



city commission agenda

Regular Meeting

April 25, 2016

3:30 p.m.

Commission Chambers

commissioners				mayor	commissioners			
seat 1	Gregory Seidel	seat 2	Sarah Sprinkel	Steve Leary	seat 3	Carolyn Cooper	seat 4	Pete Weldon

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 website at 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.

Citizen comments at 5 p.m. and each section of the agenda where public comment is allowed are limited to three (3) minutes. The yellow light indicator will remind you that you have one (1) minute left. 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.

agenda

1 Meeting Called to Order

2 Invocation Pastor Jeff Arp, Calvary Assembly of God Pledge of Allegiance

3 Approval of Agenda

4 Mayor's Report

***Projected Time**
***Subject to change**

- Proclamation - Support our Scholars Graduation Month
- Proclamation - North American Occupational Safety and Health Week and Occupational Safety and Health Professional Day
- Proclamation - Falun Dafa Day
- Proclamation - Deputy Police Chief Vernon Taylor Retirement
- Award presentation - Tree City USA, Tree City Growth USA & Tree Line USA

25 minutes

5	City Manager's Report	*Projected Time *Subject to change 5 minutes
6	City Attorney's Report	*Projected Time *Subject to change
7	Non-Action Items a. Backyard chickens pilot program	*Projected Time *Subject to change 20 minutes
8	Citizen Comments 5 p.m. or soon thereafter (if the meeting ends earlier than 5:00 p.m., the citizen comments will be at the end of the meeting) (Three (3) minutes are allowed for each speaker; not to exceed a total of 30 minutes for this portion of the meeting)	
9	Consent Agenda a. Approve the minutes of April 11, 2016. b. Approve the following contracts: 1. Amendment 1 to Integrated Systems of Florida, Inc., IFB-19-2013, Security Access and Monitoring at Public Safety Complex; and authorize the Mayor to execute the amendment; \$75,000. 2. Amendment 1 to Bryant, Miller, Olive, P.A., RFP-5-2011, Bond Counsel Services; and authorize the Mayor to execute the amendment. c. Approve the relocation reimbursement agreement with Duke Energy regarding the Fairbanks Avenue undergrounding project.	*Projected Time *Subject to change 5 minutes
10	Action Items Requiring Discussion a. Showalter Field use agreement	*Projected Time *Subject to change 15 minutes
11	Public Hearings a. <u>Request of Z Properties</u> : (continued at the April 11 meeting) - Subdivision or lot split approval to divide the property at 360 Beloit Avenue, zoned R-1A, into two single family building lots. b. Ordinance – Vacating utility easements for Lots 5, 6, 7, 10, 11, 14, 15 and 16 of Block 41, Town of Winter Park subdivision bounded by New England Avenue, Virginia Avenue, Welbourne Avenue and Hannibal Square East (1)	*Projected Time *Subject to change 20 minutes 10 minutes

- | | |
|--|-------------------|
| <p>c. Ordinance – Amending Ordinance Nos. 2843-11 and 2880-12, Article III, Chapter 2, City Code regarding City boards and commissions; and amending Chapter 22, Article II, Section 22-28 “Amendments to Florida Building Code”, Subsection 113 concerning the Construction Board of Appeals (1)</p> | <p>25 minutes</p> |
| <p>d. <u>Request of the City of Winter Park:</u></p> <ul style="list-style-type: none"> - Ordinance – Amending Chapter 58 “Land Development Code” Article I, “Comprehensive Plan” to add and amend policies in the text of the future Land Use Element within the Highway 17-92 and West Fairbanks Corridor Study Areas “J” and “L” so as to revise policies concerning fast food and drive-in businesses (1) - Ordinance – Amending Chapter 58 “Land Development Code” Article III, “Zoning” so as to change within Section 58-76 Commercial (C-3) District, the conditional uses for fast food and Drive-in businesses along the West Fairbanks Corridor (1) | <p>20 minutes</p> |

12 City Commission Reports

***Projected Time**
***Subject to change**

- a. Commissioner Seidel
- b. Commissioner Sprinkel
- c. Commissioner Cooper
- d. Commissioner Weldon
- e. Mayor Leary

10 minutes total

appeals & assistance

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

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



city commission city manager's report

item type City Manager's Report

meeting date April 25, 2016

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
Railroad crossing update	Four of Winter Park's street crossings are included in FDOT's CIP for installing concrete panels.	FDOT is expected to begin the work in June 2016. All crossing improvements are to be completed by August 2017.
Visioning Steering Committee	Inviting community to participate at www.visionwinterpark.org .	Meetings will be April 23 at Harland Park, Howell Branch Park, and the Farmers' Market from 9:00-11:00 a.m.
New Hope Baptist Church Project	The exterior of the buildings, accessible restrooms, landscaping, parking and drainage have been completed and approved. The Pastor has agreed to obtain assistance of a designer to improve the architectural appearance of the buildings to include the area at the base of the structures.	The Pastor still plans to fully address the architectural concerns with the two classroom buildings.
Ward Park restrooms	Design is complete on two new restrooms by the new soccer fields and adjacent to the existing restrooms at the Little League fields.	Construction should start by the end of May 2016.
Denning Drive	Denning Drive public meetings	Scheduled for May 12 and June 7 at the Rachel D. Murrah Civic Center. 5:30-7:30 p.m.

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.



city commission agenda item

Item type	Non-Action Item	meeting date	April 25, 2016				
prepared by	Kris Stenger	approved by	<input checked="" type="checkbox"/>	City Manager			
department	Building & Permitting Services		<input type="checkbox"/>	City Attorney			
division			<input type="checkbox"/>	N/A			
board approval	KWPB&S	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no	<input type="checkbox"/> N/A	12-0	final vote	
strategic objective	<input type="checkbox"/> Exceptional Quality of Life	<input type="checkbox"/> Fiscal Stewardship					
	<input checked="" type="checkbox"/> Intelligent Growth & Development	<input type="checkbox"/> Public Health & Safety					
	<input type="checkbox"/> Investment in Public Assets & Infrastructure						

subject

Backyard Chicken Pilot Program

motion | recommendation

Recommendation would be to study if following the same regulations of the City or Orlando or Maitland pilots seems appropriate for a pilot within the City of Winter Park.

background

Approximately 2 years ago the Commission directed staff to monitor the Backyard Chicken pilot program at the City of Orlando and bring this item back for discussion upon its completion.. The Pilot was enacted in 2012 and in 2013 the City of Orlando increased their number of allowed permits to 75 and increased the number of hens from 3 to 4. As of March 2016 a total of 58 permits have been issued with no reported complaints.

alternatives | other considerations

Alternatives would be to make modifications to pilot programs of neighboring communities

fiscal impact

Homeowners wishing to participate would need to complete permitting and training process with associated fees.

Urban Chicken Pilot Program Update

Council Workshop, March 25, 2013

Jason Burton, Chief Planner

Urban Chicken Pilot Program

Summary

- Council approved Temporary Use Permit authorizing Pilot on May 7, 2012.
- Staff has approved 25 households and three employee/residents; 25 more on wait list.
- Pilot lasts for 2 years, with possible one year extension by Planning Official.
- Orlando's program has been copied or studied by at least five other jurisdictions.

Why a pilot program?

- Allows staff to assess the concept prior to incorporating it into code.
- Allowed districts to volunteer as “opting-in” to the pilot (District 3, 4 and 5).
- Allowed staff to work closely with each permittee with limited participation.
- Participants are accepted into the program after meeting pre-set criteria.

Overview

- Classes
- Coops
- Chickens



Classes

- Orlando's pilot requires a class on chicken care:
 - University of Florida/IFAS Ag Extension:
Dennis Mudge, Animal Science Coordinator
 - Sundew Gardens:
Thomas Carey and Tia Meer
- Held 5 chicken care classes and trained over 50 people; many participants attended both classes.



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Classes

- Since chickens are social creatures, there is a pecking order to your flock.
- You must actually stick a chicken's beak into their water bowl so they know it's there.
- The color of a hens eggs is usually the color of her ears.
- Must incorporate your daily household routine into caring for the chickens.

Chickens lay
eggs for
approximately
2 to 3 years,
which
coincides with
the duration
of the pilot
program.



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Coops

- Development Standards for coops:
 - 5-feet from residential property lines and principal structures; 0-feet from accessory structures.
 - Placed in the rear yard.
 - 20-feet from neighboring residential structures.
 - Structures are generally less than 20 square feet.
 - Must be tied-down for wind resistance.
- Applicants submit plans to Planning Official.



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Chickens

- Limit of 3 chickens:
 - The least amount of chickens, for the least impact.
 - Chickens do better as flocks; due to the pecking order it is not advisable to have just 2 hens.
- No roosters allowed.
- Ag Extension Agent visited most chickens “on-demand” and advised participants:
 - poisonous plants
 - chicken care



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Chickens

- Peep, Bleep and Cheep
- Blackie, Red and Rock
- Ginger, Marianne, and Lovie
- Goat, Cow and Pig
- Betty, Henrietta and Camile
- Lucy, Gypsy and Faith
- Ceasar, Spartacus, Maximus
- Sakura, Szechuan Pepper and Mandarin



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Chickens

- Thing 1, Thing 2 and Thing 3
- Feather Duster, Ms. Gerdy, and Cinnamon
- Gertrude, Hilde and Hilge



Chickens

- Why do people have them?
 - Sustainability trends
 - Slow food and gourmet cooks
 - Reduces travel time for food
 - Folks concerned about the treatment of hens
 - Chickens as pets for an “active” lifestyle
 - Eggs taste better and last longer...



CITY OF ORLANDO



REBEKAH BELLARD holds one of the chickens she keeps in a coop in the back yard of her Lakeland home. She just went home from the outdoor expo.

Backyard Chickens

Residents Proud to Be Urban Farmers

Suburban chicken has become a trend in the city. In Lakeland, Fla., Rebekah Bellard, 34, has a small flock of chickens in her back yard. She says she started keeping chickens because she wanted to raise her own food. She says she has been keeping chickens for about a year now. She says she has been keeping chickens for about a year now. She says she has been keeping chickens for about a year now.



REBEKAH BELLARD, 34, holds one of the chickens she keeps in a coop in the back yard of her Lakeland home. She just went home from the outdoor expo.

PULSE URBAN LIVING

PERSONABLE FOWL

Providing eggs and entertainment, Orlando's urban chickens apparently are all they're cracked up to be. BY KRISTEN MANIERI

DROP BY GABBY OTHON LOTHROP'S Audubon Park home some afternoon and there's a pretty good chance you'll find her in the backyard watching her clucking city. Affectionately known as Princess Dominique Von Otron, Scarlett, Dilligoo of Audubon, and Lady Goddess Eggington Lothrop, the three hens not only give Lothrop and her husband, Mike, endless hours of amusement—following her or her dog around the yard or cackling gleefully when they spy her in the window—but also do more than a dozen eggs a week.

The Lothrops are one of 28 households participating in the City of Orlando urban chicken pilot program, a two-year initiative launched last spring to determine if passing a city ordinance legalizing backyard chickens will work. Hardly a revolutionary move—the endeavor simply caught

Orlando up to major U.S. cities like Chicago and Los Angeles, which have already approved backyard chickens. Eleven Florida cities have passed urban chicken ordinances, including Key West, the Ponce de Leon, Lakeland and Miami.

"I started noticing the urban chicken trend nationally and realized that over 200 cities had ordinances that allow urban chickens," says Commissioner Patty Sheehan, who spearheaded the pilot program for an Orlando pilot program. She also helped school fellow commissioners on the agenda and misconceptions of raising urban chickens, including the noisier factor (no roosters are permitted since they're part of the equation only if you want to conserve chicks and the threat of disease. "Many people think spread more disease than urban chickens," Sheehan says. "I see this as a healthy movement that's really good for our city."

As the no-rooster of Silver Fowl Orlando, which promotes healthy food from local farms and other providers, Lothrop is also a chicken crusader. "People are more starting to realize how much our food system is and are branching out on their own. Some people are going to do it by shopping

Gabby Othon Lothrop, with Scarlett, says she just realized she's finding "our inner farmer."

a certain way or joining CSA (community supported agriculture), but urban chicken farming is another avenue to get closer to our food," says Lothrop, an avid gardener. "Growing our own food has helped connect us to the process and is



Gabby Othon Lothrop, with Scarlett, says she just realized she's finding "our inner farmer."

commissioner Patty Sheehan spearheaded the program to allow more than two dozen households, including hers, to raise chickens for eggs.

It's part of the pilot, the Lothrops completed the mandatory training provided by the Orange County Extension Office and Sunday Gardens in Ocoke. "All the requirements are met by the city made good sense," Lothrop said. "You can have a lot of cities, unexpected things happen with your birds and not know how to deal with them. If you don't know what to look for, you can end up with a flock of sick chickens."

The next step was to build their coop, where Lothrop admits they were a little overboard. With the help of an architect friend, the couple spent most of June building the palatial hen house, now nestled at night.

"Last July, the trouble house down one-year-old henhouse: here that purchased from a private farm in Appaloosa. I didn't want to start with chicks and have to wait a year for them to start laying eggs," Lothrop said. "We wanted to jump right into the stage when we would start to benefit." And they did: the hens started laying the day after they arrived and have continued to collectively lay about a dozen eggs a week.

The city has set a three-hen cap for all participants in the program. "We wanted to give them the least intensive amount of chickens, and those chickens laying a dozen eggs a week is more than enough to sustain a single family, and Jason Burton, who oversees the program as chief planner with the city planning division.

So far, Burton sees the pilot program as a success and anticipates it eventually culminating in a citywide ordinance. "We're trying to show that these are low-intensity pets, not different from having a dog except that these pets give back food."



Gabby Othon Lothrop, with Scarlett, says she just realized she's finding "our inner farmer."

Cheep Chic

In suburban backyards across America, chickens are coming home to roost

by Joanne Kaufman

ELIZABETH LAMPERT'S daughter, Siena, wanted a horse. "But that would have been expensive," says Lampert, the owner of a public-relations agency just outside San Francisco. Instead, she went to a local hay-and-feed store and bought the 10-year-old and bought the 10-year-old a pair of chickens. "Then Siena thought they were getting lonely, so we got three more," Lampert says. "They taste rich and creamy. The yolk—it's very orange. Siena used to ask for cereal for



chick, chuck here and the chuck, chuck there of Old MacDonald's farm to their urban and suburban backyards. Municipalities like Detroit, perhaps concerned about the possibility of noise, fowl odors, and abandoned chickens, prohibit them. Others, including Spokane, have significant restrictions on coop construction. But a long list of cities—including Seattle, Chicago, New York, and Portland, Ore.—are perfectly fine about being home for the (free) range, at least for hens.

"Many people want to become more self-sufficient," observes Rob

Ludlow, founder of the community website BackYardChickens.com. "Having a handful of egg-laying hens in a relatively small yard allows people to participate in the grow-local movement without having to move." Ludlow has no precise figures on the number of backyard-chicken owners in the U.S., but when he created his website three years ago it had only 50 members; now, he says there are more than 70,000. According to Ludlow, "There's a growing awareness of how fun and easy it is to raise backyard chickens, plus a growing realization that chickens are a

CHICKS IN THE CITY

Adults 50-plus have a new cause célèbre: the right to keep chickens. Urbanites nationwide are successfully challenging city councils to allow small backyard coops, making the hobby mainstream. The number of cities easing restrictions has more than doubled in the past two years, says Gretchen Anderson, author of *The Backyard Chicken Fight*. "People keep chickens to know where their food comes from, to produce fresh eggs, and for natural pest control," says Cheryl Long of *Mother Earth News*. In cities like L.A. and Portland, Oregon, the passion for poultry is so big that some firms offer chicken-sitting. "If you keep coops clean, chickens don't stink or spread disease," Anderson adds. The coop de grace: Rooster bans in many cities (hens only, please) mean little to no noise. —Laura Daily



Hen party results in eggs, not bugs, and grows fertilizer.

Concern that these city chicks might make neighborhood squawks quickly went to the wind. "My neighbor didn't even realize I had chickens until they saw me on the news talking about them," Sheehan says. Likewise, Lothrop's neighbors are just happy for the occasional handout and the chance to observe the hens take dirt baths or stroll through the yard, wing extended, to get a treat from their adopted parents. "These are the best raised chickens I have ever seen in my life," says Dennis Mulder of the commission office. He runs the training program, and he also visits the homes of each participant to make sure the chickens are safe and well cared for. He's somewhat surprised that, locally, Orlando is alone in this endeavor. "As soon as people start putting political pressure on the decision makers it will spread into other counties," he says. "It's just a matter of time."

A group called The Winter Park Backyard Chickens Initiative recently presented commissioners with a petition signed by 501 backyard chicken supporters. "Allowing backyard chickens would add Winter Park residents in living a greener, healthier lifestyle," says Rachel Whitland-Smith, who led the initiative. "We got a warm but surprised reaction from the commissioners."

The issue was then sent to the Keep Winter Park Beautiful and Sustainable Advisory Board, which is "watching to see how things go in the city of Orlando" before making a decision, says Tim Mahon, executive director for the board.

In the meantime, Orlando's pilot participants like Lothrop are enjoying the unexpected benefits of raising urban chickens. "We find them hilarious," says Lothrop. "They have completely enhanced our quality of life."

Sheehan is equally as delighted. "I didn't realize how much personality they would have," she says of her hens, named Pops, Betsy and Chae. "They're characters. They love to be held. My girls are happy little hens enjoying their happy little lives." Normally, hens only lay eggs for a two-year period, but Sheehan doesn't see her getting rid of them when the eggs stop. "I have a feeling I will have a hard time parting with them, they really are my pets." ■

Other Cities following Orlando

- Winter Park: studying the issue
- Titusville: studying the issue
- Orange County: studying the issue
- Lake County: studying the issue
- Deltona: passed ordinance
- Bonita Springs: passed ordinance
- Sarasota: passed ordinance

Other Cities following Orlando

- Maitland: resident inquiry
- Pensacola: resident inquiry
- Arlington Heights, IL: Resident inquiry
- 6 inquires from households from other City of Orlando districts

VIDEO



Questions and Discussion

Jason Burton, Chief Planner
City Planning Division

REGULAR MEETING OF THE CITY COMMISSION
April 11, 2016

The meeting of the Winter Park City Commission was called to order by Mayor Steve Leary, at 3:30 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida. The invocation was provided by Father Richard Walsh, St. Margaret Mary Catholic Church, followed by the Pledge of Allegiance. Mayor Leary asked for a moment of silence due to the passing of Peggy Strong (former Mayor Strong Sr.'s wife/former Mayor Strong's mother).

Members present:

Mayor Steve Leary
Commissioner Greg Seidel
Commissioner Sarah Sprinkel
Commissioner Carolyn Cooper
Commissioner Pete Weldon

Also present:

City Manager Randy Knight
City Attorney Kurt Ardaman
City Clerk Cynthia Bonham

Approval of the agenda

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

Mayor's Report

- a. Proclamation – Earth Month and presentation to Keep Winter Park Beautiful sponsors

Mayor Leary presented Kris Stenger, Building & Sustainability Manager, and Abby Gulden, Sustainability and Permitting Coordinator with a proclamation proclaiming April 2016 as Earth Month. Mr. Stenger spoke about Earth Day in the Park on Sunday, April 10 in Central Park.

- b. Business Recognition Award Recipient – First Quarter 2016 - Fiddler's Green Irish Pub & Eatery

Planning Director Dori Stone presented the First Quarter 2016 Business Recognition Award to Fiddler's Irish Pub & Eatery and spoke about the many awards they have received. Owner Donal O'Brien and General Manager Gigi Speltz received the award and spoke about their business.

- c. Proclamation – National Library Week

Mayor Leary presented Library Executive Director Shawn Shaffer with a proclamation proclaiming the week of April 10-16 as National Library Week. Ms. Shaffer thanked the Commission.

d. Video presentation – Inside the City: Episode III - Code Compliance

Communications Director Clarissa Howard presented the video “Inside the City: Episode III – Code Compliance”. Fire Chief Jim White and Code Compliance Manager Sylvia Hawkins spoke about the violations faced by the City and the many codes they must follow.

City Manager’s Report

a. Board appreciation options

City Manager Knight provided options to show the volunteer board members appreciation for their service. Upon discussion, there was a consensus that the board liaisons check with their respective boards as to their preference and report back to the Commission.

City Attorney’s Report

Attorney Ardaman reported that the Showalter Field agreement with Orange County Public Schools will be brought back at the next meeting after meeting with them again this week to discuss changes to the proposed agreement.

Non-Action Item

No items.

Consent Agenda

- a. Approve the minutes of March 28, 2016.
- b. Approve the following purchase and contracts:
 1. PR159645 to Brown & Brown of Florida, Inc. for property insurance renewal for City properties; \$308,539.
 2. Amendment No. 1, RFP-6-2011, with Public Financial Management, Inc. for Financial Advisory Services.
 3. Amendment No. 1, IFB-10-2015, to Lake Jem Farms, Inc. for purchase, delivery & installation services for sod, and authorize the Mayor to execute renewal.
 4. Amendment No. 1, IFB-10-2015, to Tom’s Sod Service, Inc. for purchase, delivery & installation services for sod, and authorize the Mayor to execute renewal.
 5. Award IFB-6-2016 and PR159674 to Corinthian Builders, Inc. for the construction of Ward baseball field and soccer field restrooms.

Motion made by Commissioner Sprinkel to approve the Consent Agenda (with changes made to Ms. Daniels public comment under minutes); seconded by Commissioner Weldon. Ms. Mary Daniels addressed her comments

in the minutes that were amended. **The motion carried unanimously with a 5-0 vote.**

Action Items Requiring Discussion

a. Appointment of Vice Mayor

Motion made by Commissioner Weldon to appoint the current Vice Mayor Sprinkel to reappoint her as Vice Mayor; seconded by Mayor Leary.

Motion made by Commissioner Seidel to nominate Commissioner Cooper as Vice Mayor; seconded by Commissioner Cooper.

Motion made by Commissioner Cooper to nominate Commissioner Seidel. Motion failed for lack of a second.

Mayor Leary stated that Vice Mayor Sprinkel has assisted him greatly this year and that we are where we are in part on Showalter due to the efforts of her with her connections and her experience with the School Board. He addressed the respect he has for her with going to Tallahassee and using her experience up there.

Commissioner Seidel addressed his understanding that this position has always been rotated. He stated that Vice Mayor Sprinkel has done an excellent job, but that we need to rotate the position and Commissioner Cooper is the most senior person who has not been Vice Mayor.

No public comments were made.

Upon a roll call vote that Vice Mayor Sprinkel serve another term, Mayor Leary and Commissioners Sprinkel and Weldon voted yes. Commissioners Seidel and Cooper voted no. The motion carried with a 3-2 vote.

b. Master plan for city-owned properties

City Manager Knight provided an updated draft master plan list of City-owned properties and properties the City may wish to consider some day if they become available for sale. After an in-depth discussion, the following transpired for each property:

City Hall: Study the use of the library building as a potential City Hall.

Library: If the building is sold, it could be used to buy down the amount of bonds issued to build the new library. Commissioner Cooper expressed her preference not to sell the library building.

Progress Point: Planning Director Dori Stone spoke that staff is working on traffic counts on Orange Avenue and Palmetto so they are current and that another joint meeting with EDAB and P&Z will be scheduled for the next two weeks to discuss the

traffic counts and entitling the project. After that, staff will bring back this to the Commission at possibly the May 23 Commission meeting.

Consensus to hire an outside broker to dispose of City owned properties and begin the RFP process.

Blake Yard (301 W. Comstock): FDOT is verbally willing to allow the City to put in a trail along the right-of-way in the stretch from New York to Fairbanks. There was a consensus to pursue. There was discussion whether to divide it and open a portion of it to a disposal and a portion to whatever the Commission sees fit (a community garden or parking for the city); or to offer the entire piece of property up for NOD once a broker is retained. No consensus – Commissioner Weldon will bring this back to the Commission at a future time.

Northwest Sports Complex (former tree farm) – 1938 Durham Avenue (north of Lee Road): Consensus to put on hold for now and keep in the plan as a sports complex which will be further discussed when we determine if a swap is possible with the tree farm property with the existing Winter Park Housing Authority. A schematic of the park will be provided by staff to the Commission and the cost for a sports complex.

Old Swoope Water Plant: Discussion that the Golf Course Task Force proposed using the property as a golf training facility. Put on hold until the golf course operation is up and running.

2600 Lee Road: Sell the property once the broker is in line.

1111 Fairbanks Avenue (old bowling alley): Consensus to move forward with the turn lane and put the other property on hold for now until more of a plan for the property comes forward and to beautify it until we determine what we are doing with the property (recommendation to come back).

Mayor Leary stated that the Howell Creek properties are currently getting appraisals and is working with the state to secure funding for the acquisition.

901 through 1071 West Fairbanks Avenue: City Manager Knight will see if there is any interest in selling those.

Properties behind City Hall – 183-219 West Comstock Avenue: Mayor Leary stated there is no desire of the family majority property owner to sell those to the City which is the larger piece of property. The other two properties with single owners have not been reached out to yet.

Property west of Public Safety Building – 501 North Virginia Avenue: City Manager to inquire with the property owner but does not need to be rapidly pursued.

Post Office property: Purchase was turned down last year because of the amount of the sale. There was no consensus to pursue this at this time. Commissioner Cooper expressed her willingness to pay \$6 million for the property now. This will be discussed in the future.

The following spoke regarding this item:

1. Gary Barker, 1049 McKean Circle, spoke in favor of moving City Hall to the Library property, controlling the land here but having commercial development come in as long as we can protect the greenspace here. He was against selling the City Hall or Library properties.
2. Forest Michael, 358 West Comstock Avenue, spoke in opposition of selling the Blake Yard property for homes but instead wanted to see a market garden in there. He provided documents in support of a Hannibal Square Market Garden.
3. Lee Ann Inman, 327 Comstock Avenue, spoke against a parking lot but was in favor of a community garden at the Blake property.
4. Mary Daniels, 650 W. Canton Avenue, spoke in favor of a Hannibal Square Market Garden at the Blake Yard property and against a parking lot. She asked when the property is sold that it is not rezoned.
5. Maria Bryant, 450 S. Virginia Avenue, spoke in favor of the Blake Yard property becoming a community garden.
6. Martha Bryant Hall, 331 W. Lyman Avenue, spoke in favor of the Blake Yard property becoming a community garden. She asked that tall buildings not be approved for the Westside.
7. Joe Terranova, 151 N. Virginia Avenue, expressed the need to hold several work sessions to obtain input regarding the City owned properties before making any decisions.

Public comments (items not on the agenda)

Jim Cooper, 1080 Keyes Avenue, opposed the termination of the golf course staff.

Joe Terranova, 151 N. Virginia Avenue, addressed the library bond referendum passing with a very narrow margin and stressed the need for further community input before going forward with a plan. He spoke about conversations he had whereby most disagreed with the proposed location and not wanting to move this asset out of the central part of Winter Park. He suggested opening this up again for conversation with the public. Mayor Leary stated there is outreach and will be doing something moving forward.

Mary Daniels, 650 W. Canton Avenue, addressed a garden two blocks away from Comstock serving the DePugh Nursing Home and the Winter Park Day Nursery to teach children how to grow and cultivate. She spoke about the waiting list and that it is very well used.

Recess

A recess was taken from 6:00 – 6:21 p.m.

c. Discussion of historic preservation ordinance revisions

Planning Director Dori Stone presented proposed changes to Ordinance 3024-15 provided by Commissioner Weldon at the last meeting that he wanted to discuss for consideration as amendments to the adopted ordinance. Ms. Stone stated the ordinance has only been in existence since December 2015 and have not seen any new districts come in and have had a continuing number of individually designated homes that she believed was not affected by Commissioner Weldon's memorandum. She stated if the Commission discusses the preliminary language to the variances there is additional variance language that the attorneys will need to review and clarify.

Ms. Stone stated the Historic Preservation Board has been very interested in updating the Florida Master Site File project and have already pursued consulting services but that it will have to be budgeted. Commissioner Sprinkel expressed concerns with the cost to update the list and asked that a better system be put into place because of the cost.

Commissioner Weldon provided a list of issues proposed for study and recommendation by the Historic Preservation Board. This included the Master Site File, a contributing property, and a non-contributing property; and incentives to encourage voluntary historic designation. The State of Florida Master Site File was discussed and how it is determined if a residence has historic significance and included on the list. The process was discussed for making modifications to the ordinance if the Commission decides to.

The following proposed modifications were provided by Commissioner Weldon and discussed:

Modify Section 58-433(2) – The intent to codify that the policy of the city is to encourage historic preservation through voluntary means. Upon discussion, the language will be made clearer to say after the word nation: "This shall include encouraging voluntary preservation to achieve the following objectives." by a 5-0 vote.

Remove Section 58-447(6) - The intent that all variances for properties listed on the Winter Park Register of Historic Places and within designated historic districts are to be pursued through the Board of Adjustment under its existing rules and procedures. Upon discussion, there was a consensus for staff to review the language and to leave the language as it currently is for now.

Modify Section 58-457(2)(c) - The intent to restore a two thirds voting requirement to form a historic district. Upon discussion, Mayor Leary and Commissioners Weldon and Sprinkel voted to make the change in the ordinance. Commissioners Seidel and Cooper voted not to change the ordinance. Commissioner Cooper proposed an alternative that we stay with 67% of the people who actually vote (no agreement was made on this).

Add Section 58-457(2)(e) with the intent to codify voluntary participation in the Certificate of Review oversite. Upon discussion, there was no support of the Commission to amend this.

Commissioner Cooper asked for reconsideration of the recommendation by Phil Kean that the homes of such significance (on the landmark list) be given a 90 day hold on demolitions. After discussion, there was a consensus not to raise the time limit from 60 to 90 days.

Commissioner Weldon provided issues proposed for study and recommendation by the Historic Preservation Board concerning the Master Site File, Contributing Property, and Non-Contributing Property (attached to these minutes). There was also discussion regarding incentives to encourage voluntary historic designation (attached to minutes). There was a consensus that this go before the Historic Preservation Board.

Commissioner Seidel spoke about the need to save the character of the City. Mayor Leary spoke about the many improvements made that are saving our character such as rebuilding the golf course, the Alford Inn, putting in a new state-of-the-art library/civic center, etc.

The following spoke:

Drew Krecicki, 1711 Chestnut Avenue (wait longer before considering revising the ordinance to see if there are issues).

Bill Sullivan, 1362 Richmond Road, stated he was representing the 90% of the people living in contributing homes that spoke against lowering the threshold on historic districts. He asked if this goes back to the HPB to limit the time spent.

Betsy Owens, Casa Feliz, 656 Park Avenue North, opposed opening up the ordinance again to return the threshold to 67%.

Carolyn Bird, 361 Beloit Avenue, spoke about the need to communicate with the residents regarding this issue.

Sally Flynn, 1400 Highland Road, opposed raising the district criteria threshold to 67%.

Frank Hamner, 405 Balmoral Road, opposed changes to the current ordinance and to changing the percentage required for a historic district and to give the current ordinance some more time to see what happens.

Linda Eriksson, 535 N. Interlachen Avenue, opposed changing the current ordinance.

Craig Uttley, 516 Henkel Circle, spoke in favor of the proposed revisions to change the historic district to 67%.

Sue Masselink, 1308 Alberta Drive, spoke in favor of keeping the changes to the ordinance adopted in December 2015.

Discussion ensued regarding the need to ensure people that are purchasing a home in a historic district are made aware they are buying in a historic district. Commissioner Cooper asked to have the adopted ordinance sit a year because there is no sense of urgency. Mayor Leary stated he would like to see the proposed changes brought forward so they can review them and that they can always table it if they decide to.

Recess

A recess was taken from 8:20 – 8:28 p.m.

d. Library naming policy

Attorney David Torre, representing the Library, spoke about their commitment to raise \$2.5 million toward the library. A policy regarding naming rights for the entire building or portions of the facility for those who donate to the cost was brought forward for consideration. City Manager Knight commented that the Commission needs to approve this naming policy or another one in order for them to go forward.

Discussion ensued regarding concerns with naming rights of someone donating a smaller portion of the needed funds as compared to the amount of funds the citizens are paying from the bond referendum. Commissioner Seidel inquired about any rooms currently named after individuals at the library and what will happen to those. Mr. Torre stated they are currently doing an audit to determine which ones do and do not have donor agreements attached and hoped that ones with donor agreements would come over to a comparable room in the new building. Mr. Torre stated this policy is similar to the one that Rollins College has in place.

Commissioner Cooper addressed the need that the library to be named the 'Winter Park Public Library' since the majority of funds are paid for by the citizens and the City owns the library but has some flexibility once they get inside the rooms. She spoke about the City's policy that has a process and flexibility built into it to deal with anything over \$5 million. She asked that both attorneys look at our policy and the library board's desires and try to find a way to combine the two so we are still following the City's policy. She expressed the need to deal with the rooms and the Rachel Murrah name that she wanted to see come forward for a comparable area. She also wanted to make sure we go through our existing process and that the final authority has to rest in the City of Winter Park for naming.

Commissioner Sprinkel spoke about a change that needs to be addressed to the process that you do not have to be deceased to have naming rights.

Mayor Leary commented that he does not see how they can provide approval at this time because until we start talking about rooms and dollars associated with those rooms he did not see how they can have that conversation with the potential donor. Mr. Torre stated they were not looking for approval this evening and is not designed to be adopted as is but contains what they are thinking of. He also commented that they do not anticipate it covering the events/civic center portion. Mayor Leary stated that all naming opportunities and all funding levels need to be confirmed by the City Commission.

City Manager Knight confirmed that even if they receive a very significant contribution that they are not looking to name the outside of the building after that person. It was also agreed that persons not deceased can make contributions to the library, that \$2.5 million is not enough to name the building (excluding rooms inside), and that the Commission will be flexible as the process goes forward and the plans are defined sufficiently so that they have something to sell.

Public Hearings:

- a. Request of Z Properties: Subdivision or lot split approval to divide the property at 360 Beloit Avenue, zoned R-1A, into two single family building lots.

Variances are requested for the proposed lot widths of 67' in lieu of the 85' required for corner lots in the R-1A zoning and for the lot area of the western lot at 7,836 square feet in lieu of the required 8,500 square feet.

Planning Manager Jeff Briggs explained the request and the Planning and Zoning Board approval and condition that the fronts of the homes on Beloit look more like front doors and not just sides.

Applicant Zane Williams provided a new proposed front elevation for Beloit Avenue, they elevated the sides and added doors. It was clarified that the packet contains the previous design. Mr. Williams answered questions of the Commission.

The following spoke in opposition:

Dennis Casey, 443 Beloit Avenue
Carolyn Bird, 361 Beloit Avenue
Donna Colado, 327 Beloit Avenue
Dick Gregor, 380 Waterfall Lane

The following spoke in support:

John McDade, 450 Beloit Avenue
Harry Falk, 872 Granville Drive

Wayne Jones, 455 Beloit Avenue, supported the lot split with conditions that the south side of the street looks more like the north side and that the front elevation looks like a front elevation. He asked that the design be modified to look like a front door and not like three side doors.

Commissioner Cooper addressed her respect for the applicant; but spoke about how this is an issue of harmony and compatibility; the two cul-de-sacs that take up the entire block on the south side are different from the north side. She stated if they were buying the entire track she would feel differently but she did not believe that carving one lot off of two cul-de-sacs is going to feel compatible.

Commissioner Sprinkel stated she can support this knowing that this is going to have a front or looks like a front on Beloit Avenue. She stated she would like to make a condition that this is part of the approval.

Commissioner Weldon stated he changed his view based on conversations with the residents on Beloit and gaining further information that has come to them since the Planning and Zoning Board judgment on the original application. He stated he wants to see the lots split because that is the best alternative but with meeting the expectations of the neighbors with regard to the frontage, he wanted to reconfigure the house so the front door is on Beloit and not just appear to be.

Commissioner Seidel spoke about the very home that could be built there if the lot was not split compared to this request.

Mayor Leary asked the applicant if there is a way to address the concerns regarding the actual front door versus the faux front door. Mr. Williams stated they will do what they need to do to move forward and committed to putting the front doors on the front of Beloit Avenue.

Ira Kitograd, 731 Pansy Avenue, Mr. Williams business partner, stated they are willing to concede and make it part of the approval so the front door is on Beloit.

Discussion ensued regarding continuing the hearing to discuss the lot split and the variance in respect to the lot widths, and the variance in respect to the size of one

lot. The applicant agreed that they can have a revised elevation with front doors on it in time for the next meeting.

Motion made by Mayor Leary to table this until the April 25, 2016 Commission meeting; seconded by Commissioner Seidel and carried unanimously with a 5-0 vote.

- b. Adoption of the fee schedule effective May 1, 2016.

There was no presentation of the fee schedule given.

Motion made by Commissioner Sprinkel, seconded by Mayor Leary to approve the fee schedule.

Amendment made by Commissioner Cooper that we revise the employees golf fees to mirror the residents golf fees for all days of the week; seconded by Mayor Leary. Upon a roll call vote, Mayor Leary and Commissioners Sprinkel, Cooper and Weldon voted yes. Commissioner Seidel voted no. The motion carried with a 4-1 vote.

Upon a roll call vote on the main motion, Mayor Leary and Commissioners Seidel, Sprinkel, Cooper and Weldon voted yes. The motion carried unanimously with a 5-0 vote.

- c. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING ARTICLE III OF CHAPTER 2 OF THE CITY OF WINTER PARK CODE OF ORDINANCES REGARDING SUBSIDIARY CITY BOARDS AND COMMISSIONS AS ADOPTED BY ORDINANCE NO. 2843-11 AND AS FURTHER AMENDED BY ORDINANCE NO. 2880-12; PROVIDING FOR RENAMING OF CERTAIN BOARDS AND THE CONSOLIDATION DUTIES OF CERTAIN BOARDS; PROVIDING FOR CITY COMMISSION APPROVAL OF THE CONTINUED EXISTENCE OF CERTAIN BOARDS TO AVOID SUNSETTING; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE. First Reading

Motion made by Mayor Leary to table this until April 25; seconded by Commissioner Cooper and carried unanimously with a 5-0 vote. This was not discussed due to the lateness of the meeting.

City Commission Reports:

- a. Commissioner Seidel

Commissioner Seidel spoke about being pleased with the Dinner on the Avenue event.

b. Commissioner Sprinkel

Commissioner Sprinkel spoke about attending the inauguration of the new Rollins president; asked that a board evaluation spreadsheet be provided to have everything on one page; asked if PODS are allowed (Building Director Wiggins addressed where these are allowed); spoke about calls she is receiving regarding trees being cut down because of the golf course renovations that needs to be addressed; and addressed the Library Board having a lunch coming up for the valedictorians and salutatorians.

c. Commissioner Cooper

Commissioner Cooper complimented Vice Mayor Sprinkel for her part at the Rollins event on behalf of the City. She commented she is okay with receiving position papers from other Commissioners on subjects they are going to deal with provided that she does not respond to anyone.

d. Commissioner Weldon

Commissioner Weldon asked that staff provide a statement and update that says what the City is doing to validate or to study the engineering challenges that may or may not exist on the potential Civic Center/library property. He asked about the other aspects of the pre-design phase to reach judgment as to what would be required to build the kind of building we are anticipating and any costs that are revealed as a result of those that they be put into context.

e. Mayor Leary

Mayor Leary announced the body camera legislation that passed and if we have a plan moving forward. City Manager Knight stated he is working with Chief Railey on this.

Mayor Leary addressed the importance of scheduling public sessions regarding the historic preservation ordinance so residents are correctly informed and to develop real life examples of how historic districts would work in a neighborhood. There was a consensus.

The meeting adjourned at 9:51 p.m.

Mayor Steve Leary

ATTEST:

City Clerk Cynthia S. Bonham, MMC

Issues proposed for study and recommendation by HPB.

Master Site File, Contributing Property, Non-contributing Property.

Study of our HP ordinance and practices revealed that we have no independent and professional judgment of historic significance. While the city engaged a consultant many years ago (1986?) to assess Winter Park properties for historic significance, the resulting list is now obsolete and, as well, includes properties included without independent or professional input. Further, until recently, few impacted property owners were aware they were on a list or understood the implications of being on a list.

There is a need to clarify the status of the State of Florida Master Site File. Research into this state maintained list indicates that anyone can submit a property for inclusion on the list and that the property owner is not informed of such inclusion, nor will requests by owners for removal from the list be honored. As such, although seemingly required to be maintained by the State as part of the Federal National Register program, there is nothing "official" about the list. There are no standards established for inclusion on the list other than a "resource" needs to be at least 50 years old, and there are no audits or controls managing the content of the list. The list is thus meaningless as to determination of historic significance.

Independent assessment by professionals with broad experience assessing properties for National Register status would seem to be a required starting point for compiling an updated list of Winter Park Historic Resources if Winter Park is going to pursue historic preservation.

There is a need to formalize the process for being added to the list of Winter Park Historic Resources. The process should require independent and professional judgment of historic significance. Determination of properties included on this list should require the written approval of the property owner, the HPB, and the city commission.

The language in the ordinance regarding "Contributing Properties" and "Non-contributing Properties" needs to be related to the process of being added to the list of Winter Park Historic Resources. Currently, it is not clear that all "Contributing Properties" and only "Contributing Properties" are to be included on the list of Winter Park Historic Resources. It is also unclear how the list of Winter Park Historic Resources relates to the HP ordinance. This needs to be sorted out.

The current open ended and arbitrary approach to making Certificate of Review determinations needs to be limited in scope if we are to encourage more voluntary participation. For example, limiting the review requirement to street facing façade could be expected to significantly reduce the risk and uncertainty to agreeing to join a Historic District. Another issue to address as to appropriate regulatory oversight is historic classification; National Register property, Winter Park Register property, contributing property, non-contributing property.

Incentives to encourage voluntary historic designation.

The policy goal should be to encourage owners of the most historically significant properties in Winter Park to voluntarily apply for listing on the Winter Park Register of Historic Places.

One place to start implementing this priority is to help owners apply for National Register status and then to provide a small level of city support for maintaining such properties when National Register status is granted. Alternatives include using city funds to engage consultants to prepare and apply for National Register status with the owner's permission, and if National Register status is granted, to accrue a small annual maintenance fund for each such property as evidence of community support for the owner's commitment to historic preservation (such funds to be at level of recognition, not subsidy).

Currently, the city pays for historic plaques for homes volunteering for the Winter Park Register, but does not provide any recognition for contributing properties within historic districts. Such recognition may be appropriate where owners agree to "Contributing" status and/or agree to Certificate of Review for exterior changes as part of a Historic District.

HPB may be asked to re-study the opportunities for community recognition of property owners who volunteer their property for historic preservation, to assess the above ideas as well as provide the commission with evidence of community recognition from other jurisdictions.



city commission agenda item

item type	Consent Agenda	meeting date	April 25, 2016
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

Contracts

	vendor	item background	fiscal impact	motion recommendation
	Integrated Systems of Florida, Inc.	IFB-19-2013 – Security, Access, and Monitoring at Public Safety Complex Amendment No. 1	Total expenditure included in approved FY16 budget. Amount: \$75,000	Commission approve Amendment No. 1 and authorize the Mayor to execute Amendment.
This City issued a formal solicitation to award this contract.				
	Bryant, Miller Olive, P.A.	RFP-5-2011 – Bond Counsel Services Amendment No. 1	Total expenditure included in approved FY16 budget. As Needed Basis	Commission approve Amendment No. 1 and authorize the Mayor to execute Amendment.
This City issued a formal solicitation to award this contract.				

Approval of contract shall constitute approval for all subsequent purchase orders made against contract



city commission agenda item

item type	Consent Agenda	meeting date	April 25, 2016
prepared by department division	Electric 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 type="checkbox"/> N/A final vote		
strategic objective	<input type="checkbox"/> Exceptional Quality of Life <input type="checkbox"/> Intelligent Growth & Development <input type="checkbox"/> Investment in Public Assets & Infrastructure <input type="checkbox"/> Fiscal Stewardship <input type="checkbox"/> Public Health & Safety		

subject

Relocation Reimbursement Agreement for DUKE

motion | recommendation

Motion to sign the 30 year Relocation Reimbursement Agreement for DUKE Energy in regards to the Fairbanks Undergrounding Project.

background

This is a standard agreement from DUKE energy when they are undergrounding lines in a cities right-of-way. DUKE has asked the city to sign this agreement regarding the Fairbanks Avenue undergrounding project where we are undergrounding the distribution lines. Because there are multiple parcels on Fairbanks Avenue that do not have much property or none at all behind the sidewalk and a few owners who will not sign the distribution easement, this agreement will cover DUKE for relocation expenses for those facilities installed in road R/W where easements could not be acquired. If any facilities have to relocated, we feel that there is not much room to relocate them due to many buildings that are right behind the sidewalk.

alternatives | other considerations

fiscal impact

This is a 30 year agreement. If any future relocation work must be done by DUKE, DUKE will need to send the city a written notice 30 days in advance.

UTILITY RELOCATION REIMBURSEMENT AGREEMENT
City of Winter Park

THIS UTILITY RELOCATION REIMBURSEMENT AGREEMENT (this "Agreement"), made and effective this _____, 2016, is by and between **Duke Energy Florida, LLC**, a Florida limited liability company (hereinafter referred to as "DEF"), and **City of Winter Park**, a Florida municipal corporation (hereinafter referred to as "Local Government").

WITNESSETH:

WHEREAS, as a Florida public utility, DEF has the right under Florida law to construct, operate and maintain its utility facilities upon Florida public road right of way including but not limited to, *Fairbanks Avenue* in **Orange County, City of Winter Park**, Florida; and

WHEREAS, DEF has constructed and now operates and maintains certain electric line facilities near, upon, along, within and/or adjoining *Fairbanks Ave west of US 17/92 and east of I-4*, all of which are more particularly depicted or described on the attached Exhibit "A" (hereinafter referred to as "the Utility Facilities"); and

WHEREAS, the Local Government is requesting permission to convert the DEF overhead facilities to underground ("UGC Work"); and

WHEREAS, prior to the execution of this Reimbursement Agreement, DEF and Local Government have entered into that certain Underground Conversion Agreement ("UGC Agreement") to perform such underground UGC Work, attached hereto as Exhibit "B"; and

WHEREAS, the UGC Agreement requires, among other things, that Local Government secure certain property rights for the UGC Work; and

WHEREAS, the UGC Work will require the placement of a portion of DEF's underground electric distribution line facilities within the Fairbanks Avenue public right-of-way west of US 17/92 and east of I-4 ("Underground Right-of-Way Utilities"); and

WHEREAS, as consideration for DEF relocating the Utility Facilities in accordance with the UGC Agreement, Local Government hereby agrees to pay costs in the event of a need for a future relocation of Underground Right-of-Way Utilities in accordance with this Agreement.

NOW, THEREFORE, for and in consideration of the mutual promises from, to and between DEF and the Local Government, hereinafter contained, DEF and the Local Government do hereby agree to and with each other, as follows:

Recitals. The Parties agree that the above recitals are true and correct and are incorporated into this Agreement.

Future Relocation Work. Upon completion of the UGC Work in accordance with the UGC Agreement, Local Government agrees to pay for any and all future relocation costs and expenses incurred by DEF to the extent the Underground Right-of-Way Utilities are required to be relocated due to any local, state, or federal road or highway improvement project or for any other work or project of the Local Government or other governmental agency with jurisdiction over

the right-of-way which the Underground Right-of-Way Utilities interfere ("Future Relocation Work"). Provided, however, Local Government shall not be required to reimburse DEF for Future Relocation Work to the extent DEF is to receive reimbursement for the same from the State of Florida Department of Transportation or other third party pursuant to general law, contract or otherwise. Thus, in no event shall DEF be entitled to a double recovery for reimbursement of Future Relocation Work costs. This Agreement does not apply to or concern any DEF electric transmission lines and facilities that may be located within the Fairbanks Avenue right-of-way. DEF shall give the Local Government through its City Manager at least thirty (30) days written notice prior to commencing any Future Relocation Work that DEF intends to seek reimbursement from Local Government under this Agreement along with a description of the work required and engineer's estimate for such work.

The Local Government shall reimburse DEF for the actual costs incurred by DEF to perform any Future Relocation Work within sixty (60) days of receipt of an invoice from DEF for such Future Relocation Work along with supporting documentation to substantiate the invoice. DEF shall have the right to submit such statements for progress payments as the Future Relocation Work proceeds and such statements shall be paid within thirty (30) days of receipt.

DEF shall not commence any of the Future Relocation Work for which DEF intends to seek reimbursement from Local Government under this Agreement, until all conditions precedent set forth in the UGC Agreement and below have been satisfied, including the following: (a) written notice has been given to DEF by the Local Government that (i) the Future Relocation Work has been authorized and funds are available for Local Government to reimburse DEF, and (ii) all necessary public road right of way and easement areas have been acquired for the Future Relocation Work and all obstructions or obstacles have been removed (clean, cleared and ready to go) and all utility locates have been performed, (b) the governmental entity with jurisdiction and control over the applicable right-of-way has denoted the public road right-of-way line in the area of the Future Relocation Work, by staked survey at not more than 100 foot intervals with station markings, (c) the governmental entity with jurisdiction and control of the applicable right-of-way has trimmed/removed all vegetation away from the public road right-of-way in the area of the Future Relocation Work, as reasonably determined by DEF.

Effective Date. The Effective Date of this Agreement shall be the date when the last of the parties hereto executes this Agreement. The term of this Agreement shall commence on the Effective Date and terminate on the thirtieth (30th) annual anniversary thereof. Upon the end of the initial thirty (30) year term, this Agreement shall automatically renew in five (5) year increments. Further, this Agreement may be terminated at any time upon the mutual written agreement of both the parties.

No Third Party Beneficiaries. Only the parties to this Agreement shall have any rights arising out of or standing to enforce any provision hereof, and there are no third party beneficiaries intended or otherwise created or established by this Agreement.

Applicable Law. The laws of the State of Florida govern the validity, enforcement and interpretation of this Agreement. A state court of competent jurisdiction in Orange County, Florida, is the sole and exclusive venue for any legal action in connection with this Agreement. The parties agree that this Agreement does not constitute a general indebtedness of the Local Government within the meaning of any constitutional, statutory, or charter provision of limitation and it is expressly agreed by the parties that DEF shall not have the right to require or

compel the exercise of ad valorem taxing power of Local Government, or taxation of any real or personal property therein for payment of any monetary obligations due under the terms of this Agreement. It is further agreed that this Agreement and any funds called for to be expended hereunder shall not constitute a lien upon any real or personal property of Local Government, any part thereof. Nothing contained in this Agreement shall be considered or deemed a waiver of the Local Government's police power, budgetary authority or sovereign immunity protections, or of any other immunity, defense or privilege afforded to the Local Government or its officials, officers, employees and agents under law. DEF acknowledges and agrees the Local Government is subject to the Florida Public Records Act and as such, records generated or received in connection with this Agreement may be public records pursuant to and governed by the provisions of Chapter 119, Florida Statutes.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by through their duly authorized representatives, effective the date first above written.

DUKE ENERGY FLORIDA, LLC


Signature

Kris Tietig
Name, Print or Typed

Manager, Land Services
Position

Date: 3/7/16



CITY OF WINTER PARK, a Florida
municipal corporation

By: _____
Signature

Print Name: _____

Title: _____

Date: _____



city commission agenda item

Item type	Action Item Requiring Discussion	meeting date	April 25, 2016		
prepared by	John Holland, Director	approved by	<input checked="" type="checkbox"/> City Manager		
department	Parks and Recreation Department		<input checked="" type="checkbox"/> City Attorney		
division	Administration		<input type="checkbox"/> N/A		
board approval	Parks and Recreation Advisory Board (conceptual agreement)	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no	<input type="checkbox"/> N/A	final vote 5 - 0
strategic objective	<input type="checkbox"/> Exceptional Quality of Life <input type="checkbox"/> Fiscal Stewardship <input type="checkbox"/> Intelligent Growth & Development <input type="checkbox"/> Public Health & Safety <input checked="" type="checkbox"/> Investment in Public Assets & Infrastructure				

subject

The City and the Orange County Public School Board are agreeing to enter into a contract that will terminate the existing Lease Agreement for Showalter Field. The new Agreement will allow the City to implement improvements to the facility including a synthetic athletic field, amenities and running track and supplement the maintenance costs with rental and use payments from OCPS, Rollins College and other users.

motion | recommendation

Approve the new Use Agreement between the City and Orange County Public School Board providing for the termination of the existing Lease Agreement and the priority use of the Showalter Stadium for School Sanctioned Activities in exchange for annual payments and improvements to the facility.

background

In August 1993 the City and the School Board of Orange County, Florida entered into a 40 year Lease Agreement at \$1 per year for the property known as Showalter Field. The Lease Agreement gives management, maintenance and care of the facilities, field and infrastructure to the School Board in exchange for exclusive use of the property for school sanctioned activities. While Winter Park High School is the primary user the School Board is able to rent the facilities to other schools and private entities.

During the past 23 years the facility has been well used and is currently showing the signs of the heavy use. Local athletics clubs, parenting organizations and foundations have recently come forward offering assistance in bringing the facility back up to the standards of other Orange County High School stadiums. Fundraising for the installation of a synthetic turf playing field has been primary goal of these supporters.

In meeting with the School Board representatives it has become clear the responsibility of installation, maintenance and replacement of a synthetic turf field is not within the future planning or budget of the School Board.

The City has worked closely with the School Board to draft a new Use Agreement that will shift the installation costs and maintenance responsibilities of a new synthetic turf playing field, running track and stadium facilities to the City. The new Use Agreement will provide priority use of the turf field and Showalter East to Winter Park High School in exchange for an annual payment. (see attachment) Rollins College would also participate in the funding of the synthetic turf installation in exchange for secondary scheduling privileges of Showalter field and Showalter East for practices. The City would have all open schedule times to rent the fields and facilities to other paying teams and organizations.

alternatives | other considerations

The existing 40 year term lease with OCPS could be left in place with 18 years left on the agreement. No field or facility improvements would be made by the City.

fiscal impact

See attachment

Financial Worksheet for Showalter Field Renovation and Annual Budget

Installation Costs:

Installation of the FieldTurf Synthetic Turf surface on Showalter Field	\$798,000
(\$618,000 field surface, \$35,000 cool/play infill system, \$145,000 end-zone surface)	

Total Installation Costs	\$798,000
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Cost Sharing for Synthetic Turf installation:

Winter Park Foundation	\$200,000
Rollins College	\$500,000
City of Winter Park	\$100,000

Total Costs Sharing	\$800,000
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Annual Maintenance Costs:

Parks Maintenance Personnel (1 added full-time position)	\$35,000
Field and Grounds Maintenance Annual Budget (misc. supplies)	\$10,000

Facilities Maintenance Annual Budget:

Facilities Maintenance Personnel (1 added full-time position)	\$35,000
Annual Utilities Cost: (water, waste water, electrical)	\$34,000
Janitorial supplies	\$9,000
Maintenance of existing facilities (restrooms, locker rooms, bleachers, etc.)	\$25,000

Total Annual Maintenance Costs	\$148,000
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Use Agreement Annual Revenues:

Orange County Public Schools Fees for Showalter Field	\$80,000	
Orange County Public Schools Fees for Showalter East	\$5,000	
Rollins College Fees for Showalter Field and East	\$120,000	
Rollins College Credit (\$50,000) for 10 years	(50,000)	
Winter Park Rental Fees (generated by public use)	\$50,000	
Total Annual Revenue Projection		\$205,000

Synthetic Turf Budget Replacement Cost (10 Year Life)

\$50,000 X 10 years	\$500,000
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Running Track Installation Cost	\$160,000
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Orange County Public Schools contribution for track replacement	\$80,000
Winter Park Capital Improvement Funding	\$80,000

SHOWALTER FIELD FACILITY USE AGREEMENT

THIS SHOWALTER FIELD FACILITY USE AGREEMENT (“Agreement”) is made and entered into as of the Effective Date (hereinafter defined) by and between the **CITY OF WINTER PARK**, a municipal corporation existing under the laws of the State of Florida (“City”) and **THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA**, a body corporate created by the Florida Constitution (“**School Board**”).

RECITALS

WHEREAS, the City and School Board previously entered into that certain Lease Agreement dated August 10, 1993 (“**Original Lease**”) whereby the School Board leased certain real property from the City commonly referred to as “Showalter Field” and granted the School Board a license to utilize the adjacent parking areas; and

WHEREAS, the City and School Board desire to terminate the Original Lease and without limitations replace and supersede the Original Lease with this Agreement; and

WHEREAS, as of the Effective Date of this Agreement, the Original Lease is canceled, null, void, terminated and of no effect whatsoever except to the extent otherwise provided in this Agreement; and

WHEREAS, this Agreement sets forth all of the parties rights and obligations in any way relating to the Property and Showalter East (as those terms are defined below) after the Commencement Date (as that term is defined below); and

NOW THEREFORE, for and in consideration of the foregoing recitals, the mutual covenants and agreement herein set forth, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby expressly acknowledged and agreed by the parties hereto, the parties do hereby covenant and agree as follows:

1. **Recitals and Suits for Matters under Original Lease.** The foregoing recitals are true and correct, in all material respects, and incorporated herein by reference. The parties acknowledge that if any suit or cause of action is brought against the School Board or City based on events or conditions which occurred or existed during the effectiveness of the Original Lease, then the provisions of the Original Lease concerning each party’s rights, duties and liability shall apply to such suit or cause of action.

2. **Property.** The City hereby agrees to make available to the School Board for the School Board’s use as allowed by this Agreement on the dates and under the terms, conditions and provisions herein provided (“Property Use Privileges”), the athletic field, bleachers, track, dressing rooms, buildings, restrooms, concession buildings, parking areas, and any other amenities and improvements located on the real property more particularly described within the bounded areas graphically depicted as “Showalter Field ‘PROPERTY’ and ‘PARKING’” in **Exhibit “A”** attached hereto and incorporated herein by reference (collectively, the “**Property**”). Property Use Privileges shall be made available to School Board on those dates set forth on the

schedules as established pursuant to Section 7 during the Term for each fall and spring school semester and as may otherwise be agreed upon the parties.

3. **Showalter East.** The City hereby agrees to make available to the School Board for the School Board's use as allowed by this Agreement on the dates and under the terms, conditions and provisions herein provided ("Athletic Field Use Privileges"), the athletic field on the real property more particularly described within the bounded area graphically depicted as "Showalter East" in **Exhibit "B"** attached hereto and incorporated herein by reference ("**Showalter East**"). Athletic Field Use Privileges shall be made available to the School Board on those dates set forth on the schedules as established pursuant to Section 7 during the Term for each fall and spring school semester and as may otherwise be agreed upon by the parties.

4. **Term.** The term of this Agreement shall begin on May 1, 2016 ("**Commencement Date**") and continue thereafter for a term of twenty (20) years, unless sooner terminated as provided herein ("**Term**"). This Agreement may be extended for two additional terms of ten (10) years each by mutual written agreement of both the City and School Board. Each extended term of ten (10) years is referred to as an "Extended Term" and in the event of an extension of the Term, the word Term as used in this Agreement shall mean that Extended Term.

5. **Use Fee.** The School Board shall pay the City Eighty-Five Thousand and No/100 Dollars (\$85,000.00) per year for the first year of the Term with increases thereafter as provided herein ("Use Fee") as use fees for the Property and Showalter East, payable annually in advance beginning on the Commencement Date and annually thereafter on the anniversary of the Commencement Date. The Use Fee provided for herein shall be increased on each one (1) year anniversary of the Commencement Date by the lesser of three percent (3%) of the prior year's Use Fee or the annual percentage change in the consumer price index as reported by the U.S. Bureau of Labor Statistics in April ("**CPI**") of the prior year's Use Fee. In each year of the first ten (10) years of the Term where the percentage increase in the CPI exceeds three percent (3%), the portion of the percentage increase in excess of three percent (3%) for each year is referred to as the "Excess CPI". In April of each year the City shall send written notice ("**Use Fee Adjustment Notice**") to the School Board, stating CPI for April, determining if the CPI percentage change is less or greater than 3%, calculating and stating the new Use Fee to be paid for the next year. In no event during the term of the Agreement shall the Use Fee decrease unless by consent of the parties. The Use Fee shall be due and paid by the School Board to the City each year of the Term regardless of whether the Property and Showalter East are used by the School Board. During the initial ten (10) years of the Agreement, should the summation of the Excess CPI for each year of the first ten (10) years of the Term equal or exceed 7.5%, the parties shall renegotiate the Use Fee and establish a "new base amount" for the final ten (10) years of the initial twenty (20) year Term subject to subsequent annual increases as contemplated herein. Failure to agree to a new base amount within a ninety (90) day period entitles either party to terminate this Agreement by providing the other party with thirty (30) days written notice.

6. **Use of Property and Showalter East and Parking.** Property Use Privileges and Athletic Field Use Privileges and all other School Board uses of the Property and Showalter East are limited to School Board approved sporting activities and classes, graduation festivities, organized student activities or functions, and related matters involving Winter Park High School,

the Winter Park Ninth Grade Center, or any other OCPS event (collectively, the “**School Sanctioned Activities**” or for individual events “**School Sanctioned Activity**”) during the Term; provided that the School Board shall not have the right to use the Property and Showalter East for any school term where the School Board has not notified the City of the School Board schedule of School Sanctioned Activities as set forth in **Sections 7** below. During School Sanctioned Activities, the School Board or its designee shall have the exclusive right to sell attendance tickets, food, merchandise, parking admission and related matters with all income from such School Sanctioned Activities being retained by the School Board. The School Board shall provide qualified staffing necessary to manage and oversee its School Sanctioned Activities including all required public safety personnel. The City reserves the right, but has no obligation, to postpone or cancel any School Sanctioned Activities due to inclement weather or circumstances that may result in damage to the property or result in endangering the public. If an event is cancelled, the City will work with the School Board to provide a date for rescheduling the event. Notwithstanding the foregoing and other provisions in this Agreement, the City has the right to use and allow third parties to use the Property and Showalter East, and either of them, to the extent such are not being used during School Sanctioned Activities.

The School Board shall have the right to use the areas shown on **Exhibit “A”** as “Parking” for parking during and in conjunction with and for School Sanctioned Activities; provided, however, School Board shall (i) have personnel to direct and manage vehicles, traffic and parking; (ii) clean up all debris and trash after each School Board use of the Parking areas and leave the Parking areas in good, clean condition after each use; (iii) indemnify and hold City harmless, to the extent permitted by law, for the Parking areas under the same requirements for the Property and Showalter East; (iv) ensure the Parking areas are included under the School Board’s insurance coverage and name the City as an additional insured; and (v) in the event of inclement weather, the City has the right to redirect parking from the Parking areas on Exhibit “A” to other areas.

7. **Scheduled Use of the Property.** The School Board shall notify the City of the School Board’s scheduled use of the Property in accordance with the following terms:

- A. **Interim Schedule** – The schedule for School Sanctioned Activities from the Effective Date until the first event in the Initial Fall Schedule, described below, is set forth on the attached **Exhibit “C-1”**, attached hereto (“Interim Schedule”).
- B. **Fall Schedule** - On or before July 15th of each year the School Board shall notify the City of the dates and times of all scheduled School Sanctioned Activities to be held on the Property and separately, the School Sanctioned Activities to be held on Showalter East and whether the track is required for each School Sanctioned Activity for the School Board’s fall term which runs from the first day public schools are in session through December 31st (“Fall Schedule”). Notwithstanding the foregoing, the Fall Schedule for the School Sanctioned Activities for 2016 is set forth on **Exhibit “C-2”**, attached hereto (“Initial Fall Schedule”). The City shall make the Property available two (2) hours before any School Sanctioned Activities for the Property until no more

than two (2) hours after the scheduled activity to allow the School Board to conclude any necessary clean-up except for sports practices in which case the City shall make the Property available one-half (1/2) hour before any sports practice until one-half (1/2) hour after any sports practice. For Showalter East, all activities shown on the Showalter East Fall Schedule must be held between 2 p.m. and 5 p.m., Monday through Friday, and the City shall make Showalter East available ½ hour before until ½ hour after any School Sanctioned Activities on Showalter East.

- C. Spring Schedule - On or before December 1st of each year the School Board shall notify the City of the dates and times of all scheduled School Sanctioned Activities to be held on the Property and separately, the School Sanctioned Activities to be held on Showalter East and whether the track is required for each School Sanctioned Activity for the School Board's spring term which runs from January 1st through the last day public schools are in session ("Spring Schedule"). The Spring Schedule for the School Sanctioned Activities for 2016 (in effect as of the Effective Date) is set forth in **Exhibit "C-3"** attached hereto ("Initial Spring Schedule"). The City shall make the Property available two (2) hours before any School Sanctioned Activities for the Property until no more than two (2) hours after the scheduled activity to allow the School Board to conclude any necessary clean-up except for sports activities in which case the City shall make the Property available one-half (1/2) hour before any sports practice until one-half (1/2) hour after any sports practice. For Showalter East, all activities shown on the Showalter East Spring Schedule must be held between 2 p.m. and 5 p.m., Monday through Friday, and the City shall make Showalter East available ½ hour before until ½ hour after any School Sanctioned Activities on Showalter East.
- D. Rescheduling Activities – In the event a School Sanctioned Activity to be held on the Property is cancelled for any reason other than forfeiture by one of the teams involved in such activity, the School Board shall notify the City within twenty four (24) hours of the cancellation and the School Board and City shall work together in good faith to reschedule such School Sanctioned Activity recognizing that the rescheduled School Sanctioned Activity must take place no later than two (2) weeks after its cancellation. There shall be no reduction or setoff of the Use Fee for any cancellation, even if not rescheduled.
- E. Championship Competitions –The School Board may include on the Fall and/or Spring Schedules state/regional sporting competitions or comparable events. Within seven (7) days after being notified that these championship competitions will not be held on the Property as set forth on the submitted Fall and/or Spring Schedules, the School Board shall notify the City of the cancellations and the Property shall be open for use by City and City-approved third parties on those cancelled dates.
- F. Increase in Use. The School Board, in its notification to the City for any Fall Schedules subsequent to the Initial Fall Schedule, may increase the number of days for School Sanctioned Activities for the noticed Fall Schedule by up to, but not exceeding, ten (10) more days than the number of days of School Sanctioned Activities provided in the attached Initial Fall Schedule. Also, the School Board,

in its notification to the City for any Spring Schedule subsequent to the Initial Spring Schedule, may increase the number of days for School Sanctioned Activities for the noticed Spring Schedule by up to, but not exceeding, ten (10) more days than the number of days of School Sanctioned Activities provided in the attached Initial Spring Schedule. In no event may the increase in the number of days for School Sanctioned Activities for each Fall and Spring Schedule combined exceed ten (10) days more than the number of days of School Sanctioned Activities provided in the Initial Fall and Spring Schedules combined. A School Sanctioned Activity scheduled for all or any portion of the Property or Showalter East as set forth on a schedule counts as a full day for purposes of this Agreement. The dates for the additional School Sanctioned Activities are subject to City approval to avoid conflicts with third party use of the Property and Showalter East.

8. **Existing Facility Use Agreements.** The School Board acknowledges and agrees that there are existing facility use agreements between the School Board and third parties that provide for use of the Property and/or Showalter East after the Commencement Date. These facility use agreements preempt the School Board's right to use the Property and Showalter East for certain dates and all revenues related thereto and any revenue received by the School Board for said rentals shall be forwarded and paid to the City. OCPS hereby warrants and confirms that there are no third party agreements or other agreements to which OCPS is a party that provide any rights to OCPS or others to use, or provide any rights to OCPS or others which relate to the Property or Showalter East, after June 8, 2016.

9. **City Use Policy of the Property.** During all periods of time not scheduled for School Sanctioned Activities shown on the Fall Schedule and Spring Schedule, the Property and Showalter East are available for use by the City for programming, City-approved third party users/rentals and for use of the general public, all in the City's discretion. The City may, and intends to, enter into third party use agreements and other agreements, including without limitation, use of the Property and Showalter East by Rollins College and School Board hereby acknowledges and consents to such; provided the dates that the third parties' use of the Property and Showalter East do not conflict with the dates of the School Sanctioned Activities listed on the submitted Fall Schedule and submitted Spring Schedule. All fees related to use of the Property and Showalter East are to be paid to the City.

10. **Improvements to the Property.** Any and all repair, maintenance and improvements desired by the School Board to the Property and/or Showalter East must be requested in writing to the City for City consideration for approval prior to any work being performed. The City agrees to review the request in a timely manner and schedule all reviews of the Parks and Recreation Advisory Board and/or City Commission at the next available scheduled session, if appropriate, in the City Manager's discretion. Notwithstanding the foregoing, the City has no obligation to approve, perform or pay for any repair, maintenance or improvements requested by the School Board.

A. The City and School Board agree and acknowledge that the School Board shall be permitted to erect or permit to be erected upon the Property signage and

branding related improvements or modifications consistent with the signage, branding, use, design or tradition of the Property as the “Home of the Wildcats” as existing on the Property as of the Effective Date and more particularly referred to as “**Branding Improvements**”; provided such is first submitted to and approved by the City. Any signage or branding related improvements that are new or not consistent with traditional and current branding, as determined in the City Commission’s discretion, shall be subject to City approval, in the City’s discretion.

- B. The School Board, at its sole expense, shall repair the two (2) concession stands located on the Property (“**Concession Stands**”) and repair/replace/improve certain equipment located therein, as set forth in that scope of work attached as **Exhibit “D”** hereto (“**Concession Stand Work**”), on or before thirty (30) days after the Effective Date. Said repairs/replacement/improvements shall meet the requirements of the State Department of Agriculture and the City fire code and other City requirements. The School Board acknowledges that the concession stands and equipment are City property and all Concession Stand Work shall become City property, when properly completed.
- C. The City shall grant the School Board privileges to secure storage areas within the concession stands for maintaining School Board supplies and normal concession products used during School Sanctioned Activities.
- D. The City shall remove and replace the track on or before the 2017 Florida public school track season to at least the specifications and standards of the FHSAA. Within thirty (30) days after the Effective Date in addition to the Use Fee, School Board shall pay to City an amount equal to Eighty Thousand and No/100 Dollars (\$80,000.00) which City shall use exclusively to offset the cost of the new track installation. The City shall be responsible for any and all additional costs associated with the new track replacement and all future maintenance except to the extent the track is damaged by the School Board or during School Sanctioned Activities in which case such costs shall be paid by the School Board.
- E. No work or payments by the School Board for matters under this Agreement shall reduce or offset the Use Fee.
- F. All improvements installed or constructed on the Property and Showalter East, if installed or constructed pursuant to this Agreement or as otherwise expressly authorized by the City, shall become part of the Property and Showalter East and owned by the City.

11. **Installation of Artificial Turf and Equipment Issues.** The City has the right to install artificial turf on the competition field located on the Property at no cost to the School Board. The City shall notify the School Board thirty (30) days prior to commencement of the turf installation and include in such notice a description and map or drawings specifying the scope of the turf installation. The School Board, at its sole expense, shall purchase and install, at the locations approved by the City, that equipment identified in **Exhibit “E”** attached hereto (“**School Board Equipment**”) on or before the completion of the turf installation. In order to avoid duplicate spending, School Board agrees to provide City with a credit equal to the School Board’s costs for any items identified in Exhibit “E” which are acquired and furnished by the

City in the installation of the artificial turf (e.g. field goal posts). The City and School Board shall work in good faith to coordinate the turf installation and placement of School Board Equipment. Once the School Board Equipment is delivered and or installed it shall become the property of the City and the City shall be responsible for maintenance and replacement as needed except to the extent such is damaged, lost or stolen during or as a result of School Sanctioned Activities or School Board actions or inactions in which case the School Board shall repair or replace such at the School Board's expense. On or before thirty (30) days after the Effective Date of this Agreement, the School Board shall remove all tangible personal property from the Property except for those items to be used by the School Board which are identified by the School Board to be stored on the Property and written notice thereof is provided to the City within said thirty (30) day period.

12. **Signage and Advertising.** The School Board shall be entitled to install signage on the Property, subject to the review and approval of the City. All signage and banners must comply with the Parks and Recreation sign and banner policy and City sign code (see **Exhibit F, City Sign Code requirements or as later modified by the City**). The parties agree to the following specific provisions regarding signage and advertising income:

- A. **School Signs** – The School Board shall be entitled to install on the Property signage related to the branding of Winter Park High School which includes:
 - (i) temporary signs that are printed on material which will be temporarily affixed to the Property and can be removed from the Property at the end of the Spring Schedule;
 - (ii) permanent signs that are printed on material which is then permanently affixed to the Property such as signage related to prior championships (i.e. district, state etc.) which shall not be removed from the Property at the end of the Spring Schedule;
 - (iii) permanent signage which is painted directly onto certain improvements located on the Property such as signage identifying the Property as Winter Park High School's home field, which shall not be removed from the Property at the end of Spring Schedule.
- B. **City and Third Party Signs** – The City has the right to allow and provide at all times City and third party signage on the Property and Showalter East, and during all times that the Property and/or Showalter East is not being used by the School Board during the days listed on the Fall Schedule and Spring Schedule, the City has the right to allow City and City-approved third party signs to be located on and cover School Board signs provided the School Board signs are uncovered before School Board's next use of the Property and/or Showalter East.
- C. **Advertising Signs** – The School Board during School Sanctioned Activities and the City during all other activities and at all other times, shall be entitled to place temporary signs on the Property for the purpose of generating income from advertising. One hundred percent (100%) of

the income from any such advertising signs shall go to the School Board for signage under Section 12.A and to the City for signage under Section 12.B and all other signage.

- D. Scoreboard Signs – The City may construct a digital scoreboard on the Property. Should such design allow for digital advertising signage, then one hundred percent (100%) of the income from any digital advertising during School Sanctioned Activities shall be paid to the School Board and one hundred percent (100%) of the income from any digital advertising for all other activities and at all other times shall be paid to the City. All other advertising on the scoreboard shall be determined by the City and the School Board shall have the right to use 1/3 of such area of other advertising, and the School Board shall be entitled to the revenue from that 1/3 portion of the other advertising area provided the School Board's right to use of the 1/3 portion of the other advertising area and revenue therefrom shall not extend beyond and shall cease when the School Board's right to use the Property for School Sanctioned Activities ceases.

13. **Maintenance.** The School Board shall keep the Property and Showalter East in a neat and clean condition during and immediately after use by the School Board for each School Sanctioned Activity. In the event the School Board fails to clean the Property and Showalter East after any School Sanctioned Activity, the City may clean the Property and Showalter East and the School Board shall pay the City within thirty (30) days of receipt of a written invoice identifying the City's cleanings costs. Other than the foregoing and damages caused by the School Board or occurring during School Sanctioned Activities, the City shall, at its sole cost and expense, be responsible for any and all grounds keeping, maintenance, and repairs to the Property and Showalter East and the improvements, buildings and facilities located thereon, with the exception of the training equipment storage building. School Board shall promptly provide written notice to the City ("**Maintenance Request**") outlining any defective or damaged condition, area in disrepair or in need of maintenance in or about the Property and/or Showalter East. Within ten (10) days the City shall inspect the reported condition and either correct or stabilize the condition at that time or provide a written response to the School Board stating the City's plan and timetable to take action or explaining that such is the School Board's responsibility. Notwithstanding the foregoing, in the event any such condition constitutes an emergency condition or impedes the School Board's ability to effectively utilize the Property and/or Showalter East, or any portion thereof, for any School Sanctioned Activities, the School Board, acting in good faith, shall have the right to cure such condition upon such advance notice to the City as is reasonably possible under the circumstances, or if necessary, without advance notice, so long as notice is given as soon as possible thereafter. In such event, the City shall reimburse the School Board for its reasonable costs of curing the condition ("**Maintenance Cure Costs**") within thirty (30) calendar days following delivery to the City of a demand for such reimbursement, which demand shall include reasonable documentation of such Maintenance Cure Costs; provided, however, the City has no obligation to reimburse the School Board for such if the condition was caused by the School Board or occurred during School Sanctioned Activities. The right to cure such condition shall not be deemed to: (i) impose any obligation, liability or responsibility on the School Board to do

so; (ii) render the School Board liable to the City or any third party for an election not to do so; (iii) relieve the City from any performance obligation hereunder; or (iv) relieve the City from any indemnity obligation as may be provided in this Agreement.

14. **Utilities.** The City shall be responsible for ensuring that utility service, including, without limitation, water, sewer, reuse water, fire suppression, irrigation, electricity, stormwater, garbage collection and disposal (collectively, “**Utilities**”), is available to the Property.

15. **Indemnification and Insurance.** The School Board’s exercise of its rights, privileges, obligations and duties hereunder are at the School Board’s own risk and expense.

- A. To the extent permitted by law, School Board hereby indemnifies and holds harmless the City, its commissioners, agents and employees, against and from any and all liability, claims, demands, disputes, lawsuits, judgments, damages, costs, interest, attorney’s fees and expenses, (including prior to trial, during trial, and through appeal) for any and all injuries and damages related to School Board’s performance of or failure to perform School Board’s duties under this Agreement and for any and all injuries and damages which occur on the Property and/or Showalter East which occurs during a School Sanctioned Activity or during any activities or work related to the Concession Stand, School Board equipment installation, School Board track, standard Scoreboard installation, and other work performed by or for the School Board.
- B. To the extent permitted by law, City indemnifies and holds harmless School Board, its agents and employees, from any and all liability, claims, demands, disputes, lawsuits, judgments, damages, costs, interest, attorney’s fees and expenses, (including prior to trial, during trial, and through appeal) for any injury or damages to School Board which occurs on the Property and/or Showalter East during any time other than those times the School Board has use or possession of the Property and/or Showalter East for a School Sanctioned Activity and other than for activities and work related to the Concession Stand, standard Scoreboard Installation, School Board, track work, School Board equipment installation, and other work performed by or for the School Board.
- C. City acknowledges School Board’s representation that School Board has a self-insured program to protect School Board, its elected officials and employees from any claim for bodily injury or property damage to a third party. Without waiving its rights to sovereign immunity as provided in Section 768.28, Florida Statutes, under no circumstances shall School Board be liable to the City, or any person or entity claiming under or through the City, for any amounts in excess of those limits set forth by Florida law for tort liability.
- D. School Board acknowledges City has a self-insured program to protect City, its elected officials and employees from any claim for bodily injury or property damage to a third party. Without waiving its rights to sovereign immunity as provided in Section 768.28, Florida Statutes, under no circumstances shall City be

liable to the School Board, or any person or entity claiming under or through the School Board, for any amounts in excess of those limits set forth by Florida law for tort liability.

- E. School Board and City agree to maintain commercial insurance or a self-insured program for Workers' Compensation and Employers Liability in accordance with Florida Statute 440. Each party agrees to extend Workers' Compensation to its respective employees and shall waive subrogation and right to recovery from the other party.
- F. School Board agrees and City acknowledges that any School Board vendor, contactor or subcontractor that provides work, services or products involved with the Concession Stand Work, School Board equipment, School Board track work, standard scoreboard installation, or improvements made by the School Board to the Property or Showalter East shall maintain insurance for Commercial General Liability, Auto Liability, and Workers Compensation and shall endeavor to require that the City be listed as an additional insured on such insurance.
- G. City agrees and School Board acknowledges that School Board and any City vendor, contractor or subcontractor that provides work, services or products involved with the City's use, operation, maintenance, City capital improvements, City track work, turf installation and digital scoreboard installation shall maintain insurance for Commercial General Liability, Auto Liability, and Workers Compensation as determined by the City and shall endeavor to require that the School Board be listed as an additional insured on such insurance, where allowed by law.

16. **Notices.** Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly given as of the date and time the same are personally delivered, transmitted electronically or within three (3) days after depositing with the United States Postal Service, postage prepaid by registered or certified mail, return receipt requested and a copy in the United States First Class Mail, or within one (1) day after depositing with Federal Express or other overnight delivery service from which a receipt may be obtained, and addressed as follows:

School Board: The School Board of Orange County, Florida
 445 West Amelia Street
 Orlando, Florida 32801
 Attn: General Counsel
 Telephone: (407) 317-3411
 Telecopy: (407) 317-3341

With a required
copy to: Orange County Public Schools
 Real Estate Management
 Attn: Director

6501 Magic Way, 100A
Telephone: (407) 317-3700 (ext. 5108)
Telecopy: (407) 317-3792

City: City of Winter Park
Attn: Randy Knight, City Manager
401 South Park Avenue
Winter Park, Florida 32789

With a required
copy to: City of Winter Park
Attention: City Attorney, A. Kurt Ardaman
1947 Lee Road
Winter Park, Florida 32789
Telephone: (407) 262-8400
Telecopy: (407) 425-2863

Additionally, for operational purposes, the City's contact person is the City Manager or the City Manager's designee and for the School Board, the School Board's contact person is the School Board Superintendent or the Superintendent's designee.

17. **Amendments.** This Agreement may be amended upon the mutual written consent of the parties hereto.
18. **Entire Agreement.** This Agreement shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this Agreement (including the Original Lease) shall not be binding upon either party to the extent incorporated into this Agreement.
19. **Title and Quiet Enjoyment.** The City covenants, warrants and represents that it is lawfully seized of the Property and Showalter East in fee simple and has full right and authority to enter into this Agreement and agrees, if the School Board performs all of the School Board's duties herein specified, School Board shall, subject to the terms and conditions of the Agreement have quiet and peaceable use of the Property and Showalter East during the times/days provided for in this Agreement throughout the Term hereof.
20. **Defaults and Remedies.**
 - A. **Default by the City.** In the event the City breaches any provision contained herein or fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements or obligations to be performed by the City under the terms and provisions of this Agreement, the School Board, in School Board's sole discretion, shall be entitled to (i) exercise any and all rights and remedies available to School Board at law and in equity, including without limitation the right of specific performance; or (ii) terminate this Agreement with only thirty (30) days prior written notice and the City shall reimburse the School Board for

that portion of the Use Fee that has been received by the City attributable to the remainder of the year in which the termination occurs. Upon any such termination, this Agreement and all rights and obligations created hereunder shall be deemed null and void and of no further force or effect except that School Board's indemnification and hold harmless obligations and provisions that expressly survive, shall survive termination.

- B. Default by the School Board. In the event the School Board breaches any provision contained herein or fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements or obligations to be performed by the School Board under the terms and provisions of this Agreement, the City, in the City's sole discretion, shall be entitled to (i) exercise any and all rights and remedies available to the City at law and in equity; or (ii) terminate this Agreement with only thirty (30) days prior written notice. Upon any such termination, this Agreement and all rights and obligations created hereunder shall be deemed null and void and of no further force or effect except that School Board's indemnification and hold harmless obligations and provisions that expressly survive, shall survive termination.
- C. Grace Period. In the event either party breaches any warranty or representation of such party contained in this Agreement, or fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements or obligations to be performed by such party under the terms and provisions of this Agreement, prior to the exercise of the rights provided herein to the non-breaching party, the breaching party shall be entitled to written notice of the specific default, breach, or other problem and to ten (10) days after the receipt of that written notice in which to cure said default, breach, or other problem. However, if such breach is of a nature that it cannot reasonably be cured within ten (10) days, then the breaching party shall have ten (10) days from the receipt of written notice from the non-breaching party to commence said required cure, and the amount of time reasonably necessary to complete said required cure, which reasonable time shall in no event exceed ninety (90) days from the receipt of written notice from the non-breaching party, unless otherwise extended by the non-breaching party in writing. If such default, breach, or other problem is not corrected within the applicable period, then an event of default shall have occurred and the parties shall be entitled to the rights and remedies herein set forth.

21. Condemnation. In the event the Property or Showalter East or any portion or portions of either or both are taken or condemned or become the subject of a bona fide threat of condemnation by any governmental authority or entity or are conveyed by City in lieu of condemnation (collectively referred to as "Condemnation"), School Board and City each shall have, separately, the right to terminate this Agreement by giving written notice thereof to the other, whereupon this Agreement and all rights and obligations created hereunder shall be null

and void and of no further force or effect except to the extent provisions expressly or impliedly continue; provided, however, in the event the School Board condemns the Property or Showalter East or any portion or portions of either or both, School Board shall have no right to terminate this Agreement. The City has all rights to and shall receive any and all awards, damages and proceeds from or in any way relating to any Condemnation, and School Board shall have no right to any of the foregoing. Further, the City has the exclusive right to negotiate, hire, and direct its attorneys and experts in advance of and during all litigation and appeals relating to any Condemnation, including the exclusive right to accept or reject any offers and to make all decisions relating to any Condemnation.

22. **Waiver.** The failure of either party to exercise any power given hereunder or to insist upon strict compliance with any obligation specified herein shall not constitute a waiver of either party's right to demand exact compliance with the terms hereof.

23. **Successors/Assignment/Subletting.** The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, personal representatives, and successors; provided, however, School Board has no right to assign this Agreement or any of School Board's rights under this Agreement, and School Board has no right to sublease or allow third parties to use the Property or Showalter East, without the prior written consent of the City, in the City's sole discretion.

24. **Time.** Time is of the essence of this Agreement.

25. **Legal Construction.** Wherever, under the terms and provisions of this Agreement, the time for performance falls upon a Saturday, Sunday, or legal holiday, such time for performance shall be extended to the next business day. The headings inserted at the beginning of each paragraph are for convenience only, and do not add to or subtract from the meaning of the contents of each paragraph, and neither party shall be treated as the drafter of all or any portion of this Agreement for purposes of interpreting such.

26. **Governing Law and Venue.** This Agreement shall be interpreted under the laws of the State of Florida, with venue for any proceeding in Orange County, Florida.

27. **Severability.** This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

28. **Attorneys' Fees.** In the event of any dispute hereunder or of any lawsuit or administrative action to interpret or enforce this Agreement, any provision hereof or any matter arising herefrom, the prevailing party shall be entitled to recover its reasonable costs, fees and expenses, including, but not limited to, witness fees, expert fees, consultant fees, attorney, paralegal and legal assistant fees, costs and expenses and other professional fees, costs and expenses whether suit be brought or not, and whether in settlement, in any declaratory action, in mediation, arbitration, bankruptcy or administrative proceeding, or at trial or on appeal. Notwithstanding the foregoing, nothing contained herein shall be construed or interpreted (a) to alter, amend or waive the School Board's or City's sovereign immunity, or any defenses thereto, of the State of Florida, or its agencies, beyond the waiver provided in Section 768.28, Florida Statutes; or (b) as the consent of the School Board or City to be sued.

29. **Counterparts and Facsimile Signatures.** This Agreement may be executed in two or more counterpart copies, including facsimile and electronic mail signatures, each of which shall be deemed to constitute one original document. The parties may execute different counterparts of this Agreement, and, if they do so, the signatures pages from the different counterparts may be combined to provide one integrated document and taken together shall constitute one and the same instrument.

30. **Effective Date.** This effective date of this Agreement shall be the date upon which of the last of the parties hereto signs this Agreement ("**Effective Date**"). Notwithstanding the foregoing, the effectiveness of this Agreement is contingent upon the approval of the governing boards of the City and the School Board.

31. **No Third Party Beneficiaries.** This Agreement is solely for the benefit of the parties executing the Agreement, and no rights are intended, nor shall any rights accrue, to any third party unless expressly provided in this Agreement. There are no third party beneficiaries to this Agreement, and only the parties hereto and their legal successors shall have any rights hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

WITNESSES:

THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA, a corporate body organized and existing under the constitution and laws of the State of Florida

Print Name: _____

By: _____

Name: William E. Sublette

Print Name: _____

Title: Chairman

Dated: _____

STATE OF FLORIDA)
) s.s.:
COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by William E. Sublette, Chairman of The School Board of Orange County, Florida, a public corporate body organized and existing under the Constitution and the laws of the State of Florida, on behalf of The School Board. He is personally known to me or had produced _____ (type of identification) as identification.

(NOTARY SEAL)

Notary Public
Print Name: _____
Serial Number: _____
My Commission Expires: _____

WITNESSES:

**THE SCHOOL BOARD OF ORANGE
COUNTY, FLORIDA**, a corporate body
organized and existing under the constitution
and laws of the State of Florida

Print Name: _____

Attest: _____
Barbara M. Jenkins, as its
Secretary and Superintendent

Print Name: _____

Dated: _____

STATE OF FLORIDA)
) s.s.:
COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Barbara M. Jenkins as Secretary and Superintendent of The School Board of Orange County, Florida, a public corporate body organized and existing under the Constitution and the laws of the State of Florida, on behalf of The School Board. She is personally known to me or has produced _____ (type of identification) as identification.

(NOTARY SEAL)

Notary Public

Print Name: _____

Serial Number: _____

My Commission Expires: _____

Reviewed and approved by Orange County
Public School's Chief Facilities Officer

Approved as to form and legality by legal
counsel for The School Board of Orange
County, Florida, exclusively for its use and
reliance.

John T. Morris
Chief Facilities Officer

By: _____
Print Name: _____
Title: _____

Dated: _____, 2016

Dated: _____, 2016

WITNESSES:

CITY OF WINTER PARK, a municipal
corporation organized and existing under the
laws of the State of Florida

Print Name: _____

By: _____

Name: _____

Title: _____

Print Name: _____

Dated: _____

STATE OF FLORIDA)
) s.s.:
COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by _____ as _____ of CITY OF WINTER PARK, a municipal corporation organized and existing under the laws of the State of Florida, on behalf of corporation. He/She is personally known to me or has produced _____ (type of identification) as identification.

Notary Public

(NOTARY SEAL)

Print Name: _____
Serial Number: _____
My Commission Expires: _____

Exhibit “A”

Showalter Field “Property” and “Parking”



EXHIBIT A- Showalter Field and Designated Parking for Stadium Events

Exhibit “B”
Showalter East



Showalter East

Exhibit “C-1”

Interim Schedule

Exhibit “C-2”

Initial Fall Schedule

Exhibit “C-3”

Initial Spring Schedule

Exhibit "D"

Concession Stand Work

- Clean and wax floors #1 & #2
- Clean and repair counters #1 & #2
- Replace missing outlet covers #1
- Seal the hole in the wall in concession #1
- Repair roll down shutters so that are sealed completely when closed #1
- Remove all of the old/unused equipment #1 & #2
- Clean all remaining equipment #1 & #2
- Remove all food products that are old or outdated
- Repair ceiling fan(s) #1
- Clean coolers #1
- Drain and clean ice machine(s) #1
- Remove all hot plates #1
- Replace or clean to acceptable standard the hotdog warmers #1
- Install hand washing sinks, and a 3 compartment sink #1 & #2
- Install sink plug #1 & #2
- Post hand washing signs #1 & #2
- Install hand towels and soap dispensers #1 & #2
- Supply a sanitary concentration test kit #1 & #2
- Provide trash cans #1 & #2
- Clean the exterior and interior #1 & #2
- Paint the interior #1 & #2
- Repair air conditioner(s) #1
- Provide commercial grade refrigerator with a food temperature control thermometer #1 & #2
- Provide microwave ovens in both concession stands #1 & #2

NOTE:

1. The list of work set forth above applies to both Concession Stands 1 & 2 located on the Property unless otherwise noted.

Exhibit “E”

School Board Equipment

- Football goal posts
- Football yardage markers
- 1st Down Marker and 10 yard chain marker
- Benches for sidelines
- Lacrosse Goals
- Soccer Goals
- Track hurdles
- Track starting blocks
- Blow up pits for pole vault and high jump
- Pole vault adjustable heights standards
- High Jump adjustable heights standards
- Discus cage
- Scoreboard – standard OCPS high school scoreboard (not digital)

Note:

1. School Board to deliver and install upon City’s commencement of Turf Installation.

Exhibit "F"

Sec. 58-135. - Prohibited signs.

The following types of signs are expressly prohibited in all districts, except as otherwise provided by this article:

- (1) Animated signs, flashing signs, automatic changing signs. Animated signs, flashing signs and automatic changing signs or automatic changeable copy signs shall be prohibited. This is not intended to prohibit public service information signs and other electronic message centers where different copy changes are shown on the same lamp bank as long as such messages are limited to time, temperature, date and other public service non-advertising copy.
 - (2) Snipe signs. The tacking, pasting or otherwise affixing of signs of a miscellaneous character to the walls of buildings, on poles, trees, fences or other structures is prohibited.
 - (3) Signs on public property. With the exception of governmental signs erected by or on the order of a public officer, no sign shall be permitted on public property or over, or across any street or right-of-way except as may otherwise expressly be authorized by this article.
 - (4) Banner and wind signs. Banner and wind signs shall be prohibited. In addition no more than three flags of a national, religious, fraternal or civic organization shall be displayed and no individual flag shall exceed 32 square feet.
 - (5) Parking of advertising vehicles. No person shall park any motor vehicle in a location visible from a public right-of-way, which has attached thereto or located thereon any sign for the basic purpose of advertising products or directing people to a business or activity located on the same or nearby property or any other premises. This section is not intended to prohibit any form of vehicular signage such as a sign attached to a bus or lettered on a motor vehicle.
 - (6) Generally. Signs are also prohibited which:
 - a. Bear or contain statements, words or pictures of an obscene, pornographic or immoral character or which contain advertising matter which is untruthful.
 - b. By reason of their size, location, movement, content, coloring or manner of illumination, may be confused with or construed as a traffic control sign, signal or device, or the light of an emergency or road equipment vehicle, or which hide from view any traffic or street signal or device, or which otherwise create a traffic hazard.
 - (7) Outdoor advertising or offsite advertising signs. Outdoor advertising signs or offsite advertising signs indicating other than the business, service or other activity sold, offered or conducted on the property [shall be prohibited].
 - (8) Exposed neon or similar signs visible and within 100 feet of residentially zoned property.
 - (9) Roof signs.
 - (10) More than three balloons over 12 inches in diameter on any one property or any one balloon over 18 inches in diameter.
- (Ord. No. 2458-02, § 5, 3-12-02)

Athletic Field Banners

RULES & REGULATIONS

Parks & Recreation Advisory Board > **APPROVED 07.28.2010**
Parks & Recreation Advisory Board > **AMENDED 08.25.2010**
Parks and Recreation Advisory Board > **AMENDED 07.30.2014**

GENERAL

- A. The purpose for the banner policy is to establish uniformity in the display of advertising and sponsorship banners on park property.
- B. The business office for banner requests is located at the Winter Park Community Center, Recreation Division, 721 West New England Avenue, Winter Park, FL 32789
 - i. Office hours are from Monday - Friday 8am to 5pm. Ph. 407-599-3397.
- C. Banner displays will be considered only for requests from non-profit athletic club organizations or special event organizers which conduct recreation and/or athletic programs on City property.
- D. Athletic club organizations or special events organizations in good standing may utilize the display of banners for fundraising purposes which directly support the club or event.
- E. Athletic club organizations or special events organizations may further display a banner, "sandwich board" type of free standing sign, "real estate" type of sign, or "feather" banners during their event or game that display the name of the team or organization.
 - i. These team banners or signs must be placed within ten feet of the main entry of the field in use.
 - ii. May remain in place only during the event or game.
 - iii. May NOT be placed in parking lots, on sidewalks or any other publicly used traffic areas.
 - 1. Must be placed in area with no pedestrian or vehicle traffic, such as adjacent to entry gates in the grass.

LOCATIONS

- A. Ward Park baseball fields main walkway fence, banners facing inward.
- B. Ward Park softball fields outfield fence, banners facing inward.
- C. Ward Park multipurpose fields, any fence abutting field, banners facing inward.
- D. Cady Way Park softball fields, outfield fence, banners facing inward.
- E. Showalter Field, fence around track, banners facing inward.
- F. Showalter East Field, any fence abutting field, banners facing inward.
- G. Martin Luther King, Jr. Park softball field, outfield fence, banners facing inward.
- H. Martin Luther King, Jr. Park multipurpose fields, any fence abutting field, banners facing inward. (if there is not a fence, no banner is permitted)
- I. Winter Park Tennis Center, all courts fencing, facing inward.

SPECIFICATIONS

- A. Banners must be constructed of durable vinyl or plastic with grommets that can be attached to the existing fencing with plastic zip ties.
- B. A maximum of 4' high or no taller than the height of the fence to which it is attached, whichever is lesser.
- C. A length of no more than 8' long or no longer than the individual section of fence to which it is attached, whichever is lesser.
- D. Banner may include logo, website information and two lines of text but NO phone numbers.
- E. No illicit text, sexual overtones such as massage or nudity, nothing "harmful to children" such as brutality, domestic violence messages, offensive language, double entendre, tobacco, alcohol contraceptive products, personal hygiene products or improper materials.
- F. No candidate advertising or political issue advertising.

Exhibit "F" continued

DISPLAY DURATION

- A. Ward Park baseball fields, Showalter Field, and Martin Luther King, Jr. softball field will be permitted the display banners for the duration of the current athletic season or the duration of an approved specific event such as a tournament or other special event.
- B. Ward Park multipurpose fields, Showalter East fields, Martin Luther King, Jr. Park multipurpose fields, Cady Way Park softball fields, and Winter Park Tennis Center courts will be permitted the display of banners only during games or tournaments or approved special events and must be removed immediately following same.

INSTALLATION AND REMOVAL

- A. The requesting sports club or event coordinator will be responsible for the installation and removal of the banners.
- B. Damaged, unsightly or improper banners must be removed within two days of notification by city staff.
- C. City staff will remove banners that are not authorized or do not fit within guidelines and have not been appropriately removed by the group.

SHOWALTER FIELD



City of Winter Park Parks and Recreation Department

LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered into this 10th day of August, 1993, by and between THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA, a body corporate created by the Florida Constitution, hereinafter called "The School Board", and the CITY OF WINTER PARK, a municipal corporation existing under the laws of the State of Florida, hereinafter called "The City."

W I T N E S S E T H

That in consideration of the mutual promises herein contained, The School Board and The City hereby covenant and agree to and with each other as follows:

1. Property. The City hereby leases to The School Board and grants to The School Board a non-exclusive (see Paragraph 11 below for only other allowed usage of property) license to occupy and use, subject to the terms and conditions herein contained, the following-described real property (hereinafter referred to as "Showalter Field"):

See Exhibit "A" attached hereto and made a part hereof by reference,

and also grants to The School Board a non-exclusive (see Paragraph 11 below for only other allowed usage of property) license to occupy and use, subject to the terms and conditions herein contained, an adjacent parcel of real property (hereinafter referred to as "The Parking Area") described as follows:

See Exhibit "A" attached hereto and made a part hereof by reference.

2. Quiet Enjoyment. The City covenants and represents that it is lawfully seized of Showalter Field and The Parking Area in fee simple and has full right and authority to make this Lease Agreement and that The School Board shall have quiet and peaceable possession of Showalter Field and The Parking Area, in accordance with the terms of this Lease Agreement, throughout the term hereof.

3. Term. The term of this Lease Agreement shall begin on August 1, 1993 and shall continue for forty (40) years thereafter or until such earlier time as this Lease Agreement is terminated in the manner specified in Paragraph 9 below.

4. Rent. The School Board shall pay The City for this license and Lease Agreement at the rate of One and No/100 Dollars (\$1.00) per year, payable yearly in advance. The School Board may prepay all or any portion of this sum, but no reduction to present value shall be allowed for such prepayment. Prepayment shall not prohibit, ban or restrict the right of The School Board to terminate this Lease Agreement in the manner set forth in Paragraph 9.

5. Use of Premises. It is the intent of the parties to use Showalter Field in a manner not very dissimilar from prior usage with regard to the nature and frequency of The School Board's use of Showalter Field and the Parking Area. Therefore, during the term of this Lease Agreement, Showalter Field may be occupied and used by The School Board only for those types of activities and affairs previously conducted at Showalter Field by Winter Park High School (hereinafter referred to as "High School") and such

additional activities and affairs that are reasonably acceptable to The City. Specifically, it is understood that Showalter Field may be used by the High School for various sporting activities, graduation festivities and related matters (all of which have been performed at Showalter Field in the past), without the written permission of The City. In addition, The School Board may use Showalter Field for any and all future High School sponsored or endorsed activities, regardless of origination, which are similar in nature to previous activities performed by High School at Showalter Field and which may or may not be High School related in nature. These new type activities which have not been performed at Showalter Field in the past shall require the written approval of The City before they can be performed at Showalter Field, which approval shall not be unreasonably withheld.

In determining what is a reasonable activity for future use, noise level, number of people attending, type of people attending (age, parents, etc.), day of week, time of day shall be considered by The City in determining whether the proposed activity is a reasonable use of Showalter Field. All such future requests for the use of Showalter Field shall be submitted in writing by the principal of High School to The City Manager of The City. The principal of High School must submit the request in writing reasonably in advance of the event (in no event less than ten (10) days prior to the scheduled event unless such ten (10) day requirement is waived by The City) and the written request must detail the activity and all pertinent information necessary for the

City Manager of The City to make a reasonable determination regarding the approval of such use or activity. The City Manager of The City (or his designee) must respond in writing with his answer within five (5) business days from the City Manager's receipt of any such request, unless such five (5) day requirement is extended by the principal of High School. If the request is denied, the City Manager of The City (or his designee) must state the reasons for such denial in the written response. Failure to so respond in writing within said five (5) day period shall constitute approval by The City of the proposed activity (unless such period has been extended in writing by the principal of High School). If the City Manager (or his designee) denies approval of a proposed activity at Showalter Field, then within five (5) business days from the receipt of a written request of The School Board requesting a public hearing, The City shall hold a public hearing of the City Commission to determine if approval should be given for the particular activity, or if the City Manager's denial should be upheld.

During the term of this Lease Agreement, The Parking Area may be occupied and used by The School Board to provide vehicular parking in connection with any of the aforesaid uses of Showalter Field, subject to the concurrent use of The Parking Area by The City in connection with activities at The City's facilities adjacent to The Parking Area and Showalter Field as provided herein.

The Parking Area consists of two components, designated Parking Area 1 and Parking Area 2 on the site plan attached as Exhibit "A" hereto. Throughout the term of this Lease Agreement, the School Board may occupy and use both Parking Area 1 and Parking Area 2 to provide vehicular parking in connection with any of the aforesaid uses of Showalter Field. However, if The City has properly scheduled an activity at Showalter Field sponsored by it pursuant to Paragraph 11 of this Agreement, The City shall have the exclusive right to use both Parking Area 1 and Parking Area 2 in connection with that event from two hours before such event is scheduled to commence until two hours after it is scheduled to conclude. Furthermore, if The City has properly scheduled community recreational activities, such as youth league soccer or baseball, on lands adjacent to The Parking Area by giving written notice to The School Board at least sixty (60) days in advance of such activities, The City shall have priority in the use of Parking Area 2 for parking in connection with those events, except as provided below.

The School Board, through the principal of High School or other designee of The School Board, may designate up to twenty (20) days per year as "major events" requiring the use of all of The Parking Area. The School Board shall make this designation by giving The City at least thirty (30) days advance written notice of the dates of those major events. The School Board shall then have the exclusive right to use all of The Parking Area from two hours before such event is scheduled to commence until two hours

after it is scheduled to conclude. The rights and privileges granted to The School Board by this Paragraph shall have priority over any other right or privilege of The City to use Parking Area 1 or Parking Area 2.

In no event shall The School Board be entitled to charge a parking fee to persons attending city-sponsored events or activities at Showalter Field or on the lands adjacent to The Parking Area; provided, however, that if a School Board event is taking place at Showalter Field and a City-authorized event (e.g., soccer game) is taking place on the lands adjacent to The Parking Area, The School Board may charge the same parking fee to persons attending The City-authorized event who park in Parking Area 1 as it charges to persons attending The School Board-authorized event.

The parties agree to endeavor in good faith to coordinate the use of The Parking Area for their respective events. The City reserves the right from time to time to reconfigure and/or relocate The Parking Area to another site or sites in accordance with its Master Plan for the park of which Showalter Field and The Parking Area are a part. Any such reconfigured or relocated parking area shall be of substantially the same area and provide reasonable accessibility as the existing Parking Area.

The City shall keep The School Board informed of any proposed reconfiguration or relocation of the Parking Area, and The School Board shall be given ample opportunity to discuss any proposed reconfiguration or relocation and advise The City of its position thereon. Prior to adoption of any plan which includes any

reconfiguration or relocation of the Parking Area, The City shall transmit any studies, recommendations and proposed plan to The School Board. The School Board, within thirty (30) days after receipt thereof, shall transmit to The City its written recommendations and comments relating to any proposed reconfiguration or relocation of the Parking Area. Thereafter, The City shall hold a public hearing, at which time all interested persons may be heard with respect to the plan, including any proposed reconfiguration or relocation of the Parking Area. Only after such public hearing shall the City Commission of The City take action on the proposed plan or any reconfiguration or relocation of the Parking Area. In the event The School Board reasonably determines that the reconfigured or relocated Parking Area is not reasonably suited for its continued use of Showalter Field under the terms and conditions of this Lease Agreement, then The School Board may terminate this Lease Agreement by giving The City one hundred eighty (180) days prior written notice. Such notice of termination, to be effective, shall be delivered within thirty (30) days after receipt of notice from The City of its action to reconfigure or relocate the Parking Area. The City, within one hundred eighty (180) days after receipt of The School Board's written notification of termination shall either (a) reimburse The School Board for The School Board's actual costs and expenses, less depreciation, for any capital improvements, remodeling or renovations made to Showalter Field and the Parking Area, or (b) rescind its action to reconfigure or relocate the

Parking Area, in which event this Lease Agreement shall not be terminated, but shall remain in full force and effect. During the aforesaid one hundred eighty (180) day period, The City shall not reconfigure or relocate the Parking Area without the prior written approval of The School Board.

The School Board shall be entitled to install "sponsor signs" on the bleachers at Showalter Field facing the field upon the reasonable prior consent of The City.

The School Board shall not use Showalter Field or The Parking Area during the hours of 11:00 P.M. to 7:00 A.M. Sunday through Thursday, or from midnight through 7:00 A.M. on Friday or Saturday, without the consent of The City. No alcohol may be sold or permitted at any time at Showalter Field or The Parking Area. In addition, any use which unreasonably and harmfully affects the residential nature of the surrounding neighborhood is prohibited. Other prohibited uses shall include, but are not limited to:

- A. Gambling;
- B. Musical concerts except activities by school-related bands or groups, orchestras or choirs;
- C. Truck/tractor pulls or other noise generating vehicular events; and
- D. Any use which would constitute a public nuisance or would outrage public morals.

6. Improvements. The School Board shall have the right to erect or permit to be erected upon Showalter Field such improvements and modifications as are reasonably necessary for

furthering the permitted uses of Showalter Field, provided that such improvements or modifications conform to School Board construction standards, are consistent with the purposes of this Lease Agreement, and further provided that any and all improvements first be approved by The City. The City shall not unreasonably withhold its approval for any such improvement. Those items set forth in Schedule "1" are hereby specifically approved by The City.

The School Board shall, on or before February 28, 1994, resurface the running track so that it will be suitable for national-level high school track meets such as the Golden South Meet. The School Board shall maintain the track in a condition suitable for such meets until March 31, 1998. Thereafter, The School Board may make such modifications to the track as it deems to be in its best interests, but shall continue to maintain a synthetic running track suitable for state-level high school track events on Showalter Field.

7. Maintenance and Repair.

A. The City shall perform all groundskeeping (including mowing, irrigation, and weed and insect control) for The Parking Area and the landscape area along Cady Way. However, The City shall not be responsible for assuring that The Parking Area is free of holes, ruts or other hazards. In performing its maintenance responsibilities, The City shall not materially interfere with The School Board's use of Showalter Field or The Parking Area. In addition, for the first one (1) year of the Lease Agreement, The City shall

perform all groundskeeping for that portion of Showalter Field outside the fence surrounding the stadium located thereon. After the first year of the Lease Agreement, the groundskeeping for such area shall be the responsibility of The School Board. At no time (except temporarily, for irrigation purposes or in case of a threat to human health or safety) shall The City restrict or burden vehicular access to Showalter Field or The Parking Area.

B. All other groundskeeping, maintenance, repairs and upkeep for Showalter Field shall be done by The School Board.

C. The School Board shall be responsible for the removal of all trash and debris deposited on Showalter Field and The Parking Area in connection with the use of Showalter field by The School Board or any activity sponsored or endorsed by it.

D. The City shall be responsible for the removal of all trash and debris deposited on Showalter Field and The Parking Area in connection with the use of Showalter field by The City or any activity sponsored by it.

E. The School Board shall have responsibility for and shall control the timing and the amount of irrigation for Showalter Field. The City shall have responsibility for and shall control the timing and amount of irrigation for The Parking Area. The parties agree that such irrigation shall not interfere with the use of such facilities by either party.

8. Utilities. The School Board shall initiate, contract for and obtain in its name all utility services required for its or its sponsored or endorsed use of Showalter Field, and shall pay all charges for such services as they become due. The City shall not charge The School Board any fee for transferring or initiating any utility service.

9. Termination. Six (6) months after the commencement of the term of this Lease Agreement, this Lease Agreement may be terminated by either party upon one hundred eighty (180) days' prior written notice to the other party. No notice of termination given during the first six (6) months of this Lease Agreement shall have any effect.

A. Termination by City.

(1) In the event this Lease Agreement is terminated by The City for any reason other than a material default by The School Board which The School Board fails to cure within sixty (60) days after receipt of written notice, or with respect to a default which cannot with due diligence be effectively cured within such time period, fails to commence attempts to cure within such time period or fails to proceed with due diligence to remedy the default (it being intended in connection with a default not susceptible of being cured with due diligence within sixty (60) days that the time within which to remedy same shall be extended for such period as may be reasonably necessary to complete same with due

diligence), The City shall, at least ninety (90) days prior to the effective date of such termination, and as a condition precedent to such termination taking effect, reimburse The School Board for The School Board's actual costs and expenses, less depreciation, for all capital improvements, remodeling or renovations made to Showalter Field or The Parking Area.

(2) In the event this Lease Agreement is terminated by The City due to a material default by The School Board which The School Board fails to cure within sixty (60) days after receipt of written notice, or with respect to a default which cannot be effectively cured within such time period, fails to commence attempts to cure within such time period or fails to proceed with due diligence to remedy the default (it being intended in connection with a default not susceptible of being cured with due diligence within sixty (60) days that the time within which to remedy same shall be extended for such period as may be reasonably necessary to complete same with due diligence), The City shall, at least ninety (90) days prior to the effective date of such termination, and as a condition precedent to such termination taking effect, reimburse The School Board for The School Board's actual costs and expenses, less depreciation, for any capital improvements made to Showalter Field or The Parking Area.

B. Termination by The School Board.

(1) In the event this Lease Agreement is terminated by The School Board for any reason other than: (a) a material default by The City which The City fails to cure within sixty (60) days after receipt of written notice or with respect to a default which cannot be effectively cured within such time period, fails to commence attempts to cure within such time period or fails to proceed with due diligence to remedy the default (it being intended in connection with a default not susceptible of being cured with due diligence within sixty (60) days that the time within which to remedy same shall be extended for such period as may be reasonably necessary to complete same with due diligence), or (b) an unsatisfactory reconfiguration of The Parking Area, as provided in Paragraph 5, The City shall not be required to reimburse The School Board for any costs or expenses whatsoever, including but not limited to those for any capital improvements, remodeling or renovations made to Showalter Field or The Parking Area.

(2) In the event this Lease Agreement is terminated due to a material default by The City which The City fails to cure within sixty (60) days after receipt of written notice, or with respect to a default which cannot be effectively cured within such time period, fails to commence attempts to cure within such time period or

fails to proceed with due diligence to remedy the default (it being intended in connection with a default not susceptible of being cured with due diligence within sixty (60) days that the time within which to remedy same shall be extended for such period as may be reasonably necessary to complete same with due diligence), The City shall at least ninety (90) days prior to the effective date of such termination, and as a condition precedent to such termination taking effect, reimburse The School Board for The School Board's actual costs and expenses, less depreciation, for any capital improvements, remodeling or renovations made to Showalter Field or The Parking Area.

C. Definitions.

As used herein, "capital improvement" means work performed on an existing site to improve its utilization, correct health and safety deficiencies, meet special program needs or provide additional service areas; "remodeling" means the changing of existing facilities by rearrangement of spaces and their use; and "renovation" means the rejuvenating or upgrading of existing facilities by installation or replacement of materials and equipment and includes, but is not limited to, interior or exterior reconditioning of facilities and spaces; air-conditioning, heating, or ventilating equipment; fire alarm systems; emergency lighting; electrical systems; and complete roofing or roof replacement,

including replacement of membrane or structure. Costs and expenses for capital improvements, remodeling and renovation shall not include the value of donated materials, labor or services.

"Depreciation" means the original cost to The School Board of the improvements, remodeling and/or renovations, less the fair market value of same at the time this Agreement is terminated, as negotiated between the parties; provided, however, that such fair market value cannot exceed original cost. In determining fair market value, replacement cost shall be taken into consideration.

10. Rights of The School Board. Subject to the use limitations of Paragraph 5 hereof, The School Board shall have the exclusive right and privilege of using or authorizing others to use Showalter Field (except as otherwise provided herein); using or authorizing others to use The Parking Area, subject to The City's right to concurrent use as set forth in Paragraph 5 hereof (provided, however, that such use or authorization of use shall be in connection with School Board authorized events occurring at Showalter Field); of selling admission tickets to School Board-authorized sponsored events at Showalter Field; of selling food, concessions and novelties at School Board-authorized events at Showalter Field; and of collecting (and keeping for its account or the account of its assignees) all rights to parking on The Parking Area for parking during or in connection with School Board authorized events occurring at Showalter Field. The City hereby authorizes such activities.

11. Rights Reserved by The City. The City shall only be allowed to use Showalter Field and The Parking Area together, without charge, for City-sponsored fireworks displays, patriotic celebrations or other community events provided no admission is charged for entrance to such events. The scheduling of such use of Showalter Field and The Parking Area by The City shall be done no less than ninety (90) but no more than three hundred (300) days in advance of the event and shall be subject to confirmation by The School Board that such use by The City will not interfere with any other use of Showalter Field or The Parking Area by The School Board, which confirmation shall not be unreasonably withheld.

12. Time of Essence. It is specifically declared and agreed that time is of the essence of this Lease Agreement.

13. Entire Agreement. This Lease Agreement shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this Lease Agreement shall not be binding upon either party to the extent incorporated in this Lease Agreement.

14. Modifications. Any modification of this Lease Agreement or additional obligation assumed by either party in connection with this Lease Agreement or additional obligation assumed by either party in connection with this Lease Agreement shall be binding only if evidenced in a writing executed by each party.

15. Notices. Any and all notices, demands, requests, submissions, offers or other communications or documents which may be or are required to be given, delivered or served under or by the

terms and provisions of this Lease Agreement or pursuant to law or otherwise, shall be in writing and shall be deemed to have been duly given, delivered or served upon actual receipt. Such notices shall be addressed as follows:

The School Board of Orange County, Florida
Attn: Superintendent of Schools
445 West Amelia Street
Orlando, Florida 32801

With copy to:

Principal - Winter Park High School
2100 Summerfield Road
Winter Park, Florida 32792

City of Winter Park
Attn: City Manager
401 Park Avenue South
Winter Park, Florida 32789

16. Ad Valorem Taxes. Showalter Field and The Parking Area are presently exempt from ad valorem taxes, and it is the intention of the parties hereto that the use of Showalter Field and The Parking Area pursuant to this Lease Agreement shall not cause the property to lose its tax exempt status. Instead, it is intended that the property will continue to be owned by the City of Winter Park as a governmental entity, and leased to The School Board as a governmental entity, and will continue to be used for governmental, municipal or public purposes. However, if and to the extent that Showalter Field or The Parking Area should become subject to ad valorem taxes or special assessments imposed or occurring after the effective date of this Lease Agreement, then the parties wish to provide for the payment thereof. In such event, The School Board shall pay or cause to be paid, before any

fine, penalty, interest or cost may be added thereto for the non-payment thereof, all lawful ad valorem real estate taxes and special assessments which at any time during the term of this Lease Agreement may lawfully and properly be assessed, levied, confirmed, imposed upon, or become due and payable out of or in respect of, or become a lien on, Showalter Field or The Parking Area, or any improvements thereon and which are attributable to any period during the term of this Lease Agreement (all such costs, taxes, assessments and liens being herein referred to as "Impositions", and any of the same being hereinafter referred to as an "Imposition"); provided, however, that all Impositions for the fiscal or tax years in which the term of this Lease Agreement shall begin and end shall be apportioned so The School Board shall pay only those portions thereof which correspond with the portion of said years as are within the term.

17. Indemnity. Both The City and The School Board currently enjoy the benefits and protection of sovereign immunity and neither has the authority to waive or limit same. However, if and to the extent allowable by law to do so, each agrees as follows:

A. The School Board shall indemnify, save harmless and defend The City from and against all liabilities, obligations, damages, penalties, claims, costs, charges and expenses, which may be imposed upon or incurred by or asserted against The City by reason of or arising out of or in connection with any of the following occurrences during the term of this Lease Agreement:

(1) Any accident, injury or damage to any person or property occurring in or on Showalter Field or The Parking Area where such accident, injury or damage is related in any way to the use of Showalter Field or The Parking Area by The School Board or its sponsored or endorsed activities; or

(2) Any failure on the part of The School Board to perform or comply with any of the covenants, agreements, terms, provisions, conditions or limitations contained in this Lease Agreement on its part to be performed or complied with.

B. The City shall indemnify, save harmless and defend The School Board from and against all liabilities, obligations, damages, penalties, claims, costs, charges and expenses, which may be imposed upon or incurred by or asserted against The School Board by reason of or arising out of or in connection with any of the following occurrences during the term of this Lease Agreement:

(1) Any accident, injury or damage to any person or property occurring in or on Showalter Field or The Parking Area where such accident, injury or damage is related in any way to the use of Showalter Field or The Parking Area by The City or its sponsored activities; or

(2) Any failure on the part of The City to perform or comply with any of the covenants, agreements, terms, provisions, conditions or limitations contained in this

Lease Agreement on its part to be performed or complied with.

18. Casualty. In case of damage to or destruction of Showalter Field, The Parking Area or any improvements thereon, by fire or otherwise, The School Board shall within one (1) year after the damage or destruction, at The School Board's sole cost and expense, use all available insurance proceeds to restore, repair, replace, rebuild or alter the same as nearly as possible to its value immediately prior to such damage or destructions, with such changes or alterations as may be made at The School Board's election with The City's approval, which approval shall not be unreasonably withheld.

19. Condemnation.

A. In the event Showalter Field or The Parking Area or any part thereof shall be taken in condemnation proceedings or by exercise of any right of eminent domain or by agreement between The City, The School Board, and those authorized to exercise such right of eminent domain (any such matters being hereinafter referred to as a "Taking"), The City, The School Board, and any person or entity having an interest in the award or awards shall have the right to participate in any such condemnation proceedings or agreement for the purpose of protecting their interests hereunder. Each party so participating shall pay its own expenses therein.

B. If at any time during the term of this Lease Agreement there shall be a taking of the whole or

substantially all of Showalter Field and The Parking Area (hereinafter referred to as the "Premises"), this Lease Agreement shall terminate and expire on the date of such Taking. For the purposes of this paragraph "substantially all of the Premises" shall be deemed to have been taken if the untaken part of the Premises shall be insufficient for the economic and feasible operation thereof by The School Board. For purposes of this paragraph, the "date of taking" shall mean the date on which The School Board shall be required to surrender possession of the portion of the Premises subject to such Taking to the condemnor.

C. In the event less than all or substantially all of the Premises shall be taken, The School Board may, by written notice, terminate this Lease Agreement if, in The School Board's sole judgment, the remaining Premises are not suitable for use by The School Board. If, in The School Board's sole judgment, the remaining Premises are suitable for use by The School Board, this Lease Agreement shall remain unaffected.

D. In the event of any Taking of all or a portion of the Premises, The City shall be entitled to receive the entire award in any such proceeding, including any award made for the value of the estate vested by this Lease Agreement in The School Board, and The School Board herein expressly assigns to The City any and all right, title and interest of The School Board now or hereafter arising in or to any part

thereof, and The School Board shall be entitled to receive no part of any such award; provided, however, notwithstanding the foregoing, The School Board may make a separate claim with the condemning authority for the value of its leasehold improvements and for moving and relocation expenses.

20. Insurance.

A. The School Board shall purchase and maintain in force at all times during the term of this Lease Agreement fire and extended coverage insurance on the building located on Showalter Field and any additions thereto, such insurance to be for 100% of the replacement value of such improvements and of the types customarily carried in respect to buildings of similar construction and to be placed with a reputable insurance company acceptable to The City. Such insurance policy shall name The City as an additional insured, and shall contain an undertaking by the insuror that the policy will not be cancelled except upon thirty (30) days advance written notice to The City.

B. The School Board at all times throughout the term of this Lease Agreement, (1) shall maintain a program of self-insurance (currently authorized by Section 768.28(14)(a) Florida Statutes) or (2) shall maintain in full force and effect a policy or policies of liability insurance with coverage limits; (a) equal to or greater than its limits of liability for tortious acts as provided by state law or (b) equal to or greater than \$100,000.00 for any one person/

\$200,000.00 for any incident or occurrence. The policy limits set forth in clause (b), immediately preceding, may be adjusted by either party, after ninety (90) days notice to the other party, to account for changes in the Consumer Price Index for "all items" shown on the "United States city average for urban wage earners, etc." as promulgated by the Bureau of Labor Statistics of the United States Department of Labor, using the year 1993 as a base of 100. In the event the Consumer Price Index is not available, a reliable, generally-accepted governmental or academic publication designed to show changes in the cost-of-living may be substituted.

The School Board shall require all sub-tenants and others using Showalter Field with The School Board's permission to maintain in full force and effect a policy of liability insurance with coverage limits equal to or greater than those set forth in sub-paragraph (b), immediately preceding, as adjusted for changes in the Consumer Price Index.

All such policies of liability insurance shall name The City as an additional insured and shall contain an undertaking by the insurer that the policy will not be cancelled except upon thirty (30) days advance written notice to The City.

C. Certificates of Insurance for the policies required by sub-paragraphs A and B of this paragraph shall be provided to The City upon demand.

21. Governing Law. This Lease Agreement shall be governed by the laws of the State of Florida both as to its interpretation and its enforcement.

22. Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

23. Annual Review. Due to the lengthy term of this Lease Agreement, the parties anticipate that changing requirements of The School Board and The City and changes in the nature of the community surrounding Showalter Field make it likely that this Lease Agreement will have to be revised in the future to accommodate such changes. Accordingly, the parties agree to have their designated representatives formally meet on at least an annual basis to review, discuss and attempt to resolve any problems which have been encountered with regard to this Lease Agreement and to discuss any revisions which should be made to this Lease Agreement as a result of the changes referenced above.

24. Effect of Breach: Nothing in this Agreement shall be construed as a limitation on the right of either party to maintain an action against the other party for enforcement of this Agreement or for damages, as appropriate, in the event of a breach of this

Agreement.

CITY OF WINTER PARK

By: David A. Johnston

David A. Johnston, Mayor

ATTEST:

Joyce M. Swain
City Clerk

THE SCHOOL BOARD OF ORANGE
COUNTY

By: Lydia Gardner

Lydia Gardner, As its
Chairman

ATTEST:

Donald Shaw
Donald Shaw, As its Secretary
and Superintendent

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing Lease Agreement was acknowledged before me this 14th day of August, 1993, by David A. Johnston, as mayor and Joyce M. Swain, as city clerk, on behalf of the City of Winter Park, a municipality, who are personally known to me or who produced _____ as identification.

Linda T. Seaman
NOTARY PUBLIC
My Commission Expires:



STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing Lease Agreement was acknowledged before me this 27 day of July, 1993, by Lydia Gardner and Donald Shaw, as Chairman and as Secretary and Superintendent, respectively, of The School Board of Orange County, Florida, a public body corporate, on behalf of said entity, who are personally known to me or who produced _____ as identification.

Ileta K. Spitzer CC 072897
NOTARY PUBLIC ILETA K. SPITZER
My Commission Expires:

Notary Public, State of Florida
My Commission Expires Dec. 23, 1994
Bonded Thru Troy Fain - Insurance Inc.

f:\aw\city\showal-.lse\05.25.93
(rev. 07.20.93; 07.21.93)

SCHEDULE "1"

1. Evaluate and repair structural cracks in locker/toilet buildings and upgrade structure according to NFPA-102 (ANSI A58.1).
2. Install automatic smoke and heat detectors in storage rooms and locker and toilet buildings, per Rule 6A-2.087.
3. Provide fire alarm system in locker/toilet buildings, per Rule 6A-2.088.
4. Modify guardrails on stair and ramp landings, west bleachers, according to NFPA-102.
5. Install approximately 260 l.f. of 26" high 1 1/2" steel tube railing with two intermediate rails to separate the 6'-0" walk cross aisle from the seating area. NFPA 102 4.6.6.
6. Correct railings at aisles and seating, west and east bleachers, to maximum opening of 4" per NFPA-102 8.6.5
7. Install approximately 100 l.f. of chain link fence on each side of the existing rails of the concrete stadium structure.
8. Install approximately 440 l.f. of new fencing at the rear of the portable steel bleacher (guest) area.
9. Install 42" high guardrail on front of pressbox roof, west bleachers.
10. East bleachers:
 - A. Modify seating layout as necessary to meet NFPA 102, Chapter 8.
 - B. Modify fencing to provide necessary exit widths leading away from bleachers, per NFPA-102, 3.3.
 - C. Replace damaged wood seats and footboards with aluminum.
 - D. Provide for handicapped seating areas at front of bleachers.
11. Parking lot upgrade necessary to meet code requirements, per Rule 6A-2.096 (Parking Lot Lighting).
12. Make toilet room additions required by Rule 6A-2.098 (per Chapter 10D-9, FAC).

13. Install ramp lights, per NFPA 102.3.8
14. Install 8' - 3" round light pole on block wall at site of each existing ramp to serve as exit light. (Two (2) per pole.)
15. Assure that ventilation in locker rooms meets Rule 6A-2.099, ~~possibly~~ by installing a ~~thermostat operated~~ ventilation system with louvers in both locker room areas.
~~Install ventilation in toilet rooms per 6A-2.099.~~ 6A-2.066 (2)(b) 1. 6A-2.099
16. Upgrade locker room floors and wall to meet Rule 6A-2.098: 6A-2.099
17. Install impervious-type floor system in the locker area at both sides of the building.
Paint all interior walls in the two rooms.
18. Remove janitor room doors and service sinks in Rooms 102 and 113 and relocate to area under upper ramp exits. Install new doors with panic hardware and exit signs in the vacated janitorial rooms directly to the exterior.
19. ~~Soccer~~ and Football Irrigation System: repair and upgrade.
20. Sound System. Upgrade the wiring from the P.A. console to all existing exterior loudspeakers; install additional speakers for proper sound, if appropriate.
21. Metal Maintenance Building. Repaint interior walls and improve ventilation; replace exterior metal roll-up door.
22. Drainage System. Rebuild the storm sewer drain, unplug the existing drain, or resurface to establish proper slope, remove the existing concrete slab at each side.
23. Paint the Main Building and Bleacher Home Area.
24. Reroof Main Building.
25. Shower Area. Repaint ceiling and walls; refinish or clean floor; replace light fixtures, switches, and electrical outlets.
26. Office Area. Install new carpet, light fixtures and blinds.
27. Concession Stand. Construct a 1000 +/- sq. ft. full concession stand facility.
Resurface running track.

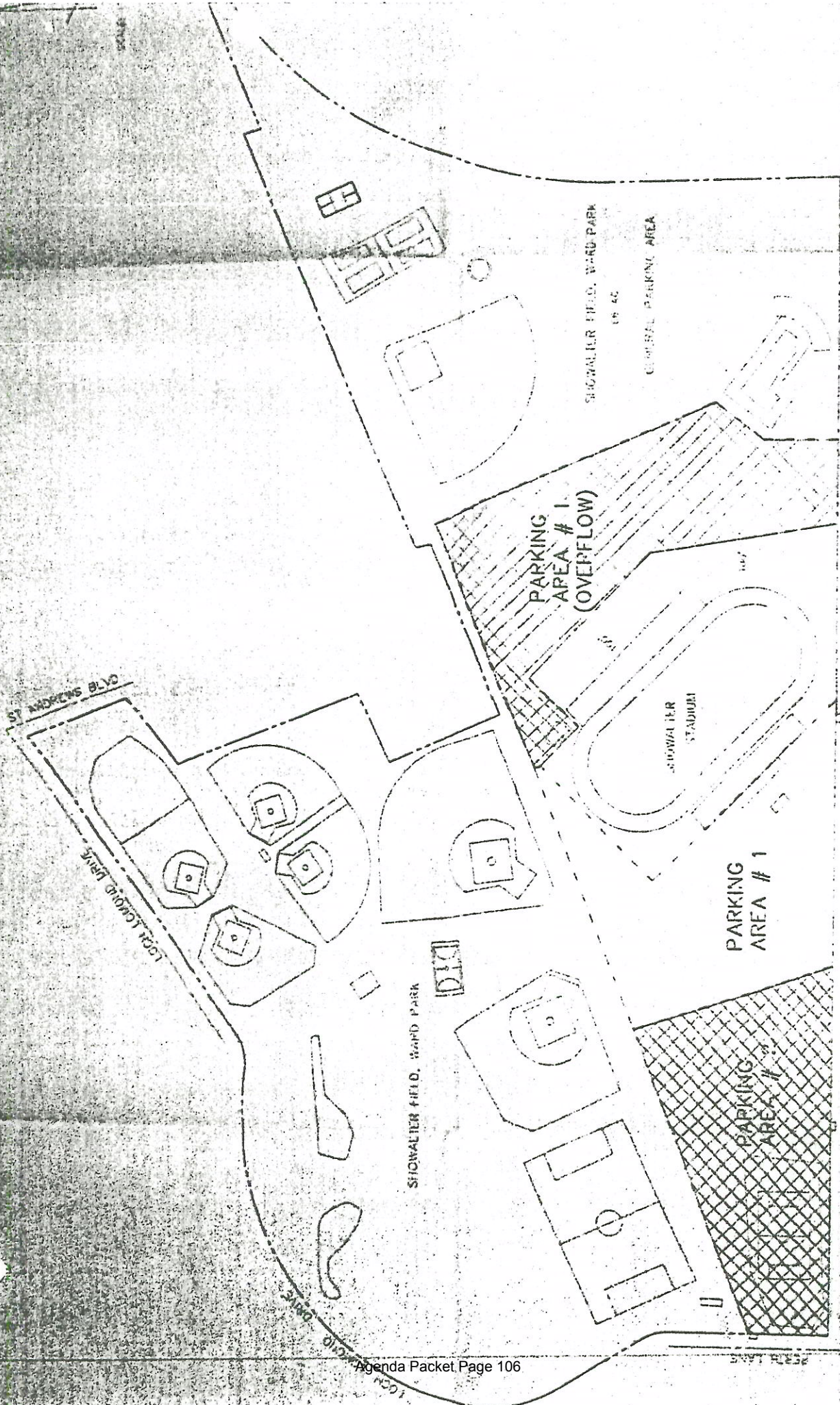


EXHIBIT "A"

CADDY WAY, SHOWALTER, W



city commission public hearing

item type	Public Hearing	meeting date	April 25, 2016
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 & Zoning Board	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A	7-0 final vote

Subject: Request for Subdivision or Lot Split Approval at 360 Beloit Avenue.

This item was tabled by the City Commission at the April 11th meeting so that the applicant could revise the exterior elevations so that the homes would “front” and have “front doors” on Beloit Avenue, consistent with the P&Z recommendations and requests of the neighbors. Those revised elevations are attached.

Summary:

ZONING CONFORMANCE: Z Properties, Inc. (contract purchaser) is requesting subdivision approval at 360 Beloit Avenue for two (2) lots, zoned R-1A. The proposed lots are to be split (vertically) and will measure 67 feet in width, and are 8,815-square feet and 7,836-square feet in size. The R-1A zoning requires a minimum of 85 feet of lot width for corner lots, and a minimum of 8,500-square feet of land area. The request needs variances for the two lot widths and one of the lots for land area. The applicant has commented that it is the impact of the cul-de-sac bulb that reduces the lot area requiring that variance.

COMPREHENSIVE PLAN CONFORMANCE: The practice outlined in the Comprehensive Plan and the Subdivision Code is to look at the surrounding neighborhood to see what standard is for typical lot sizes with the same zoning. By lot “size” the City uses the same two criteria for “size” as outlined in the R-1A “minimum building site” standard, which is both lot width and lot area. The Code dictates that the compatibility review area is within a 500-foot radius of the subject property, and is limited to those properties within in the same R-1A zoning category.

There are 51 properties zoned R-1A within the 500 foot radius. The average lot width of these 51 homes is 65.8 feet, and median lot width is 53.1 feet. Of the 51 homes, 65% of them are on lots less than 75 feet in width, and the other 35% of the homes are on lots of 75 feet or greater.

While the proposed lot to the east meets the minimum land area requirements for R-1A (8,500-square feet), the west lot is smaller than the minimum, and measures 7,836-square feet. The average lot area from this 51 home survey is 11,333-square feet, and the median lot area is 11,322-square feet. In the immediate neighborhood area, within the 500-foot radius, there are some lots with less lot area than the R-1A minimum land area requirements (23%), but a majority of the homes (77%) either conform to or exceed the R-1A minimum land area requirements.

DEVELOPMENT PLANS: The applicant has provided revised site plan/floor plans and elevations for this April 25th City Commission meeting. They will comply with the normal single-family development standards, setbacks, etc. and are not seeking any zoning variances. At the P&Z meeting, based on neighbor comments, the P&Z Board conditioned their recommendation on the specific plans presented and with the requirement to have the homes "front" on Beloit Avenue. The City can place conditions upon this approval, such as proposed by P&Z.

Planning Staff Recommendation (February 2nd for P&Z):

The recommendation to P&Z from staff at their February 2nd meeting stated that using lot area size (square footage) this request does not fully conform to the Zoning Test and Comprehensive Plan Test. However, with respect to the lot width, the lots do meet both the average and median lot frontage size for comparison purposes, and do conform to the Comprehensive Plan Test of the neighborhood comparison. Therefore, this is an interesting case where the neighborhood lot width comparison would favor the applicant's request and variances but the neighborhood lot area comparison does not support the requests and so this is a case to be made both for approval and for denial. Staff recommended approval as this request is not markedly different from the subdivision approved for the four lots at 1004 N. Pennsylvania that were 60 feet wide and 9,480 sq. ft. in size.

Planning & Zoning Board Recommendation:

The Planning & Zoning Board received 10 letters that were in favor of the request. One speaker supported the request but asked for the homes to look more like they fronted on Beloit Avenue as all the patio homes across the street look like. Another resident spoke in opposition because he felt including the Beloit patio homes in the neighborhood comparisons created an unfair comparison with the neighborhood on the south side of Beloit.

The Planning Board felt that the comparison method that the City uses looks at the entire surroundings. The members however did agree that the future homes should appear as if the "fronts" are on Beloit Avenue and agreed that since the plans presented are the ones that have generated letters in support that those plans should be the actual ones that are constructed.

Motion made by Peter Weldon, seconded by James Johnston to APPROVE the request to subdivide the property at 360 Beloit Avenue into two single-family building lots subject to conformance to the site plans and the elevations presented at the February 2, 2016 public hearing and with the request for emphasis on creating the appearances of front entrances on Beloit Avenue. All building permit materials are to be consistent with those presented at the February 2nd public hearing. If staff feels that there are any substantial changes, the revisions will be brought back to the Planning and Zoning Board for public hearing review.

Motion carried unanimously with a 7-0 vote.

P&Z Minutes: February 2, 2016:

REQUEST OF Z PROPERTIES FOR: SUBDIVISION APPROVAL TO DIVIDE THE PROPERTY AT 360 BELOIT AVENUE, INTO TWO SINGLE FAMILY BUILDING LOTS.

Planning Manager Jeffrey Briggs presented the staff report and explained that Z Properties, Inc. (contract purchaser) is requesting subdivision or lot split approval to divide the property at 360 Beloit Avenue into two (2) single-family lots. The zoning of this property is R-1A. He reviewed the zoning and comprehensive plan test as relates to the City's review process of subdivisions or lot split requests and provided an overview of the applicant's development plans. He said that the applicant has provided generalized elevations and floor plans for the types of homes anticipated to be built on these lots, if approved.

From staff's prospective, this lot split request generally meets the Comprehensive Plan test and is not markedly different from the previous subdivision approved for the four lots at 1004 N. Pennsylvania that were 60 feet wide and 9,480 sq. ft. in size. Staff recommended approval of the request. Mr. Briggs responded to Board member questions and concerns.

Zane Williams, 271 North Pennsylvania Avenue, explained that various options were weighed for this site including the construction of one large single-family home. He said that consideration was given to the character of Beloit Avenue and the decision was made to construct two homes. He agreed with the staff report presented by Mr. Briggs.

Gary Hancock, Architect for the homes, spoke in support of the request.

John McDade, 450 Beloit Avenue, stated that he is the neighboring property owner but also the listing agent for the seller of the property. He spoke in support of the request and stated that he feels that two homes will be a nice fit for the neighborhood.

Dennis Casey, 443 Beloit Avenue, stated that he was not opposed to the lot split, but that he feels that the homes should face Beloit Avenue with garages in the rear keeping in character with the homes that already exist. He asked for plan changes to give the homes more of a "front door" look on Beloit Avenue.

Dick Gregor, 380 Waterfall Lane, spoke in opposition to the request. He did not feel that the homes are in keeping with the character in the neighborhood because the neighborhood affected is Waterfall Lane and not Beloit Avenue. He felt that it was not appropriate to use the Beloit patio homes to establish a lot size standard for this neighborhood on the south side of Beloit. He discussed his concerns with regard to the orientation of the homes and design.

Ira Kitograd, co-applicant, 731 Pansy Avenue, stated that he feels that they were sensitive to street views from Beloit and have made an effort to give appearance of 2 street frontages with the garages in the rear.

No one else wished to speak concerning this issue. Public Hearing closed.

Chairman Johnston confirmed that the method of comparison is the same for this request as was done for the previous one at 1004 S. Pennsylvania. Mr. Weldon, Mr. Slocum and Mr. Hahn all expressed the importance of conformance to the plans presented for assurance to the neighbors as to design layout and for trying to increase the front door look on Beloit. Mr. Gottfried dis-agreed with the City's system for evaluation because the character on both sides of Beloit differed substantially. Staff confirmed that approvals could be conditioned to specific plans and substantial changes returned to P&Z for review, following notice.

Motion made by Peter Weldon, seconded by James Johnston to APPROVE the request to subdivide the property at 360 Beloit Avenue into two single-family building lots subject to conformance to the site plans and the elevations presented at the February 2, 2016 public hearing and with the request for emphasis on creating the appearances of front entrances on Beloit Avenue. All building permit materials are to be consistent with those presented at the February 2nd public hearing. If staff feels that there are any substantial changes, the revisions will be brought back to the Planning and Zoning Board for public hearing review. Motion carried unanimously with a 7-0 vote.

New revised legal noticed advertised and mailed to all property owners within 500 feet:



PUBLIC NOTICE

NOTICE is hereby given that a public hearing will be held by the City Commission of the City of Winter Park, Florida on Monday, April 11, 2016 at 3:30 p.m. in the Commission Chambers of City Hall at 401 S. Park Avenue, Winter Park, Florida, 32789 to consider the following **PUBLIC HEARING:**

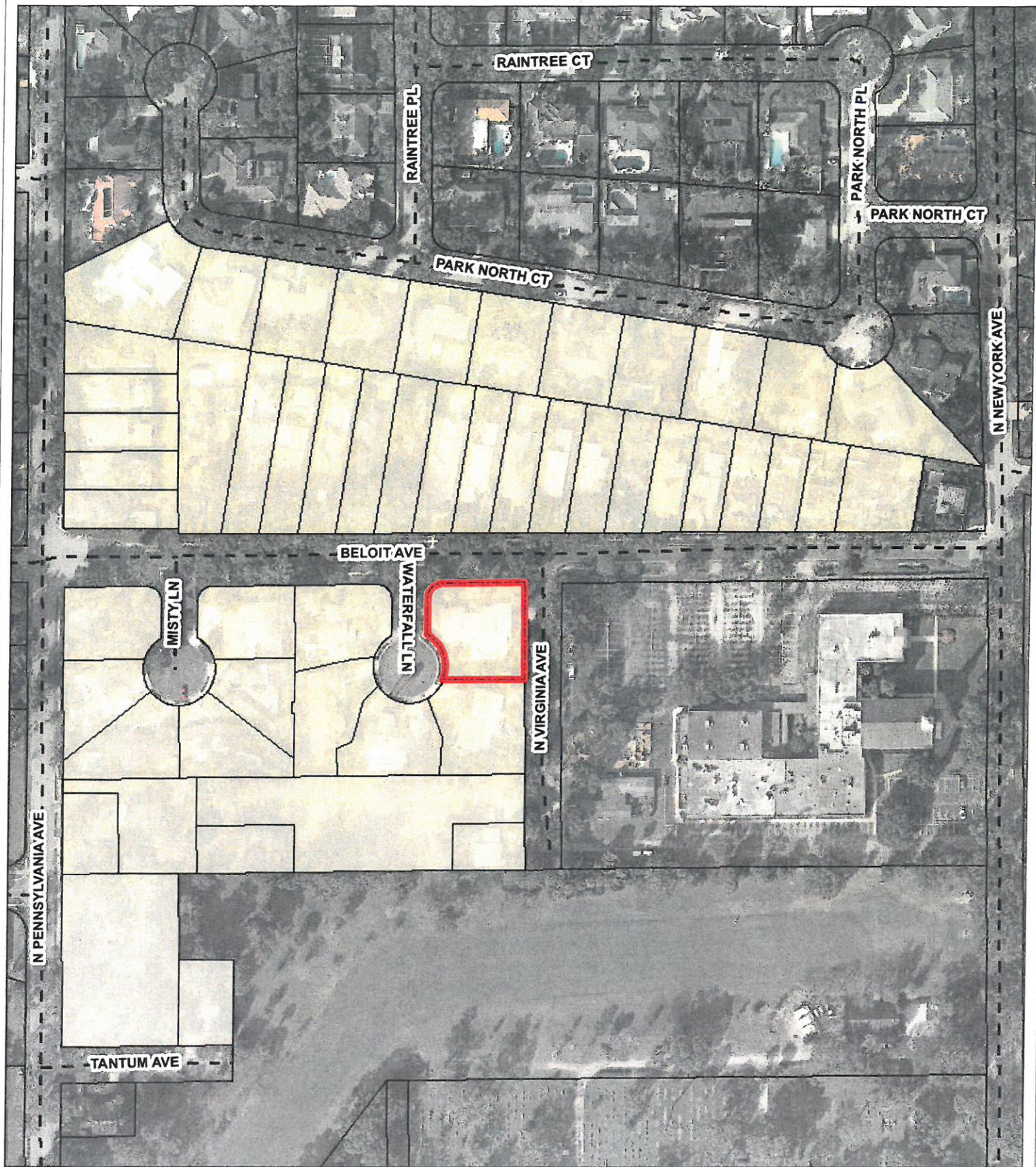
REQUEST OF Z PROPERTIES FOR: SUBDIVISION OR LOT SPLIT APPROVAL TO DIVIDE THE PROPERTY AT 360 BELOIT AVENUE, ZONED R-1A, INTO TWO SINGLE FAMILY BUILDING LOTS. BOTH PROPOSED LOTS WOULD HAVE 67 FEET OF LOT WIDTH OR FRONTAGE ON BELOIT AVENUE AND 7,836 SQUARE FEET AND 8,815 SQUARE FEET OF LOT AREA. THESE LOT DIMENSIONS DO NOT MEET THE R-1A ZONING MINIMUM LOT STANDARDS OF 85 FEET OF LOT WIDTH FOR CORNER LOTS. ONE OF THE PROPOSED LOTS DOES NOT MEET THE MINIMUM LOT AREA REQUIREMENTS OF R-1A ZONING. VARIANCES ARE REQUESTED FOR THE PROPOSED LOT WIDTHS OF 67 FEET IN LIEU OF THE 85 FEET REQUIRED FOR CORNER LOTS IN THE R-1A ZONING AND FOR THE LOT AREA OF THE WESTERN LOT AT 7,836 SQUARE FEET IN LIEU OF THE REQUIRED 8,500 SQUARE FEET. THESE REQUESTED VARIANCES WILL BE CONSIDERED AT THE SAME PUBLIC HEARING FOR WHICH THE SUBDIVISION OR LOT SPLIT APPROVAL WILL BE CONSIDERED.

All interested parties are invited to attend and be heard. Additional information is available in the Planning Department so that citizens may acquaint themselves with each issue and receive answers to any questions they may have prior to the meeting.

NOTE: If a person decides to appeal any decision made by the Commission with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings, and that, for such purpose, he 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 Planning Department at 407-599-3453 at least 48 hours in advance of the meeting.

/s/ Cynthia S. Bonham, MMC, City Clerk

PUBLISH: Sunday, March 27, 2016 Orlando Sentinel



Comprehensive Plan Test

360 Beloit Avenue Lot Split



0 50 100 150 Feet

Date: January 2016

NOTES

360 Beloit Avenue
Average Lot Width = 65.8 feet
Average Lot Size = 11,333 square feet

R-1A Lots Within 500' of Site
Median Lot Width = 53.1 feet
Median Lot Size = 11,322 square feet



FRONT ELEVATION

FRONT ELEVATION



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WINTER PARK DESIGN

1111 W. 1ST AVE.
SUITE 100
ASPEN, CO 81611
970.926.1111



BELOIT COTTAGES
WINTER PARK, FLORIDA

DATE: 12/15/2015

BY: [Signature]

FOR: [Signature]

DATE: 12/15/2015

BY: [Signature]

FOR: [Signature]

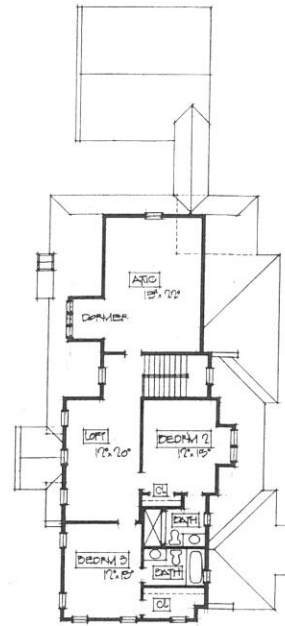
DATE: 12/15/2015

BY: [Signature]

FOR: [Signature]



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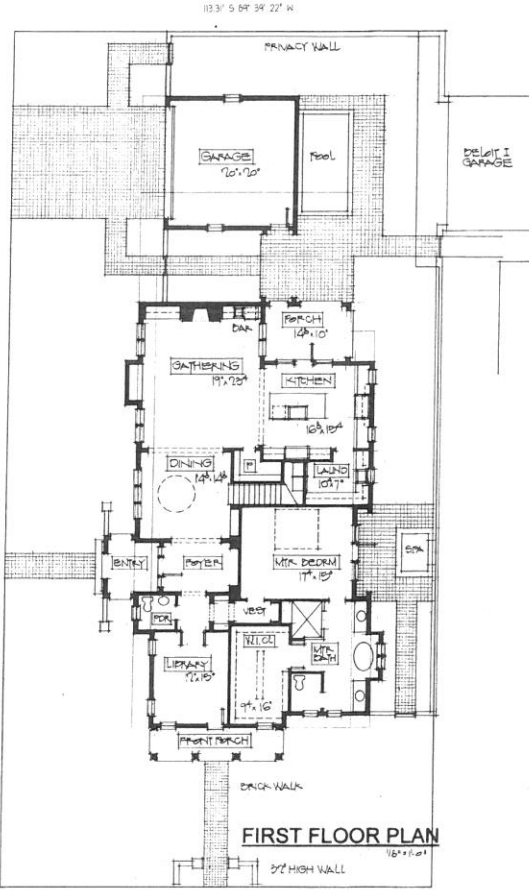


SECOND FLOOR PLAN
18' x 20'

VIRGINIA AVENUE

EDGE OF STREET CURB

54'00" S OF 04' 20" E



FIRST FLOOR PLAN
18' x 20'

EXISTING SIDEWALK 113' 00" N OF 54' 20" E

EDGE OF STREET CURB

BELOIT AVENUE

AREA TABULATION	
Lot Area	8,815 SF
FAR Allowed	3,790 SF
BUILDING AREA	
First Floor	2,357
Second Floor	978
Total Living	3,335 SF
Garage	455
Total FAR	3,790 SF

BELOIT II RESIDENCE
WINTER PARK, FLORIDA

WINTER PARK DESIGN
ARCHITECTS
11300 N. 11TH AVE.
SUITE 100
WINTER PARK, FL 32789
PHONE 407.844.8888

1



city commission **public hearing**

item type	Public Hearing	meeting date	April 25, 2016
prepared by	Troy Attaway	approved by	<input checked="" type="checkbox"/> City Manager
department	Public Works		<input type="checkbox"/> City Attorney
division	Administration		<input type="checkbox"/> N A
board approval	<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N A		
	final vote		
strategic objective	<input type="checkbox"/> Exceptional Quality of Life		<input type="checkbox"/> Fiscal Stewardship
	<input checked="" type="checkbox"/> Intelligent Growth & Development		<input type="checkbox"/> Public Health & Safety
	<input type="checkbox"/> Investment in Public Assets & Infrastructure		

subject

Vacation of a portion of the utility easement located in Block 41, Town of Winter Park subdivision, the block bounded by New England Avenue, Virginia avenue, Welbourne Avenue and Hannibal Square East. The City retained a utility easement over the vacated alley.

motion | recommendation

Approve vacation

background

In 1983, the City of Winter Park vacated the platted alley (Ordinance #1469) within block 41 of the Town of Winter Park plat, the block bounded by New England Avenue, Virginia avenue, Welbourne Avenue and Hannibal Square East. The City retained a utility easement over the vacated alley. The property owner at 226 Hannibal Square has requested the City to vacate a portion of the utility easement created in Ordinance 1469 for the purpose of constructing a building. The City has received "no objection" statements from the appropriate utilities to vacate the portion of easement on Lots 5, 6, 7, 10 11, 14, 15 and 16, as there are no utilities in the easement and the utilities did not foresee a future need for an easement in this area.

alternatives | other considerations

Do not vacate easement

fiscal impact

None

After Recording Return To:
City of Winter Park, City Clerk's Office
401 Park Avenue South
Winter Park, Florida 32789

ORDINANCE NO. _____-16

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AND ABANDONING UTILITY EASEMENTS FOR LOTS 5, 6, 7, 10 11, 14, 15 and 16 OF BLOCK 41, TOWN OF WINTER PARK SUBDIVISION, BOUNDED BY NEW ENGLAND AVENUE, VIRGINIA AVENUE, WELBOURNE AVE AND HANNIBAL SQUARE EAST

WHEREAS, the City of Winter Park by custom will abandon utility easements no longer needed for municipal purposes; and

WHEREAS, the City has determined that the utility easements are no longer needed by the City of Winter Park.

NOW, THEREFORE, BE IT ENACTED by the People of the City of Winter Park, Florida as follows:

Section 1. The City Commission of the City of Winter Park, Florida, hereby vacates and abandons those certain utility easements which fall within a parcel of land described as follows:

LOTS 5, 6, 7, 10 11, 14, 15 and 16 OF BLOCK 41, TOWN OF WINTER PARK SUBDIVISION, BOUNDED BY NEW ENGLAND AVENUE, VIRGINIA AVENUE, WELBOURNE AVE AND HANNIBALS SQUARE EAST (Plat Book "A", Pages 67-72)

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

Section 3. The parties intend that any error in legal description or in depiction of the portion of the easement vacated and abandoned may be corrected by subsequent curative document if the parties agree that there was an error in the survey or description.

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

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held at City Hall, Winter Park, Florida, on the _____ day of _____, 2016.

Mayor Steven Leary

ATTEST:

City Clerk Cynthia S. Bonham

2067952 ORANGE
JAN 26 9 11 AM '84
O.R. 3466 PG 554

ORDINANCE NO. 1469

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AND ABANDONING THE ALLEY IN BLOCK 41 TOWN OF WINTER PARK SUBDIVISION WHICH RUNS FROM VIRGINIA TO HANNIBAL SQUARE, EAST TO THE REAR OF PROPERTIES FRONTING ON WELBOURNE AND NEW ENGLAND AVENUES, BUT RETAINING AND RESERVING TO THE CITY A UTILITY EASEMENT OVER THE ENTIRE AREA THEREOF.
(MISC 7:83)

BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER PARK:

SECTION 1. That the alley running between Lots 1-10 and Lots 11-20, Block 41, Town of Winter Park Subdivision as recorded in Plat Book "A", Pages 67-72, Public Records of Orange County, Florida be hereby abandoned and vacated as a public street and thoroughfare of the City of Winter Park, Florida, but reserving and retaining to the City a utility easement over the entire area thereof, for the purpose of constructing and/or maintenance either over or under the surface poles, wires, pipes, sewers, drains or other facilities used for various public utilities whether owned by the City or private corporations.

SECTION 2. All Ordinances or portions of Ordinances in conflict herewith are hereby repealed.

SECTION 3. This Ordinance shall take effect immediately upon its final passage and adoption.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this 10th day of May A.D. 1983.

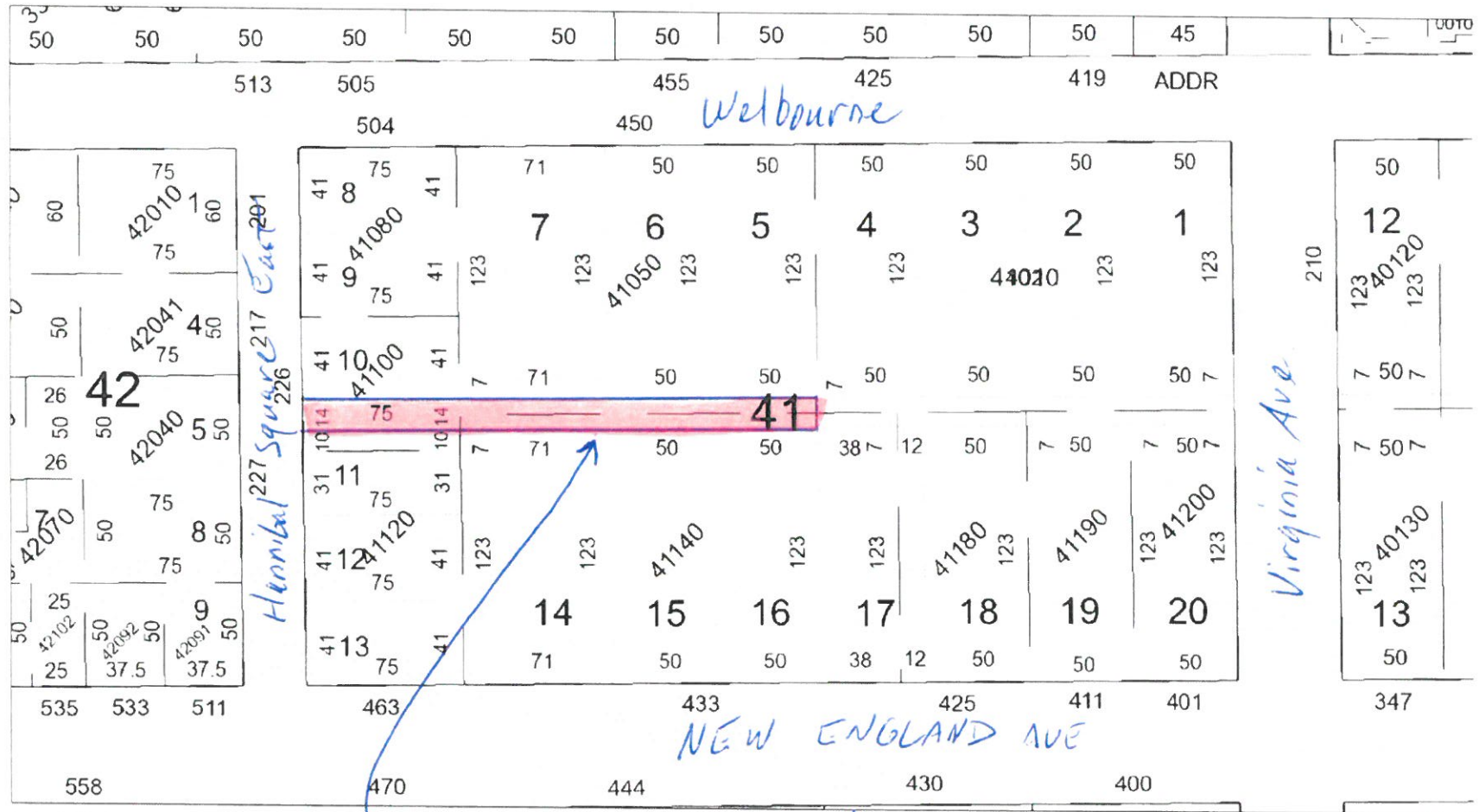
Hope Strong Jr
Mayor - Commissioner

ATTEST:

Margaret O. Rogers
City Clerk

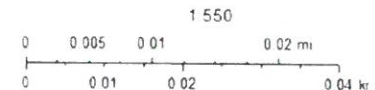
RECORDED & RECORD VERIFIED

Thomas H. Baker
County Comptroller, Orange Co., Fla.



April 14, 2016
 Rollins College Locations
 Rollins College Site Plan
 — (all other values)
 — BUILDINGS
 — CONCRETE EDGE OF PAVEMENT

Easement to be vacated
 (highlighted in pink)



Date: APRIL 15 2016

CITY OF WINTER PARK - ELECTRIC UTILITY
% TERRY HOTARD
401 PARK AVE. SOUTH
WINTER PARK FL 32789

Dear TERRY :

I am in the process of requesting the City of Winter Park vacate an (easement/right of way) as shown on the copy of the enclosed tax map. The site is located at (address) 226 HANNIBAL, 450 W. WELBOURNE, 433 W. NEW ENG. in Winter Park. In order to have this action heard, I must provide letters of no objection from utility companies serving the neighborhood.

Please review your records, complete the form, below, and return this letter to me at MORNEY PARTNERSHIP LTD.. If you have any questions, please contact DAN BELLOWES.

Sincerely

Name: DANIEL B. BELLOWES
Address: P.O. BOX 350
City, State, Zip Code: WINTER PARK FL 32790

 The subject parcel is not within our service area.

 X The subject parcel is within our service area. We do not have any facilities within the easement/right of way. We have no objection to the vacation.

 The subject parcel is within our service area. We object to the vacation.

Additional comments: AREA OF EASEMENT TO BE VACATED ARE:
LOTS: 5, 6, 7, 10, 11, 14, 15 AND 16 BLK 41 TOWN OF
WINTER PARK - SEE ATTACHED

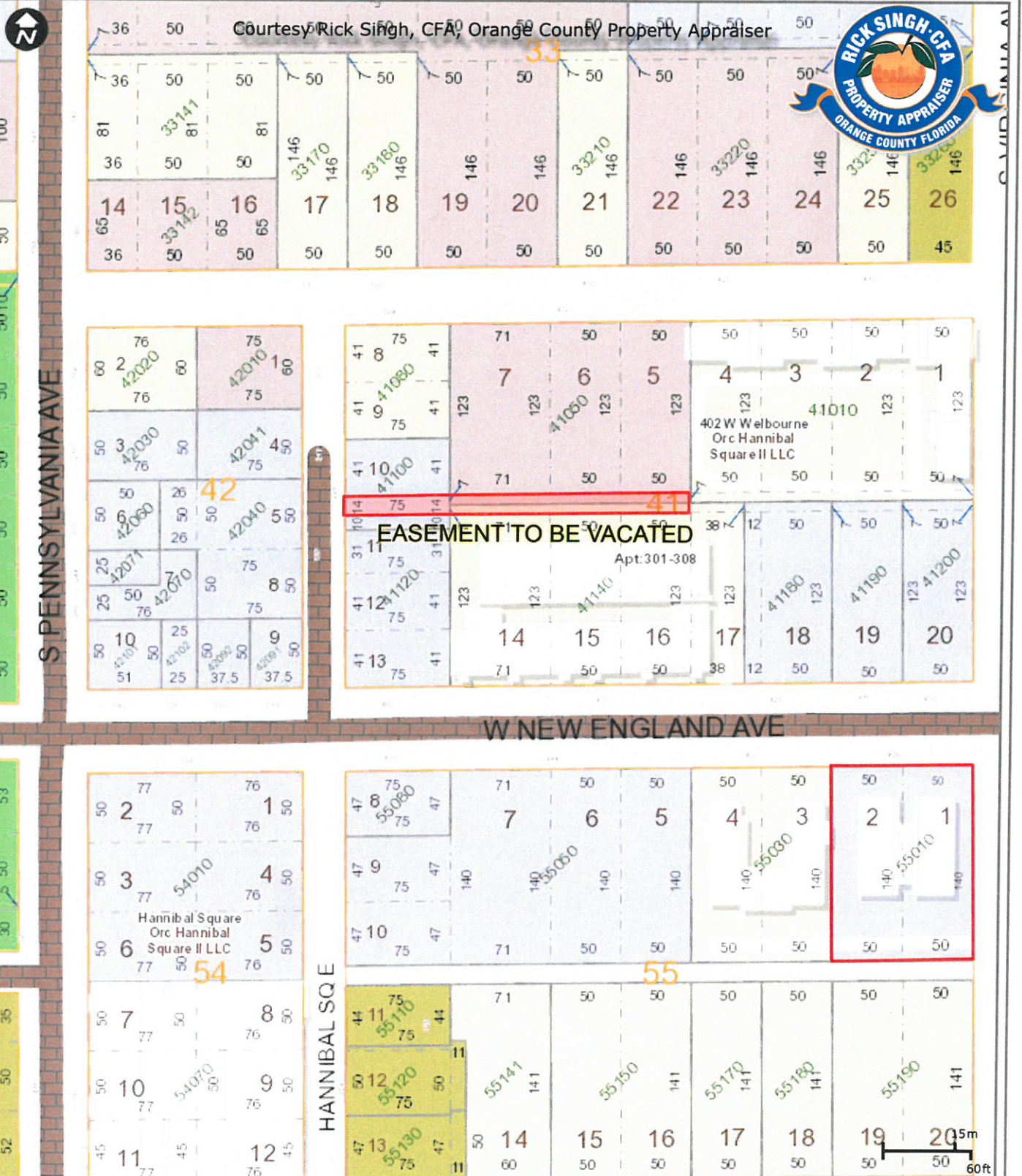
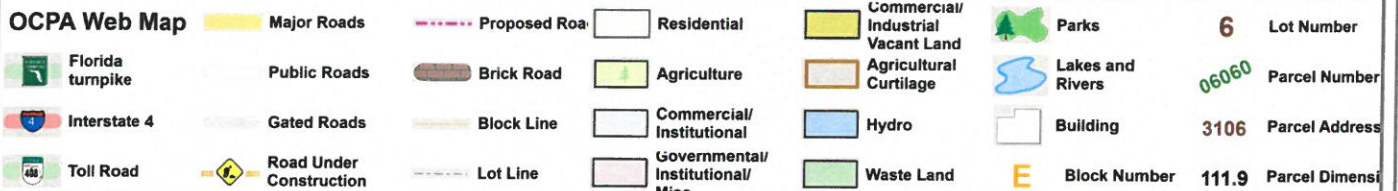
Signature: 

Print Name: TERRY HOTARD

Title: ASSISTANT DIRECTOR: CITY OF WP ELECTRIC UTILITY

Date: APRIL 15 2016

OCPA Web Map



Created: 4/15/2016

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

Date: April 15, 2016

City of Winter Park
Water & Wastewater Utility Department
401 South Park Avenue
Winter Park, FL 32789
Attn: Mr. David L. Zusi, Director

Dear Mr. Zusi:

I am in the process of requesting the City of Winter Park vacate an (easement/right of way) as shown on the copy of the enclosed tax map. The site is located at (address) 226 Hannibal Square East, Lot 10, Block 41 in Winter Park. In order to have this action heard, I must provide letters of no objection from utility companies serving the neighborhood.

Please review your records, complete the form, below, and return this letter to me at Morney Partnership, Ltd., P.O. Box 350, Winter Park, FL 32790. If you have any questions, please contact Dan Bellows.

Sincerely

Name: Daniel B. Bellows
Address: P.O. Box 350
City, State, Zip Code: Winter Park, FL 32790

_____ The subject parcel is not within our service area.

XXXXX The subject parcel is within our service area. We do not have any facilities within the easement/right of way. We have no objection to the vacation.

_____ The subject parcel is within our service area. We object to the vacation.

Additional comments: The City agrees to vacate the easement across Lots 5,6,7,10,11,14,15, and 16 in Block 41.

Signature: _____

Print Name: E. Phillip Daniels

Title: Assistant Utility Director

Dept: Water & Wastewater Utility Department

Date: April 15, 2016

Date: 4/1/16

Bruce A. Stout
TECO/People GAS
PO Box 2433
Orlando, FLA 32802-2433
Dear Bruce:

I am in the process of requesting the City of Winter Park vacate an (easement/right of way) as shown on the copy of the enclosed tax map. The site is located at (address) BLK 41 TOWN of Winter Park in Winter Park. In order to have this action heard, I must provide letters of no objection from utility companies serving the neighborhood.

Please review your records, complete the form, below, and return this letter to me at SYDAN CORP PO BOX 350 Winter Park. If you have any questions, please contact DAN Bellows FLA 32790

Sincerely

Name: DANIEL B. Bellows
Address: PO BOX 350
City, State, Zip Code: Winter Park, FLA 32790-0350

-
- ☐ The subject parcel is not within our service area.
- ☒ The subject parcel is within our service area. We do not have any facilities within the easement/right of way. We have no objection to the vacation.
- ☐ The subject parcel is within our service area. We object to the vacation.

Additional comments: _____

Signature: Bruce A. Stout
Print Name: Bruce Stout
Title: Gas Design Project Manager
Date: 4/12/16

Date: 4/1/16

MARVIN USRY
Bright House Networks, Inc
3767 All American Blvd
Orlando, FL 32810

Dear MARVIN:

I am in the process of requesting the City of Winter Park vacate an easement/right of way as shown on the copy of the enclosed tax map. The site is located at (address) 226 HANNIBAL ST EAST Bldg 41 TOWN OF W in Winter Park. In order to have this action heard, I must provide letters of no objection from utility companies serving the neighborhood.

Please review your records, complete the form, below, and return this letter to me at SYDOR CORP PO Box 350 Winter Park, FL. If you have any questions, please contact DAN Bellows 32790

Sincerely

Name: DANIEL B. BELLows
Address: PO Box 350
City, State, Zip Code: Winter Park, FL 32790

The subject parcel is not within our service area.

☒ SEE BELOW! The subject parcel is within our service area. We do not have any facilities within the easement/right of way. We have no objection to the vacation.

The subject parcel is within our service area. We object to the vacation.

Additional comments: BRIGHT HOUSE HAS NO OBJECTION TO THE TERMINATION OF THE UTILITY EASEMENT IN BLOCK 41, TOWN OF WINTER PARK, ONLY ABUTTING LOTS 5, 6, 7, 10, 11, 14, 15 AND 16.

Signature: Marvin L. Usry, Jr.

Print Name: MARVIN L. USRY, JR.

Title: CONST. SUPV.

Date: 4/1/16



city commission public hearing

Item type	Public Hearing	meeting date	April 25, 2016
prepared by	Michelle Neuner	approved by	<input checked="" type="checkbox"/> City Manager
department	City Management		<input checked="" type="checkbox"/> City Attorney
division			<input type="checkbox"/> N/A
board approval	<input type="checkbox"/> yes	<input type="checkbox"/> no	<input type="checkbox"/> N/A
strategic objective	<input type="checkbox"/> Exceptional Quality of Life		
	<input type="checkbox"/> Intelligent Growth & Development		
	<input type="checkbox"/> Investment in Public Assets & Infrastructure		
	<input type="checkbox"/> Fiscal Stewardship		
	<input type="checkbox"/> Public Health & Safety		

subject

Advisory Board Review and Modification

motion | recommendation

Accept on first reading, recommended ordinance.

background

In 2011, the City adopted Ordinance 2843-11 consolidating city boards, standardizing board procedures and defining the duties of each board into a single ordinance and repealing all previous ordinances and resolutions related board creation and procedures. Included in the general rules applicable to subsidiary boards, is a provision to sunset and terminate boards not required by statute or charter every five years following May 1, 2011, unless the board is renewed by majority vote of the Commission.

Staff has reviewed the existing board structure and instead of simply providing a list of boards to be continued, has prepared the attached ordinance with additional recommendations as summarized below.

- **Code Enforcement Board** – Retitle to Code Compliance Board.
- **Construction Board of Appeals** – Has a new requirement (HB535) that at least one member is a: fire protection contractor, a fire protection design professional, a fire department operations professional, or a fire code enforcement professional.

- **Ethics Board** – Sunset this board. Their last meeting was 11/2011 and there have been members appointed to the board that never attended a meeting. The board was designed to meet on an as needed basis and have not been assigned topics by the Commission since 2010/2011. This Board could be replaced by a task force if something should arise in the future.
- **Historic Preservation Board** – Duties were updated to be consistent with adopted ordinance.
- **Independent Personnel Board** – Clarify that the Civil Service Board (minus the employee members) serves this role.
- **Keep Winter Park Beautiful and Sustainable** – At the recommendation of the Board Liaison, reduce to 7 members through attrition. Based on current membership, this board would drop to 10 members in the coming year.
- **Lakes and Waterways Board** – Duties were updated to be consistent with adopted ordinance and a clear process is established for appeals of decisions.
- **Pedestrian and Bicycle Advisory Board** – Retitle to Transportation Advisory Board and increase responsibilities to include all transportation related issues.
- **Tree Preservation Board** – Allow the Code Compliance Board to serve this role. The last two cases heard were 12/2012 & 1/2015.
- **Utilities Advisory Board** – Reduce to 7 members through attrition. Based on current membership, this board would be reduced to 7 members in coming year.

alternatives | other considerations

Any combination of the above may be accepted or rejected at the discretion of the Commission with the exception to the state required position on the Construction Board of Appeals.

fiscal impact

N/A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING ARTICLE III OF CHAPTER 2 OF THE CITY OF WINTER PARK CODE OF ORDINANCES REGARDING SUBSIDIARY CITY BOARDS AND COMMISSIONS AS ADOPTED BY ORDINANCE NO. 2843-11 AND AS FURTHER AMENDED BY ORDINANCE NO. 2880-12; AMENDING CHAPTER 22, ARTICLE II, SECTION 22-28 "AMENDMENTS TO THE FLORIDA BUILDING CODE," SUBSECTION 113 CONCERNING THE CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS; PROVIDING FOR BOARD MEMBERSHIP, RENAMING OF CERTAIN BOARDS AND THE CONSOLIDATION DUTIES OF CERTAIN BOARDS; PROVIDING FOR CITY COMMISSION APPROVAL OF THE CONTINUED EXISTENCE OF CERTAIN BOARDS TO AVOID SUNSETTING; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City has the authority under the City Charter, Section 2(b), Article VIII of the State Constitution, and Section 166.021(1), Florida Statutes, to exercise any power for municipal purposes except where expressly prohibited by law; and

WHEREAS, the City Commission has determined that it is in the interest of the residents of Winter Park and other persons doing business with the City to provide for a uniform and comprehensive division within the City Code, to the extent allowed by law, concerning all subsidiary boards and commissions of the City, and to provide for a consolidation of the duties and rules pertaining to certain boards; and

WHEREAS, on June 13, 2011, the City Commission adopted Ordinance No. 2843-11 codifying amendments to Article III of Chapter 2 of the City of Winter Park Code of Ordinances; and

WHEREAS, on August 13, 2012, the City Commission adopted Ordinance No. 2880-12 further amending Article III of Chapter 2 of the City of Winter Park Code of Ordinances; and

WHEREAS, the City Commission desires to further amend Article III of Chapter 2 of the City of Winter Park Code of Ordinances as set forth in this Ordinance; and

WHEREAS, the City Commission desires to amend Chapter 22, Art. II, Section 22-28 in order to address the membership and authority of the Construction Board of Adjustment and Appeals; and

WHEREAS, the City Commission desires to prohibit the sunseting of certain city boards.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, HEREBY ORDAINS AS FOLLOWS:

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

Section 2. Amendment/Adoption. Article III of Chapter 2 of the City of Winter Park Code of Ordinances is hereby amended to read as follows: (underlined language are additions; ~~stricken through~~ language are deletions; language not included is not being amended):

ARTICLE III. - SUBSIDIARY BOARDS OF THE CITY OF WINTER PARK DIVISION 1. -
ESTABLISHMENT OF CITY BOARDS

Sec. 2-46. - Establishment of city boards.

There shall be established in this division all boards of the City of Winter Park. If a board is required to be in existence by Florida Statute or City Charter, the section providing for the board shall so provide, as well as any special requirements. If, by Florida Statute or Charter there is a requirement with respect to the board that is different than the general rules in this chapter and article, then the requirements of state statute and the Charter shall control.

Sec. 2-47. - List and size of boards established.

The following boards and number of members are established. The general requirements are specified in division 2 herein and the board specific requirements are specified in division 3. Unless the City Charter or state law requires a different number of members, each board shall have seven members and one alternate member, although boards that had more than seven members prior to May 9, 2011, shall continue to have the greater number of members plus one alternate, and other boards by ordinance of the city commission may have a greater number of members, as shown hereinafter:

- (1) Board of adjustments;
- (2) Civil service board (also sits as the independent personnel review board);
- (3) ~~Code enforcement~~ compliance board (which also sits as the nuisance abatement board and tree preservation board and performs the functions of a code enforcement board pursuant to F.S. ch. 162);
- (4) Community redevelopment agency;
- (5) Community redevelopment advisory board;
- (6) Construction board of adjustments and appeals;
- (7) Economic development advisory board;
- ~~(8) Ethics advisory board;~~
- ~~(9)~~ 8 Historic preservation board;
- ~~(10)~~ 9 Housing authority board;
- ~~(11) Independent personnel review board;~~
- ~~(12)~~ 10 Keep Winter Park beautiful and sustainable advisory board ~~—15 members, one alternate;~~
- ~~(13)~~ 11 Lakes and waterways advisory board;

- (124) Parks and recreation advisory board;
- (135) ~~Pedestrian and bicycle~~ Transportation advisory board;
- (146) Planning and zoning board;
- (157) Public art advisory board - 11 members, one alternate;
- (18) ~~Tree preservation board~~;
- (169) Utilities advisory board ~~—nine members, one alternate~~;
- (2017) Winter Park Firefighters' pension board;
- (1824) Winter Park Police Officers' pension board.

DIVISION 2. - GENERALLY

Sec. 2-48. - General rules applicable to subsidiary boards of the City of Winter Park.

(a) Date of appointment of members. With the exception of the civil service board, the members of all boards of the city shall be appointed by the mayor, subject to the approval of the city commission, at the first commission meeting in May of each year or as soon thereafter as possible and such members shall be seated at the first meeting following May 31. The members of the civil service board shall be appointed in December and be seated effective the third Tuesday in January.

(b) Removal of members. Members of city boards shall serve at the will of the city commission and shall be subject to removal at any time, with or without cause, by a majority vote of the city commission. This provision is intended to be supplemental to, and not in conflict with, the provisions of F.S. § 112.501 which concerns the procedure for removal or suspension of a member of a municipal board for cause. In instances when a member is removed for cause, the procedures in F.S. § 112.501 shall apply.

(c) Resignations. Members of all boards shall be entitled to resign at any time by delivery of written notice thereof to the city commission.

(d) Quorum. A quorum shall be a majority of the total board membership physically in attendance at a meeting.

(e) Applicability of rules of ethics. No member shall take any action or vote if such vote or action is prohibited by a standard of conduct or voting conflict of interest as defined or prohibited in the code of ethics for public officers and employees stated in F.S. ch. 112 or if such action or vote is in violation of the Code of the City of Winter Park.

(f) Vacancies. The mayor, subject to approval of the city commission, shall promptly fill all vacancies, including alternate members, occurring on city boards. A vacancy shall be filled for the unexpired term of the member whose term becomes vacant.

(g) Alternate members. An alternate member may always participate in board discussions subject to the rules adopted by each board for the conduct of meetings and member discussion at meetings. Unless a member of the board is absent, an alternate member may not make motions or cast a vote at a meeting. However, if a member of the board is absent, then at such meeting where the member is absent, an alternate may make motions and cast a vote in the stead of the absent member. In the event a regular member of a board is removed from office or vacates his or her office prior to the end of the appointed term, the alternate of said board, will automatically advance to the vacated position for the remainder of the regular term without additional action of the city commission. If there is no alternate, the mayor shall appoint subject to commission approval.

(h) Exception to automatic advancement. If a vacancy occurs in a board position within 60 days before the end of the term of the member, the position shall remain vacant until filled as part of the regular appointment process by which the mayor shall appoint the member, subject to the approval of the city commission, at the first commission meeting in May of each year.

(i) Representation by member of third parties. No member of a board shall represent a third party in any proceeding before such board to which the member belongs.

(j) Role and responsibility of members of subsidiary boards of the City of Winter Park. Members of subsidiary municipal boards shall have such authority as provided by law, including ordinances of the City of Winter Park and the City Charter. No member of a board shall exceed his or her delegated authority, and except to the extent Florida law or an ordinance or Charter provision expressly requires the board to perform an adjudicatory function as a quasi-judicial board, the function and duty of each subsidiary board and the members of those boards is limited to acting in an advisory capacity only, by which the members of the various city boards are authorized to receive and gather information, attend board meetings, and apply their best efforts to render advice and recommendations to the Commission of the City of Winter Park in the interest of the city and its residents. Although city boards may make recommendations concerning provisions of the City Code, no member of a city board shall, by virtue of such office, have the authority to represent the City of Winter Park in any action to enforce the City Code or any provision thereof.

(k) Term in office and reappointment. Unless otherwise required by Florida Statutes or City Charter, each member of the city's boards shall have an initial term of three years in office and may be reappointed to one additional consecutive three-year term. Following a break in service of at least one year, a former member may be appointed again to the same board subject to the limitation expressed herein, that the term shall be for three years with an opportunity to be reappointed for one three-year term immediately following the expiration of the initial three-year term. For good cause shown, the mayor may waive this term limitation, subject to approval by majority vote of the commission. The serving of a partial term of office on a city board shall not count towards the term limits set forth in this subsection.

(l) Attendance, participation by telephone, and procedures if there is lack of a quorum. Each member of a city board shall be automatically terminated from the board if the member misses three consecutive meetings, or if the member is absent from more than 50 percent of the scheduled meetings of the board in any 12-month period. Each member of a city board may participate in a meeting by telephone if he or she gives good cause for the need to appear by telephone, and in such instances the appearance by telephone shall be counted as the member being present at the meeting. However, a member participating by telephone may only vote if a physical quorum is present at the meeting, and votes and other action may not be taken at a

meeting unless a quorum of members is physically present at the meeting. Notwithstanding, if a quorum is not physically present, the members who are in attendance may vote to adjourn the meeting for lack of a quorum. And, so long as a meeting is properly noticed and is in compliance with the requirements of the Sunshine Law, less than a quorum of a board may meet for purposes of discussion so long as there is no action or vote taken at such meeting.

(m) Evaluation process. Each city board shall make provision for an annual self-evaluation process by which it and the individual board members are evaluated, and the activity and accomplishments of each board shall thus be annually evaluated and reported to the commission. The city manager shall work with the presiding officer or designee of each city board to insure that the report concerning the evaluation of each board member and each board is presented to the city commissioner prior to the first day of April each year to insure that the information is available before the annual appointment of members at the first meeting in May of each year. The city manager shall develop a standard city form and format for evaluations that will be used for each subsidiary board of the city. The city manager shall recommend the evaluation instrument and format and the city commission shall approve the same with such revisions as the commission determines may be appropriate.

(n) Task forces. The city commission may, from time to time, establish a task force for the study of a particular issue. A task force established by the city commission will have a limited scope of responsibility and will address only the issue or issues designated, and following the study of such matters shall report the findings of the task force to the commission with recommendations. Unless otherwise established by the city commission or extended by action of the commission, no task force shall continue in existence beyond 180 consecutive calendar days following the effective date of the decision, resolution or ordinance providing for the establishment of the task force.

(o) Sunset of boards unless a board is required by statute or Charter. Except for those boards that are required to be in existence pursuant to Florida Statute or City Charter, each city board shall sunset and terminate every five years following May 1, 2011, unless the board is renewed by a majority vote of the commission. This will allow the commission to evaluate the effectiveness and need for the particular board on a regular basis. Notwithstanding this provision, any advisory board may be terminated at any time by a majority vote of the city commission, unless such board is required by Florida Statute or Charter. The following quasi-judicial boards will not sunset: board of adjustments; planning and zoning; construction board of adjustments and appeals; code enforcement compliance; civil service; lakes and waterways advisory board (to the extent it hears stormwater fees appeals); historic preservation board (to the extent it acts in a quasi-judicial capacity with respect to recommendations for or against rezonings, demolitions, developments, lot splits, lot consolidations or conditional uses that could impact historic resources identified in the Florida Master Site File Survey of the City of Winter Park, reviews applications for certificates of review for designated landmarks, resources and property within designated districts, or approves variances appropriate for the preservation of historic resources in conjunction with applications for certificates of review); and the tree preservation board (to the extent it sits as a quasi-judicial board with respect to the consideration of applications for tree removal permits and appeals to the tree preservation board from any denial of an application or any of the conditions attached to the approval of a tree removal permit, or to the extent it sits as a quasi-judicial board with respect to the recommendation of modification of building plans or variances regarding the preservation of protected trees, or the waiver of up to a maximum of five parking spaces for the purposes of preserving existing protected trees). Additionally, without first complying or satisfying legally imposed conditions, the community redevelopment agency and the housing authority may not be abolished.

(p) Expenses and reimbursement. No member of any board shall receive a salary or fee for service as a member. However, the city manager may authorize reimbursement of necessary expenses for travel, per diem or other expenses if the same are documented in advance and approved by the city manager in writing in advance of the member incurring such expense while on official business for the city, it being a requirement that no expense will be reimbursable unless it is reasonably related to city business performed by a member of a subsidiary board of the City of Winter Park.

(q) Internal rules of conduct. Each board shall adopt such rules as are necessary to the conduct of its business. Each board shall elect a chair and vice-chair from its membership on an annual basis. All meetings of the board shall be in accordance with the Sunshine Law, F.S. § 286.011, and the records thereof shall be public records as required by F.S. ch. 119 unless the record is specifically subject to a statutory exemption. The city manager, city attorney and/or a designated city staff member shall be reasonably available upon request to provide technical support and advice to assure each board that it is operating in conformance with the requirements of law. Each board shall be responsible to keep minutes of its proceedings as required by law, showing at a minimum the date, time and place of the meeting, members physically in attendance, appearing by telephone, and absent, and also showing each matter discussed, moved, and voted upon. The records of each matter voted upon shall show the vote of each member on each question, and those members absent or abstaining or otherwise failing to vote. All of such records shall be kept, and the minutes and records of official actions shall be public records and retained in the office of the city clerk.

(r) Residency requirement. Unless nonresidency in the City of Winter Park is a requirement of the City Charter, Florida Statutes or division 3 hereof, the mayor shall show preference to residents of the City of Winter Park for appointments to city boards.

(s) Provision of legal and staff services. To the extent not specifically mentioned in division 3 of this chapter and article, a subsidiary board of the City of Winter Park may request from the city manager that the city manager direct staff or the city attorney to provide technical and legal support to the board with respect to such matter or matters that may be identified by the board.

(t) Frequency of meetings. Unless otherwise provided with respect to a specific board of the City of Winter Park, each board shall provide in its internal rules of procedure the frequency and schedule for its meetings. The board shall notify the city clerk and city manager in writing with respect to the schedule of meetings established by such board. Unless a board determines otherwise for good cause, it shall meet monthly. However, if it is not necessary to hold monthly meetings to conduct the business of the board, the board shall provide for an alternative schedule of meetings.

(u) All subsidiary boards shall allow for public comment in the manner required by Chapter 2013-227, Laws of Florida."

Sec. 2-49. - Divisions 1 and 2 apply to all city boards.

Except as otherwise expressly provided in division 3, with respect to a specific board, the Charter, or Florida Statutes, the requirements governing city boards stated in divisions 1 and 2 of this article shall apply to each city board.

DIVISION 3. - DESCRIPTION, DUTIES AND PROCEDURES OF EACH CITY BOARD

Sec. 2-50. - Board of adjustments.

There is established within the City of Winter Park, pursuant to the provisions hereof, a board of adjustments, subject to the following provisions:

- (1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions in divisions 1 and 2 hereof.
- (2) Quasi-judicial proceedings. The board of adjustments shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the board of adjustments is in accordance with the requirements of Florida law.
- (3) Authority. The board of adjustments shall have the jurisdiction to hear appeals in specific cases where an owner or authorized owner's representative requests a variance from sections of the land development code. A request for variance shall be subject to the requirements of the public interest and the land development code, and may be appropriate where, because of special conditions, an interpretation of the provisions of the code relating to zoning or signs will result in an unnecessary hardship.
- (4) Incorporation into land development code. Subject to the provisions of this article, the requirements and procedures in chapter 58 of the City Code, including article III thereof for zoning, shall apply to the conduct of the business of the board of adjustments. The board of adjustments shall comply with the city's land development code, including the provisions concerning notice and procedures at sections 58-91 and 58-92. By this reference this section is incorporated into the city's land development code.

Sec. 2-51. - Civil service board.

There is established pursuant to the authority in Article 3, Section XIV of the Florida Constitution, and section 4.07 of the City Charter, a civil service board, subject to the following provisions:

- (1) Membership. Membership of the civil service board shall be as provided in section 74-52 of the City Code. The provisions of divisions 1 and 2 hereof shall apply to the extent those general provisions are not in conflict with section 74-52 of the City Code. In the event of any conflict between division 1 and section 74-52, the provisions of section 74-52 of the City Code shall control. The civil service board shall have seven members. Five members shall be appointed by the city commission in the manner provided in divisions 1 and 2 of this article, and such appointees shall be persons of different vocations residing in the city who are not employed by the city. The remaining two members shall be chosen, one by the members of the police department and one by the members of the fire department, according to election procedures set out in chapter 74, article III, section 74-51 et seq., of the City Code. The chief of police and chief of the fire department shall be ex officio members of the civil service board and shall be permitted to address matters in any proceeding, but shall have no vote. The terms of all civilian

members of the board will be three years and each term shall commence on the third Tuesday in January. The terms of the police and fire department members shall be for one year. The remaining details concerning membership are set out in section 74-52 of the City Code.

(2) Quasi-judicial proceedings. The civil service board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the civil service board is in accordance with the requirements of Florida law.

(3) Authority. The civil service board shall have such authority and responsibility as set out in chapter 74, article III, section 74-51 et seq., of the City Code, which concerns the civil service board, and shall abide by the procedural and substantive requirements set out in said sections in chapter 74 relating to the board. To the extent the general provisions in divisions 1 and 2 hereof are not in conflict with chapter 74, then the provisions in divisions 1 and 2 shall control. The civil service board (less the two employee members) shall also serve as the independent personnel review board as provided in section 2-61 of the City Code.

Sec. 2-52. - Code ~~enforcement~~ compliance board.

There is established within the City of Winter Park pursuant to F.S. § 162.05, and by the authority of the city commission, a code ~~enforcement~~ compliance board, subject to the following provisions:

(1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions in divisions 1 and 2 hereof. Members shall be residents of the city. In accordance with F.S. § 162.05(2), the membership of the code ~~enforcement~~ compliance board shall, whenever possible, include an architect, a businessperson, an engineer, a general contractor, a subcontractor, and a realtor.

(2) Quasi-judicial proceedings. The code ~~enforcement~~ compliance board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the code ~~enforcement~~ compliance board is in accordance with the requirements of Florida law.

(3) Authority. The code ~~enforcement~~ compliance board shall have ~~such the authority, responsibility and jurisdiction of a code enforcement board to respond to such matters as are set out in pursuant to~~ F.S. ch. 162 and any other ~~matters provision set forth~~ in the City Code conferring authority or quasi-judicial responsibility on the code ~~enforcement~~ compliance board, including without limitation false fire alarm appeals, pursuant to subsection 46-29(d) and those matters provided for in sections 2-104 through 2-110 of the City Code. The code ~~enforcement~~ compliance board shall also serve as the nuisance abatement board as provided in section 2-81 of the City Code and the tree preservation board as provided in section 2-68 of the City Code. In performing its function, the code ~~enforcement~~ compliance board shall be governed by the procedures set out in Florida law and section 2-101 et seq., of the City Code.

The provisions in divisions 1 and 2 of this article shall apply to the conduct of the code ~~enforcement~~ compliance board except for any provision thereof that conflicts with a provision in

sections 2-104 through 2-110 of the City Code, in which case the conflicting provision in sections 2-104 through 2-110 shall control.

Sec. 2-53. - Community redevelopment agency.

There is established within the City of Winter Park pursuant to the provisions hereof, a community redevelopment agency, subject to the following provisions:

(1) Membership. Pursuant to F.S. § 163.356, the term of office of the members of the community redevelopment agency shall be for four years, and the members are referred to as commissioners in said statute. The city commission shall serve as five commissioners on the community redevelopment agency, and the county shall have the right to appoint the sixth commissioner to the agency. The city commission may remove a commissioner of the community redevelopment agency for inefficiency, neglect of duty, or misconduct in office only after a hearing, and only if he or she has been given a copy of the charges at least ten days prior to such hearing and has had an opportunity to be heard in person or by counsel, as provided in F.S. § 163.356(4). Otherwise, the provisions in divisions 1 and 2 of this article shall govern the community redevelopment agency.

(2) Scope of authority. The community redevelopment agency shall constitute a separate and distinct entity to the extent provided under Florida law, and shall have such powers as are provided to community redevelopment agencies as set out in F.S. ch. 163, pt. III, § 163.330 et seq., relating to community redevelopment.

Sec. 2-54. - Community redevelopment advisory board.

There is established within the City of Winter Park, pursuant to the provisions hereof, a community redevelopment advisory board, subject to the following provisions:

(1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions in divisions 1 and 2 of this article. Notwithstanding the general requirements stated in divisions 1 and 2 of this article, the membership of the community redevelopment advisory board shall include a minimum of 50 percent residents and business owners within the community redevelopment area subject to the jurisdiction of this board.

(2) Advisory board. The community redevelopment advisory board is an advisory body and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the city commission concerning matters related to community redevelopment. The community redevelopment advisory board shall have no adjudicatory or enforcement authority.

(3) Procedures. The procedures and rules for operation of the community redevelopment advisory board shall be in accordance with the general requirements stated in division 2 hereof.

Sec. 2-55. - Construction board of adjustments and appeals.

(a) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions in divisions 1 and 2 hereof. The construction board of adjustments and appeals is a "local construction regulation board" as defined in F.S. § 489.101(12), which means a board composed of not fewer than three residents of the city, appointed to maintain the proper standard of construction within the City of Winter Park. To the extent reasonably possible, the construction board of adjustments and appeals shall include as members a practicing architect, a structural engineer, two licensed construction contractors, a master electrician, a master plumber or, ~~and~~ a mechanical contractor or mechanical engineer. By state statute, this board is required to have at least one fire protection contractor, a fire protection design professional, a fire department operations professional, or a fire code enforcement professional. The alternate member of this board shall also be licensed and employed or practicing in one of these trades. A member of the board may be a nonresident when no qualified resident applies for the membership on the board.

(b) Quasi-judicial proceedings. The construction board of adjustments and appeals shall comply with the requirements of Florida law in the conduct of quasi-judicial proceedings in all matters deemed quasi-judicial, including appeals from the enforcement of any provision of an applicable building code, and a request for a modification of an order of the building official. Upon request, the city attorney or city manager will provide technical support and advice to the construction board of adjustments and appeals for purposes of conducting quasi-judicial proceedings in accordance with the requirements of Florida law.

(c) Authority. The construction board of adjustments and appeals shall have the power to hear appeals of decisions and interpretations of the building official of the Florida Building Code as modified by the City of Winter Park and interpretations of the Fire Code Official (Fire Marshal) of the Florida Fire Prevention Code, and shall also have the authority to suspend or revoke the certificate of competency or certification to provide services within the City of Winter Park of any contractor, including any specialty contractor doing work in the city who is found by the construction board of adjustments and appeals to be guilty of one or more of the following acts or omissions:

(1) Fraud or deceit in obtaining a certificate of competency.

(2) Negligence, incompetence, or misconduct in the practice of contracting within the meaning of the City's Code, including its land development code.

(3) Willful and deliberate disregard of, or violation of the City's Code, including its building code, or of any state statute concerning contractor licenses.

(d) Incorporation into building code. The requirements and procedures set out in the city's building code (chapter 22 of the City Code) shall apply to the conduct of the business of the construction board of adjustments and appeals. All activity of this board shall be as set out in the city's building code, subject to the requirements of this article. By this reference this section is incorporated into the city's building code.

(e) Building official and procedures for appealing decisions of the building official. The position of the building official of the City of Winter Park, the scope of his authority on behalf of the city,

and the procedures for filing an appeal from a decision of the building official are established in the city's building code, chapter 22 of the City Code.

Sec. 2-56. - Economic development advisory board.

Pursuant to the authority of the city commission, there is established within the City of Winter Park, an economic development advisory board, subject to the following provisions:

(1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions in divisions 1 and 2 of this article. The Winter Park Chamber of Commerce President shall be requested to serve as a member of the economic development advisory board.

(2) Advisory board. The economic development advisory board is an advisory board and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the city commission concerning economic development. The economic development advisory board shall have the authority to establish other areas of interest that it deems relevant in the interest of the City of Winter Park and its residents with respect to quality and sustainable economic development consistent with the goals and objectives of the City of Winter Park and the Charter thereof. The economic development advisory board shall have no adjudicatory or enforcement authority.

(3) Procedures. The procedures and rules for operation of the economic development advisory board shall be in accordance with the general requirements stated in divisions 1 and 2 of this article.

Sec. 2-57. - Reserved.

Editor's note— Ord. No. 2880-12, § 3, adopted Aug. 13, 2012, repealed § 2-57 in its entirety, which pertained to environmental review advisory board and derived from Ord. No. 2843-11, § 2, adopted June 13, 2011; Memo of Feb. 22, 2012(Att. A).

Sec. 2-58. Reserved. ~~—Ethics advisory board.~~

~~Pursuant to the City Charter, there is established within the City of Winter Park an ethics advisory board, subject to the following provisions:~~

~~(1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions in divisions 1 and 2 of this article.~~

~~(2) Advisory board. The ethics advisory board is an advisory body and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the city commission concerning matters related to ethics in the governance of the City of Winter Park. The ethics advisory board shall have no adjudicatory or enforcement authority.~~

~~(3) Procedures. The procedures and rules for operation of the ethics advisory board shall be in accordance with the general requirements stated in divisions 1 and 2 of this article.~~

Sec. 2-59. - Historic preservation board.

There is established within the City of Winter Park, pursuant to the provisions hereof, a historic preservation board, subject to the following provisions:

(1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions in divisions 1 and 2 of this article and section 58-446 of the City Code.

(2) With exception this is an advisory board. The historic preservation board is generally an advisory board with exceptions. With respect to its advisory role, after receiving information it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, the board shall give advice and recommendations to the city commission related to historic preservation. As an exception to the general rule that this is an advisory board, the city commission may, by ordinance or resolution, assign a quasi-judicial function to this board with respect to the approval of variances that are appropriate to the preservation of historic resources in conjunction with applications for certificates of review, and for other matters as determined by the city commission in ordinance or resolution.

(3) Quasi-judicial proceedings. To the extent the city commission by ordinance or resolution shall provide, the board sits as a quasi-judicial body, then in such cases the board shall conduct the quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the board is in accordance with the requirements of Florida law. In such proceedings, the board shall be governed by the substantive and procedural requirements set out in the City Code, including those provisions set out in the land development code (chapter 58) if applicable. The provisions hereof are deemed to be incorporated by reference into chapter 58 of the City Code relating to historic preservation.

(4) Functions, powers and duties of the historic preservation board. The functions, powers and duties of the board shall be as set out in ~~section 58-446~~ chapter 58, article VIII of the City Code.

Sec. 2-60. - Housing authority board.

There is established within the City of Winter Park pursuant to the provisions hereof, a housing authority board subject to the following provisions:

(1) Membership. The provisions of division 1 of this chapter and article shall apply to the membership and means of appointment thereof, subject to the provisions in F.S. ch. 421, including § 421.05.

(2) Independent authority. The housing authority board is an independent housing authority established pursuant to F.S. ch. 421.

(3) Declaration of need. Pursuant to F.S. § 421.04, the city declares that there is a need for the establishment of the housing authority board pursuant to the requirements and provisions of F.S. ch. 421.

(4) Authority and scope of responsibility. The housing authority board shall perform such duties and have such functions as are provided under Florida law for housing authorities, including those requirements specified in F.S. ch. 421 and rules promulgated by administrative agencies of the State of Florida pursuant to chapter 421.

(5) Incorporation of divisions 1 and 2 of this article. The provisions of divisions 1 and 2 of this article are incorporated herein, and shall apply except to the extent of any conflict with state law, in which event any conflicting provision of state law shall control.

Sec. 2-61. - Independent personnel review board.

There is established within the City of Winter Park, pursuant to the provisions hereof, an independent personnel review board pursuant to the requirements in section 4.05 of the City Charter and chapter 74, article II, section 74-26 et seq., of the City Code, subject to the following provisions:

(1) Membership. The independent personnel review board shall consist of the five non-city employee members of the civil service board.

(2) Quasi-judicial proceedings. The independent personnel review board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law and chapter 74, article II, section 74-26 et seq., of the City Code. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the independent personnel review board is in accordance with the requirements of Florida law.

(3) Authority and responsibility. The duties and responsibility of the independent personnel review board are set out in chapter 74, article II, section 74-26 et seq., of the City Code and section 4.05 of the City Charter. These provisions in the Code and Charter are incorporated herein and shall control the operation of this independent personnel review board.

Sec. 2-62. - Keep Winter Park beautiful and sustainable advisory board.

Pursuant to the authority of the city commission, there is established within the City of Winter Park, a keep Winter Park beautiful and sustainable advisory board, subject to the following provisions:

(1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provision in divisions 1 and 2 of this article, except that the number of members shall be no greater than fifteen and no less than seven.~~15 members.~~ It is intent of the city commission for this board to eventually have seven members, and for such reduction to be achieved from attrition over time by not filling vacancies on the board until membership falls below seven members. ~~plus one alternate, and the initial terms in office for the inaugural~~

~~members of the newly established keep Winter Park beautiful and sustainable advisory board shall be staggered, such that five members will be initially appointed to a term of one year, five members initially appointed to a term of two years, and five members initially appointed to a term of three years. After the initial terms in office are served, the succeeding appointments shall be for the term generally established in chapter 2, article III, for subsidiary boards of the City of Winter Park.~~

(2) Advisory board. The keep Winter Park beautiful and sustainable advisory board is an advisory board, and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the city commission concerning matters related to the environmental, economic and social sustainable of the City of Winter Park. The keep Winter Park beautiful and sustainable advisory board shall have no adjudicatory or enforcement authority. However, the keep Winter Park beautiful and sustainable advisory board shall have the authority to develop and explore opportunities for fundraising and other awareness programs, but all of such opportunities shall be subject to the ordinances, resolutions and policies for such purposes established from time to time by the city commission, and the keep Winter Park beautiful and sustainable advisory board shall have no authority to commit or obligate the city with respect to the terms, conditions, or any other matters related to fundraising or commitments or agreements related to fundraising. The role and function of this board with respect to fundraising is to explore opportunities and to give advice and make recommendations to the city commission, and in all instances the city commission shall be the responsible entity to enter specific fundraising programs on behalf of the City of Winter Park.

(3) Procedures. The procedures and rules for operation of the keep Winter Park beautiful and sustainable advisory board shall be in accordance with the general requirements stated in divisions 1 and 2 of this article.

Editor's note— Ord. No. 2880-12, § 4, adopted Aug. 13, 2012, changed the title of § 2-62 from "Keep Winter Park beautiful advisory board" to "Keep Winter Park beautiful and sustainable advisory board". This historical notation has been preserved for reference purposes.

Sec. 2-63. - Lakes and waterways advisory board.

Pursuant to the authority of the city commission, there is established within the City of Winter Park a lakes and waterways advisory board subject to the following provisions:

(1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions of divisions 1 and 2 of this article.

(2) With exception this is an advisory board. The lakes and waterways advisory board is an advisory board with one exception, and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the city commission related to the protection and improvement of the city's lakes and waterways, with the goal of fostering, maintaining and improving the public stewardship, protection, long-range planning and careful oversight of the implementation of improvement projects for lake and stormwater management. The city acknowledges that the lakes and waterways within the city are a natural resource of great significance. As an exception to the general rule that this is an advisory board, the city

commission may, by ordinance or resolution, assign a quasi-judicial function to this board with respect to appeals of decisions related to stormwater fees and concerning review and approval of proposed docks and boathouses under section 58-87.

(3) Quasi-judicial proceedings with respect to stormwater fees and appeals thereof. To the extent the city commission by ordinance shall provide that this board will sit as a quasi-judicial body and consider appeals from decisions related to stormwater fees, then in such cases the board shall conduct the quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the board is in accordance with the requirements of Florida law. In such proceedings, the board shall be governed by the substantive and procedural requirements set out in the City Code, including those provisions set out in chapter 102, sections 102-156 through 102-164, as these provisions may be amended by the city commission. The provisions hereof are deemed to be incorporated by reference into chapter 102 of the City Code, relating to stormwater fees and appeals from decisions related to stormwater fees.

(4) Quasi-judicial proceedings with respect to docks and boathouses. To the extent the city commission by ordinance shall provide that the lakes and waterways advisory board will sit as a quasi-judicial body and consider approval of proposed docks and boathouses, then in such cases the board shall conduct the quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the lakes and waterways advisory board is in accordance with the requirements of Florida law. In such proceedings, the board shall be governed by the substantive and procedural requirements set out in the City Code, including those provisions set out in chapter 58, section 58-87, as these provisions may be amended by the city commission. Any substantially affected person or persons aggrieved by any decision of the lakes and waterways advisory board (including, without limitation, the city) concerning a dock or boathouse, may apply to the circuit court for Orange County, Florida, for judicial relief within 30 days after rendition of the decision by the lakes and waterways advisory board. Review in the circuit court shall be by petition for writ of certiorari.

(45) Procedures. The procedures and rules for operation of the lakes and waterways advisory board shall be in accordance with the general requirements stated in divisions 1 and 2 of this article, and in accordance with the requirements under Florida law for quasi-judicial proceedings when the board hears appeals from stormwater fee decisions if such appeals are referred to the board pursuant to city ordinance or resolution.

Sec. 2-64. - Parks and recreation advisory board.

There is established within the City of Winter Park, pursuant to the provisions hereof, a parks and recreation board, subject to the following provisions:

(1) Membership. The parks and recreation advisory board shall be established in accordance with the requirements in divisions 1 and 2 of this article.

(2) Advisory board. The parks and recreation advisory board is strictly an advisory board and shall have no adjudicatory or enforcement authority. If any provision of the Code requires processing of any matter through the parks and recreation advisory board, then the purpose of

such requirement is for the parks and recreation advisory board to consider the request and to give advice to the city manager and the city commission (if the matter will reach the city commission). The purpose of such proceeding will not be quasi-judicial in nature.

(3) Purpose and duties. The parks and recreation advisory board shall promote the parks and recreation programs of the city and will guide, advise and recommend to the city commission policies and actions regarding the promotion, planning, design, construction and utilization of city parks and recreation programs. The duties of the parks and recreation board will generally be to:

a. Advise and assist the city commission, the city manager and the various boards of the city in all matters involving or affecting parks and recreation.

b. The parks and recreation advisory board shall recommend policies for the improvement, creation, use and maintenance of city parks and recreation programs.

c. The parks and recreation advisory board shall recommend budgetary or special appropriations for parks and recreation programs.

d. The parks and recreation advisory board shall recommend plans for the future growth, development, use and beautification of city parks.

e. The parks and recreation advisory board shall periodically provide the city commission the public regarding the programs and facilities related to parks and recreation.

Sec. 2-65. - ~~Pedestrian and bicycle~~ Transportation advisory board.

There is established within the City of Winter Park, pursuant to the provisions hereof, a ~~pedestrian and bicycle~~ transportation advisory board, subject to the following provisions:

(1) Membership. The ~~pedestrian and bicycle~~ transportation advisory board shall be established pursuant to the provisions in divisions 1 and 2 of this article.

(2) Advisory board. The ~~pedestrian and bicycle~~ transportation advisory board is an advisory board and shall have no enforcement or adjudicatory power or responsibility. The provisions of division 1 of this chapter and article shall apply with respect to the operations of the ~~pedestrian and bicycle~~ transportation advisory board.

(3) Function and responsibilities. The ~~pedestrian and bicycle~~ transportation advisory board shall meet and provide for its internal governance procedures as provided in divisions 1 and 2 of this article. The responsibility of the ~~pedestrian and bicycle~~ transportation advisory board shall be the following:

a. To receive information and following deliberation, make recommendations and give advice to the city commission concerning opportunities for improvement, maintenance, construction and facilitation of ~~pedestrian and bicycle traffic~~ transportation (pedestrian, bicycle, public transportation, automobiles, freight, etc.) methods, infrastructure and issues in the City of Winter Park.

b. The ~~pedestrian and bicycle~~ transportation advisory board, following receipt of information and deliberation, shall determine ways in which ~~pedestrian and bicycle utilization and traffic transportation methods~~ may be improved, enhanced and made ~~more~~ safer within the City of Winter Park.

c. Following the receipt of information and deliberation, the ~~pedestrian and bicycle~~ transportation advisory board shall recommend to the city commission ideas for promoting safe ~~pedestrian and bicycle utilization~~ multi-modal transportation and complete streets in the City of Winter Park.

d. The ~~pedestrian and bicycle~~ transportation advisory board shall provide education to the public and the city commission concerning the current infrastructure for ~~pedestrian and bicycle~~ multi-modal transport and complete streets in the City of Winter Park and the ways in which that infrastructure may be used safely for the enjoyment and benefit of the citizenry.

e. The transportation advisory board shall serve the functions of the pedestrian and bicycle advisory board as set forth in Policy 2-1.5 of the comprehensive plan and any implementing land development codes or regulations thereto.

Sec. 2-66. - Planning and zoning board.

There is established within the City of Winter Park, pursuant to F.S. § 163.3174 and section 58-3 of the City Code, a planning and zoning board, subject to the following provisions:

(1) Membership. The membership of the planning and zoning board shall be appointed pursuant to the provisions in divisions 1 and 2 of this article. Notwithstanding the general requirements in divisions 1 and 2 of this article, consideration in the appointment process will be given such that if reasonably possible, the membership of the planning and zoning board shall include a Florida licensed architect, a Florida licensed landscape architect, or a Florida licensed civil engineer.

(2) Quasi-judicial proceedings. The planning and zoning board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the planning and zoning board is in accordance with the requirements of Florida law.

(3) Authority and responsibilities. The planning and zoning board shall have such authority and responsibilities as are set out in the land development code, including the provisions in chapter 58 of the City Code, and section 58-88 et seq., of the Code. The procedures that the planning and zoning board shall abide by are those set out in the city's land development code, subject to the requirements of Florida law with respect to quasi-judicial proceedings involving land use decisions. By this reference, this section is incorporated into the city's land development code.

Sec. 2-67. - Public art advisory board.

There is established within the City of Winter Park, pursuant to the provisions hereof, a public art advisory board, subject to the following provisions:

(1) Membership. The public art advisory board shall be established in accordance with the requirements of divisions 1 and 2 of this article. The procedures set out in divisions 1 and 2 of this article shall control the operation of the public art advisory board, subject to the specific provisions hereinafter provided. If reasonably available, consideration shall be given to include in the membership of the public art advisory board an architect, including a landscape architect, an artist, a representative from a museum or art gallery, an experienced business person and a resident representative of the residential community.

(2) Advisory board. The public art advisory board is an advisory board and shall have no adjudicatory or enforcement responsibilities or authority.

(3) Responsibilities and function of the public art advisory board. The public art advisory board shall set out its rules for conducting business in accordance with the requirements of divisions 1 and 2 of this article, and following the receipt of information and deliberation, the public art advisory board shall have the following responsibilities and scope of service:

a. Following the receipt of data from various sources and deliberation, the public art advisory board shall provide advice and recommendations to the city commission for the siting of public art, and in making these recommendations, the public art advisory board shall endeavor to perform visual inspections of sites to ascertain the physical, cultural and historical aspects of sites being recommended to the city commission.

b. The public art advisory board shall develop and facilitate a composite map identifying signature opportunities within the city for public art.

c. The public art advisory board shall interview and recommend public art projects and assist in the selection of artists for possible public art projects, but in such respect, the action shall be strictly as an advisory board for the purpose of making recommendations to the city commission.

d. The public art advisory board shall develop a public arts action plan and recommend the same to the city manager and city commission for the implementation of educational and organizational opportunities related to and concerning public art.

e. The public art advisory board shall establish and maintain liaison with other public and private agencies involved with public art.

f. The public art advisory board shall advise the city commission and city manager in all matters involving or affecting public art.

g. The public art advisory board shall periodically inform the city commission and the general public regarding programs involving public art within the City of Winter Park.

Sec. 2-68. - Tree preservation board.

Pursuant to the authority of the city commission, there is established within the City of Winter Park, a tree preservation board, subject to the following provisions:

(1) Membership. ~~The members of the code compliance board shall serve as the tree preservation board. The number of members and the procedures for appointment thereof shall be in accordance with the provisions of divisions 1 and 2 of this article. The membership shall include three of its members coming from other boards as provided in subsection 58-283(d) of the City Code.~~

(2) With exception, this is an advisory board. The tree preservation board is generally an advisory board with exceptions, and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the city commission related to the protection and improvement of the city's trees, with the goal of fostering, maintaining and improving the public stewardship, protection, long range planning and careful oversight of the implementation of improvement projects for the maintenance, preservation, growth and enhancement of trees within the City of Winter Park. The city acknowledges that its trees and tree canopy are a natural resource of great significance.

As an exception to the general rule that this is an advisory board, the city commission may, by ordinance or resolution, assign a quasi-judicial function to the tree preservation board. The provisions of this article concerning general procedures applicable to city boards and this section concerning the tree preservation board are incorporated by reference into section 58-283. These quasi-judicial functions include the assignment, in section 58-283 of the authority to hear and decide appeals from tree removal applications, appeals from conditions of approval for approved tree removal permits, appeals concerning a request for a waiver of parking spaces in multi-family residential and nonresidential parking lots, and cases involving the modification of building plans or variances relating to the preservation of trees.

(3) Quasi-judicial proceedings. To the extent the city commission by ordinance provides that this board has quasi-judicial authority, the board shall conduct such quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that this quasi-judicial activity of the board is in accordance with the requirements of Florida law. In such proceedings, the board shall be governed by the substantive and procedural requirements set out in the City Code, including those provisions set out in chapter 58, as these provisions may be amended by the city commission.

Sec. 2-69. - Utilities advisory board.

There is established within the City of Winter Park pursuant to the provisions hereof a utilities advisory board, subject to the following provisions:

(1) Membership. The utilities advisory board shall be established pursuant to the procedures in divisions 1 and 2 of this article, except that the board shall have no more than nine members and no less than seven members. It is the intent of the city commission for this board to eventually have seven members, and for such reduction to be achieved from attrition over time by not filling vacancies on the board until membership falls below seven members. To the extent reasonably possible, the membership shall consist of licensed professionals without conflict of interest who have expertise in the utilities and infrastructure for provision of utility services, or the legal and business aspects of providing the subject utility services to the customers of the municipal utility

systems within the City of Winter Park. One member shall be a nonresident customer of the water and sewer utility.

(2) Advisory board. The utilities advisory board is an advisory board and shall have no enforcement or adjudicatory authority or responsibility.

(3) Functions and responsibility. The utilities advisory board shall organize itself and develop rules for procedure in accordance with the requirements of divisions 1 and 2 of this article. Following the receipt of information and deliberation, the utilities advisory board shall advise the city commission, city manager and the management of the various utility service departments and authorities servicing the City of Winter Park regarding the following matters:

- a. The utilities advisory board shall make recommendations concerning opportunities for enhancement, expansion, maintenance, improvement and development of utility services within the City of Winter Park.
- b. The utilities advisory board shall make recommendations regarding improvements to safety and procedures in the provision of utility services within the City of Winter Park.
- c. The utilities advisory board shall make recommendations concerning the improvement of fiscal responsibility in connection with the provision of utility services, and will explore opportunities to make utility services available at a reasonable rate to the customers and residents of the City of Winter Park.

Sec. 2-70. - Winter Park Firefighters' pension board.

There is established within the City of Winter Park a firefighters' pension board established pursuant to the requirements of section 74-153 et seq., of the City Code, subject to the following provisions:

- (1) Membership. The board of trustees of the firefighters' pension board shall be appointed pursuant to the provisions in section 74-153, City Code.
- (2) Responsibilities and function. The firefighters' pension board shall operate in accordance with the requirements of Florida law and section 74-153 et seq., of the City Code as the code relates to the firefighters' pension board and the duties and responsibilities of that board.

Sec. 2-71. - Winter Park Police Officers' pension board.

There is established within the City of Winter Park a police officers' pension board established pursuant to the requirements of section 74-203 et seq., of the City Code, subject to the following provisions:

- (1) Membership. The board of trustees of the police officers' pension board shall be appointed pursuant to the provisions in section 74-203, City Code.

(2) Responsibilities and function. The police officers' pension board shall operate in accordance with the requirements of Florida law and section 74-203 et seq., of the City Code as the code relates to the police officers' pension board and the duties and responsibilities of that board.

Secs. 2-72—2-80. - Reserved.

DIVISION 4. - NUISANCE ABATEMENT BOARD

Sec. 2-81. - Nuisance abatement board created; composition.

(a) There is hereby created and established a subsidiary board of the City of Winter Park known and designated as the nuisance abatement board.

(b) The members of the code ~~enforcement~~ compliance board established pursuant to section 2-47 and section 2-52 of the Municipal Code shall constitute the members of the nuisance abatement board and shall perform the duties and functions of the nuisance abatement board.

(c) The nuisance abatement board shall perform such functions as required by law, including applicable provisions of this Code.

Sec. 2-82. - Complaint procedures.

(a) The nuisance abatement board shall hear complaints alleging that any place or premises within the city constitutes a public nuisance, having been used:

(1) On more than two occasions within a six-month period, as the site of a violation of F.S. § 796.07;

(2) On more than two occasions within a six-month period, as the site of the unlawful sale, delivery, manufacture or cultivation of any controlled substance;

(3) On one occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one occasion as the site of the unlawful sale, delivery, manufacture or cultivation of any controlled substance;

(4) By a criminal street gang for the purpose of conducting a pattern of criminal street gang activity as defined by F.S. § 874.03; or

(5) On more than two occasions within a six-month period, as the site of a violation of F.S. § 812.019 relating to dealing in stolen property.

(b) Any employee, officer or resident of the city may bring a complaint before the board. Written notice of such complaint must be furnished to the owner of the place or premises, at his last known address, not less than three days prior to a scheduled hearing before the board.

(c) The board shall conduct a hearing on the complaint, receiving evidence pertaining to the allegations of the complaint. The board may also consider evidence of the general reputation of the place or premises. The owner of the place or premises shall have an opportunity to present evidence in his defense.

(d) At the conclusion of the hearing and based on the evidence received, the board may find and declare that the place or premises has been used as alleged in the complaint and that such place or premises thereby constitutes a public nuisance.

(e) If the board declares a place or premises to be a public nuisance, the board may enter an order requiring the owner of such place or premises to adopt such procedures as may be appropriate under the circumstances to abate any such nuisance or it may enter an order immediately prohibiting:

(1) The maintaining of the nuisance;

(2) The operating or maintaining of the place or premises including the closure of the place or premises or any part thereof; or

(3) The conduct, operation or maintenance of any business or activity on the premises which is conducive to such nuisance.

(f) An order entered under subsection (e), above, shall expire after one year or at such earlier time as is stated in the order.

(g) An order entered under subsection (e), above, may be enforced pursuant to the procedures contained in F.S. § 120.69. This subsection does not subject the city, or the nuisance abatement board, to any other provision of F.S. ch. 120.

(h) The board may bring a complaint, under F.S. § 60.05, seeking temporary and permanent injunctive relief against any nuisance described in subsection (a), above.

(i) As used in this section, the term "controlled substance" includes any substance sold in lieu of a controlled substance in violation of F.S. § 817.563 or any imitation controlled substance defined in F.S. § 817.564.

Sec. 2-83. - Powers of board.

The nuisance abatement board shall have the power to:

(1) Adopt rules for the conduct of its hearings;

(2) Subpoena alleged violators and witnesses to its hearing, which subpoenas shall be served by the police department or any person authorized by rules of procedure;

(3) Subpoena records, surveys, plats and other documentary evidence, which subpoenas shall be served by the police department or any person authorized by rules of procedure;

(4) Take testimony under oath;

(5) Issue orders having the force and effect of law declaring that any place or premises constitutes a public nuisance, prohibiting any such nuisance, and commanding necessary steps to abate any such nuisance;

(6) Establish and levy fines pursuant to section 2-92; and

(7) Provide for continuing jurisdiction for a period of up to one year over any place or premises that has been or is declared to be a public nuisance.

Sec. 2-84. - Administrative fines; liens.

(a) If the nuisance abatement board declares a place or premises to be a public nuisance, it may impose a fine not to exceed \$250.00 per day for each and every day the public nuisance occurred or continues. In addition, the nuisance abatement board may impose a fine not to exceed \$500.00 per day for recurring public nuisances. The total fines imposed by the nuisance abatement board pursuant to this section shall not exceed \$15,000.00.

(b) In determining the amount of the fine, if any, the nuisance abatement board shall consider the following factors:

(1) The gravity of the public nuisance;

(2) The actions taken by the owner to correct or abate the public nuisance;

(3) Any previous public nuisances created, committed or permitted by the owner.

(c) The nuisance abatement board may reduce a fine imposed pursuant to this section.

(d) If the nuisance abatement board declares a place or premises to be a public nuisance, it may charge the owner with the reasonable costs, including reasonable attorneys' fees, associated with the investigation of and the hearing on the public nuisance, along with any fine imposed pursuant to this section.

(e) A certified copy of any order imposing a fine, providing for the payment of reasonable costs, or both, may be recorded in the public records of Orange County, Florida, and thereafter shall constitute a lien against the real property that is the subject of the order. A fine imposed pursuant to this section shall continue to accrue each day until the owner comes into compliance with the order or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first. A lien arising from a fine or order imposing costs, or both, entered pursuant to this section runs in favor of the city and the city may execute a satisfaction or release of lien entered pursuant to this section. The nuisance abatement board or the city commission may authorize the city attorney to foreclose on any lien created pursuant to this section. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under Florida Constitution Art. X, § 4. The city shall be entitled to collect and recover all costs, including reasonable attorneys' fees, associated with the recording of orders and foreclosure on a lien.

(f) In any nuisance abatement action, based on a stolen property nuisance, against a property owner operating an establishment where multiple tenants, on one site, conduct their own retail business, the property owner shall not be subject to a lien against his property or the prohibition of operation provision if the property owner evicts the business declared to be a nuisance within 90 days after notification by registered mail to the property owner of a second stolen property conviction of the tenant.

Sec. 2-85. - Service of notices.

(a) All notices required by this division shall be provided to the owner of the place or premises by certified mail, return receipt requested; by hand delivery by the sheriff or other law enforcement officer, or other person designated by the city commission; or by leaving the notice at the owner's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice.

(b) In addition to providing notice as set forth in subsection (a), above, at the option of the nuisance abatement board, notice may also be served by publication, as follows:

(1) Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county. The newspaper shall meet such requirements as are prescribed under F.S. ch. 50 for legal and official advertisements.

(2) Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.

(c) In lieu of publication as described in subsection (b), above, such notice may be posted for at least ten days in at least two locations, one of which shall be the property upon which the public nuisance is alleged to exist and the other of which shall be at city hall in Winter Park, Florida. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

(d) Notice by publication may run concurrently with or may follow an attempt to provide notice by hand delivery or by mail as required under subsection (a), above.

(e) Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (a), above, together with proof of publication as provided in subsection (b), above, shall be sufficient to show that the notice requirements of this division have been met, without regard to whether or not the owner actually receives such notice.

Secs. 2-86—2-100. - Reserved.

DIVISION 5. - CODE ~~ENFORCEMENT~~ COMPLIANCE BOARD

Sec. 2-101. - Definitions.

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

Code inspector means any authorized agent or employee of the city whose duty it is to ensure compliance with the codes and ordinances of the city.

Repeat violation means a violation of a provision of a code or ordinance by a person who has been previously found through a code ~~enforcement~~ compliance board or any other quasi-judicial or judicial process, to have violated or who has admitted violating the same provisions within five years prior to the violation, notwithstanding the violations occur at different locations.

Violation of an itinerant or transient nature means a violation of a provision of a code or ordinance which occurs at one location and then moves to another location, or occurs temporarily or which is transitory or passes away with time.

Cross reference— Definitions and rules of construction generally, § 1-2.

State Law reference— Similar provisions, F.S. § 162.04.

Sec. 2-102. - Board created; composition; terms; removal; organization.

There is created a subsidiary board of the City of Winter Park known as the code ~~enforcement~~ compliance board, established pursuant to sections 2-47 and 2-52 of this Code. The provisions of divisions 1 and 2, sections 2-46 through 2-49 shall apply except as expressly required otherwise by a specific provision in this division 5.

State Law reference— Authority to create code ~~enforcement~~ compliance board, F.S. § 162.03(3); composition, removal and organization of board, F.S. § 162.05.

Sec. 2-103. - Jurisdiction.

(a) In its efforts to promote, protect and improve the health, safety and welfare of the citizens of the city, the code ~~enforcement~~ compliance board shall have the jurisdiction to hear and decide alleged violations of any codes and ordinances of the city.

(b) It is the legislative intent of the city commission to provide for the establishment of the code ~~enforcement~~ compliance board as an additional or supplemental means of obtaining compliance with such codes and ordinances. Nothing shall prohibit the city commission from enforcing its codes and ordinances by any other means.

(c) It is the further intent of the city commission that the code ~~enforcement~~ compliance board shall be established pursuant to the provisions of F.S. ch. 162 with authority to impose administrative fines and other noncriminal penalties to provide an equitable, expeditious, effective and inexpensive method of enforcing any codes and ordinances in force in the city where a pending or repeated violation continues to exist. The code compliance board shall have all of the powers and authority of a code enforcement board pursuant to F.S. ch. 162.

State Law reference— Code enforcement board to be supplemental procedure, F.S. § 162.13.

Sec. 2-104. - Enforcement procedures.

(a) It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes and ordinances. No member of the code ~~enforcement~~ compliance board shall have the power to initiate such enforcement proceedings.

(b) Except as provided in subsections (c) and (d) of this section, if a violation of the codes or ordinances is found, the code inspector shall first notify the violator and give him a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code inspector shall notify the code ~~enforcement~~ compliance board and request a hearing. The code ~~enforcement~~ compliance board, through its clerical staff, shall schedule a hearing, and written notice of such hearing shall be mailed or hand delivered to the violator as provided in this division. At the option of the code ~~enforcement~~ compliance board, notice may additionally be served by publication as provided in this division. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the code inspector, the case may be presented to the code ~~enforcement~~ compliance board even if the violation has been corrected prior to the board hearing, and the notice shall so state.

(c) If the code inspector has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety and welfare or if the violation is irreparable or irreversible in nature, the code inspector shall make a reasonable effort to notify the violator and may immediately notify the board and request a hearing.

(d) If a repeat violation is found, the code inspector shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation, shall notify the code ~~enforcement~~ compliance board and request a hearing. The code ~~enforcement~~ compliance board, through its clerical staff, shall schedule a hearing and shall provide notice as provided in this division. The case may be presented to the code ~~enforcement~~ compliance board even if the repeat violation has been corrected prior to the board hearing, and the notice shall so state. If the repeat violation has been corrected, the code ~~enforcement~~ compliance board retains the right to schedule a hearing to determine costs and impose the payment of reasonable enforcement fees upon the repeat violator. The repeat violator may choose to waive his or her rights to this hearing and pay said costs as determined by the code ~~enforcement~~ compliance board.

(e) If the owner of property which is subject to an enforcement proceeding before the code ~~enforcement~~ compliance board transfers ownership of such property between the time of service of the notice of hearing before the code ~~enforcement~~ compliance board and the time of the hearing, such owner shall:

- (1) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.
- (2) Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the transferor.
- (3) Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding.

(4) File a notice with the code enforcement official of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within five days after the date of the transfer.

A failure to make the disclosures described in subparagraphs (1), (2) and (3) before the transfer creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the proceeding shall not be dismissed, but the new owner shall be provided a reasonable period of time to correct the violation before the hearing is held.

State Law reference— Similar provisions, F.S. § 162.06.

Sec. 2-105. - Conduct of hearing.

(a) Upon request of the code inspector or at such other times as may be necessary, the chairperson of the code ~~enforcement~~ compliance board may call hearings of the board, and hearings may also be called by written notice signed by at least three members of the board. The board at any hearing may set a future hearing date.

(b) Upon scheduling a hearing, the board shall cause notice thereof to be furnished to the alleged violator as provided in this division. The notice of hearing shall contain the date, time and place of the hearing and shall state the nature of the violation and refer to the appropriate code or ordinance.

(c) At the hearing, the burden of proof shall be upon the code inspector to show, by a preponderance of the evidence, that a violation does exist.

(d) Assuming proper notice of the hearing has been provided to the alleged violator as provided in subsection (b) of this section, a hearing may proceed in the absence of the alleged violator.

(e) All testimony shall be under oath and shall be recorded. The board shall take testimony from the code inspector and alleged violator and from such other witnesses as may be called by the respective sides.

(f) Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern the proceedings.

(g) Irrelevant, immaterial or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonable, prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of the state.

(h) Any member of the board or an attorney appointed to represent the board may inquire of any witness before the board. The alleged violator or his attorney and the attorney or staff person representing the city shall be permitted to inquire of any witness before the board and shall be permitted to present brief opening and closing statements.

(i) If the city prevails in prosecuting a case before the code ~~enforcement~~ compliance board, the city shall be entitled to recover all costs incurred in prosecuting the case before the board, and such costs may be included in the lien authorized under subsection 2-108(e).

(j) At the conclusion of the hearing, the code ~~enforcement~~ compliance board shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with the powers granted by state law and by this division. The finding shall be by motion approved by a majority of those members present and voting; provided, however, that at least four members of the board must vote in order for the action to be official. The order shall be stated orally at the meeting and shall be reduced to writing and mailed or hand delivered to the alleged violator either at or within a reasonable time after the hearing. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed and, under the conditions specified in section 2-108(a), the cost of repairs may be included along with the fine if the order is not complied with by such date. A certified copy of such order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the code ~~enforcement~~ compliance board shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

State Law reference— Similar provisions, F.S. § 162.07.

Sec. 2-106. - Powers of board.

The code ~~enforcement~~ compliance board shall have the power to:

- (1) Adopt rules for the conduct of its hearings.
- (2) Subpoena alleged violators and witnesses to its hearings, which subpoenas shall be served by the police department.
- (3) Subpoena records, surveys, plats and other documentary evidence, which subpoenas shall be served by the police department.
- (4) Take testimony under oath.
- (5) Issue orders having the force and effect of law commanding whatever steps are necessary to bring a violation into compliance.
- (6) Establish and levy fines pursuant to section 2-108.

State Law reference— Similar provisions, F.S. § 162.08.

Sec. 2-107. - Administrative fines; costs of repair; liens.

(a) The code ~~enforcement~~ compliance board, upon notification by the code inspector that a previous order of the board has not been complied with by the set time or upon finding that a repeat violation has been committed, may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by the code ~~enforcement~~ compliance board for compliance or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code inspector. In addition, if the violation is a violation described in subsection 2-105(c), the code ~~enforcement~~ compliance board shall notify the city, which may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the city to make further repairs or to maintain the property and does not create any liability against the city for any damages to the property if such repairs were completed in good faith. If a finding of a violation or a repeat violation has been made as provided in this part, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, the code ~~enforcement~~ compliance board finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in subsection (b).

(b) A fine imposed pursuant to this section shall not exceed \$250.00 per day for a first violation and shall not exceed \$500.00 per day for a repeat violation, and, in addition, may include all costs of repairs pursuant to subsection (a). However, if the code ~~enforcement~~ compliance board finds the violation to be irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000.00 per violation.

(c) In determining the amount of the fine, if any, the code ~~enforcement~~ compliance board shall consider the following factors:

- (1) The gravity of the violation;
- (2) Any actions taken by the violator to correct the violation; and
- (3) Any previous violations committed by the violator.

(d) The code ~~enforcement~~ compliance board may reduce a fine imposed pursuant to this section.

(e) A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of the state, including execution and levy against the personal property of the violator, but such order shall not be deemed otherwise to be a court judgment except for enforcement purposes. A fine imposed pursuant to this section shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the city, and the city may execute a satisfaction or release of lien entered pursuant to this section. After three months from the filing of any such lien which remains unpaid, the code ~~enforcement~~ compliance board may authorize the city attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest. Actions for money judgments may be pursued only on fines levied after October 1, 2000. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under Fla.

Const. art. X, § 4. The money judgment provisions of this section shall not apply to real property or personal property which is covered under Fla. Const. art. X, § 4.

(f) No lien provided by this chapter shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action is commenced pursuant to F.S. § 162.09(3) in a court of competent jurisdiction. In an action to foreclose on a lien or for a money judgment, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that the party incurs in the action. The city shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

State Law reference— Similar provisions, F.S. §§ 162.09, 162.10.

Sec. 2-108. - Appeals.

(a) An aggrieved party, including the city commission, may appeal a final administrative order of the code ~~enforcement~~ compliance board to the circuit court. Any such appeal shall be filed within 30 days of the execution of the order to be appealed.

(b) The scope of review shall be limited to the record made before the code ~~enforcement~~ compliance board and shall not be a trial de novo.

(c) The city commission shall, by rule, establish reasonable charges for the preparation of the record to be paid by the appealing party.

State Law reference— Appeals, F.S. § 162.11.

Sec. 2-109. - Notices.

(a) All notices required by this division shall be provided to the alleged violator by:

(1) Certified mail, return receipt requested, provided if such notice is sent under this paragraph to the owner of the property in question at the address listed in the tax collector's office for tax notices, and at any other address provided to the city by such owner and is returned as unclaimed or refused, notice may be provided by posting as described in subparagraphs (b)(1) and (2) and by first-class mail directed to the addresses furnished to the local government with a properly executed proof of mailing or affidavit confirming the first-class mailing;

(2) Hand delivery by the sheriff or other law enforcement officer, code inspector or other person designated by the city commission;

(3) Leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice; or

(4) In the case of commercial premises, leaving the notice with the manager or other person in charge.

(b) In addition to providing notice as set forth in subsection (a) of this section, at the option of the code ~~enforcement~~ compliance board, notice may also be served by publication, as follows:

(1) Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county. The newspaper shall meet such requirements as are prescribed under F.S. ch. 50 for legal and official advertisements.

(2) Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.

(c) In lieu of publication as described in subsection (b), such notice may be posted at least ten days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be at city hall in Winter Park, Florida. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

(d) Notice by publication may run concurrently with or may follow an attempt to provide notice by hand delivery or by mail as required under subsection (a) of this section.

(e) Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (a) of this section, together with proof of publication as provided in subsection (b) of this section, shall be sufficient to show that the notice requirements of this division have been met, without regard to whether or not the alleged violator actually received such notice.

State Law reference— Similar provisions, F.S. § 162.12.

Secs. 2-110—2-120. - Reserved.

DIVISION 6. - RESERVED

Section 3. Amendment/Adoption. Chapter 22, Article II, “Building Code,” Section 22-28, Subsection 113 of the Code of Ordinances of the City of Winter Park, is hereby amended to read as follows: (underlined language are additions; ~~stricken through~~ language are deletions; language not included is not being amended):

Sec. 22-28. Amendments to the Florida Building Code.

113 Construction board of adjustments and appeals.

113.1 Membership. There is hereby established a board to be called the construction board of adjustments and appeals, which shall consist of 7 members and one alternate member. The alternate member of this board shall also be licensed and employed or practicing in one of the trades regulated by this board. The board shall ~~be comprised~~ include a practicing architect, a structural engineer, two licensed construction contractors, a master electrician, a master plumber or, a mechanical contractor or mechanical engineer. By state statute, this board is required to have at least one fire protection contractor, a fire protection design professional, a fire department operations professional, or a fire code enforcement professional. of 2 licensed contractors (building, residential or general), one practicing architect, one structural engineer, one master

~~electrician, one master plumber and one mechanical contractor or mechanical engineer.~~ The board shall be appointed by the mayor and confirmed by the city commission.

113.2 Terms of office. Members shall be appointed for terms of 3 years. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made.

113.3 Quorum. Four members of the board shall constitute a quorum, in the case of a matter or case concerning an electrical, plumbing, ~~or mechanical~~, or fire code matter before the board, the respective appointee knowledgeable of that field shall be present in order to make a decision. In hearing appeals of the enforcement of the application of any provisions of the building codes including electrical, plumbing, fuel gas or mechanical volumes of the Florida Building Code or the Florida Fire Prevention Code in modifying an order of the building official or fire official, affirmative votes of the majority present, but not less than 3 affirmative votes, shall be required. A board member shall not act in a case in which he has a personal interest.

113.4 Secretary of board. The building official or designee of the building official shall act as staff liaison of the construction board of adjustments and appeals and shall make a detailed record of all its proceedings, which shall set forth the reasons for its decisions, the vote of each member, the absence of a member, and any failure of a member to vote.

113.5 Authority. The construction board of adjustments and appeals shall have the power to hear appeals of decisions and interpretations of the building official of ~~this code~~ the Florida Building Code as modified by the city, decisions and interpretations of the Fire Code Official (Fire Marshal) of the Florida Fire Prevention Code, and shall also have the authority to suspend or revoke the certificate of competency or state certification (within the city) of any residential, building, general, roofing, swimming pool, electrical, plumbing, mechanical or other specialty contractor doing work in the city who is found by the board to be guilty of one or more of the following acts or omissions:

- (1) Fraud or deceit in obtaining a certificate of competency.
- (2) Negligence, incompetence or misconduct in the practice of contracting within the meaning of this chapter.
- (3) Willful and deliberate disregard of or violation of this chapter or of any state statute concerning contractor licensing.

113.6 Decision of the building official. The owner of a building, structure or service system, or his duly authorized agent, may appeal a decision of the building official to the construction board of adjustment and appeals whenever any one of the following conditions are claimed to exist:

1. The building official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.
2. The provisions of this code do not apply to this specific case.
3. That an equally good or more desirable form of installation can be employed in any specific case.

4. The true intent and meaning of this code or any of the regulations thereunder have been misconstrued or incorrectly interpreted.

113.7 Procedures. The board shall establish rules and regulations for its own procedure not inconsistent with the provisions of this code. The board shall meet expeditiously after notice of appeal has been received within 21 days but no more than 30 days.

113.8 Notice of appeal. Notice of appeal shall be in writing and filed within 30 calendar days after the decision is rendered by the building official. Appeals shall be in a form acceptable to the building official.

113.9 Unsafe or dangerous buildings or service systems. In the case of a building, structure or service system which, in the opinion of the building official, is unsafe, unsanitary or dangerous, the building official may, in his order, limit the time for such appeals to a shorter period.

113.10 Decisions. The construction board of adjustment and appeals shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the board shall also include the reasons for the decision. If a decision of the board reverses or modifies a refusal, order, or disallowance of the building official or varies the application of any provision of this code, the building official shall immediately take action in accordance with such decision. Every decision shall be promptly filed in writing in the office of the building official and shall be open to public inspection. A copy of the decision shall be sent by mail or hand delivery to the appellant, and a copy shall be kept publicly in the office of the building official. Every decision of the board shall be final, subject however to such remedy as any aggrieved party might have at law or in equity. Appeals from the decision of the construction board of adjustments and appeals relating to provisions of the Florida Building Code, other than local amendments, may be appealed to the Florida Building Commission, pursuant to section 120.569 Florida Statutes, regarding the local government's action.

Section 4. Continuation of Boards. The City Commission hereby approves the continuation of each of the City boards referenced in Article III of Chapter 2, City Code of Ordinances as modified by this Ordinance. The ethics advisory board shall sunset, and thus has been eliminated by this Ordinance. This section shall constitute the City Commission's majority vote in accordance with Section 2-48(o), City of Winter Park Code of Ordinances.

Section 5. Prior Acts. No change of name of any city board or the consolidation of powers and duties amongst boards pursuant to this Ordinance shall impact or void previous actions, votes and orders of any city board. The board with jurisdiction over a matter pursuant to this Ordinance shall have the authority to act upon any previous matter handled by a city board that has been impacted by this Ordinance, including as the result of a name change, consolidation of power, or the elimination of a board.

Section 6. Ex officio duties. When a City board or individual members thereof are charged with authority or duty to serve as or on other boards pursuant to this Ordinance and the Code of Ordinances, it is the intent that those duties be considered *ex officio* duties of each of the members of those respective boards, and they shall not be treated as dual office holding.

Section 7. Codification. Sections 2 and 3 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 8. 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 9. Conflicts. All ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Section 10. Effective Date Of Ordinance. This Ordinance shall become effective immediately upon adoption of the City Commission of the City of Winter Park, Florida.

Adopted by the City Commission of the City of Winter Park, Florida in a regular meeting assembled on the ____ day of _____, 2016.

Mayor Steve Leary

ATTEST:

Cynthia S. Bonham, City Clerk



city commission public hearing

item type	Public Hearing	meeting date	April 25, 2016
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 & Zoning Board	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A	7-0 final vote

Subject: Comprehensive Plan Policy Changes to Address “Fast Food Businesses” on West Fairbanks Avenue.

The Planning and Zoning Board has made a recommendation to amend the Comprehensive Plan and Zoning Code to address policies that prohibit not only “fast food” restaurant businesses but also “fast casual” restaurant businesses along the West Fairbanks Avenue corridor.

Summary:

The City Commission adopted the Comprehensive Plan policy (below) in 2009 in recognition that the City would invest \$20+ million dollars toward infrastructure improvements along the West Fairbanks Avenue corridor to guide the future redevelopment by excluding certain business types that would not be conducive to upgrading this gateway corridor. Most of these are clearly understood, however, the policy and code question as to the intent of discouraging “fast food businesses” was not specifically defined in 2009.

Planning Area L: West Fairbanks Avenue

Policy 1-4.1.L.4: Support West Fairbanks Gateway Enhancements and Prohibit Certain Uses to Reinforce the Gateway Design and Land Use Principles. In order to establish the character of this corridor as a gateway entrance to Winter Park, the City shall prohibit certain business types along the frontage of the corridor including new or used car sales, auto repair businesses, resale stores or pawn shops, tattoo businesses, adult oriented businesses, fast food businesses and convenience stores.

However, in 2013, in response to issues about the types of restaurants permitted along Park Avenue, the City adopted, for the first time, a definition of a “fast food restaurant” as outlined below.

Fast food restaurant means any restaurant whose normal business model includes two or more of the following criteria or characteristics:

- (1) A predominance of locations offer drive-through service;
- (2) The menu consists of predominantly fast food or take-out food typically: consumed on site, or off the site as to-go food; pre-made and wrapped before customers place orders; served with disposable tableware or typically served in paper or plastic containers;
- (3) Food is typically ordered from a wall menu at a service counter;
- (4) Food consumed on the premises is typically ordered while customers are standing;
- (5) Payment must typically be made by customers before food is consumed;

- (6) Customers typically bus their own tables;*
- (7) The service counter is closer to an entry/exit than is the seating/dining area; or*
- (8) The business interior is brightly illuminated (greater than eight candle-foot power as measured in a horizontal plane three feet above the floor).*

While this definition has worked very well within the pedestrian oriented streets of Park Avenue and New England Avenue, on properties zoned C-2, to regulate restaurant types, this definition of "fast food restaurant" is not suitable when applied to the Comprehensive Plan Policy for the West Fairbanks Avenue corridor. This terminology would apply not just to the typical "fast food" establishments such as a McDonald's or Burger King but also to every "fast casual" restaurant where one orders from a counter. For example, "fast casual" restaurants such as a Boston Market, Italio, Chipotle, or The Coop, would not be allowed on West Fairbanks Avenue. Also coffee/breakfast restaurants such as a Starbucks, Panera, Einstein's Bagels, or Dunkin' Donuts would also not be allowed on West Fairbanks Avenue. All of these establishments have at least two or more of the criteria outlined in the "fast food restaurant" definition above, and thus would conflict with the Comprehensive Plan policy. Thus, the effect is to prohibit any restaurant from locating along the West Fairbanks corridor except for a sit down table service establishment.

Options for a Comprehensive Plan Policy Text Change and Revised Definition for the C-3 Zoning Districts:

The Planning and Zoning Board has discussed the following options for modifying the existing regulatory provisions:

Option #1: Amend the Comprehensive Plan to remove the policy text regarding "fast food business". In that case, the City would rely upon the same Conditional Use process and protections for nearby residential properties as exists for the rest of the City. The positive side is that it treats "fast food businesses" the same along West Fairbanks Avenue as for the other commercial corridors of the City. The counterpoint which has been heard is that the nearby residents are concerned that the City will not effectively provide safeguards from noise, off-site parking and traffic impacts.

Option #2: Amend the Comprehensive Plan to provide a definition of a "fast food business" to prohibit anything with a drive-in window for the entire range from Burger King to Panera and Starbucks but to allow "fast casual" restaurants everywhere without drive-ins.

Option #3: Amend the Comprehensive Plan policy to that allows "fast casual" restaurants everywhere without drive-ins; allows "fast food businesses" with drive-ins on the south side of Fairbanks Avenue, subject to Conditional Use approval but prohibits all drive-ins on the north side of Fairbanks Avenue due to residential proximity.

Planning Board Recommendation:

This topic was discussed at the January 5th Planning Board meeting, at a February 17th work session and at the April 5th Planning Board meeting. At the February 17th work session and the April 5th public hearing, the consensus of the Planning Board was to modify the Comprehensive Plan and Zoning Code regulation so that the West Fairbanks corridor from Orlando Avenue to Interstate Four was treated the same as all the other commercial corridors of the City such as East Fairbanks Avenue, Orlando Avenue, Orange Avenue and Aloma Avenue, in that fast food or

drive-in businesses could apply for conditional use approval for a future location. The City then determines if the business is compatible with the surrounding area, if the site and building plans are adequate to provide for such a business and meet applicable codes and that the nearby property owners are effectively safeguarded from noise, off-site parking and traffic impacts.

Given the smaller parcel sizes on the north side of West Fairbanks Avenue, it is envisioned that such approvals could potentially be for stand-alone businesses. However, on the south side of the West Fairbanks corridor, with much larger parcel sizes, such fast food or drive-in businesses would have to be co-located in developments with other tenant space, at least equal in size to the proposed restaurant space. The Planning and Zoning Board desired to add that requirement for properties on the south side of Fairbanks Avenue.

Planning Staff Analysis and Recommendation:

To the planning staff, this is a situation where the current regulations must be modified as it was never the intent of the City to prohibit “fast casual” restaurants from developing along the West Fairbanks corridor. Treating fast food or drive-in businesses the same as is done throughout the City makes sense. There are other existing situations in the City where drive-ins exist compatibly with adjacent or nearby residential such as the McDonald’s and Panera Bread on Aloma Avenue and the Krispy Kreme and Steak ‘n Shake on Orlando Avenue.

Exhibit "A"
Fast Casual and Drive-Through Restaurants in the City of Winter Park

Fast Casual Restaurants

Fairbanks Avenue

4Rivers
B&B Junction
Pita Pit

Orlando Avenue

Italio
Zona Fresca
Shake Shack
Black Bean Deli
Lime Fresh Mexican Grill
Moe's Southwest Grill
Chipotle
Crispers
Jersey Mike's Subs
Einstein Bros. Bagels
Subway
Café Noir
Boston Market

Orange Avenue

Edens Fresh Co
Jimmy John's

Lee Road

Bubbalous BBQ

Aloma Avenue

Jimmy Hula's
Toasted
Tijuana Flats
Panera Bread

Morse Boulevard

The Coop

Park Avenue

BurgerFi
Panera Bread
Barnie's Coffee Kitchen
Starbucks
Tropical Smoothie Café

Drive-Through Restaurants

Coffee/Breakfast/Lunch

Starbucks
Dunkin Donuts
Krispy Kreme

Breakfast/Lunch/Dinner

McDonalds
Burger King
Taco Bell
Popeye's
Chick-Fil-A
Steak 'n Shake
Panera Bread

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO ADD AMEND POLICIES IN THE TEXT OF THE FUTURE LAND USE ELEMENT WITHIN THE HIGHWAY 17-92 AND WEST FAIRBANKS CORRIDOR STUDY AREAS "J" AND "L" SO AS TO REVISE POLICIES CONCERNING FAST FOOD AND DRIVE-THROUGH BUSINESSES, 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 City Commission desires to amend the Comprehensive Plan, Future Land Use Element, within the Highway 17-92 and West Fairbanks Corridor Planning Areas "J" and "L" in order to provide policy guidance on the location of fast food and other restaurant businesses, and

WHEREAS, 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, and

WHEREAS, the Winter Park Planning and Zoning Board, 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 April 5, 2016, 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 at which the City Commission has 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; and

WHEREAS, words with double underline shall constitute additions to the original text and strike through text shall constitute deletions to the original text.

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", is hereby amended by adding a new Future Land Use Policy 1-4.1.J.16 within the Highway 17-92 Planning Area "J" on Page 1-64 of the Goals, Objectives and Policies to read as follows:

Policy 1-4.1.J.16: Support West Fairbanks Gateway Enhancements and Prohibit Certain Uses to Reinforce the Gateway Design and Land Use Principles. In order to establish the character of the West Fairbanks corridor as a gateway entrance to Winter Park, the City shall along the West Fairbanks corridor from Orlando Avenue to Interstate 4, prohibit certain business types along the frontage of the corridor including new or used

car sales, auto repair businesses, resale stores or pawn shops, tattoo businesses, adult oriented businesses, and convenience stores. Fast food and other drive-in businesses may be permitted along the north side of the corridor via conditional use approvals if such businesses are deemed not to negatively impact nearby residential properties with traffic, over-flow parking or noise nuisances. Fast food and other drive-in businesses may be permitted via conditional use approvals along the south side of the corridor provided that they are co-located within buildings which have other businesses in the same building in at least equal proportion to the floor area of the drive-in restaurant business.

SECTION 2. That Chapter 58 "Land Development Code", Article I, "Comprehensive Plan", is hereby amended by adding a new Future Land Use Policy 1-4.1.L.4 within the West Fairbanks Corridor Planning Area "L" on Page 1-68 of the Goals, Objectives and Policies to read as follows:

Policy 1-4.1.L.4: Support West Fairbanks Gateway Enhancements and Prohibit Certain Uses to Reinforce the Gateway Design and Land Use Principles. In order to establish the character of the West Fairbanks corridor as a gateway entrance to Winter Park, the City shall along the West Fairbanks corridor from Orlando Avenue to Interstate 4, prohibit certain business types along the frontage of the corridor including new or used car sales, auto repair businesses, resale stores or pawn shops, tattoo businesses, adult oriented businesses, ~~fast food businesses~~ and convenience stores. Fast food and other drive-in businesses may be permitted via conditional use approval along the north side of the corridor if such businesses are deemed not to negatively impact nearby residential properties with traffic, over-flow parking or noise nuisances. Fast food and other drive-in businesses may be permitted along the south side of the corridor via conditional use approvals provided that they are co-located within buildings which have other businesses in the same building in at least equal proportion to the floor area of the drive-in restaurant business.

SECTION 2. Codification. 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 3. Severability. If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

SECTION 4. Conflicts. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 5. Effective Date of Ordinance. The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the state land planning agency or the Administrative Commission enters a final order determining the adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by

the Administrative Commission, this amendment may nevertheless be made effective by the adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the state land planning agency.

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 _____, 2016.

Mayor Steve Leary

Attest:

City Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" SO AS TO CHANGE WITHIN SECTION 58-76 COMMERCIAL (C-3) DISTRICT, THE CONDITIONAL USES FOR FAST FOOD AND DRIVE-THROUGH BUSINESSES ALONG THE WEST FAIRBANKS CORRIDOR, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, AN SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Commission has amended the Comprehensive Plan to provide for policy direction on the location of fast food and other drive-thru restaurant businesses along the West Fairbanks corridor; and

WHEREAS, this Land Development Code amendment is needed to implement the policy amendment within the Comprehensive Plan so that the two Codes are consistent and not in conflict; and

WHEREAS, the zoning text amendment is consistent with the Comprehensive Plan, the requested zoning text changes will achieve conformance with the Comprehensive Plan, 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 City Staff recommends this Ordinance, and the Planning and Zoning Board of the City of Winter Park has recommended approval of this Ordinance at their April 5, 2016 meeting; and

WHEREAS, the City Commission of the City of Winter Park held a duly noticed public hearing 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; and

WHEREAS, words with double underlined type shall constitute additions to the original text and strike through shall constitute deletions to the original text.

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", Section 58-76 "Commercial (C-3) district", subsection (c) (i) is hereby amended to read as follows:

Sec. 58-76. Commercial (C-3) District.

(c) *Conditional uses.*

(i) Drive-in components of any business. But for drive-in food or beverage service on the south side of the West Fairbanks corridor, from Orlando Avenue to Interstate Four, such drive-in restaurant must be a part of and incorporated into a larger building with other business uses of at least the same square footage as that of the drive-in restaurant business.

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 _____ 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 _____, 2016.

Mayor Steve Leary

Attest:

City Clerk

REQUEST OF THE CITY OF WINTER PARK FOR: AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO ADD AMEND POLICIES IN THE TEXT OF THE FUTURE LAND USE ELEMENT WITHIN THE HIGHWAY 17-92 AND WEST FAIRBANKS CORRIDOR STUDY AREAS "J" AND "L" SO AS TO REVISE POLICIES CONCERNING FAST FOOD AND DRIVE-IN BUSINESSES.

REQUEST OF THE CITY OF WINTER PARK FOR: AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" SO AS TO CHANGE WITHIN SECTION 58-76 COMMERCIAL (C-3) DISTRICT, THE CONDITIONAL USES FOR FAST FOOD AND DRIVE-THROUGH BUSINESSES ALONG THE WEST FAIRBANKS CORRIDOR, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

Planning Manager Jeffrey Briggs presented the staff report and provided an extensive summary of the discussions from both the January 5th P&Z meeting and the February 17th work session and the history of Fairbanks Avenue with regard to zoning and infrastructure improvements. He explained that in 2009 a Comprehensive Plan policy was adopted to guide the future redevelopment along Fairbanks by excluding certain business types that would not be conducive to upgrading this gateway corridor. Most of these are clearly understood, however, the policy and code question as to the intent of discouraging "fast food businesses" was not specifically defined.

However, in 2013, in response to issues about the types of restaurants permitted along Park Avenue, the City adopted, for the first time, a definition of a "fast food restaurant" as outlined below. This terminology would apply not just to the typical "fast food" establishments such as a McDonald's or Burger King but also to every "fast casual" restaurant where one orders from counter. For example, "fast casual" restaurants such as a Boston Market, Italo, Chipotle, or The Coop, would not be allowed on West Fairbanks Avenue. Also coffee/breakfast restaurants such as a Starbucks, Panera, Einstein's, or Dunkin Donuts would also not be allowed on West Fairbanks Avenue. All of these establishments have at least two or more of the criteria outlined in the "fast food restaurant" definition and thus would conflict with the Comprehensive Plan policy. Thus, the effect is to prohibit any restaurant from locating along the West Fairbanks corridor except for a sit down table service establishment

Mr. Briggs discussed the options for a Comprehensive Plan Policy Text Change and Revised Definition for the C-3 Zoning Districts. He explained that the Planning Board has discussed options for modifying the existing regulatory provisions. At the February 17th work session the consensus of the Planning Board was to advertise for public hearing to modify the Comprehensive Plan and Zoning Code regulation so that the West Fairbanks corridor from Orlando Avenue to Interstate Four was treated the same as all the other commercial corridors of the City such as East Fairbanks Avenue, Orlando Avenue, Orange Avenue and Aloma Avenue, in that fast food or drive-thru businesses could apply for conditional use approval for a future location. The City then determines if the business is compatible with the surrounding area, if the site and building plans are adequate to provide for such a business and meet applicable codes and that the nearby property owners are effectively safeguarded from noise, off-site parking and traffic impacts.

Given the smaller parcel sizes on the north side of West Fairbanks Avenue, it is envisioned that such approvals could potentially be for stand-alone businesses. However, on the south side of the West Fairbanks corridor, with much larger parcel sizes, such fast food or drive-thru businesses would have to be co-located in developments with other tenant space, at least equal in size to the proposed restaurant space.

This is a situation where the current regulations must be modified as it was never the intent to shut out fast casual restaurants from developing along the West Fairbanks corridor. Treating fast food or drive-thru businesses the same as is done through-out the City makes sense. There are other existing situations in the City where drive-thru's exist compatibly with adjacent or nearby residential such as the McDonald's and Panera Bread on Aloma and the Krispy Kreme and Steak 'n Shake. Staff recommended approval of both proposed changes. Mr. Briggs responded to Board member questions and concerns.

Doug McKnight, 338 Blue Heron Drive, spoke to the traffic coming into the existing neighborhood. He said that he feels that any drive-thru allowed on North Fairbanks between Blue Heron Drive and Orange Terrace will create more unwanted traffic in their neighborhood.

Debra Kirkland, 371 Blue Heron Drive, explained that she lives within 250 feet of the proposed location of Dunkin Donuts (370 Blue Heron Drive) and that she will be directly affected by any drive-thru that locates on North Fairbanks at Blue Heron Drive. She express concern with increased traffic, noise, and lighting that would be created with this type of use.

Ruby Hornborg, 366 Blue Heron Drive, explained that she works from home and expressed concern with the location of the drive-thru location for the proposed Dunkin Donuts. She expressed concern with noise, storm water run-off, traffic, location of the dumpsters, and ingress/egress to the location.

Valli Baungard, 1950 Staunton Avenue, agreed with the concerns raised regarding traffic. She feels that the quality of life will be altered drastically if approved. Wanted to see drive-thrus locate on the opposite of Fairbanks Avenue.

Jeff Beatty, owner of 370 Blue Heron Drive, responded to concerns raised about the property he owns.

Donna Bond, 358 Blue Heron Drive, addressed the Board with procedural questions about the next steps in the process. She agreed with the previous speakers regarding traffic.

Zachary Stovall, 1877 Karolina Avenue, thanked the City staff for the improvements that have been made to Fairbanks Avenue. He supported the proposal being offered by staff.

Mike Harrow and Kathy Bowman, 420 Ohio Street, spoke in support of the request.

Karen Murphy, 358 Starling Road, stated that she prefers to see the drive-thrus on the side opposite the residential neighborhood.

No one else wished to speak concerning this issue. Public Hearing closed.

Mr. Sacha thanked the audience members for their input. He reiterated that this is a policy change that will affect the entire West Fairbanks corridor as a whole and not just one isolated property. He noted that when an individual request comes back, residents will be notified and they will have another opportunity to address each request. He stressed that one of the important roles of P&Z is to protect and safeguard residential property from commercial impacts.

Mr. Slocum added that the change is not zoning based. He stated that he feels that the policy will put protections in place so that each submission will be evaluated on its own merits.

Mr. Johnston thanked the members of the audience for participating in the process. He said that he feels that the conditional use process will require each request to be evaluated on its own merit and that will allow the board to apply conditions that will protect the surrounding properties.

Mrs. De Ciccio agreed with the previous stated conditions.

Motion made by Tom Sacha, seconded by Randall Slocum to approve the ordinance amending Chapter 58 "Land Development Code" Article I, "Comprehensive Plan" so as to add amend policies in the text of the Future Land Use Element within the Highway 17-92 and West Fairbanks Corridor Study Areas "J" and "L" so as to revise policies concerning fast food and drive-through businesses. Motion carried unanimously with a 7-0 vote.

Motion made by Tom Sacha, seconded by Randall Slocum to approve the ordinance amending Chapter 58 "Land Development Code" Article III, "Zoning" so as to change within Section 58-76 Commercial (C-3) District, the Conditional Uses for fast food and drive-through businesses along the West Fairbanks corridor. Motion carried unanimously with a 7-0 vote.