

**REGULAR MEETING OF THE CITY COMMISSION**  
**January 12, 2009**

The meeting of the Winter Park City Commission was called to order by Mayor David Strong at 3:30 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida.

The invocation was given by Pastor Walter Jackson, First Baptist Church of Winter Park, followed by the Pledge of Allegiance.

Members present:

Mayor David Strong  
Commissioner Margie Bridges  
Commissioner Beth Dillaha  
Commissioner Karen Diebel

Also present:

City Manager Randy Knight  
City Attorney Trippe Cheek  
City Clerk Cynthia Bonham  
Deputy City Clerk Nancy McLean

Members absent:

Commissioner Phil Anderson

**Citizen Comments:**

Keith Gardner, 2230 Cady Way, submitted a petition from residents surrounding Ward Park requesting the City revise its Debris Management Plan to eliminate grinding at sites that are located in or next to the City's residential areas. Mayor Strong asked Parks and Recreation Director John Holland for a recommendation of Mr. Gardner's comments at the next Commission meeting. Mr. Holland agreed.

**Mayor's Report:**

a) City awards update.

Director of Communications Clarissa Howard and Assistant Director Craig O'Neil gave a presentation of the City's most recent awards and recognitions.

b) Employee of the Quarter presentation.

Mayor Strong recognized Ashley Ong, Building Department Code Analyst, as the Employee of the Quarter. Building Director George Wiggins spoke about Mr. Ong's professionalism and the outstanding job he does on a daily basis.

c) Non-Agenda Item.

Mayor Strong announced that the format of the Town Hall meeting on January 28 at 6:00 p.m. has been revised to utilize the "Mayor's State of the City Address" presentation which has been previously used. He commented that they will proceed with brief comments followed by questions and answers.

**Consent Agenda:**

- a) Approve the minutes of 11/24/08 and 12/8/08.
- b) Approve the Joint Participation Agreement with the Florida Department of Transportation for the purchase of permanent and transportable bicycle racks.
- c) Authorize the Mayor to execute the third amendment to the Agreement of Purchase and Sale of the Post Office property to provide a one year extension.
- d) Approve the Parks Open Space Business Permit Policy with a fee of \$25 per month.
- e) Award of IFB-10-2009, Rebid of Electrical Materials for Lakemont and Osceola Projects to HD Supply (Utilities: \$818,413.45).

**Motion made by Commissioner Dillaha to approve the Consent Agenda, seconded by Commissioner Bridges. The motion carried unanimously with a 4-0 vote. Commissioner Anderson was absent.**

**Discussion Items:**

- a) Variance request for Sydgan Corporation at 354 Hannibal Square, East.

Planning Director Jeff Briggs explained that the Sydgan Corporation is requesting the Commission to endorse and support their variance request (front setback and lot coverage) for the proposed convenience store/apartment building at 354 Hannibal Square, East. He explained that on October 23, 2006, the Commission agreed to change in the proposed comprehensive plan, the Future Land Use Map designation from Multi-Family Residential to Central Business District (CBD) on this property. He stated this was the former site of the Sportz Inn bar which was a grandfathered in which Mr. Bellows purchased and demolished. This property zoned R-3 had previously held a commercial building and the redevelopment plan was to build a convenience store and two apartments on the second floor. He commented that a convenience store had previously existed on the opposite side of Hannibal Square, East that was demolished for the parking garage.

Mr. Briggs stated that on November 26, 2007 the Commission approved the zoning map change from Multi-Family (R-3) to CBD (C-2) to permit the construction of this project. However, neither the comprehensive plan change nor the zoning map change is official and effective until the comprehensive plan is approved by the State. He explained the potential solution for the Sydgan Corporation is for the Board of Adjustment to grant a variance so that construction may proceed immediately with the understanding that once the comprehensive plan is ratified by the State, then the building complies with the C-2 zoning and the variance is moot. He stated that they expect the comprehensive plan to be approved by the State sometime in April, 2009 and Sydgan Corporation would like the Commission to support the variance request so that the project may begin.

Mr. Briggs added that he received a letter from Russell Troutman, the representative of Mr. Alibana. He stated Mr. Alibana is the owner of the previous convenience store, will be the operator of the convenience store business, and he supports the variance request. Mr. Briggs answered questions.

Commissioner Dillaha had concerns that it does not meet the definition of a variance, the process is not being followed and it will be setting a precedent to bypass P&Z and the City

Commission to go to Board of Adjustment. She commented that she preferred to find another method of doing this and wanted to take it off the Board of Adjustment agenda. Commissioner Dillaha suggested that the applicant have all his plans in place and when the State approves the comprehensive plan they can expedite the permitting process to move forward, as opposed to calling this a variance. She added that the variance definition has been loosely used and has caused some issues in the past with projects and preferred not to go in this direction.

Commissioner Bridges believed they should not jump over the process; it sets a poor precedent and is not appropriate. She stated that she cannot support using this variance methodology, but would support finding other ways to expedite permitting.

Attorney Cheek commented that the applicant is seeking permission from the Board of Adjustment to exceed the setbacks in size that apply to that lot and this is a decision made by the Board of Adjustment and not the Commission. He commented that the issue is that anyone can come to the Board of Adjustment and ask for relief from the requirements of what they can do on that property anytime they want to.

Commissioner Diebel commented that this is a difficult issue and explained there is a legal settlement agreement they recently viewed which the City is clearly interfering with. She believed it is incumbent upon the City to help with the resolution of this issue, rather than stall a few more months. She hoped we have a plan that supports it.

Mayor Strong commented that he would like to find a way to accommodate the property owner and appreciates the concerns of setting a precedent that have been raised but will defer this to the Board of Adjustment. Attorney Cheek answered questions.

b) Personal leave/vacation leave accruals.

City Manager Knight commented that Commissioner Diebel suggested that the Commission consider reducing the amount of personal leave/vacation leave a City employee can accumulate from three months to two months. He stated there is currently no policy that requires an employee to use a certain amount of personal/vacation leave during the year, just the cap on how much can be carried forward to the next year.

Mr. Knight explained the staff recommendation is that if the concern is the amount of liability accrued rather than pay out the amount in excess of 9 weeks, we could phase down to that maximum accrual over a 3 or 4 year period giving employees time to use the excess. This alternative would also increase overtime costs but would decrease the liability the City has when an employee terminates employment. Mr. Knight answered questions posed by Commissioner Diebel.

Commissioner Diebel advocated the City Manager's recommendation to phase down over the next 4 years by one week a year and for employees to take that extra week of vacation until they return to an accrued balance. She asked this be placed on the next agenda for consideration. Commissioner Dillaha agreed and suggested having a discussion on the comprehensive overview of employee benefits including the personal leave/vacation leave accruals. Commissioner Bridges agreed with Commissioners Diebel and Dillaha. She suggested this take place in one of their scheduled work sessions in February and that Human Resources Director Anna Currie attend because this needs to be discussed. Mayor Strong

asked this be placed on the next agenda either for immediate action or incorporating it into an overall personnel policy review. There was consensus to do so.

c) Parks and Recreation Commission request for City Commission action on fee waiver policy.

Parks and Recreation Director John Holland explained that during the November 24, 2008 Commission meeting, the Commission requested the fee waiver issue be returned to the Parks and Recreation Board for further consideration. Each Commissioner would provide their waiver policy recommendations to assist the Board in structuring new guidelines and Commissioner Diebel would act as a liaison to the Board. He stated that staff reviewed the ideas and recommendations received from the Commissioners and the proposed new policy from the Parks and Recreation Commission. He commented that the ideas vary widely but share some common ground such as the organizations of the Chamber of Commerce, Wildcat Roar, etc.

He stated that staff is recommending a designation of "Winter Park Community Partners" for specific non-profit organizations and longstanding public park events. This would include: Winter Park High School parade, picnic and Wildcat Roar, Chamber of Commerce Tree Lighting, Bridge Builders, etc. to be approved by the Parks and Recreation Commission and/or City Commission. He commented that the alternate would be for other Winter Park non-profit 501(c) organizations that qualify annually under very specific guidelines that would be able to request a waiver for weekday events. The Parks and Recreation Commission would approve or deny any requests for waivers and/or could set any fee or percentage waiver based upon hard costs incurred by the City. He added that approved fee waivers would not be continuous and requests by the organizations would be required annually.

Commissioner Dillaha explained the reason why they revisited the fee waiver policy and stated that she supports the Parks Board recommendation to phase out fee waivers over two years for groups and organizations with current fee waivers. She believed that certain annual events such as the tree lighting ceremony, Winter Park High School parade and the Wildcat Roar should not require fee waivers that go before the board. She suggested that they create a new group designation (similar to the City of Orlando) that would have a community based organization status. She stated this would be granted by the City and the organization would have to meet strict criteria and fill out an application annually. She explained this in further detail.

Commissioner Bridges expressed that in terms of evaluating the fee waivers of groups that had them in the past, she liked their financial arrangement that allows them a third off each year so they can make the necessary arrangements to budget for the use of these spaces. She also liked the staff recommendation of "Winter Park Community Partners" or community based status groups. She believed there are groups/organizations that meet the criteria of serving the greater community and in order to allow them to continue they should set up some sort of special status/designation for them. She also supported the Parks Board recommendation.

Debra Hendrickson, Vice President, Winter Park Chamber of Commerce, explained the Chamber's mission statement. She asked that the Chamber of Commerce be removed from the current fee waiver that has been outlined by the staff. She stated that they are a 501(c)6 and would like the Mayor to work with the Chamber to establish some kind of fee outline.



Joe Terranova, 700 Melrose Avenue, endorsed Debra Hendrickson's comments. He explained the relationship the Chamber of Commerce has with the City is very important and is different than other organizations. He hoped they can come up with criteria that will permit the Chamber to continue the relationship they have with the City and the functions that have been exempt in the past can be exempt in the future.

Mary Daniels, 650 Canton Avenue, asked the Commission to consider organizations that give back to the community that are community based organizations and to consider using a cold cost for community organizations that are non-profit.

Carole Moreland, Co-President of the Winter Park Sidewalk Art Festival, commented that the Art Festival adds value to the City every year. She expressed that they are a 501(c)4 and spoke about the charge for their meeting room where they meet 10 times a year. She asked the Commission to consider what they are doing if they approve this.

Nancy Shutts, 2010 Brandywine Drive, spoke on behalf of the Senor Line Dancers and stated that the Winter Park Health Foundation is trying to get them a grant for \$5,000. She asked the Commission to consider that if they receive the \$5,000 they pay the hard cost for three years rather than paying for the rental.

Commissioner Dillaha reiterated identifying City annual events, having a different category called community based status or partner status and give it specific guidelines that is fair for everyone. She stated that she does not agree with giving fee waivers to any organizations that charge fees for people to use our facility.

Mayor Strong asked Commissioner Dillaha to identify community events she believed should be granted a perpetual fee waiver. She suggested the tree lighting ceremony, Winter Park High School parade and Wildcat Roar. Commissioner Bridges stated that her commentary to Mr. Holland referred to language to create criteria so they could evaluate which organizations would qualify or not qualify. She addressed that they need language that is very specific, that says who these groups are, what they do, what they contribute to the community and establish a good policy on this. She agreed with Commissioner Dillaha's list because these events are community based and should be exempt from fees.

Mayor Strong commented that he would expand the list to things that have been here a long time, like the Art Festival. Mr. Holland read Mayor Strong's list. Commissioner Dillaha commented that many of these fall under a community based organization status category which is what she was outlining and is different from annual events. She stated she was looking at two different things; to have designated City annual events so they do not have to go before the Parks Board for a fee waiver; and for community based organization status that has clear criteria set. Mayor Strong commented that he would like to look at Commissioner Dillaha's recommendations before considering it further.

Bonnie Jackson, Parks Board member, explained their reasoning behind doing away with fee waivers over the next two years.

Commissioner Diebel believed this was not an issue and it is creating tremendous bureaucracy. She also disagreed with having some kind of qualification process beyond what the Parks Board is authorized to do. She commented that the Parks Board does a tremendous job.

Ray Colado, Parks Board member, 1019 Golfside Drive, explained that the Parks Board proposed that fee waivers be phased out over a two year period and no new fee waivers would be made. He stated this was done for budgetary reasons for these organizations, but it does not mean that after this expires they cannot give fee waivers to additional groups or change it in the meantime.

Mayor Strong asked Commissioner Dillaha to do a presentation on a specific recommendation for fee waivers for the Commission to consider at the next meeting. Commissioner Dillaha agreed to write something and have Mr. Knight circulate it to the Commission. Mayor Strong added that Phil Eschbach, Winter Park Historical Association President, wrote a letter requesting waivers for the Historical Association. A copy of the letter was provided to the Commission.

There was a recess taken from 5:04 - 5:14 p.m.

d) Change to strategic objective.

Mayor Strong suggested discussing this during the strategic planning work session scheduled for February 6. There was consensus among the Commission.

**Public Hearings:**

- a) ORDINANCE NO. 2757-09: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA RELATING TO TRAFFIC LIGHT SAFETY; ADDING A NEW ARTICLE VI TO CHAPTER 98 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER PARK ENTITLED "TRAFFIC LIGHT SAFETY ACT"; PROVIDING DEFINITIONS, INTRODUCTORY PERIOD, NOTICE OF VIOLATION/INFRACTION, APPEAL PROCEDURE; PENALTIES; EXCEPTIONS; PROVIDING FOR EXCEPTIONS; PROVIDING AN EFFECTIVE DATE. Second Reading

Attorney Cheek read the ordinance by title. Attorney Cheek and Chief Ball answered questions.

Gene Randall, 1285 Richmond Road, spoke in favor of the ordinance and supported more enforcement of our speed laws in Winter Park.

**Motion made by Commissioner Bridges to adopt the ordinance; seconded by Commissioner Dillaha. Upon a roll call vote, Mayor Strong and Commissioners Bridges, Dillaha and Diebel voted yes. The motion carried unanimously with a 4-0 vote. Commissioner Anderson was absent.**

- b) ORDINANCE NO. 2758-09: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA PROPOSING AN AMENDMENT TO THE CITY CHARTER OF THE CITY OF WINTER PARK, FLORIDA BY AMENDING SECTIONS 1.02, 2.04, 2.08 (b), 3.03, 3.04 (d) AND (e) OF THE CHARTER; PROVIDING A BALLOT TITLE AND WORDING FOR THE SUBSTANCE OF THE PROPOSED AMENDMENTS; PROVIDING FOR REFERENDUM BY THE ELECTORS OF THE CITY OF WINTER PARK FOR APPROVAL OR REJECTION OF THE CHARTER AMENDMENT PROPOSALS; PROVIDING AN EFFECTIVE DATE. Second Reading

Attorney Cheek read the ordinance by title.

David Johnston, 636 Darcey Drive, opposed the manner in which the City Charter referendum is taking place. He asked if a study group was considered by the Commission before deciding to make piecemeal changes to the Charter.

Mayor Strong commented that these were considered housekeeping items and the Commission has made a commitment to look at the Charter on a more substantive basis. City Manager Knight stated that one of the strategic initiatives was to consider reviewing the Charter. He commented that these were "clean up items" versus the major policy issues and the policy issues will eventually be dealt with. He stated that the Commission has not decided to appoint any type of Charter Review Committee and this still has to be done.

**Motion made by Commissioner Dillaha to adopt the ordinance and to put it to a vote; seconded by Commissioner Bridges. Upon a roll call vote, Mayor Strong and Commissioners Bridges, Dillaha and Diebel voted yes. The motion carried unanimously with a 4-0 vote. Commissioner Anderson was absent.**

- c) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AND ABANDONING THE EASEMENT OVER THE EAST FOUR FEET (4.00') OF LOTS 18 AND 19, BLOCK "C", COMSTOCK PARK, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK "K", PAGE 87, OF THE PUBLIC RECORDS OF ORANGE COUNTY, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING AN EFFECTIVE DATE. First Reading

Attorney Cheek read the ordinance by title. No public comments were made.

City Manager Knight explained that this is a 5 foot easement that runs between two houses and there is no future need for this easement. Commissioner Bridges had concerns with vacating easements throughout the City so frequently. Mr. Knight commented that they look at these closely and only abandon easements when there is no future need. He stated that every utility signs off before they recommend abandoning the easement.

**Motion made by Commissioner Dillaha to accept the ordinance on first reading; seconded by Commissioner Bridges. Upon a roll call vote, Mayor Strong and Commissioners Bridges, Dillaha and Diebel voted yes. The motion carried unanimously with a 4-0 vote. Commissioner Anderson was absent.**

Mayor Strong commented that they would look at item d) and e) together since they were somewhat related.

- d) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA RELATING TO NOISE CONTROL; AMENDING CHAPTER 62, DIVISION 2 OF THE CODE OF ORDINANCES BY RENAMING DIVISION 2 FROM "NOISE CONTROL" TO "NOISE AND DISTURBANCE CONTROL"; AMENDING SECTIONS 62-91, 62-94, 62-95 AND 62-96; AMENDING SECTION 1-23 OF CHAPTER 1 OF THE CODE OF ORDINANCES TO PROVIDE FOR A CIVIL PENALTY FOR ILLEGAL OPEN HOUSE PARTIES; PROVIDING AN EFFECTIVE DATE.
- e) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA RELATING TO ALCOHOLIC BEVERAGES; AMENDING SECTION 10-33 OF CHAPTER 10 OF

THE CODE OF ORDINANCES TO SPECIFY HOURS DURING WHICH SALES, CONSUMPTION AND SERVICE ARE PROHIBITED SPECIFYING REQUIRED PERMITS FOR PREMISES TO REMAIN OPEN PAST 11:00 P.M.; PROVIDING AN EFFECTIVE DATE.

Attorney Cheek read the ordinance by title. Police Chief Doug Ball gave a brief presentation on the origins and evaluation of the alcoholic beverages ordinance. He stated that this task force was formed after several untimely deaths of young people due to alcohol related incidents and as a result of the increase in underage binge drinking through Central Florida. He further explained the task force findings and recommendations. He concluded that the City has responsible business owners who work very closely with the City and believes if the ordinance is adopted it would have little to no effect on most of our businesses, but could sanction those businesses who fail to use professional, responsible and lawful business practices. He encouraged the Commission to listen to task force members who were present today.

Chief Ball stated the companion ordinance regarding "illegal open house parties" addresses underage drinking at private homes. He commented that this gives them the tool that upon their response to an open house party where they determine illegal activity to be occurring, they will properly notice the property owner/landlord as to what is transpiring at their home. If they fail to take action, there will be a civil penalty of \$1,000 per occurrence. This will be against the landlord or the property owner and for each subsequent violation the fine would be increased.

Tom Hall, Co-Chair Task Force Subcommittee, provided data related to underage drinking and the college age population. He also highlighted his national, regional and local expertise.

George Ralls, Medical Director of the Orange County EMS system, 1901 Harrison Avenue, provided statistics on the public health impact of the underage drinking issue.

Joie Cadle, School Board member, 1521 Sunset Drive, stated they have a Back on Track program that relates to alcohol awareness intervention for young people and expressed that neighborhood parties are out of control. She commended the Commission on taking this bold step with both these ordinances.

Bill Gordon, Winter Park High School Principal, 2100 Summerfield Road, commented that these are valid concerns in the community at large and that alcohol is a drug of choice. He spoke about promoting that they have choices and the need to be held accountable for their actions. He stated that the school has also made a positive impact with one of their initiatives called "Wildcats the Anti-Drug."

Captain Mark Bong, State of Florida Division of Alcoholic Beverages and Tobacco, 400 West Robinson Street, commented that these ordinances have been extremely effective across the nation in dealing with the problems inherent with alcoholic sales to minors.

Pamela Brown, 4000 Central Florida Boulevard, University of Central Florida Community Prevention Research, spoke about the research of underage alcohol use. She believed this ordinance was innovative and supports the Surgeon General's call to action to prevent and reduce underage drinking.



Meredith McKean, Administrator for Orange County Schools, stated that Winter Park has the opportunity to step to the plate and be the first community to adopt an ordinance like this and save our children.

Melisa Logo, Orange County Health Department, stated that businesses and landlords need to be responsible and these ordinances will contribute to the well being and safety of the entire community.

Ken Miller, Rollins College, expressed that this is a tool that will allow them to work with business owners and landlords; it will hold them accountable and let them know what is transpiring on their property.

Cat McConnel, Rollins College, believed these ordinances call members of our community to act ethically as business owners, property owners and neighbors. She spoke about their mission statement on campus and the need to be responsible leaders and global citizens together in this community.

Steve Neilson, Rollins College, stated that this is an essential tool and they need to work collaboratively in teams to address these issues. He commented that it was also important to honor a blue ribbon task force.

Joe Terranova, 700 Melrose Avenue, asked why the west side vendors are excluded in the process for getting an extension of hours and if they are excluded why they are not mentioned in the ordinance. He believed they should not be excluded and everyone in the City should be treated the same.

Attorney Cheek commented that several of the existing subsections of section 1033 are "relettered" and the west side section remains part of the ordinance as it is currently drafted. He stated if the Commission moves to pass this ordinance he has some suggestions of revisions that should be included in the motion.

Lurline Fletcher, 790 Lyman Avenue, had concerns about the sale of alcohol by restaurants after 11:00 p.m.

Ed Furey, on behalf of Great American Land Management, Inc. voiced concerns with the hours of alcohol sales after 11:00 p.m. for vendors. He questioned the paperwork involved for the vendors in completing the required application to sell alcohol between 11:00 p.m. and 2:00 a.m. He asked if the City did a cost benefit analysis of what it may cost to enforce this.

Vincent Gagliano, Chez Vincent Restaurant, 533 W. New England Avenue, asked that his business hours of operation be extended.

Bonnie Jackson, 3009 Temple Trail, was not in favor of the government getting involved. She was also concerned with the open house issue and questioned how that would be implemented and be legal. She commented that they should punish the underage drinker or their parents and enforce the laws they already have.

Chief Ball responded to Mr. Furey's concerns. He stated there would be minimal paperwork and explained the Extended Hours of Operation Permit (EHOP). He stated that he made a suggestion to the City Manager that the EHOP have some type of stamp or sticker affixed to it

and this will have little or no impact for the code enforcement officers. He stated if there is a violation the Police Department will notify the Code Enforcement Department. Chief Ball also addressed the cost benefit analysis and believed that any cost to the Police Department would be minimal because they are presently enforcing underage drinking laws.

Attorney Cheek spoke about the modifications to the alcohol ordinance and agreed with Chief Ball about the paperwork being minimal. He stated he will make these changes for the next reading if this passes.

**Motion made by Commissioner Diebel to accept the ordinance on first reading with the suggested modification to allow all businesses to apply for the EHOP as well as the modifications put forth by the City Attorney. Motion failed due to lack of a second.**

**Motion made by Commissioner Bridges to accept the ordinance on first reading as presented with the changes articulated by the City Attorney to make those modifications.** Commissioner Dillaha asked for further clarification on the ordinance. Attorney Cheek and Chief Ball responded. Mayor Strong also asked that staff provide documentation regarding the west side and if the City made a commitment to maintain the 11:00 p.m. hour. **Upon a roll call vote, Mayor Strong and Commissioners Bridges, Dillaha and Diebel voted yes. The motion carried unanimously with a 4-0 vote. Commissioner Anderson was absent.**

Attorney Cheek asked the Commission to redo the motion and have a separate motion for each ordinance, so it is clear.

**Motion made by Commissioner Bridges to accept the ordinance on first reading regarding illegal open house parties; seconded by Commissioner Dillaha. Upon a roll call vote, Mayor Strong and Commissioners Bridges, Dillaha and Diebel voted yes. The motion carried unanimously with a 4-0 vote. Commissioner Anderson was absent.**

**Motion made by Commissioner Bridges to accept the ordinance on first reading regarding the limitation of alcohol sales with the changes to the language mentioned by our City Attorney; seconded by Commissioner Dillaha. Upon a roll call vote, Mayor Strong and Commissioners Bridges, Dillaha and Diebel voted yes. The motion carried unanimously with a 4-0 vote. Commissioner Anderson was absent.**

- f) RESOLUTION NO. 2019-09: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, RELATING TO IMPROVEMENTS TO STATE ROAD NO. 400 (INTERSTATE 4) BY THE FLORIDA DEPARTMENT OF TRANSPORTATION, AND SUBORDINATION OF THE CERTAIN EASEMENTS OWNED BY THE CITY TO THE FLORIDA DEPARTMENT OF TRANSPORTATION, AUTHORIZING THE MAYOR OF THE CITY TO ENTER INTO SAID SUBORDINATION OF CITY UTILITY INTERESTS; PROVIDING AN EFFECTIVE DATE.

Attorney Cheek read the resolution by title. No public comments were made. City Manager Knight explained that this is related to the I-4 widening project and the State has requested the City subordinate these utility easements to them. He explained that if we need to relocate any utilities the State would pay that cost. He commented that this was an advantage. Utilities Director Dave Zusi answered questions.

**Motion made by Commissioner Dillaha to adopt the resolution; seconded by Commissioner Bridges. Upon a roll call vote, Mayor Strong and Commissioners Bridges, Dillaha and Diebel voted yes. The motion carried unanimously with a 4-0 vote. Commissioner Anderson was absent.**

- g) Conditional use request - The Charles Hosmer Morse Museum of American Art to construct a 12,222 square foot addition to the existing museum building at 445 N. Park Avenue.

Planning Director Jeff Briggs explained the conditional use request by the Charles Hosmer Morse Museum of American Art to construct a 12,222 square foot two story addition onto the existing 28,629 square foot museum. He commented that this addition is comprised of museum space on the first floor and office/administrative space on the second floor. He explained that the building is 33.5 feet to the roof and there are a few small peaked roof sections that go to 39 feet in height. He added that the maximum height limit in the CBD (C-2) is 40 feet and this is within that limit. He commented that the addition is primarily in the rear (west) of the existing building running along Canton Avenue and that the addition has a 10 foot setback and the existing museum setback of two feet.

He explained the Morse Museum expansion plan also provides for a parking lot containing 37 spaces. He stated the zoning code provides that parking requirement for museums is determined by the City Commission on a case-by-case basis. He added that the Morse Museum provided a parking study and survey for this project. Based upon the survey, the use of the existing parking lot ranged between 7 and 15 spaces at any given time. In addition, there is a parking garage across the street for special events.

He stated that P&Z believed the new addition is consistent with the existing architectural style and that landscaping should be significantly upgraded in the parking lot and enhanced along the building facades. He commented that P&Z recommended approval with the condition that the applicant make changes to the landscape plan. Mr. Briggs answered questions.

Jack Rogers and Robert Bendixen, architects for the Morse Foundation, explained their mission and the vision for what this represents as an opportunity for the City. Mr. Bendixen summarized the site plan. Both Mr. Rogers and Mr. Bendixen answered questions.

**Motion made by Commissioner Bridges to approve the conditional use request; seconded by Commissioner Dillaha. Upon a roll call vote, Mayor Strong and Commissioners Bridges, Dillaha and Diebel voted yes. The motion carried unanimously with a 4-0 vote. Commissioner Anderson was absent.**

- h) Conditional use request – Fields Motor Cars of Florida, Inc. to construct a parking lot for car sales inventory display and to construct a car wash building as part of their car service facilities at 951 N. Wymore Road (former Park Inn motel).

Planning Director Jeff Briggs stated that this is a conditional use request to construct a parking lot for a car sales inventory display and to construct a private car wash building as part of their car service facilities at 951 N. Wymore Road. He stated that P&Z spoke about tree preservation and compensation and tied it into the landscape plan for the property. He commented that there are some significant issues with respect to tree compensation because a tree removal permit was issued. He stated that there were 284 inches of trees removed and 40 inches proposed to

be replanted. The remaining 240 plus inches would require a payment to the tree replacement fund for a total of \$26,840. He commented that as a dealership with brand new cars they do not want any trees in the interior of the lot and would like to protect the new cars from tree droppings; thus the removal of the remaining ones. He explained that P&Z recommended approval of the conditional use request with the condition that the applicant submit a revised landscaping plan to the Planning Commission for approval prior to the issuance of the building permit. Mr. Briggs answered questions.

Johann LaRose, 111 Hillwood Drive, Scott Partnership Architecture, represented the applicant. He commented that they would like to get the building construction documents to move forward with the project. He stated that they understand the concern with the oak trees between the two sites and they are working with the owner on a new landscaping plan which will go back to P&Z for review and hopefully be accepted. Mr. LaRose answered questions regarding tree preservation and opportunities for replanting trees.

Will Graves, 3048D George Mason Avenue, encouraged the Commission to approve this project.

**Motion made by Commissioner Dillaha to approve the conditional use request with the condition that the landscaping plan come back to P&Z for approval prior to issuance of the building permit and it be contingent upon resolving the issue of the tree removal either financially or with a landscape plan that outlines the 240 inches of trees; seconded by Commissioner Bridges.** Commissioner Bridges commented that she hopes they do not handicap P&Z by asking this particular property owner to move mature trees and if it would be more feasible to do replanting or fee in lieu of. She encouraged working with the developer to come up with the appropriate landscaping. Commissioner Dillaha agreed and commented that the permit was approved last March and there is approximately \$31,000 in compensation or the 240 inches replacement of trees. **Upon a roll call vote, Mayor Strong and Commissioners Bridges, Dillaha and Diebel voted yes. The motion carried unanimously with a 4-0 vote. Commissioner Anderson was absent.**

#### City Attorney's Report:

1. Attorney Cheek stated at the last meeting he was asked to look at text messaging while driving. He commented that several years ago a number of cities passed ordinances about not talking on cell phones while driving, but they were all preempted by a State law. He commented that as a City they will not be able to ban cell phone use that protects State law driving however, it comes up from time to time in Tallahassee and they can support that legislation. Commissioner Dillaha commented that she brought this up and mentioned there was something in the paper today regarding this matter. Attorney Cheek commented that he would find out what that is and maybe the City can consider supporting that.

2. Attorney Cheek addressed the Commission approving the Orange County Public Schools facilities agreement with the caveat that an evergreen provision be added. He commented that he attempted to negotiate that with the School Board and they declined to agree to the revision in part because it is an agreement that is contemplated to be entered into the School Board in every municipality in the County and a number of them have already signed. He explained that the School Board said that if the City insists on amending the agreement to add the evergreen they can talk about it, but they want the City to enter into the agreement first. He added that DCA said they will have the opportunity to review it later.



Attorney Cheek commented that this was the only caveat in the Commission's approval of entering the agreement. He asked for direction whether to enter into it without the evergreen provision or not enter it without the evergreen provision. Mayor Strong commented he was prepared to proceed with the agreement that the School Board wants and modify it after the fact. Mayor Strong stated that they approved the agreement and it is suitable for signature and if Attorney Cheek determines that they need to revisit it then he will let the Commission know. There was consensus among the Commission.

3. Attorney Cheek commented that he received responses regarding the commuter rail letters that he was directed to draft and send to Orange County. He gave the general overview stating that Orange County was not willing to negotiate any changes to the agreement, but they did make clarifications that the City asked for. He explained that the Orange County letter gave the City the 15 day notice under section 6.2 b) of the interlocal agreement; it says they made the second payment to FDOT. Attorney Cheek read section 6.2 b) Termination and proceeded to explain the provision. He stated that in the letter he wrote to Orange County there was the question as to whether the City received those funds; however, Orange County explained we did receive it, because FDOT put it in their budget. Attorney Cheek explained their options and believed they could have a resolution to this issue at the next Commission meeting and in the next couple of weeks look at it closely and be fully informed.

Commissioner Dillaha stated that she wants to see documentation that says the money is there. She wanted something from FDOT or the FTA that the \$3 million is allocated for the Winter Park station as opposed to Orange County saying it is there. She suggested having a discussion on this before their next Commission meeting.

Mayor Strong suggested they look at the letter Attorney Cheek received and perhaps the Commission can communicate their individual ideas with him. Commissioner Dillaha commented that Attorney Cheek should contact Orange County tomorrow regarding the documentation about the funding for the station. Attorney Cheek suggested the Commission read the letter first because it talks about the money being there. City Manager Knight stated he forwarded the letter to the Commission via email.

#### **Non-Action Items:**

a) City Manager's Report.

City Manager Knight provided updates on electric undergrounding, Villa View Park, refuse/recycling RFP, the comprehensive plan, and the bonds.

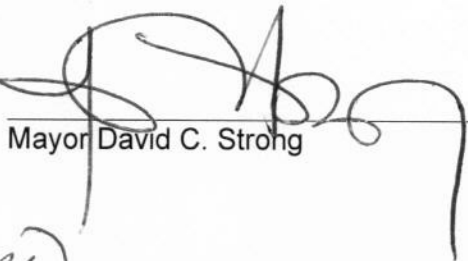
#### **New Business (Public):**

Donna Colado, 327 Beloit Avenue, spoke about the comprehensive plan and believed it was time to look at accountability and to send a compliant document to Tallahassee. She also suggested that one Commissioner and a P&Z member go with Planning Director Jeff Briggs to Tallahassee.

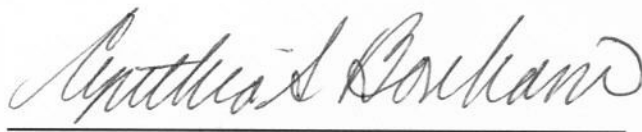
**New Business (City Commission):**

1. Commissioner Diebel asked how things were being handled with the appeal regarding the noise violation for Mr. Holst. Building Director George Wiggins explained it went before the Code Enforcement Board and if a respondent disagrees, they have the authority to appeal it within 30 days at the order of the Code Enforcement Board. He explained the process and commented that they are communicating with Mr. Holst.
2. Commissioner Diebel spoke about the upcoming residential building code work session and asked when this would come back before the Commission. She advocated they leave the code at 43% density. Mr. Wiggins commented that they are in the process of reevaluating the single family residential codes and they have set up a work session for January 23 and 24. He addressed this being part of the mandate from both the comprehensive plan and the strategic plan effort. He stated they have come forward with proposed changes and would like to move forward to the P&Z Commission and assuming changes pass then it will come before the Commission for final action. He believed this would be sometime in March. Mr. Wiggins answered questions. Commissioner Diebel asked Mr. Wiggins to provide a review of what has been advocated and why and what will be under consideration for the Commission. Mr. Wiggins agreed to do so.
3. Commissioner Dillaha asked about the status of the way finding signage. Mr. Knight explained that this is scheduled for the next Commission meeting.
4. Commissioner Dillaha reiterated that she would like to look at the letters Orange County sent regarding commuter rail and if there are a number of questions then perhaps they need to get together before the next Commission meeting.


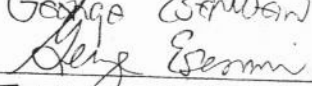
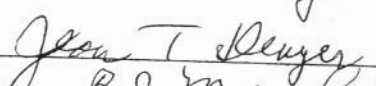
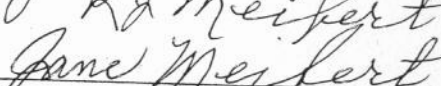
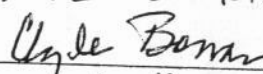
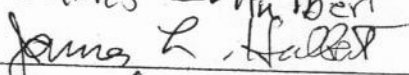
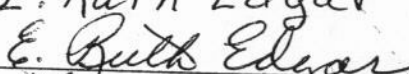
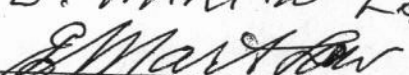
The meeting adjourned at 7:49 p.m.

  
\_\_\_\_\_  
Mayor David C. Strong

ATTEST:

  
\_\_\_\_\_  
Cynthia S. Bonham, City Clerk

We the undersigned residents petition the City of Winter Park to revise its Debris Management Plan to eliminate grinding at sites that are located in or next to the City's residential areas. Grinding of debris is hazardous to the health and welfare of the City's residents due to hazardous airborne pollutants, excessive noise, and damaging vibration generated by the chippers/grinders.

Name	Address
(print) RICHARDE BRUENS (sign) 	2115 COLDSTREAM DR.
(print) Josephine K. Nolen (sign) Josephine K. Nolen	2115 Coldstream Drive
(print) George Esom (sign) 	2105 Coldstream Dr.
(print) JULIA S. RANKIN (sign) Julia S. Rankin	32792 2215 Coldstream Dr W.P.
(print) Dean T Denyer (sign) 	2225 Coldstream Dr 32792
(print) R. Meifert (sign) 	2230 Coldstream Dr. 32792
(print) CLYDE BONAR (sign) 	32792 2235 COLDSTREAM DR
(print) James L. Hulbert (sign) 	2270 Coldstream Dr. 32792
(print) PHYLLIS EASON (sign) Phyllis Eason	2300 Coldstream Dr 32792
(print) E. Ruth Edgar (sign) 	2346 Coldstream Dr. 32792
(print) E. MARTIN LAW (sign) 	2356 COLDSTREAM DR.
(print) MARIE CHIKI (sign) Marie Chiki	2355 Coldstream Dr.
(sign)	

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Name	Address	Date Signed
(print) Keith H. Gardner	2230 Cady Way	01/02/09
(sign) <i>Keith H. Gardner</i>		
(print) Todd Morley	2200 Cady Way	01/02/09
(sign) <i>Todd Morley</i>		
(print) NANCY KOO	2110 Cady Way	01/02/09
(sign) <i>Nancy Koo</i>		
(print) George Coyne	2130 Cady Way	01/02/09
(sign) <i>George W Coyne</i>		
(print) LAURA COYNE	2130 Cady Way	01/02/09
(sign) <i>Laura Coyne</i>		
(print) Deborah Gardner	2230 Cady Way (407) 647-8673	01/02/09
(sign) <i>Deborah Gardner</i>		
(print) Virdeo Ruro	2320 Cady Way	01/02/09
(sign) <i>[Signature]</i>		
(print) Lynette R. Crismore	2340 Cady Way	01/02/09
(sign) <i>Lynette R. Crismore</i>		
(print) GARRETT J. CRISMORE	Winter Park 32792 2340 Cady Way	01/02/09
(sign) <i>Garrett J. Crismore</i>		
(print) Brentley Crismore	Winter Park FL 32792	01/02/09
(sign) <i>Brentley Crismore</i>		
(print) Laura R. Worthy	2250 Cady Way	01/02/09
(sign) <i>Laura R. Worthy</i>		
(print) ROSEMARY S. MARTIN	Winter Park, FL 32792	01/03/09
(sign) <i>Rosemary S. Martin</i>		
(print) Robyn Martin	2210 Cady Way	11/03/09
(sign) <i>Robyn Martin</i>		
	Winter Park, FL 32792	



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Name	Address	
(print) Vincent Heyser	2240 Cady Way	
(sign) <i>Vin Heyser</i>	Winter Park FL 32792	1/3/09
(print) Judy Heyser	2240 Cady Way	
(sign) <i>Judy Heyser</i>	Winter Park FL 32792	1/3/09
(print) John Cook	2260 Cady Way	
(sign) <i>John Cook</i>	Winter Park 32792	1/3/09
(print) Harriet Cook	2260 Cady Way	
(sign) <i>Harriet Cook</i>	Winter Park FL 32792	1/3/09
(print) Cheryl Edgson	2310 Cady Way	
(sign) <i>Cheryl Edgson</i>	Winter Park FL 32792	1/3/09
(print) Shari Koopmann	2360 Cady way	
(sign) <i>Shari Koopmann</i>	Winter Park, FL 32792	1/3/09
(print) DONA SILVA	2360 Cady Way	
(sign) <i>Dona Silva</i>	Winter Park FL 32792	1/3/09
(print) CHESARE MARCIALIS STARRANT	384 Perth Ln	
(sign) <i>Chesare Marcialis Starrant</i>	WP. FL 32792	1/4/09
(print) Margaret Johnson	390 Perth Ln	
(sign) <i>Margaret Johnson</i>	Winter Park, FL 32792	1/4/09
(print) Aileen Montecort	379 Perth Ln	
(sign) <i>Aileen Montecort</i>	Winter Park FL 32792	1/4/09
(print) Richard Grobe	2211 Loch Comond Dr	
(sign) <i>Richard Grobe</i>	Winterpark FL 32792	1-4-09
(print) Chris Damiano	2225 Loch Comond Dr.	
(sign) <i>Chris Damiano</i>	Winter Park, FL 32792	1-8-09
(print) Jason Gilkey	2227 Loch Comond Dr	
(sign) <i>Jason Gilkey</i>	Winter Park FL 32792	1-4-09

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