

**REGULAR MEETING OF THE CITY COMMISSION**  
**May 14, 2012**

The meeting of the Winter Park City Commission was called to order by Mayor Kenneth Bradley at 3:34 p.m. in the Rachel D. Murrah Civic Center, 1050 West Morse Boulevard, Winter Park, Florida.

Mayor Bradley requested a moment of silence in memory of Katherine Ford, a winter park resident who recently passed away. The invocation was provided by John Holland, Parks and Recreation Director, 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  
City Clerk Cynthia Bonham  
Deputy City Clerk Michelle Bernstein

**Approval of the agenda**

**Motion made by Mayor Bradley to approve the agenda as presented and to add a new item 7.b to discuss their Washington D.C. trip; seconded by Commissioner Sprinkel and approved by acclamation with a 5-0 vote.**

**Mayor's Report**

a. Recognition as a "Fit Friendly" company by American Heart Association

Mayor Bradley recognized the City for recently receiving an award by the American Heart Association as being a "Fit Friendly" company and congratulated staff on their outstanding achievement. Nicole Donelson, Vice President of Heart Walk at the American Cancer Association presented the City with the award.

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

Mr. Kenneth Murrah presented the City with a \$1,204.40 check for the purchase and planting of trees as he has done so since 1999.

c. 2012 Board Appointments

Mayor Bradley thanked all the citizens who applied for board positions and advised that there will be more openings. The following appointments were made:

Board of Adjustment:

Phil Kean (Re-appointment)

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

Code Enforcement

Keith Manzi (Re-appointment)  
Roy Ray Jr. (Re-appointment)  
Sheila DeCiccio (Re-appointment)

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

CRA Advisory Board

Susan Lawrence (Re-appointment)  
Alan Thompson (Appoint to regular position from Alternate)  
Alternate position remained open.

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

Economic Development Advisory Board

Patrick Chapin (Re-appointment)  
Stephen Flanagan (Appoint to regular position from Alternate)  
Kelly Olinger (Appoint to regular position)  
Alternate position remained open.

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

Environmental Review Board and Keep Winter Park Beautiful Board

City Manager Knight advised that there is an item on today's agenda to establish a Sustainability Advisory Board by combining the Environmental Review Board with the Keep Winter Park Beautiful Board. Mayor Bradley advised that he will hold off appointing any members to both of these boards until a final action has been taken.

Ethics Board

Thomas Bradley (Re-appointment)  
Carlton E. (Gene) Colley (Appoint to regular position)  
Michael English (Appoint to regular position from Alternate)  
Thomas Ashlock (Appoint to regular position)  
Alternate position remained open.

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

Historic Preservation Board

Randall Glidden (Re-appointment)

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

Housing Authority Board

Dorothy Felton (Re-appointment)

Ann MacDiarmid (Re-appointment)

Kenneth Goodwin (Re-appointment)

Judith Kovich (Re-appointment)

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

Lakes and Waterways Board

Marty Sullivan (Appoint to regular position from Alternate)

Thomas Smith (Appoint to Alternate)

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

Parks and Recreation Advisory Board

Blair Culpepper (Re-appointment)

**Motion made by Mayor Bradley that the Parks and Recreation Advisory Board appointment is accepted as presented; seconded by Commissioner Cooper and carried unanimously with a 5-0 vote.**

Pedestrian and Bicycle Safety Advisory Board

Jean Siegfried (Re-appointment)

Elizabeth Holler (Appoint to regular position from Alternate)

Deborah Ryan (Appoint to regular position)

Alternate position remained open

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

Public Art Advisory Board

Dana Thomas (Re-appointment)  
Betty Hartnett (Appoint to regular position)  
Susan League (Appoint to regular position)  
Katherine "Katy" Bakker (Appoint to regular position)  
Daniel Iosue (Appoint to regular position)  
Alternate position remained open

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

Tree Preservation Board

Camille Goodin (Appoint to Alternate)

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

Utilities Advisory Board

David Smith (Re-appointment)  
John Reker (Re-appointment)  
Linda Lindsey (Re-appointment)

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

Fire Pension Board

Tony Gray (Re-appointment)  
Re-appointment of Garry Mitchell was postponed.

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

Police Pension Board

Tom Cronin (Re-appointment)

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

d. Proclamation – Emergency Medical Services Week, May 20-26, 2012

Mayor Bradley proclaimed the week of May 20-26, 2012 as "Emergency Medical Services Week" and thanked the EMS department for their continuous support throughout the community.

e. Proclamation – Civility Month

Mayor Bradley proclaimed the month of May as "Civility Month". He explained that the attorneys of the City, County and Local Government Law Section of The Florida Bar asked our local government to join with other cities and counties throughout Florida with this proclamation.

f. Presentation of FSAWWA Most Outstanding Class C Water Plant Award

Director of Utilities David Zusi announced that the City's Magnolia Water Treatment Plant recently received the 2012 Outstanding Class C Water Treatment Plant Award from the Florida section of the American Water Works Association. He recognized Don Nixon, Deneshwar Dewdat and Gary Heller who helped them to achieve this prestigious award.

g. "W" prize: Water conservation inter-municipality competition

Mayor Bradley advised that he was approached by Mayor Bruhn from the Town of Windermere for an internal city water conservation competition. Mayor Bradley accepted the challenge and encouraged staff and residents to share their ideas on how we can save water. He noted that this will be an ongoing effort over the next few months and the prize is yet to be determined.

h. Katherine Ford's passing

Mayor Bradley announced the recent passing of Ms. Katherine Ford.

**City Manager's Report**

City Manager Knight reminded everyone that the next Commission meeting is cancelled due to the Memorial Day holiday. The June 11 Commission meeting will be held in the renovated City Hall.

Commissioner Cooper requested that the Urban Forestry Plan be added to the City Manager's report so that it can be tracked accordingly.

Mayor Bradley shared his concern with safety aspects of trees falling throughout the City and requested that a tree analysis be completed to determine the number of healthy trees as well as those that appear to be at the end of their life. City

Manager Knight acknowledged and explained that staff is currently looking at the overall health of the tree canopy throughout the City.

- a. Development Report – no comments were made.

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

No report.

### **Non-Action Item**

- a. Financial Report – March 2012

Finance Director Wes Hamil provided the March 2012 financial report and answered questions.

**Motion made by Mayor Bradley to accept the Financial Report as presented with the continued concern that staff continue to watch the expense side so that we achieve our budget; seconded by Commissioner Sprinkel and approved unanimously with a 5-0 vote.**

- b. Washington D.C. Trip

Mayor Bradley explained that the Commission met with the Economic Development Agency last week while in Washington D.C. to discuss the numerous projects throughout our City and to see if we qualify for any funding. Upon their return, a site visit to Mead Gardens was given to Congressman John Mica, Water Resources and Environmental Staff Director John Anderson, along with a representative from the Army Corps of Engineers, and the Florida EPA. The Commission said that during the tour they spoke about the restoration of Lake Lillian and they received positive feedback to assist us with obtaining grants.

Commissioner Cooper spoke briefly about the post office and said they are ready to meet with us once again. She asked City Manager Knight if we can schedule a meeting within the next few weeks and in the meantime she felt it would be advantageous if the Commission can come up with something additional to offer them besides the maintenance of the facility. City Manager Knight acknowledged.

### **Consent Agenda**

- a. Approve the minutes of 4/23/2012.
- b. Approve the following contracts and formal solicitation:
  - 1. Continuing Services Contract with BASE Consultants, P.A. for RFQ-2-2012, Continuing Contracts for Professional, Architectural & Engineering Services (Discipline: Structural Engineering); and authorize the Mayor to execute the contract. – **PULLED FOR DISCUSSION, SEE BELOW**

2. Continuing Services Contract with Florida Bridge & Transportation, Inc. for RFQ-2-2012, Continuing Professional, Architectural & Engineering Services (Discipline: Structural Engineering); and authorize the Mayor to execute the contract. – **PULLED FOR DISCUSSION, SEE BELOW**
  3. Continuing Services Contract with John J. Christie & Associates for RFQ-2-2012, Continuing Contracts for Professional, Architectural & Engineering Services (Discipline: Mechanical & Electrical Engineering); and authorize the Mayor to execute the contract. – **PULLED FOR DISCUSSION, SEE BELOW**
  4. Continuing Services Contract with Universal Engineering Sciences for RFQ-2-2012, Continuing Contracts for Professional, Architectural & Engineering Services (Discipline: Environmental Services); and authorize the Mayor to execute the contract. – **PULLED FOR DISCUSSION, SEE BELOW**
  5. Authorize staff to enter into negotiations with the top ranked firms Ardaman & Associates, Inc. and Universal Engineering Sciences for RFQ-2-2012, Continuing Contracts for Professional, Architectural & Engineering Services (Discipline: Geotechnical Services). – **PULLED FOR DISCUSSION, SEE BELOW**
- c. Approve the Interlocal Agreement with the City of Casselberry for Fire-Rescue Apparatus Inspections, Preventative Maintenance, Maintenance and Repairs.
  - d. Approve the 4<sup>th</sup> annual Winter in the Park Holiday Ice Equipment Rental and Management Agreement with Magic Ice USA (and subsequent purchase requisitions), and authorize the Mayor to execute the contract.
  - e. Approve the development and easement agreement for 121 Garfield Avenue to be able to officially record the sanitary sewer easement granted to the City in 2004 and the parking waivers approved at that time. – **PULLED FOR DISCUSSION, SEE BELOW**

**Motion made by Commissioner McMacken to approve Consent Agenda items 'a', 'c' and 'd'; seconded by Commissioner Sprinkel and carried unanimously with a 5-0 vote.**

Consent Agenda Items 'b.1-5'

Mayor Bradley referenced an upcoming agenda item labeled 10.d, Modification or amendment to the Purchasing Policy regarding local preference.

**Motion made by Mayor Bradley to table Consent Agenda items 'b.1-5' until we have completed that discussion or no later than our next meeting; seconded by Commissioner Leary and carried with a 4-1 vote with Commissioner Cooper voting no.**

Consent Agenda Item 'e' - Approve the development and easement agreement for 121 Garfield Avenue to be able to officially record the sanitary sewer easement granted to the City in 2004 and the parking waivers approved at that time.

Commissioner Cooper asked for clarification regarding the additional 10 parking spaces that is referenced in the April 27, 2012 letter from Mr. Hahn since it differs from the City's letter of offer dated December 16, 2004.

Attorney Brown said this letter is not a binding agreement and that the City Commission has the authority to consider what is being proposed today.

Planning Director Jeff Briggs explained the item was pulled from the agenda last year because the City's letter only touched on half of the terms and there was no backup for the other half of the consideration. We now have the letter from Mr. Hahn substantiating the other component of the terms as well as staff's recollection of what the negotiation included.

**Motion made by Commissioner Sprinkel to approve Consent Agenda item 'e'; seconded by Commissioner Leary and carried unanimously with a 5-0 vote.**

**Action Items Requiring Discussion**

a. Hannibal Square East street dining (Armando's and Hannibal's)

Building and Code Enforcement Director George Wiggins explained the February 13 approval to proceed with this request for a temporary time period and for City staff to monitor this activity. The various departments have reported that there were no major problems experienced during the last two months since this street dining started. Mr. Wiggins noted that staff is recommending approval for another six month period subject to the conditions listed in "Criteria for Street Closures", payment of event fees, sewer and water fee for any added restaurant seating (if any), waiver of alcoholic beverage prohibition and approval of street barriers by the Public Works Department.

**Motion made by Commissioner Leary to approve as presented; seconded by Mayor Bradley for discussion.**

Mr. Wiggins clarified that the request is to hold this event nightly.

**Motion amended by Commissioner Sprinkel to include the closing (of the street) for Thursday, Friday and Saturday evenings for up to one year; seconded by Commissioner Cooper.** Commission discussion ensued regarding the possible implementation of establishing a fee to restaurants that regularly set up tables and chairs on City owned property and how the fee would be determined. **Commissioner Sprinkel clarified her motion to include the ability for us to add user fees to this at a later date; seconded by Commissioner Cooper.**

**Motion amended by Commissioner Cooper to include holidays; seconded by Commissioner McMacken.**



**Motion amended by Commissioner Cooper to amend the criteria to include approval of the majority of property owners within 500 feet circumference of the special event (for new applications). Motion failed for lack of a second.**

Vickie Krueger, 200 Carolina Avenue, inquired about liability concerning potential accidents or incidents.

Vincent Gagliano, Owner of Chez Vincent – Hannibal’s, spoke in favor of the one year extension and thanked the Commission for their support.

William Whitely, 444 West New England Avenue, spoke in favor of the request.

**Upon a roll call vote on the amendment (to include holidays), Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

**Upon a roll call vote on the amendment (to include the closing of the street) for Thursday, Friday and Saturday evenings for up to one year and to include the ability for us to add user fees to this at a later date), Mayor Bradley and Commissioner Cooper voted no. Commissioners Leary, Sprinkel and McMacken voted yes. The motion carried with a 3-2 vote.**

**Upon a roll call vote (to include holidays, to include the closing (of the street) for Thursday, Friday and Saturday evenings for up to one year and to include the ability for us to add user fees to this at a later date), Mayor Bradley and Commissioners Leary, Sprinkel and McMacken voted yes. Commissioner Cooper voted no. The motion carried with a 4-1 vote.**

Eileen Duva, 311 East Morse Boulevard, spoke about the boat tour signs being in poor shape and asked if they can be replaced with more professional looking ones.

A recess was taken from 5:15 p.m. to 5:35 p.m.

b. Discussion of bidding out City Attorney contract

Mayor Bradley mentioned that he raised this issue at the last meeting as it relates to the costs the City incurs for legal services. Mayor Bradley mentioned that the average cost for years 2005 to 2008 was \$397,000 and for years 2009 to 2011 it was \$625,000 resulting in an increase of \$228,000 per year. It was noted that over the past few years there were several large litigation cases that could have contributed to the higher costs incurred. Mayor Bradley said he is very concerned with this trend and suggested that they either re-bid or renegotiate which might help reduce the costs.

Several suggestions were made by the Commission which included: for staff to create an evaluation process so that yearly evaluations can be completed for not only the City Attorney but for the federal and state lobbyist; determine if there is something the City can do that we have not been doing or do something differently that would save us money; further define the scope of services so that we know exactly what we are paying for and so the City Attorney knows the operating procedure to follow; and to establish a not to exceed dollar value for legal services and for the City Attorney to seek Commission approval to go past that dollar amount.

Commission discussion ensued as to the lack of details that is being provided to them as it relates to the costs incurred for each litigation case. The Commission mentioned the new red light camera law and said it would be beneficial if the Commission knew how much it cost to defend a case versus revenues collected because it may not be worth defending. The Commission requested to be informed of these matters and agreed that this should also apply to land use cases and items of similar nature.

Attorney Brown recommended that an executive session meeting be scheduled with the representatives of his firm and the Commission so they can be briefed on each case and the associated costs. They can also explain how costs are incurred with outside council members.

Attorney Brown provided a detailed cost breakdown for services rendered and mentioned that their total dollar amount is slightly lower compared to the City's figures. He pointed out that the dollar amount for services provided by outside council (Shutts & Bowen and Gray Robinson) should not be included in their total cost and said there needs to be further discussion regarding these types of discrepancies. He explained that every month his firm sends a very detailed invoice of all retainer and non-retainer bills which describes the date of service, who provided the service, a description of the service and the increment of time. He said if he were to send the Commission a copy of this data they would see exactly what is being provided and the costs associated. There was no further discussion on this matter.

A recess was taken from 7:08 p.m. to 7:23 p.m.

c. Discussion of bidding out Federal Lobbyist position

Commission discussion ensued regarding the Federal lobbyist position and if they should continue to support the current contract with Alcalde and Fay. It was noted that every five years the State and Federal lobbyist positions are to be reviewed and both positions are at the five year mark.

Several suggestions were made: to look at the amount of funds granted to Winter Park and compare it to the cost for services, establish an evaluation process so we

can measure their productivity, research the individual lobbyists on alternative websites to find out who they serve and how much they get paid, find out what other cities pay for their lobbyists and what they receive in return (meaning how much grant money have they received).

City Manager Knight said he is not aware of any State associations that conduct evaluations but he would be glad to look into it.

There was consensus that Commissioner Sprinkel finds out what other associations or municipalities are doing and bring the information back to the Commission. Mayor Bradley said this topic will be an extended item on our next agenda for additional information. City Manager Knight acknowledged.

d. Modification or amendment to Purchasing Policy regarding local preference

Assistant City Manager Michelle del Valle explained that the Purchasing Division was tasked with drafting a local preference policy. A total of six (6) local preference policies were reviewed from governmental agencies throughout Florida including City of Orlando, City of Palm Bay, City of Port St. Lucie, Collier County, Miami-Dade County, and Orange County. It was explained what the proposed local preference policy includes.

If adopted, this Local Preference Policy will supersede Section 2.04(F) of the Purchasing Policy & Procedures Manual and will become effective 14 days after adoption. This will allow staff proper time to finalize current formal solicitations and adjust internal procedures accordingly.

Ms. del Valle answered questions pertaining to the point system program and exemptions. Discussion ensued regarding how to define "local". The Commission agreed that a business would need to be located in Winter Park in order to receive credit for local preference.

**Motion made by Mayor Bradley to move the draft policy as proposed and that it be brought back to the Commission at the next meeting with an amendment to our purchasing policy which would include the four points presented below which includes: 1) Process for verifying "local business" status; 2) process detailing local price match option for competitive bids within 5% of overall apparent low bid submitted by a non-local business; 3) process for assigning five (5) additional points for verified "local businesses" responding to Request for Proposals or Qualifications during the short listing process; and 4) exemptions; seconded by Commissioner Sprinkel.**

**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. Discuss a potential policy that governs City Commission written communication

City Manager Knight stated this was on the agenda at the request of the Commission at the last meeting to discuss whether or not the Commission wants a written communication policy and what type of policy that would be. Commissioner McMacken commented about the uneasiness of the rest of the Commission with Commissioner Cooper sending out mass emails on a regular basis. He spoke about the need to include a disclaimer on the mailings saying this is an individual Commissioner's opinion. He addressed the need for the Commission to work together as a whole. Mayor Bradley agreed they need to get past this.

Mayor Bradley spoke about the publications he sends out that goes through a number of staff members to ensure that the information is accurate and correct. Discussion ensued about the possibility that they could alternate sending out information to the public and that they need to make sure that information is accurately given to the public.

Commissioner Sprinkel spoke about not wanting divisiveness in our community and that they all need to agree on this issue. She asked if there is a way they can embrace what is working for some people and maybe each of them should be given the opportunity to provide their own opinion to this same group of people that wants to hear it.

There was discussion about using City resources for this task. Commissioner Leary spoke about tying the hands of other Commissioners when one individual Commissioner sends out position papers and they cannot respond because of the opportunity for a Sunshine Law violation. He expressed concerns with having to respond to inaccurate/incomplete information sent out. He offered examples of when this happened and the tension it causes.

Commissioner Cooper addressed her newsletter "Cooper's Perspective" and the number of times it has been discussed in Commission meetings. She summarized the steps she has taken to do what the other Commissioners have requested of her regarding sending out her newsletter. She spoke about the opinion of our attorney that there was no Sunshine Law violation, quasi-judicial issues, or electioneering or campaign issues on the emails they have reviewed. She agreed that that the entire Commission is supportive of public engagement in our government and that she will continue to advocate for positions she believes is in the best interest of our City and will do so in a very transparent, civil and lawful manner.

She spoke about putting a policy in place which could include: a disclaimer saying the individual Commissioner is not speaking for the entire Commission as a whole and is their personal opinion; warnings that their emails and any email addresses are subject to public records requests; whether to send them from her personal or City email; have the ability for anyone receiving your email to opt out of the list;

address the difference in how we treat quasi-judicial versus policy decisions; mass emails should not be sent to other Commissioners; position statements/papers on policy issues, if they were papers that an individual Commissioner wanted the Commissioners to read or someone wanted the other Commissioners to read, that they had to be sent to the City Manager for distribution; and that we strive to be consistent with our civility code.

There was further discussion regarding the interpretation of other Commissioners as to what our attorneys told them regarding this, how they can open themselves up to possible violations as well, and the hope that they can all work together on this.

**Motion made by Mayor Bradley that we ask the City Manager to review other municipalities City Commission written communication in any form; that we ask the City Attorney to review that also and to draft if any individual Commissioner sends out anything, if it is going through the regular City channels there is a City process that reviews it and if there is not that there be both in size and font type where the disclaimer should be, what that disclaimer should read, how it should look, and that's in an effort to not limit any one individual or any of us from speaking; it is an effort to protect us all within the Sunshine Law. Motion was seconded by Commissioner Leary.**

Discussion ensued regarding where the disclaimer should be placed on the communication and that it should not be hidden from clear view. Commissioner Cooper addressed the importance for her to continue to communicate with her constituents. After further conversation, comments were made regarding some of the misled/misinformed people in the community because of the incomplete information sent out.

The following spoke on this topic:  
Carol Rosenfelt, 1400 N. New York Avenue  
Pat Estes, 1537 Hillcrest Avenue  
Donna Colado, 327 Beloit Avenue  
Vicki Krueger, 200 Carolina Avenue  
John Rogers Jr., 1002 Temple Drive  
Sally Flynn, 1400 Highland Road  
Anne Mooney, 700 Melrose Avenue  
Joan Cason, 1915 Woodcrest Drive  
Mary Randall, 1000 S. Kentucky Avenue  
John Murphy, 2211 Hawick Lane  
David Akins, 1399 Aloma Avenue  
Marti Miller, 1399 Aloma Avenue  
Ned Cooper, 1047 McKean Circle  
Nancy Shutts, 2010 Brandywine Drive  
Patrick Chapin, Winter Park Chamber of Commerce

**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.**

At the conclusion of this meeting, Commissioner Cooper submitted a memorandum regarding this issue to the Deputy City Clerk for inclusion in the minutes.

f. Proposed Sustainability Advisory Board

Mayor Bradley asked if this item was reviewed by the Environmental Review Board and the Keep Winter Park Beautiful Board and if we received any comments from them. City Manager Knight advised that it was discussed with the boards and staff felt they had support from both boards.

Commissioner McMacken advised that after hearing from several members of both boards saying this was brought up on very short notice he felt this may not have been completely vetted by both boards.

**Motion made by Commissioner Leary to table this until both boards have come back with at least their feeling that they have had a bit more participation in the discussion; seconded by Mayor Bradley. 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 Hearings**

- a. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING REGULATIONS" SECTION 58-65 "R-1AAA LAKEFRONT DISTRICT," SECTION 58-66 "R-1AA AND R-1A DISTRICTS," SECTION 58-70 "PURD DISTRICT", AND SECTION 58-71 "GENERAL PROVISIONS FOR RESIDENTIAL DISTRICTS" SO AS TO ENACT REVISIONS TO SINGLE FAMILY AND ACCESSORY BUILDING REGULATIONS; AMENDING SECTIONS 58-78, 58-869(B) & SECTION 58-95 BY ADDING PAIN MANAGEMENT CLINIC AS A PERMITTED USE IN THE I-1 ZONING DISTRICT, ESTABLISHING PARKING REQUIREMENTS, & ADDING A DEFINITION OF PAIN MANAGEMENT CLINIC; AMENDING ARTICLE V, "LANDSCAPE REGULATIONS" SECTIONS 58-333 & 336 BY ADDING SPECIAL BUFFER REQUIREMENTS FOR VEHICLE USE AREAS ABUTTING RESIDENTIAL AREAS; PROVIDING FOR CODIFICATIONS, CONFLICT, SEVERABILITY AND EFFECTIVE DATE.  
First Reading

Attorney Brown read the ordinance by title.

Building Director George Wiggins explained that the ordinance update improves and corrects glitches and makes improvements in our current single family zoning standards, incorporates necessary language related to recently enacted Pain Management Clinic Ordinance into the Zoning Code and provides an amendment to

our Landscape Code which codifies prescriptive criteria for parking lot landscape buffers across the street from residential properties.

Mr. Wiggins noted the editorial change that was provided by the City Attorney's office in regards to Section 58-65(f)(8) Side Wall Articulation. Mr. Wiggins mentioned that the P&Z Board did not approve this minor editorial change and that it is up to the Commission to include it or not.

**Motion made by Commissioner Leary to accept the ordinance on first reading; seconded by Commissioner Sprinkel.** Commissioner Leary clarified that he motioned to approve without the additional language and editorial changes.

Mr. Wiggins answered questions regarding the flag pole height limit, setbacks for corner lots and side wall articulation.

James Lucia, representing Lucia Custom Home Designers, Inc., spoke in favor of the proposed changes and that it is an important step in the right direction.

John-David Carling, 796 English Court, said he likes the proposed changes to the code particularly with the side setback.

John Rogers, 1002 Temple Grove, urged the Commission to consider the long term impacts regarding the articulations and setbacks prior to approval.

**Motion amended by Commissioner Cooper to delete the changes listed under item #5 for sidewall articulation. Motion failed for lack of a second.**

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

- b. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, RELATING TO TAXICABS; AMENDING SECTION 110-107 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER PARK TO ALLOW AN INCREASE IN TAXICAB RATES; AND TO ALLOW ADJUSTMENT OF RATES THROUGH A RESOLUTION OR THROUGH THE RATE DETERMINATION PROCESS ENACTED IN THE CITY OF ORLANDO; PROVIDING AN EFFECTIVE DATE. First Reading

Attorney Brown read the ordinance by title.

Building Director George Wiggins explained the taxicab rates adjusted by the City of Orlando which are in effect throughout the Central Florida area and that Winter Park is the only other local government that also regulates vehicles for hire taxicab rates. He explained the resolution adopted on July 11, 2011, allowing a fuel surcharge on taxi fares in line with the City of Orlando. This surcharge expired on March 31, 2012. The proposed ordinance enacts a rate increase of 9% which is identical to the City of Orlando, and represents an effective rate increase of 5%

after factoring in the fuel surcharge that recently expired. Although Winter Park taxicab rates have been separately adopted, they have matched the rates established by Orlando since 1960.

Mr. Wiggins explained that in order to streamline this rate change process, the proposed ordinance establishes a mechanism whereby the City Commission may set taxicab rates by resolution (instead of by ordinance) or by recognizing Orlando's vehicle for hire rate adjustment process based on an analysis of meter rates and comparison to other cities performed by the Orlando Vehicle for Hire Administrator and approved by the Orlando City Council. Mr. Wiggins answered questions.

**Motion made by Commissioner Leary to accept the ordinance on first reading; seconded by Commissioner Sprinkel.**

Roger Chapin, Vice President of Mears Transportation, said the taxicab rates are reviewed annually and that the City of Orlando ties their rates to the Consumer Price Index. The City of Orlando and Winter Park regulate taxicab rates and Orange County does not.

Mayor Bradley addressed being uncomfortable with the concept of home rule that whatever the City of Orlando does we should also do.

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

- c. RESOLUTION NO. 2108-12: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, DESIGNATING THE PROPERTY LOCATED AT 1500 BERKSHIRE AVENUE, WINTER PARK, FLORIDA, AS A HISTORIC RESOURCE IN THE WINTER PARK REGISTER OF HISTORIC PLACES

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

Planning Director Jeff Briggs answered questions related to the request for approval since Mayor Bradley noted that the rear of the house looks very modern compared to the front. Mr. Briggs said it is up to the discretion of the Historic Preservation Board in terms of any changes made to the exterior.

**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. RESOLUTION NO. 2109-12: A RESOLUTION OF THE CITY OF WINTER PARK IN SUPPORT OF A COMMUNITY-WIDE INITIATIVE TO REDUCE PEDESTRIAN INJURIES AND FATALITIES IN CENTRAL FLORIDA THROUGH EDUCATION, ENGINEERING, AND ENFORCEMENT

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

Brad Coon, Director of Bike Walk Central Florida, spoke in favor of the resolution and urged the Commission to support their efforts.

**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. 2110-12: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, REQUESTING THAT THE FLORIDA DEPARTMENT OF TRANSPORTATION CHANGE THE SIGN AT THE INTERSTATE 4 FAIRBANKS AVENUE EXIT FROM "WINTER PARK" TO "WINTER PARK HISTORIC DISTRICT"

Attorney Brown read the resolution by title.

Senior Planner Lindsey Hayes explained that downtown Winter Park is now listed on the National Register of Historic Places and opportunities to promote the district to cultural tourists should be taken. One of the opportunities the district is eligible for is a special destination guide sign on Interstate 4. The recommendation is to approve the resolution in support of the sign amendment and in the letter requesting the sign change, ask that FDOT proceed immediately to update the I-4 signage on the Fairbanks Avenue exit both eastbound and westbound. Ms. Hayes noted that this would be at no cost to the City.

Discussion ensued as to the pros and cons with the proposed signage, how to better define the historic district and if we should request an additional sign versus replacing the existing signage. The Commission mentioned how important it is that we install the wayfinding signage throughout the City prior to changing the I-4 sign.

Public Works Director Troy Attaway clarified that FDOT intends to make this sign change when they reconfigure I-4 which can be several years from now. He noted that the non-FDOT wayfinding signs will be delivered by the end of May and the FDOT wayfinding signs are in for permit and should take approximately 30 days. As soon the permits have been issued staff will begin to install the signs throughout the City including the Fairbanks Avenue area.

Upon further discussion, the Commission requested that staff ask FDOT what the cost would be for an additional sign.

**Motion made by Mayor Bradley that this be tabled until we have the FDOT response; seconded by Commissioner Leary. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel and McMacken voted yes. Commissioner Cooper voted no. The motion carried with a 4-1 vote.**

**City Commission Reports:**

a. Commissioner Leary – No items.

b. Commissioner Sprinkel

Commissioner Sprinkel announced that a dog walk is being held at Cady Way Park this Saturday starting at 8:00 a.m.

c. Commissioner Cooper

Commissioner Cooper said the Sage Program at the Heritage Center this past Friday night was incredible.

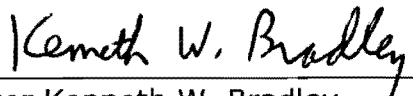
Commissioner Cooper submitted a memo for the record regarding information she collected on the written communication she has been sending to the public (attached).

Records Retention Policy – This was not discussed.


d. Commissioner McMacken – No items.

e. Mayor Bradley – No items.

The meeting adjourned at 9:11 p.m.

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

ATTEST:

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

Memorandum for the Record: May 14, 2012  
Submitted for Inclusion in Minutes of the City Commission Meeting  
Subject: Discussion of Potential Policy on Commissioner Communications  
From: Commissioner Carolyn Cooper

**Background:** Over the past year, my Cooper' Perspective (Newsletter) has been the topic of City Commission discussion at eight separate public hearings; specifically, April 11, 2011, April 25, 2011, May 23, 2011, June 13, 2011 worksession, June 13, 2011 regular session, August 8, 2011, October 10, 2011, and October 24, 2011. I have listened to the concerns of my fellow commissioners and the counsel of our City Attorney and in a spirit of cooperation willingly made adjustments to the content of my Newsletter (see Attachment A.)

**Legal Counsel:** I have responded to the following counsel.

Attorney Brown provided the following guidance on 4-11-11:

1. A Commissioner has a right to send out their personal viewpoint as a Commissioner.
2. It is better practice for Commissioners not to send emails to each other.
3. The law does not prohibit an elected official from communicating with their constituents subject to ex-parte communications (pending quasi-judicial matter) or a competitive procurement black out period.
4. A Commission can use their personal computer email but that could open your personal computer up to public records request. Best practice to use government facilities for official communications. (audio)

Attorney Brown provided these answers to commission questions on 4-25-11:

5. The email list used for sending the Newsletter is a public record and any citizen or other commissioner can obtain it through a public records request.
6. Individual commissioners have the right on their own facilities to send out public record communications understanding that this opens up their personal facilities to public record requirements.
7. Recommends requiring a disclaimer that they are not speaking on behalf of the City or the Commission, but are speaking individually.
8. An elected member can send out email communications (position papers) to other members of a collegial body, the Sunshine violation arises when they respond; this is clearly not the best practice.

Attorney Reischmann provided these answers to commission questions on 6-13-11:

9. An individual has the right to state their position on what they think should be done on a particular policy issue, but this should not be done on a quasi-judicial matter.

10. Nothing illegal about telling people what you think should be done and what you are going to do on a policy issue.

11. Newsletters are written advocacy of a position much like position papers.

12. A disclaimer should be included in this type of email communication indicating that it is your own opinion so it is clear and avoids misunderstandings.

**Legal opinions:**

The Mayor has on two occasions asked our City attorneys to review Newsletters and provide opinions.

On 6-13-11, Mayor Bradley questioned the use of a picture that had been used during my campaign and questioned whether I may be violating election laws and electioneering. Attorney Reischmann said he did not see any sunshine violations, no quasi-judicial, electioneering or campaign issues in the emails he had been provided to review.

On 10-10-11, Mayor Bradley asked the attorney to specifically look into writing on the State Office Property to see if there was a Sunshine Law violation. On 10-24-11, Attorney Brown said he does not believe that a Sunshine Law violation occurred.

**Conclusion:**

After reviewing my Newsletters, the minutes and audios of the meeting where this matter has been discussed, I have reached the reasonable conclusion that the publication of my Newsletter does not violate the Sunshine Law or Election Laws. My Newsletters are consistent with my campaign promise to keep the citizens of Winter Park informed and to encourage their participation in our government. I believe that our entire commission is supportive of increased public engagement in our government. I have and will continue to research the issues and provide information I believe is accurate and timely. I will continue to advocate for positions I believe are in the best interest of our citizens and will do so in a transparent, civil and legal manner.

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Date of Minutes	Legal Guidance/ Commission Request	Response
4-11-11	Attorney Brown explained a Commissioner has a right to send out their personal viewpoint as a Commissioner but it is better practice for Commissioners not to send emails to each other.	
4-11-11	Attorney Brown advised that you can use your personal email to send newsletters but that could open up your personal computer to public records request. Best practice to use government facilities for City business.	On 4-23-11, the return email address on my newsletter was changed from my personal email to my city email. This allows citizen responses to my newsletters to come to the city email and be easily available for public records request.
4-25-11	Mayor Bradley recommended having a declaration under it (the newsletter) that says "this is one person's view."	On 5-20-11, in response to the Mayor's suggestion, my disclaimer was changed to, "The views expressed herein are my own and not those of the Winter Park City Commission." Additionally, the title of the newsletter is "Cooper's Perspective."
6-13-11	Commissioner Sprinkel suggested that my Newsletter start with the summary provided by the City and then lead into my own perspective.	On 6-26-11, direct links to the City Website, Commission Minutes and Audios of the Commission meetings were added to the sidebar of the Cooper's Perspective Newsletter to provide the City summary and more complete information.
6-13-11	Mayor Bradley questioned the use of a picture that had been used during my campaign and questioned whether that may be violating election laws and electioneering.	On 6-13-11, Attorney Reischmann said he did not see any sunshine, quasi-judicial, electioneering or campaign issues in the emails he had been provided to review. (00:47:46)
10-10-11	Mayor Bradley asked the attorney to specifically look into writing on the State Office Property to see if there was a Sunshine Law Violation.	On 10-24-11 Attorney Brown said he does not believe that a Sunshine Law violation occurred.