



City Commission Regular Meeting Minutes

September 9, 2020

Virtual Meeting

Present

Mayor Steve Leary
Commissioner Marty Sullivan
Commissioner Sheila DeCiccio
Commissioner Carolyn Cooper
Commissioner Todd Weaver

City Manager Randy Knight
City Attorney Kurt Ardaman
City Clerk Rene Cranis

1) Meeting Called to Order

Mayor Leary called the regular meeting of the City Commission to order at 3:30 p.m.

2) Invocation and Pledge of Allegiance

Alan Rusonik, Head of School, Jewish Academy of Orlando, provided the invocation followed by the Pledge of Allegiance.

3) Approval of Agenda

In response to Mayor Leary, Mr. Knight stated that Item 11c was tabled from a previous meeting for work session discussion on annexation procedures. This item was addressed under the City Attorney's report.

4) Mayor's Report

Mayor Leary stated he has been asked when city boards will be permitted to hold in-person meetings with the opportunity for board members to participate remotely. After discussion, consensus was to continue remote meetings in compliance with the Governor's Executive Order.

5) City Manager's Report

Mr. Knight reported that the city received \$278,000 from CARES Act funding and staff will be submitting a second reimbursement request for additional COVID expenses.

He advised that leading pedestrian interval systems have been installed on 17-92 at Morse Boulevard, Gay Road and Webster Avenue.

Mr. Knight stated that as a result of accidents that have occurred at the intersection of Aloma and Phelps, staff inspected the area and reported to FDOT some visibility issues who indicated they will expedite their investigation.

a. Schedule monthly recurring work sessions

Mr. Knight stated this is at the request of the Commission. After discussion, consensus was to schedule recurring monthly one-hour work sessions on the Thursday following the first regular meeting of the month.

At the request of Mayor Leary, Mr. Knight stated that staff will look at the intersections along southbound Aloma Avenue for visibility issues and work with property owners to maintain the landscaping in accordance with city code.

6) City Attorney's Report

Mr. Ardaman gave an update on the arbor litigation from City of Pensacola and on single member districts which will be discussed in a work session before an ordinance is considered by the commission.

Consensus was to table Item 11c to a time after a work session on annexations is held.

Commissioner Cooper asked whether the commission has the authority to provide for a method to determine the level of community interest in single member districts such as sending an e-mail to the City Clerk. She said that with adequate level of community support, she could consider placing this initiative on the ballot.

Mr. Ardaman explained that a citizen may not do as Commissioner Cooper suggested in lieu of the petition process; however, the Commission can obtain documentation showing a certain level of support for this initiative before moving forward with an ordinance to put the question on the ballot. He responded to questions regarding the process. Commissioner Cooper suggested that this be considered as part of the work session discussion. Staff will provide the timeline in order to meet deadline to place on the March 2021 ballot.

Commissioner Cooper suggested a work session to gain a better understanding of the laws and regulations for abandonment or repurposing city streets. There was no consensus for a work session.

7) Non-Action Items

a. Financial report for July 2020

Wes Hamil, Director of Finance, presented the financial report for July 2020 and responded to questions. He reviewed the recent bond rating by Moody's which included a comment that the city's cash on hand for its water and sewer fund is below the national average. Mayor Leary asked staff to provide additional information on other agencies carrying a large balance in the water and sewer fund.

8) Citizen Comments (heard after Item 11a)

9) Consent Agenda

a. Approve the minutes of the regular meeting, August 26, 2020 (Pulled by Commissioner Cooper)

- b. Approve the minutes of the work session, August 27, 2020 (Pulled by Commissioner Cooper)
- c. Approve the following Contracts:
 - 1. Trakstar, Inc.: 3 Year Renewal - Performance Management Software; FY 2021: \$26, 155, FY 2022: \$27,463, FY 2022: \$28,836
 - 2. Yang, Inc.: Increase allowable spend under IFB-13-2019 - Electrician Services; \$80,000
- d. Approve the following Piggyback Contracts:
 - 1. DataProse - City of Boca Raton Contract #2016-023 - Utility Bill Printing & Distribution Services; Not to exceed \$200,000.
 - 2. Cubix Inc. - Increase allowable spend under Orange County Y19-1018 - SaniGlaze Services; Not to Exceed \$110,000.
- e. Approve Commission Chamber Audio Visual Improvements
 - 1. Approve Commission Chamber Audio Visual project (Design, Install, Configure & Maintain A/V Systems) \$232,608
 - 2. Authorize use of general fund reserves and acknowledge potential partial reimbursement from Orange County CARES Act funding
 - 3. Increase allowable contract spend with Audio Visual Innovations, Inc. - a contract previously approved by the Commission (RFP-18-2019)

Commissioner Cooper pulled Items a and b.

Motion made by Commissioner Cooper to approve Consent Agenda Items c-e; seconded by Commissioner Weaver. There were no public comments. Motion carried with a 5-0 vote.

Item a: Commissioner Cooper asked that the regular meeting minutes of August 26th to be amended by adding “Staff explained that they are developing a policy for addressing requests and plans a part of their transportation master plan.” after her suggestion regarding same at the bottom of Page 3.

Item b: Commissioner Cooper asked that the work session minutes of August 27th be amended by revising the first sentence in the last paragraph at the bottom of Page 1 to read “Mr. Edwards said their plan is to build a 1-2 story, 18,000 square foot building with commercial lending, retail banking, loss management, and three drive-through lanes with an ATM with 20-30 employees...”

Motion made by Commissioner Cooper to approve Consent Agenda Items a and b as revised; seconded by Commissioner Weaver. Motion carried with a 5-0 vote.

10) Action Items Requiring Discussion

11) Public Hearings

- a. RESOLUTION 2234-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, DESIGNATING THE PROPERTY LOCATED AT 1366 DEVON ROAD, WINTER PARK, FLORIDA, AS A HISTORIC PROPERTY IN THE WINTER PARK REGISTER OF HISTORIC PLACES.

Attorney Ardaman read the resolution by title.

Jeff Briggs, Planning Manager, presented this request with a recommendation for approval by the Historic Preservation Board.

Motion made by Commissioner Weaver to approve the Resolution; seconded by Commissioner Cooper. There were no public comments. **Upon a roll call vote, Mayor Leary and Commissioners Sullivan, DeCiccio, Cooper and Weaver voted yes. Motion carried unanimously with a 5-0- vote.**

- b. ORDINANCE 3182-20: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, RELATING TO BACKYARD CHICKENS; ESTABLISHING REGULATIONS FOR THE ISSUANCE OF BACKYARD CHICKEN PERMITS AND THE KEEPING OF BACKYARD CHICKENS AS A PILOT PROGRAM; PROVIDING FOR CIVIL PENALTIES; PROVIDING FOR CONFLICTS, AND FOR SEVERABILITY, CODIFICATION, CORRECTION OF SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE. (Second reading)

Attorney Ardaman read the ordinance by title.

Commissioner Sullivan stated he received a large number of e-mails with a majority expressing opposition to backyard chickens and suggested that some of the concerns may be addressed by amendments to the ordinance.

Commissioner DeCiccio commented on two cases provided to her by the City Attorney which she feels support the idea that requiring written consent of abutting property owners is not a violation of property rights.

Mayor Leary spoke in opposition citing data from Florida Fish and Wildlife that has identified Winter Park as a coyote hotspot and from real estate professionals who are concerned about property values and from others because Winter Park is not a rural environment.

Commissioner Weaver stated the coops will be secured from predators. He pointed out that this is two-year trial period and that other cities have not experienced issues.

Commissioner Cooper said that although she appreciates the positions on both sides, she feels chickens are farm animals and she will not be supporting this ordinance due to the number of resident e-mails she received opposing the ordinance.

Main Motion: Motion made by Commissioner Weaver to approve the ordinance on first reading; seconded by Commissioner Cooper.

Amendment 1: Motion made by Commissioner Weaver to amend the ordinance to require a 7½-foot setback from side property lines; seconded by Commissioner DeCiccio.

Amendment 2: Motion made by Commissioner Weaver to amend the ordinance to reduce the maximum coop height from 7 to 6 feet; seconded by Commissioner Cooper.

Amendment 3: Motion made by Commissioner Weaver to amend the ordinance to require that fences must obscure the view of coops from the neighbors' view; seconded by Commissioner Cooper. (Revised at time of vote.)

Amendment 4: Motion made by Commissioner DeCiccio to amend the ordinance to require written approval from abutting property owners to participate in the program; seconded by Commissioner Cooper.

Amendment 5: Motion made by Commissioner Sullivan to amend the ordinance to remove the 48-hour notice for inspections; seconded by Commissioner Cooper.

Amendment 6: Motion made by Commissioner Cooper to amend the ordinance to state that any existing deed restrictions or association by-laws in place as of adoption of this ordinance preempt provisions of the ordinance; seconded by Commissioner DeCiccio.

Mr. Ardaman advised that deed restrictions take precedence over the ordinance and suggested asking property owners for documentation as part of permit application.

Commissioner Cooper revised her motion to require property owners, as part of the permit application process, certify that existing deed restrictions or association bylaws do not prevent or restrict chickens; accepted by Commissioner DeCiccio.

Amendment 7: Motion made by Commissioner Cooper to amend the ordinance to remove the provision allowing coops in side yards; seconded by Mayor Leary.

Amendment 8: Motion made by Commissioner Cooper to amend the ordinance to add an escalating fine structure for repeat offenders; seconded by Commissioner DeCiccio.

Mayor Leary recommended establishing a maximum number of violations for revocation of the permit. **Commissioner Cooper revised the motion to add that permits will be revoked after three violations. Accepted by Commissioner DeCiccio.**

Commissioner Weaver suggested clarifying that deed restrictions are those in effect as of the date of adoption of this ordinance. **Accepted as amendment to the motion by Commissioners Cooper and DeCiccio.**

Amendment 9: Motion made by Commissioner Cooper to add language stating that "Nothing in this article shall prohibit chickens from being maintained in accordance with this provision;" seconded by Mayor Leary.

The following spoke in opposition to this ordinance:

- Steve Boyd, 1043 Golfside Drive
- Marc Reicher, 1806 N. Park Avenue

The following spoke in favor of this ordinance:

- Daniel Papendick, 1470 Place Picardy

- Christopher Knowles, 934 Mead Avenue
- Mrs. Jason Goodowens, 1722 N. Park Avenue

Amendment 1: Upon a roll call vote on the motion to require a 7.5-foot setback from side property lines; Mayor Leary and Commissioners Sullivan, DeCiccio and Weaver voted yes and Commissioner Cooper voted no. Motion carried with a 4-1 vote.

Amendment 2: Upon a roll vote on the motion to set the maximum coop height of 6 feet, Mayor Leary and Commissioners Sullivan, DeCiccio, Cooper and Weaver voted yes. Motion carried with a 5-0 vote.

Amendment 3: Commissioner Weaver revised his motion to require that fences must obscure the view of coops from neighbors to state that “no coops are allowed where fences do not obscure the coop from neighbors view at ground level”; accepted by Commissioner Cooper. Upon a roll call vote, Mayor Leary and Commissioners Sullivan, DeCiccio, Cooper and Weaver voted yes. Motion carried with a 5-0 vote.

Amendment 4: Upon a roll call vote on the motion to require written approval from abutting property owners to participate in the program, Commissioners Sullivan, DeCiccio and Cooper voted yes, Mayor Leary and Commissioner Weaver voted no. Motion carried with a 3-2 vote.

Amendment 5: Upon a roll call vote on the motion to remove the 48-hour notice for inspections, Mayor Leary and Commissioners Sullivan, DeCiccio, Weaver and Cooper voted yes. Motion carried with a 5-0 vote.

Amendment 6: Upon questioning by Mayor Leary, Commissioner Cooper clarified her intent that the applicant must certify on the application that the HOA and/or deed restrictions allows chickens. After discussion, Commissioner Cooper revised her motion to exclude “as of the date of adoption of this ordinance.” Accepted by Commissioner DeCiccio as seconder of the motion.

Upon a roll call vote on the motion to amend the ordinance to state that any existing deed restrictions or association bylaws preempt provisions of the ordinance, Mayor Leary and Commissioners DeCiccio and Cooper voted yes and Commissioners Sullivan and Weaver voted no. Motion carried with a 3-2 vote.

Amendment 7: Upon a roll call vote on the motion to remove the provision allowing coops in side yards (front of house to back of house); Mayor Leary and Commissioners Sullivan, DeCiccio, Cooper voted yes and Commissioner Weaver voted no. Motion carried with a 4-1 vote.

Amendment 8: Motion made by Commissioner Cooper to amend the ordinance to add an escalating fine structure for repeat offenders and revocation after three violations, Mayor Leary and Commissioners Sullivan, DeCiccio, Weaver and Cooper voted yes. Motion carried with a 5-0 vote.

In response to questions, Attorney Ardaman advised adding language to clarify that under this ordinance, chickens are considered pets as opposed to farm animals.

Amendment 9: Upon a roll call vote on the motion to add “Nothing in in this article shall prohibit chickens from being maintained in accordance with this provision,” Mayor Leary and Commissioners Sullivan, DeCiccio, Cooper and Weaver voted yes. Motion carried with a 5-0 vote.

Main Motion: Upon a roll vote on the main motion as amended, Commissioners Sullivan, DeCiccio, and Weaver voted yes and Mayor Leary and Commissioner Cooper voted no. Motion carried with a 3-2 vote.

8) Citizen Comments (heard at 5:25 p.m.)

There were no citizen comments.

Mayor Leary declared a recess at 5:30 p.m. and reconvened the meeting at 5:50 p.m.

- c. Ordinance: Voluntary Annexation of seven properties on Kentucky Avenue, measuring approximately 1.1 acres. (1st Reading) TABLED BY COMMISSION AUGUST 12, 2020.

As noted under the City Attorney’s report, this item was tabled to a time uncertain but after the annexation work session is held.

12) Millage and Budget Public Hearings (Held after 5:00 p.m.)

- a. Ordinance - Adopting the FY 21 Millage Rate
- b. Ordinance - Adopting the FY 21 Budget

Mayor Leary stated the millage rate needed for FY 21 to generate the same revenue as in FY 20 is 3.9509 and the budget was based on a proposed millage rate of 4.0923, which will result an increase in property taxes due to the increase in assessed property values. He reviewed the voted debt service millage rates to cover bonds issued. A simultaneous public hearing will be held on these two ordinances.

Attorney Ardaman read the ordinances by title.

Motion made by Mayor Leary to adopt the rolled back millage rate of 3.9509.

Mayor Leary clarified that the rolled back rate of 3.9509 would only eliminate the contingency fund and he feels with a \$17 million reserve balance the city is in a financial position to reduce the millage rate. He feels that in the current economic climate, the city should reduce the millage rate to support its residents who are struggling financially.

Commissioner Cooper opposed the rolled back rate due to the limitation of the contingency fund. She said that although staff presented a balanced budget, it was done so with significant cuts including reduced merit increases for staff and freezing positions. She said she supports maintaining the current millage rate.

Commissioner Weaver agreed with Cooper and said he is uncomfortable moving into the next fiscal year with negative contingency balance.

Motion made by Mayor Leary to reduce millage rate to the rolled back rate of 3.9509 failed for lack of second.

Mayor Leary stated the City is going to adopt a millage of 4.0923 which represents a property tax levy that is 3.58% higher than the rolled-back rate of 3.9509 mills due to increases in assessed values.”

Motion made by Commissioner Cooper to approve the ordinance with an operating millage of 4.0923 for FY 2021; seconded by Commissioner Weaver.

Motion made by Commissioner Cooper to approve the ordinance setting forth the FY 2021 Budget and Five-year Capital Plan; seconded by Commissioner Weaver.

Mr. Knight said the motion on the millage ordinance should be adopted “as presented” and include the debt service millage rate, and “as presented” should be added to the motion to approve the budget. **Revisions were accepted by Commissioners Cooper and Weaver.**

Motion made by Commissioner DeCiccio to amend the budget to give raises to employees up to 3.5% based on merit score (\$190,000) and to repair Dinky Dock (\$164,000) and reduce the contingency fund accordingly; seconded by Commissioner Sullivan. (Motion was revised to separate the pay increase and Dinky Dock into two separate motions.)

Motion made by Commissioner Weaver to leave Dinky Dock improvements in the contingency budget but delay the vote to do the improvements to later in FY 2021. Failed for lack of second.

Motion made by Mayor Leary that members of the Commission forego their salaries for next fiscal year.

Attorney Ardaman opined that any member of the Commission can voluntarily refuse the salary or return it. **Mayor Leary withdrew the motion.**

Steven Heller, 200 E. Reading Way, asked that the Commission consider the financial difficulty of its residents and oppose a millage rate increase.

Beth Hall, 516 Sylvan Drive, supported the proposed millage rate and an increase in order to maintain the level of service.

Upon a roll call vote on the motion to approve the millage rate ordinance as presented, Commissioners Sullivan, DeCiccio, Weaver and Cooper voted yes and Mayor Leary voted no. Motion carried with a 4-1 vote.

Upon a roll call vote on the motion to approve up to a 3.5% pay increase for employees; Mayor Leary and Commissioners Sullivan, DeCiccio, Cooper and Weaver voted yes. Motion carried with a 5-0 vote.

Upon a roll call vote to include Dinky Dock repairs in the budget, Commissioners Sullivan and DeCiccio voted yes and Mayor Leary and Commissioners Cooper and Weaver voted no. Motion failed with a 2-3 vote.

Upon a roll call vote to approve the budget ordinance as amended, Commissioners Sullivan and DeCiccio voted yes and Mayor Leary and Commissioners Cooper and Weaver voted no. Motion failed with a 2-3 vote.

d. Fee Schedule - October 1, 2020

Mr. Knight opened this for discussion and questions by staff.

Motion made by Commissioner Cooper to maintain the existing fees in the fee schedule and approve the proposed new fees.

City staff responded to questions providing additional information on the fee schedule and expenses covered by the fees.

Motion failed for lack of second.

Motion made by Mayor Leary to approve the City's Fee Schedule as presented; seconded by Commissioner Cooper. There were no public comments. Upon a roll call vote, Mayor Leary and Commissioners Sullivan, DeCiccio, Cooper, and Weaver voted yes. Motion carried with a 5-0 vote.

Motion made by Commissioner Cooper to approve the budget as amended (employee pay increase); seconded by Commissioner Weaver. There were no public comments. Upon a roll call vote on the ordinance as amended, Commissioners Sullivan, DeCiccio, Cooper and Weaver voted yes and Mayor Leary voted no. Motion carried with a 4-1 vote.

13) City Commission Reports

Commissioner Sullivan

- Asked to schedule a demonstration of electric landscaping equipment. Consensus was to have staff and KWPB coordinate a demonstration.
- Suggested a future discussion on establishing a community chicken farm at Mead Community garden or tree farm. Consensus to address at a future date.

Commissioner DeCiccio

- Suggested a fuel rate holiday for November or December. Consensus was to refer this to the Utilities Advisory Board.
- Commented on the sign ordinance and said that staff is working on amendments which will be brought forward for approval.

Commissioner Cooper

- Advised that the OAO process is behind schedule and asked that city-wide notice and publication notice of public hearings before Planning and Zoning

Board and City Commission be delayed until Commission approval and after all tasks have been completed. Approved by consensus.

- Asked which OAO ordinance should be used for drafting amendments as a result of the OAO process. Consensus was to use the January 16, 2020 version after first reading.

Commissioner Weaver

- Commented on the electric tool demonstration stating the goal is to use a soft approach and show that this equipment is available.
- Expressed his displeasure with the misinformation circulated that a higher millage rate was adopted.

Mayor Leary

No report.

14) Summary of Meeting Actions

- Schedule monthly work sessions will be scheduled for the second Thursday
- Staff to check southbound streets off Aloma Avenue for vegetation overgrowth.
- Staff to report on other cities carrying a large balance in their water and utility fund.
- Designated 1366 Devon Road on the Register of Historical Places.
- Approved the backyard chicken ordinance with amendments.
- Adopted the millage rate and budget ordinance for FY 2021
- Staff to assist with coordination of a demonstration of electric landscape equipment.
- Take the fuel rate holiday to Utilities Advisory Board.
- Delay city-wide notice on OAO until Commission acceptance of data.
- Use the January 16th version OAO ordinance as a baseline for moving forward.

The meeting adjourned at 7:20 p.m.

Mayor Steve Leary

ATTEST:

City Clerk Rene Cranis