

**REGULAR MEETING OF THE CITY COMMISSION
AUGUST 12, 2019**

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

Members present:

Mayor Steve Leary
Commissioner Greg Seidel
Commissioner Carolyn Cooper
Commissioner Todd Weaver
Commissioner Sarah Sprinkel

Also Present:

City Manager Randy Knight
City Attorney Dan Langley
City Clerk Cynthia Bonham

Approval of agenda

Motion made by Commissioner Sprinkel to approve the agenda; seconded by Commissioner Seidel and carried unanimously with a 5-0 vote.

Mayor's Report

Citizen Budget Comments

Nancy Shutts, 2010 Brandywine Drive, asked to provide additional funds in the Public Works Department budget to enable them to complete small projects that need to be completed for City infrastructure. Mayor Leary asked Ms. Shutts to provide a list of her concerns for the City Manager to address.

City Manager's Report

City Manager Knight reminded the Commission that their budget spreadsheets for what they want to see in the 2020 budget are due this Friday.

Commissioner Seidel spoke about his 'Coffee Talk' where he was asked about the location of mailboxes at residences. He spoke about a document provided by Rod Sward that he needed to read concerning mailboxes in the rights-of-way. City Manager Knight will provide him a copy of the document to review. Upon receipt, Commissioner Seidel will come back to have further conversations with the Commission. City Manager Knight addressed the ordinance adopted years ago concerning objects in the right-of-way that would include the location of mailboxes that the City has not enforced because of issues with the post office. After discussion, there was a consensus that the City Manager provide the ordinance for Commission review to determine if they will take any further action.

Commissioner Seidel spoke about Rollins College coming before the Commission when they wanted to build their new dormitory and staging the construction process so they could still have dorm rooms on campus. He stated he understood that they did not stage it and had concerns that there will be more students displaced. He asked if there is coordination between Rollins and the City and if the parking garage takes care of that to make sure the extra students are parking there and not throughout the other areas.

Commissioner Sprinkel spoke about the termites at the dais and that the City Manager suggested rebuilding the dais. She asked if the other Commissioners have a desire to build the new dais at the level of the residents because of the message she believes is sent to the audience with them sitting above everyone else. Mayor Leary expressed his preference to be able to see into the audience. No other Commissioners provided comments regarding lowering the new dais.

City Attorney's Report

Attorney Langley addressed the Harmon Champion Circle litigation mediation that is scheduled for August 16. He will bring back to the Commission for consideration anything that affects the City such as a settlement agreement. Commissioner Seidel spoke about Ms. Harmon contacting him where he informed her she needed to speak with Orange County for right-of-way concerns and to obtain advice from her attorney.

Non-Action Items

No items.

Consent Agenda

- a. Approve the minutes of July 22, 2019. **PULLED BY COMMISSIONER COOPER FOR DISCUSSION. SEE BELOW.**
- b. Approve the parking lease - St. Andrews United Methodist Church lot for Ward Park and Showalter Stadium overflow parking.
- c. Approve the following purchases:
 1. Presidio Networked Solutions: Core Network Refresh; \$190,464.42.
 2. ACF Standby Systems: Three Generac 60 kw Mobile Generators; \$138,075.

Motion made by Commissioner Sprinkel to approve Consent Agenda items b and c; seconded by Commissioner Seidel and carried unanimously with a 5-0 vote. There were no public comments made.

Consent Agenda item 'a', Approval of July 22, 2019 minutes

Commissioner Cooper asked that the minutes be amended on page 7 of the minutes to include after 'bike path easements' 'or that the Mayflowers submission includes

substantial changes from the preliminary approval'. There was a consensus of three Commissioners to amend the minutes.

Motion made by Commissioner Cooper to approve Consent Agenda 'a' with the amendment as stated, seconded by Commissioner Seidel. There were no public comments made. **Upon a roll call vote, the motion carried with a 3-2 vote with Mayor Leary and Commissioner Sprinkel voting no.**

Action Items Requiring Discussion

No items.

Public Hearings:

- a. Request of Golfstream Residential, LLC for:

ORDINANCE NO. 3148-19: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AND ABANDONING A PORTION OF THE UTILITY EASEMENT THAT ENCUMBERS THE PROPERTY LOCATED AT 1691 CHESTNUT AVENUE, DESCRIBED AS LOT 1, BLOCK 1, LAKE KNOWLES TERRACE ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK "K", PAGE(S) 4 OF THE PUBLIC RECORDS OF ORANGE COUNTY, MORE PARTICULARLY DESCRIBED IN EXHIBIT A; PROVIDING FOR CONFLICTS, RECORDING AND AN EFFECTIVE DATE Second Reading

Attorney Langley read the ordinance by title.

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

- b. ORDINANCE NO. 3149-19: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AUTHORIZING THE CONVEYANCE OF THE CITY OWNED PROPERTY LOCATED AT 2600 LEE ROAD DESCRIBED ON EXHIBIT "A" AND PURSUANT TO THE CONTRACT ATTACHED HERETO AS EXHIBIT "B"; PROVIDING FOR CONFLICTS AND AN EFFECTIVE DATE Second Reading

Attorney Langley read the ordinance by title.

Motion made by Commissioner Sprinkel to adopt the ordinance; seconded by Commissioner Seidel. There were no public comments made. **Upon a roll call vote, Mayor Leary and Commissioners Seidel and Sprinkel voted yes. Commissioners Cooper and Weaver voted no. The motion carried with a 3-2 vote. (See the previous minutes that explain why the two Commissioners voted no on this item).**

- c. Request to appeal the interpretation and determination of the Building and Zoning Official regarding the interpretation and determination that nonconforming accessory structures are to be utilized in determining the average lakefront setback (Sec. 58-87) as part of the considerations by the Planning and Zoning Board in lakefront plan reviews, particularly as applied to the June 4, 2019 approval at 1204 North Park Avenue.

Building Director George Wiggins summarized the appeal that they received contesting the City's interpretation and determination that accessory structures should not be counted when determining average lakefront setbacks per Section 58-87, if the structures are nonconforming per Section 58-64. The appeal was first heard by the P&Z Board on July 9, 2019, and their decision was to uphold the interpretation as set forth by Zoning Official, George Wiggins', interpretation letter. Following that decision, the applicant chose to further appeal this decision to the City Commission. Attorney Langley explained the provision that allows interpretations of Mr. Wiggins and the code and appeals to the P&Z Board and Commission. He also addressed Mr. Wiggins' letter explaining his interpretation.

Commissioner Seidel disclosed conversations with the attorney and property owner for the lot with the setback in question. Commissioner Sprinkel disclosed meeting with both the attorney and property owner and walked the property. Commissioner Cooper disclosed speaking to the attorney for the property owner of the smaller lot and Mr. Cohen and the owner of the larger lot along with two neighbors. Mayor Leary stated he spoke with Ms. Bonifay (attorney for the applicant) and Mr. Cohen.

Commissioner Weaver stated he is going to recuse himself from voting on this item because of what he believed to be a conflict of interest to avoid the perception of bias on the issue because of owning a nonconforming lakefront structure. Attorney Langley commented that he approved this due to the appearance of a conflict of interest and/or potential bias. Discussion ensued that there is a difference between conflict and an appearance of one.

A recess was taken to discuss this with the City Attorney. Mayor Leary inquired if any other Commission members need to recuse themselves from voting on this item because of the possible appearance of a conflict. Commissioner Cooper spoke about her lakefront residence and if they are going to assume that nonconforming setbacks create a setback then she needs to know if her home sits far enough back from the high water line. Attorney Langley summarized when you can recuse yourself from voting according to State law. Mayor Leary asked if the Commission would like to table this item to allow time to address any concerns that they may have.

Commissioner Cooper asked if the Commission has the authority to overturn a decision made by the Planning and Zoning Board. Attorney Langley spoke about the P&Z upholding the interpretation. He provided options that the Commission has the ability to either uphold the interpretation, reject it and grant the appeal, or substitute a contrary interpretation. Further discussion took place.

Attorney Rebecca Wilson, representing the property owners at 1202 N. Park Avenue, addressed the appeal process and how the code is being interpreted. She stated they are only appealing where the code requires that staff determine what the average setback is. She read a portion of the code 58-64 (a) (1) and believed staff was interpreting this in a manner which is in direct conflict with this. She added that their main objection is that staff is saying they do not have to include non-conforming structures. Ms. Wilson responded to questions of the Commission.

Commissioner Sprinkel spoke in support of the staff and attorney interpretations and asked that the code be modified to make it more clear in the future.

Attorney Cecilia Bonifay, Akerman LLP, 420 S. Orange Avenue, Orlando, FL, on behalf of Alan Cohen and Z Properties, spoke about what has taken place already, the interpretation of the code, and non-conforming structures. Ms. Bonifay addressed questions from the Commissioners.

Commissioner Cooper provided the following recommendations:

- 1) Support the appellant's position that Sec 58-64(a)(1) restricts the use of **nonconforming structures** being used in the lake setback calculation for principal residences.
- 2) Do not support the building official's position that Sec 58-87(d)(5)(a) includes **accessory structures** in the calculation of lakefront setbacks.
- 3) Do not support the appellant's position that Sec 58-87 requires the average lakefront setback calculation to include the averages of setbacks for the width of the lot.
- 4) Direct staff to present proposed code clarifications to the Commission for consideration within 1 month.

Commissioner Cooper provided her rationale for what she recommended and asked that staff look at the following and present options to the Commission:

- 1) Change code add the P&Z determination on lakefront reviews to be added to Sec 58-94 and appealed to the Commission; not the circuit court.
- 2) Clarify definition section of the code to define "average" as the mathematical "mean."
- 3) Clarify the definition of "setback" to state the "minimum horizontal distance from any point on the building to the property line."
- 4) Clarify that "nonconforming structures" should not be included in the calculation of lakefront setbacks for principal residences.
- 5) Clarify that "accessory structures" should not be included in the calculation of lakefront setbacks for principal residences; and
- 6) Clarify the code to restrict unduly impairing lakefront views by way of "landscape screens."

Commissioner Cooper provided other suggestions for changes to the code. Please see attached presentation at the end of the minutes that she provided.

Commissioner Seidel spoke about the process followed for these type of issues that was favorable to him. He addressed the P&Z meeting where they discussed and made decisions on the setbacks.

Motion made by Commissioner Seidel to uphold the Planning and Zoning Board and staff's interpretations; seconded Commissioner Sprinkel.

Commissioner Sprinkel spoke in support of the process. Mayor Leary offered the opportunity for Commissioner Weaver to comment. Commissioner Weaver did not provide comments. Mayor Leary also addressed the process and supported the interpretation as presented.

Bill Roll, 1194 N. Park Avenue, spoke how this may negatively affect him in the future but understood that Mr. Cohen has every right to build the home he wants. He addressed how the use of this building that is non-conforming greatly affects the setbacks. He disagreed with Mr. Wiggins and asked the Commission to vote no.

Attorney Wilson clarified the process they followed through the Planning and Zoning Board. She commented that the home previously approved but not built to the north of her client was setback 68' and the home that was demolished was over 100' back.

Mr. Alan Cohen, 1204 North Park Avenue, spoke about the home that was there and demolished because it did not meet their needs. He addressed the previously approved home that he hoped to sell as a single property.

Motion amended by Commissioner Cooper to accept the P&Z decision on this interpretation with one caveat and that is that we not include nonconforming or accessory structures in the lakefront setback calculation for principle residents. Attorney Langley explained this motion would contradict the purpose of the main motion and conflicts with the original motion.

Upon a roll call vote on the main motion, Mayor Leary and Commissioners Seidel and Sprinkel voted yes. Commissioner Cooper voted no. Commissioner Weaver cited a conflict of interest and did not vote. Form 8B is attached. The motion carried with a 3-1 vote.

PUBLIC COMMENTS (ITEMS NOT THE AGENDA)

Sabrina Bernat, Winter Park Public Library, spoke about the Summer Reading Program and that they exceeded their goal to read 10,000 books.

City Commission Reports:

Commissioner Seidel – Spoke about his Coffee Talk where he was asked about the status of fiber optic network in the City. City Manager Knight provided an update.

Commissioner Seidel stated he was also asked about maintaining the right-of-way trees. He spoke about the need to determine what is going to happen with the new law to determine if the City can challenge it because of home rule. Attorney Langley spoke about receiving an email where city attorneys in south Florida have a pending case in circuit court on this issue where they raised the constitutionality of that tree statute. He was not sure of the status but will find out and provide the information to the Commission.

Commissioner Seidel spoke about the gun violence in the country and the tragic events that have recently taken place. He commented about school violence and that children are at risk because it is domestic terrorism. He addressed the need to solve the crisis.

Commissioner Sprinkel – Commissioner Sprinkel spoke about the end to the Summer Program at the Community Center. She asked that staff provide information/statistics for all the summer programs that took place in the City.

Commissioner Cooper – Commissioner Cooper addressed the need to look at our codes to make sure they are clear and thoroughly reviewed.

Commissioner Weaver – Commissioner Weaver spoke about hearing from residents along the Palmer Avenue corridor and the Orwin Manor section of Orange Avenue. He believed for the benefit of the residents there that installing flashing yellow lights at the road level that delineated the crosswalks would be beneficial. He asked staff to look into this at those two locations.

Commissioner Seidel and Assistant Public Works Director Don Marcotte stated that would be a Department of Transportation decision. Mr. Marcotte stated the DOT is wrapping up their safety study and are communicating with Orwin Manor now. He stated staff is now waiting to receive feedback from Orwin Manor as to when they will give DOT feedback. It was determined that Orwin Manor will wait but Palmer Avenue needs to move forward with solutions.

Mr. Marcotte summarized what they were planning to do on Palmer Avenue with installing the flashing lights that will only flash when activated by a pedestrian and will only be at two locations at Temple Drive and Alabama but they have not moved forward yet. Discussion ensued whether there are other options to help with safety besides flashing lights. This issue will be placed under the City Manager's Report for further discussion, as well as going before the Transportation Advisory Board.

Commissioner Weaver spoke about the decision made at the last meeting with not tearing down the Progress Point building and the suggestions made by Commissioner Seidel about beautifying the area. He thanked staff for mowing the grass and bush hogging some of the understory brush out of there. He asked for suggestions from the Commissioners as to how to beautify the area in lieu of demolishing the building. Commissioner Sprinkel commented that she did not understand why we are keeping the building because it is not usable. Commissioner Weaver stated it gives the option of reusing the building in the future and then if they decide to tear it down they can do that after the Orange Avenue Overlay Committee concludes their findings.

Commissioner Weaver spoke about the City of Maitland adopting a resolution to move the City to better sustainability. They are looking to replace City vehicles with hybrids and electric vehicles and also solar panels. He will report back at the next meeting.

Mayor Leary – Mayor Leary reported that Jim Moyer passed away. He spoke about sustainability and that he has been discussing what to do with the City's tree farm. He commented that a plan needs to come forward with what to do with the land. Assistant City Manager Neuner commented that the property is going to be used as a site for hurricane debris in the future.

The meeting adjourned at 6:02 p.m.

Mayor Steve Leary

ATTEST:

City Clerk Cynthia S. Bonham, MMC