

REGULAR MEETING OF THE CITY COMMISSION
April 10, 2017

The meeting of the Winter Park City Commission was called to order by Mayor Steve Leary, at 3:30 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida. The invocation was provided by Rev. Alison Harrity, St. Richards Episcopal Church, followed by the Pledge of Allegiance.

Members present:

Mayor Steve Leary
Commissioner Greg Seidel
Commissioner Sarah Sprinkel
Commissioner Carolyn Cooper
Commissioner Pete Weldon

Also present:

City Manager Randy Knight
City Clerk Cynthia Bonham
City Attorney Kurt Ardaman

Approval of the agenda

Motion made by Commissioner Sprinkel to approve the agenda; seconded by Commissioner Weldon and carried with a 5-0 vote. (Two items were pulled on April 7 – Consent Agenda 'e' and Public Hearing 'd').

Mayor's Report

No report.

City Manager's Report

City Manager Knight reported that this is Water Conservation Awareness Month.

Commissioner Cooper asked about the meeting with the post office. City Manager Knight stated they are still trying to schedule this.

City Attorney's Report

Attorney Ardaman asked what action the Commission wanted to take on the drone ordinance because of the Senate in-house bill that will probably pass. There was a consensus to pull this from the agenda for now until they hear from the State level.

Non-Action Item

a. Presentation – FDOT Active Arterial Management (AAM) Program

Butch Margraf, Public Works Traffic Engineer introduced Jim Stroz, District Five, FDOT, District Traffic Operations Engineer, who provided a presentation regarding this program currently being implemented along 17-92. He summarized their current practice to re-time coordinated traffic signals every 3 years and how to account for incidents, the impact of the I-4 Ultimate project, the programming, the construction, operations, how they assist local agencies, the challenges they face,

the current status, and their new RTMC that is to open in 2018. Mr. Stroz answered questions of the Commission.

Consent Agenda

- a. Approve the minutes of March 27, 2017.
- b. Approve purchase: PR161820 to Asphalt Paving Systems, Inc. for micro-surfacing various roads; and authorize the Mayor to execute piggyback contract (Polk County Contract #15-601); \$121,555.65.
- c. Appoint Kyle Dudgeon, CRA Manager as the alternate to SSNOCWTA to replace Abby Gulden.
- d. Approve a renewal of the Combined Operational Assistance and Voluntary Cooperation Mutual Aid Agreement 2017 between the Winter Park Police Department and the Sheriff of Orange County.

Motion made by Commissioner Sprinkel to approve the Consent Agenda; seconded by Commissioner Weldon and carried unanimously with a 5-0 vote. No public comments were made.

Action Items Requiring Discussion

- a. Appointment of Vice Mayor

Mayor Leary nominated Commissioner Weldon; seconded by Commissioner Sprinkel and carried unanimously with a 5-0 vote. No public comments were made.

- b. Sale of 301 W. Comstock Avenue

Planning Director Dori Stone addressed what has taken place to this point with this property, the Notice of Disposal, and the zoning. She reported the two offers received: Winter Park Redevelopment Agency LTD for \$425,000; and Rowland & Company LLC for \$370,000. She stated the appraisal received was for \$450,000.

She stated the NOD only required a concept plan to show if the lot layout could be worked through; it was not a site plan so whoever obtains the property will have to go through the public hearing process for conditional use approval. She reported that both plans showed development of the site with four units with one showing parking spaces that could be reinvested back to the Lyman Avenue townhouses if the owners were willing to pay for those. She stated staff is looking at this as price only and no special conditions were made in the NOD. She stated the Commission is not required to choose a buyer or move forward this evening but if it goes forward they will bring back an ordinance to transfer the property.

Commissioner Cooper inquired if we could ask both applicants if they are willing to meet the appraised value. It was clarified that this can be done. Commissioner Sprinkel agreed that the offers should meet the appraised price. Commissioner

Weldon stated he agreed with accepting the higher bid and not to wait. Commissioner Seidel expressed his preference not to sell the property.

After further discussion, **motion made by Mayor Leary to accept both offers and that staff negotiate with both parties by close of business on Friday; seconded by Commissioner Sprinkel.**

Commissioner Cooper summarized the concerns expressed to her from residents in the area regarding the shared ingress/egress off Lyman Avenue with an office building, wanting to save the four trees along the west side of the lot, and to make sure they do not have any commercial parking on the residential site. Mayor Leary clarified that they have already agreed that any application that the Commission will consider will not negatively affect any previously approved properties.

No public comments were made.

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

Public Hearings:

a. Request of Deshpande, Inc.:

Attorney Ardaman read both ordinances by title. This was a simultaneous public hearing.

ORDINANCE NO. 3073-17: AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO CHANGE THE FUTURE LAND USE DESIGNATION OF SINGLE FAMILY RESIDENTIAL FUTURE LAND USE TO LOW DENSITY RESIDENTIAL ON THE PROPERTY AT 524 COUNTRY CLUB DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.
Second Reading

ORDINANCE NO. 3074-17: AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE SINGLE FAMILY RESIDENTIAL (R-1A) DISTRICT ZONING TO LOW DENSITY RESIDENTIAL (R-2) DISTRICT ZONING ON THE PROPERTY AT 524 COUNTRY CLUB DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE. Second Reading

Attorney Ardaman read both ordinances by title. No public comments were made.

Motion made by Commissioner Cooper to adopt the comprehensive plan ordinance (including all conditions); seconded by Commissioner Sprinkel. Upon a roll call vote, Mayor Leary and Commissioners Seidel, Sprinkel,

Cooper and Weldon voted yes. The motion carried unanimously with a 5-0 vote.

Motion made by Commissioner Cooper to adopt the zoning ordinance; seconded by Commissioner Sprinkel. Upon a roll call vote, Mayor Leary and Commissioners Seidel, Sprinkel, Cooper and Weldon voted yes. The motion carried unanimously with a 5-0 vote.

- b. Request of Z Properties Group: Subdivision or lot split approval to divide the property at 200 Oakwood Way, zoned R-1AA, into two single family building lots

Planning Manager Jeff Briggs explained the request for a subdivision or lot split; the approval of the Planning and Zoning Board in November based as originally platted (lots 3 and 6) and including the vacated right-of-way of Champion Circle; and the lot sizes in the neighborhood. He addressed the 1936 vacation of Champion Circle and two neighborhood meetings held where they tried to find common ground between the parties as to whether any private access rights still remain to the neighbors in the immediate area. He clarified they are not disputing the neighboring property owners ownership to the property only that private easement rights may or may not exist.

Mr. Briggs spoke about the litigation filed causing the City to delay this public hearing at the last meeting and that this has been re-advertised and re-noticed for this evening's public hearing. He stated this still comes as a recommendation for approval from the P&Z because it meets and exceeds the R-1AA criteria and the standard in the immediate neighborhood. He stated if the Commission approves this request, the following conditions were recommended by the City Attorney:

1. The City Commission's decision to grant the lot split is not an adjudication of the easement interests claimed by owners of other lots within the subdivision or any other third party concerning the subject property or the area shown on the subdivision plat as Champion Circle. The lot split approval is granted subject to any third party easement rights over, under and through the subject property as such may exist or be legally adjudicated. It is the property owners' and applicant's responsibility to comply with the legal requirements of any easements and to not interfere with easement rights of others to the extent they exist. The future approval or issuance of any permits or development orders by the City for the subject property shall not alter the property owners' and applicant's responsibilities in this regard.
2. The property owners and applicant assume any and all risk arising out of or in any way related to proceeding with development of the subject property given the disputed issues concerning Champion Circle and asserted easement rights of third parties.
3. No City permits will be granted that will impact or change the area known as "Champion Circle" until the later of (1) the end of the time frame within which third parties have rights to challenge this lot split approval in the courts, and (2) the

conclusion of the litigation that now exists involving Champion Circle and any litigation that may result from this lot split approval, including any appeals, and (3) the result of the foregoing litigation is such that issuance of such City permits will not authorize construction or demolition that is inconsistent with the final court rulings.

Attorney Ardaman answered questions regarding the proposed conditions. Mr. Briggs stated there are no other issues with the property that do not meet the criteria for a lot split. It was clarified that the neighbors are not questioning the ownership of this portion of Champion Circle to the adjoining property; but only their easement rights through it. Mr. Briggs clarified that the fee simple ownership of this property meets the size requirements for a lot split.

Motion made by Commissioner Weldon to approve the lot split with the City Attorney's three conditions and the Planning and Zoning Board conditions and to add to condition #3 at the end to say: "or a settlement of all the litigants" (as suggested by Attorney Ardaman); seconded by Commissioner Seidel.

Bruce Rogers, 241 E. Fawsett Road, asked that the courts first decide this before making a decision and that property owners should be able to do what they need to do with their property to a large extent.

Applicant Ira Kitograd spoke in support of the request and that it meets/exceeds requirements.

Scott Frazier, 125 E. Jefferson Street, Orlando, representing the property owners spoke in favor of the request to split the lot.

Nicolas Pope, 2200 W. Fawsett Road, asked to either defer this request or deny it but agreed with the conditions of the City Attorney if the Commission approves the request.

After comments regarding setbacks, **motion amended by Commissioner Seidel that the developer comes back for Commission site plan approval once the legal issue is resolved for approval (prior to building permit process); seconded by Commissioner Cooper.**

Commissioner Cooper expressed concerns with condition #3 and was not comfortable making a decision until the legal issue is resolved. **Motion made by Commissioner Cooper to table this until such time as the legal issue is resolved.** After discussion regarding condition #3, Mr. Kitograd stated that the conditions are acceptable to him. **Motion to table failed for lack of a second.**

Upon a roll call vote on the amendment, Commissioners Seidel and Cooper voted yes. Mayor Leary and Commissioners Sprinkel and Weldon voted no. The motion failed with a 3-2 vote.

Upon a roll call vote on the main motion to approve the lot split with the City Attorney's three conditions and the Planning and Zoning Board conditions and to add to condition #3 at the end to say: "or a settlement of all the litigants" (as suggested by Attorney Ardaman and agreed to by the applicant), Mayor Leary and Commissioners Seidel, Cooper and Weldon voted yes. Commissioner Cooper voted no. The motion carried with a 4-1 vote.

Public Comments (items not on the agenda):

Kim Allen, 1800 W. Fawsett Road, addressed concerns with apartment buildings affecting her property values. She also asked not to sell the old bowling alley property on Fairbanks until there is a plan because of wanting to expand the park.

Recess

A recess was taken from 5:16 – 5:31 p.m.

- c. **RESOLUTION NO. 2182-17:** A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, APPROVING A PARTY MEMBERSHIP AGREEMENT AND ITS INCORPORATED INTERLOCAL AGREEMENT IN ORDER TO JOIN THE FLORIDA GREEN FINANCE AUTHORITY'S PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM UNDER SECTION 163.08, FLORIDA STATUTES; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Attorney Ardaman read the resolution by title. Kris Stenger, Building Department, explained a second agreement that he sent to the Commissioners on Friday that was not part of the packet for another provider that he hoped could also be approved this evening. He spoke about the City having three financing agreements active in Winter Park through the provider. It was clarified that the second agreement will be on the next agenda.

Motion made by Mayor Leary to adopt the resolution; seconded by Commissioner Weldon.

Devesh Nirmul, Renew Financial, 430 3rd Avenue N. St. Petersburg, Florida of the Florida Green Finance Authority, spoke in favor of the resolution and agreement.

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

- d. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, RELATING TO COMMUNICATIONS FACILITIES; AMENDING CHAPTER 40, ARTICLE IV OF THE CITY CODE OF ORDINANCES TO ADD AND AMEND REGULATIONS GOVERNING COMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY, INCLUDING BUT NOT LIMITED TO ADDING AND AMENDING CODE DEFINITIONS, PROVIDING FOR USE AND CONSTRUCTION OF CITY-

OWNED STRUCTURES AND REAL PROPERTY FOR SITING OF COMMUNICATIONS FACILITIES, PROVIDING FOR REQUIREMENTS FOR PERMITTING, SAFETY, AESTHETICS, LOCATION, APPEALS, AND CITY AUTHORITY, AND REQUIRING PAYMENT OF CERTAIN FEES BY PASS-THROUGH PROVIDERS FOR USE OF THE RIGHTS-OF-WAY; AMENDING CHAPTER 58, ARTICLE VII OF THE CITY CODE OF ORDINANCES TO ADD AND AMEND REGULATIONS GOVERNING CITY APPROVAL OF COMMUNICATION TOWERS AND ANTENNAS, INCLUDING BUT NOT LIMITED TO ADDING AND AMENDING CODE DEFINITIONS, PROVIDING FOR REQUIREMENTS FOR PERMITTING, SAFETY, AESTHETICS, LOCATION, APPEALS, AND ADMINISTRATIVE APPROVAL OF CERTAIN FACILITY MODIFICATIONS AND ANTENNA CO-LOCATIONS; PROVIDING FOR AUTHORIZATION OF CITY STAFF, CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE First Reading

Attorney Ardaman read the ordinance by title. Budget Manager Peter Moore provided comments concerning the ordinance and asked that this be approved before the Legislative session is finished so comments can be added for second reading. City Manager Knight explained that the State Legislation would take away the City's right to regulate this and set the rules which is why the City is adopting this ordinance.

Motion made by Commissioner Cooper to accept the ordinance on first reading with the deletion of the "City Manager or" on page 9 of the ordinance (f)(2); seconded by Commissioner Weldon. No public comments were made. **Upon a roll call vote, Mayor Leary and Commissioners Seidel, Sprinkel, Cooper and Weldon voted yes. The motion carried unanimously with a 5-0 vote.**

- e. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 62 CONCERNING OFFENSES AND MISCELLANEOUS PROVISIONS BY CREATING ARTICLE IX RELATING TO DRONE REGULATIONS AND PRIVACY PROTECTIONS AND CREATING SECTION 62-196 REGARDING DRONE RESTRICTIONS AND REGULATIONS; PROVIDING DEFINITIONS, PROHIBITIONS, PENALTIES, AND REGULATIONS FOR THE USE OF DRONES GENERALLY AND AT PUBLIC GATHERINGS; PROVIDING FOR INDIVIDUAL PRIVACY PROTECTIONS AGAINST THE IMPROPER OR ILLICIT UTILIZATION OF DRONES INCONSISTENT WITH FLORIDA LAW AND THIS ORDINANCE; PROVIDING LIABILITY INSURANCE REQUIREMENTS; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, IMPLEMENTATION, AND AN EFFECTIVE DATE First Reading

This was pulled from the agenda.

- f. Fee Schedule to be effective April 11, 2017

Finance Director Wes Hamil presented the fee schedule and increases made to tennis fees (that have not been changed since 2010) and utility increases.

Discussion ensued that the utility fees should be presented to the Utilities Advisory Board and the tennis fees should go through the Parks Board and that the public should be notified of increased tennis fees.

Motion made by Mayor Leary to approve the fee schedule as presented; seconded by Commissioner Cooper. Upon a roll call vote, Mayor Leary and Commissioner Seidel voted yes. Commissioners Sprinkel, Cooper, and Weldon voted no. The motion failed with a 3-2 vote.

It was clarified that after the fees are presented to the UAB and the Parks Board and after determining other comparable tennis fees with similar facilities in the area, that this will be brought back at a later time.

City Commission Reports:

a. Commissioner Seidel – Spoke about the Utilities Advisory Board needing members appointed. Mayor Leary stated that will take place in May.

He spoke about meeting with Duke Energy, FDOT, and staff today about undergrounding on Fairbanks and that the Duke bid package contains things they want the FDOT to review to either agree to or make recommendations to; an item the contractors are bidding without a set of plans is the maintenance of traffic. Mayor Leary stated he appreciated Commissioner Seidel's interest but that staff needs to be driving this and if they need assistance from the City Commission they can ask but that things of this nature needs to go through the City Manager.

b. Commissioner Sprinkel – Spoke about the Science Center exhibit invite for April 21, the superb Dinner on the Avenue event, and that a great public servant was lost with Frank Atkinson from Kissimmee who was hit from behind on his bicycle. She addressed the importance to keep looking at that (and at Cady Way) to continue to make our community safer.

c. Commissioner Cooper – Asked that a comprehensive plan work session be held with whoever can make a meeting next week before this comes before them.

d. Commissioner Weldon – Spoke about the history of reported crime in the City relative to the budget over the last 16 years. He asked the City Manager to review alternative spending on techniques and technology with Chief Deal and his staff to help reduce reported crime. After comments, Chief Deal will provide something as part of the police department budget process.

e. Mayor Leary – No report.

The meeting adjourned at 6:10 p.m.



Mayor Steve Leary

ATTEST:



City Clerk Cynthia S. Bonham, MMC