

**REGULAR MEETING OF THE CITY COMMISSION**  
**June 27, 2011**

The meeting of the Winter Park City Commission was called to order by Mayor Kenneth Bradley at 3:42 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida.

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

Members present:

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

Also present:

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

**Approval of the agenda**

**Motion made by Commissioner McMacken to approve the agenda; seconded by Commissioner Sprinkel.**

**Motion amended by Commissioner Leary to add Item 10.a), a Resolution for transparency and ethics in government; seconded by Mayor Bradley.**

Commissioner Cooper stated that normal protocol for new items to be added to the agenda are addressed under City Commission Reports so they can discuss the issue and see whether there is consensus to put the item on the next agenda. Commissioner Leary indicated that this is a time sensitive issue and he would like to add it to the agenda for discussion. Commissioner Cooper stated that not knowing what the item is can be rather difficult to comment on and she would prefer to have it included in the agenda packet for the next meeting.

Commissioner McMacken asked if the resolution would require public notice or if they can address it in tonight's meeting. Attorney Brown advised that if a Commissioner would like to add something to the agenda they would normally bring it up under Commission Reports and then see if there is a majority to agenda the item for the next meeting. However, since this is a Resolution legally they would not be prohibited to address the matter if there is an emergency circumstance that exists since a Resolution is really an expression of the Commission itself.

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

**Upon a vote on the agenda as presented; by acclamation of the City Commission the motion carried with a 4-1 vote with Commissioner Cooper voting no.**

## **Mayor's Report**

### **a. Proclamation-Parks and Recreation Month**

Mayor Bradley proclaimed the month of July 2011 as Parks and Recreation month in the City of Winter Park. He gave special recognition to Director of Parks and Recreation John Holland and the entire department for the work they perform.

Mayor Bradley invited everyone to Central Park and celebrate the 16th annual Old Fashioned July 4 celebration.

### **b. Presentation of Summer 2011 Webisode produced in partnership with Full Sail University's SPARK program**

Assistant Communications Director Craig O'Neil presented the Summer Webisode titled "The History of Winter Park" and thanked all of the members involved in making it a success.

### **c. Board appointments**

Mayor Bradley appointed the following board members:

#### **Board of Adjustment**

Ann Higbie (New appointment, 2011-2012)

#### **Ethics Board**

Thomas Bradley (New appointment, 2011-2012)

#### **Historic Preservation Board**

Genean McKinnon (New appointment, 2011-2014)

#### **Pedestrian and Bicycle Safety Board**

Elisabeth Holler (New appointment, 2011-2013)

#### **Tree Preservation Board**

Phil Eschbach (Re-appointed, 2011-2014)

Peter Weldon (New appointment, 2011-2013)

#### **Utilities Advisory Board**

Michael Smith (New appointment, Alternate, 2011-2014)

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

### **d. SunRail update**

Mayor Bradley commented that tomorrow, June 28, 2011 the FDOT Secretary for the State of Florida will be holding several hearings throughout the Central Florida area regarding the SunRail project. He encouraged the attendance of citizens who are interested and advised that the meeting information including the times and locations are posted on the City's website.

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

City Manager Knight followed up with the Commission's concerns with not providing hotdogs at the July 4 celebration and advised that staff has created a temporary solution. He noted that staff has secured several hotdog vendors that will be selling hotdogs for \$2.00 and hopefully this will be a viable solution so they can use this same approach for future events.

City Manager Knight advised that effective July 1 the electric rates will be reduced by approximately 8%.

City Manager Knight reminded the Commission that the budget presentation is scheduled for the next Commission meeting.

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

#### **a. Update on post office box issue**

Attorney Brown advised that City Manager Knight and Attorney Katie Reischmann met with the Postmaster on June 22, 2011 along with two attorney's from their office. He said the Postmaster requested a copy of all documentation that the City has regarding citizens who claimed they were forced to move their mailboxes from the house to street and that the City complied with his request. The Postmaster stated that he will get back to the City within the next 2 weeks once he evaluates the information that was provided to him and see what kind of remedy will be possible.

Mayor Bradley asked if this has been resolved. City Manager Knight advised that the Postmaster alleged that they have discontinued the practice of forcing people to move their mailboxes so he believes it is resolved going forward but whether the Postmaster will agree to allow those individuals who could not produce the documentation is unknown at this time. He said that they are waiting for a follow up response from the Postmaster and they will move on from there.

#### **b. Sydgan settlement agreement**

Attorney Brown provided background and noted that this is a proposed settlement agreement provided by the developer Sydgan. He stated that if the Commission would like to schedule an executive session to further discuss this they can do so.

Mayor Bradley asked if the Commission is being asked to make a decision this evening as it was unclear to him since the item was listed under his report. Attorney Brown stated 'yes' and clarified the process. He explained that if the Commission accepts the settlement agreement tonight as currently written, the City must then conduct a public hearing to approve any extension or modification of the conditional use permit and if they do not extend pursuant to the terms, the settlement agreement becomes null and void and they are back to renegotiating. He explained it is structured this way because they have to go through the quasi-judicial process.

**Motion made by Commissioner Sprinkel to accept the settlement agreement; seconded by Mayor Bradley.**

Commissioner McMacken asked for clarification and explained that the agreement before them negates 3 of the 5 conditions and substantially weakens a 4th condition so he does not see this as representing what the Commission discussed during their last shade meeting with Attorney Brown. Attorney Brown clarified that this is the developer's counter proposal to the City's proposal.

**Motion amended by Commissioner Cooper to have a shade meeting.** Mayor Bradley explained to Commissioner Cooper that she cannot call for a shade meeting; however, she can make a motion to table this item until after they have a shade meeting. **Motion withdrawn by Commissioner Cooper. Mayor Bradley withdrew his second on the current motion (to accept the settlement agreement.)**

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

Mayor Bradley clarified that the shade meeting will be scheduled by the Clerk's office so that a court reporter can be present.

#### **Non-Action Items**

##### **a. Financial Report – May 2011**

Finance Director Wes Hamil provided the May 2011 financial report and answered questions pertaining to the amortization schedule, the water, sewer and electric service funds and net revenues.

**Motion made by Mayor Bradley to accept the financial report and to ask City Manager Knight to work with staff to bring back at the next Commission meeting a deeper understanding of the financial position of the water/sewer fund; seconded by Commissioner McMacken and carried unanimously with a 5-0 vote.**

#### **Consent Agenda**

Commissioner McMacken noted that he was not present at the last meeting and asked what the process or procedure would be for the approval of the minutes since he was not present. Attorney Brown stated that per Chapter 286 he is required to vote unless there is or appears to be a prohibited conflict of interest.

- a. Approve the minutes of 6/13/11. – **PULLED FROM CONSENT AGENDA FOR DISCUSSION – SEE BELOW**
- b. Approve the following purchases and contracts:
  - 1. After-the-Fact Purchases Order 144784 to City of Orlando for payment of April 2011 sanitary sewer charges; \$185,146.62
  - 2. Blanket Purchase Order to the City of Altamonte Springs for wholesale sewer treatment; Total expenditure included in approved FY11 budget; \$125,000
  - 3. Blanket Purchase Order to the City of Orlando for sanitary sewer charges; total expenditure included in approved FY11 budget; \$1,165,000

4. Blanket Purchase Order to the City of Orlando for improvements at the Iron Bridge Regional Water Reclamation Facility; total expenditure included in approved FY11 budget; \$2,270,000
5. Temporary extension of IFB-1-2008, Underground Electrical Construction Services with Heart Utilities, Inc. through September 30, 2011 and authorize the Mayor to execute the agreement for temporary extension; total expenditure is included in approved FY11 budget; \$400,000
6. Temporary extension of RFP-9-2007, Tree Trimming of Electric Utility Lines with Burford's Tree Surgeons through September 30, 2011 and authorize the Mayor to execute the agreement for temporary extension; total expenditure is included in approved FY11 budget; \$135,000
7. Piggybacking the State of Florida contract 390-350-07-1 for Food Grade Ice for Emergency Operations and authorize the Mayor to execute the piggyback contracts
8. Piggybacking the State of Florida contract 390-910-07-1 for Potable Water for Emergency Operations and authorize the Mayor to execute the piggyback contracts
9. Piggybacking Orange County contract Y11-1014 for Motor Fuels and authorize the Mayor to execute the piggyback contracts
- c. Approve the Winter in the Park Holiday Ice Rink Contract with Magic Ice USA.
- d. Approve the budget adjustment to increase contributions to the police and fire pension plans.
- e. Approve the Police Department strategic plan as presented.
- f. Authorize City staff to continue Community Conversations electronically via a City blog format. – **PULLED FROM CONSENT AGENDA FOR DISCUSSION – SEE BELOW**

**Motion made by Commissioner Sprinkel to approve Consent Agenda Items 'b.1-9' and 'c', 'd' and 'e'; seconded by Commissioner Leary and carried unanimously with a 5-0 vote.**

Consent Agenda Item 'a' - Approve the minutes of 6/13/11.

Commissioner Cooper referenced page 3, Legislative Update. She requested that the City Clerk include more detail on the Legislation discussion relative to pensions and growth management. Commissioner Sprinkel requested that a more detailed summary report be provided by the Legislative personnel since the oral presentation given was incomplete. Commissioner Leary agreed and asked that this supplementary report on the Legislative update be provided but included as a separate item. He noted that he is happy with approving the minutes as presented so they can move this item forward.

**Motion made by Commissioner Cooper to approve Consent Agenda Item 'a' with the exception that they ask the City Clerk to expand upon the legislative update based on the audio from the last meeting; seconded by Commissioner McMacken for discussion.**

Commissioner McMacken agreed with Commissioner Leary's suggestion that they include the information as a separate item or as an appendix to the minutes. Mayor Bradley stated that he is comfortable with the minutes reflecting what transpired.

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

Mayor Bradley requested that the City Attorney provide a detailed report on each individual Legislative update(s) and to also provide an overall summary report so the City can be in compliance with the new law(s). Attorney Brown explained that he is currently sending out detailed information on each item once it has been adopted and also acknowledged the request for an overall summary report.

Consent Agenda Item 'f' - Authorize City staff to continue Community Conversations electronically via a City blog format.

Commissioner Cooper stated she understood that a summary report would be issued to the Commission regarding the Community Conversation meetings that took place last month so they could take action on it. She commented about the current concept to add a City blog so they could receive electronic input. She indicated that she would like for these two items to be segregated so that the information and opinions are clearly separated and more representative. She then shared her concerns with the use of a blog format and felt that it would not be representative of a huge demographic part of the population. She suggested that the City send out a survey using email addresses of Winter Park residents rather than using a blog so they could avoid the anonymous nature, the lack of control and accountability that comes with blogging.

Mayor Bradley stated that their intent is to receive additional information. He agreed with both ideas and said they should create a blog and send out a survey. Commissioner McMacken agreed.

**Motion made by Mayor Bradley to approve Consent Agenda Item 'f' and request that the blog be sent as staff has recommended as well as the key questions be sent out to the email list for distribution that citizens have recognized in our City; seconded by Commissioner Leary for discussion.**

Commissioner Sprinkel suggested that staff investigate the "survey monkey" program since it is an easy way for people to respond and is very inexpensive. **Mayor Bradley stated that the current motion would accommodate the suggestion of investigating the "survey monkey" program; Commissioner Leary agreed.**

Commissioner Leary stated that his generation is into blogging and he would hate for those comments or opinions to be watered down. He noted that from a study standpoint it is important to keep the two items segregated but in his opinion the blog comments have equal weight. He said that he would like to make sure that they do not diminish the importance of their value simply because the citizens could not participate in the community conversation meetings.

Communications Director Clarissa Howard asked for clarification on the current motion regarding email distribution lists. Mayor Bradley stated that he would like for staff to decide which email lists to use for this task. Ms. Howard then clarified for Commissioner Cooper that the Communications Department will be creating and maintaining the blog and survey information.

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

### **Public comments**

Bee Epley, 151 N. Orlando Avenue, spoke about the Community Conversation meetings that took place last month. She said it would be nice if all of the attendees could receive a copy of the final report from the facilitator Marilyn Crotty and if the City is going to be performing another survey they should make it a separate document. Communications Director Clarissa Howard advised that the "Community Conversations 2011 Report" is already posted on the City's website under "What's New".

Sally Flynn, 1400 Highland Road, said that she is happy to know that the final report is posted on the website.

A recess was taken from 5:03 p.m. to 5:23 p.m.

### **Action Items Requiring Discussion:**

a. Resolution on ethics and transparency in government.

Commissioner Leary spoke about an email from Peter Weldon that was distributed to the Commissioners on June 24, 2011 which included a copy of an investigation letter from the State Attorney's office in response to Mr. Weldon's complaint filed with the Winter Park Police Department. He stated this was in regards to a possible criminal violation of the Florida Campaign Finance Laws during the recent March 2011 Winter Park City Commission election relating to an unknown campaign mailer that was distributed to 8,000 residents during the election.

Commissioners McMacken and Cooper did not recall receiving the email and said if they had received the email they did not read it and were unaware of the situation. Commissioner McMacken asked City Manager Knight to double check the email address that was used. City Manager Knight advised that it went to the address for the Mayor and all the Commissioners.

Commissioner Leary read the email that was sent by Mr. Weldon (see attached). He summarized Mr. Weldon's email and complaint so that it helped to provide context for the proposed resolution that he presented this evening for their consideration. Commissioner Leary explained that during the past election cycle a political mailer was distributed to 8,000 Winter Park residents attacking candidate Sarah Sprinkel, now Commissioner Sprinkel. As a concerned citizen Mr. Weldon filed a complaint with the Winter Park Police Department concerning possible violations of Florida's Campaign Finance Laws related to this mailer. This past Friday evening Mr. Weldon sent an email to the Commissioners as an update to his complaint. Mr. Weldon's complaint was forwarded to the State Attorney office for investigation and they have revealed that former Winter Park City Commissioner Beth Dillaha was involved in coordinating this uncivil attack. He said what is most troubling is that at the time of the mailing Mrs. Dillaha was seated as a Winter Park City Commissioner.

Commissioner Leary then referenced the response letter from Mr. Roger Floyd, Detective Supervisor with the State Attorney's office in a letter dated June 21, 2011 to Winter Park Police Chief Railey (see attached).

Since Commissioner McMacken and Cooper were unaware of the State Attorney's response letter, Commissioner Leary quoted several items from the letter which included the following:

*"Mr. Dave Plotkin stated that he had been in contact with Mrs. Beth Dillaha of Winter Park and had obtained the money for the mail piece from her residence where she had left it for him to pick up."*

*"Contact with Mrs. Dillaha verified her involvement in setting the stage for the piece to be produced and mailed."*

*"Mrs. Dillaha also stated that it was her desire for the people that paid for the mailer to remain anonymous."*

Commissioner Leary stated that it is apparent from these statements and other statements that there was a continuous effort to block transparency and shield those individuals who financially supported this mailer.

Commissioner Leary explained that the Commission speaks highly about ethics, transparency and civility and felt that they now have an opportunity to prove that these are more than just words thus the reason for the resolution. He then advised that Mr. Weldon wrote in his email *"I will be pursuing this further with the Florida Elections Commission in the hope of getting clarification and revealing the identities of those actually funding the mail piece."* Commissioner Leary said he believes they should support all efforts to expose those responsible for tempting to covertly game the system and bring shame to our City.

Commissioner Leary mentioned that early this morning he crafted a letter to the Florida Elections Commission (FEC) in support of Mr. Weldon's efforts and instead of sending it he decided that it would make more sense if they could add some weight to it by making it a Resolution from the City Commission. He then read his letter to the FEC into the record (see attached) and explained that he has translated this same information into the proposed Resolution that he is presenting this evening for consideration (see attached).

Commissioner Cooper said that she is trying to understand the sense of urgency and why this has to be done tonight. She would prefer that the item be placed on the agenda to allow the Commission the opportunity to examine the facts and understand the implications. Commissioner Leary explained that they are always talking about transparency, ethics and civility so he felt that it was urgent that they address this matter right away. He also felt that the approved Resolution would add some weight to Mr. Weldon's letter to the FEC and hopefully not delay the investigation by another month and his intent was to have both the Resolution and the letter accompany Mr. Weldon's letter to the FEC.

Mayor Bradley advised that the response letter they are speaking about is from the State Attorney's office which strikes him as being very serious and in fairness to everyone they need to have this investigated and reviewed in a timely manner.

Commissioner Leary felt that they owe it to the citizens of the community to have this item investigated further.



**Motion made by Commissioner Cooper to put this item on the agenda for the next meeting; seconded by Commissioner McMacken.**

Commissioner Cooper said that she is not opposed to the Resolution but she is opposed to violating process and by not giving the Commissioners an opportunity to examine what they are being asked to sign is inappropriate especially since it was not on the agenda or in the packet. Commissioner McMacken stated that he would be in favor of taking this item up at the next meeting so that he can review the document since it is an extremely serious matter.

Commissioner Leary provided the Deputy City Clerk with a copy of the proposed Resolution for the record.

Attorney Brown mentioned that he received the information today and according to the letter from the State Attorney's office, they found that there appeared to be a group of people acting in concert and they should have registered as a Political Action Committee (PAC) which they did not. The State Attorney's office also found that the review of the Florida Statutes 106.03 appears to contain language that it is a non-criminal violation and should be directed to the Division of Elections which is the investigatory division of the Florida Elections Commission.

Attorney Brown stated that given the detail in the State Attorney investigator's letter he cautioned the Commissioners to look at Florida Statutes 112, Code of Ethics, particularly the section pertaining to receipt of gifts. He said this could be a very risky thing not only under the Election code but also under the Ethics code to basically solicit money or receive money for these types of purposes under the gift law and then not report the gift is a very serious matter.

Commissioner Leary asked Attorney Brown if former Commissioner Dillaha could be in violation of an Ethics issue. Attorney Brown said he is cautioning all Commissioners to look at Florida Statutes 112 and noted that there is a different agency that looks into these matters and that would be another investigatory option that they should consider regarding this matter.

Commissioner Leary said his desire to see this move quickly is simply to reassure the citizens and constituents that they take this matter seriously especially since this incident has been going on prior to the election which was March 8, 2011. Commissioner McMacken advised that he is not prepared to vote on the matter this evening and would be more comfortable if he could have some time to review and think about it. Commissioner Leary stated that he respects his fellow Commissioners and will support the current motion to address this item at the next meeting.

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

Mayor Bradley advised that the Resolution will be on the next meeting agenda. He informed the Commissioners that they are not going to investigate this matter since it is not their role and that they will only be discussing the Resolution.

## **Public Hearings**

a. Request of Backworks, Inc.: (Quasi-Judicial hearing)

ORDINANCE NO. 2845-11: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE THE EXISTING ZONING DESIGNATION OF PARKING LOT (PL) DISTRICT TO OFFICE (O-2) DISTRICT ON THE PROPERTY AT 1605 WEST FAIRBANKS AVENUE, MORE PARTICULARLY DESCRIBED HEREIN. Second Reading

Mayor Bradley explained that this request impacts a physician's office that is an employee of his employer so he has recused himself from voting on this issue (conflict of interest). Form 8B is made part of this record. Attorney Brown read the ordinance by title.

**Motion made by Commissioner Leary to adopt the ordinance; seconded by Commissioner Sprinkel.** Commissioner Cooper requested that in the future to include the staff report in the agenda packet for the second reading of ordinances. **Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried with a 4-0 vote. Mayor Bradley abstained from voting.**

b. Request of Rollins College: Amending their conditional use approval to continue the use of the Osceola Lodge and Bigelow House properties at 231 N. Interlachen Avenue and 230 N. Knowles Avenue, zoned R-2/R-3 for the Winter Park Institute, a Rollins College Educational Program for visiting scholars. The request would allow the continuation of this use with no expiration.

Planning Director Jeff Briggs explained the conditional use request to continue the use of the Osceola Lodge and Bigelow House properties at 231 N. Interlachen Avenue and 230 N. Knowles Avenue for the Winter Park Institute, a Rollins College Educational Program for visiting scholars. Mr. Briggs answered questions pertaining to the use of the property and the terms and conditions involved.

**Motion made by Commissioner Cooper to extend the conditional use for another 3 year period. Motion failed for lack of a second.**

**Motion made by Commissioner Leary to accept the conditional use request as presented (with no expiration); seconded by Commissioner Sprinkel.**

It was noted that the applicant did not wish to speak on this matter. No public comments were made.

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

- c. Request of Rollins College: Conditional use approval to renovate and expand the Bush Science Center Building on the campus of Rollins College at 1000 Holt Avenue, zoned PQP

Planning Director Jeff Briggs explained the conditional use request to renovate and expand the Bush Science Center Building on the campus of Rollins College located at 1000 Holt Avenue. Mr. Briggs explained that the vast majority of this project is a complete interior renovation of the existing Bush Science Center building. The exterior part of the project is the removal of 10,000 square feet of the building area on the "Fairbanks" frontage of the building and the construction of a new 12,000 square foot three story addition to the south toward the Administration Building. This will facilitate beautification of the Fairbanks frontage side of the Bush Science Center, visible to the public along Fairbanks. One visual improvement is adding more windows on this side of the façade. In addition, the driveway area is being redone both to add storm water retention and to provide new space for new landscaping and new trees.

Mr. Briggs also noted that another new storm water retention area is being created in the space between the Bush Science Center and the Administration building. Lastly, the plan also removes the existing parking lot for the Administration building and replaces that parking lot and access road with a "college square" lawn and open space area. A much smaller new parking lot is relocated to the south side of the Administration building. These plans will be an improvement both to the Rollins College campus as well as the public's visual perspective from Fairbanks Avenue. Mr. Briggs noted that the Planning Board voted 5-0 for approval with no conditions.

**Motion made by Commissioner Sprinkel to accept the conditional use request as presented; seconded by Commissioner Leary.**

Jeff Eisenbarth, Rollins Vice President for Business and Finance & Treasurer spoke on behalf of the applicant. He explained that the rose garden will be relocated in front of the Annie Russell Theatre.

David Odahowski, 199 E. Welbourne, spoke on behalf of the Edyth Bush Charitable Foundation and encouraged the Commission to approve the request.

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

- d. ORDINANCE NO. 2846-11: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AUTHORIZING AND PROVIDING FOR THE BORROWING OF AN AMOUNT NOT TO EXCEED ONE MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$1,750,000) FOR THE PURPOSE OF FINANCING THE COSTS ASSOCIATED WITH IMPROVEMENTS TO THE CITY'S AIR CONDITIONING AND LIGHTING SYSTEMS; AND PROVIDING AN EFFECTIVE DATE. Second Reading

Attorney Brown read the ordinance by title. No public comments were made.

**Motion made by Commissioner McMacken to adopt the ordinance; seconded by Commissioner Cooper. No public comments were made. Upon a roll call vote, Mayor**

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

- e. RESOLUTION NO. 2086-11: A RESOLUTION OF THE CITY OF WINTER PARK, FLORIDA APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER EQUIPMENT LEASE-PURCHASE AGREEMENT WITH BRANCH BANKING AND TRUST COMPANY, AS LESSOR, AND SEPARATE LEASE SCHEDULES ATTACHED THERETO; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF A PROJECT FUND AGREEMENT FOR THE ACQUISITION, PURCHASE, FINANCING AND LEASING OF CERTAIN EQUIPMENT WITHIN THE TERMS HEREIN PROVIDED; AUTHORIZING THE EXECUTION AND DELIVERY OF OTHER DOCUMENTS REQUIRED IN CONNECTION THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Attorney Brown read the resolution by title.

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

City Manager Knight advised the Commission that Attorney Brown provided three modifications to the BB&T financing documents for Lease Purchase of Air Conditioning and Lighting Upgrades from Trane and asked that they adopt the document with these 3 changes:

1. Language suggesting BB&T has a security interest in the equipment was removed. The City cannot agree to or allow a party to have a lien or security interest in any property owned by the City.
2. Language regarding indemnification of BB&T by the City was removed because the State Attorney General has issued an opinion that a government entity may not indemnify a private party.
3. Language stating the City was not in violation of any existing law, rule or regulation was modified to refer to any "material" existing law, rule or regulation.

Attorney Brown clarified that the three modifications are acceptable to BB&T.

Mayor Bradley asked Commissioners Cooper and McMacken if they would accept the revised language provided by Attorney Brown into their current motion. **Commissioner Cooper and Commissioner McMacken accepted and agreed that the revised language be included in the Lease Agreement.**

No public comments were made. **Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

**Commissioner Reports:**

- a. Commissioner Leary

No items to address.

b. Commissioner Sprinkel

1. Commissioner Sprinkel said the groundbreaking at the Winter Park Towers was a great event.

2. Commissioner Sprinkel mentioned hearing on the radio about a City that is creating a smile zone and everyone that entered that zone would have to smile. She said they were also piping music into the smile zone to make them happier while they were smiling and she thought it was a great idea.

3. Commissioner Sprinkel said she was thrilled to learn that residents are now able to pay their power bill on their revolving charge cards. She thanked everyone for their efforts with this major accomplishment.

4. Commissioner Sprinkel mentioned that a lot of citizens have been telling her what a great job the Parks and Recreation Department is doing this summer and thanked them for their efforts. She also appreciated receiving photos of the children performing their summer activities.

5. Commissioner Sprinkel noted that the Commissioners receive numerous flyers and mailers about upcoming events/meetings. She spoke about the upcoming state conference scheduled for August (Florida League of Cities) that she would like to participate in and inquired about the process. City Manager Knight advised that there is money in the City Commission budget for these types of events and if they would like to attend they should contact his office and speak with Juanita Grant and she will make the arrangements and RSVP for them.

c. Commissioner Cooper

1. Commissioner Cooper stated she appreciated having the Police Department's Strategic Plan within this year's budget level and thanked everyone who was involved.

2. Commissioner Cooper said she is not sure if they need a work session on the pension decisions but since the state has not adopted a positive solution she thought it would be a great idea to meet as a team on this issue and discuss some other alternatives. Mayor Bradley said for him this is a budget conversation. City Manager Knight advised that a report will be forthcoming within the next month from the pension consultant.

Commissioner Cooper stated that she was very pleased to have City Manager Knight run the forecast numbers for them on the pension issue. She mentioned that they previously asked the pension board to include a 10 year forecast and it did not happen. She commented that it was her understanding that they do not have the authority to make that happen. She then asked if the Commission would want to consider a resolution to support the request that the City's pension boards and actuarial include a 10 year forecast.

City Manager Knight mentioned that the pension board will be discussing this item since it is on their next agenda. He said they may want to act on this tonight; however, he is confident they will provide the 10 year forecast as previously requested. He then asked for direction. Mayor Bradley said he has good faith in the boards that they will do the right thing and if they do not, he would then like to take action.

Commissioner McMacken said he would like for them to follow procedure and suggested that they put this item on next meeting agenda. There was consensus to do so.

d. Commissioner McMacken

1. Board Appreciation event

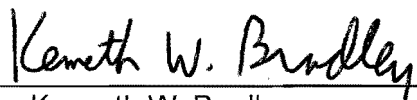
Commissioner McMacken suggested that they set aside some money for a board appreciation event in the upcoming budget. Mayor Bradley instructed staff to draft an acknowledgement Resolution that the Commission can sign and be presented to board members acknowledging them for their service.

e. Mayor Bradley


1. Mayor Bradley mentioned the draft Resolution requesting the Florida Elections Commission (FEC) to investigate an alleged deliberate violation of the Florida Elections Code in the March 8, 2011 election. He asked that in addition to the FEC investigation, if there is an ethics issue that the City Attorney mentioned earlier then this resolution should be reviewed by our City Attorney and the Resolution should require that it also be sent to the Ethics Commission for investigation. There was consensus to do so.

2. Mayor Bradley recognized Traffic Engineer Butch Margraf on his accomplishment of becoming President of the Winter Park Rotary Club. He is very pleased to have numerous staff members serve our City in a variety of ways and thanked them for their service.

The meeting adjourned at 6:17 p.m.

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

ATTEST:

  
\_\_\_\_\_  
FOR City Clerk Cynthia S. Bonham

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <b>Bradley Kenneth Wayne</b>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <b>Mayor, Winter Park City Commission</b>
MAILING ADDRESS <b>1612 Elizabeth's Walk Orange</b>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY <b>Winter Park, FL</b> COUNTY <b>32789</b>	NAME OF POLITICAL SUBDIVISION: <b>Winter Park</b>
DATE ON WHICH VOTE OCCURRED <b>June 27, 2011</b>	MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

\* \* \* \* \*

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

**PRIOR TO THE VOTE BEING TAKEN** by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

**WITHIN 15 DAYS AFTER THE VOTE OCCURS** by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

**IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:**

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

**Michelle del Valle**

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**From:** Peter J. Weldon [peter.weldon@gmail.com]  
**Sent:** Friday, June 24, 2011 4:44 PM  
**To:** Mayor and Commissioners; ethics@cityofwinterpark.org  
**Cc:** Randy Knight  
**Subject:** 2011 Election Complaint  
**Attachments:** Weldon Complaint.pdf

Dear Mayor and Commissioners,

I bring the attached to your attention and to members of the Ethics Board as it involves the character and quality of our elections process. I note that the actions reported by Ms. Dillaha as attributed in the attached were taken while she was a sitting member of the Winter Park City Commission. You can download the complete complaint I filed in PDF format here: [http://www.winterparkperspective.org/downloads/Graves\\_Complaint\\_-\\_Complete\\_Filing.pdf](http://www.winterparkperspective.org/downloads/Graves_Complaint_-_Complete_Filing.pdf)

There seems to be a matter of interpretation as to the actual dollar amounts spent and the classification of the mail piece in question with regard to disclosure requirements. I will pursuing this further with the Florida Elections Commission in the hope of getting clarification and revealing the identities of those actually funding the mail piece.

It is a great disappointment to me and I trust to all Winter Park citizens to discover that a Winter Park city commissioner, and one who has consistently brow beaten others for their perceived ethical lapses, is at the very least the coordinator of malicious, anonymous election mailers.

Regards, Pete Weldon  
700 Via Lombardy  
Winter Park, FL 32789  
Cell: (407) 267-5320

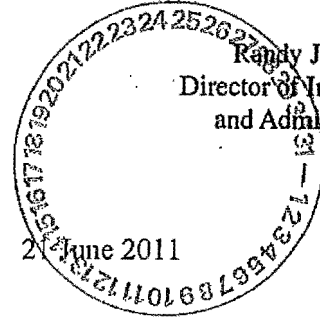




William C. Vose  
Chief Assistant State Attorney

Watson Tamur  
**State Attorney**  
Ninth Judicial Circuit of Florida

415 North Orange Avenue  
Post Office Box 1673  
Orlando, Florida 32802  
407-836-2400



Randy J. Means  
Director of Investigations  
and Administration

Brett C. Railey, Chief of Police  
Winter Park Police Department  
500 North Virginia Ave.  
Winter Park, FL 32789

RE: Complaint from Mr. Peter J. Weldon

Dear Chief:

First, I would like to apologize for the length of time it has taken me to respond to your letter requesting our assistance in the review of this matter.

Let me start by saying that the fact that the disclaimer is on the mail piece that was mailed, it appears to be in compliance with Florida law simply because it is present.

However, other concerns expressed in Mr. Weldon's complaint may have merit. Mr. Weldon pointed out that it appeared to be more than one person that had engaged in collecting and/or expending money on a political issue, thus creating a political committee. A political committee is required by Florida Election Law to file certain reports showing contributions and expenditures over a \$500.00 threshold.

Research on this matter has revealed that the total cost of the mailer was approximately \$5,000.00 to produce and mail to 8,000 residents of the City of Winter Park. The following paragraphs contain a brief synopsis of the information gained while looking into this matter.

Contact was made with Mr. Ken Lombardi of Action Mail Services of Orlando where it was verified that they had mailed the mailer in question to 8,000 residents of Winter Park. They had been paid by Mr. Bob Lanier of Printmeisters of Orlando to mail the piece.

Mr. Lanier of Printmeisters of Orlando informed me that he had received payment to print 8,000 pieces of the mailer from Mr. Dave Plotkin, who works on local campaigns during the election cycle.

Mr. Plotkin stated that he had been in contact with Mrs. Beth Dillaha of Winter Park and had obtained the money for the mail piece from her residence where she had left it for him to pick up.

Contact was made with Ms. Cindy Bonham, Winter Park City Clerk who verified that Mrs. Dillaha had not registered as a Political Committee or Electioneering Communications

Contact was made with Ms. Cindy Bonham, Winter Park City Clerk who verified that Mrs. Dillaha had not registered as a Political Committee or Electioneering Communications Organization and had not filed any reports.

I located an expense from the campaign of Bonnie Jackson to Printmeisters in an amount of approximately \$6,000.00. and made contact with Mr. Bob Lanier again to verify that this was for a completely separate mailer that had nothing to do with the mailer in question dealing with Sarah Sprinkel.

Contact with Mrs. Dillaha verified her involvement in setting the stage for the piece to be produced and mailed but made it clear to me that her intentions were to keep the total expense to less than \$5,000.00. The reason for this was that she was under the impression that anything less than \$5,000.00 would not have to be reported, because Florida Statutes require an "Electioneering Communications Organization" (ECO) to file reports if expenses are more than \$5,000.00 in a single calendar year.

Mrs. Dillaha also stated that it was her desire for the people that paid for the mailer to remain anonymous.

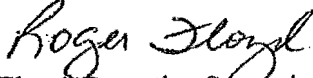
I then contacted Mr. Bill Cowles, Orange County Supervisor of Elections and briefly explained the scenario above. It was the belief by Mr. Cowles and staff that because the amount collected and expended for the mailer was more than \$500.00, the group that collected and or expended the money should have registered as a "Political Committee" and filed reports with the Winter Park City Clerk.

Further review of the statutes relating to this section (F.S.S. 106.03) appear to contain language indicating that any violation of this section to be non criminal and complaints pertaining to a suspected violation should be directed to the Division of Elections.

I have informed Mrs. Dillaha that she may still be able to register as a Political Committee and file the required reports before the deadline of June 11<sup>th</sup>, 2011, but that she would need to contact the City Clerk in Winter Park to determine if that is still an option.

At this point, I have concluded any further investigation into this matter and recommend that if the required reports and registrations are not completed, and the complainant wants to move forward, that he be directed to contact the Florida Division of Elections.

Respectfully,



Roger Floyd, Detective Supervisor  
Office of State Attorney  
Ninth Judicial Circuit of Florida  
407-836-1119



Mr. Tim Holladay  
Chairman, Florida Elections Commission  
104 West Gaines St  
Collins Building, Suite 224  
Tallahassee, FL 32399-1050

Dear Mr. Holladay:

CITY OF WINTER PARK

401 Park Avenue South

Winter Park, Florida

32789-4386

OFFICE OF THE  
CITY COMMISSION

P 407.599.3234

F 407.599.3436

As elected representatives of the great city of Winter Park Florida, we respectfully request that your office investigate what appears to have been intentional attempts to circumvent Florida's Election Codes during our most recent election cycle. Specifically, monies were collected and spent in violation of Florida Election Law.

We understand the purpose of the FEC is to ensure transparency in Florida's elections. Based on the report that has been shared with us from the State Attorney General's office, those responsible for this coordinated effort wish "to remain anonymous." Transparency and anonymity are contradictory.

Our responsibility to our constituents also includes ensuring the transparency of their local government, including the campaign/election process. We request your office investigate this matter and expose those who would intentionally obfuscate the transparency the FEC is entrusted to protect.

We appreciate your attention to this matter and are available as required to assist you in any manner that helps to reassure our constituents of the transparency and overall confidence in the system.

Respectfully,

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Mayor Kenneth W. Bradley

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Steven Leary City Commissioner

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Sarah Sprinkel City Commissioner

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Carolyn Cooper City Commissioner

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Tom McMacken City Commissioner

# DRAFT

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY OF WINTER PARK, FLORIDA REQUESTING THAT THE FLORIDA ELECTIONS COMMISSION INVESTIGATE AN ALLEGED DELIBERATE VIOLATION OF THE FLORIDA ELECTIONS CODE IN THE MARCH 8, 2011 WINTER PARK COMMISSION ELECTION.**

**WHEREAS**, the Florida Election Code is established to ensure transparency in public elections, and

**WHEREAS**, during the March 8, 2011 Winter Park Commissioner Election there was involvement in an electioneering mailer sent to registered voters that did not appear to meet the requirements of the Florida Election Code, and

**WHEREAS**, this matter was investigated by the State Attorney's office and ruled to be a matter best handled by the Florida Elections Commission, and

**WHEREAS**, the Winter Park City Commission wants to formally stand against this type of activity in its election process.

**NOW, THEREFORE**, be it resolved by the City Commission of Winter Park, Florida that:

**Section 1.** The City Commission of the City of Winter Park hereby requests the Florida Elections Commission to investigate the matter contained in the attached complaint.

**Section 2.** Officers. The City Clerk is hereby directed to forward this Resolution to the Florida Elections Commission.