

**CITY OF WINTER PARK
REGULAR MEETING OF THE CITY COMMISSION
January 29, 2007**

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 offered by Administrator Ken Bradley, Winter Park Memorial Hospital, followed by the Pledge of Allegiance.

Members present:

Mayor David Strong
Commissioner John Eckbert
Commissioner Douglas Metcalf
Commissioner Douglas Storer

Also present:

City Attorney Trippe Cheek
City Manager James Williams
City Clerk Cynthia Bonham

Members absent:

Commissioner Barbara DeVane (telephone conference at 11:13 p.m.)

MAYOR'S REPORT:

a) Presentation of check from CH2M HILL.

Bob Bailey from CH2M Hill presented the City with a \$10,000 check and commented on being proud partners with the City on the water system improvements program. He spoke about targeting the contribution at environmental awareness and education of the City's children. He stated that it was specifically geared toward an interactive nature trail at the new Howell Branch Preserves.

b) Lobbyist Bill Peebles report.

Mr. Peebles summarized the budget priorities he will work on during the legislative session. He named these projects as the Winter Park Cultural Center at \$400,000, Fairbanks Avenue improvements at \$675,000; and the Bonita Drive stormwater project. He also summarized other actions taken by the Governor and legislature. Mr. Peebles answered Commission questions.

c) Discuss any further actions required of the Commuter Rail Task Force.

Mayor Strong suggested at the last meeting to look at alternative sites and asked the opinion of the Commission to do this. Commissioner Eckbert stated if there are merits for another site he would like the task force to consider that and return to the Commission with their findings. Mr. Murrah, as Chairman of the task force, asked if they would like to hear the report from a group of volunteers regarding an alternate site for Central Park and the merits of the site. He explained that the volunteers included landscape architects, urban planners, and a traffic consultant. Mr. Murrah addressed their sub-committee looking at alternate sites but they did not investigate them further because Florida Department of Transportation (FDOT) only looked at the Central Park site per the request of the Commission. Mr. Terranova spoke about the task force final report whereby they did not recommend a specific site. He stated there were problems with the site Mr. Murrah recommended at Lyman and Denning and he was unsure of the other sites that Mr. Murrah mentioned. Mr. Terranova explained that whatever the

Commission feels is in the best interest of Winter Park, the group is ready to try and provide the information they need. The Commission discussed whether or not the task force should reconvene to address alternative sites for a station. Mayor Strong stated if the task force is available to meet they should have a response by the next meeting as to whether or not an alternative site is feasible and preferable. Mayor Strong commented they should invite the professional engineers/volunteers to give their thoughts to the task force. Mr. Murrah asked the Commission to provide in writing exactly what they want the task force to accomplish. Mayor Strong asked the task force to review the available options for the station in a location that would not require a new environmental assessment.

Commissioner Storer stated that the staff could do a cursory level one evaluation of the options and to present their material to the Commuter Rail Task Force. City Engineer Don Marcotte stated this could be done and he has most of the questions already answered. He explained that they have completed work on other locations and they could insert this into the report as an addendum if the Commission and task force agreed.

Commissioner Eckbert asked that the task force reconvene and discuss Mr. Murrah's proposal of an alternate site. There was a consensus on this matter. Commissioner Metcalf asked the task force to obtain the cost to acquire the land if the station is moved and have the CRA look at it because of the issues about changing zoning and land uses on the west side.

CITY ATTORNEY'S REPORT:

- a) RESOLUTION NO. 1962-07: A RESOLUTION OF THE CITY OF WINTER PARK, URGING MEMBERS OF THE FLORIDA LEGISLATURE TO SUPPORT THE FOLLOWING ISSUES DURING THE 2007 LEGISLATIVE SESSION.

Motion made by Commissioner Eckbert to adopt the resolution, seconded by Commissioner Storer. Upon a roll call vote, Mayor Strong and Commissioners Storer, Eckbert and Metcalf voted yes. The motion carried unanimously with a 4-0 vote. Commissioner DeVane was absent.

Mayor Strong asked that this be submitted to Mr. Peebles as well as our legislators. Mr. Williams concurred.

- b) City Attorney Cheek requested guidance and advice from the Commission in the form of a shade meeting relating to the Central Park Station Partners litigation. Upon discussion, there was a consensus to schedule the meeting at 9:30 a.m. on February 1, 2007.

CONSENT AGENDA:

- a) Approve the following bid and purchase orders:
- 1) Bid WP-4-2007, Drainage Field Under 3rd Fairway of Municipal Golf Course, to Rayken, Inc. for lump sum of \$433,972.00 for labor and equipment only. City will supply all materials. (Budget: Stormwater)
 - 2) Approve the following PR's for replacement vehicles for the Police Department from the Vehicle Replacement Fund:

131187	Don Reid Ford	1 Crown Vic	20,454.00
131192	Classic Chevrolet	4 Impalas	69,660.00
131191	Classic Chevrolet	4 PU	73,300.00
131188	Classic Chevrolet	11 Impalas	228,272.00

- b) Reschedule the Commission meeting of May 28, 2007 to Tuesday, May 29, 2007 due to the Memorial Day holiday.
- c) Approve the agreement with GE Energy for the Canton Avenue substation transformer maintenance and repair.
- d) Approve the 2007 Neighborhood Council matching grant recommendations for projects within Forrest Hills, Arbor Park (North Lakemont), Quail Hollow, Woodcrest Townhouses, and The Cloisters.
- e) Approve the agreement for the City to take ownership and future maintenance of Gay Road, Country Club Drive, Lake Front Boulevard and Ellen Drive.
- f) Approve the Interlocal Agreement with the Orange County School Board regarding school capacity.

Motion made by Commissioner Eckbert to approve the Consent Agenda with the exception of items d, e and f; seconded by Commissioner Metcalf and carried unanimously with a 4-0 vote.

Consent Agenda Item 'd'

Commissioner Eckbert asked about the schedule for submissions, evaluations and recommendations and if this was the annual approval of neighborhood grants. Planner Lindsey Hayes stated that was correct. Commissioner Eckbert asked when these grants have to be submitted to be considered. Ms. Hayes said the 2006-2007 grant deadline was November 13, 2006.

Motion made by Commissioner Eckbert to approve Consent Agenda item 'd'; seconded by Commissioner Metcalf and carried unanimously. Commissioner DeVane was absent.

Consent Agenda Item 'e'

Commissioner Metcalf asked if we now own all the land. Mr. Attaway stated that the entire area is within the City limits and will own the land the roads are on when this process is finished.

Motion made by Commissioner Metcalf to approve Consent Agenda item 'e'; seconded by Commissioner Eckbert and carried unanimously. Commissioner DeVane was absent.

Consent Agenda Item 'f'

Planning Director Jeff Briggs explained that this was the Orange County Charter Amendment that was passed. He explained how it affects rezoning in Winter Park and how the process will work. He stated that it places a monetary burden on the developers that they have to recognize before they ask for a rezoning. Mr. Briggs responded to questions.

Commissioner Storer stated we are guaranteed some kind of school capacity somewhere but there is no guarantee that those dollars will stay to benefit Winter Park schools. He explained that part of the problem he had was giving the money and not getting anything in return for the City's investment or their impact.

Commissioner Eckbert suggested this be discussed by an Educational Task Force and return to the Commission with their views on that perspective. Mayor Strong agreed.

Motion made by Mayor Strong to table this item, subject to an Educational Task Force being formed; seconded by Commissioner Eckbert and carried unanimously. Commissioner DeVane was absent.

CITY MANAGER'S REPORT:

a) 2006 Resident Survey results presentation.

Acting Communications Director Craig O'Neil explained that the City conducted a 2006 resident survey that inquired about various topics such as satisfaction with city services, growth and development, commuter rail and other department issues. He explained the survey was conducted between November 16, 2006 and January 05, 2007 via mail and telephone. Mr. O'Neil introduced Judy Hoffman and Michael Jennings of Profile Marketing Research who presented the results of the resident survey that included key findings and tabulation results in total. Ms. Hoffman explained the highlights of the study and stated the report was uploaded to the website for anyone to review.

b) Commuter rail direct mail piece review and approval.

Mr. O'Neil stated as per the direction of the Commission, the Communications Department created a commuter rail piece to help educate residents about commuter rail and how it may affect Winter Park. He explained that version #1 and version# 2 of the mail piece were presented at the last meeting on January 16, 2007 and were combined to create version #3. Mr. O'Neil stated they need all the changes completed by this afternoon in order for the mailer to be printed and mailed by February 9, 2007 for delivery to homes and businesses in Winter Park during the third week of February.

Mayor Strong asked City Clerk Cynthia Bonham when absentee ballots are mailed. She stated it would be February 13, 2007.

Mayor Strong stated they need to present an unbiased factual report for our residents to consider and wanted to avoid a lot of opinion in the mail piece. Commissioner Metcalf stated he saw nothing objectionable in version #3.

A recess was taken from 5:14 – 5:25 p.m.

Mayor Strong asked if anyone had suggestions to change version #3. Commissioner Metcalf suggested they approve version #3 and move forward. Commissioner Eckbert suggested they approve it pending a discussion on the ballot language on the referendum. Commissioner Storer stated this was a presentation of the facts and this is the way they should precede.

Joe Terranova, 700 Melrose Avenue, supported version # 3. He believed it was factual and it should be sent out promptly.

Carolyn Cooper, 1047 McKean Circle, asked that the version #1 format be used because it was clearer than version #3 on separating the pros and the cons. She summarized changes she wanted to make clearer.

Gretchen Despard, 1290 Arlington Place, stated she needs to know the location of the station before voting and how traffic will be impacted. She asked if a study had been completed on Winter Park residents who will use the commuter rail to go to work.

Nancy Shutts, 2010 Brandywine Drive, suggested taking the logo off and to have larger print.

Kathryn Grammer, 200 S. Interlachen Avenue, wanted the pros and cons listed in the mailer.

Donna Colado, 327 Beloit Avenue, opposed the direct mail piece. She expressed that Winter Park residents deserve fair and balanced information.

Vicki Krueger, 200 Carolina Avenue, stated they need control of the CSX line if the City has commuter rail.

Robert Klingler, 845 Via Lombardy, task force member, stated he hopes the residents study the facts and will come to the same conclusion as the task force to have a stop in Winter Park. He addressed the importance that residents see the pros of why the task force supports a stop. Mr. Klingler explained the many hours the task force spent on this and they believe they submitted a balanced report. He stated they prefer version #2 but were fine with #3.

Patty Heidrich, 1112 Schultz Avenue, asked that an unbiased mailer be sent out.

Sam Stark, 691 E. Lake Sue Avenue, spoke in favor of the mail piece and commuter rail. He stated he hopes residents read the entire document because it is important and it will give everyone the full perspective of a commuter rail stop in Winter Park.

Sandy Womble, 940 Old England, addressed her support of commuter rail but not in Central Park. She agreed with version #1.

Mr. O'Neil stated that Director of Communications Clarissa Howard did all three versions of the commuter rail direct mail piece. Suggestions were made to improve version #3. **Upon discussion, a motion was made by Commissioner Storer to approve version #3 with the changes as discussed; seconded by Commissioner Metcalf and carried unanimously. Commissioner DeVane was absent.**

PUBLIC HEARINGS:

- a) Subdivision request of the Estate of Sarah Galloway: to allow the property at 860 Via Lugano to be divided into three lakefront lots.

Planning Director Jeff Briggs summarized the project. He stated this is before the Commission again because of the 2-2 vote on December 11, 2006. He explained the issue is whether the property should be divided into three lots as requested by the applicant or two lots that they are guaranteed under the existing zoning rules. He addressed the size of the three lots and the request meeting the zoning requirements in terms of the lot area and frontage on the lake and street. He spoke about the point of the comprehensive plan text talking about keeping the density on the lakefronts at the lowest density possible which was the issue causing concerns. He stated the applicant believes it is important to the Trust to have three one acre lots. He stated they dealt with the tree survey and the live oaks that exist on lot three in the northwest corner. He addressed the Planning and Zoning Commission recommendations. He spoke

about the required easement if the property is divided into three lots so the oaks are continually preserved from being within the building area of the lot. He stated the applicant has agreed to accept this as a condition of the request for three lots. Mr. Briggs stated he is comfortable that this will enable the trees to be always protected.

Attorney Frank Hamner, representing the applicant, stated they have also agreed as a condition of a three lot approval to provide a deed restriction and a transfer document on the third lot if it sold as a separate lot to protect the live oaks. He spoke about the two tests they are required to pass; the zoning test and the comprehensive plan test which he stated they have satisfied. He spoke about their request for three lots and they have met the concerns of the arborists.

Patty Heidrich, 1112 Shultz Avenue, disagreed with the property being divided.

Curtis McWilliams, 970 Via Lugano, opposed splitting the property into three lots, but agreed with two lots if it is going to be split but would prefer no subdivision at all.

Nancy Shutts, 2010 Brandywine Drive, disagreed with not approving the three lots if they have met all the codes and requirements.

Marc Hagle, 1220 Park Avenue North, addressed the importance of having lots available to build estates.

Sandy Womble, 940 Old England, disagreed with dividing the property into three lots because of setting a precedent.

Beth Dillaha, 1801 Forrest Road, asked to divide the property into two lots, not three because of the need to retain the uniqueness of the City and to retain the larger lots. She addressed what is contained in the comprehensive plan.

Mick Night, 1930 Via Venetia, spoke against splitting it into three lots to maximize the property.

Joe Terranova, 700 Melrose Avenue, commented about the owner meeting all requirements and that the Commission needs to agree to split the property into three lots.

Commissioner Storer addressed the unique nature of this property but that the owner has passed all the tests and they should have the ability to split it into three properties. He made a suggestion which the Trustees did not agree with to making the effective date of the split a year from now and to continue to try and sell two lots or sell the entire property as one lot. Attorney Cheek responded to this suggestion and stated that one of the Trustees is his law partner. Commissioner Storer stated they have the right to sell it as three lots but also believes there may be buyers to pay a higher price to keep it as one lot and asked the Trustee to work with the City to try and keep the property together.

Commissioner Eckbert addressed the pros and cons of saving estate lots. He disagreed with not allowing the lot split into three because the applicant has met all the codes and requirements.

Commissioner Metcalf agreed that the owner has the right to split the property into three lots because of meeting all the requirements and codes.

Mayor Strong stated he cannot vote to eliminate the large estate property and to support the subdivision because it will eliminate a great asset.

Motion made by Commissioner Storer to approve the applicant's request to subdivide the property into three lots, preserving the identified tree canopy and building within the building envelope; seconded by Commissioner Metcalf. Upon a roll call vote, Commissioners Storer, Eckbert and Metcalf voted yes. Mayor Strong voted no. The motion carried with a 3-1 vote. Commissioner DeVane was absent.

There was a consensus to review the code regarding development and the need to be able to heavily control this type of request in the future.

- b) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE VI, "SUBDIVISION REGULATIONS" SO AS TO REQUIRE THE AFFIRMATIVE VOTE OF FOUR MEMBERS OF THE CITY COMMISSION FOR APPROVAL OF SUBDIVISIONS AND LOT SPLITS. First Reading

Attorney Cheek read the ordinance by title. Planning Director Briggs spoke about the ordinance and that it failed with a 2-2 vote at the December 11, 2006 meeting. There was discussion among the Commission regarding the ordinance.

Marc Hagle, 1220 Park Avenue North, addressed the need to adopt this ordinance because of the need to preserve certain properties within the City.

Frank Hamner, 742 St. Dunstan Way, spoke against the requirement for an affirmative vote of four Commissioners for subdivisions and lot splits.

John Gigliotti, 2233 Azalea Place, disagreed with the ordinance because he believed it to be extreme.

Sandy Womble, 940 Old England Avenue, agreed with the ordinance and to better control the subdivision of property.

Mick Night, 1931 Via Venetia, spoke against the ordinance and the need for four votes.

Attorney Cheek addressed when a super majority vote is required. Building Director George Wiggins stated that zoning variances require a super majority vote.

Mayor Strong spoke about the Architectural Task Force looking into these types of issues and other cities being restrictive. He stated that Winter Park needs to be more restrictive as what can be done but was not sure what needs to be more restrictive. He stated he will support the ordinance at this time as a temporary fix but that this needs further study. He commented there is a need to revise the code rather than relying on individual Commissioner's votes.

Commissioner Metcalf spoke about the need for rules and was in favor of revising the code if needed but stated the ordinance is an extreme measure. He stated he will not support this but will support a review of the codes. Commissioner Storer agreed with Commissioner Metcalf and stated there are enough safeguards in place and codes needing repair should be fixed. Commissioner Eckbert agreed that the ordinance is too restrictive.

Motion made by Commissioner Storer to deny the ordinance, seconded by Commissioner Eckbert. Upon a roll call Mayor Strong and Commissioners Storer, Eckbert and Metcalf voted yes. Mayor Strong voted no. The motion carried with a 3-1 vote.

- c) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING WITHIN THE CHARTER LAWS OF THE CITY OF WINTER PARK, SECTION 1.02, CORPORATE LIMITS DESCRIBED," SO AS TO DE-ANNEX PROPERTIES ON LEE ROAD, BENNETT AVENUE, LEWIS DRIVE, BENJAMIN AVENUE AND ORLANDO AVENUE, SUBJECT TO A DEANNEXATION AGREEMENT, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

Attorney Cheek read the ordinance by title. Planning Director Jeff Briggs addressed the thirteen (13) properties (Home Acres) being de-annexed and owner Benjamin Partners Properties requesting de-annexation so they can go back into unincorporated Orange County and work out the development rights with them with one jurisdiction. He addressed the need for redevelopment because of the area's poor condition and the problems with a portion of the area being within Winter Park. He stated this will become effective with the execution of a de-annexation agreement because they would like to annex these properties back into the City after they are redeveloped for the property tax benefits. He believed the owner will want to annex all the properties he owns once this is complete. He addressed properties along Lee Road, that once these properties are in the County, are going to be operating under a more relaxed set of rules which could cause short term concerns but is in the best interest of the City long term. He stated that staff recommended approval.

Dana Harris, Attorney for Benjamin Properties, replied to questions asked by the Commission. Commissioner Metcalf asked about the timeframe of the development process. She explained it depends if the ordinance passes and how fast Orange County's pace is with moving things along but that the development can take a few years. Mayor Strong asked if she anticipated this redevelopment requiring a DRI. Ms. Harris stated she did not know.

Lurline Fletcher, 790 Lyman Avenue, believed no one should tell the Commission to de-annex the property.

Motion made by Commissioner Metcalf to accept the ordinance on first reading, seconded by Commissioner Storer. Upon a roll call vote, Mayor Strong and Commissioners Storer, Eckbert and Metcalf voted yes. The motion carried unanimously with a 4-0 vote. Commissioner DeVane was absent.

- d) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, RELATING TO ABANDONMENT OF A RIGHT-OF-WAY; ABANDONING THAT PORTION OF VIA PALERMO ROAD EXTENDING APPROXIMATELY 282 FEET SOUTH FROM THE NORTH LINE OF LOT 1A OF SICILIAN SHORES, PLAT BOOK O, PAGE 34, PUBLIC RECORDS OF ORANGE COUNTY OF ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED HEREIN; RETAINING UTILITY RIGHTS; PROVIDING AN EFFECTIVE DATE. First Reading

Attorney Cheek read the ordinance by title. He addressed a second ordinance provided to the Commission.

Public Works Department utility liaison Terry Hotard commented that the issues have been worked out. He addressed the two ordinance versions. He explained the first version was the

original ordinance that was publicized to allow the vacation of the complete 50' feet. He stated the applicant will speak regarding their preference of a 6' pathway. Mr. Hotard explained that staff's recommendation was to vacate the existing 50' right-of-way with the exception of a 6' pathway that was to be maintained by the City but retain utility rights over the entire parcel.

Attorney James Johnston, Gray Robinson law firm, representing Mr. Shultz, commented about the issues that were resolved since this last came before the Commission including a 6' pathway to the Racquet Club. He stated the purpose of this was to have a pedestrian and bicycle only access to the club. Mr. Johnston explained what was proposed by them, Mr. Knight and the Racquet Club. He stated at the time the vacation takes effect on the second reading of the ordinance, each of them would quit claim 3' of the property they were getting to create the 6' pathway. He stated the Racquet Club would have ownership of the property and they could be responsible for it and maintain it. Mr. Johnston answered questions.

Bob Klingler, 845 Via Lombardy, spoke in agreement with the request.

Donna Colado, 327 Beloit Avenue, spoke in opposition to the request because of its value to the City.

Marc Hagle, 1220 Park Avenue North, asked who would own the bicycle path, who would maintain it, construct it, design it and who would be responsible for liability if anyone were insured on the property.

John Gigliotti, on behalf of the Racquet Club, spoke about the need for the property to be maintained and to control access.

Sandy Womble, 940 Old England, asked that this property be sold to the Racquet Club, put the funds into the parks acquisition fund, and control who owns the property.

Mick Night, 931 Via Venetia, commented on the property never being maintained, it is not user friendly and it needs to be maintained. He addressed his preference for the club to own it so they can maintain it. He stated they do not want a pathway wider than 6' so it does not attract motorized traffic.

Attorney Cheek stated the City does not own the land but only has an easement over it.

Motion made by Commissioner Metcalf to accept the ordinance on first reading and that the City abandon the entire property on the conditions presented that the property owners on the east and west take steps to convey the 6' pathway to the Racquet Club, and the Racquet Club does not install a gate; seconded by Commissioner Storer. Upon a roll call vote, Mayor Strong and Commissioners Storer, Eckbert, and Metcalf voted yes. The motion carried unanimously with a 4-0 vote. Commissioner DeVane was absent.

- e) Conditional use request of Habitat for Humanity of Winter Park/Maitland, Inc. to allow four Habitat homes on the vacant properties adjacent to Denning Drive at 870 W. New England Avenue and 881 Douglas Avenue.

Planning Director Jeff Briggs explained the conditional use approval request for a four unit affordable housing structure under the R-1A zoning code within the CRA, the location of the property, and the land prices on the Westside escalating. He stated this property is located

where the lots are 69' feet deep, the corner lot is 88' long, so they have the ability to design two attached houses that total 2,400 square feet (1,200 sq ft per side) of a craftsman style single family home. He stated this will not be out of scale with the rest of the neighborhood. He explained that the 69' lots will never get market rate housing and in order to receive market rate housing it would need to be on the larger and deeper lots in the neighborhood. Mr. Briggs stated that the Planning and Zoning Commission (P&Z) recommended approval of the request, there was no opposition by the neighbors, and there will be duplex structures on the north side of the property. Mr. Briggs responded to Commission questions and concerns.

Thaddeus Seymour, 1804 Summerfield Road, asked for this modification to be able to build the Habitat homes.

Susan Gable, 1539 Golfside Drive, speaking for Martha Hall, spoke in favor of the development of the four homes.

Robbin Bigelow, 2900 Rapidan Trail, asked for approval.

Joe Terranova, 700 Melrose Avenue, spoke in favor of building the homes.

Lurline Fletcher, 790 Lyman Avenue, asked that the homes be built.

Motion made by Commissioner Eckbert to approve the conditional use request; seconded by Commissioner Metcalf. Upon a roll call vote, Mayor Strong and Commissioners Storer, Eckbert and Metcalf voted yes. The motion carried unanimously with a 4-0 vote. Commissioner DeVane was absent.

- f) Final development plan approvals request of Rock Properties pursuant to the Conditional Use and Planned Development Approvals granted on August 28, 2006 to construct a 13,500 square foot Walgreen's Drug Store on the current Shell gas station property at 550 S. Orlando Avenue on the northeast corner of Orlando and Fairbanks Avenues.

Planning Director Briggs addressed the Walgreen's to be built on the site that will surpass any in the area because of the architecture, material, perimeter of the brick wall, landscaping, lighting, and parking. He stated that attention to detail is critical in terms of the signage and the parking lot lighting fixtures which are important for the final product be a complete success. He addressed this being incorporated into a development agreement to be reviewed by staff and the City Attorney. He explained the importance of redeveloping this corner and keeping the architectural style. He also stated that there is a good possibility that a bank will be buying the Popeye's parcel across the street.

Mr. Briggs addressed the need for an architectural statement to be made such as a corner icon since the building is being moved off the corner. He explained that Walgreens is willing to dedicate the triangle on the corner to the City but the applicant was reluctant to contribute to the cost of the icon. Mr. Briggs addressed staff's recommendations to the Planning and Zoning Commission (P&Z) as a cost sharing split between the City and Walgreens at \$100,000 each. He stated that P&Z recommended the developer pay the entire cost of the icon of \$200,000. Mr. Briggs answered questions from the Commission. Mayor Strong disclosed that he met with the applicant and their attorney.

Attorney Hal Kantor, representing the developer, summarized the P&Z recommendations and proposed changes to some of the recommendations because of their disagreement with the P&Z. Mr. Kantor asked for approval with the modifications that he proposed.

Marc Hagle, 1220 Park Avenue North, disagreed with the P&Z condition that Walgreen's build the icon because it was a last minute condition that was added. He believed they should create a unique design that meets the City's architecture, place it on the corner and require the other corner to match the other design when it time for that to be developed.

Commissioner Storer disclosed that he met with Attorney Kantor, representing Rock Properties. Commissioner Eckbert disclosed he met with Mr. Kantor and discussed this with Mr. Hagle.

Commissioner Storer stated that he did not understand why P&Z went back and opened issues that do not relate to what their charge is for that particular review. He was surprised they were debating the issue of the \$200,000 and believed it was enough that they were able to extract the land from the developer. He provided his vision of the intersection to have matching icons or that maybe all four corners could provide some kind of entry to Winter Park.

Commissioner Eckbert stated he was not sure if the clock tower was the correct feature at this location and was in support of this project for the second time and would be in favor of the three point change to the P&Z recommendation.

Commissioner Metcalf spoke about gateway features and was interested in doing something with all four corners of the intersection because of being the busiest in the community. He wanted to see something that is more of a gateway.

Mayor Strong asked Mr. Briggs what his recollection was about the clock tower icon and if they required the developer to build it. He explained the developer would donate land and anything built would be the City's responsibility. Commissioner Storer stated he read the staff report and it appears that staff recommended that the developer pay and that was in conflict with what the Commission approved. He stated he was blaming P&Z earlier for reopening issues and he needed to take that back because it was a staff recommendation. Commissioner Storer asked Mr. Briggs if he suggested the payment issue. Mr. Briggs concurred. Commissioner Storer commented that after the Commission approved extracting the land without payment, staff recommended they extract payment in addition to the land. Mayor Strong asked if the minutes reflect that the Commission did not expect payment for an icon. Mayor Strong stated he did not see any thought that they were going to make them pay for an icon in the minutes. He stated since that was the case he would be reluctant to place this on the developer.

Motion made by Commissioner Eckbert to approve the permission to move forward, with maintenance done by the City for the land owned, without additional funds being requested and the final lighting and signage be performed by staff unless there is an impasse in which case it goes back to P&Z with the Commission as the level of approval; seconded by Commissioner Metcalf. Upon a roll call Mayor Strong and Commissioners Storer, Eckbert, and Metcalf voted yes. The motion carried unanimously with a 4-0 vote. Commissioner DeVane was absent.

- g) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" SO AS TO AMEND WITHIN SECTION 58-82 "GENERAL PROVISIONS" TO PROVIDE: LIMITATIONS ON SIZE AND HEIGHT OF RESIDENTIAL GARAGES AND ACCESSORY BUILDINGS, LIMITATIONS

ON CHIMNEYS, BAY WINDOWS AND SECOND FLOOR OPEN AREAS AND PORCHES IN RESIDENTIAL BUILDINGS, LIMITATIONS ON FENCES WITH HEIGHTS OF FOUR FEET IN RESIDENTIAL AREAS, CLARIFYING SECOND FLOOR FRONT SETBACK IN R-2 DISTRICT, PROVIDING AN EFFECTIVE DATE. First Reading

Attorney Cheek read the ordinance by title. Building Director George Wiggins explained the ordinance and recommended approval. No public comments were provided. Mr. Wiggins answered questions from the Commission.

Motion made by Commissioner Metcalf to accept the ordinance on first reading, seconded by Commissioner Storer. Upon a roll call Mayor Strong and Commissioners Storer, Eckbert and Metcalf voted yes. The motion carried unanimously with a 4-0 vote. Commissioner DeVane was absent.

- h) ORDINANCE NO. 2696-07: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, PROVIDING THE BALLOT LANGUAGE FOR A REFERENDUM BY THE ELECTORS OF THE CITY OF WINTER PARK FOR APPROVAL OR REJECTION OF A COMMUTER RAIL STATION ON PROPERTY OWNED BY THE CITY IN THE CENTRAL BUSINESS DISTRICT AND PROVIDING THE BALLOT LANGUAGE FOR APPROVAL OR REJECTION OF THE USE OF CITY FUNDS WITH RESPECT TO A COMMUTER RAIL STATION; PROVIDING AN EFFECTIVE DATE. Second Reading

Attorney Cheek read the ordinance by title. Mayor Strong asked the City Attorney if he believed that this ordinance was consistent with the citizen's initiative. Attorney Cheek believed that section #1 and #2 were but section #3 was not included in the citizen's initiative.

Marc Hagle, 1220 Park Avenue North, spoke about the three questions within the ordinance and suggested they make these three parts of one question with one yes or no answer.

No further public comments were provided.

Mayor Strong asked the City Clerk Cynthia Bonham when the ballot language would need to be ready. She explained that she spoke with the Supervisor of Elections and she told them they would have it by tomorrow. There was discussion about having the station built, use of City-owned land for a commuter rail station, use of City funds, the referendum, the tree canopies in the CSX right-of-way, and the ordinances passed on commuter rail.

Motion made by Commissioner Metcalf to use all three ordinances with the citizens language; seconded by Commissioner Storer. Commissioner Metcalf withdrew his motion. Commissioner Storer withdrew his second.

Motion made by Mayor Strong to approve the ballot language as prepared by the City Attorney with section three included; seconded by Commissioner Eckbert. Upon a roll call vote, Mayor Strong and Commissioners Storer, Eckbert and Metcalf voted yes. The motion carried unanimously with a 4-0 vote. Commissioner DeVane was absent.

NEW BUSINESS (PUBLIC):

- 1) Marc Hagle, 1220 Park Avenue North, spoke about having a parade with the Perdue Marching Band in Winter Park and making it into an annual event. Mayor Strong asked that he

meet with the Parks and Recreation Commission and ensure there are no conflicts. Commissioner Eckbert suggested he speak with the Park Avenue Area Association.

2) Marc Hagle, 1220 North Park Avenue, spoke about the commuter rail notice being sent out. Mayor Strong commented it should be mentioned if these items fail, there is a possibility that another party could build a commuter rail stop without approval by the City or its citizens. Commissioner Eckbert stated that this should be conveyed but it would be very difficult to place this information in this mailer. Commissioner Metcalf commented on placing this on the website with the task force report. Mayor Strong stated this needs to be communicated but perhaps this was not the correct form of communication to do this.

3) Marc Hagle, 1220 North Park Avenue, spoke about the gateway feature with the Walgreen's item. He suggested they match the other three corners and do this now rather than wait for someone to come in with a project. Commissioner Metcalf asked Attorney Cheek if he could write an ordinance regarding a corner feature on all four corners, equally sized. Attorney Cheek stated he would look at how they can legally do this and he understands the concept.

4) Marc Hagle, 1220 North Park Avenue, asked the Commission to consider renegotiating positions regarding the Carlisle to avoid a lawsuit. He suggested setting up a negotiating committee consisting of one Commission member and others to make up the negotiating team.

5) Marc Hagle, 1220 North Park Avenue, spoke about Orlando polluting Winter Park waterways and asked that the appropriate City boards investigate these issues. Commissioner Eckbert suggested that the Lakes and Waterways Board have a plan to restore the lakes. He stated they need to define the standard, come up with the plan to get there, and have a budget which will determine the time frame. Mayor Strong asked Public Works Director Troy Attaway to look into this and to provide a recommendation to the Commission. Mr. Attaway concurred.

6) Marc Hagle, 1220 North Park Avenue, explained the cost for building a post office. He stated that it would be \$150 -165 per square foot and that does not include site work.

7) Marc Hagle, 1220 North Park Avenue, spoke about the last two items that should be campaign issues. He expressed his concerns with the Sunshine Law crippling the ability of government to communicate with each other and have dialogue that solves problems. He commented that something needs to be done with the management structure of the City, or organization of the City or the way issues are brought in front of the Commission so they can be more informed earlier in the process and have the opportunity to discuss it in some kind of format that works.

8) Marc Hagle, 1220 North Park Avenue, spoke about the modification of land ordinances which he believed should be a campaign issue. He expressed concerns with nothing being accomplished on the moratorium issue.

9) Joy Schaffer, 2028 Summerfield Drive, addressed a problem at her residence with an open wire that ruined her appliances. She asked for the replacement value for the kitchen appliances, the value for other items and be reimbursed for dining out.

Commissioner Storer explained that from a service stand point we need to be better prepared to handle these types of situations before it reaches the Commission. Assistant City Manager Knight explained the situation and stated they resolved this with the other homeowners affected by the transformer and offered the depreciated replacement cost. After discussion, a **motion**

was made by Commissioner Storer to pay Ms. Schaffer \$5,000, settle the matter and review service procedures; seconded by Commissioner Metcalf. Upon a roll call vote, Mayor Strong and Commissioners Storer, Eckbert and Metcalf voted yes. The motion carried unanimously with a 4-0 vote. Commissioner DeVane was absent.

Commissioner Eckbert comments regarding commuter rail

Commissioner Eckbert addressed concerns with not knowing all the issues surrounding the ordinance before them regarding the commuter rail ballot language and where the CSX track is within the City's right-of-way and how it would impact commuter rail. Mayor Strong stated he is fully aware of this issue. There was a lengthy discussion regarding the location of the tracks, the CSX right-of-way versus City property, construction issues of the station/stop/platform, operations and maintenance costs, the ballot language adopted this evening, and the language in the petitioner's ordinances. Concerns were raised that the tracks could be shifted east into the park as a result of a referendum. Mayor Strong stated he has been aware that they can shift the tracks within their right-of-way which impinges on the park. There was discussion regarding the possible consequences depending on the outcome of the referendum. Commissioners Eckbert and Metcalf expressed their preference that of asking the question directly whether or not the citizens want to have commuter rail in the City on the ballot.

Kit Pepper, 2221 Howard Drive, spoke that the prevailing side needing to make a motion to reconsider the issue and look at the ballot language to reflect a commuter rail stop within City limits because that covers the intent of the petitioners and further expands it. She stated it may eliminate the possibility that DOT would put in a stop if it was voted down by the citizens. She suggested they review question #3 because of the impact it could have on commuter rail.

Discussion continued after public comments regarding operation and maintenance costs to the City and how the ballot language could impact the City whether or not the referendum passes. There was also discussion regarding the three questions and whether all three should be placed on the ballot.

Commissioner DeVane called in at this time at 11:13 p.m. She spoke about the language that is necessary on the ballot because of the citizen's initiative and asked Attorney Cheek to advise them. She encouraged the Commission to table this discussion until a special meeting is held on Thursday if the Commission is considering changing what was adopted with the third question. Commissioner Eckbert recommended that Attorney Cheek craft language that is simple so the citizens can vote yes or no to commuter rail and caucus with the petitioners prior to Thursday to receive their feedback as to whether this captures their intent. Commissioner DeVane addressed the serious issue concerning Central Park and the CSX right-of-way.

There was further discussion regarding how the language should read. Commissioner Eckbert commented that the three questions are confusing. Mayor Strong spoke about the obligation to get the ballot language to the Supervisor of Elections Office. Commissioner DeVane spoke about question #3 that she suggested as an additional question to clarify the funding of the operations and maintenance costs but stated she is okay to change it if that is not what the Commission wants.

Mayor Strong suggested if we can have more time to put together ballot language that they will discuss it further on Thursday; but if more time is not possible because of the need to begin the printing of the ballots, they will have to proceed with the ballot language as adopted this

evening. Commissioner Eckbert stated he wanted to hear from Mr. Klingler, Ms. Poole, or Ms. McNab as to what the task force considered concerning the ballot language and if they weighed the risks and exposure of it. Further comments were made regarding any potential cost to the City and O&M costs and that Orange County should be paying these costs.


There was a consensus for the City Clerk to try and obtain more time to get the ballot language to the elections office so they can have a special meeting and revisit this issue. There was a consensus to hold the shade meeting at 8:30 and then discuss the commuter rail ballot language at a special meeting immediately following the shade meeting. It was clarified that the City Clerk provide the elections office the ballot language with the three questions if she cannot obtain further time to hold the special meeting. The mail piece will be mailed out. Commissioner Storer addressed concerns with the length of the meetings and suggested limiting the items on the agendas.

Susan Gable, 1539 Golfside Drive, spoke about her belief that the citizens will not be confused on this issue.

NEW BUSINESS (CITY COMMISSION):

There was no new business of the Commission.

The meeting adjourned at 11:51 p.m.



Mayor David C. Strong

ATTEST:



City Clerk Cynthia Bonham