

REGULAR MEETING OF THE CITY COMMISSION
August 27, 2012

The meeting of the Winter Park City Commission was called to order by Mayor Kenneth Bradley at 3:32 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida.

In memory, a moment of silence was given to Melinese Roberts, a City employee for over 39 years who recently passed away. Condolences were offered to her family.

The invocation was provided by Reverend Duncan, First Congregational Church, followed by the Pledge of Allegiance.

Members present:

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

Also present:

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

Approval of the agenda

City Manager Knight requested to add an emergency ordinance that addresses protesting in residential neighborhoods. Mayor Bradley requested to table items 11.b and 12.g.

Motion made by Mayor Bradley for the acceptance of the agenda by postponing both the quiet zone item (11.b) and the tree ordinance (12.g) to our next agenda and the addition of the emergency ordinance (12.i) that City Manager Knight is proposing; seconded by Commissioner McMacken and approved by acclamation with a 5-0 vote.

Citizen Budget Comments

Cynthia Hessna, Executive Director of Mead Botanical Gardens, spoke about working diligently with staff and the City Attorney to finalize the lease documents which will come for approval within the next two months. She also noted that per the City's request they have submitted their list of accomplishments and appreciates the monetary support from the City.

Mayor's Report

a. Presentation - Ruth's Hospitality Group Business Recognition Award

Economic Development Director Dori Stone presented Mikella Gallagher, Ruth's Hospitality Group, with the first 2012 City of Winter Park Business Recognition Award.

b. Proclamation - Rollins College Changemaker Campus Day

Mayor Bradley proclaimed September 6, 2012 as "Rollins College Changemaker Campus Day." President Lewis Duncan of Rollins College and Chrissy Garton, Program Manager for Social Entrepreneurship & Sustainability Initiative were present to accept the proclamation.

c. Proclamation - Valencia College Day

In honor of Valencia College celebrating its 45th year of serving Orange and Osceola counties in education, Mayor Bradley proclaimed August 27, 2012 as "Valencia College Day."

d. Board appointments:

- Keep Winter Park Beautiful and Sustainable Advisory Board
Term: 2012-2013: Brad James, James Robinson, Martha McHenry,
Julia Tensfeldt, Kelda Senior
2012-2014: Stephen Pategas, Mary Dipboye, Laura Walda,
John Rife, III, Lucy Roberts
2012-2015: Kent Tse, Myriam Garzon, Kimberly Roberts,
Barbara Chandler, Lauren Bradley

Motion made by Mayor Bradley to approve the members as presented in the packet to the Keep Winter Park Beautiful and Sustainable Advisory Board; seconded by Commissioner Sprinkel and approved by acclamation with a 5-0 vote.

Mayor Bradley did not address the Code Enforcement Board (alternate) or the Tree Preservation Board (move regular member to alternate) board appointments.

City Manager's Report

1. Commissioner Leary spoke about people who are soliciting patrons at restaurants and businesses to purchase candy and asked if a permit is required for this type of activity. City Manager Knight advised that a permit is needed for soliciting door to door (residential) and if anyone encounters this type of activity to contact the non-emergency police number so they can address the issue.

Commissioner Leary asked that this information be shared with the Park Avenue Association so they know the process and who to contact.

2. Commissioner Leary spoke about the non-profit checklist that Mead Botanical Gardens Inc. submitted to the City and felt it is important that we receive this type of information from all organizations that either manage a City asset or receives some type of funding from the City. City Manager Knight advised that we currently receive this type information from those organizations that we contributed to. A majority of the Commission agreed to discuss this process in more detail so they could standardize it. It was requested that City Manager Knight bring this item forward after the budget process.

3. Commissioner Sprinkel requested that the education goals that have been accomplished to date be credited towards the list of goals that the Commission established and to see that list when completed. Mayor Bradley and Commissioner Leary agreed with the request.

City Attorney's Report

No items.

Non-Action Item

No items.

Consent Agenda

- a. Approve the minutes of 8/13/2012. – **PULLED FOR DISCUSSION, SEE BELOW**
- b. Approve the following contracts:
 - 1. Amendment 3 to Tom's Sod Service, Inc. for IFB-36-2010 Annual Agreement for the Purchase of Various Sod Turfs, Installation & Services and authorize the Mayor to execute the Amendment.
 - 2. Contract renewal with Aetna for RFP-6-2007 Medical Insurance and authorize the Mayor to execute the Renewal Package document. – **PULLED FOR DISCUSSION, SEE BELOW**
 - 3. Authorize the Mayor to execute the Order and Lease Agreement for Aficio MP C6501 Reconditioned Copier for Community Center; \$5,960.15.
 - 4. Piggybacking Orange County contract Y11-1014 for Motor Fuels (contractors as identified by Orange County) and authorize the Mayor to execute the Piggyback Contracts.
- c. Approve the easement subordination agreements with FDOT for the I-4 corridor project (F. P. No. 242484-5, Parcels 544.8, 545.10R, and 179.21).
- d. Approve staff revisions to the City Debt Management Policy as discussed in the August 13 meeting.

Motion made by Commissioner McMacken to approve Consent Agenda items 'b.1', 'b.3-4', 'c' and 'd'; seconded by Commissioner Sprinkel and carried unanimously with a 5-0 vote.

Consent agenda item 'a' – Approve the minutes of 8/13/2012

Motion made by Commissioner Cooper to amend the minutes on page 8, item 3 under her comments, to add "Commissioner Cooper shared her concern with her disappointment that they had been asked to vote on a resolution in support of quiet zones prior to being provided the 2010 report defining the tradeoffs necessary for quiet zones."; seconded by Commissioner McMacken and carried unanimously with a 5-0 vote.

Consent agenda item 'b.2' - Contract renewal with Aetna for RFP-6-2007 Medical Insurance and authorize the Mayor to execute the Renewal Package document.

Commissioner Cooper inquired as to why this contract has not been competed since 2007. City Manager Knight advised that the original contract was for three years with a series of one year renewals. He also noted that over the past few years our current provider has created different plan designs to help control costs for both the City and employees. Assistant City Manager Michelle del Valle explained that this was not a good year for us to bid based on claim costs but we will continue to watch the market.

Motion made by Commissioner Cooper to approve Consent Agenda item 'b.2'; seconded by Commissioner Sprinkel and carried unanimously with a 5-0 vote.

Action Items Requiring Discussion

- a. Property purchase at 666 Nicolet Avenue to provide stormwater treatment to Lake Killarney

Public Works Director Troy Attaway explained that Lake Killarney is impaired by stormwater runoff and there are drainage problems in the areas surrounding Minnesota Avenue between Nicolet and Clay Street so the City desires to purchase the property at 666 Nicolet Avenue to provide stormwater treatment to Lake Killarney. Mr. Attaway noted that all due diligence has been performed and no issues have arisen. Mr. Attaway answered questions.

Motion made by Mayor Bradley to approve the purchase of this property as presented; seconded by Commissioner Sprinkel. No public comments were made. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried with a 5-0 vote.

b. Report on quiet zones(from August 13 meeting)

This item was moved to the September 10, 2012 meeting.

c. Budget/strategic planning discussion

City Manager Knight advised that the budget recommendation summary spreadsheet, the draft strategic plan scorecard and the work plan is included in the packet for discussion.

Commissioner McMacken spoke briefly about his three budget recommendations: 1) \$10,000 for historic signs from the overall budget; 2) that City Manager Knight find \$20,000 to partially funding the KWPB staff liaison; and 3) \$70,000 so they can match dollar for dollar on the geothermal at Cady Way Pool.

Mayor Bradley asked if the overall sign budget could accommodate the need for historic district signs rather than allocating a special line item for \$10,000. City Manager Knight said 'yes.' Mayor Bradley asked City Manager Knight to include the historic district sign item on his report so they could monitor the activity. The request was acknowledged.

Following discussion, **motion made by Commissioner Cooper to approve Commissioner McMacken's recommendation (provide City funding for KWPB staff \$20,000); seconded by Commissioner Sprinkel.** A brief discussion ensued as to where the KWPB fundraising contributions are spent. Commissioner Cooper suggested that a report be provided. No public comments were made. **Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried with a 5-0 vote.**

Discussion ensued regarding the Cady Way pool project, if they should require a match for the City's proposed \$70,000 contribution towards geothermal, if the geothermal could be budgeted into next year's budget and/or if they need to allocate additional money for building improvements to the bathrooms and general maintenance of the park.

Motion made by Commissioner McMacken for the City Manager to look at the current budget and see if there are ways to fund a \$70,000 matching fund for the Cady Way pool geothermal; seconded by Commissioner Sprinkel. No public comments were made. **Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried with a 5-0 vote.**

Mayor Bradley asked what the undergrounding budget has been in prior years. City Manager Knight said for the past three years it was done through the bond funds. Upon further discussion, **motion by Mayor Bradley to underground at the rate**

in 2013 of \$3.5 million which would be one and a half times more than we have ever undergrounded and to take \$500,000 and apply that to the net assets of the cash of the utility; seconded by Commissioner Leary.

Per the request of Commissioner Cooper, Electric Utility Director Jerry Warren provided his comments on the current motion. No public comments were made. **Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried with a 5-0 vote.**

Public comment

Rachel Whited, a lifetime Winter Park resident, submitted to the Deputy City Clerk a petition containing 501 signatures in support of the Winter Park Backyard Chicken Initiative. The petitioners are requesting to update the City's ordinance to allow up to five laying hens per household. She requested to add this item to a future agenda for discussion and consideration. A majority of the Commission agreed that City Manager Knight address this item by directing it to the appropriate advisory board(s) if necessary and report back to them. City Manager Knight acknowledged.

Continuation of budget discussion

Mayor Bradley spoke briefly about revising the method of allocating funds to outside organizations, particularly the \$120,000 that is currently proposed.

Motion made by Mayor Bradley that the process for distribution of \$120,000 (divided by 5) be at the Commission's discretion as well as requiring at least a 50% match for any City funding for organizational support; seconded by Commissioner Leary. Discussion ensued regarding the matching of City funds and the need to establish an official process so when an organization is requesting funding they know what to submit and what is required of them. Commissioner Sprinkel volunteered to sit down and come up with an official process. **Mayor Bradley withdrew his motion.**

Motion made by Mayor Bradley that the \$120,000 that we spend require documented 50% matches and that it will be spent on a quarterly basis in the new budget season; seconded by Commissioner Leary for discussion.

Further discussion ensued regarding the percentage of funds that are given to outside organizations and if this is the proper way to proceed or if they should distribute the funds in monthly increments which would allow the City additional time to further define the process. **Mayor Bradley withdrew his motion.**

Motion made by Mayor Bradley that in our next year the organizational support which is the groups that they have identified last time which makes up the \$120,000, will receive their funding on a monthly basis until such time as the Commission makes its decisions on how we fund; seconded by Commissioner Leary. Commissioner Cooper volunteered to

participate on a subcommittee to further define the process and to handle it that way, rather than asking the City Manager to bring them something back because he will have the same difficulty that they are having. Commissioner Sprinkel asked about distributing the funds on a quarterly basis instead of monthly. **Mayor Bradley withdrew his motion.**

Motion made by Mayor Bradley that funding for the organizational support for the \$120,000 a year be spent on a quarterly basis by the Commission as would be in the current budget; seconded by Commissioner Sprinkel. It was noted that this motion has no bearing on the CRA.

Mary Daniels, Board Chair of Welbourne Avenue Nursery & Kindergarten, Inc., read into the record her comments and asked the Commission to reconsider cutting the funding to Welbourne (more than ½ of the previous year).

Lurlene Fletcher, 790 Lyman Avenue, spoke in favor of the education for children and encouraged the City to contribute the funding for Welbourne Nursery.

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

Commissioner Cooper spoke about her budget recommendations and that after hearing the discussion about the Parks budget she withdrew her request to fund \$90,000 for Ward Soccer Fields B & C and the \$100,000 for Mead Gardens. She recommended to look at the money that is currently being spent on parks and to focus those funds where our greatest needs are. She also felt that some of her items of concern could be addressed under our capital improvement elements.

Commissioner Cooper withdrew her request for \$10,000 for actuarial cost analysis of pension reform since a majority of the Commission felt they have sufficient information to make a decision.

Mayor Bradley noted that in prior years the City did not provide additional funding for anything in parks and that we are moving in the right direction concerning both funding depreciation and maintaining the assets we have.

Upon questioning by Commissioner Cooper, City Manager Knight and Assistant Public Works Director Don Marcotte provided a brief overview regarding funding for quiet zones and that a full discussion is planned concerning this item at the September 10 meeting.

Commissioner Leary noted that the Commission has exhausted all of the items that he is interested in.

Commissioner Sprinkel said historically as you add technology you decrease the need for employees. She explained that she does not want anyone to lose their job; however, if we have an opportunity when people are retiring to look at how those positions can be supported with technology in a different way she would like for us to do that.

A recess was taken from 5:52 p.m. to 6:14 p.m.

d. Award of IFB-9-2012 to Sandstone Builders, Inc. to construct the Fleet Peoples Park Restroom Project and provide directive for funding

Parks and Recreation Director John Holland explained that on August 7, 2012 the City opened six bids ranging from \$144,998 to \$192,590 for the construction of the Fleet Peoples Park Restroom Facility. The current budgeted total for the project is \$125,000. This funding was provided through a \$40,000 fundraising donation from the Friends of Fleet Peoples Park and City budgeted funding of \$85,000 for a total of \$125,000. This is a shortfall of \$20,000 to cover the construction bid for the restrooms.

Three funding options were presented to the Parks Board last week and they requested that the bid be approved and not postponed for fundraising. Mr. Holland requested that the additional \$20,000 be taken from City's Contingency Fund in order to keep his budget on track. He also noted that it is staff's recommendation to award the project to the lowest bidder Sandstone Builders, Inc. at \$144,998. Mr. Holland addressed Commissioner Cooper's question pertaining to value engineering in construction materials/methodology to help reduce costs.

Motion made by Mayor Bradley to award this contract to Sandstone Builders Inc. with a \$20,000 allocation from the City's Contingency Fund; seconded by Commissioner Leary.

Nancy Shutts, 2010 Brandywine Drive, shared her concerns with the park layout and offered several suggestions.

Mike Palumbo, 559 Oak Reserve Lane, thanked the City for installing the handicap access/parking and crushed shell path and offered his suggestions on how to improve the park.

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

Public Hearings

- a. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE I "COMPREHENSIVE PLAN" IN THE FUTURE

LAND USE ELEMENT SO AS TO ADD A NEW POLICY INCREASING THE RESIDENTIAL DENSITY FOR AND LIMITED TO, THE PROPERTY AT 444 W. NEW ENGLAND; PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE. First Reading

AN ORDINANCE AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE III, "ZONING" SECTION 58-75 "COMMERCIAL (C-2) DISTRICT" SO AS TO INCREASE THE RESIDENTIAL DENSITY FOR AND LIMITED TO THE PROPERTY AT 444 W. NEW ENGLAND IN CONFORMANCE WITH THE COMPREHENSIVE PLAN; PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE. First Reading

Mayor Bradley stated that this would be a simultaneous public hearing and will require two separate votes. Attorney Brown read both ordinances by title.

Planning Director Jeff Briggs provided a PowerPoint presentation and explained that Heartwood 20 LLC is the new owner of the existing three story brick building at 444 W. New England Avenue zoned C-2. This building has retail/office space on the first floor, a vacant and unfinished second floor and a third floor comprised of 17 apartments. The new owners that have acquired this building after foreclosure wish to finish out the vacant second floor with new apartments. Due to the residential density limit of 17 units per acre in the Comprehensive Plan and Zoning code, these ordinances are needed to amend those codes to allow for this conversion of the second floor to residential units. Mr. Briggs answered questions including the year the building was built, density and parking requirements and the terms and conditions in the prior development agreement.

Commissioner Cooper said she is not comfortable with amending our long range growth management plan for fluctuations and market preferences and amending our Comprehensive Plan for one specific property owner.

Upon a brief discussion regarding possibly treating this as a variance in lieu of hardship versus amending the Comprehensive Plan, Attorney Brown provided legal counsel as to an alternate process.

Motion made by Commissioner Sprinkel to accept the first ordinance (comprehensive plan) on first reading; seconded by Commissioner Leary.

Motion made by Commissioner Sprinkel to accept the second ordinance (zoning) on first reading; seconded by Commissioner Leary.

Attorney Trippe Cheek spoke on behalf of the applicant and stated that he agrees with the City Attorney that the Comprehensive Plan change is the appropriate way to do this because of the density issues involved. He felt the limitation of use contained in the development agreement relates to the third floor only.

Commissioner McMacken shared his concerns with the parking. He asked if there are parking spaces contractually allocated in the parking garage for this project

development. Applicant Frank Herring responded and provided a detailed overview of the parking arrangements and configurations.

Donna Colado, 327 Beloit Avenue, disagreed with spot comprehensive plan changes.

Lurlene Fletcher, 790 Lyman Avenue, opposed changing the comprehensive plan for this one applicant.

Commissioner Cooper provided a brief outline on the Smart Code versus the Comprehensive Plan. She shared her concerns and felt this will compromise the neighborhood and does not agree with it.

Upon a roll call vote on the first ordinance (comprehensive plan), Mayor Bradley and Commissioners Leary, Sprinkel and McMacken voted yes. Commissioner Cooper voted no. The motion carried with a 4-1 vote.

Since the zoning ordinance is a quasi-judicial matter, disclosures were made by each Commissioner as follows: Mayor Bradley mentioned if there is anything it would be in the City email. Commissioner Leary attended a P&Z meeting where this was discussed. Commissioner Sprinkel said none. Commissioner Cooper was present at the P&Z meeting. Commissioner McMacken said he received a couple of emails from residents but none from the applicant or anyone directly associated with the project.

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

b. Request of Mi Tomatina Restaurant:

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING REGULATIONS" SECTION 58-86 "OFF-STREET PARKING REGULATIONS" TO EXPAND THE HANNIBAL SQUARE PARKING EXCLUSION DISTRICT TO INCLUDE THE PROPERTY AT 433 W. NEW ENGLAND AVENUE, PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE. First Reading

Attorney Brown read the ordinance by title.

Planning Director Jeff Briggs explained that this is a request for a zoning text amendment from the Mi Tomatina restaurant at 433 W. New England Avenue to expand the "Hannibal Square parking exclusion area" so that they may add 59 seats to their existing 91 seat restaurant without providing the additional 20 parking spaces required by the current code.

Mr. Briggs addressed questions related to the parking and parking management plan. Building Director George Wiggins provided information regarding the restaurant seating expansion.

Applicant Dan Bellows presented the proposed architectural plans and site plan layout.

Commissioner Cooper requested to see the parking management plan/matrix to clarify it. Commissioner McMacken agreed and asked if that can be done prior to the second reading. Mr. Bellows agreed that he would email the information to them.

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

Motion amended by Commissioner Cooper that prior to second reading we would like that parking management plan in place and that they also require that the parking management plan be submitted to the City that covers all of the parking in the Hannibal Square area that was originally designated as part of this and other parking that you have (so we have a total plan that shows where things are); seconded by Commissioner McMacken. Mr. Briggs responded to Mayor Bradley's question pertaining to the process in obtaining the parking information. Following a brief discussion regarding the parking requirements and if it should be tied to a motion; **Commissioner Cooper withdrew her motion to amend.**

Lurlene Fletcher, 790 Lyman Avenue, disagreed because of the huge parking problem in her neighborhood with people parking on the street.

Motion amended by Commissioner Cooper to require at least a basic matrix of the parking in the parking garage prior to second reading. Motion failed for lack of a second.

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.

Mayor Bradley asked for a status regarding the overall parking plan for the entire City. CRA Director Dori Stone said a few months back the City hired a traffic consultant and a scope of services was provided for a parking management study for the downtown area. She was unsure of the timeframe but will find out and let them know.

- d. Request of New Hope Baptist Church: Conditional use approval to construct and operate a children's day care facility on the church property at 274 N. Capen Avenue

Planning Director Jeff Briggs provided background and displayed maps/aerial drawings regarding the request. He explained that the church is requesting approval to add two buildings to their property and to use those modular classroom buildings for a children's daycare facility on the church grounds which is zoned R-2. Churches are a conditional use and the zoning code says specifically that "churches may not operate day nurseries, kindergartens or schools without first receiving conditional use approval for this use."

Mr. Briggs answered questions pertaining to the two temporary modular trailers that are currently on the site. He explained that these are Orange County Public School modular classroom buildings that were donated to the church and they either had to take possession of them by August 15 or they were going to be demolished. Mr. Briggs advised that New Hope understands and agrees that if they do not get approval from the City they will be responsible for the cost to remove the two temporary trailers.

Mr. Briggs noted that the P&Z Board voted unanimously for approval with the condition that the entry drive be marked as 'one-way' and the parking spaces be reconfigured as angle parking for better functioning. He also noted that both staff and the church understands that the look and appearance of those buildings as they are today is totally unacceptable and that they will have to be improved/cleaned up to be presentable. Notices were sent to all property owners within 500 feet and no one appeared at the P&Z meeting to voice any objections or concerns.

Building Director George Wiggins answered questions pertaining to the modular buildings and said they are Department of Community Affairs (DCA) approved. He also noted that per code skirting is required and that they will be permanently tied down if approved.

A majority of the Commission shared support of approving a daycare facility but was worrisome about the appearance of modular buildings in a residential neighborhood. They also shared concerns with this being a permanent situation since there is no indication that the modulares will be removed or replaced over a certain period of time or if a permanent structure will be placed on the site. Mr. Wiggins said the code addresses maintenance and repair of these structures in residential and commercial areas.

Attorney Brown provided legal counsel regarding the conditional use request and said the City can impose conditions as to quality, appearance, size and condition; all of which relate to the compatibility of the building with the surrounding neighborhood. Another option would be to approve with a condition that states

within one year there be a development of a permanent structure that meets City code.

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

Mayor Bradley addressed the need for guidance from the neighborhood as to whether or not they want this type of structure in their area even if it serves a great purpose. He encouraged the local residents to provide their feedback.

Mayor Bradley asked if this was tabled to a time certain. Mr. Briggs noted that this will be addressed at the next Commission meeting if New Hope provides additional information.

- d. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING WITHIN THE CHARTER LAWS OF THE CITY OF WINTER PARK, SECTION 1.02, "CORPORATE LIMITS DESCRIBED" SO AS TO ANNEX THE PROPERTY AT 656 OVERSPIN DRIVE, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

Attorney Brown read the ordinance by title.

Planning Director Jeff Briggs said this is an annexation request from Nort Northam, the owner of the property. Mr. Northam recently purchased this property to add to his adjacent commercial properties at 2650 and 2600 W. Fairbanks Avenue. He has asked to annex this property into the City so that all his properties are within the City. Staff's recommendation is for approval.

Mayor Bradley asked what the zoning designation would be if approved. Mr. Briggs said this item is scheduled to go to P&Z on September 11 and they are asking for it to come in under the existing Orange County C-1 zoning; however, the City Attorney has advised that we should address the annexation first so it is clear that we have jurisdiction so we can then deal with the land use in terms of the comprehensive plan and zoning. Mr. Briggs answered questions.

Motion made by Commissioner Sprinkel to approve the ordinance on first reading; seconded by Commissioner McMacken.

Applicant Nort Northam, 120 Broadview Avenue, said this parcel has been designated commercial property since 1963 and is contiguous for 140 feet. He thanked the Commission for their support.

Glenn Earl Bowen, 618 Baffie Avenue, spoke in opposition. He submitted to the Deputy City Clerk a petition with approximately 32 signatures objecting to rezoning of the property on 656 Overspin Drive and 600 Baffie Avenue.

Polly Beck, 709 Baffie Avenue, opposed the annexation and shared her concerns with the crime intruding into her neighborhood.

Arlene Walsh, 612 Baffie Avenue, did not want the noise, the lights, the crime and the billboards in their community and was opposed to the request.

Mr. Northam provided the history of the property and addressed the some of the concerns mentioned. He encouraged the local neighbors to come and talk with him. Mr. Briggs answered questions regarding the current zoning and Orange County's future land use designation. Attorney Brown advised that there is no pre-annexation agreement.

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. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING WITHIN THE CHARTER LAWS OF THE CITY OF WINTER PARK, SECTION 1.02, "CORPORATE LIMITS DESCRIBED" SO AS TO ANNEX THE PROPERTY AT 600 BAFFIE AVENUE AND THE EAST HALF OF THE ADJACENT RIGHT-OF-WAY OF BAFFIE AVENUE, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

Attorney Brown read the ordinance by title. Planning Director Jeff Briggs explained that the owner of the property Stacey Thornton Trust is requesting to annex the property and the east half of the adjacent right-of-way of Baffie Avenue into the City. Mr. Briggs explained that the property at 600 Baffie Avenue is a small triangle parcel of 183 square feet that is a remnant from the takings for the widening of I-4. The Stacey Thornton Trust is trying to make the property into something that has some value and some use so the request is also to annex and vacate the east half of the adjacent right-of-way. The annexation must occur first in order to have jurisdiction to entertain the request to vacate the street.

Planning Director Jeff Briggs provided background and aerial drawings illustrating the request. Attorney Brown provided clarification regarding the statutes pertaining to annexations and the applicable actions that must be taken regarding contiguity.

Attorney Trippe Cheek spoke on behalf of the applicant. He displayed aerial drawings and parcel maps showing that the property is contiguous with the annexation area that has already been designated in the comprehensive plan. Mr. Cheek stated that Orange County did not object to the request, that under the statutory criteria the property is contiguous and qualifies for annexation. He also stated that it will not create any burdens and asked the Commission for the granting of the petition for annexation. Mr. Cheek answered questions.

Commissioner Cooper shared her concerns and suggested offering a 10 foot buffer to help separate the single family homes from this commercial property rather than abandoning it.

Commissioner McMacken asked if we have to accept the voluntary annexation. Attorney Brown responded that we do not.

Motion made by Commissioner Cooper to deny the ordinance on first reading; seconded by Commissioner McMacken.

Tom Callan, 1911 Summerland Avenue, spoke in favor of the request. Phillip Tatich, 901 Golfview Terrace, spoke on behalf of Nort Northam who owns the adjacent parcel and presented his case in opposition of the property being contiguous. After presenting his evidence he asked the Commission to deny the application.

Attorney Trippe Cheek responded to the comments made and said at the request of the applicant they will only request the property known as the blue triangle parcel (as indicated on the drawings) to be annexed.

Polly Beck, 709 Baffie Avenue, spoke in opposition and said she does not want to see billboards placed on this small piece of land.

Arlene Walsh, 612 Baffie Avenue, was opposed to any commercialization within their community.

Nort Northam, 120 Broadview Avenue, felt this piece of land is not contiguous.

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

Motion made by Commissioner Sprinkel that they allow only the blue triangle to be part of this action tonight; seconded by Commissioner Leary.

Attorney Brown stated that since there is a new motion on the table public comment is granted so long as the comments are not repetitious or redundant.

Phillip Tatich, 901 Golfview Terrace, suggested that given the requirements of the staff to make a determination as to contiguity, the bearing of the westerly line of the Viegel property and the bearing of the eastern line of the blue triangle are not the same; therefore, by definition they are not coterminous.

Upon further discussion regarding contiguity, Attorney Brown provided legal counsel and said in his opinion there is sufficient substantial competent evidence to support a finding that the line on the right hand boundary of the blue triangle does sufficiently match up when you disregard I-4. He also clarified that whether or not to annex is a policy decision.

Upon a roll call vote (that they allow only the blue triangle to be part of this action tonight), Mayor Bradley and Commissioners Leary and Sprinkel voted yes. Commissioners Cooper and McMacken voted no. The motion carried with a 3-2 vote.

- f. Request of SunTrust Bank: Conditional use approval to extend their approval for one additional year at 301 S. New York Avenue

Motion made by Commissioner McMacken to approve the conditional use request; seconded by Commissioner Sprinkel. 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.**

- g. Request of the City of Winter Park:

AN ORDINANCE OF THE OF WINTER PARK, FLORIDA, CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE V, "ENVIRONMENTAL PROTECTION REGULATIONS", DIVISION 6, "TREE PRESERVATION AND PROTECTION", SO AS TO AMEND TREE REMOVAL COMPENSATION REQUIREMENTS, AMEND USE OF THE TREE REPLACEMENT FUND, PROVIDE EXEMPTION FROM REQUIRING A TREE REMOVAL PERMIT, CLARIFY TREE MAINTENANCE DUTY OF CITY AND PROPERTY OWNERS, AND ESTABLISH ENFORCEMENT PROCEDURE FOR REMOVING HAZARDOUS TREES; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE. First Reading

This item was moved to the September 10, 2012 meeting.

- h. RESOLUTION NO. 2111-12: A RESOLUTION OF THE CITY OF WINTER PARK, FLORIDA RECOMMENDING THAT IRADMED CORPORATION BE APPROVED AS A QUALIFIED TARGET INDUSTRY BUSINESS PURSUANT TO SECTION 288.106, FLORIDA STATUTES AND PROVIDING AN EFFECTIVE DATE.

Attorney Brown read the resolution by title.

CRA Director Dori Stone provided background regarding the resolution and asked the Commission for their support. She explained that upon approval by the Orange County Commission of the County's portion of the local financial support, they commit \$5,000 annually for three years (\$15,000 total) to provide the 20% program match.

Motion made by Commissioner McMacken to adopt the resolution; seconded by Commissioner Cooper. No public comments were made. **Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

- i. EMERGENCY ORDINANCE NO. 2881-12: AN EMERGENCY ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA; AMENDING SECTION 62-77 OF THE CODE AND ADDING NEW SECTION 62-79, TO PROMOTE PUBLIC PEACE AND

ORDER IN SINGLE FAMILY HOME RESIDENTIAL AREAS AND TO PROMOTE THE IMPORTANT VALUE OF TRANQUIL AND HARMONIOUS NEIGHBORHOODS IN THE CITY OF WINTER PARK BY REGULATING WITHIN A DEFINED BUFFER AREA ALL PICKETING, REGARDLESS OF THE CONTENT OF THE COMMUNICATION, AND ALLOWING A RESIDENT OF A SINGLE FAMILY HOME TO POST A "NO LOITERING" SIGN ON HIS OR HER PROPERTY WHEN THE RESIDENT DETERMINES THAT A PROTEST OR PICKETING ACTIVITY IS OCCURRING ON A SIDEWALK, RIGHT OF WAY, STREET OR OTHER PUBLIC AREA ABUTTING THE SUBJECT PRIVATE PROPERTY OR WITHIN THE DEFINED BUFFER; PROVIDING FOR ALTERNATIVE AREAS FOR EXPRESSION WHEN PERSONS WISH TO PROTEST OR PICKET SPECIFIC TARGETED INDIVIDUALS RESIDING OR PERCEIVED TO BE RESIDING IN PROPERTY ABUTTING A PUBLIC RIGHT OF WAY; PROVIDING FOR ENFORCEMENT; PROVIDING A SAVINGS CLAUSE AND SEVERABILITY; PROVIDING FOR ADOPTION OF THIS ORDINANCE AS AN EMERGENCY ORDINANCE PURSUANT TO SECTION 2.12 OF THE MUNICIPAL CHARTER; PROVIDING FOR CONFLICTS AND AN EFFECTIVE DATE.

Attorney Brown explained the Charter provision that allows an adoption of an emergency ordinance if there is a public emergency affecting life, health, property or public peace and that it requires four votes. He clarified that this ordinance is automatically repealed 61 days after its adoption and that the ordinance can be enacted through regular procedures as a regular ordinance in that 60 day period. He explained that they can amend the ordinance this evening and that it will be effective immediately if four votes support any changes to the ordinance. Attorney Brown read the title of the ordinance.

Attorney Brown answered questions pertaining to picketing versus protests. He spoke about this type of ordinance is likely to be challenged which is why he wrote this with very exhausted findings where he cited extensively from the Supreme Court cases that to a degree recognized the importance of tranquility in one's home. Attorney Brown further explained specific portions of the ordinance, including the 50' buffer. He concluded that there is enough constitutional support and/or legal support for them to take this action this evening. Further questions were answered by Attorney Brown pertaining to the placement of no loitering signs.

Commissioner Sprinkel addressed her request to adopt the emergency ordinance because of concerns with what happened in their neighborhood and that this is important enough to enact immediately. City Manager Knight stated other Commissioners as well as many citizens also contacted him. Mayor Bradley asked why they would not wait two weeks to put this on the agenda. It was explained that the individual has in fear. Mr. Knight compared this to a moratorium that the Commission adopts on a temporary basis until they can do the formal action to make it permanent. He explained that the public notice will take place, two public hearings will take place and if adopted, will become a permanent ordinance and that the emergency ordinance protects all City residents immediately from being subjected to this type of action in front of their residences during the four weeks it would take to adopt a formal ordinance. The City of Orlando ordinance in place was discussed. It was clarified that the Commission can repeal the emergency ordinance at the next meeting if they choose to, or they can amend or modify or

not adopt a permanent ordinance and let this one die. Commissioner Leary addressed the importance of adopting the ordinance.

Motion by Commissioner McMacken to adopt the emergency ordinance; seconded by Commissioner Sprinkel.

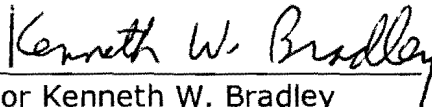
Jenna Tosh, 1470 Aloma Avenue, President and CEO of Planned Parenthood of Greater Orlando, stated she was threatened and ambushed last week by 30 anti-abortion protesters on the sidewalk leading to their home. She stated she had to push through these people with her 3 year old son who were carrying massive anti-abortion signs and other signs targeted against her specifically. She stated this is not an ordinance about abortion rights or about women's rights or women's health because everyone is entitled to their own diverse points of view on these issues but is an ordinance that will not only protect her family but any number of Winter Park residents who may in their professional lives take positions that are deemed controversial. She stated she is entitled to peace and tranquility at her home and that her son is entitled to not feel afraid in his own home. She thanked the Commission for acting so quickly and urged them to adopt the ordinance and to move forward with the adoption of a permanent ordinance.

Attorney Brown provided the Deputy City Clerk a summary of state/local residential picketing laws which the City may rely upon as precedent from around the country, an ordinance concerning use of public rights-of-way in the City of Noblesville, an article regarding intimidation of a banker in his home, an email that recites the City of Orlando ordinance, and an email between the Chief of Police and the City Manager concerning further information on the specific incident that Ms. Tosh was dealing with as well as photographs of the protest and an article from Marketplace.org concerning intimidation on their homes.

Mayor Bradley stated he is fully supportive of what has been presented and is also very interested in any litigation or cases from municipalities that says you have free speech but only within a certain area. Attorney Brown provided examples. Other questions were asked for clarity purposes and responded to by Attorney Brown. Mayor Bradley stated he wanted the record to show that he is totally against anyone going in front of someone's house and threatening them in any way; that is not in the spirit of Winter Park. He wanted to ensure this is fully thought through before taking this action. Attorney Brown asked for guidance concerning the 50' buffer. Further discussion ensued regarding the 50' buffer and the areas that this would be in effect.

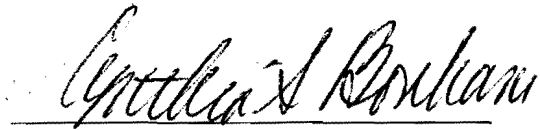
Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion unanimously carried with a 5-0 vote.

The meeting adjourned at 9:55 p.m.



Mayor Kenneth W. Bradley

ATTEST:



City Clerk Cynthia S. Bonham