strategic plan resulting from the Florida Task Force on Human Trafficking stated that massage establishments are recognized as sites where human trafficking occurs; and

WHEREAS, the strategic plan is available and may be viewed at http://www.cahr.fsu.edu/sub_category/Florida_StrategicPlanonHumanTrafficking.html (which the attorney for the City Commission of the City of Winter Park last visited to verify availability on June 4, 2013); and

WHEREAS, the City Commission has been made aware of reports from law enforcement and published in the media, concerning the adverse secondary effects associated with unregulated and unlicensed massage businesses; and

WHEREAS, the City Commission finds that unregulated massage businesses, particularly those which operate during early morning or late night hours carry a substantial risk of adverse secondary effects such as diminished property values, crime (including prostitution), and contribute to the exploitation and trafficking of human beings for illicit purposes; and

WHEREAS, pursuant to Section 480.052, Florida Statutes, state law does not preempt local regulation of massage practices; and

WHEREAS, the City Commission desires to provide further standards for the operation of massage therapy businesses; and

WHEREAS, the zoning text amendment provided herein regulates in a permissible manner massage businesses, and is intended to promote and regulate lawful and legitimate massage therapy businesses in the City of Winter Park, and to prohibit massage therapy and massage businesses that are not licensed by the state pursuant to Chapter 480, Florida Statutes; and

WHEREAS, the regulations herein are consistent with the City’s Comprehensive Plan; and

WHEREAS, the zoning text changes provided herein will promote and protect property values, and the zoning meets the criteria established by Chapter 166, Florida Statutes; and

WHEREAS, pursuant to and in compliance with law, notice has been given to Orange County and to the public by publication in a newspaper of general circulation to notify the public of this proposed Ordinance and of public hearings to be held; and

WHEREAS, the City staff recommends this Ordinance, and the Planning and Zoning Board of the City of Winter Park recommended this regulation at its meeting held on May 7, 2013; and

WHEREAS, the City Commission of the City of Winter Park held a duly noticed public hearing on the proposed zoning changes set forth hereunder and considered the findings and advice of staff, citizens, and all other interested parties who submitted written and oral comments; and

WHEREAS, the City Commission of the City of Winter Park considered statements received from staff, citizens and other interested parties who submitted comments, and further considered supporting data and analyses concerning adverse secondary effects of illegitimate massage business; and

WHEREAS, the City Commission recognizes that legitimate and licensed therapeutic massage is a legitimate and valuable service; and

WHEREAS, the City Commission of the City of Winter Park hereby finds that sufficient, competent and substantial evidence support the zoning regulations established by this Ordinance; and

WHEREAS, the City Commission hereby finds that this Ordinance serves a legitimate government purpose, is within its police and regulatory power, and is in the best interest of the public health, safety and welfare of the residents of Winter Park, Florida.

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

Section 1. Incorporation of Recitals as Legislative Findings. The recitals are incorporated herein and are made fully a part of this Ordinance as the Legislative findings of the Commission in support of this Ordinance.

Section 2. Amendment of Chapter 58. Chapter 58, “Land Development Code”, Article III “Zoning”, Section 58-84 “General Provisions for Non-Residential Zoning Districts”, is hereby amended and modified by adding a new subsection (DD) to read as follows:

“Section 58-84 General Provisions for Non-Residential Zoning Districts.

(DD) Massage Therapy Businesses. A massage therapy business is one in which state licensed massage therapists provide therapeutic massage services. The City adopts the definition of “massage” in Section 480.033(3), Florida Statutes, meaning:

“The manipulation of the soft tissues of the human body with the hand, foot, arm, or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation.” A “massage therapist” shall mean a person licensed by the State of Florida pursuant to Chapter 480, Florida Statutes, who administers massage for compensation.

Unless expressly exempted, no person may provide massage as part of any business or for any consideration or remuneration at any location in the City of Winter Park unless the business is located in an area zoned for massage therapy.

A permitted massage therapy business shall meet all of the following requirements:

1. The massage therapy business (or establishment) shall be licensed and meet all of the requirements set out in Florida law, including the requirements in Chapter 480, Florida Statutes, and Chapters 64B7-26 and 64B7-30, Florida Administrative Code.

2. All persons in the massage therapy business or establishment who offer to provide or provide massage as defined in this Section and in Section 480.033, Florida Statutes, shall be licensed by the State of Florida and the license shall be in good standing. Each licensed massage therapist shall be in compliance with all requirements of Florida law, including those statutes and administrative rules referenced in this Section.

3. The massage therapy business may only operate inside the City of Winter Park in a permitted non-residential zoning district, and the hours of operation shall be only between the hours of 7:00 a.m. through 10:00 p.m. Notwithstanding, this subsection limiting the hours of operation does not apply to a massage business:

- a. Located on the premises of a healthcare facility as defined in Section 408.07, Florida Statutes.
- b. A health care clinic as defined in Section 400.9905(4), Florida Statutes.
- c. A hotel, motel or bed and breakfast inn, as those terms are defined in Section 509.242, Florida Statutes.
- d. A timeshare property as defined in Section 721.05, Florida Statutes.
- e. A private residence.
- f. Where the massage is performed by a licensed massage therapist acting under the prescription of a physician or physician assistant licensed under Chapter 458, Florida Statutes; an osteopathic physician or physician assistant licensed under Chapter 459, Florida Statutes; a chiropractic physician licensed under Chapter 460, Florida Statutes; a podiatric physician licensed under Chapter 461, Florida Statutes; an advanced registered nurse practitioner licensed under Part I of Chapter 464, Florida Statutes; or a dentist licensed under Chapter 466, Florida Statutes.
- g. The massage is provided by a licensed massage therapist during a special event wherein the City has approved the operation during the special event.

4. No massage establishment or business may be used as a place of residence for any person. Residential services within the premises of a massage therapy business, such as sleeping, cooking or other facilities, are strictly prohibited except to the extent that bathroom facilities are required in order to

maintain state licensure under the requirements of Chapter 480, Florida Statutes, and Chapters 64B7-26 and 64B7-30, Florida Administrative Code. It shall not be a violation for a massage therapy business to have and use appliances that are lawfully and regularly made a part of a legitimate massage therapy business and which are not used in any manner that would violate any provision in Chapter 480, Florida Statutes and Chapters 64B7-26 and 64B7-30, Florida Administrative Code, including all prohibitions against sexual misconduct that may be grounds for disciplinary action under Florida law.

5. A person violating the provisions of this Section commits a violation of the City of Winter Park's Municipal Code and commits a misdemeanor of the second degree.

6. Any premises in which massage is offered or performed by persons unlicensed by the State of Florida or otherwise in violation of the provisions of Chapter 480, Florida Statutes, and Chapters 64B7-26 and 64B7-30, Florida Administrative Code, for which discipline may be imposed by the State of Florida, shall be in violation of the City of Winter Park's Municipal Code of Ordinances and such activity may be declared a nuisance and may be abated and enjoined as provided in Section 823.05, Florida Statutes, as a public nuisance.

Section 3. Amendment of Chapter 62. Chapter 62, is hereby amended and modified by adding a new subsection 62-123 to read as follows:

“Section 62-123. Massage Practices in Violation of Section 58-84.

The owner, operator or person in control of any premises in the City of Winter Park in which massage is offered or provided in violation of either Florida law (Chapter 480, Florida Statutes and Chapters 64B7-26 and 64B7-30, Florida Administrative Code) or in violation of Section 58-84 of this Code, shall be liable for a violation of this Code in accordance with the provisions in Section 1-7, and shall commit a misdemeanor of the second degree, punishable as provided in Sections 775.082 or 775.083, Florida Statutes. A person who is unlicensed as a massage therapist by the State of Florida or, notwithstanding the possession of such a license violates a provision of Chapter 480 or Chapters 64B7-26 or 64B7-30, Florida Administrative Code which would subject the individual to discipline by the State of Florida for a violation of the requirements of the license, or who violates any provision in Section 58-84 of the Code, shall be liable for a Code violation in accordance with Section 1-7 of this Code and shall commit a misdemeanor of the second degree, punishable as provided in Sections 775.082 or 775.083, Florida Statutes.

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

Section 5. Conflicts. All ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Section 6. Codification. Section 58-84, Chapter 58, and Section 62-123, Chapter 62, that amend the City Code 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 7. Effective Date Of Ordinance. This Ordinance shall become effective immediately upon its passage and adoption by the City Commission of the City of Winter Park, Florida.

Adopted by the City Commission of the City of Winter Park, Florida in a regular meeting assembled on the _____ day of _____, 2013.

Mayor Kenneth W. Bradley

ATTEST:

Cindy Bonham, City Clerk

First reading: _____

Second reading: _____

ORDINANCE NO.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA; AMENDING CHAPTER 58 “LAND DEVELOPMENT REGULATIONS”, ARTICLE III “ZONING”, SECTION 58-84 “GENERAL PROVISIONS FOR NON-RESIDENTIAL ZONING DISTRICTS” SO AS TO FURTHER REGULATE MASSAGE THERAPY BUSINESSES CONDUCTED OR LOCATED IN THE CITY OF WINTER PARK, AND TO PROHIBIT RESIDENTIAL USE OF SUCH COMMERCIAL AND OFFICE SPACE HELD OUT AS A MASSAGE THERAPY BUSINESS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

RECITALS AND LEGISLATIVE FINDINGS

WHEREAS, Section 480.052, Florida Statutes, expressly allows a municipality to regulate persons and establishments licensed as massage therapists, so long as such regulation does not exceed the powers of the State of Florida under Chapter 480, Florida Statutes, (which relates to the regulation of massage therapists and massage therapy establishments); and

WHEREAS, Section 480.052, Florida Statutes, expressly provides that the Florida laws regulating massage therapy and massage therapists (found in Chapter 480, Florida Statutes and in the implementing regulations found, in relevant part, in Chapter 64B7-26 and 64B7-30, Florida Administrative Code) shall not be construed to prohibit a municipality from regulating persons or establishments not licensed pursuant to Chapter 480, Florida Statutes; and

WHEREAS, the Florida courts have held that a city, under its general police power may regulate occupations or businesses, which by their nature, location or the manner in which they are conducted, if conducted without restriction, are or may be materially injurious to public health, morals, comfort, prosperity or convenience, or otherwise detrimental to the general welfare (see, e.g., *Rotenberg v. City of Ft. Pierce*, 202 So.2d 782 (Fla. 4th DCA 1967) (Regarding the regulation by the City of Ft. Pierce of junkyards); *City of Miami Beach v. Austin Burke, Inc.*, 185 So.2d 720 (Fla. 3d DCA 1966) (Allowing for the regulation of liquidation and distressed goods sales and special licensing thereof as a means of protection of the buying public from false or misleading advertising and deception)); and

WHEREAS, the Florida Attorney General presented a report to the Florida House Criminal Justice Subcommittee on January 16, 2013, in connection with then proposed legislation concerning “massage establishments”; and

WHEREAS, the summary analysis of the House of Representatives Staff for PCBCRJS 13-01 regarding massage establishments is presented of record and is incorporated into these legislative findings by the City Commission of the City of Winter Park; and

WHEREAS, the City Commission of the City of Winter Park adopts and incorporates by reference the findings reported by the House of Representatives Staff Analysis in its report on Bill CS/CS/CS/HB 7005 regarding massage establishments and the articles reported in the media incorporated in that Staff Analysis; and

WHEREAS, the staff analysis supporting the regulation of massage establishments states that the majority of massage establishments engage in the legitimate practice but “some [massage

establishments] have been recognized as sites where illegal activity, such as human trafficking occurs.”; and

WHEREAS, in October, 2010, the Center for the Advancement of Human Rights at Florida State University provided the Florida Task Force on Human Trafficking a “statewide strategic plan on human trafficking”, and in that plan it was found that Florida is the third most popular American destination for human traffickers and that sex trafficking is the most underreported offense; and

WHEREAS, the strategic plan resulting from the Florida Task Force on Human Trafficking stated that massage establishments are recognized as sites where human trafficking occurs; and

WHEREAS, the strategic plan is available and may be viewed at http://www.cahr.fsu.edu/sub_category/Florida_StrategicPlanonHumanTrafficking.html (which the attorney for the City Commission of the City of Winter Park last visited to verify availability on June 4, 2013); and

WHEREAS, the City Commission has been made aware of received information, including reports from law enforcement and published in the media, articles, which concern the concerning the adverse secondary effects associated with unregulated and unlicensed massage businesses; which may hold themselves out as legitimate massage therapy businesses; and

WHEREAS, the City Commission finds that unregulated massage businesses, particularly those which operate during early morning or late night hours as more specifically defined hereinafter carry a substantial risk of adverse secondary effects such as diminished property values, crime (including prostitution), and contribute to the exploitation and trafficking of human beings for illicit purposes; and

WHEREAS, the State Legislature has found, similarly, that unregulated massage businesses carry an unacceptable risk of adverse secondary effects without appropriate regulation, and the State law found at _____ constitutes State regulation based upon the same concerns as those expressed by the City in these Legislative findings; and

WHEREAS, pursuant to Section 480.052, Florida Statutes, state law the State regulation does not preempt local regulation of massage practices; s that may be necessary to maintain the character and quality of a city such as the City of Winter Park; and

WHEREAS, the City Commission desires to provide further standards for the operation of massage therapy businesses; and

WHEREAS, the zoning text amendment provided herein regulates in a permissible manner massage businesses, and is intended is a content and viewpoint neutral means of regulating specific conduct that may lawfully be regulated, is intended to ameliorate the adverse secondary effects of illegitimate massage businesses and to promote and regulate lawful and legitimate massage therapy businesses in the City of Winter Park, and to prohibit massage therapy and massage businesses that are not licensed by the state pursuant to Chapter 480, Florida Statutes; the regulations herein are consistent with the Comprehensive Plan; and

WHEREAS, the regulations herein are consistent with the City’s Comprehensive Plan; and

WHEREAS, the zoning text changes provided herein will promote and protect property values, and the zoning meets the criteria established by Chapter 166, Florida Statutes; and

WHEREAS, pursuant to and in compliance with law, notice has been given to Orange County and to the public by publication in a newspaper of general circulation to notify the public of this proposed Ordinance and of public hearings to be held; and

WHEREAS, the City staff recommends this Ordinance, and the Planning and Zoning Board of the City of Winter Park has recommended [this regulation at its](#) hereof at the Planning and Zoning meeting held on May 7, 2013; and

WHEREAS, the City Commission of the City of Winter Park held a duly noticed public hearing on the proposed zoning changes set forth hereunder and considered the findings and advice of staff, citizens, and all other interested parties who submitted written and oral comments; and

WHEREAS, the City Commission of the City of Winter Park did consider all statements received from staff, citizens and other interested parties who submitted written and oral comments, and further considered supporting data and analyses concerning adverse secondary effects of unregulated and illegitimate massage business; and

WHEREAS, the [City Commission recognizes that](#) distinction between such activity and legitimate and licensed therapeutic massage which is a legitimate and valuable service; which may be regulated; and

WHEREAS, the City Commission of the City of Winter Park hereby finds that the requested changes in the zoning which are embodied hereinafter are consistent with the City of Winter Park Comprehensive Plan and that sufficient, competent and substantial evidence supports the [zoning regulations established by this Ordinance](#); changes set forth hereunder; and

WHEREAS, the City Commission hereby finds that this Ordinance serves a legitimate government purpose, [is within its police and regulatory power](#), and is in the best interest of the public health, safety and welfare of the [residents](#) citizens of Winter Park, Florida.

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

Section 1. Incorporation of Recitals as Legislative Findings. The recitals are incorporated herein and are made fully a part of this Ordinance [as](#). The Legislative findings [of the Commission in support of this Ordinance](#), and authorities referred to above are incorporated fully into this Ordinance and the Commission has relied on these findings in enacting these regulations.

Section 2. Amendment of Chapter 58. Chapter 58, “Land Development Code”, Article III “Zoning”, Section 58-84 “General Provisions for Non-Residential Zoning Districts”, is hereby amended and modified by adding a new subsection (DD) to read as follows:

“Section 58-84 General Provisions for Non-Residential Zoning Districts.

(DD) Massage Therapy Businesses. A massage therapy business is one in which state licensed massage therapists provide therapeutic massage services. [The City adopts the](#)

definition of “massage” in Section 480.033(3), Florida Statutes, meaning: Only massage therapists licensed pursuant to _____ in good standing may provide or offer to provide massage therapy or massage as those terms are defined in _____. No

“The manipulation of the soft tissues of the human body with the hand, foot, arm, or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or **thermal** therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation.” A “massage therapist” shall mean a person licensed by the State of Florida pursuant to Chapter 480, Florida Statutes, who administers massage for compensation.

Unless expressly exempted, no person may provide **massage** as part of any business or for any consideration or remuneration **at any** whatsoever in a business or commercial context massage as that term is defined in _____ in or about any business location in the City of Winter Park unless the business is located in an area zoned for massage therapy. location is properly zoned and licensed for such an establishment for the purpose of offering massage therapy, all persons rendering massage services are state licensed in good standing pursuant to _____, and the business is operating in accordance with the requirements of Florida law and the requirements of this Section of the Municipal Code. The following restrictions and exceptions shall apply with regard to massage therapy business:

A permitted massage therapy business shall meet all of the following requirements:

1. The massage therapy business (or establishment) shall be licensed and meet all of the requirements set out in Florida law, including the requirements in Chapter 480, Florida Statutes, and Chapters 64B7-26 and 64B7-30, Florida Administrative Code. A permitted licensed massage therapy business in which all massage therapists are licensed in good standing by the State of Florida may operate inside the City of Winter Park only between the hours of 7:00 a.m. through 10:00 p.m. Massage therapy in a commercial or office establishment will not be permitted except during these hours of permitted operation.
2. All persons in the massage therapy business or establishment who offer to provide or provide massage as defined in this Section and in Section 480.033, Florida Statutes, shall be licensed by the State of Florida and the license shall be in good standing. Each licensed massage therapist shall be in compliance with all requirements of Florida law, including those statutes and administrative rules referenced in this Section. The limitation of hours will not apply in the event that therapeutic massage provided by a licensed massage therapist is provided to the residents, licensed hotel/motel or place of business of a consumer of massage therapeutic services as defined in, and subject to the regulation of the State pursuant to _____.
3. The massage therapy business may only operate inside the City of Winter Park in a permitted non-residential zoning district, and the hours of operation shall be only between the hours of 7:00 a.m. through 10:00 p.m. Notwithstanding, this subsection limiting the hours of operation does not apply to

a massage business: The residential use or residential occupancy of the premises of any massage therapy business is prohibited. This will include a prohibition against any residential type services being located within the premises of a massage therapy business located in a non-residential zoning district, such as sleeping, cooking or bathroom facilities. These facilities will also be prohibited in any location owned or controlled by the owner of the massage therapy business or available for use by a patrons of or workers in the massage business if such facilities are adjacent or abutting the massage therapy business and are available for use by such patrons or workers. Notwithstanding the foregoing, it shall not be prohibited for a massage therapy business to use appliances that are lawfully and regularly made a part of a legitimate massage therapy business and which are not used in any manner for any purpose related to sexual or erotic performance or conduct.

- a. Located on the premises of a healthcare facility as defined in Section 408.07, Florida Statutes.
- b. A health care clinic as defined in Section 400.9905(4), Florida Statutes.
- c. A hotel, motel or bed and breakfast inn, as those terms are defined in Section 509.242, Florida Statutes.
- d. A timeshare property as defined in Section 721.05, Florida Statutes.
- e. A private residence.
- f. Where the massage is performed by a licensed massage therapist acting under the prescription of a physician or physician assistant licensed under Chapter 458, Florida Statutes; an osteopathic physician or physician assistant licensed under Chapter 459, Florida Statutes; a chiropractic physician licensed under Chapter 460, Florida Statutes; a podiatric physician licensed under Chapter 461, Florida Statutes; an advanced registered nurse practitioner licensed under Part I of Chapter 464, Florida Statutes; or a dentist licensed under Chapter 466, Florida Statutes.
- g. The massage is provided by a licensed massage therapist during a special event wherein the City has approved the operation during the special event.

4. No massage establishment or business may be used as a place of residence for any person. Residential services within the premises of a massage therapy business, such as sleeping, cooking or other facilities, are strictly prohibited except to the extent that bathroom facilities are required in order to maintain state licensure under the requirements of Chapter 480, Florida Statutes, and Chapters 64B7-26 and 64B7-30, Florida Administrative Code. It shall not be a violation for a massage therapy business to have and use appliances that are lawfully and regularly made a part of a legitimate massage therapy business and

which are not used in any manner that would violate any provision in Chapter 480, Florida Statutes and Chapters 64B7-26 and 64B7-30, Florida Administrative Code, including all prohibitions against sexual misconduct that may be grounds for disciplinary action under Florida law.

5. A person violating the provisions of this Section commits a violation of the City of Winter Park's Municipal Code and commits a misdemeanor of the second degree.

6. Any premises in which massage is offered or performed by persons unlicensed by the State of Florida or otherwise in violation of the provisions of Chapter 480, Florida Statutes, and Chapters 64B7-26 and 64B7-30, Florida Administrative Code, for which discipline may be imposed by the State of Florida, shall be in violation of the City of Winter Park's Municipal Code of Ordinances and such activity may be declared a nuisance and may be abated and enjoined as provided in Section 823.05, Florida Statutes, as a public nuisance.

Section 3. Amendment of Chapter 62. Chapter 62, is hereby amended and modified by adding a new subsection 62-123, to read as follows:

“Section 62-123. Massage Practices in Violation of Section 58-84.

The owner, operator or person in control of any premises in the City of Winter Park in which massage is offered or provided in violation of either Florida law (Chapter 480, Florida Statutes and Chapters 64B7-26 and 64B7-30, Florida Administrative Code) or in violation of Section 58-84 of this Code, shall be liable for a violation of this Code in accordance with the provisions in Section 1-7, and shall commit a misdemeanor of the second degree, punishable as provided in Sections 775.082 or 775.083, Florida Statutes. A person who is unlicensed as a massage therapist by the State of Florida or, notwithstanding the possession of such a license violates a provision of Chapter 480 or Chapters 64B7-26 or 64B7-30, Florida Administrative Code which would subject the individual to discipline by the State of Florida for a violation of the requirements of the license, or who violates any provision in Section 58-84 of the Code, shall be liable for a Code violation in accordance with Section 1-7 of this Code and shall commit a misdemeanor of the second degree, punishable as provided in Sections 775.082 or 775.083, Florida Statutes.

Section 43. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid, unlawful or unconstitutional by any court, whether for substantive, procedural, facial or other reasons, 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 54. Conflicts. All ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Section 65. Codification. Section 58-84, Chapter 58, and Section 62-123, Chapter 62, that amend the City Code 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 76. Effective Date Of Ordinance. This Ordinance shall become effective immediately upon its passage and adoption by the City Commission of the City of Winter Park, Florida.

Adopted by the City Commission of the City of Winter Park, Florida in a regular meeting assembled on the _____ day of _____, 2013.

Mayor Kenneth W. Bradley

ATTEST:

Cindy Bonham, City Clerk

First reading: _____

Second reading: _____



city commission public hearing

item type	Public Hearing	meeting date	June 10, 2013
prepared by department division	Cindy Bonham City Clerk	approved by	<input checked="" type="checkbox"/> City Manager <input checked="" type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N/A		final vote

subject

Election Qualification and City Clerk's Certification

motion | recommendation

Motion to accept the ordinance on first reading.

summary

This ordinance further clarifies Chapter 42, Elections. City Clerk Bonham has worked with City Attorney Katie Reischmann and agrees with the content of this ordinance. The redline ordinance reflects the changes made from the April 8, 2013 meeting regarding the qualification deadline and qualification period. It also addresses the written notice of candidacy as required in our City Charter (Section 3 (d)).

board comments

N/A

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF WINTER PARK,
FLORIDA, AMENDING SECTION 42-1, DEFINITIONS,
AND 42-7, QUALIFICATION OF CANDIDATES AND
CLERK'S CERTIFICATION, OF CHAPTER 42,
ELECTIONS, TO ADD DEFINITIONS FOR
"QUALIFICATION DEADLINE", "QUALIFICATION
DOCUMENTS", AND "QUALIFICATION PERIOD", AND
TO CLARIFY QUALIFICATION REQUIREMENTS;
PROVIDING FOR SEVERABILITY, CODIFICATION,
CONFLICTS AND AN EFFECTIVE DATE.**

WHEREAS, fundamental to our system of government is the principle that the right to be a candidate for public office is a valuable one and no one should be denied this right unless the Constitution or an applicable valid law expressly provides that the person is ineligible; and

WHEREAS, the Florida Supreme Court has ruled that the people should have the opportunity to select their public officers from a multiple choice of candidates, and widening the field of candidates is the rule, not the exception, in Florida; and

WHEREAS, unreasonable or unnecessary restraints on the election process are prohibited; and

WHEREAS, courts have held that qualification procedures must serve reasonable or legitimate state interests to protect the integrity of the election process and the purity of the ballot; and

WHEREAS, the City Commission desires to ensure all candidates are fully apprised of requirements and deadlines for qualifying for the office of City Commissioner, in order to promote participation by as many qualified candidates as possible; and

WHEREAS, Section 3.02 of the Charter of the City of Winter Park provides that the means and methods for qualification of candidates for election to the City Commission and for the Office of Mayor will be prescribed by the Commission by ordinance; and

WHEREAS, the City Commission has studied the question and finds that it is desirable to further clarify the Elections Section of Chapter 42 of the Municipal Code of Ordinances, to make the qualification process even more accessible; and

WHEREAS, words with blue text shall constitute additions to the original text and red strike through text shall constitute deletions to the original text, and asterisks (* * *) indicate that text shall remain unchanged from the language existing prior to adoption of this Ordinance.

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

Section 1. Recitals. The foregoing recitals are hereby adopted and confirmed.

Section 2. Section 42-1, Definitions, of Chapter 42, Elections, is hereby amended by adding definitions entitled “Qualification Deadline”, “Qualification Documents”, and “Qualification Period” as follows:

* * *

Qualification Deadline means no later than noon of the 35th day prior to the date of the primary election or special primary election date in the year of such election. If the 35th day prior to the date of the primary election or special primary election date is a legal holiday as defined by the City, or under the law of the State of Florida, then the Qualification Deadline shall mean no later than noon of the first business day immediately preceding ~~following~~ the 35th day prior to the date of the primary election or special primary election date in the year of such election. The noon Qualification Deadline shall be treated as a jurisdictional deadline, which means that all Qualification Documents and matters required in order to qualify for office shall be properly completed and filed with the City Clerk by such deadline without exception. The jurisdictional nature of this deadline, and the requirements that all matters must be properly completed and filed with the City Clerk before the Qualification Deadline, are incorporated by reference each time the term “Qualification Deadline” is used in this Chapter.

Qualification Documents means all documents required by the Florida Election Code, Chapters 97 through 106, and this Chapter.

Qualification Period means that period that is between noon of the business day that is five (5) business days immediately preceding the Qualification Deadline and the Qualification Deadline. In each year of an election, the City Clerk shall determine the Qualification Deadline and will begin the Qualification Period such that candidates shall have five (5) business days, beginning at noon on the first business day of the Qualification Period, in which to qualify. ~~42nd day prior to the date of the primary election or special primary election and noon of the 35th day prior to the date of the primary election or special primary election date in the year of such election. In the event the first day of qualifying falls on a legal holiday as defined by the City, or under the law of the State of Florida, then the first day of qualifying will begin on the next subsequent business day following that 42nd day. If the first day of qualifying is advanced one day, the Qualifying Period will be adjusted by likewise extending the Qualification Deadline for one day.~~ The beginning and ending times and dates of the Qualification Period shall be treated as jurisdictional, which means that all Qualification Documents and matters required in order to qualify for office must be properly completed and filed with the City

Clerk by the Qualification Deadline, as that term is defined in this section. The jurisdictional nature of this deadline, and the requirements that all matters must be properly completed and filed with the City Clerk before the Qualification Deadline, are incorporated by reference each time the term “Qualification Period” is used in this Section.

* * *

Section 3. Section 42-7, Qualification of candidates and Clerk’s certification, of Chapter 42, Elections, is hereby amended to read as follows:

- (a) In order for the name of any candidate to be printed on the ballot of any election, such candidate must ~~do the following:~~

(1)

~~File with the city clerk, during the Qualification Period, which is no later than noon of the 35th day and no earlier than noon of the 42nd day prior to the date of the primary election or special primary election date in the year of such election, completed an application~~ Qualification Documents, in order to have his or her name printed on the ballot. This requirement may be changed by resolution of the city commission for special elections. ~~In the event that the last day of the period prescribed herein falls on a weekend or a city holiday, the period will be extended to noon of the next subsequent work day.~~ The Qualification Documents must include all documents required to be filed under the election code, Chapters 97 to 106, of the Florida Statutes, and those required by the City, including, but not limited to, the following:

1. Form DS-DE9, Appointment of Campaign Treasurer and Designation of Campaign Depository. This form must be on file with the City Clerk before the candidate opens the campaign account;
2. Form DS-DE84, Statement of Candidate;
3. Petitions signed by not less than 25 registered voters of the city;

~~(2) Have such application endorsed by not less than 25 registered voters of the city; and~~

~~(3) Swear to and subscribe to the following oath of affirmation:~~

4. Form DS-DE25, Candidate Oath – Nonpartisan Office;
5. City of Winter Park candidate oath:

State of Florida

County of Orange

Before me, an officer authorized to administer oaths, personally appeared _____ to me well known, who, being sworn, says that he/she is a candidate for the office of _____; that he/she is a qualified elector of the City of Winter Park, Orange County, Florida; ~~that he/she is qualified under the constitution and the laws of Florida to hold the office to which he desires to be nominated or elected; that he has taken the oath required by F.S. §§ 876.05—876.10;~~ that he/she has not violated any of the laws of the state relating to elections or the registration of electors; ~~that he has qualified for no other public office in the state, the term of which office or any part thereof runs concurrent with that of the office he seeks; that he has resigned from any office from which he is required to resign pursuant to F.S. § 99.012; and that he has submitted a sworn statement of contributions and expenditures, if any, incurred prior to the time of qualifying and since the last preceding general election.~~

	_____ (Signature of candidate)
	_____ (Address)
Sworn to and subscribed before me this _____ day of _____, 19_____, at Orange County, Florida.	
-	_____ (Signature and title of officer administering oath)

(4)

6. ~~File with the city clerk a~~ A financial disclosure statement as provided for in F.S. § 112.311 et seq., as amended from time to time; and

7. The election assessment required by F.S. § 99.093, as amended from time to time, drawn upon the candidate's campaign account.

- (b) It shall be the duty of the candidate to comply with the provisions of this section. The city clerk shall, nevertheless, endeavor to notify each candidate in writing not more than five working days and not less than two working days after the requisite Qualification Documents have ~~application has~~ been filed, of any facial and obvious defect or deficiency in the Qualification Documents ~~application~~.

Corrections or additions may be made any time prior to the ~~close of the~~ Qualification Deadline ~~term~~, but not thereafter. The City Clerk has no duty to notify candidates of deficiencies in Qualification Documents that are filed less than two (2) working days before the Qualification Deadline, or of defects that are not facial and obvious. It is of paramount importance that each person seeking to qualify for placement on the ballot understands their responsibility to file proper Qualification Documents, regardless of whether or not the City Clerk points out deficiencies in a timely or accurate manner. In all cases, a defect or deficiency in the Qualification Documents may be grounds for disqualification in accordance with Florida law regardless of whether the City Clerk has timely pointed out such defect or deficiency.

- (c) The City Clerk is authorized to enforce the Qualification Deadline, and all filing requirements set forth in this section, under state law, and pertinent Florida Division of Elections opinions. There will be no exceptions to the requirement that all matters be properly completed and filed during the Qualification Period and before the Qualification Deadline, in order for all interested citizens to have an equal and fair opportunity to qualify to have their names placed on the ballot.

- (d) The timely filing by or on behalf of a candidate of the Qualification Documents shall constitute written notice of candidacy as required by Section 3.02 of the Charter of the City of Winter Park.

Section 4. Incorporation Into Code. This ordinance shall be incorporated into the Winter Park City Code. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance and the City Code may be freely made.

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

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

Section 7. Effective date. This ordinance shall become effective immediately upon adoption by the City Commission of the City of Winter Park, Florida.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, held at City Hall, Winter Park, Florida, on the _____ day of _____, 2013.

Mayor Kenneth Bradley

Attest:

Cynthia Bonham, City Clerk

G:\docs\Cities\Winter Park\Ordinances and Resolutions General\Elections\Elections qualifying 3-5-13 CLEAN.docx



FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

March 18, 2013

Ms. Cynthia S. Bonham
City Clerk, City of Winter Park
401 Park Avenue South
Winter Park, FL 32789

RE: DE 13-04 Candidate Qualifying; Qualifying Fees;
Election Assessment – check drawn upon campaign
account -- §§ 100.3605, 99.093 and 99.061, Florida
Statutes

Dear Clerk Bonham:

This letter responds to a request for an advisory opinion submitted by the City Attorney on your behalf. You are the City Clerk for the City of Winter Park and serve as the filing officer for municipal candidates submitting qualification paperwork for the Winter Park municipal elections; therefore, the Division has the authority to issue you an opinion pursuant to section 106.23(2), Florida Statutes (2012).

Your attorney states that you recently instructed a candidate for City Commission that the election assessment must be paid with a check drawn upon the candidate's campaign account. Your attorney essentially posed the following question:

Must municipal candidates pay the election assessment required in section 99.093, Florida Statutes (2012), with a check drawn upon that candidate's campaign account in order for the City Clerk to qualify the candidate?

The short answer is "Yes" to the extent that an applicable special act, charter, or ordinance provision affecting the municipality does not provide otherwise.

ANALYSIS

Section 100.3605(1), Florida Statutes (2012), provides, "The Florida Election Code, chapters 97-106, shall govern the conduct of a municipality's election in the absence of an applicable special act, charter, or ordinance provision." Your attorney states that no applicable special act, charter, or ordinance provision exists for Winter Park. If this is correct, the candidate qualifying



R. A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399
Telephone: (850) 245-6500 • Facsimile: (850) 245-6125 www.dos.state.fl.us
***Commemorating 500 years of Florida history* www.fl500.com**

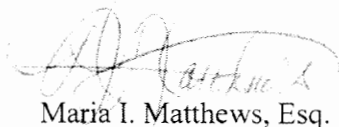


requirements in section 99.061 governs your municipal candidate qualifying.¹ Unless the municipal candidate files an oath of undue burden regarding the payment of the election assessment, the Election Code requires each candidate to pay at the time of qualifying a municipal election assessment equal to 1% of the annual salary of the office sought.² The election assessment is part of the qualifying fee that each candidate must pay at the time of filing his or her qualifying papers.³ In order to qualify as a candidate, the Election Code expressly mandates that the candidate must pay the qualifying fee with a "check drawn upon the candidate's campaign account."⁴ Therefore, in the absence of a special act, charter or ordinance provision providing otherwise, a municipal candidate, in order to qualify for the office sought, must pay the election assessment required by section 99.093 with a check drawn upon the candidate's campaign account. If the candidate fails to pay with a check drawn upon the candidate's campaign account, then the filing officer should not qualify the candidate.⁵

SUMMARY

In the absence of an applicable special act, charter, or ordinance provision providing otherwise, a municipal candidate, in order to qualify, must pay the election assessment required by section 99.093, Florida Statutes (2012), with a check drawn upon the candidate's campaign account.

Respectfully,



Maria I. Matthews, Esq.
Director, Division of Elections

cc: Usher L. Brown, Esq., City Attorney, City of Winter Park

¹ This opinion is necessarily limited to the application of the Florida Election Code and does not analyze applicable special acts or provisions of local law that may apply or opine as to the application of any such laws to your situation. The Division has no authority to interpret those provisions. Therefore, this opinion applies only to the extent a special act or local law does not provide otherwise.

² § 99.093, Fla. Stat. (2012).

³ § 99.092, Fla. Stat. (2012).

⁴ § 99.061(7)(a)1., Fla. Stat. (2012).

⁵ See *Weeks v. Detzner*, No. 2012-CA-1858, at 5 (Fla. 2nd Jud. Cir. Aug. 7, 2012) (order granting summary judgment)(upholding the Secretary of State's determination that a candidate did not qualify because he did not submit a properly executed check drawn upon the candidate's campaign account). It is worth noting that a filing officer's function is ministerial and as such, the officer lacks authority to determine the truth or accuracy of the contents of qualifying papers. See *id.*; § 99.061(7)(c), Fla. Stat.; see also e.g., *State ex rel. Shevin v. Stone*, 279 So. 2d 17 (Fla. 1973); *Division of Elections Opinion* 78-30 (Aug. 3, 1978); see also e.g., *Division of Elections Opinion* 09-05 (Jul. 15, 2009) (analyzing qualifying officer's duty and collecting cases and opinions).



city commission public hearing

item type	Public Hearing	meeting date	June 10, 2013
prepared by department division	Clarissa Howard Communications Department	approved by	<input checked="" type="checkbox"/> City Manager <input checked="" type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	n/a	<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N/A	final vote

subject

Adoption of City seal by Ordinance

motion | recommendation

To accept ordinance on first reading

summary

The city's official seal was adopted by vote of the City Commission on May 10, 2004.

Section 165.043, Florida Statutes, provides that the governing body of a city may by ordinance designate an official municipal seal. This ordinance would provide the protection that the municipal seal will not be used except as authorized by the City and if used, without expressed approval, would qualify as a second degree misdemeanor.

The seal is currently copyrighted and under advisement of the City Attorney, this ordinance would further protect the seal from unauthorized use.

board comments

n/a

Ordinance #

**AN ORDINANCE OF THE CITY OF WINTER PARK
ADOPTING THE CITY SEAL IN THE MANNER
REQUIRED BY STATUTE, RETROACTIVE TO THE
FORMAL ADOPTION OF THE SEAL BY THE CITY
COMMISSION OF THE CITY OF WINTER PARK
ON MAY 10, 2004, PROVIDING FOR
CODIFICATION, CONFLICTS, SEVERABILITY
AND AN EFFECTIVE DATE.**

Whereas, on May 10, 2004, the City Commission of the City of Winter Park did adopt the municipal seal, a true copy of which is attached and incorporated as Exhibit "A" to this Ordinance; and

Whereas, Section 165.043, Florida Statutes, provides for adoption of the municipal seal by Ordinance, and further provides that a seal so adopted shall be entitled to the protections afforded by that statute, including the fact that the unauthorized use of the seal is a second degree misdemeanor; and

Whereas, the City Commission of the City of Winter Park finds that the seal of the City is an important representation of the unique characteristics of the City of Winter Park, and that the seal should be protected as a matter of intellectual property to the fullest extent allowed by law, such that the general public may rely upon the display or representation of the municipal seal as the official logo or brand of the City.

Now therefore, be it ordained by the City Commission of the City of Winter Park as follows:

Section 1: Incorporation of Recitals. The recitals to this Ordinance are incorporated herein and are fully made a part of this ordinance.

Section 2: There is created as a new section in the City of Winter Park's Code of Ordinances, Section 2-4 that shall read as follows:

"Section 2-4-____. Municipal Seal of the City of Winter Park. As allowed by Section 165.043 Florida Statutes, the City Commission of the City of Winter Park has adopted by Ordinance and hereby designates its official municipal seal, as shown in the official records and minutes of the City of Winter Park for the meeting of the City Commission held on _____, 2013. Exhibit "A" to Ordinance # _____ enacted at said meeting shall be the official municipal seal of the City of Winter Park. As provided by law, the manufacture, use, display or other employment of any facsimile or reproduction of the municipal seal, except by municipal officials or employees in the performance of their official duties, without the express approval of the governing body is a second degree misdemeanor, punishable as provided in Sections 775.082 or 775.083, Florida Statutes, as the same may be amended.

The City Manager, or his designee, is delegated the authority to grant permission to others to use the seal.”

Section 3: Codification. Section 2-4 shall be codified in the City Code as specified in Section 2 hereof. 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. Sections 2-5 through 2-25 shall continue to be reserved.

Section 4: Conflicts. All ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

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: Effective Date. This Ordinance shall be effective immediately upon adoption at second reading. Additionally, to the fullest extent allowed by law, the adoption of the City seal shall be effective retroactive to the approval of the seal by the City Commission on May 10, 2004.

Adopted by the City Commission of the City of Winter Park, Florida in a regular meeting assembled on the _____ day of _____, 2013.

Mayor Kenneth W. Bradley

ATTEST:

Cindy Bonham, City Clerk

First reading: _____

Second reading: _____

Exhibit "A"





CITY OF CULTURE AND HERITAGE



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

Attorneys at Law

111 N. Orange Ave., Suite 2000
P.O. Box 2873
Orlando, Florida 32802-2873
Phone (407) 425-9566
Fax (407) 425-9596

Usher L. Brown

Board Certified Civil Trial Law
Board Certified Education Law

ulbrown@orlandolaw.net

May 3, 2013

Clarissa Howard, Director of Communications
Randy Knight, City Manager
City of Winter Park
401 Park Avenue South
Winter Park, FL 327891

via email & regular U.S. Mail

Re: Seal of the City of Winter Park

Dear Clarissa and Randy:

Enclosed please find Clarissa's e-mail to me dated April 22 (which attached an excerpt of the minutes of the meeting in 2004 at which the Commission adopted the seal).

Section 165.043, Florida Statutes, provides that the governing body of a city may by ordinance designate an official municipal seal. If enacted in accordance with the requirements of the statute, then the manufacture, use, display or other employment of any facsimile or reproduction of the seal (except by officials or employees in the performance of official duties) without the express approval of the Commission is a second degree misdemeanor.

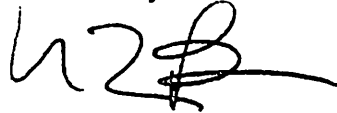
Enclosed is an Ordinance that I recommend be enacted by the City Commission to satisfy the requirements of Section 165.043 and to provide the protection that the municipal seal will not be used except as authorized by the City.

In the attached e-mail, it is stated that the City has copyrighted the seal. A copyright only protects the City from unauthorized reproduction and public performance of the seal. I also recommend state and federal registration of the trademark of the seal of the City of Winter Park to the extent that is lawfully available. I do not register trademarks in my practice and recommend an intellectual property attorney handle the registration. Ava Doppelt is a trademark attorney in Orlando, and she is a long-time resident of the City.

May 3, 2013
Page 2

Please consider placing this Ordinance on the next available agenda with an appropriate representation of the seal to be attached as Exhibit "A". Also, let me know if I am authorized to consult with Ava Doppelt and report back her fees for registering both the state and federal trademark of the City of Winter Park.

Sincerely,

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

Usher L. Brown

ULB:tla

Enclosure

G:\docs\Cities\Winter Park\Trademark Registration - Logo\Correspondence\ltr.clarissa and randy re city seal and ordinance.wpd

Ordinance #

**AN ORDINANCE OF THE CITY OF WINTER PARK
ADOPTING THE CITY SEAL IN THE MANNER
REQUIRED BY STATUTE, RETROACTIVE TO THE
FORMAL ADOPTION OF THE SEAL BY THE CITY
COMMISSION OF THE CITY OF WINTER PARK ON
MAY 10, 2004, PROVIDING FOR CODIFICATION,
CONFLICTS, SEVERABILITY AND AN EFFECTIVE
DATE.**

Whereas, on May 10, 2004, the City Commission of the City of Winter Park did adopt the municipal seal, a true copy of which is attached and incorporated as Exhibit "A" to this Ordinance; and

Whereas, Section 165.043, Florida Statutes, provides for adoption of the municipal seal by Ordinance, and further provides that a seal so adopted shall be entitled to the protections afforded by that statute, including the fact that the unauthorized use of the seal is a second degree misdemeanor; and

Whereas, the City Commission of the City of Winter Park finds that the seal of the City is an important representation of the unique characteristics of the City of Winter Park, and that the seal should be protected as a matter of intellectual property to the fullest extent allowed by law, such that the general public may rely upon the display or representation of the municipal seal as the official logo or brand of the City.

Now therefore, be it ordained by the City Commission of the City of Winter Park as follows:

Section 1: Incorporation of Recitals. The recitals to this Ordinance are incorporated herein and are fully made a part of this ordinance.

Section 2: There is created as a new section in the City of Winter Park's Code of Ordinances, Section 2-4 that shall read as follows:

"Section 2-4-____. Municipal Seal of the City of Winter Park. As allowed by Section 165.043 Florida Statutes, the City Commission of the City of Winter Park has adopted by Ordinance and hereby designates its official municipal seal, as shown in the official records and minutes of the City of Winter Park for the meeting of the City Commission held on _____, 2013. Exhibit "A" to Ordinance #_____ enacted at said meeting shall be the official municipal seal of the City of Winter

Park. As provided by law, the manufacture, use, display or other employment of any facsimile or reproduction of the municipal seal, except by municipal officials or employees in the performance of their official duties, without the express approval of the governing body is a second degree misdemeanor, punishable as provided in Sections 775.082 or 775.083, Florida Statutes, as the same may be amended. The City Manager is delegated the authority to grant permission to others to use the seal, but such permission shall be in writing and reported to the City Commission.”

Section 3: Codification. Section 2-4 shall be codified in the City Code as specified in Section 2 hereof. 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. Sections 2-5 through 2-25 shall continue to be reserved.

Section 4: Conflicts. All ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

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: Effective Date. This Ordinance shall be effective immediately upon adoption at second reading. Additionally, to the fullest extent allowed by law, the adoption of the City seal shall be effective retroactive to the approval of the seal by the City Commission on May 10, 2004.

Adopted by the City Commission of the City of Winter Park, Florida in a regular meeting assembled on the ____ day of _____, 2013.

Mayor Kenneth W. Bradley

ATTEST:

Cindy Bonham, City Clerk

First reading: _____

Second reading: _____

Usher L. Brown

From: Clarissa Howard <choward@cityofwinterpark.org>
Sent: Monday, April 22, 2013 10:36 AM
To: Usher L. Brown
Subject: RE: statute 165.043 protecting City's brand-we do this by ordinance
Attachments: New City of Winter Park Seal.pdf; 20130422095832617.pdf

When we adopted the seal on May 10, 2004, we did not do it by ordinance. Minutes are below. It was just adopted by the commission. It's been 9 years (see press release attached). Also, I'm attaching the correspondence I received from Trippe Cheeks office related to the copyright for your records...

COB/WEA/LRM
- copyright - renewal
- trademark
- ordinance - 165.043

CITY MANAGER'S REPORT:

a) Presentation of revised City seal

Communications Director Clarissa Howard presented the new at the April 12 meeting in its final format which will replace the p photos as to how the vehicles will look with the new seal as w

CITY COMMISSION MEETING MINUTES
MAY 10, 2004
PAGE 8 OF 10

was a consensus to move forward with implementing the new of the four colors as shown and the associated costs were adc

Clarissa Howard, Communications Director
City of Winter Park
407.599.3428

From: Usher L. Brown [mailto:lbrown@orlandolaw.net]
Sent: Monday, April 22, 2013 9:51 AM
To: Clarissa Howard
Subject: RE: statute 165.043 protecting City's brand-we do this by ordinance

Yes-that's fine

Did the city adopt its seal by ordinance? The statute says we should

From: Clarissa Howard [mailto:choward@cityofwinterpark.org]
Sent: Monday, April 22, 2013 9:41 AM
To: Usher L. Brown
Subject: RE: statute 165.043 protecting City's brand-we do this by ordinance

Larry,

Currently our seal is copyrighted as well, which I'm assuming is still good to maintain...Just a double safety keeping the copyright up to date along with the ordinance already in place, right?

Clarissa Howard, Communications Director
City of Winter Park
407.599.3428

From: Usher L. Brown [mailto:lbrown@orlandolaw.net]
Sent: Monday, April 22, 2013 9:28 AM
To: Clarissa Howard; Randy Knight; Ken Bradley
Subject: statute 165.043 protecting City's brand-we do this by ordinance

Online
Sunshine

Official Internet Site of the Florida Legislature

April 22, 2013

Search Statutes: [2012 \/] municipal seal [Search]

Home

Select Year: [2012 \/] [Go]

Senate

House

Citator

Statutes, Constitution,
& Laws of Florida

Florida Statutes
Search Statutes
Search Tips
Florida
Constitution
Laws of Florida

Legislative & Executive
Branch Lobbyists

Access Lobbyists
Legislative
Lobbyist Directory
Executive
Lobbyist Directory
Legislative Branch
Lobbying Firm
Directory
Executive Branch
Lobbying Firm
Directory
Registration and
Other Forms
View
Compensation
Reports
Create and Submit
Compensation
Reports

Information Center

Joint Legislative
Committees &
Other Entities

Joint
Administrative
Procedures
Committee (JAPC)
Joint Committee
on Public Counsel
Oversight(JCPO)
Joint Legislative
Auditing
Committee (JLAC)
Joint Legislative
Budget
Commission

The 2012 Florida Statutes

Title XII
MUNICIPALITIES

Chapter 165
FORMATION OF LOCAL GOVERNMENTS

[View Entire Chapter](#)

165.043 Official county or municipal seal.—The governing body of a county or municipality may, by ordinance, designate an official county or municipal seal. The manufacture, use, display, or other employment of any facsimile or reproduction of the county or municipal seal, except by county or municipal officials or employees in the performance of their official duties, without the express approval of the governing body is a second degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 91-59.



city commission public hearing

item type	Public Hearing	meeting date	June 10, 2013
prepared by department division	City Attorney	approved by	<input checked="" type="checkbox"/> City Manager <input checked="" type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N/A		
		final vote	

subject

Misdemeanor term of imprisonment revision to code for violating municipal ordinances to comply with state law

motion | recommendation

Approve the ordinance on first reading.

summary

See the attached letter from the City Attorney.

board comments

N/A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING SECTION 1-7, GENERAL PENALTY; CONTINUING VIOLATIONS, OF CHAPTER 1, GENERAL PROVISIONS, ARTICLE I, IN GENERAL, TO AMEND THE PENALTY FOR VIOLATING MUNICIPAL ORDINANCES TO COMPLY WITH STATE LAW; PROVIDING FOR SEVERABILITY, CODIFICATION, CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, Fla. Stat. § 162.22 provides for penalties for violations of municipal ordinances; and

WHEREAS, the City Code needs to be amended to comply with state law; and

WHEREAS, this Ordinance is in the best interest of the City residents; and

WHEREAS, words with double underlined type shall constitute additions to the original text and strike through shall constitute deletions to the original text, and asterisks (* * *) indicate that text shall remain unchanged from the language existing prior to adoption of this Ordinance.

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

SECTION 1. Recitals. The foregoing recitals are hereby adopted and confirmed.

SECTION 2. Section 1-7, General penalty; continuing violations, of Chapter 1, General Provisions, Article I, In General, is hereby amended as follows:

1-7. – General penalty, continuing violations.

* * *

(c) Except as otherwise provided, a person convicted of a violation of this Code shall be punished by a fine not exceeding \$500.00, by imprisonment for a term not exceeding ~~four months~~ sixty days, or any combination thereof. With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense.

* * *

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. CODIFICATION. It is the intention of the City Commission of the City of Winter Park, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinance of the City of Winter Park, Florida; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; that the word, "Ordinance" may be changed to "Section," "Article," or other appropriate word.

SECTION 5. CONFLICTS. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 6. EFFECTIVE DATE. This Ordinance 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 in City Hall, Winter Park, on this _____ day of _____, 2013.

Mayor Kenneth W. Bradley

ATTEST:

City Clerk, Cynthia S. Bonham



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

Attorneys at Law

111 N. Orange Ave., Suite 2000
P.O. Box 2873
Orlando, Florida 32802-2873
Phone (407) 425-9566
Fax (407) 425-9596

Usher L. Brown
Board Certified Civil Trial Law
Board Certified Education Law

ulbrown@orlandolaw.net

May 28, 2013

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

via email & regular U.S. Mail

Re: Misdemeanor term of imprisonment needs revisions in the Code of Ordinances

Dear Randy:

Please find enclosed my associate's memorandum that identifies an error in the Code. Section 1-7(c) provides for a term of imprisonment not exceeding four months, whereas state statute limits the term of imprisonment for municipal code violation to 60 days.

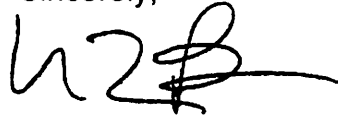
Also enclosed is a recommended Ordinance that will amend the Code to correct this conflict with the statute.

Ms. McKinney is currently working with staff in prosecuting Code violations, and she assures me that the City is following the correct law in practice, but we do recommend amending the Code so that it is consistent with the maximum term of imprisonment allowed by state law.

May 28, 2013
Page 2

Please contact me should you have any questions. If you are satisfied with this, it would be in order to place this on the next available agenda for first reading.

Sincerely,

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

Usher L. Brown

ULB:tla

Enclosure

cc: Cindy Bonham, City Clerk
Michelle Bernstein, Assistant City Clerk
Art King, Deputy Chief of Police
Brett Railey, Chief of Police

G:\docs\Cities\Winter Park\Ordinances and Resolutions General\Correspondence\ltr.randy knight re Sec. 1-7 language to be amended to comply with statute.wpd

MEMO TO: Usher L. Brown, Esq. ✓
COPY TO: Catherine D. Reischmann, Esq.
FROM: L. Robin McKinney, Esq.
RE: Winter Park Code Section 1-7
DATE: May 17, 2013

Winter Park's Code Section 1-7 needs to be revised to comply with state law on penalties for violating municipal ordinances. While we are following the correct law in practice, if there is an opportunity to update the Code in the future, we would like to do so to avoid any challenges.

Sec. 1-7(c) currently states, "Except as otherwise provided, a person convicted of a violation of this Code shall be punished by a fine not exceeding \$500.00, by imprisonment for a term **not exceeding four months**, or any combination thereof. With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense."

"Four months" should be "60 days" in order to comply with Fla. Stat. 166.22:

162.22 Designation of enforcement methods and penalties for violation of municipal ordinances.—The governing body of a municipality may designate the enforcement methods and penalties to be imposed for the violation of ordinances adopted by the municipality. These enforcement methods may include, but are not limited to, the issuance of a citation, a summons, or a notice to appear in county court or arrest for violation of municipal ordinances as provided for in chapter 901. Unless otherwise specifically authorized and provided for by law, a person convicted of violating a municipal ordinance may be sentenced to pay a fine, not to exceed \$500, and may be sentenced to a definite term of imprisonment, **not to exceed 60 days**, in a municipal detention facility or other facility as authorized by law.

Please see attached draft ordinance making this change to Section 1-7 of the City Code.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING SECTION 1-7, GENERAL PENALTY; CONTINUING VIOLATIONS, OF CHAPTER 1, GENERAL PROVISIONS, ARTICLE I, IN GENERAL, TO AMEND THE PENALTY FOR VIOLATING MUNICIPAL ORDINANCES TO COMPLY WITH STATE LAW; PROVIDING FOR SEVERABILITY, CODIFICATION, CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, Fla. Stat. § 162.22 provides for penalties for violations of municipal ordinances; and

WHEREAS, the City Code needs to be amended to comply with state law; and

WHEREAS, this Ordinance is in the best interest of the City residents; and

WHEREAS, words with double underlined type shall constitute additions to the original text and strike through shall constitute deletions to the original text, and asterisks (* * *) indicate that text shall remain unchanged from the language existing prior to adoption of this Ordinance.

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

SECTION 1. Recitals. The foregoing recitals are hereby adopted and confirmed.

SECTION 2. Section 1-7, General penalty; continuing violations, of Chapter 1, General Provisions, Article I, In General, is hereby amended as follows:

1-7. – General penalty, continuing violations.

* * *

(c) Except as otherwise provided, a person convicted of a violation of this Code shall be punished by a fine not exceeding \$500.00, by imprisonment for a term not exceeding ~~four months~~ sixty days, or any combination thereof. With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense.

* * *

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. CODIFICATION. It is the intention of the City Commission of the City of Winter Park, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinance of the City of Winter Park, Florida; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; that the word, "Ordinance" may be changed to "Section," "Article," or other appropriate word.

SECTION 5. CONFLICTS. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 6. EFFECTIVE DATE. This Ordinance 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 in City Hall, Winter Park, on this _____ day of _____, 2013.

Mayor Kenneth W. Bradley

ATTEST:

City Clerk, Cynthia S. Bonham



city commission public hearing

item type	Public Hearing/Resolution	meeting date	June 10, 2013
prepared by	George Wiggins	approved by	<input checked="" type="checkbox"/> City Manager
department	Building & Permitting		<input checked="" type="checkbox"/> City Attorney
division			<input type="checkbox"/> N/A
board approval		<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N/A	final vote

subject

Resolution making findings that it is necessary to seek a declaratory judgment to determine the rights between the City, Orange County, two private billboard companies and property owners.

motion | recommendation

Approve Resolution.

summary

In March of this year, the City became aware of a possible conflict between two pending digital billboard approvals issued by Orange County along Lee Road within 500 feet of each other. **One approval is in Orange County's PD Zoning approval conditions and a second approval was granted by a billboard sign permit issued by the County prior to the second reading of the annexation ordinance for the Ravaudage property and other privately owned properties along Lee Road (not part of Ravaudage).** One of the billboards could soon begin construction unless other direction from the court is given through a declaratory judgment ruling. Because of the imminent construction, the **City Manager authorized the City Attorney's office to seek a declaratory judgment from the courts to determine the rights of the two billboard companies who both have received approvals to build from Orange County.**

The attached resolution is being brought to the Commission for ratification of the filing of the suit. Also, the lawsuit was filed before the completion of the dispute resolution procedures set forth in Chapter 164 of the Florida Statutes. If the Commission decides by **a super majority vote that the City's significant legal rights may be compromised** unless the filing of the action is ratified, and unless the action is allowed to proceed before completion of dispute resolution procedures, then the case can proceed through the court system before exhausting all the dispute resolution procedures in Chapter 164, to prevent the construction of the two billboards close together.

RESOLUTION NO. -13

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, FINDING THAT IT IS NECESSARY TO SEEK A DECLARATORY JUDGMENT THAT WILL DETERMINE THE RIGHTS AS BETWEEN THE CITY, ORANGE COUNTY, AND TWO PRIVATE BILLBOARD COMPANIES; RATIFYING THE FILING OF SUCH ACTION BEFORE COMPLIANCE WITH THE DISPUTE RESOLUTION PROCEDURES UNDER CHAPTER 164, FLORIDA STATUTES; FINDING AN IMMEDIATE DANGER TO THE WELFARE OF THE PUBLIC THAT REQUIRES THE CITY OF WINTER PARK TO FILE THE DECLARATORY JUDGMENT ACTION AND RATIFYING THE PRIOR ACTION OF THE CITY MANAGER AND CITY ATTORNEY IN FILING THE DECLARATORY JUDGMENT ACTION; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, the City Manager of the City of Winter Park determined that it was in Winter Park's best interests and the best interests of the public to file a declaratory judgment action to determine the validity of Orange County sign permit #B12006345; and

WHEREAS, the City Manager of the City of Winter Park determined that it was in the City of Winter Park's interest that the City Attorney file a declaratory judgment action regarding the competing claims by two private billboard companies and property owners in the City claiming a priority entitlement to erect billboards on Lee Road; and

WHEREAS, the City Commission of the City of Winter Park is acting in accordance with the provisions of Article VIII, Section 2(b) of the *Constitution of the State of Florida*, which provides that "municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law"; and

WHEREAS, the City Commission of the City of Winter Park is also acting in accordance with Section 166.021(1), *Florida Statutes*, which provides, in pertinent part, that "[a]s provided in S. 2(b), Art. VIII of the State Constitution, municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law"; and

WHEREAS, the City Commission of the City of Winter Park is also acting in accordance with Section 166.021(3), *Florida Statutes*, which provides, in pertinent part, that "[t]he Legislature recognizes that pursuant to the grant of power set forth in S. 2(b), Art. VIII of the State Constitution, the legislative body of each municipality has the power to enact

legislation concerning any subject matter upon which the state legislature may act” except for certain very limited matters; and other applicable law; and

WHEREAS, the City has banned all off site signs and digital signs, and has from time-to-time taken action to ensure that the number of off-site signs in the City are minimized, that the rights and expectations of the citizens of the City of Winter Park are honored, and that all such actions are accomplished in a prudent manner consistent with the public interest and the controlling requirements of Florida law; and

WHEREAS, the City of Winter Park is being faced with Orange County’s issuance of Permit No. B12006345 for an off-site sign within 1,000 feet of another off site digital sign the County approved on Lee Road as part of a Planned Development; and

WHEREAS, the City has attempted to resolve the conflicts with the County, to no avail; and

WHEREAS, the City Commission of the City of Winter Park hereby ratifies the City Manager’s decision to file a declaratory judgment action seeking an adjudication of rights.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA:

SECTION 1. LEGISLATIVE FINDINGS/INTENT.

(1) The provisions set forth in the recitals to this Resolution (whereas clauses) are hereby adopted by the City Commission of the City of Winter Park as the legislative findings and intent pertaining to this Ordinance.

(2) The City Commission hereby acknowledges the fact that the City Manager has engaged Orange County administration in a dialogue in an effort to resolve the problem created by the fact that Orange County first issued a right to construct a billboard on Lee Road as part of a Planned Development, and thereafter, in apparent violation of County Code, issued a permit entitling another property owner and billboard company the right to erect a billboard within 1,000 feet of the first entitlement granted, notwithstanding that Orange County prohibits under its Code billboards being erected within 1,000 feet of each other.

(3) Part II, Chapter 163, *Florida Statutes*, is styled as the “Local Government Comprehensive Planning and Land Development Regulation Act,” and requires local governments to comprehensively plan and manage growth.

(4) The City Commission for the City of Winter Park recognizes the statutory mandate that it initiate conflict resolution proceedings prior to initiating court proceedings under Chapter 164, *Florida Statutes*, but finds that an exception applies here.

SECTION 2. FINDING OF ADVERSE EFFECT UPON CITY'S LEGAL RIGHTS.

(1) Orange County should not have the authority to enter into and take actions that adversely affect the City of Winter Park's ability to enforce its Codes.

(2) The City understood when it annexed the subject Planned Development that the owner had the right to a billboard on Lee Road, but subject to the condition that three other billboards operated and owned by Clear Channel would be removed.

(3) Clear Channel, MaxMedia, the property owners with relationships with these two companies, and Orange County have taken divergent and inconsistent positions. The City of Winter Park is in doubt as to its legal obligation under these circumstances and a declaratory judgment action pursuant to Chapter 86, *Florida Statutes*, is appropriate to resolve such doubt.

(4) All other issues of conflict are specified in the recitals (whereas clauses) of this Resolution.

**SECTION 3. SUPER MAJORITY FINDING OF THE CITY COMMISSION;
AUTHORIZATION TO CITY MANAGER AND CITY ATTORNEY.**

(1) The City Commission for the City of Winter Park, by a three-fourths (3/4) vote, finds that significant legal rights of the City may be compromised, and there is an immediate danger to the welfare of the public unless the declaratory judgment is filed, accompanied by a motion to stay further action regarding the competing billboard interests pending a determination of the law by the court.

(2) The City Manager authorized the City Attorney to file a declaratory judgment action against Orange County, MaxMedia, Clear Channel and the landowners on whose land the two billboard companies seek to erect billboards, and to bypass the conflict resolution process set forth in Chapter 164, *Florida Statutes*, because of the possible business damages that may be incurred without a prompt adjudication of the legal rights of the parties. And, the City Commission hereby ratifies the filing of such action.

(3) The City Commission of the City of Winter Park also ratifies the direction by the City Manager to the City Attorney that the attorney shall prosecute the declaratory judgment action and obtain a statement of the correct law, defend against any effort to erect more than one billboard on Lee Road, and to receive for the City as a result of the legal action all benefits and conditions contained in the Planned Development (notably, the removal of three Clear Channel billboards in consideration of the erection of one Clear Channel billboard on Lee Road).

(4) The City Commission of the City of Winter Park hereby directs the City Attorney to sustain to the greatest extent possible the position of the City that no off site sign or digital sign (commonly referred to as a billboard) will be permitted.

(5) The City Commission of the City of Winter Park hereby directs the City Manager or designee to cause a certified copy of this Resolution to be delivered, return receipt requested,

to the County Administrator of Orange County within five (5) days after passage of this Resolution, together with a letter pursuant to Section 164.1052(1), *Florida Statutes*. Also pursuant to Section 164.1052(1), *Florida Statutes*, the City Commission hereby directs the City Manager or designee to cause to be delivered a copy of the letter and this Resolution to all other local governmental entities as may be appropriate and beneficial.

SECTION 4. ANY ACTION WHICH THREATENS THE CITY. The City Manager is hereby authorized to authorize and direct the City's Attorneys to file any lawsuits or take any action necessary (as the City Manager may determine to be necessary) against any government entity or agency, individual, or private entity which threatens or jeopardizes the City, and take all reasonable action necessary to protect the same.

SECTION 5. ADMINISTRATIVE ACTIONS. The City Manager or designee is hereby authorized to take any and all such administrative actions that are deemed necessary and appropriate to implement the provisions of this Resolution.

SECTION 6. SEVERABILITY. If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Resolution not otherwise determined to be invalid, unlawful or unconstitutional.

SECTION 7. CONFLICTS. All resolutions or part of resolutions in conflict with this Resolution are hereby repealed.

SECTION 8. EFFECTIVE DATE. This Resolution becomes effective immediately upon its adoption.

ADOPTED at regular meeting of the City Commission of the City of Winter Park, Florida, held at City Hall, Winter Park, Florida, on the 10th day of June, 2013.

ATTEST:

CITY OF WINTER PARK, FLORIDA

Cynthia S. Bonham, City Clerk

Kenneth W. Bradley, Mayor