

REGULAR MEETING OF THE CITY COMMISSION
January 26, 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 Jim Book, First Christian Church Winter Park, followed by the Pledge of Allegiance.

Members present:

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

Also present:

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

Citizen Comments:

There were no citizen comments.

Mayor's Report:

- a) Check presentation from Fireman's Fund Insurance.

Susan Chambly, Fireman's Fund Insurance Company, presented the Fire Rescue Department with a grant for \$6,100.10 for the first Community Response Team. She stated that it will consist of civilians that are trained to respond to emergency incidents in their communities.

Chris Gardner, Chief Operating Officer of Kuykendall & Gardener, expressed that they have great regard for the Fireman's Fund and their willingness to support the community. Fire Chief White thanked the Fireman's Fund and Mr. Gardner and stated they appreciate the opportunity to partner with them on the first Community Response Team.

- b) Proclamation of 2009 General and Referendum election.

Mayor Strong read a proclamation declaring that the General Election will be held on Tuesday, March 10, 2009 for the purpose of electing a Mayor and to hold a Charter Referendum.

Consent Agenda:

- a) Approve the minutes of 1/12/09.
- b) Approve PR 140429 to Helena Chemical Company for the purchase of aquatic chemicals, piggy-backing Lake County contract # 03-001E; \$100,000.00.
- c) Approve negotiating and executing a contract for RFP-3-2009, Insurance Agent/Broker Services – Employee Benefits & Insurance with AGIS.
- d) Approve Change Order #6, 2006-05, CH2M Hill, to replace the emergency generator fuel storage tank (East Wastewater Treatment Plant); \$73,956.00.
- e) Approve the staff recommendation to approve the adjustments to the budget as presented due to the projected revenue shortfalls. **PULLED FOR DISCUSSION. SEE BELOW.**

- f) Approve the staff recommendation regarding the comprehensive benefit survey.
PULLED FOR DISCUSSION. SEE BELOW.

The following Consent Agenda items were pulled for discussion: e) and f).

Motion made by Commissioner Anderson to approve Consent Agenda items a), b), c), and d); seconded by Commissioner Dillaha. The motion carried unanimously with a 5-0 vote.

Consent Agenda e): Approve the staff recommendation to approve the adjustments to the budget as presented due to the projected revenue shortfalls.

Commissioner Bridges stated she had concerns about not funding one of the most important economic development drivers in the West Fairbanks area. She asked for clarification on the \$300,000 freezing/eliminating of positions and that City Manager Knight and Finance Director Wes Hamil gather some information and explore alternatives.

City Manager Knight explained the proposed mid-year budget adjustment. He stated we are not in crisis mode yet and they have a projected \$1.2 million shortfall. Commissioner Bridges expressed that she does not want to see us in crisis management mode and wants to be proactive rather than reactive. Utilities Director Dave Zusi answered questions regarding the FDOT submittal related to the Fairbanks Avenue bike lanes.

Commissioner Anderson commented that he would choose the Fairbanks Avenue priority over implementing a GIS system. Commissioner Bridges commented that she wants to specifically look at streamlining our resources, look at efficiencies within our staffing and City expenditures and be more proactive. Commissioner Dillaha stated she had the same concern about the West Fairbanks project and it needs to stay on track. City Manager Knight answered questions.

Commissioner Dillaha agreed with Commissioner Bridges about the need to be more proactive rather than reactive. She suggested that they look at freezing salaries for a year and to eliminate expenses short term. She wanted an updated ten year projected budget and to find other ways to reduce expenses other than what is listed.

Commissioner Anderson commented that specific to the budget line item, he would implement the first section of the subtotal for immediate savings. As for potential savings, he would hold on the capital expenditures with the exception of the Fairbanks Avenue improvements until they have a better understanding of what the revenue number will be.

Commissioner Diebel commented that the recommendations by our City Manager are practical, possible and extremely timely. She expressed that we will not see this turn around, especially with building permits for several months due to the calendar of our comprehensive plan and now the residential codes that the Commission has chosen to contract and start discussions with. She asked Mr. Knight what action they need to take and when they need to take it.

City Manager Knight reminded the Commission that they adopted a budget with over a million dollars of contingency and set aside money for a crisis type situation. He explained that he proposed not to touch the reserve they set aside but to cut other expenditures to allow us to continue this year. He stated they need to set aside enough for other projects that they are not going to spend money on until they see what happens further in the year.

Commissioner Diebel commented that she would make a motion based on the City Manager's recommendation of the projects to be cancelled and costs to be cut, now totaling \$806,718.

Motion made by Commissioner Diebel to have those budget items cancelled and to amend the motion to say we should eliminate the positions and not freeze them. Should we be in a financial position to be able to add those back into our City staff, then the City Manager can bring those forward at that time for a budget increase; seconded by Commissioner Anderson.

Commissioner Dillaha commented that the comprehensive plan has nothing to do with building permits being down in our City. She commented that they need to make these cuts and this also means benefits and personnel. She suggested they look at increasing the freeze/eliminate positions from \$300,000 to \$800,000. She wanted to add this and keep the Fairbanks Avenue improvements on the table.

Mayor Strong believed they have not inhibited development from occurring and they have approved a lot of projects. He commented that they need to look more aggressively under the assumption that things are going to get worse instead of better. He suggested that they give the City Manager an opportunity to look at which staff positions are crucial and/or maybe have a wage freeze and allow him the opportunity to say if this downward trend continues what actions he would take. He stated he would support the motion made, but would also direct the City Manager to describe what the next steps might be.

City Manager Knight asked for clarification of the motion because he understood it was actually cutting the frozen positions without the Commission having knowledge of what those positions are. Commissioner Dillaha agreed that it was not prudent to eliminate frozen positions because some of those positions probably need to be replaced and Mr. Knight may know best as to what those positions are. **Commissioner Diebel clarified her motion to cut \$300,000 from the overall budget permanently and how Mr. Knight decides to allocate that is up to him.** Commissioner Anderson clarified the first line item is giving our City Manager the discretion on how to achieve that \$300,000 savings. Commissioner Diebel agreed. **Commissioner Anderson again seconded the motion. Upon a roll call vote, Mayor Strong and Commissioners Bridges, Anderson, Dillaha and Diebel voted yes. The motion carried with a 5-0 vote.**

Mayor Strong suggested that the Form Based Codes Study and the quiet zones projects be postponed. City Manager Knight explained that this Commission put the Form Based Codes Study on hold several months ago until further direction and they are holding off on the quiet zones to see if there will be work done for commuter rail so they are not paying for work now that commuter rail might pay for automatically as part of their intersection enhancement. Mayor Strong commented that from a budget balancing standpoint that they postpone the GIS general fund portion, the Form Based Codes Study and the quiet zones for this fiscal year so that our budget will balance.

Commissioner Dillaha asked that City Manager Knight consider and look at how much money they might save by freezing the merit increase, eliminating the longevity bonus and cutting back on the deferred compensation program match for one year. He stated that the merit increase would save approximately \$168,000 in the general fund for the remainder of this fiscal year but that some employees have already received their merit bonus and would mean all others would

not. However, he did not have the number for the deferred compensation and the longevity bonus was already paid for and there would be no savings this fiscal year. Mayor Strong commented that they need to look into this next year.

Motion made by Commissioner Anderson to delay these projects - the GIS general fund expenditure (\$96,000); the Form Based Code Study (\$92,000) to next the fiscal year; and the quiet zones (\$300,000) in this fiscal year; seconded by Commissioner Diebel. Commissioner Diebel asked if these projects will be brought back for consideration at a future date and if they can be counted in the reserves. City Manager Knight expressed that is their preference and recommended delaying these projects. **Upon a roll call vote, Mayor Strong and Commissioners Bridges, Anderson, Dillaha and Diebel voted yes. The motion carried with a 5-0 vote.**

Mayor Strong commented that they were all looking to Mr. Knight on what we might do if things get worse. Commissioner Diebel commented that she supported Commissioner Dillaha in the wage freeze or reduction and asked Mr. Knight to bring something forward for them to consider.

Consent Agenda f): Approve the staff recommendation regarding the comprehensive benefit survey.

Commissioner Dillaha commented that at the Tri County League of Cities last meeting they discussed all the cities of the Tri Counties that are pooling their information on employee benefits and data to share with other municipalities. She explained they can participate in that, at no cost and it will provide a large data base of information in addition to this comprehensive benefit survey. City Manager Knight explained that they have contacted the Tri County League to get involved in this matter. He answered questions and recommended they look at the comprehensive benefit survey all at once. Commissioner Diebel asked if they will have a recommendation on the survey by May 1. Mr. Knight agreed that is the proposed schedule.

Motion made by Commissioner Dillaha to approve the staff recommendation regarding the comprehensive benefit survey (Staff suggests that the comprehensive benefit survey be conducted according to the following schedule: 02/01/09-New Agent hired; 02/27/09-Survey will be sent out; 04/10/09-Responses to survey due; 04/27/09-Survey Results reported to the City Commission. The staff recommends Commission review of the list of survey participants and benefits to be included in the survey prior to dissemination of the survey; seconded by Commissioner Bridges. The motion carried unanimously with a 5-0 vote.

Action Items Requiring Discussion:

- a) Fee waiver request of the Junior League of Greater Orlando to use Central Park for their "Kids in the Kitchen" Program.

Parks and Recreation Director John Holland explained that the Junior League of Greater Orlando is appealing to the City Commission for a fee waiver for use of Central Park for their "Kids in the Kitchen" program.

Katie Burn, Junior League of Greater Orlando the Kids in the Kitchen initiative, spoke about their mission, their purpose and battling the growing problems of childhood obesity and poor nutrition.

Elizabeth Hughes, Junior League of Greater Orlando President, commented that if their entire waiver is not granted they will understand, but asked the Commissioner to consider them.

Mr. Holland explained that staff recommended denial because it does not meet any of the organizational requirements to fee waivers. He stated that the event is on the weekend and the group is not a Winter Park organization. Commissioner Bridges commented that this is a very worthwhile effort and they are addressing a very serious issue but she supports the recommendation even though it is painful to do so. Mr. Holland answered questions.

Motion made by Commissioner Bridges to support staff's recommendation to deny the fee waiver; seconded by Commissioner Dillaha. Mayor Strong commented that he supports the motion but he will personally make a contribution towards their fee waiver and hoped others would also. He encouraged them to contact the Health Foundation. **The motion carried with a 4-1 vote. Commissioner Diebel voted no.**

b) Fee waiver policy issue continuation.

Parks and Recreation Director John Holland explained that at the last Commission meeting they requested Commissioner Dillaha to address this issue and bring back her idea of an overview plan for the fee waivers. He outlined the fee waivers that were recommended by Commissioner Dillaha 1) City annual events: designate the tree lighting ceremony, Winter Park High School parade, Winter Park High ROTC Banquet, Winter Park High School Homecoming and Wildcat Roar as City annual events that do not require fee waivers; 2) create a new designation within Rules and Standards for Rate Adjustments for "Community-based organization status" for use of designated meeting spaces and facilities; and 3) phase out fee waivers over two years (P & R recommendation) for groups and organizations with current fee waivers not meeting the criteria above such as AARP, Senior Line Dancing and Winter Park Chamber of Commerce functions charging admission.

Carole Moreland, Co-President of the Winter Park Sidewalk Art Festival, believed they are a community based organization and the festival has given many benefits to the City. She asked the Commission to consider where they fit into all of this. There was a consensus that the Winter Park Sidewalk Art Festival be included as a City annual event.

Debra Hendrickson, Vice President, Winter Park Chamber of Commerce, explained that they are a 501(c)6 and they have a long standing relationship with the City for the past 100 years. She asked they consider the Chamber for a fee waiver.

Joe Terranova, 700 Melrose Avenue, commented that there is a special relationship that has existed between the Chamber and the City for many years. He stated they support both the businesses and the community of Winter Park. He urged the Commission to look at their policy and make additional exceptions for the Chamber.

Mr. Holland provided a handout regarding the Commission's recommendations on fee waivers. Mayor Strong commented about a number of Chamber of Commerce events that were community events that benefited the entire community that should be receiving fee waivers. Commissioner Anderson asked that the OAR breakfast (Outstanding Achievement and Recognition for Youth) be added to the Mayor's list under the Chamber of Commerce. Mayor Strong agreed if that was the will of the Commission.

Commissioner Diebel commented that she was opposed to this because it is dangerous legislation to include and exclude certain groups at the same time. She stated that she did not understand why we are trying to make our parks a revenue generating entity. She suggested they authorize the Parks Board to grant the fee waivers and come up with something that makes them comfortable. She stated if we cannot have that authorization with the Parks Board then maybe we should appoint members that are comfortable with that and it should include 501(c)3's, 501(c)4's, 501(c)6's to the extent that they support the mission of Winter Park. She stated all these organizations by the tax code are devoted exclusively to charitable, educational, recreational purposes for the promotion of social welfare. She suggested tabling this back to the Parks Board and not doing this at all.

Mayor Strong commented that the Parks Board is being a little severe in their approach to the use of our facilities and some of these events. He wanted to clarify that some of these organizations and events can expect a fee waiver going forward as long as they continue to do the good work they're doing. He asked Commissioner Diebel if her recommendations would be to direct the Parks Board to identify long standing events and acknowledge they are entitled to a fee waiver and any charitable organizations would be entitled to a fee waiver.

Commissioner Bridges supported the Parks Board recommendation and liked the concept that there are City annual events that should be identified. She commented that Commissioner Dillaha's recommendation was a viable tool that would address Commissioner Diebel's concerns. She did not believe the Parks Board was unable to address these fee waivers and believed they were responding to the City Commission in looking for a fair, equitable and appropriate means to establish a City wide approach to this. She added that she was supportive of Commissioner Dillaha's recommendation.

Commissioner Anderson commented that he shared Commissioner Diebel's frustrations with this going back and forth and they should give a directive that these events are City oriented and benefit the City broadly, regardless of whether they are 501(c)3, 501(c)4, or 501(c)6. He added the Autumn Art Festival and the Artist's Party as being Chamber sponsored events. He also commented that in terms of Commissioner Dillaha's outline he would modify "all meetings, socials, rentals and events are open to the public" as opposed to "must be free and open to the public". Mr. Holland answered questions.

Mr. Holland spoke briefly about their rental facilities and field rentals. Mayor Strong commented that they are not addressing this tonight, but asked Mr. Holland to circulate further information about our field use and fees to the Commission.

Commissioner Dillaha commented that there is a need for a policy and she looked at the City of Altamonte Springs and the City of Orlando's use of their parks and facilities. She stated that the purpose was to create fairness, to take this discussion away from the Parks Board, generate some revenue and control costs at the same time. She addressed that she was not in favor of the City giving away a facility or the Civic Center for free and organizations charging fees to make a profit off the City. She suggested following the recommendations she made and perhaps adding a few more annual events to the list if the Commission so chooses. She stated they are attempting to create an equitable policy for everyone.

Motion made by Commissioner Bridges to accept the fee waiver policy as outlined by Commissioner Dillaha; to add to the recommendation under #1) the Winter Park Art

Festival; add the list as proposed by Mayor Strong stipulating that those are community based organizations; and to include the Autumn Art Festival and the OAR breakfast.

Commissioner Diebel asked Commissioner Bridges to amend the motion to include it not be event based but rather any organization can apply for this particular status. Mayor Strong suggested it could say charitable or non-profit status. Commissioner Diebel agreed. Commissioner Bridges wanted to leave it as is for now and supported that for a community based organization status an organization must meet the criteria and fill out an application yearly as proposed by Commissioner Dillaha. **Seconded by Commissioner Dillaha for discussion.**

Commissioner Bridges commented that these items need to be recognized as City annual events and that the policy stipulates 501(c)3 status or charitable/non-profit status. Mayor Strong clarified the phase out: first year a two-thirds waiver; second year a one-third waiver; and no waiver for the third year.

Commissioner Bridges commented that is how the policy came to them from the Parks Board. Mayor Strong asked if they wanted to make this effective February 1, assuming it is passed. Commissioner Bridges agreed. Mayor Strong asked Commissioner Bridges if she was also comfortable with this amendment regarding the clarity about the fee waiver. Commissioner Bridges agreed.

Commissioner Diebel commented that Commissioner Bridges is accepting Commissioner Dillaha's criteria for a community based organization status and it does not include a 501(c)6 or 501(c)4. She stated it is discriminatory if they are being precluded from applying. Commissioner Dillaha commented that they are trying to put together a policy that is fair and equitable. Commissioner Bridges commented that she wants to leave it as a 501(c)3 status or charitable/non-profit status.

Commissioner Anderson commented about Commissioner Dillaha's list regarding the first hour of rental fee being waived with the second hour and so on discounted. He suggested co-pays since it is discounted all the way through. Mr. Holland asked that their deadline for ending rentals be postponed until staff can put this fee waiver policy together. There was a consensus.

Mayor Strong commented that this needs to be redrafted to encompass some of the changes. City Manager Knight stated that once it is complete they will circulate it to the Commission. Commissioner Bridges asked it be completed by March 1, if possible. Mr. Holland stated they would try.

c) City board policies and procedures.

City Manager Knight explained that the Commission appointed a subcommittee of Commissioners Bridges and Dillaha and himself to evaluate the current practices of City boards and recommend changes to improve the efficiency and effectiveness of the boards as well as the City Commission. He stated the subcommittee met twice and explained the recommended changes to the board policies and procedures.

Commissioner Diebel asked Attorney Cheek to comment on participation by alternates. Attorney Cheek stated that the way the code reads and the general law is that only those who

make up the quorum can make a motion. He stated that if there is a full quorum and the alternate is in attendance the alternate cannot make a motion. Commissioner Diebel wanted that clarified because there was a conflict this year. Mayor Strong asked Mr. Knight to make more clarifications to the language. Mr. Knight agreed.

Motion made by Commissioner Anderson to approve this upon clarification about these policies; seconded by Commissioner Dillaha. Upon a roll call, Mayor Strong and Commissioners Bridges, Anderson, Dillaha and Diebel voted yes. The motion carried unanimously with a 5-0 vote.

d) Emergency debris management site designations.

City Manager Knight explained that the Commission asked that alternate debris management sites be brought back for discussion and there was discussion about the health hazards of having these next to residential areas. He commented that they also had discussions with Mr. Bellows about the use of the Home Acres property at the northwest corner of Lee Road and 17-92 and he is agreeable to entering into an agreement with the City to use it over the next 18 to 24 months before development begins there. He commented that they have also spoken to AshBritt (current contractor for Emergency Debris Management) about the potential of a joint use of an Orlando site.

Parks and Recreation Director John Holland explained that with our current contract we do have the option for direct haul. He stated their objective is to remove the debris from the streets and the area as quickly as possible. He explained the direct haul process and spoke about the City taking advantage of an opportunity to increase the FEMA reimbursement by an additional 5% by submitting an Emergency Debris Management Plan.

Mr. Holland also expressed that staff recommends they not remove any possible sites from the plan since they may need to be used in the future. He explained that they have options available, but they need to be prepared for the worst case scenario again.

Keith Gardner, 2230 Cady Way, submitted more signatures to the petition regarding the revision to the Debris Management Plan. He explained that the grinding of debris is hazardous to the health and welfare of the City's residents and asked that City staff revise the plan and develop acceptable options that will eliminate these hazards to our residents.

John Cook, 2260 Cady Way, opposed the grinding and expressed how aggravating this was in their neighborhood.

Mayor Strong asked if they could revise the plan for direct hauling as our first and preferred alternative. Mr. Holland stated they could set up that preference for our plan. Mr. Knight explained that the tradeoff for direct haul is that non-ground trees will be in front of houses for a longer time. Mr. Holland answered questions.

Attorney Cheek commented about the FEMA reimbursement for the chipping and hauling process. He suggested that if they want to do anything different they need to check with FEMA first to make sure they are alright with the changes. Mayor Strong asked that staff speak with the appropriate parties that we have a concern about not having a site that is not next to a

residential neighborhood and ask what they suggest. He commented that we should present some of our ideas and see what kind of feedback we receive from them.

Mayor Strong commented that they do not want to jeopardize our Debris Management Plan from a financial standpoint, but we want to explore alternatives in light of the hazards that have been brought to our attention.

Motion made by Commissioner Diebel to table this until they can have clear communication from FEMA on what they would recommend adjacent to a residential neighborhood; seconded by Commissioner Bridges. Upon a roll call, Mayor Strong and Commissioners Bridges, Anderson, Dillaha and Diebel voted yes. The motion carried unanimously with a 5-0 vote.

- e) Discussion of response to Orange County's 15 day notice regarding commuter rail.

Attorney Cheek explained that at the special meeting last week the Commission directed him to ask the County two questions regarding whether they agree with the City's understanding of the City/County commuter rail agreement. He provided a copy of the email sent to Orange County Director of Growth Management Jim Harrison with his responses.

The questions were as follows:

1. The City understands that it is not required to pay for the construction of the Winter Park station unless the City is provided with funds by the Federal government or some other agency. Does the County agree? Answer – no.
2. The City understands that its right to "opt out" of the City/County commuter rail agreement under section 6.2(d) at the expiration of the FDOT funding period can be exercised under conditions including (i) there is no dedicated funding source for all of the Local Operating Support Costs and the Fixed Guideway Bond Service costs; and (ii) a dedicated funding source exists, but it is not permanent. Does the County agree? Answer – yes, through (i). No as to (ii).

Attorney Cheek explained the first response and stated the way the contract is structured it is expected that they are going to get Federal money, but if they do not get it, we have the right to back out. This is the termination right they are dealing with presently. He also explained the second response and stated that there is comfort in knowing that Orange County agrees with our reading at this point that the dedicated funding source would have to cover all of these costs. He commented it has been raised occasionally in discussion, that if the dedicated funding source only covered a portion of the costs would they use that against us to say we could not opt out at this point, but they say they would not do that, based on this email.

Mayor Strong commented that the money is somewhere and has been allocated for this station. Attorney Cheek agreed and stated that under section 6.2 (b) they have a 15 day window to terminate the contract if we have not received money sufficient to build the station. He stated they have been told by the County, FDOT, and a letter from our Congressman that the money has been earmarked to pay for the station. He stated the County's position is that the City did not have the right to terminate because the money is there to build the station and the City's position is that we reserve the right to terminate if the money is not there.

Commissioner Dillaha expressed that with the second major installment they were only notified about it last week, but it was due in October 2007 and she understands that Maitland was not notified either. She commented that there was a breach of this contract. She also stated that as of right now, we have not received the Federal or State funds and Orange County did not notify us of the second major installment when they were supposed to. She commented that they notified us now because she asked for the date of when the second installment is due.

Motion made by Commissioner Dillaha to terminate the agreement with Orange County and to renegotiate terms that provide the following: an outside limitation on any subsidy that would be required of Winter Park, fully defined station capital costs that are fully expressed, limited and articulated in a binding agreement and a requirement that participation is contingent upon a full Federal funding from the FTA.

Mayor Strong commented that with the letters they received from Orange County, FDOT and Congressman Mica he finds it hard to believe that we would not have a strong defense against Orange County if the money is not there. Attorney Cheek agreed and answered questions.

Commissioner Dillaha commented that when Orange County has to make its payment to FDOT for capital costs, per their agreement with FDOT, we have to pay for the station construction costs 30 days in advance and we are going to be held to that. Mayor Strong disagreed.

Mayor Strong also spoke about the dedicated funding source and believed that it is dedicated for a period of time, more so than temporarily. Attorney Cheek expressed that in his view, we are not bound either by contract or by law to accept the County's determination of whether or not there is a dedicated funding source. He stated that if we as a City do not feel that there is a dedicated funding source then the City is within its right to say the conditions for opt out were met and we are going to opt out. Attorney Cheek and City Manager Knight answered questions.

FDOT Representative Tawney Olore spoke about the \$3 million versus the full funding grant agreement and clarified some of the assertions that Commissioner Dillaha put forward. She also commented that Maitland did receive their notification letter. Ms. Olore answered questions.

Joe Terranova, 700 Melrose Avenue, believed that the focus should be about getting the station built and having a dedicated funding source. He believed that without a dedicated funding source the transportation system will ultimately fail.

Fannie Hillman, 1040 Mayfield Avenue, Chairman of the Committee to vote yes for commuter rail, expressed that the citizens of Winter Park voted yes for commuter rail and it is a clear mandate from our citizens. She stated it will be an economic stimulus for Winter Park and wants this to move forward.

Sandy Womble, 940 Old England Avenue, commented that this has not been a good process and that diesel cars were bought in 2004 before the City, County and State voted on this. She also stated that the indemnification agreement still has not been worked out with the State.

Sally Flynn, 1400 Highland Road, expressed that she was disappointed with Orange County and we are getting into a financial burden that the region cannot afford. She believed that the taxpayers are going to pay the price.

Shay Silver, 735 Pansy Avenue, commended Commissioner Dillaha for bringing these issues forward to create more awareness and encouraged the Commission to write a letter that they will not pay if these documents are not accountable.

Carolyn Cooper, 1047 McKean Circle, commented that the terms of the contract should be clear and asked the Commission to be responsible. She addressed the language on the commuter rail ballot in 2007.

Commissioner Dillaha expressed if they had a good agreement in place she would not be bringing this up. She stated there was an official City brochure that went to the citizen's right before the vote and explained what was promised. **Commissioner Dillaha restated her motion to terminate the agreement with Orange County and to renegotiate terms that provide the following: an outside limitation on any subsidy that would be required of Winter Park, fully defined station capital costs that are fully expressed, limited and articulated in a binding agreement and a requirement that participation is contingent upon full Federal funding from the FTA; seconded by Commissioner Bridges.**

Commissioner Anderson agreed with Commissioner Dillaha that the agreement is poor and one sided but expressed doubts on the cause to terminate since there are records and statements made by people guaranteeing that the funds are there. He also questioned what may happen if we terminate and asked if we are prepared to walk away from the commuter rail stop in Winter Park. He commented that he was not prepared to walk away when they have coverage for all costs going forward from now until seven (7) years after opening. He also expressed things he wanted to establish in a letter back to the County.

Commissioner Diebel commented that they have an opportunity to reassess this in 2017 and we have Federal and State documentation on where the money sits. She expressed not agreeing with Commissioner Dillaha's assertions; however, she agreed with Commissioner Anderson that the money is there and it has been designated. She did not believe we have cause to terminate and did not support the motion.

Commissioner Bridges expressed that she voted against this agreement the first time and intends to do so again. She stated it is not in the best interest of the taxpayers, there are uncapped operating and maintenance costs that we are responsible for, we have no caps for our protection but the other counties do, we have no say on the Governance Board and this is a double tax and irresponsible to the citizens of Winter Park. She wanted to be clear that from the beginning she took a stance that Central Park was the wrong location for the station, we did not get the money we were told we would receive (\$418,000) for the analysis and believed the agreement with Orange County has been ill conceived. She commented that this was not about stopping commuter rail but was about this agreement.

Mayor Strong commented that this is a bad contract and even though he already voted against it, he would not support the motion. He stated that he had many misgivings about commuter rail but looked at this from a legal and financial standpoint. Financially, he believed that if the money is not there to build the station we will never have to pay that. He also believed that if there is not a dedicated funding source we have every right to opt out of this agreement at this time. He stated that he did not believe the City is exposed for anything more than our matching share and did not believe we have any financial or legal exposure if it does not turn out the way we like. He stated he was willing to move this forward and make the decision down the road.

Commissioner Dillaha commented that sending another letter will not make any difference to them. She stated they have tried going back to Orange County for clarification on the terms and that they are not willing to clarify. She stated that she did not believe in passing off a time bomb to a future Commission in 2017 to deal with. She expressed they should take care of things and it is their responsibility.

Mayor Strong believed that they should draft a letter to the County outlining our opinion as to what the agreement means and it will be a self serving letter that puts them on notice that we will contest their interpretation if it is different from ours down the road.

Upon a roll call vote, Commissioners Bridges and Dillaha voted yes. Mayor Strong and Commissioner's Anderson and Diebel voted no. The motion failed with a 3-2 vote.

Public Hearings:

- a) ORDINANCE NO. 2759-09: 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. Second Reading

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

Motion made by Commissioner Anderson to adopt the ordinance; seconded by Commissioner Dillaha. Upon a roll call vote, Mayor Strong and Commissioners Bridges, Anderson, Dillaha and Diebel voted yes. The motion carried unanimously with a 5-0 vote.

Mayor Strong commented that they would look at item b) and c) together but they will be voted on separately.

- b) ORDINANCE NO. 2760-09: 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. Second Reading
- c) ORDINANCE NO. 2761-09: 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 VENDORS TO SELL ALCOHOL PAST 11:00 P.M.; PROVIDING AN EFFECTIVE DATE. Second Reading

Attorney Cheek read the ordinance by title.

Scott Wells, 211 Holt Avenue, voiced concerned that the illegal open house parties ordinance was too board. He stated he rents to college students and this will affect his livelihood. He opposed the ordinance and believed they should tweak the language.

Teri Gagliano, 2349 Lafayette Avenue, commented that she was in agreement with the alcohol ordinance if it is all inclusive of all restaurants and does not separate the restaurants in the Hannibal Square area. She also spoke about City Commission minutes of May 27, 1997 regarding the motion that there is some consistency in the hours of operation of all restaurants in Winter Park and that this issue could be readdressed at the end of the one year trial period.

Tony Garcia, 472 Holt Avenue, landlord, believed this will hurt his income because his business mostly consists of students.

Carol Burkett, Director of the Orange County Drug Free Coalition, spoke about the issues of underage drinking and stated there are similar ordinances in other cities.

Teri Mills -Uvalle, State Attorney's Office, spoke in favor of the illegal open house parties ordinance and expressed that it is a tool that law enforcement can utilize to try and get a handle on the underage drinking problem.

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

Joe Terranova, 700 Melrose Avenue, supported the alcohol ordinance but asked they look at the paragraph that continues to punish the owners in Hannibal Square. He believed they should be given the opportunity to apply under the terms of the ordinance for an extension of hours and supervise it like they would the rest of the City.

April Kirsheman, on behalf of the Winter Park Redevelopment Agency, stated that the alcohol ordinance is disingenuous because it is being carried forward based upon noise and crime in the area and proximity to residents and churches. She provided the Commission a handout and petitions of area residents that supports the ability for these restaurants to stay open until 2 a.m. She commented that the west side should not be treated differently than anyone else and asked the Commission to review this. She also spoke about the illegal open house ordinance and explained that there is a criminal statute on the books punishing that behavior and addressed the punishable alcohol offense of underage drinking.

Tom Hall, 1540 Hunter Stand Run, addressed the 2002 report by the National Institute of Health relating to underage drinking.

Commissioner Anderson had concerns with the illegal open house parties ordinance and the definition of Section 62-92. He believed the wording of "either (1) or (2)" should be "and" to ensure it is targeting the underage issue. He commented that he understood this to be about underage drinking and it was not about broadening the noise disturbance laws and regulations. He also voiced concerns about how it affects landlords and its implementation schedule.

Motion made by Commissioner Anderson to approve this subject to changing Section 62-92 the word "or" to "and"; to allow one more notice to a landlord; and suggests the ordinance takes effect in 6 months that would coincide with lease renewals for the beginning of the school term; seconded by Mayor Strong.

Commissioner Diebel commented that she was also uncomfortable with the wording of the ordinance and did not believe when an infraction occurs with underage drinking on the property, that the property owner has subsequent rights, which correspond with these civil penalties. She was uncomfortable that the timing of the landowner's rights to evict does not correspond exactly to what the timing of the enforcement penalties are which they are trying to put forward. She suggested tabling this so they could look into that issue and making sure we are not unfairly burdening the landowner with evictions and other things that he/she cannot resolve timely.

Commissioner Dillaha commented that property owners are responsible for the activities that take place on their property. She added that they also need to respect the property rights of the neighboring properties and they are feeling the effects of these house parties. She commented that she was prepared to vote on it tonight rather than tabling it.

Commissioner Bridges was agreeable to the change of Section 62-92; however, disagreed with giving an additional notice to landlords. She commented that the month of May is typically when these leases terminate and suggested June 1 as an effective date. Commissioner Anderson asked how the notice process works. Attorney Cheek responded and stated that at the last meeting Chief Ball explained that the goal is to create conditions where the problem is less likely to occur.

Mayor Strong asked Commissioner Anderson if he wanted to give the landlord two strikes before a fine. Commissioner Anderson agreed and Mayor Strong commented that he would agree to that as well.

Attorney Cheek asked for clarification of Section 62-92. Commissioner Anderson commented that it should not be just a noise violation and it needs to be linked with underage drinking. Chief Ball commented that the intent of the ordinance is to give the property owner notice of what illegal activity has been occurring at their property and give them the opportunity to work in partnership with the Police Department to ensure this type of behavior does not continually occur. Chief Ball suggested leaving it illegal activity and to not predicate that illegal activity on any specific violation of law. Chief Ball and Attorney Cheek answered questions.

Chief Ball added that law enforcement has a tremendous amount of discretion as to what cases to take forth. He commented they utilize their discretion in consultation with the City Attorney to make sure before anyone is charged civilly they have been given the opportunity to resolve the issues long before any fines are imposed.

Commissioner Anderson modified his motion on the definition of Section 62-92 to delete the phrase "which, either (1) all the way to number (2)"; Mayor Strong seconded the amendment. Attorney Cheek suggested they do this and if it needs to be expanded later the Commission can do that. **Upon a roll call, Mayor Strong and Commissioners Bridges, Dillaha, Diebel and Anderson voted yes. The vote carried unanimously with a 5-0 vote.**

Alcohol Ordinance

Commissioner Anderson had a concern that the scope expanded way beyond the underage drinking issue and did not feel comfortable with the scope of changes and what the impacts might be. He suggested that if they want to make a global change, he asked they table this until the next meeting, but if the Commission wants to move forward he cannot support it in its current form.

Mayor Strong commented the original intent was to keep hours as they are and to panelize those establishments who serve underage drinkers. He stated the penalty suggested was to reduce their hours and that was what the task force recommended. Mayor Strong supported that concept, but was not sure that they should be talking about the hours throughout the City because that was not the original focus of this ordinance.

Commissioner Bridges commented that the Hannibal Square topic is a separate issue and should not be included with this. Mayor Strong agreed. She suggested they should have additional discussion about Hannibal Square and additional research and commented that there seems to be conflicting discussion in minutes.

Attorney Cheek commented that the ordinance has not changed since it was drafted and commented that there are various cities in Florida that have taken an approach to this. He explained the intent of the ordinance is the vendor's right to sell alcohol between 11:00 p.m. to 2:00 a.m. and it is a special privilege that is granted by the City called an extended hour's operation permit. He stated there are a number of things the Commission can consider if the possibility of revoking the 11:00 p.m. to 2:00 a.m. permit is brought up, but it is not limited to underage drinking. He stated this ordinance, as drafted, is broader than just underage drinking.

Motion made by Commissioner Bridges to adopt the ordinance relating to alcoholic beverages; seconded by Commissioner Dillaha. Upon a roll call vote, Mayor Strong and Bridges, Dillaha and Diebel voted yes. Commissioners Anderson and Diebel voted no. The motion carried with a 3-2 vote.

Mayor Strong asked that the Hannibal Square hours be placed on the next Commission agenda for discussion. City Manager Knight agreed.

City Attorney's Report:

There were no items to report.

Non-Action Items:

a) City Manager's Report.

City Manager Knight announced the town meeting Wednesday, January 28 at 6:00 p.m. He also asked about rescheduling the Home Acres work session in February assuming Mr. Bellows is available. Mayor Strong suggested circulating dates and times to see if it can be worked out.

b) Update on household hazardous waste disposal.

Due to the lateness of the hour Chief White did not give the powerpoint presentation on Household Hazardous Waste Disposal. Chief White explained that there is no action required at this point. He stated they are proceeding forward with the RFP process and once a vendor is selected, Fire Rescue will coordinate with the vendor on the dates, site and procedures for conducting the two annual community collection days.

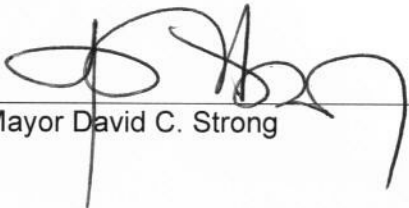
New Business (Public):

No new business.

New Business (City Commission):

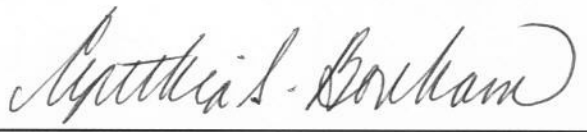
1. Mayor Strong commented that he passed out a draft memo where they talked about communicating with Park Avenue property owners and whether or not they are interested in a historical district. He stated it was a draft and subject to change. He also commented that he had a list of the Park Avenue property owners and if the Commission feels comfortable, City Manager Knight can send this out. There was consensus among the Commission. Mayor Strong commented that he would give Mr. Knight the memo and the list of property owners.
2. Commissioner Dillaha thanked Building Director George Wiggins for putting together the residential code workshop on January 23 and 24. She believed it to be very beneficial to the community.

The meeting adjourned at 9:00 p.m.



Mayor David C. Strong

ATTEST:



Cynthia S. Bonham, City Clerk