

**REGULAR MEETING OF THE CITY COMMISSION**  
**January 24, 2011**

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

The invocation was given by Reverend John Williams, Ward Chapel AME, followed by the Pledge of Allegiance.

Members present:

Mayor Kenneth Bradley  
Commissioner Phil Anderson  
Commissioner Beth Dillaha  
Commissioner Tom McMacken  
Commissioner Carolyn Cooper

Also present:

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

Mayor Bradley provided his condolences to Mrs. Tom Ivey and family for the passing of Commissioner Tom Ivey and offered a moment of silence to honor him. Mayor Bradley provided comments as to Mr. Ivey's constant support of City staff throughout the years and for his dedicated service as City Commissioner from 1968-1972 and from 1983-1988.

**Approval of the agenda**

Mayor Bradley requested to table Item 5A since additional work needs to be done and that Item 11A is addressed following the Mayor's Report. **Motion made by Commissioner McMacken to approve the agenda with these changes; seconded by Commissioner Cooper. The motion carried unanimously with a 5-0 vote.**

**City Board Report and Update**

Code Enforcement Board Chairman Thomas Sacha provided a Powerpoint presentation to include their overall role, duties and responsibilities. He spoke about some of the challenges and recommendations they are facing right now. Mr. Sacha answered questions.

**Mayor's Report**

- a. Board appointment: Environmental Review Board

This item was tabled.

- b. Proclamation-General Election – March 8, 2011

**Motion made by Commissioner Anderson to accept the March 8, 2011 General Election Proclamation, seconded by Commissioner Dillaha. The motion carried unanimously with a 5-0 vote.**

- c. Proclamation-Tobacco Free Parks Month

Mayor Bradley proclaimed February 2011 as Tobacco Free Parks Month. He mentioned the health hazards and harmful effects with the exposure and use of tobacco products. Mayor

Bradley recognized our community partners, the Winter Park Health Foundation, the American Lung Association, the Orange County Tobacco Free Partnership and several other organizations for their outstanding achievements to help reduce the exposure of tobacco use in the community. He urged everyone to make the healthy choice by improving nutrition, increasing physical activity and eliminating tobacco use.

### **City Manager's Report**

City Manager Knight addressed the Fairbanks Avenue median issue. As a follow up to several concerns that were raised by the surrounding neighbors and business owners at the Town Hall meeting on January 13, a meeting was held last week with Mr. Epstein and approximately 8 property and business owners that are against the installation of the medians. City Manager Knight said the main reason they are against it is because of the restricted access when making a direct left turn into their properties. He explained that they have put in as many median cuts that FDOT will allow therefore they cannot redesign the medians to create more access for property owners. He explained that this project is 90% designed and is scheduled to start this summer and that the project is not dependent on the medians. He addressed the four basic options: to eliminate the medians, go forward as is, change to a decorative paver type median or replace the asphalt to a side lane with a plan to install medians at some future date which would cost more. He indicated that time is of the essence because they are in the final approval process with FDOT so if they are going to change something in the project they need to decide that fairly soon.

Commissioner Cooper spoke about wanting to meet with the Public Works Department to understand the details more clearly before making a decision and suggested to postpone this to a later date. There was a brief discussion regarding other potential options, the assessment component and the possibility of staging the project so that it does not impact the small businesses in this tough economic time.

There was a consensus not to postpone this item. Mayor Bradley directed City Manager Knight to continue working on improving the area. City Manager Knight indicated that most of the work is scheduled during evening hours when the businesses are closed to help reduce inconvenience.

Commissioner McMacken commended City Manager Knight, the Historic Board and staff for their hard work on obtaining state approval of the Historic District designation for downtown. He said it will now go forth to the national level for official nomination.

### **City Attorney's Report**

No items to report.

### **Non-Action Items**

#### a. Financial Report – December 2010

Finance Director Wes Hamil summarized the December 2010 Financial Report and answered questions. Mayor Bradley asked if they can receive an update on the electronic billing request. City Manager Knight acknowledged.

**Motion made by Commissioner Cooper to accept the financial report as presented; seconded by Commissioner McMacken. The motion carried unanimously with a 5-0 vote.**

### **Public Comments**

Robert Laughlin, 255 Osceola Court, requested that the Commission rescind the vote by the Historic Board on item COR-10-005. Planning Director Jeff Briggs explained that he needs to file an appeal with the Historic Preservation Board and then it would come to the Commission for public comment and action. Mr. Laughlin indicated that he has already submitted the appeals paperwork. This item was deferred to City Manager Knight and Mr. Briggs to review the information submitted by Mr. Laughlin for proper format and procedures and to notify him. Mr. Briggs clarified that an individual has 30 days from the date of the meeting to file an appeal and that he has approximately 20 days remaining to do so.

A recess was taken from 5:06 p.m. to 5:29 p.m.

### **Consent Agenda**

- a. Approve the minutes of 12/16/10 and 1/10/11.
- b. Approve the lease of the Bush Auditorium (Rollins College) for February 11, 2011 from 6:00- 9:00 p.m. to administer Civil Service Test for the Police Department at no cost to the City.
- c. Approve the following purchases and contracts:
  1. PR 146045 to Playmore West, Inc. and authorize the Mayor to sign Quotation 3990; \$43,641.40
  2. PR 146050 to Pierce Manufacturing, Inc. for Refurbishment of Fire Engine 64; \$252,836 – **PULLED FROM CONSENT AGENDA FOR DISCUSSION – SEE BELOW**
  3. Piggybacking the Palm Beach County contract # 10072 with Playmore West, Inc. for Playground Park Equipment, Parts and Installation and authorize the Mayor to execute the Piggyback Contract
  4. Piggybacking the City of Orlando contract # B108-2357 with Florida Irrigation Supply, Inc. for Irrigation and Sprinkler Supplies and authorize the Mayor to execute the Piggyback Contract; \$40,000
  5. Piggybacking the Orange County contract #Y10-173 with Siemens Water Technologies Corp. and authorize the Mayor to execute the Piggyback Contract; \$45,000
  6. Piggybacking the Orange County contract #Y8-172 with Aquatic Weed Control for Aquatic Restoration and Management Services and authorize the Mayor to execute the Piggyback Contract; \$20,000

**Motion made by Commissioner McMacken to approve Consent Agenda items 'a', 'b', 'c'1. and 'c'3.-6.; seconded by Commissioner Anderson and carried unanimously with a 5-0 vote.**

Consent Agenda Item 'c 2'. - PR 146050 to Pierce Manufacturing, Inc. for Refurbishment of Fire Engine 64; \$252,836

Commissioner McMacken asked how long the refurbishment prolongs the life of the vehicle. Fire Chief White explained that the unit they are refurbishing has a 20 year life span and they are performing it during the middle of that life span which gives them another 10 years of using the vehicle for front line status use.

**Motion made by Commissioner McMacken to approve Consent Agenda Item 'c 2.'; seconded by Commissioner Anderson and carried unanimously with a 5-0 vote.**

**Action Items Requiring Discussion:**

- a. Proposed public/private partnership for the re-construction of Fire Station 64 (Howell Branch Road)

Fire Chief White spoke about the opportunity of a proposed Public/Private Partnership with AeroClave Incorporated for the reconstruction of Fire Station 64 (Howell Branch Road). He explained that Fire Station 64 was deeded to the City in 2000 after being operated by Orange County Fire Rescue. The original structure was built in the 1950's by the Goldenrod-Dommerich Fire Protection District and operated as such until the County fire service consolidation in 1981. The structure houses one three-person Engine Company and is not currently ADA compliant, nor does it meet acceptable square footage demands for today's modern multi-discipline fire service. He indicated that the building was also not built to house personnel 24/7 as the first occupants were volunteer firefighters and that the building is currently on the City's Capital Improvement Plan for a scheduled renovation in the next five years.

Fire Chief White addressed the relationship that evolved in 2008 with AeroClave, a local Winter Park business that is involved with decontamination of large asset vehicles. He mentioned that they have been working with Dr. Brown at his facility using the decontamination process on their units which raises their level of confidence by helping to provide a safe environment and to stop infection and disease. He explained that they have been looking at ways to improve the current decontamination process and that is when they were approached by Dr. Brown about a new process they could use for the apparatus of their units.

Fire Chief White explained that they are seeking direction to further explore an opportunity to develop a Public/Private Partnership for the future re-construction of Fire Station 64. He said that Dr. Brown is interested in putting one of his facilities in one of the City's fire stations and creating a partnership. Fire Chief White said they have met with the City Attorney to look at the legal aspects along with the City Manager and the Fire Department officials and that it would be an excellent partnership and a great opportunity. He indicated that a positive motion would include direction to staff to further explore this opportunity and that it will not have any fiscal impact on the City and that no funds will be expended.

Dr. Ronald Brown, M.D., AeroClave Incorporated, stated that his business develops and operates large asset decontamination processes used for aircraft, vehicles and other larger items to help prevent the spread of disease. He explained what they have regarding room decontamination technologies and that they would like to have one of their units in a full size working Fire Department and that it is in their business plan to seek opportunities to develop

partnerships with private entities which have a need for regular use of these large decontamination assets. He indicated that they started working on conceptual drawings and that they have several investor-based colleagues that are interested in the project. He addressed options of how the project can be handled; they could build the station and lease it back to the City or the City can internally finance the station and sublet space for them to occupy. He said he does not see any risk to the City because they are willing to put the equipment up at no cost and if in the future they decide that the partnership is not working they would remove the equipment at no cost to the City. Fire Chief White, Dr. Brown and Medical Services Director Dr. Todd Husty answered questions.

**Motion made by Commissioner Anderson to enable the City Manager and Fire Chief White to continue discussions on a potential partnership, seconded by Commissioner Cooper. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

b. Amendment to High Performance contract regarding staff recommendation #2

Parks and Recreation Director John Holland explained that during the January 10 Commission meeting the Tennis Center Management contract was extended for a period of 12 months. Included in the contract extension was the Commission's directive that within 30 days or February 15, 2011 High Performance is to demonstrate that they are adhering to all aspects of the agreement in terms of a newsletter, courtesy passes, and club tournaments. They were also to include staff recommendation #3 "during public school breaks/vacation schedule, an exchange from 6 to 8 soft courts available to the public for a reduction in the available hard courts from 4 to 2 during prime time". Also, that High Performance Sports Management and the City review the fee structure to enable instructional fees to be charged consistent with the norms of the Central Florida area for municipal tennis clubs.

Mr. Holland explained that at the last Commission meeting there was a consensus to reconsider staff's recommendation #2 "reduce the required number of hard surface open play courts held during prime and non-prime times from 4 courts to 2 courts." Discussion ensued regarding the reduction of courts to allow for more tournament play. Commissioner Cooper asked if they move ahead tonight with that decision if they could provide a survey in 6 months, asking the members for feedback on this issue. Mr. Holland acknowledged.

**Motion made by Commissioner Anderson to approve staff recommendation #2 (reduce the required number of hard surface open play courts held during prime and non-prime times from 4 courts to 2 courts); seconded by Commissioner McMacken. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried with unanimously with a 5-0 vote.**

c. Educational Plan regarding animal ordinance

Communications Director Clarissa Howard explained that as part of the 2010-2011 budget process, \$40,000 was approved toward educating the public about the various aspects of the animal ordinance including the importance of proper disposal of pet waste. The Communications Department and the Parks & Recreation Department developed an educational plan and put together a detailed map of proposed pet station locations. She indicated that a presentation was made to the Keep Winter Park Beautiful Board on January 5

where they selected two possible slogans and approved the educational plan. Ms. Howard explained that staff is proposing to launch the campaign in March pending that the installation of dog waste stations are in place.

Commissioner Cooper expressed concerns with the budget and asked how much they are planning to spend on the different items. Ms. Howard said that most of the \$40,000 is not going towards the educational aspect because they are using the existing communications tools that are already budgeted. She said approximately \$5,000 will go towards a promotional item because they believe that in order to help people comply they need to provide them with the right tools to do that, such as doggie bags. She explained that the majority of the costs would be towards implementing the dog waste dispenser systems at approximately 25 locations. She said they are first applying the dispensers to the entryways into the parks and then will address other areas as needed and by the request of the public.

Parks and Recreation Director Holland said currently they have 3 dispensers on Park Avenue and there might be a need for several more there as well as on New England. He explained that the cost ranges from \$70 to \$600 for each dispenser and it depends on what size dispenser best accommodates the use/needs of the area that it is placed. Mr. Holland also explained that there will be an on-going cost for both maintenance and replacement bags. He said the initial investment is less than \$20,000 to get the program started.

Ms. Howard stated that staff is requesting approval on the following: the educational plan, the slogan, the flexibility to use the various proposed dog waste stations (four options) depending on the specific location and the proposed locations. Ms. Howard said the logo that is selected will be the image for the campaign slogan and it will also be shown on the pocket dispensers. She noted that the Keep Winter Park Beautiful logo will be on the educational materials and newsletters since they are the funding source.

**Motion made by Commissioner Dillaha to approve the educational plan; seconded by Commissioner McMacken.** Mayor Bradley asked how much dog waste will be cleaned up to validate the \$40,000 that is going to be spent. Commissioner Dillaha explained that \$40,000 is from the Keep Winter Park Beautiful budget to create an educational plan for a better informed community and healthier environment. It was clarified by Ms. Howard that the City does not currently have a litter campaign. Staff was directed to choose the slogan and logo.

**Motion amended by Commissioner Cooper to limit the expenditure to \$20,000 for capital investments in this program; seconded by Commissioner Anderson.**

Commissioner Dillaha reminded everyone that this was something they approved during the budget deliberations as a group. She suggested that they be as cost effective as possible but to also enable a good program for the City.

Michael Palumbo, 559 Oak Reserve Lane, suggested that they ask the merchants or local businesses if they would like to provide a donation and sponsor a waste station and in return they could have their logo advertised on it to help reduce the City's cost.

Steve Leary, 422 Rain Tree Court, said since it this is a considerable amount of money being spent he requested that they determine what the success criteria is going to be for this project. He also asked how they will determine if this is successful or not.

Sandy Womble, 940 Old England, believed this was a waste of money. She addressed comments made by Commissioner Dillaha that she heard from several people about dog waste being left on Park Avenue and made a public records request for the names of those persons who complained.

Pat Fishback, 180 Chelton Circle, stated there is no need for educational signage because everyone she knows uses dog waste bags, even individuals who never before used them.

Commissioner Anderson asked if the Keep Winter Park Beautiful Board evaluated this as being an issue. City Manager Knight said they were informed that the Commission allocated \$40,000 and that they were to create an educational program on how the funds will be used. Commissioner Dillaha said during the budget session they approved the funds and that Keep Winter Park Beautiful Board has been working with the Parks and Recreation Department and the Communications Department on creating and approving the educational program, the dispensers and dog waste stations.

**Upon a roll call vote on the amendment (to limit the expenditure to \$20,000 for capital investments in this program), Mayor Bradley voted no. Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried with a 4-1 vote.**

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

d. Howell Branch retention pond ownership and maintenance

Public Works Director Troy Attaway explained the opportunity to acquire ownership of the Howell Branch retention pond and the proposed improvement plan to make it an amenity to the City. He addressed the retention pond located on Howell Branch Road across from Via Tuscany which is owned and maintained by Orange County that was constructed in 1984 in conjunction with the widening of Howell Branch Road and currently being maintained to Orange County standards which includes chain link fencing, bahia grass and infrequent cleaning.

Mr. Attaway addressed this being a gateway to the City and is adjacent to a City park, which is why the City requested that the County transfer ownership to the City to help improve the appearance and make it a City asset by connecting it to the Howell Branch Preserve Park. Mr. Attaway said the proposed improvements are new decorative fencing, construction of a walk path around the pond which ties into the existing walk path in the park, more frequent cleaning, addition of native aquatic plants and pondscaping, and the addition of a stormwater control structure which will improve the treatment capacity and efficiency of the pond.

He explained that some of the improvements could be made in phases and constructed as funds allow and grants are received. Mr. Attaway provided the benefits for having ownership of this pond: will provide the City with the ability to expand the park, provide a water feature and stormwater education at the Howell Branch Park, provides access to the Howell Creek drainage channel which could be the site of a future canoe/kayak launch, and allows for the City to make improvements that will increase the effectiveness of removing pollutants from the pond.

Commissioner Anderson asked if there were any structural issues with the pond that need be dealt with. Mr. Attaway stated no, other than a good cleaning and that any structural issues in the future would be our responsibility. Commissioner McMacken asked for clarification regarding the agreement. Mr. Attaway explained the two parts of the agreement; the transfer of title and jurisdiction of the retention pond, and a County deed with reserved emergency access and drainage easement for emergency maintenance purposes. Mr. Attaway explained that this is not a budgeted item and there are some excess funds from other projects that they would use to make this project a reality.

Commissioner Cooper said when they talk about the additional parkland, it is her understanding that they do not include water bodies in the parks level of service calculation and asked for clarification. Mr. Holland said that it depends on the quantity and the location of the park. If it is a small water body such as they have in Lake Island or in Mead Gardens surrounded by a large park area, they are included. If it is like Lake Knowles where there is a large water body surrounded by a little bit of shore line it is not included. Commissioner Cooper asked if this particular piece of property would be included. Mr. Holland said this pond at this point being a retention pond does not have a recreational value other than some visual relief, so it would not. Mayor Bradley asked who determines that. He said it is a judgment call on each individual piece of park property, meaning they would determine that.

**Motion made by Commissioner Dillaha to approve the Interlocal Agreement and the Emergency Access and Drainage Easement; seconded by Commissioner McMacken.**

**Motion amended by Commissioner Cooper to take ownership but that they not move forward to expend funds until they have been included into the Capital Improvement Plan. Motion failed for lack of a second.**

Rick Frazee, 1921 Englewood Road, agreed that this is a good project and suggested that the \$40,000 from Keep Winter Park Beautiful for dog waste stations be spent on this project instead.

Peter Weldon, 700 Via Lombardy, asked if there is any liability in acquiring this property and suggested they research the item more thoroughly before making a decision.

**Motion amended by Commissioner Anderson that they approve this as a passive park at this time.** He explained his intent that they do not build a walkway or boardwalk and do not encourage the activity until they know what they have their arms around and then fold it into next year's budget; **seconded by Commissioner Cooper.**

Commissioner Dillaha addressed the staff report indicating the financial impact of \$8,000 per year to maintain it, and that any improvements would be part of the budget discussion for capital improvements and that she did not see the \$8,000 per year as being significant. Commissioner McMacken said it would be different if they were planning to have playgrounds installed, and does not see installing a concrete walkway around a retention pond as a huge leap of faith.

**Upon a roll call vote on the amendment (that they approve this as a passive park at this time), Mayor Bradley and Commissioner McMacken voted no. Commissioners Anderson, Dillaha and Cooper voted yes. The motion carried with a 3-2 vote.**



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

- e. Execution of agreements between the Florida Department of Energy and the City of Winter Park for funding through the Florida Clean Energy Grant and the Energy Efficiency Community Block Grant (EECBG) Grant

Public Works Director Troy Attaway explained the submittals for two grants through the Florida Energy Office; the EECBG and the Clean Energy Grant. He explained that this ties into a larger project they have been working on which has to do with an energy audit of all City buildings and is an assessment of what our needs are and what types of improvements can be done to be more energy and water efficient. He said they have been working with Trane Services on this project and that they helped the City submit for these grants and because the study process was started early they were able to submit their best data for the grants. He said they are asking for the approval and execution of the two grant agreements between the Florida Department of Energy and the City; one for \$360,207 from the EECBG and the other for \$325,000 from the Clean Energy Grant; totaling \$685,207 in grant funding.

He explained that funding for energy efficiency improvement projects became available due to the American Reinvestment and Recovery Act stimulus dollars. He said that they submitted a total of eight improvement projects and received funding for six and they are matching funds; most of the projects that they submitted are mainly for City Hall and library improvements since these buildings badly need upgrades and repairs. He explained that the grants have an agreement that goes along with them and they are just finalizing the big project for the City wide energy audit.

Mr. Attaway explained that this is a time sensitive issue and that the grant agreements need to be executed by the end of January or they risk losing the money. He said the City required match is proposed to be funded through the bigger performance based contracting program and that program basically says that they fund the capital cost of the improvements through this energy savings that they reap over the next several years of the program. He said it is a specified guaranteed program and the initial fiscal impact to the City would be minimal. Trane Services would initially incur all costs for labor, materials, and equipment for the completion of each project including costs above the grant funding amount. The City's match requirement would be met by reimbursing Trane the annual energy savings until paid. Estimated cost savings as a result of these energy improvements is \$175,324 annually. The reimbursement period to Trane would be approximately seven years. After that, the cost savings would be enjoyed by the City. He explained that if for some reason down the road the City changed their mind, there would be no penalty to cancel the agreements and in doing that they would lose the grant money and it would be given to another city on their list. A list of the projects is below:

<b>Activity</b>	<b>Grant Funds</b>	<b>City Matching Funds</b>
Lighting Control – occupancy sensors for City Hall and Public Safety Building	\$20,000	\$47,133
City Hall Chiller Replacement	\$215,000	\$300,000
City Hall Constant Air Volume System Upgrade	\$90,000	\$345,000
Library HVAC Retrofit	\$35,207	\$140,003
Energy Efficient Lighting Retrofits of 20 City-wide	\$150,000	\$218,901

buildings – T8 & LED Lamps		
Energy Management Control Systems, programmable T-stats Library, City Hall, Public Safety	\$140,000	\$192,241
Energy Awareness Seminars	\$35,000	\$5,000
<b>TOTAL</b>	<b>\$685,207</b>	<b>\$1,248,278</b>

Commissioner Anderson asked for a follow up report from City Manager Knight on evaluating the two financing alternatives that have been presented; the cost savings and either borrowing the money or using City funds. He indicated that he does not want that item to stand in the way of getting the grants executed. City Manager Knight acknowledged. Commissioner Dillaha asked for clarification regarding library improvements and if capital improvements are included in the annual funds that they provide to the library for operating support and if the City is responsible for capital improvements. City Manager Knight said the City is responsible for major capital improvements.

**Motion made by Commissioner Cooper to approve the two grant agreements; seconded by Commissioner Anderson. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried with unanimously with a 5-0 vote.**

- f. RFP 27-2010 - Ground lease terms for 50 year lease agreement for 941 West Morse Building (State Office Building)

CRA Director Dori DeBord provided an update on RFP 27-2010 for a ground lease term for the 50 year lease agreement for 941 West Morse Boulevard. She explained that after six months of negotiations, staff recommends not accepting the deal. She indicated that this deal provides the City with a valuation range that falls somewhere between \$3.1 million, based on some increase for CPI, up to \$3.5 million assuming a best-case scenario on a rent participation agreement. While the concept of rent participation was broached by the City staff to provide additional revenue, there is limited opportunity on the City's part to meet the stated NPV of \$3.5 million at the 5% discount rate based on the conditions of escalation and participation. Ms. DeBord explained that the terms are very subjective over the 50 year deal and the only way to make the \$3.5 million is if things align, but historically they have not been able to. She indicated that they have moved from a very low end deal to a more moderate deal but the deal is at best subjective and it does not offer any guarantees to the City at this time.

Dr. Owen Beitsch, principal of Real Estate Research Consultants explained that he has been working with the CRA Department for several months and has reviewed the development proposals submitted by Concord Eastridge Inc. He provided a brief analysis on his findings as listed in his memorandums dated July 19, 2010 and December 6, 2010. He answered questions related to the underlying value of the property, the highest and best use of the property and site, the lease rate and term, property value escalation and rental participation. He explained that there are many unknown factors, such as the lease rate between RFL and CEI and the cost of improvements and that both of those items play a significant role in determining the rate of return.

Commissioner Anderson said the City has many mediocre benefits coming out of this transaction but he is struggling because the valuation and financial rewards are modest at best. He feels they need to start the process over or abandon the current process and have a

discussion where they accomplish some of the other goals, such as a stronger retention of a targeted employer or to look at other uses for this site that maximize its financial value. He shared his opinion regarding the valuation of the site and the geometry of the building limiting the best and highest use of the site. Dr. Beitsch said it is very obvious that the site configuration is constrained by the geometry of the existing building.

Commissioner Dillaha spoke about the escalation clause and said that everything hinges on that and because no one knows what the economy or future holds, everyone has their own opinion as to what the escalation clause should be. Dr. Beitsch commented and said if CEI had multiple tenants they would then have a separate escalation rate. He said the terms have to fit the situation in any case. With one user being CEI, if RLF were occupying the entire building and were committed for the entire lease term (50 years) that might suggest a different rate of escalation than a building that needs to be divided up with individual tenants moving in and out at different points of time. He does not think the CPI that is on the table is grossly out of line, but the number that they have to speculate about is really the basic annual rent.

Commissioner Cooper indicated that they have 35 acres of vacant commercial property in large groupings that is currently available for development in the City. She expressed concerns if they choose to hold the asset then in 10 years when they are ready to do something with this building, they have now lost the bird in hand and would then be competing with 35 acres of commercial shovel ready property. She said she does not want to see them part with this asset. She said she believes this is a fair deal but questioned if now is the time to do something with the asset.

Jeffrey Arnold, Concord Eastridge, Inc. (CEI), spoke in detail about their proposed current offer. He also explained the numerous positive contributions and incentives they will be providing by renovating, leasing and occupying the existing building. Ronald Lowry with RLF Architects spoke on behalf of the company. He indicated their desire to stay in the Winter Park area where they have resided over the past 31 years and the need to find a suitable building that could house their entire staff. He responded to Mayor Bradley's question regarding the other buildings they have looked at in Winter Park and why they rejected them. Mr. Arnold answered questions of the Commission.

**Motion made by Commissioner Dillaha to approve the ground lease as presented in the terms of the agreement; seconded by Commissioner Cooper.**

Peter Weldon, 700 Via Lombardy, said this is a strategic piece of property and by tying it up for the next 50 years and not being able to sell it or swap it at a fair market value or use it ourselves is an unwise long term strategic decision for the City.

Jan Walker, 953 Lincoln Circle, urged the Commission not to go ahead with this 50 year lease. She feels the future is bright and they should not limit themselves to future opportunities that may present themselves.

Bruce Douglas, 1511 Harris Circle, urged the Commission to get the proper value for the property and the building.

Joe Terranova, 700 Melrose Avenue, urged the Commission not to approve this because the facts do not support this agreement and they should not lock into a deal for the next 50 years.

In summary, each Commissioner was given five minutes to share their thoughts, opinions and concerns with the current offer and the decision to be made. Commissioner Anderson stated that from a policy perspective or an emotional perspective he thinks this is a great idea. He said it is okay if they do not do something with this land for the next six years. At some price it is not worth doing anything with it and at this valuation it is not worth selling.

Commissioner Dillaha stated for the record that when they did this RFP they wanted the property to generate revenue so there was no discussion about City Hall or the library going on this property. Commissioner Dillaha said they have talked about wanting to lease this land and keep the property for 50 years and that is the key point. They wanted keep this 5 acres so that future generations of Winter Park residents would be able to put it to use for whatever their needs are at that time. She said this land is part of the gateway to the City and she thinks it can be an eclectic beautiful segway, something different than what we typically see in new construction and that it would add so much to that area of the City. She said that she is supportive of this and believes the City has a responsibility to put their assets to work. She also mentioned some of the benefits such as economic development, a Green building structure housing a large firm with corporate headquarters in the City and the possibility for more development along Denning Drive. She said they would also start generating revenue right away with upfront money. She thinks this is an exciting opportunity for the City and is supportive of it.

Commissioner Cooper stated we need to look at what our neighbors are willing to pay to bring a corporate headquarters of knowledge based jobs to their cities. Orlando would pay \$5,000 a job or \$600,000. We need to keep these jobs in Winter Park. She said this is a deal that economically the City should be incentivizing through this particular property. She said most importantly she wants to hold this property for future generations. She does not believe the City is in a situation where they must sell it and she strongly believes that if the Commission does not move to lease this property at some term that they can be comfortable with the property will no longer be an asset of Winter Park. She discussed the value of the development rights the City is holding back. She stated that this legislative body has the control over what amount of development is allowed on this property. At any point in time they need to increase the City's ability to develop this property or to incentivize the developer to redevelop this property, they have a planned development zone that allows three times the density on the property. She believed the City has control of their destiny. She said this is using an underutilized asset to generate an immediate revenue stream for reinvestment in the City's CRA and general fund. She did not believe that waiting ten years to make this decision is going to make this deal significantly better and for that reason she is supporting this.

Commissioner McMacken said this is an extremely important issue for the City. He stated that the most important asset they have in the City is our property and he thinks because it is public property they have a responsibility to hold the property to a higher standard. He indicated that 50 years is an incredibly long time to tie up the property and he feels that this is not the best investment that they can do for this piece of property at the moment since they are at the bottom of the market and that is not when they cut these deals. He indicated that they do not have to sell this property or lease it and he is willing to wait for the value to come up and would not support the motion before them.

Mayor Bradley said they have gone a great journey in trying to save this building but he is not sure they can save it at a tremendous cost to our citizens. Mayor Bradley stated for the record that there are now potentially other uses for this property if they do not lease it or sell it.

**Motion amended by Commissioner Cooper that should this proposal from CEI tonight not be accepted that this Commission resolve to designate the tree canopy from the sidewalk on Morse Boulevard to the end of the tree canopy as park land. Per the ruling of the Chairman, this amendment was out of order.**

**Upon a roll call vote on the motion to approve the ground lease as presented in the terms of the agreement, Mayor Bradley and Commissioners Anderson and McMacken voted no. Commissioners Dillaha and Cooper voted yes. The motion failed with a 3-2 vote.**

**Motion made by Commissioner Cooper that this Commission resolves to designate the land from Morse Boulevard to cover the tree canopy to park land which is approximately 33,000 sq. ft. It was noted that there is a legal description for that particular piece of property. Commissioner Cooper clarified that it would be rezoned and re-designated as park land and she would like them to treat it as a resolution. **Seconded by Commissioner Dillaha.****

Attorney Brown indicated that this is a completely new issue and if they want to pursue it that it should be treated as a new Action Item. Per the ruling of the Chairman, this motion was out of order and there was not a consensus to bring this forward.

A recess was taken from 8:34 p.m. to 8:50 p.m.

### **Public Hearings**

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

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

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

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

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

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

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

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

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

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

Per Commissioner Cooper's request, Attorney Brown clarified what the ordinance covers. City Manager Knight confirmed Commissioner Coopers' understanding that this ordinance does not cover the dollar value of the fee which is covered under the fee schedule which is updated twice a year.

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

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

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

- b. ORDINANCE NO. 2834-11 (Changed from 2834-10 due to adoption in the new year): AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING ORDINANCE NUMBER 2789-09 TO EXTEND THE DEADLINE ESTABLISHED IN SECTION TWO BY ONE YEAR. Second Reading

Attorney Brown read the ordinance by title. Planning Director Jeff Briggs explained that nothing has transpired with the City of Maitland regarding this matter. Mayor Bradley noted that there was a suggestion for an Interlocal Agreement and asked if it should be part of this. City Manager Knight said it will be addressed as a separate matter since it would be an agreement between both cities. Mr. Briggs stated that they intended to bring the Interlocal Agreement forward at the next Commission meeting.

**Motion made by Commissioner Anderson to adopt the ordinance; seconded by Mayor Bradley. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Cooper and McMacken voted yes. Commissioner Dillaha voted no. The motion carried with a 4-1 vote.**

- c. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AND ABANDONING THE UTILITY EASEMENT LOCATED AT 1211 COLLEGE POINT, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING AN EFFECTIVE DATE. First Reading

Attorney Brown read the ordinance by title. City Manager Knight stated that they have met with the property owners regarding the various options that the City is proposing. Public Works Director Troy Attaway explained that the 7.5 foot utility easement is for the purpose of installing and maintaining underground utilities. He said there is an existing 5 foot wide pedestrian access easement that was granted in another document and by vacating this utility easement it does not affect the pedestrian access. He also clarified that there are no current utilities of any kind in place. Mr. Attaway also indicated that the property is zoned as parkland but the City does not own the park, nor do they have any interest in the access easement. Mayor Bradley asked who owns the property and if staff can research this item. City Manager Knight acknowledged.

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

Gene Randall, 1285 Richmond Road, said he supports the decision to move ahead. He said it not only preserves access to the park but it also solves the problem that the homeowner has. He also mentioned that this is great news since the community has plans to bring utilities on the property as they have been waiting for the building that is currently under construction to be finished before they move forward with the plans.

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

- d. RESOLUTION NO. 2073-11: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, PURSUANT TO ITS HOME RULE AUTHORITY, DECLARING THAT TWO DOLLARS (\$2.00) OF EACH PAID CITATION PURSUANT TO THE MUNICIPAL TRAFFIC LIGHT SAFETY ACT ENACTED BY ORDINANCE IN ARTICLE VI, CHAPTER 98 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER PARK, SHALL BE DEDICATED AND USED FOR APPROPRIATE POLICE OFFICER TRAINING.

Attorney Brown read the resolution by title. **Motion made by Commissioner Cooper to adopt the resolution; seconded by Commissioner Anderson.** No public comments were made. Police Chief Railey confirmed that this is consistent with the current fee process with other citations. **Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

**Commissioner Reports:**

a. Commissioner Anderson

Commissioner Anderson indicated that their discussion this evening regarding the fees and the dog park and being open to the economic conditions is a great thing.

b. Commissioner Dillaha

Commissioner Dillaha requested the statistics of the ice rink success. Mayor Bradley noted that he also requested this information and that staff is finalizing the information for them.

Commissioner Dillaha asked if the Tennis Task Force is still in place if they could provide recommendations to increase community involvement or memberships of residents at the tennis center. Mayor Bradley requested that the Tennis Task Force or Parks and Recreation decide how many courts are available or not available. City Manager Knight acknowledged.

Commissioner Dillaha stated that one of the most important issues to her is the City's environmental assets and the tree canopy. She mentioned the program they implemented for the planting of new trees and believed they are not planting enough. City Manager Knight said they put the contractor on notice this past week since most of the trees they have planted did not meet the specifications. He said they have until February 18 to correct the issue or they will be cancelling the contract and will then handle it a different way. There was a consensus for staff to address this item and it was acknowledged.

c. Commissioner Cooper

Commissioner Cooper spoke about the Post Office property. She stated that she would be willing to commit her time and energy to research and pursue this item and asked the Commission for acceptance. There was a consensus for her to research this and bring a plan of action back to them. Mayor Bradley stated that he would like both Commissioner Cooper and City Manager Knight to fly to Atlanta to meet with the postal authorities in the region so that Commissioner Cooper can gain a better understanding.

d. Commissioner McMacken

Commissioner McMacken asked for an update on the potential Swingerhead concert. CRA Director Dori DeBord said the Park Avenue Chamber Group supported the concert so it is officially scheduled. She indicated that staff is coordinating with both Police and Fire for proper coverage for the event.



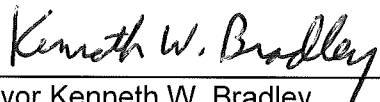
Commissioner McMacken mentioned the state office building and more specifically with regard to RLF's retention in the City. He asked if they are now allowed to contact RLF directly since they are no longer discussing the option through CEI. City Manager Knight said they are planning on contacting them in the morning.

e. Mayor Bradley

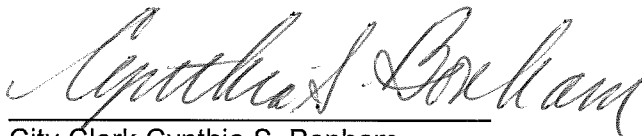
Mayor Bradley mentioned the Qualified Target Industry Tax Program (QTI) and asked if there was a consensus to bring this item back to discuss in terms of retention and businesses. Ms. DeBord stated that they gave staff the approval back in December and the item is scheduled for the February 14, 2011 meeting for follow up.

Mayor Bradley asked if there was a consensus to discuss the possible demolition of the state office building. There was a consensus to discuss the item during the February 28 meeting.

The meeting adjourned at 9:55 p.m.

  
\_\_\_\_\_  
Mayor Kenneth W. Bradley

ATTEST:

  
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City Clerk Cynthia S. Bonham