

**REGULAR MEETING OF THE CITY COMMISSION**  
**June 11, 2012**

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

The invocation was provided by Finance Director Wes Hamil, followed by the Pledge of Allegiance.

Members present:

Mayor Kenneth Bradley  
Commissioner Steven Leary  
Commissioner Sarah Sprinkel  
Commissioner Carolyn Cooper (via phone)  
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 Mayor Bradley to approve the agenda with the moving of item 10.f to a future meeting; seconded by Commissioner McMacken and approved by acclamation with a 5-0 vote.**

**Mayor's Report**

- a. Proclamation - Honoring Ronald Blocker, Orange County School Superintendent

Mayor Bradley recognized Superintendent Ronald Blocker for his contributions to the Orange County education system. Mayor Bradley proclaimed June 11, 2012 as "Ronald Blocker Day" and encouraged everyone to recognize his great achievements upon his retirement. Mr. Blocker was present to accept the proclamation and thanked the City for recognizing him.

- b. Acceptance of the Florida Department of Agriculture and Consumer Services On-Site Monitoring Report for the State Energy Program

Mayor Bradley noted that he received a letter on behalf of the City from the Florida Department of Agriculture with results of the On-Site Monitoring Report and that the results were positive. Mayor Bradley provided a copy of the letter to the City Clerk's office and requested that it be part of the minutes (attached).

- c. 2012 Board Appointments

Mayor Bradley advised that he has nominations for the Environmental Review Board and the Keep Winter Park Beautiful Board but is holding off at this time until the Commission makes their final decision on whether or not they will be combining these two boards. The following appointments were made:

CRA Advisory Board:

Max Remer (Appoint to Alternate)

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

Economic Development Advisory Board

Maura Weiner (Appoint to Alternate)

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

Ethics Board

Stephanie Leonard (Appoint to regular position)

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

Mayor Bradley said there is an opening for the alternate position on this board and encouraged individuals to submit their applications for consideration.

Historic Preservation Board

William (Billy) Wilson (Appoint to regular position)

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

Pedestrian and Bicycle Safety Advisory Board

Elizabeth Hemphill (Appoint to regular position)

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

Public Art Advisory Board

Sarah Davey (Appoint to regular position)

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

Fire Pension Board

Garry Mitchell (Re-appointment)

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

Police Pension Board

George Broschart (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.**

Orange County Human Services Assistant Representative

James Dreyer

**Motion made by Mayor Bradley that the Orange County Human Services Board appointment is accepted as presented; seconded by Commissioner McMacken and carried unanimously with a 5-0 vote.**

Mayor Bradley noted that the above nomination is our recommendation and is pending acceptance by Mr. Dreyer and approval by Orange County.

Wired for Winter Park Task Force

Jason Rotenberg

Nick Sambrato

Patricia Schoknecht

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

Commissioner Leary asked for clarity regarding Commissioner Cooper participating by telephone and the ability to vote. Attorney Brown responded and said as long as there is a quorum physically present she/he can participate in voting via telephone and as long as the Commission accepts her/him being away for sufficient cause.

d. Best Foot Forward – Pedestrian Safety Collaboration

Mayor Bradley announced that on May 30 he joined the County wide initiative of "Best Foot Forward" (a community-wide pedestrian safety coalition focusing on making the streets safer for walkers and drivers). He advised that Metro Orlando ranks number one in the nation for pedestrian deaths and injuries and urged everyone to help by yielding to pedestrians in crosswalks.

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

City Manager Knight provided an update on the new restrooms at Fleet Peeples Park. Bid approvals are anticipated to come before the Commission at the first meeting in August and groundbreaking is expected around the end of August.

Public Works Director Troy Attaway provided an update on the City Hall renovations which included a new underground stormwater system and landscaping.

City Manager Knight and Planning Director Jeff Briggs responded to an inquiry pertaining to the streetscape study along with the status of the Alford Inn project.

Commissioner Sprinkel requested that a projected completion date for all items be included on the City Manager's report including the parking study rather than leaving the column blank. The request was acknowledged.

The Commission scheduled a shade meeting for June 25 from 2:30-3:30 p.m. to discuss the pension issue.

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

No report.

### **Non-Action Item**

#### **a. Financial Report – April 2012**

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

City Manager Knight advised that we received preliminary numbers from the Orange County Property Appraisers office and it showed about .5% decrease in property values City wide and about a 2% decrease in property values in the CRA.

**Motion made by Commissioner Sprinkel to accept the Financial Report as presented; seconded by Commissioner McMacken and approved unanimously with a 5-0 vote.**

### **Consent Agenda**

- a. Approve the minutes of 5/14/2012. **PULLED FOR DISCUSSION, SEE BELOW**
- b. Approve the following purchases, contracts and formal solicitations:
  - 1. PR 149360 with Prime Construction Group, Inc. for Site Contractor Services for Ward Park Project: \$150,802.00.
  - 2. PR 149361 with The Middlesex Corporation for Asphalt Paving for Ward Park Project: \$60,235.65.

3. PR 149362 with S&L Materials for Shell Base Soil Cement for Ward Park Parking Lot Project: \$58,350.00.
  4. PR 149412 with Musco Lighting, Inc. for New Field Lighting for the Ward Park Soccer Field: \$227,000.00.
  5. Blanket Purchase Order with Tyler Technologies, Inc. for Public Safety Solution: \$68,540.00.
  6. 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**
  7. 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**
  8. 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**
  9. 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**
  10. Joint Participation Agreement Supplemental Amendment 2 with FDOT (for up to \$780,000 in FDOT reimbursable expenses for the construction phase of Fairbanks Avenue) and authorize the Mayor to execute.
  11. Piggyback State of Florida Contract 252-001-09-1 with Software House International Corporation for Microsoft License, Maintenance & Services and authorize the Mayor to execute the contract.
  12. Piggyback Seminole County Contract 600562-09 with The Middlesex Corporation for Pavement Management Program and authorize the Mayor to execute the contract.
  13. Piggyback City of Bartow Contract #2011-0241 with Tyler Technologies, Inc. for Public Safety Solution and authorize the Mayor to execute the contract.
  14. Piggyback City of Orlando Contract C12-0157 with Bound Tree Medical, LLC for EMS Pharmaceuticals and authorize the Mayor to execute the contract.
  15. 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 annual review of the Debt Management Policy. **PULLED FOR DISCUSSION, SEE BELOW**
- d. Recommend award to Masci General Contractor, Inc. for IFB-10-2012 Fairbanks Avenue Roadway and Wastewater System Improvements Project; \$6,095,789.77. **PULLED FOR DISCUSSION, SEE BELOW**

**Motion made by Mayor Bradley to approve Consent Agenda items 'b.1-5' and 'b.10-14'; seconded by Commissioner McMacken and carried unanimously with a 5-0 vote.**

Consent Agenda Item 'a' - Approve the minutes of 5/14/2012.

Mayor Bradley spoke about the document that Commissioner Cooper requested be attached to the minutes and asked that all personal/confidential information be redacted, specifically on page 3, prior to approval.

Attorney Brown provided clarification on items submitted for the record and noted that a member of a body has the general right as a courtesy to include documents into the minutes/record; however, the Commission has the right to control that process.

**Motion made by Mayor Bradley to accept the memo along with the minutes with the redaction of specific email and other addresses as put into this document.**

Upon a brief discussion, **Motion made by Commissioner McMacken to table this item until they all have this document in front of them; seconded by Commissioner Sprinkel. 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.**

Consent Agenda Items 'b.6-9 and b.15'

The Commission discussed how they should proceed with the approval of the above contracts as it relates to both local preference and the proposed modification to the Purchasing Policy. Following a brief discussion, **motion made by Mayor Bradley to table the continuing services contracts on this agenda until the next meeting; seconded by Commissioner Leary. Upon a roll call, Mayor Bradley and Commissioners Leary and McMacken voted yes. Commissioners Sprinkel and Cooper voted no. The motion carried with a 3-2 vote.**

Consent Agenda Item 'c' - Approve the annual review of the Debt Management Policy.

Commissioner Cooper provided two changes to the Debt Management Policy based upon a recent Auditor's General Report that was provided to City Manager Knight for distribution to the Commission. She referenced (in the Auditor's Report) that the Financial Advisor must be independent of the underwriter and that local government should adequately document and justify that a negotiated or a private placement sale is the most appropriate type of sale. She said currently our policy does not require any written documentation explaining why we choose to do a private placement as opposed to a negotiated issue.

City Manager Knight advised that staff reviewed the document and has no objection to the proposed changes. Attorney Brown provided legal counsel regarding the use of specific words in the policy pertaining to the Financial Advisor and offered to work with staff and City Manager Knight to finalize the wording in the policy.

**Motion made by Mayor Bradley that this be referred back to the City Manager and City Finance Director and take into account the two items that Commissioner Cooper brought up along with City Attorney counsel and that it be brought back to them; seconded by Commissioner McMacken. Upon a roll call, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

Consent Agenda Item 'd' - Recommend award to Masci General Contractor, Inc. for IFB-10-2012 Fairbanks Avenue Roadway and Wastewater System Improvements Project; \$6,095,789.77.

Commissioner McMacken addressed the price difference between the low and high bid and asked if staff went through every plan and every detail and agrees that we can complete the project for the lower amount. City Manager Knight said yes.

**Motion made by Commissioner McMacken to approve Consent Agenda item 'd'; seconded by Commissioner Sprinkel. Upon a roll call, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

### **Action Items Requiring Discussion**

- a. Naming opportunities to honor the memory and accomplishments of Dr. Martin Luther King, Jr.

Chairperson Carolyn Fennel introduced the members of the task force and explained the process and meetings held that brings them to where they currently are which is to recommend appropriate naming opportunities to honor Dr. Martin Luther King, Jr.

City Manager Knight briefly discussed the Task Force recommendations listed below along with the pros and cons of each recommendation:

- Street - Pennsylvania Avenue (from North Park Avenue to Fairbanks Avenue)
- Park - Lake Island Park
- Venue - Winter Park Community Center

Each Commissioner provided their opinion regarding the recommendations presented. Commissioner Leary shared his preference of Shady Park. Commissioner Sprinkel preferred Lake Island Park. Commissioner Cooper advised her first choice of Shady Park and her second choice of Lake Island Park.

Commissioner McMacken indicated that he prefers Lake Island Park. Mayor Bradley did not comment on his preference but noted that whatever their decision may be he would like for unanimity of the Commission on their decision.

Commission discussion included the guidelines associated with the naming policy of City owned facilities and how they should proceed. Mayor Bradley suggested that the Commission provide a recommendation and then offer the citizens an opportunity to vote on the official naming prior to their final decision.

**Motion made by Mayor Bradley that the City Commission give consideration to the three recommendations for “parks” which have come from our Martin Luther King Task Force in terms of appropriate naming; seconded by Commissioner McMacken.**

Elder Mitchell Dawkins Sr., Warner Chapel Church, said Lake Island Park would be the best fit.

Marti Miller, 1399 Aloma Avenue, said there are numerous children from all over Central Florida that attend Lake Island Park and was in favor of that park.

John D. Williams, Ward Chapel, spoke in favor of naming Lake Island Park.

Mary Daniels, 650 Canton Avenue, agreed with the naming of Lake Island Park.

Chairperson Carolyn Fennel requested that there be various means of communication preferences so they can obtain an overall view of citizen comments.

There was consensus for staff to utilize various communication efforts to obtain citizen feedback within a two week time frame and bring the item back to the Commission for a final decision.

**Motion amended by Commissioner Leary to reduce the number to the two parks discussed; Shady Park and Lake Island Park; seconded by Commissioner Sprinkel.**

Commissioner Sprinkel requested that the Task Force naming criteria be included in the communication efforts to the public. Commissioner McMacken requested that staff use other methodologies that might be more user friendly to obtain citizen feedback (such as a suggestion box at the community center, local churches, etc.). The request was acknowledged.

**Upon a roll call vote on the amendment (to reduce the number to the two parks discussed; Shady Park and Lake Island Park); 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 main motion as amended,); Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

A recess was taken from 5:36 p.m. to 6:02 p.m.

b. Electric Undergrounding, Tree Management, and Reforestation Plan

Electric Utility Director Jerry Warren provided a PowerPoint presentation on the Undergrounding, Tree Management and Reforestation Plan. Topics discussed included the overhead electric system challenge, the solution, undergrounding initiative, development of the undergrounding plan, the tree team, underground ranking methodology and example, line clearance and the "go forward strategy".

Mr. Warren asked the Commission to accept the proposed ranking methodology for prioritizing future electric system undergrounding projects along with accepting the recommended line clearance strategy coordinated with the electric system undergrounding program. Discussion ensued on the proposed methodology, the ranking system, costs for undergrounding, best practices and line clearance standards. Mr. Warren answered questions.

**Motion made by Commissioner Sprinkel to approve the proposed ranking methodology and the clearance strategy according to national standards; seconded by Commissioner Leary. 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. Discuss Issuance of RFQ for Federal Lobbying services

City Manager Knight explained that at the last meeting Commissioner Sprinkel offered to research and provide some evaluation criteria regarding lobbying services and the information was included in the agenda packet for their review.

Discussion ensued as to what the evaluation form/process should include in order to quantify the job that is being done with whoever is selected. A suggestion was given to use the scope of services listed in the current contract as part of the evaluation form which will help them determine if they should bid the contract out or not. They also spoke about establishing a definitive set of criteria to be met when submitting an RFQ for these types of services.

**Motion made by Mayor Bradley that we use the seven (7) criteria items under Part 1A to develop an evaluation tool of our current lobbyist and that it is completed by our July 9 meeting, that includes the City Commission and key members of City staff in a summarized format; seconded by Commissioner McMacken. 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. Modification or amendment to Purchasing Policy regarding local preference

City Manager Knight explained that this item came before them at the last meeting for initial conversation and the Commission requested that it be on this agenda for formal adoption. He suggested that they talk about the process for those contracts that are pending, particularly the continuing contract awards since local preference should not be taken into consideration due to the CCNA guidelines.

Commission discussion included the timeline for which the policy would be implemented and the criteria/guidelines set forth for determining local preference.

Assistant City Manager Michelle del Valle explained that 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.

Attorney Brown provided legal counsel regarding the timeline implementation and how it would affect the contracts that are in progress. He advised that we can change the rules/criteria as long as it does not impact the actual procurement. If it did, they could protest whereby the Commission would then have the option to reject all bids and start the process over with the new criteria.

Upon further discussion, **motion made by Commissioner McMacken to adopt the Purchasing Policy as recommended by staff; seconded by Commissioner Sprinkel.**

Leila Nodarse, Nodarse & Associates, 1675 Lee Road, spoke about the local preference policy and explained that by using a local firm for geotechnical services the City would see a reduction in costs because they would not have to pay for mobilization/transport fees. She asked if they would consider rebidding the geotechnical consultant contract for the reasons mentioned.

Following a brief discussion regarding the criteria used for selection of a contract, a **roll call vote was taken with Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voting yes. The motion carried unanimously with a 5-0 vote.**

- e. Lawyer-Client Agreement with Fishman Haygood, et al regarding claims against underwriters JPMorgan and Morgan Stanley of auction rate securities issued by the City in 2004 and 2005

City Manager Knight explained that the City issued \$40,075,000 in Water and Sewer Revenue Bonds, Series 2004 and \$49,800,000 in Electric Revenue Bonds, Series 2005. All of these bonds were issued in auction rate security mode. In addition, the City entered into interest rate swap agreements with the same underwriters to synthetically fix the rate on all of the Water and Sewer Bonds and \$44,800,000 of the Electric Bonds.

The heart of the City's claim against the underwriters is that they sold a product (auction rate securities) they were artificially supporting and knew auctions would fail if they discontinued their practice of providing bids to purchase the bonds. When they did discontinue providing supporting bids in February 2008, the market for auction rate security bonds collapsed. As a result, the City incurred excess interest costs, costs to issue replacement fixed rate bonds, and payments to terminate the interest rate swap agreements.

Also, there is a schedule of interest rates paid on the remaining auction rate security bonds that were not refunded at the time the swap agreements were terminated (September 2009). Currently, the only auction rate security bonds outstanding are \$16,610,000 in Electric Revenue Bonds. The failed auction rate has been very low (below 0.50%) for quite some time and staff is monitoring the weekly rates on these bonds to determine if they should be refunded with fixed rate debt.

In February 2012, the City authorized the lawyer to file a Statement of Claim with the Financial Industry Regulatory Authority (FINRA) in order to avoid the possibility of a statute of limitations concern since the auctions began failing in February 2008.

The Lawyer-Client Agreement has been reviewed by our City Attorney who was able to secure concessions requiring prior approval of certain costs and a favored nation's clause that would reduce the lawyer's contingency fee if the lawyer negotiates a lower fee with another client who issued a similar amount of auction rate securities with a materially similar risk of recovery.

Commission discussion included what options are available, the use of a contingency based arbitration versus retaining our City Attorney to proceed, if the costs incurred could exceed the recovery costs and how much money the City would receive if we proceed with the claim. City Manager Knight and Finance Director Wes Hamil answered questions and Attorney Brown provided legal counsel.

**Motion made by Commissioner Sprinkel to approve the Lawyer-Client agreement; seconded by Commissioner Leary.** After further discussion, Mayor

Bradley advised that he will be voting against this because it does not feel right to him, especially if we cannot make a claim in the court of public opinion. **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.**

f. Potential policy that governs City Commission written communication

This item was tabled to a future meeting.

**Public Hearings**

- a. ORDINANCE NO. 2875-12: 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.  
Second Reading

Attorney Brown read the ordinance by title. Building Director George Wiggins explained that in addition to the minor editorial changes by the City Attorney regarding the side wall articulation, Commissioner Cooper pointed out that on page 6, section (n)(7) at the beginning of line 3, the word "not" needs to be added and staff concurs with this change.

Mr. Wiggins advised that a resident came before him last week with a proposed change regarding an alternate side setback for narrow lots (65 feet wide or less) with rear parking areas or garages: Provide a side setback of 11 feet on one side to allow driveway access and provide a minimum setback of 6 feet (versus 7) on the other side with a side wall height limit of 11 feet measured from existing grade to the top of the roof sheathing and provide a second floor setback of 10 feet; or as an alternate for lots 60 feet wide or less provide a minimum setback of 8 feet to both floor walls on one side and a minimum setback of 10 feet to both floor walls on the other (driveway) side. He explained that he revised the proposed change for appropriate insertion into the ordinance if approved by the Commission. He mentioned that he does advocate this change.

Discussion ensued regarding the residents proposed change and if it should formally go before P&Z prior to Commission approval. Mr. Wiggins noted that this proposed change was presented to P&Z last week and they supported the change but subject to a site plan review by P&Z.

**Motion made by Mayor Bradley to adopt the ordinance with the first, second and third items added (editorial changes). They include the following adjustment which we discussed on first reading and the addition of the word "not"; seconded by Commissioner Sprinkel.**

Mr. Wiggins answered questions pertaining to setbacks on corner lots and side setbacks.

**Motion amended by Commissioner Cooper that on the side yard setback we not reduce the setback further to 6 feet but leave it at the existing 7 foot; seconded by Commissioner McMacken for discussion.**

**Motion amended by Commissioner Cooper that where they talk about the setbacks on corner lots being changed from 25 feet to 20 feet that those setbacks remain at 25 feet; seconded by Commissioner McMacken for discussion purposes.**

Robert Poynter, 1309 Alberta Drive, explained that he is the resident that proposed the change in side setbacks. His family owns a 50' lot and their intention is to build a smaller house and this revision would allow them to do so. He asked for approval of the changes.

Phil Kean, 229 Alexander Place, indicated that he is in favor of all of the changes proposed this evening.

**Upon a roll call vote on the amendment (that where they talk about the setbacks on corner lots being changed from 25 feet to 20 feet that those setbacks remain at 25 feet); Mayor Bradley and Commissioners Leary, Sprinkel and McMacken voted no. Commissioner Cooper voted yes. The motion failed with a 4-1 vote.**

**Upon a roll call vote on the amendment (that on the side yard setback we not reduce the setback further to 6 feet but leave it at the existing 7 foot); Mayor Bradley and Commissioners Leary, Sprinkel and McMacken voted no. Commissioner Cooper voted yes. The motion failed with a 4-1 vote.**

**Upon a roll call vote on the main motion (to adopt the ordinance with the first, second and third items be added which is the editorial changes, they include the following adjustment which we discussed on first reading and the addition of the word "not"); Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

**Motion made by Mayor Bradley that the special side setback option which has been recommended by staff and a citizen be referred to P&Z for**

**immediate review and bring it back to us in what he calls "glitch ordinance improvement two"; 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.**

- b. ORDINANCE NO. 2876-12: 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. Second Reading

Attorney Brown read the ordinance by title.

**Motion made by Commissioner Leary to adopt the ordinance; seconded by Commissioner Sprinkel. No public comments were made. 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. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AND ABANDONING THE EASEMENT LOCATED AT 1302 W. FAIRBANKS, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING AN EFFECTIVE DATE. First Reading

Attorney Brown read the ordinance by title.

**Motion made by Commissioner Leary to accept the ordinance on first reading; seconded by Commissioner McMacken. Planning Director Jeff Briggs answered questions. 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.**

A recess was taken from 8:40 p.m. to 8:48 p.m.

- d. Request of CNL Commercial Real Estate: Final conditional use approval for a three story; 86,600 square foot office building on the site of the former State Office Building at 941 W. Morse Boulevard, zoned (O-1).

Commissioner McMacken recused himself from voting due to a conflict of interest; see Form 8B attached.

Planning Director Jeff Briggs explained that CNL Commercial Real Estate is requesting "final" conditional use approval for their office building project pursuant to the "preliminary" conditional use provided by the City Commission on April 23, 2012, on the property at 941 W. Morse Blvd.

Mr. Briggs explained that everything appears to be on target to accomplish the partnership between the City and CNL to redevelop this property with a Class "A"

office project. The "final" conditional use submittals address the concerns and conditions imposed with the "preliminary" approval. Mr. Briggs noted that there were some minor plan revisions to the landscape plan, stormwater drainage plan and site lighting and that the revisions are in accordance with staff comments and the applicant is in agreement. Mr. Briggs explained the stormwater retention plan is going to be primarily through underground exfiltration which will be near the driveway entrance to Morse Boulevard primarily and will accommodate the runoff from the parking lot. The rooftop runoff from the building will go into a small retention area formed by a berm in the front yard area. There was a unanimous approval from P&Z which allows the applicant to move into the building permit stage. Staff recommendation is for approval of the "final" conditional use pursuant to minor plan revisions as outlined.

Mr. Briggs answered questions including tree replacement, utility easements, screening for the dumpster and the stormwater retention area.

Tom Cunningham, CNL representative, provided a brief project update and answered questions.

Richard Baldocchi, representing Avcon Inc., Civil Engineer on the project, provided more detail regarding the proposed stormwater runoff concept.

**Motion made by Commissioner Sprinkel to approve the final conditional use request; seconded by Commissioner Leary. No public comments were made. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel and Cooper voted yes. The motion carried with a 4-0 vote. (Commissioner McMacken recused himself from voting.)**

**City Commission Reports:**

a. Commissioner Leary – No items.

b. Commissioner Sprinkel

Commissioner Sprinkel requested that staff provide an update on the tree ordinance at the next meeting. The request was acknowledged.

c. Commissioner Cooper – No items.

d. Commissioner McMacken – No items.

e. Mayor Bradley

1. Mayor Bradley asked for support for the City Manager to review the current form of compensation for services provided by the City Attorney so they can try to

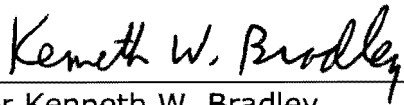
understand why other cities handle it differently. There was consensus for City Manager Knight to research the item.

2. Mayor Bradley requested that if we are involved in any type of litigation he would trust that those matters would follow the City purchasing policy and/or our City Manager's authority, meaning that anything over \$50,000 would be presented to the Commission. The Commission agreed. City Manager Knight acknowledged.


3. Mayor Bradley requested that a street naming policy be brought forward. The Commission supported the request. City Manager Knight acknowledged.

4. Mayor Bradley spoke about individuals participating via telephone and asked the City Attorney and City Manager to review our policies and determine if there has to be a hall pass that accommodates this request. The Commission supported this request.

The meeting adjourned at 9:04 p.m.

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

ATTEST:

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





**FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**  
**COMMISSIONER ADAM H. PUTNAM**

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May 2, 2012

The Honorable Kenneth W. Bradley  
Mayor, City of Winter Park  
401 Park Avenue South  
Winter Park, Florida 32789-4386

RE: Grant Number: # 17735 (Formerly ARS011) and # 17615 (Formerly ARS049)  
On-Site Monitoring Report (April 24, 2012)

Dear Mayor Bradley:

On April 24, 2012, April Groover of our staff met with representatives of your community to monitor the State Energy Program (SEP) project identified above. This letter, which contains no "findings" and no "concerns," is a summary of that visit. Monitoring is based on an examination of documentation that supports the grant Recipient's compliance with the grant agreement, state statutes, and federal regulations. We monitored the following areas for compliance:

- National Environmental Policy Act of 1969 (NEPA) Review
- Financial Management System Review
- Labor Standards
- Procurement
- Program Administration

Following is a summary of the areas examined and the results of the monitoring.

**National Environmental Policy Act of 1969 (NEPA) Review**

As required by National Environmental Policy Act of 1968, as amended (42 U.S.C. 4321 et seq.), and 40 CFR 1500, all Recipients of federal funds must conduct an environmental review of the project and its activities and certify compliance with applicable federal regulations, as well as state and local laws. The Recipient has taken appropriate action to assess the environmental impact of the project and its activities and if necessary, has informed the public of the environmental requirements by publishing a concurrent notice. The environmental review record, particularly the assessment action, was reviewed in detail. The U.S. Department of Energy completed and approved the environmental review on January 3, 2012. There were no findings or concerns.

## **Financial Management System Review**

We reviewed the Financial Management System to ensure compliance with requirements for fund control, cost allowability and accountability stated as identified in OMB Circulars A-21, A-87, A-122 and other applicable regulations. In reviewing the Recipient's record-keeping system, we examined documentation that the grant funds were incorporated into the Recipient's annual operating budget; reviewed how accounting records, including cash receipts and disbursement ledgers were maintained; checked for evidence that duties were segregated; established whether the request for funds file was complete; and ensured compliance with audit procedures. There were no findings or concerns.

## **Labor Standards**

The Davis-Bacon Act and other related acts require federal grant Recipients to monitor construction contractors and subcontractors to ensure that they comply with specific labor standard requirements. This review consisted of monitoring payrolls and project files to determine whether the Recipient is documenting the following:

1. The proper wage decision is included in each contract.
2. Any needed wage conformance requests are processed.
3. Payrolls are being obtained and reviewed.
4. Employee interviews are being conducted.
5. Any problems that arise are resolved in a timely manner.

The review indicates that labor standards requirements are being met.

## **Program Administration**

This review focuses on whether the Recipient has a project management system that complies with program requirements. We reviewed the filing system, record retention, and record access procedures for compliance with 10 CFR 600.242. Project progress was compared to the Scope of Work to determine on-time performance and expenditures. If non-grant funds were pledged in the application, we reviewed the amount expended to date. If program income was generated, its disposition was examined. There were no findings or concerns.

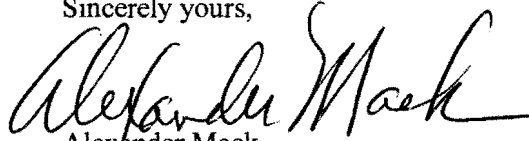
## **Procurement**

Office of Energy-funded grants, including grant modifications, must comply with applicable federal procurement regulations and state laws. The principal federal procurement regulation is contained in 10 CFR 600.236. Procurement of certain professional services is also subject to 287.055, Florida Statutes, (also known as the Consultants Competitive Negotiation Act, or CCNA). No breach of statutory, regulatory, or contractual provisions was noted under this area during the visit.

Please be aware that this report does not relieve your jurisdiction of its obligation to continue to administer the grant according to federal and state laws, the program rule, and sound management practices. At this time, no additional monitoring visits are planned.

We appreciate the helpful and cooperative attitude of those who provided assistance during the visit. If you have questions on this report or wish to have additional information, please call April Groover, Grant Manager at (850) 922-0999 or contact her at [April.Groover@freshfromflorida.com](mailto:April.Groover@freshfromflorida.com).

Sincerely yours,

A handwritten signature in black ink that reads "Alexander Mack". The signature is fluid and cursive, with the first name "Alexander" and last name "Mack" clearly distinguishable.

Alexander Mack  
Program Administrator

AM/ag

cc: Lena Petersen, Construction Project & Grant Manager

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

LAST NAME—FIRST NAME—MIDDLE NAME <b>McMACKEN THOMAS J</b>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <b>WINTER PARK CITY COMMISSION</b>	
MAILING ADDRESS <b>182 SHILOH CANE</b>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY <b>WINTER PARK</b>	COUNTY <b>ORANGE</b>	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY NAME OF POLITICAL SUBDIVISION:	
DATE ON WHICH VOTE OCCURRED <b>11 JUNE 12</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)

## APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

## DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, THOMAS J. McMACKEN, hereby disclose that on 11 JUNE, 20 12:

(a) A measure came or will come before my agency which (check one)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, \_\_\_\_\_;
- ☐ inured to the special gain or loss of my relative, \_\_\_\_\_;
- ☒ inured to the special gain or loss of ABCOM, by whom I am retained; or
- ☐ inured to the special gain or loss of \_\_\_\_\_, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

SAME AS PRIOR

11 JUNE 12  
Date Filed

  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.