

REGULAR MEETING OF THE CITY COMMISSION
April 8, 2013

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
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 Commissioner McMacken to approve the agenda; seconded by Commissioner Sprinkel and approved by acclamation with a 5-0 vote.

Mayor's Report

a. Presentation – Best of Show 54th Annual Sidewalk Art Festival

Jean Sprimont, Winter Park Sidewalk Art Festival, presented the City with the original framed artwork titled "Middle America" by artist Matthew Cornell.

b. Presentation – Healthy Central Florida Executive Summary, Jill Hamilton Buss

Jill Hamilton Buss, Executive Director of Healthy Central Florida, distributed an executive summary report dated March 2013. She provided a PowerPoint presentation which outlined the health study results/recommendations including a baseline study on health, sample characteristics, obesity trends among U.S. adults and BMI (body mass index) categories. Ms. Hamilton Buss answered questions.

c. Proclamation – Business Recognition Award recipient Winter Park Playhouse

Economic Development Director Dori Stone presented Heather Alexander and Roy Alan of the Winter Park Playhouse with the First Quarter 2013 Business Recognition Award as recommended by the Economic Development Advisory Board.

Miscellaneous:

Mayor Bradley mentioned that last week MetroPlan Orlando presented a video titled "I-4 Ultimate Project". He requested that this be posted on the City's website and distribute it the Commission.

City Manager's Report:

City Manager Knight announced the following:

- April 15, 9:00 a.m. - Work Session with Congressman Mica regarding the post office property
- April 20, Dinner on the Avenue event

Mayor Bradley said he was disappointed that the City was not notified in advance regarding the recent closing of the Winter Park Tag Agency office on Lee Road. The consensus was to have City Manager Knight submit an official letter to Mr. Randolph with the Orange County Tax Collector 's office inquiring as to why we were not notified and to share our disappointment.

City Attorney's Report

Attorney Brown advised that the Plaintiff in the Bell litigation case filed an appeal this week. He will keep the Commission fully informed as it progresses.

Mayor Bradley recalled the code enforcement lien discussion that transpired at the last meeting. He requested City Manager Knight to implement a policy in which all code enforcement liens/fines that are 90 days out are documented in a report and submitted to the Commission for action. City Manager Knight acknowledged.

Non-Action Item - No items.

Consent Agenda

- a. Approve the minutes of 3/25/13.
- b. Approve the following purchase and contracts:
 1. PR 151864 for Don Reid Ford, Inc. for the purchase of three 2013 Ford F-150 trucks; \$62,754.
 2. Blanket purchase order to ENCO Utility Services for FY13 Professional Services (Operations and Maintenance) for Electric Utility; \$2,500,000.
 3. PR 151976 to Sternberg Lanterns for streetlights for Alford Inn; \$50,948. - **PULLED FOR DISCUSSION, SEE BELOW**
 4. Cady Way Pool Complex agreement with the Winter Park Family YMCA and authorize the Mayor to sign. - **PULLED FOR DISCUSSION, SEE BELOW**
 5. Contract renewal with Bellomo Herbert RFQ-2-2012 Continuing Contracts for Professional, Architectural & Engineering Services (Parks & Recreation) and authorize the Mayor to execute Amendment 1.

6. Contract renewal with Le-Huu Partners for RFQ-2-2012 Continuing Contracts for Professional, Architectural & Engineering Services (Parks & Recreation) and authorize the Mayor to execute Amendment 1.
 7. Contract renewal with Environmental Research & Design, Inc. for RFQ-2-2012 Continuing Contracts for Professional, Architectural & Engineering Services (Lake Management) and authorize the Mayor to execute Amendment 1.
 8. Piggybacking the County of Los Angeles/U.S. Communities contract MS-IS-1230234 with Graybar Electric Company for electric products and authorize the Mayor to execute the Piggyback Contract.
- c. Approve for execution the Memorandum of Agreement between the City of Winter Park and the Florida Department of Transportation for the Ultimate I-4 Project for City funding of and maintenance of aesthetic and lighting fixtures, subject to satisfying City Attorney comments of review. – **PULLED FOR DISCUSSION, SEE BELOW**

Motion made by Commissioner Leary to approve Consent Agenda items 'a', 'b.1-2' and 'b.5-8'; seconded by Commissioner Sprinkel and approved unanimously with a 5-0 vote.

Consent Agenda item 'b.3' - PR 151976 to Sternberg Lanterns for streetlights for Alford Inn; \$50,948

City Manager Knight addressed Commissioner Cooper's concerns by clarifying that the City will be reimbursed by Rollins College.

Motion made by Commissioner Cooper to approve Consent Agenda item 'b.3'; seconded by Commissioner McMacken and approved unanimously with a 5-0 vote.

Consent Agenda item 'b.4' - Cady Way Pool Complex agreement with the Winter Park Family YMCA and authorize the Mayor to sign.

Motion made by Commissioner Sprinkel to approve Consent Agenda item 'b.4' and that the inclusion of the swimming lessons for children be added to the agreement; seconded by Commissioner Cooper and approved unanimously with a 5-0 vote.

Consent Agenda item 'c' - Approve for execution the Memorandum of Agreement between the City of Winter Park and the Florida Department of Transportation for the Ultimate I-4 Project for City funding of and maintenance of aesthetic and lighting fixtures, subject to satisfying City Attorney comments of review.

Public Works Director Troy Attaway addressed Commissioner McMacken's inquiry regarding Fairbanks Avenue bridge maintenance and upkeep. He said the City will

be responsible for taking care of the aesthetics. He provided the estimated yearly maintenance cost fees. Following a brief discussion, the Commission directed staff to contact FDOT for a price quote to apply "City of Winter Park" on the Lee Road bridge. The request was acknowledged.

Motion made by Commissioner McMacken to approve Consent Agenda item 'c' and for staff to contact FDOT for a price quote to apply "City of Winter Park" on the Lee Road bridge; seconded by Mayor Bradley and approved unanimously with a 5-0 vote.

Action Items Requiring Discussion

a. Appointment of Vice Mayor

Motion made by Mayor Bradley to appoint Commissioner Sprinkel as Vice Mayor; seconded by Commissioner McMacken and approved unanimously with a 5-0 vote.

b. RFP-11-2013 Federal Lobbying Services

Motion made by Commissioner Cooper to support the recommendation of the Committee and staff (to continue with the existing lobbyist Alcalde & Fay). Motion failed for lack of a second.

Motion made by Commissioner Leary to approve the second place as recommended (BGR Government Affairs, LLC); seconded by Mayor Bradley for discussion. Commissioner Sprinkel commented on the selection process and said in the future we should have more than one commissioner participate in the selection/voting process. 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.**

Public Hearings:

a. Request of the Sydgan Corporation:

ORDINANCE NO. 2914-13: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE I "COMPREHENSIVE PLAN" FUTURE LAND USE MAP SO AS TO CHANGE THE FUTURE LAND USE DESIGNATION OF SINGLE FAMILY RESIDENTIAL AND INSTITUTIONAL TO OFFICE FUTURE LAND USE ON THE PROPERTIES AT 216, 226 AND 234 WEST LYMAN AVENUE, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE. Second Reading

ORDINANCE NO. 2915-13: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE THE ZONING

DESIGNATION OF SINGLE FAMILY (R-1A) DISTRICT AND PUBLIC, QUASI-PUBLIC (PQP) DISTRICT TO OFFICE (O-2) DISTRICT ON THE PROPERTIES AT 216, 226 AND 234 WEST LYMAN AVENUE, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE. Second Reading

Attorney Brown read both ordinances by title. Commissioners disclosed their ex-parte communications as it relates to the rezoning ordinance.

Motion made by Commissioner Leary to adopt the first ordinance (comprehensive plan); seconded by Commissioner McMacken. 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.**

Motion made by Commissioner Leary to adopt the second ordinance (zoning); 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. Ravaudage Community Development District (CDD)

ORDINANCE NO. 2916-13: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA GRANTING PETITION OF BENJAMIN PARTNERS, LTD.; ESTABLISHING AND NAMING THE RAVAUDAGE COMMUNITY DEVELOPMENT DISTRICT PURSUANT TO CHAPTER 190, FLORIDA STATUTES; DESCRIBING AND PROVIDING THE EXTERNAL BOUNDARIES, THE FUNCTIONS AND THE POWERS OF THE DISTRICT; DESIGNATING FIVE PERSONS TO SERVE AS THE INITIAL MEMBERS OF THE DISTRICT'S BOARD OF SUPERVISORS; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE. Second Reading

Attorney Brown read the ordinance by title.

Mayor Bradley spoke about the need to establish free access to those properties that are either attached, beside or within the CDD boundaries but are excluded from the District.

Attorney Brown explained that the City is required to oversee the permitting of any construction in this area. He felt that the City would never allow the construction of a road system which would land lock or diminish access. He said that under Florida law you cannot deny someone reasonable ingress/egress from their property.

Attorney Brown mentioned that he recently received a revised Exhibit 7A to the Petition. He addressed speaking with Jan Carpenter, Attorney for the prospective District and said she is prepared to alleviate any concerns; and that the rough draft drawing may meet the requirements of Florida law but is in no way designed to be

an indication that the excluded parcels will be put in retention ponds or anything of that nature.

Jan Carpenter, Latham, Shuker, Eden & Beaudine Law Firm representing Benjamin Partners, Ltd., explained that the engineers revised the site plan. She submitted copies of the revised Exhibit 7A to the Deputy City Clerk for distribution. She explained that the previous site plan was merely a vision of what they would like to be developed there one day, if the landowners were cooperative or the property was sold. She noted that after speaking with attorney Ken Artin (Bryan Miller Olive Law Firm) and Attorney Brown, they added language at the bottom of revised Exhibit 7A which states "*The above depiction of potential public and private land use is not intended to have any legal significance. The above depiction does not affect, in any manner, the legal rights of owners of land located either within or outside of the boundaries of the district. The City of Winter Park has not reviewed this depiction in connection with any land use, planning or zoning discussions or determinations.*" Ms. Carpenter said this added language makes it very clear that there are no approvals to anyone and no one is intended to be impacted by that.

Attorney Brown clarified that the revised Exhibit 7A will supersede the prior exhibit.

Ms. Carpenter submitted to the Deputy City Clerk a record a copy of the April 4, 2013 letter from the Orlando Sentinel containing the affidavit of publication, as the required publication for this public hearing.

Ms. Carpenter addressed the concern related to reasonable property access. She said the site plan is a vision of what could be public and private improvements in this area. If someone wanted to go through the vacation of any roads it would have to go through the City planning process whereby the City would make those decisions. She said if someone did not have access, the City would not approve it.

Attorney Brown said he agreed with Ms. Carpenter's general statement. Because of the sensitivity in the design issues, he is certain that the District would coordinate with City staff and that everyone would reach out to those excluded owners and try to get consensus on how it will ultimately be developed.

Mayor Bradley stated he understands putting the boundaries of the CDD on the site plan, but asked why we would put anything else. Attorney Brown said the Legislature requires some sort of estimated plan of what they would like to see developed. He explained that they are merely trying to comply with the statutory requirement and that the language that they have added to the bottom of the revised Exhibit 7A is sufficient to protect and to demonstrate that intent.

Stumpy Harris of the Harris, Harris, Bauerle, Sharma Law Firm, 1500 Bonnie Burn Circle, spoke on behalf of Doug and Ronda Loft, owners of one of the outparcels. He explained that he has been working with the City Attorney and they solved one of the issues he raised about imminent domain. He said obviously you cannot

contract away the right of imminent domain; that is vested with the City. He commented that they feel very comfortable with that and not having to deal with any kind of CDD Board of Governors on this remedy when it is used. He said there are still two items that remain. He urged the Commission to instruct the City Attorney to include language in the ordinance that would protect all (approximately 10) of the excluded parcels by stating that they would be granted as good or better access than they had before and that no vacating of a street shall be done and/or if a street will be vacated the address would remain.

Attorney Brown explained that Mr. Harris has not provided the precise language; however, he fully understands what is being requested. Mr. Harris said he has the utmost confidence that the City Attorney would articulate the suitable language to address the concerns raised with access and the vacation of a street.

Ms. Carpenter commented she does not think conceptually that anyone has issues with what the law is but had concerns with amending the ordinance and putting in obligations of the CDD which are land use related since the CDD has no ability to plan, design or build roads, nor vacate a road.

Attorney Brown suggested that the City draft a resolution with applicable language regarding access and limit it to the Ravaudage CDD to reassure the excluded parcel owners and their counsel. The resolution could also state that City staff is directed to ensure that when permitting road construction improvements that no excluded parcels access/ingress/egress would be diminished. Attorney Brown clarified that these roads will never be vacated unless it comes back to the Commission in the form of a public hearing for consideration.

Discussion transpired regarding the pros and cons associated with issuing a resolution versus amending the CDD ordinance.

Motion made by Commissioner Leary to adopt the ordinance (inclusive of the revised Exhibit 7A); seconded by Mayor Bradley.

Motion amended by Commissioner Sprinkel that our City Attorney and Mr. Harris have another conversation; if they feel that after that conversation that they need to bring something forward to the Commission that they do so at the next meeting; seconded by Commissioner Cooper for discussion.

It was noted that there may not be a sufficient amount of time for coordination since this is the second reading of the ordinance. Attorney Brown acknowledged the urgency and said he will meet with Mr. Harris and Ms. Carpenter and report back to the Commission. He also suggested that at the next meeting that the newly formed commission of board members of the CDD can enter into a simple agreement to address the issues raised. Following a brief discussion regarding the amendment, **Commissioner Sprinkel withdrew her motion to amend.**

Patrick Chapin, Winter Park Chamber of Commerce, shared his support of the CDD.

Motion amended by Commissioner Cooper that this CDD be approved with the condition that our Attorney and staff review the concern that's been expressed regarding access and that the ordinance be amended to address that specific concern with this CDD approval. 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 with a 5-0 vote.

Mayor Bradley asked for legal guidance regarding providing a resolution or other document which states that the City wants to continue to provide access to the excluded parties. Attorney Brown said the resolution concept is one idea. He said he will meet with Mr. Harris and Ms. Carpenter before the next meeting and see if they can bring a resolution which addresses the concerns raised.

Motion made by Commissioner Sprinkel to request that the City Attorney along with the parties represented to mutually discuss this issue and bring a report back and/or an action back at the next meeting; seconded by Commissioner McMacken. No public comments were made. **Upon a roll call vote, Mayor Bradley and Commissioners Sprinkel, Cooper and McMacken voted yes. Commissioner Leary voted no. The motion carried with a 4-1 vote.**

Public Comment

Patrick Chapin, Winter Park Chamber of Commerce, announced that April is Child Prevention Month and that the blue pinwheels around town are to help raise awareness of child abuse in the community.

- c. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING SECTION 42-1, DEFINITIONS, AND 42-7, QUALIFICATION OF CANDIDATES AND CLERK'S CERTIFICATION, OF CHAPTER 42, ELECTIONS, TO ADD DEFINITIONS FOR "QUALIFICATION DEADLINE", "QUALIFICATION DOCUMENTS", AND "QUALIFICATION PERIOD", AND TO CLARIFY QUALIFICATION REQUIREMENTS; PROVIDING FOR SEVERABILITY, CODIFICATION, CONFLICTS AND AN EFFECTIVE DATE. First Reading

Attorney Brown explained that this follows the recent lawsuit which challenged some of the provisions in the City's existing ordinance regarding election qualification. He said one of the issues in the lawsuit was whether or not the City Clerk could require that the qualification fees that are required by statute and City code must be paid from a campaign bank account check. According to the opinion letter received by the City from the Divisions of Elections dated March 18, 2013 the answer is yes.

Attorney Brown explained that after receiving the opinion letter he met with City Clerk Cindy Bonham and City Manager Knight to amend the ordinance and clarify the issues that were raised in the lawsuit. A brief summary was provided regarding the items amended; providing a more detailed definition for the qualification deadline, qualification documents, qualification period and to further clarify the qualification requirements.

Discussion ensued regarding the modified language on page 5 of the ordinance which states "The City Clerk has no duty to notify candidates of deficiencies in Qualification Documents that are filed less than two working days before the qualification deadline." Mayor Bradley questioned this modified language and the process and disagreed with this modification. Attorney Brown explained the reasoning was to tighten up the existing language. He stated that the existing ordinance states that the City Clerk will notify each candidate in writing not more than five working days and not less than two working days after the candidate has filed their papers. Following a brief discussion on whether or not this particular change should be made, Attorney Brown asked for direction.

Commissioner Cooper felt the definition of "Qualification Documents" should also be clarified in the ordinance to be consistent with our Charter.

Mayor Bradley suggested moving the qualification deadline date and making it earlier to allow potential applicants more time to submit their documents. Attorney Brown said the qualification deadline date under this proposed language is extended only if the first day of the qualification period falls on a legal holiday. A suggestion was made that if City Hall is closed due to a legal holiday that the qualification deadline calendar is adjusted by moving back the start date on the calendar. This will ensure that the applicant is given the appropriate number of days for qualifying and be in compliance with the law.

Motion made by Mayor Bradley to table this ordinance until two weeks from today by which the staff and City Attorney can take the discussion in general under account and see if the ordinance needs to be adjusted; seconded by Commissioner Leary. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried with a 5-0 vote.

d. Adoption of the Fee Schedule effective May 1, 2013

City Manager Knight provided background. Questions were raised regarding the consistency in fees for appeals. Planning Director Jeff Briggs clarified that currently there is no fee required for a Historic Preservation Board appeal and that the City is trying to recover the costs for legal advertising and mailing of the notices by increasing the fee to \$100.00. A majority of the Commission recommended reducing the fee to \$35.00 so it is consistent with the Tree Board appeal fee.

Assistant Parks and Recreation Director Ronnie Moore addressed concerns related to the increase in fees for pool passes and Commissioner Cooper's question pertaining to companies doing business in our local parks/lakes and the associated licenses/fees that the City charges. A suggestion was made that a study be performed as to who is using our lakes/parks, what are they doing and are we getting a fair value for allowing them to use our parks/lakes. City Manager Knight agreed with the suggestion.

Motion made by Commissioner McMacken to approve the revisions to the fee schedule effective May 1, 2013 with one exception, that the fee for appealing the Historic Preservation Board decision is to be reduced to \$35.00 which is consistent with the Tree Board appeal; seconded by Commissioner Leary. No public comments were made. **Upon a roll call vote, Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried with a 4-1 vote. (Mayor Bradley was absent for the vote.)**

City Commission Reports:

- a. Commissioner Leary – No items.
- b. Commissioner Sprinkel

Commissioner Sprinkel announced that tomorrow at 8:00 p.m. the Enzian Theatre will be showing a movie in Central Park; April 11 is the Winter Park Village Toast event; April 17 is Taste of Winter Park and April 20 is Dinner on the Avenue.

- c. Commissioner Cooper

Commissioner Cooper announced the Winter Park Women's Club Silver Tea Event is this Thursday at 2 p.m.; she and 2,500 others attended the Gamble Rogers Colloquium this past weekend; Heart and Soul collected four boxes of new underwear, sweatshirts and shoes for needy children and donations are still being accepted. She suggested that we consider incorporating an arts element into the Progress Point site with participation by the potential developer. In support of Healthy Central Florida, she asked if the City could put a collection box at City Hall for canned goods to help those who are fighting hunger in the local area. Commissioner McMacken reminded everyone who is attending Dinner on the Avenue event to bring their canned goods items for donation.

- d. Commissioner McMacken


Commissioner McMacken said he and his family went to Kraft Azalea Park this weekend to take family photographs and commended the Parks and Recreation Department for an outstanding job in keeping the park in tip top shape.

e. Mayor Bradley

Mayor Bradley spoke about a resident's email concerning parking issues on Park Avenue and asked for a status update on the City's parking plan. City Manager Knight advised that it will be forthcoming and an official date will be provided at the next meeting.

Mayor Bradley mentioned next Monday's work session regarding the post office. He suggested that they consider other uses for the building/site such as a library, art gallery, etc.

The meeting adjourned at 5:42 p.m.



Mayor Kenneth W. Bradley

ATTEST:



City Clerk Cynthia S. Bonham