

REGULAR MEETING OF THE CITY COMMISSION
March 22, 2010

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

The invocation was given by Fire Chief Jim White, followed by the Pledge of Allegiance.

Members present:

Mayor Kenneth Bradley
Commissioner Phil Anderson
Commissioner Margie Bridges (for beginning)
Commissioner Karen Diebel (for beginning)
Commissioner Carolyn Cooper
Commissioner Tom McMacken
Commissioner Beth Dillaha

Also present:

City Manager Randy Knight
City Attorney Larry Brown
City Clerk Cynthia Bonham

Mayor Bradley presented outgoing Commissioners Margie Bridges and Karen Diebel with a plaque of appreciation for their service for the last three years. Both commissioners bid farewell and provided comments and thanks as to their service on the Commission.

The Oath of Office was administered to newly elected Commissioners Carolyn Cooper and Tom McMacken by each of their spouses.

Approval of the agenda

Mayor Bradley stated he wanted to extend his report and that the CRA item will be on an April CRA Agency agenda. The agenda was approved by acclamation of the City Commission.

Keep Winter Park Beautiful Board Update

Chairman Louis Nimkoff provided a PowerPoint presentation summarizing the functions and projects completed for the Keep Winter Park Beautiful Board. Commissioner Dillaha thanked the board for their work and encouraged them to add back into the mission statement language that will educate and motivate residents to help beautify the City (including recycling). Mr. Nimkoff stated that is part of their mission but that they can discuss adding it back at a board meeting.

Mayor's Report

Mayor Bradley provided his condolences to Mrs. Wilson for the passing of Mr. Stanley Wilson on March 9, 2010. City Manager Knight provided comments as to Mr. Wilson's constant support of City staff throughout the years and the many boards that he served on.

Mayor Bradley stated that the appointment of the Park Avenue Area Association Strategic Plan Task Force board members will be on the April 26 CRA meeting agenda (or soon thereafter).

Mayor Bradley stated he signed a letter that is posted on the City's website about Google looking for a city/geographic area to test their experimental, ultra high-speed Internet network. He stated they are joining with Orlando along with other cities to be considered for this pilot program.

Mayor Bradley spoke about the Brookshire Elementary 50th anniversary celebration on Thursday that he attended.

Mayor Bradley provided a letter from the Housing Authority to add to the minutes regarding the good work they have done.

Mayor Bradley addressed the large turnout at the Sidewalk Art Festival last week. He thanked staff for their support.

Mayor Bradley reminded the Commission about the April 12 work session at 2:00 to begin the 90 day plan. He asked the Commission to bring their comments for the next 90 days for the key issues they will be working on.

City Manager's Report

City Manager Knight reminded everyone that the deadline for citizen board applications is April 1. He stated that the current board openings will be posted on the website.

City Manager Knight stated that they were unable to come to terms on the acquisition of the parking piazza so the deal is now off the table.

City Attorney's Report

a. Agreement resolving Williams v. City

Attorney Brown provided a settlement agreement that resolves the James Williams litigation (former City Manager) and suggested that the Commission approve the agreement. **Motion made by Commissioner Anderson to approve the settlement agreement; seconded by Commissioner McMacken and carried unanimously with a 5-0 vote.** A copy of the settlement agreement is attached to these minutes.

Non-Action Items

a. Presentation of the Comprehensive Annual Financial Report (CAFR)

Dan O'Keefe of Moore Stephens Lovelace, P.A. and Finance Director Wes Hamil provided the CAFR from fiscal year ending September 2009. He stated they hope to get this out earlier next year. He summarized the highlights as presented in the package and in the financial report. Mr. O'Keefe addressed the report provided. Questions were asked and responded to by Mr. O'Keefe and Mr. Hamil.

Commissioner Dillaha asked how to use this report as a tool for our upcoming FY11 budgeting sessions. Mr. O'Keefe stated he would like for the City to get back to where it was pre-2004 before the hurricanes because the financial reporting was done fairly quickly. City Manager Knight stated they want to continue with rebuilding the fund balance. Commissioner Dillaha asked about the deficit fund balance and if we are going to recover any more of those funds. Mr. Knight stated we are still trying to close out the 2004 hurricanes as well as other cities. Mr. Hamil stated we believe that we will take care of most if not all of that deficit through further recoveries.

Commissioner Dillaha suggested following up with a work session to review in more detail the findings of the report and our performance over the last year. She addressed the importance to use this information during the budget sessions and to discuss the strengths and weaknesses and what needs to be worked on. Mayor Bradley spoke about the financial reports that they review monthly at the meetings.

Motion made by Commissioner Anderson to accept the report as presented, seconded by Commissioner Cooper and carried unanimously with a 5-0 vote.

Upon comments, a work session was scheduled for March 29 from 12:00-1:30 p.m.

b. Fiscal year 2009/2010 financial report

Finance Director Wes Hamil provided the financial report that included through February 2010. He stated that they should not have to make any necessary budget adjustments this year. The report summarized the General Fund financial results for the first five months of FY 2010, the Community Redevelopment Agency Fund, the Water and Sewer Fund that is operating in the positive, and the Electric Services Fund.

Motion was made by Commissioner Dillaha to accept the report, seconded by Commissioner Anderson and carried unanimously with a 5-0 vote.

c. Potential 2010 comprehensive plan changes

Planning Director Jeff Briggs provided the list as reviewed by the City Attorney of potential 2010 comprehensive plan changes to address concerns and issues that have been raised. He stated that this will be on the April 12 agenda as an action item. He suggested modifications to fall into these categories: those to adjust policies that may negatively affect property values; those that "prohibit" asking for a comprehensive plan amendment or subdivision approval; and those needed to clarify the intent of a policy. He spoke about the two items that could potentially affect property values: the density cap in the C-2 CBD designation (Park Avenue/New England type environments); and where they adjusted the height in the R-3 district.

He addressed the language in the comprehensive plan prohibiting people from applying for a comprehensive plan amendment or for a subdivision. He stated that you cannot stop someone from applying and that we need to use stronger language. He spoke about subdivisions on lakefronts and that we need to let them apply even though we can put stronger language in the comprehensive plan for the policies. He addressed the need for staff administrative policy clarifications and the language regarding the redevelopment of the Winter Park Hospital.

Commissioner McMacken asked if the review by staff and the attorney was specific to the points brought forward by Mr. Briggs or was review of the comprehensive plan a thorough review by the City Attorney. Attorney Brown stated that Attorney Reischmann worked with Mr. Briggs and that this not a complete review. He stated they are working to identify the significant issues in the plan but that other claims could come forward that they will have to evaluate if presented. Commissioner Dillaha stated that Attorney Reischmann reviewed the changes to the Land Development Code and changes made to go along with the comprehensive plan as opposed to an entire legal review. Mr. Knight reminded the Commission that we had different attorneys in the beginning that changed during the process. Attorney Brown commented that there is nothing wrong with setting a tight policy and then waiting to see what claims are presented and

deal with them as they come forth and if you are not overwhelmed to live with the language you have.

Commissioner Anderson addressed C-2 parking and the exemption for public parking. He stated he did not think there was any argument that there is an exemption for public parking to be within the FAR requirements. He stated he would like to discuss whether we should liberalize or allow portions of private parking to be exempted if it is public parking for the evenings and weekends as part of the comprehensive plan refinements. Mr. Briggs stated that was discussed during the adoption and there is good rationale on both sides so they will revisit this.

Commissioner Dillaha asked that a list of criteria for Bert Harris claims be provided to the Commission so that they better understand what constitutes the basis for that claim. She also addressed the proposed comprehensive plan change regarding the 17 units per acre versus 25 and the need to discuss this further. She further addressed other issues in the agenda packet that will come forth on April 12.

Commissioner Cooper remarked that she understands how these policies came to be and expressed concerns that the Commission would make changes without understanding the background from P&Z. She spoke about non-conforming structures and believed that they have less to do with 17 units per acre and more to do with the Floor Area Ratio. She explained how the P&Z came up with the 17 and 24 units per unit. She spoke about why the P&Z requested that dates be put into the master plans and about the importance of the wording and policy changes. She suggested returning these to P&Z for their review and possibly having a joint meeting so the Commission better understands how they made their recommendations. Mr. Briggs stated before this goes to the DCA, it has to go back through the public hearing process and P&Z and City Commission. This will be on the April 12 agenda for review and further direction.

Public Comments

President Patrick Chapin, Winter Park Chamber of Commerce, welcomed the new Commissioners.

Jim Ciaravino, unknown address, asked about the recycling of hazardous materials and if there is a procedure for recycling batteries and other hazardous materials. Mr. Knight responded we are working with Orange County to again accept hazardous materials and to try and get one day a year in Winter Park for drop-offs.

Consent Agenda:

- a. Approve the minutes of 3/8/10.
- b. Approve the Tennis Court Rules and Standards and Tennis Instructors Use Fee for Cady Way Park and Phelps Park.
- c. Approve IFB-8-2010, Reforestation Services bid award to Groundtek of Central Florida. PULLED
- d. Approve PR#144188 to Reynolds Inliner LLC for sanitary sewer main rehabilitation lining, piggy-backing the City of St. Petersburg contract #06041-111; \$467,236.00.
- e. Approve PR 144171 to Medtronic Physio-Control Corporation, piggy-backing National Association of State Procurement Officials (NASPO) contract #SW60300; \$130,198.70 (purchase of Lifepak 15 cardiac monitors with defibrillators).

- f. Approve the Keep Winter Park Beautiful Board revised bylaws.

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

Consent Agenda Item 'c'

Commissioner McMacken asked if the City had the ability to approve those trees prior to installation and if they are being tagged. Parks Director John Holland stated they have very stringent requirements and that they can accept or deny any planting of any tree and it will be denied if it does not meet City standards. Commissioner Dillaha asked if we can expedite this in two months which would be to the contractor's liking and to educate the public (with a City-wide mailing) about what is going on and to encourage them to help the City in planting trees throughout the City.

Motion made by Commissioner Dillaha to approve Consent Agenda Item 'c', expediting the initial four (2) quadrant planting to a two (2) month time period or thereabouts depending on the contractor's schedule and to immediately work with Communications on a mailing out to the residents regarding the purpose of this project, where the money is coming from, to educate the citizens as to the benefit of trees and to help encourage them to plant trees. Motion was seconded by Commissioner McMacken and carried unanimously with a 5-0 vote.

Action Items Requiring Discussion:

- a. Schedule a strategic planning session and discuss how it will be facilitated.

City Manager Knight addressed the Commission discussion to schedule a strategic planning session in the next 60 days or so. Mayor Bradley suggested discussing this in the April 12 work session on the 90 day plan. Commissioner Dillaha suggested holding this before the budgeting sessions (no later than May) so they can determine the initiatives and where they need to focus their resources so they can plan the budget appropriately.

Public Hearings:

- a. ORDINANCE NO. 2797-10: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" SO AS TO ADOPT NEW ZONING REGULATIONS SECTION 58-89 AND SECTION 58-90 AMENDING THE PROCESS AND PROCEDURES, STANDARDS AND CRITERIA FOR APPROVAL OF CHANGES TO THE ZONING REGULATIONS TEXT AND OFFICIAL ZONING MAP AND FOR CONDITIONAL USES, PROVIDING FOR SEVERABILITY, CONFLICTS, PROVIDING AN EFFECTIVE DATE. Second Reading

Attorney Brown read the ordinance by title. Planning Director Jeff Briggs explained the change (deletion) made at first reading regarding the recommendation from P&Z concerning a supermajority for conditional uses that involve buildings over 10,000 square feet in the CBD. He addressed the problem that conditional uses are quasi-judicial proceedings and if determined that they meet the standards and criteria in the code, they are entitled to the conditional use. He stated it is going to be impossible to defend a lawsuit if the City Commission says by a 3-2 vote that they meet the standards but still do not receive an

approval. He stated if the City Commission wants to do this, then the planning staff suggests it be done the same way as the conditional use for 3 story buildings in the downtown (having a policy in the comprehensive plan) in order to require the supermajority. Mayor Bradley clarified this is not in what is being presented this evening.

Motion made by Commissioner Dillaha to adopt the ordinance and to re-insert the supermajority vote to override the P&Z vote for denial on conditional uses involving buildings over 10,000 square feet in the CBD and to put a policy in the comprehensive plan; seconded by Commissioner Cooper.

Commissioner Cooper asked for clarity in the minutes where Commissioner Anderson asked if we were striking the supermajority vote for conditional use approvals for buildings over 10,000 square feet in the CBD; the minutes reflect that Mr. Briggs stated we were not striking that section. Mr. Briggs stated the minutes will need to be corrected (it says the Commission was striking the supermajority for any building over 10,000 square feet throughout the entire City but it was only related to those 10,000 sq. ft. buildings in the CBD). The correction has been made to the minutes.

Mayor Bradley asked Attorney Brown whether or not a supermajority in this case of what was being proposed by P&Z was appropriate or legal. Attorney Brown stated that since then he has found out that we have other places in the Land Development Code that raise the same issue. If you want to put in a supermajority requirement to reverse the P&Z, he wanted to see language that makes the P&Z hearing process a final order (a quasi-judicial proceeding) and then the Commission reviews on appeal only what the P&Z has done and then could correct errors by a majority or supermajority. He handed out information regarding the B&S case and elaborated on its content. He stated if the Commission wants to reserve the right to hear the matter, he recommended keeping it at majority and it is the Commission's quasi judicial decision, keeping in mind there are other places in the code that are already different than that.

Commissioner Cooper stated she is comfortable with Commissioner Dillaha's recommendation, not because it is without its challenges but has been a main premise of all planning in the City that 10,000 square foot and above properties be treated as conditional uses. She stated the problem is not in the supermajority discussion but is in putting the 10,000 square foot conditional use as part of the conditional use clause. She stated we can either table this and try and deal with the entire topic or allow the comprehensive plan to stipulate that 10,000 square foot buildings and above in the CBD require supermajority votes and move forward in that regard.

Commissioner McMacken commented that he is not convinced that this is the case. Attorney Brown clarified that the issue is the supermajority vote and that he has a legal concern with the supermajority vote being made by the entity that actually is going to decide like a trial court the issue of whether or not a conditional use should be granted. He advised to do this by simple majority. Commissioner Anderson addressed that he understood that the supermajority as it holds to the approval of a conditional use (10,000 square foot building or more) is one of the problematic items in this. He commented that he does not want to see that authority given solely to Planning and Zoning and is comfortable leaving the deletion the way it was which was not requiring a supermajority. Attorney Brown stated he is legally comfortable that way.

Commissioner Dillaha commented that the character of the CBD is what creates value for Winter Park. She asked how you would go about providing extra certainty or protections or a system of checks and balances to ensure the conditional use approval for over 10,000 square feet in the CBD is beneficial to the City and is a good project. Attorney Brown spoke about the Commission needing to make sure the comprehensive plan is as explicit as it can be and that there is a complete discouragement of anything that is not compatible with those standards. He stated you cannot deprive someone of coming to the quasi-judicial forum but if a landowner comes to you for a conditional use and it is so contrary to clearly stated legislative policy prohibitions in the comprehensive plan or other places in the ordinance, then an adjacent property owner within the zoned notice who is substantially affected can become a party in that. He stated he has seen where a court on judicial review will reverse a City's decision; a City can be reversed when it allows a development that is contrary to its comprehensive plan because another party has intervened. He stated that is where the comprehensive plan needs to be tightened up.

Joe Terranova, 700 Melrose Avenue, agreed with Attorney Brown's comments and cautioned not to get the City in a position for lawsuits. He disagreed with the supermajority in this case and that the City needs to leave it out of the ordinance.

Upon questioning by Commissioner Cooper, Attorney Brown addressed comprehensive plan amendments being quasi-legislative where you have much more discretion than conditional uses, zonings and variances being quasi-judicial. He stated he was comfortable with having the supermajority where appropriate and majority votes where appropriate.

Mayor Bradley asked what this does as related to what could be potential litigation we have pending. Attorney Brown stated if the Commission passes this with the supermajority it would be an issue that if it gets factored into the current claims that they are working through it is an issue they could recommend for settlement as part of the settlement package. He stated it is a procedural issue and if they can come to a substantive settlement that is satisfactory to the City and the landowner, procedural issues are resolved.

Commissioner McMacken asked Commissioner Dillaha if this would be in lieu of modifying the comprehensive plan as recommended by the Attorney to cover this issue without a supermajority. He asked if we do not vote this with a supermajority vote and instead draft changes to the comprehensive plan to cover concerns expressed by Commissioner Dillaha, if we are leaving a window open and would have to repeal this portion and enact the changes to the comprehensive plan to make sure the concerns are covered. Commissioner Dillaha stated we are already going to be addressing the comprehensive plan on April 12 and thought we should entertain some language for a policy that would address the concern before them. Mayor Bradley reminded the Commission that this is not on the agenda yet and needs to be addressed under New Business. He suggested tabling this item until there is verbiage as to what should be in the comprehensive plan to cover this.

Commissioner Dillaha withdrew her motion; seconder agreed.

Motion made by Mayor Bradley to adopt the ordinance without the supermajority; seconded by Commissioner Anderson.

Motion made by Commissioner Dillaha to table this until April 12, seconded by Commissioner Cooper. Upon a roll call vote, Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. Mayor Bradley voted no. The motion carried with a 4-1 vote.

City Commission Reports

a) Commissioner Anderson

No report.

b) Commissioner Dillaha

Commissioner Dillaha asked that a policy be drafted to address putting into the comprehensive plan language that further articulates the special nature of approving conditional use projects of 10,000 square feet or greater in the CBD; not a supermajority vote. There was a general consensus to bring this forth. Attorney Brown asked Commissioner Dillaha to phone him to discuss the details.

Commissioner Dillaha addressed the Amtrak station and design. She stated they need to meet with Amtrak. City Manager Knight stated this is already being done.

Commissioner Dillaha addressed the Ambassador Program and suggested having a greeter in front of City Hall to guide people and to consider an hourly person as opposed to staff doing this. City Manager Knight addressed the favorable responses received with the program. He stated he would love to have a full time receptionist/greeter type person but is not a budget position and that he would also like to open this up to community volunteers.

Commissioner Dillaha asked that a work session be scheduled to have the City Attorney review all the commuter rail questions that Commissioner Anderson and herself provided in December and to address the new amendments that have been brought forward over the last several months. City Manager Knight stated that staff is meeting with the City Attorney on Wednesday to go through this and to get questions answered. Attorney Brown stated he will have an outline report to the Commission by the first meeting in April. There was a consensus to schedule a work session after the report is received from the City Attorney and before the budget cycle.

c) Commissioner Cooper

Commissioner Cooper asked that the development review/approval process be reviewed and asked staff to provide clear documentation of this process, including decision points along the way.

Commissioner Cooper asked about the CAFR work session scheduled for March 29.

Commissioner Cooper asked about Commissioner Dillaha's request to discuss private organizations and how funds are given to them. She stated she spoke with Margot Knight of United Arts who has incredible criteria that maybe the City could look at.

Commissioner Cooper reported that she has requested the Florida League of Cities training.

d) Commissioner McMacken

Commissioner McMacken asked for a copy of the contract approved for the preliminary design for the train station.

Commissioner McMacken addressed the construction fence and green tarp in need of repair located at the Denning/Canton Avenue parking garage. He asked if that was a requirement of the City and if it can be removed. He also expressed concerns with not being able to make a left hand turn when coming out of Swoope Avenue and if that is in conflict with DOT clear zone requirements. Building Director George Wiggins stated they require screening or aesthetic cover over construction fencing. He stated the project has stopped and that he will pursue this with the owner to come up with a solution.

e) Mayor Bradley

1. Repeal Ordinance No. 2793-10 requiring a supermajority for Comprehensive Plan changes to align with the vote of the people as expressed in Charter Amendment #10

Mayor Bradley stated he is bringing this forward in light of how the citizens voted in the Charter referendum to eliminate supermajority votes for comprehensive plan changes. He asked that in light of the Charter amendment that did not pass that the ordinance adopted in January be repealed at the next meeting according to the will of the people. Commissioner Anderson stated he is happy with the citizen's decision not to put this into the Charter. There was no other Commission support besides Mayor Bradley to put this on the next agenda.


Other Item

Mayor Bradley stated that board appointments will be on the May 10 agenda. He asked for Commission input. City Manager Knight addressed the Excel spreadsheet developed to include all board appointment information that will make the process of appointing/reappointing easier.

Meeting Adjourned

Motion made by Commissioner McMacken to adjourn the meeting; seconded by Commissioner Dillaha and carried unanimously.

The meeting adjourned at 6:08 p.m.



Mayor Kenneth W. Bradley

ATTEST:



City Clerk Cynthia S. Bonham

THE HOUSING AUTHORITY OF THE CITY OF WINTER PARK

718 MARGARET SQUARE • WINTER PARK, FLORIDA 32789

PHONE: (407) 645-2869

FAX: (407) 629-4575

March 12, 2010

The Honorable Mayor Kenneth W. Bradley

401 S. Park Avenue

Winter Park, FL 32789

RE: Capital Fund Recovery Funds

Dear Mayor Bradley;

I noted that you were copied on HUD's letter of congratulations for our swift obligation of grant funds received in the amount of \$333,627 under the American Reinvestment and Recovery Act (ARRA). These dollars helped to promote economic recovery in our area because more than twenty construction jobs were retained to complete this work.

Last March when funding was announced, our Board acted quickly to complete a Physical Needs Assessment of our two public housing locations, The Meadows (119 units) and Tranquil Terrace (52 units). The assessment showed the need for exterior paint and bathroom renovations at our family site, The Meadows. We hired Brown Cooper, Architect, for plans and specifications and bid out the work.

The exterior of each apartment building was painted. All 119 bathrooms at The Meadows were renovated with new tubs, vanities, sinks with aerators, low flow commodes, tub surrounds, ceramic tile floors, and energy efficient light fixtures. The work was finished under budget and ahead of schedule with the last bathroom completed last week. We obligated all funds and expect to expend them a year ahead of schedule.

We are proud of the 171 public housing units we own as well as our 196 senior units at The Plymouth that recently underwent a \$5 million facelift. The affordable rentals at Winter Park Oaks, Railroad Avenue Apartments, and Santa Barbara Apartments all dovetail nicely into the neighborhood surroundings. We have shown that we are an asset to the community and can provide a quality product at an affordable price. We appreciate the City's interest and support particularly as evidenced by the joint ventures which created Railroad Avenue Apartments and improved The Plymouth Apartments.

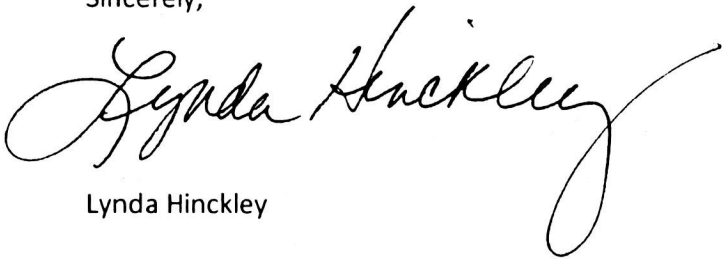
Mayor Bradley

March 12, 2010

Page 2

Attached please find a list of our properties, our accomplishments and our varied public and private funding sources. I hope you will contact me with any questions you may have once you have a chance to review the enclosed. The Board joins me in an invitation to tour the properties and view the joint ventures we have created together within our city. We look forward to other opportunities to preserve affordable housing in Winter Park, the City of Homes.

Sincerely,

A handwritten signature in black ink that reads "Lynda Hinckley". The signature is written in a cursive style with a large, looping flourish at the end.

Lynda Hinckley

Executive Director

Enclosure

CC: Randy Knight

Phil Anderson

Beth Dillaha

Carolyn Cooper

Tom McMacken

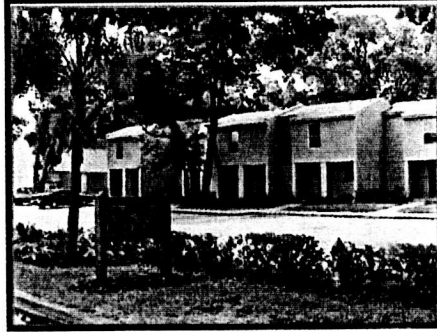


PROPERTIES UNDER MANAGEMENT



Tranquil Terrace Apartments

845 West Swoope Ave; 407-645-2869
52 public housing units
Behind Winter Park Village
Serves elderly and disabled persons
Community Center on site



The Meadows at Margaret Square

701 – 824 Margaret Square; 407-645-2869
119 public housing units for families and elderly/disabled
Surrounded by single family homes
Programs for children and adults
State of the art accessible playground



Winter Park Oaks Apartments

325 Balfour Drive; 407-671-9696
130 affordable, rent restricted units
Pool, clubhouse, weight room on site
Close to hospital, bus, shopping



Santa Barbara Apartments

6999 Aloma Avenue; 407-678-5450
180 affordable rentals with pool, tennis courts,
volleyball court, clubhouse
Newly renovated, conveniently located just east of
Hwy 436



Railroad Avenue Apartments

Railroad Ave/Pennsylvania; 407-671-9696
30 new affordable apartments
Close to Winter Park's golf course on
Webster & Pennsylvania Avenues





















The Plymouth Apartments

1550 Gay Road 407-644-4551
196 affordable units reserved for elderly
Undergoing extensive renovations
Near Winter Park Village & K-Mart Plaza



ACCOMPLISHMENTS

-  1992 – NAHRO Award of Merit: Economic Impact (Resident programs focused on job readiness and job training.)
-  1992 – NAHRO Award of Merit: Residents and community leaders joined forces to paint a mural on the wall across from the family site which was recognized by the Smithsonian.
-  1998 - SERC NAHRO Creative Commissioner Award: Recognized Chairman, Judith Kovisars, Ph.D., for her leadership in the affordable housing arena
-  1999, 2000, 2001, 2002, 2006 , 2007- Designated by H.U.D. as a High Performer.
-  2001 – FAHRO Award of Excellence: Recognized KIDS CAFÉ, a joint venture with Second Harvest Food Bank which serves a daily meal for neighborhood children on site.
-  2002 – NAHRO Award of Merit: KaBOOM! Playground installed an accessible state of the art playground IN ONE DAY at family site with 350 college students, civic leaders, service groups and residents.
-  2002 – SERC NAHRO Award for Administrative Innovation: KaBOOM! Playground
-  2003 – FAHRO Award for Best Practices for eradication of blight and construction of thirty replacement apartments at Railroad Avenue in cooperation with the City of Winter Park and Orlando Neighborhood Improvement Corporation.
-  2004 - National League of Cities Crown Community Awards for construction of replacement housing at Railroad Avenue in cooperation with the City of Winter Park.
-  2005 – SERC / NAHRO Award of Excellence for preservation of Railroad Avenue Apartments
-  2005 – NAHRO Award of Merit for Community Revitalization for Railroad Avenue
-  2005 – NAHRO Award of Merit for Preservation of Affordable Housing at Railroad Avenue
-  2007 – FAHRO Award for Best Practices for preserving the affordability of The Plymouth
-  2007 – Installed a KaBOOM! Playground at Winter Park Oaks with sponsor Home Depot
-  2008 - Installed a KaBOOM! Playground at Santa Barbara Apts with Orlando Magic.
-  2008 – NAHRO Award of Merit for Preservation of the Plymouth Apartments.
-  2009 - Graduated more than thirty public housing residents into home ownership.
-  2010 - Continues to preserve affordable housing units in Winter Park.

INCOME SOURCES

<u>Funding Source</u>	<u>Plymouth</u>	<u>Railroad</u>	<u>Santa Barbara</u>	<u>WPO</u>	<u>WPOII</u>
FL Community Partners*	\$4,483,000	\$1,215,050		\$1,785,000	\$1,380,000
CDFI **	\$185,000		\$735,860		
City of Winter Park	\$1,000,000***				
HOME **(Orange Cty)	\$1,680,000		\$1,299,210	\$811,497	\$500,000
SHIP *** (Orange County)		\$551,737			\$400,000
WP Health Foundation	\$50,000				
Hagle Foundation	\$50,000				
EHCL (SAIL)***	\$597,384				
FANNIE MAE			\$400,000		
Progress Energy (Rebate)		\$9,000			
Seller Contribution	\$196,000				
Seller Note	\$219,261				
In Kind Contributions (City of WP)	\$63,735	1,049,910		\$70,896	\$216,895

* Local Bank Consortia

** Federal Funds

*** State Funds

**** Plymouth has drawn down \$100,000/yr for 3 years and will continue to do so for another 7 years.

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT,
IN AND FOR ORANGE COUNTY, FLORIDA

CASE NO.: 2007-CA-012378-O
DIVISION: 40

JAMES S. WILLIAMS,

Plaintiff,

vs.

CITY OF WINTER PARK, a
municipal corporation,

Defendant.

MEDIATED SETTLEMENT AGREEMENT
SUBJECT TO CITY COMMISSION APPROVAL

THIS MEDIATED SETTLEMENT AGREEMENT (hereinafter as the "Settlement Agreement") is entered into by and between Plaintiff, JAMES S. WILLIAMS, (hereinafter "Williams"), and Defendant, CITY OF WINTER PARK, a municipal corporation, (hereinafter "City"), ***subject to and conditioned upon the approval of the City's Commissioners at a duly noticed public meeting.***

WHEREAS Williams was first employed by the City on August 20, 1973 and thereafter, the City and Williams entered into that certain Employment Agreement (hereinafter the "Agreement") on May 24, 1994, whereby Williams was employed as the City Manager pursuant to the City's Charter; and

WHEREAS on May 14, 2002, the City's Commissioners voted to formally amend the Agreement and approve that certain Second Amendment to the Agreement (hereinafter the "Second Amendment"); and

CASE NO.: 2007-CA-012378-O

WHEREAS the City is a public entity and may not enter into any binding settlement agreement without a majority vote of its Commissioners first approving any such agreement at a duly noticed public meeting.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and ***subject to and conditioned upon the approval of the City's Commissioners at a duly noticed public meeting***, the parties hereto agree as follows:

1. All of the Recitals set forth above are incorporated herein by reference and specifically made a part of this Settlement Agreement. This Settlement Agreement shall not become binding upon the City unless and until it is approved by a majority vote of the City's Commissioners at a duly noticed public meeting.

2. The parties acknowledge that this Mediated Settlement Agreement (the "Agreement") is given in compromise of disputed claims made by the parties in good faith and any payment made hereunder shall not be construed as an admission of liability by any party. Without admitting any wrongdoing or liability, the parties to this stipulation desire to amicably resolve all disputes between them, including, without limitation, all claims for damages of any nature, interest, attorneys fees and costs filed in the above-styled matter and all other claims and potential claims asserted or that could be asserted by the parties arising out of or that are in any way related to the facts set forth in the Recitals and Williams's former employment with City.

3. The City shall pay the total sum of **\$490,000.00**, (hereinafter the "Settlement Sum") to Williams' counsel, Burr & Forman LLP Trust Account. Said sum represents compensation to Williams for all claims and reimbursement to him for attorneys' fees, costs, and expenses. This payment shall be delivered within twenty (20) days after the Effective Date (defined below) of this Settlement Agreement. This payment shall be reported by the City on

CASE NO.: 2007-CA-012378-O

IRS Form 1099 to the law firm as required by IRS regulations. Williams shall be responsible for any and all tax liability for the settlement sum.

4. Within five (5) days from the date the final payment is made as set forth above, Williams' undersigned counsel shall file a notice of dismissal with prejudice for the above-referenced matter.

5. Except for the parties' obligations and performances due under this Settlement Agreement and upon the Effective Date, the City hereby remises, releases, acquits, satisfies, and forever discharges Williams and his heirs, personal representatives and executors of and from all, and all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which the City ever had and now has against Williams and/or his heirs, personal representatives and executors for, upon or by reason of any matter, cause or thing whatsoever, including, without limitation, all claims and causes of action relating to or arising out of: (a) the underlying facts of the above-styled action; (b) the Agreement and the Second Amendment; (c) Williams' employment relationship with the City; and (d) all claims filed or which could have been filed in the above-styled action, from the beginning of the world to the day of these presents, whether such claims are known, unknown, anticipated or unanticipated at this time.

6. Except for the parties' obligations and performances due under this Settlement Agreement and upon the Effective Date, Williams, on his own behalf and on behalf of his heirs, executors, administrators, attorneys, legal representatives, successors, assigns or others acting on his behalf, hereby remises, releases, acquits, satisfies, and forever discharges the City and its Former and Current Commissioners, administrators, managers, employees, agents, attorneys, fiduciaries and insurers (individually and collectively referred to as the "City Released

CASE NO.: 2007-CA-012378-O

Parties”), of and from all, and all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which Williams ever had and now has against the City Released Parties for, upon or by reason of any matter, cause or thing whatsoever, including, without limitation, all claims and causes of action relating to or arising out of: (a) the underlying facts of the above-styled action; (b) the Agreement and the Second Amendment; (c) Williams’ employment relationship with the City; and (d) all claims filed or which could have been filed in the above-styled action, from the beginning of the world to the day of these presents, whether such claims are known, unknown, anticipated or unanticipated at this time.

7. Further, Williams, on his own behalf and on behalf of his heirs, executors, administrators, attorneys, legal representatives, successors, assigns or others acting on his behalf, hereby remises, releases, acquits, satisfies, and forever discharges the City Released Parties, for all claims and causes of action, whether or not arising under the Agreement and/or the Second Amendment, for severance pay, back pay, overtime, bonus payments, paid time off, compensatory time, benefits, wages, front pay, liquidated damages, compensatory damages, attorneys’ fees and litigation costs and interest available, expenses, obligations and all other liabilities whatsoever, under any federal, state or local law, statute rule, regulation or ordinance, including by way of example and not limitation, the Age Discrimination in Employment Act, as amended by the Older Workers Benefit Protection Act (the “ADEA”), Title VII of the Civil Rights Act of 1964, as amended (by all amendments, including the Civil Rights Act of 1991 and the Lilly Ledbetter Fair Pay Act of 2009), the Civil Rights Act of 1866, as amended, the Family and Medical Leave Act of 1993, as amended (FMLA), the Employee Retirement Income Security Act of 1974 (ERISA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the

CASE NO.: 2007-CA-012378-O

Genetic Information Nondiscrimination Act of 2009 (GINA), the Fair Labor Standards Act of 1938, as amended, the Equal Pay Act of 1963, as amended, the Rehabilitation Act of 1973, as amended; the Americans With Disabilities Act of 1990, as amended, any federal or Florida False Claims Act, including but not limited to, 31 U.S.C. § 3729, et seq., and § 68.081, et seq., Florida Statutes, any employment law of the State of Florida, including but not limited to all claims under the Florida Constitution (including wage claims), the Florida Civil Rights Act of 1992, as amended, Florida's general labor regulations (including but not limited to wage and retaliation, private whistleblower and any other claims set out in Chapter 448, Fla. Stat), retaliation prohibitions under Florida Workers' Compensation Act, as amended, (Fla. Stat. §440.205), claims under Florida's Public Whistle-blower Act (Chap. 112, Fla. Stat.), and any other federal, state or local statute, rule or regulation dealing with employment, discrimination, and/or retaliation on any basis. William's release also includes any or all rights or claims for wrongful or retaliatory discharge, tortious interference, and rights and claims based on theories of contract (oral, written or implied), promissory estoppel or tort (including but not limited to, invasion of privacy, negligence, defamation, fraud, outrageous conduct, intentional or negligent infliction of emotional distress, assault, battery), and any or all rights or claims of any kind or description under any statute, regulation, law, ordinance or rule (federal, state or local) or any other common law or equitable basis of action.

8. The parties agree that Williams' retirement and pension type benefits that have accrued to him under City's plan(s) shall not be deemed released and shall continue to be subject to the terms and conditions of such plan(s) outside of this Settlement Agreement. Williams' release shall also exclude any release of any claims for workers' compensation (except for claims of retaliation, which are released) or unemployment compensation benefits to which he may or may not be entitled under Florida's unemployment compensation law. Williams affirms that while employed with City, he had no known and unreported workplace

CASE NO.: 2007-CA-012378-O

injuries or occupational diseases. Williams likewise agrees he was never denied requested leave under the FMLA (defined above), and that he received all leave to which he was entitled under the FMLA.

9. The parties acknowledge and agree that: (a) they are and have continuously been represented by competent legal counsel in above-styled action; and (b) they have obtained and are satisfied with the legal advice from their counsel prior to signing this Settlement Agreement. Except as otherwise expressly stated herein, the parties acknowledge that they have not relied upon any representations or advice of the mediator, any other party or opposing counsel before executing this Settlement Agreement. The parties further acknowledge that they have voluntarily agreed to the terms of this Settlement Agreement and have not been coerced under any circumstances. **After consulting with counsel, Williams hereby voluntarily and knowingly waives any 21-day consideration period and agreed to sign this Settlement Agreement prior to that time.**

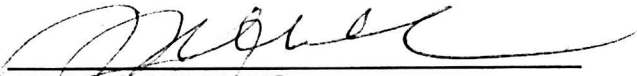
10. This Settlement Agreement is the entire agreement between the parties and any modification or change hereof shall be in writing and signed by all parties and their attorneys. Except as otherwise provided herein, each party to this Settlement Agreement shall bear their own attorney's fees and costs.

11. THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT ANY PARTY MAY HAVE TO A TRIAL BY JURY FOR ANY AND ALL CLAIMS AND CAUSES OF ACTION BETWEEN THEM, INCLUDING, WITHOUT LIMITATION, ALL CLAIMS, LAWSUIT OR LITIGATION BASED UPON, ARISING OUT OF, OR RELATING TO THIS SETTLEMENT AGREEMENT, THE PARTIES' OBLIGATIONS HEREUNDER, AND ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR OTHER ACTIONS OF EITHER PARTY. THIS PROVISION IS A

CASE NO.: 2007-CA-012378-O

**MATERIAL INDUCEMENT FOR THE CITY ENTERING INTO THIS SETTLEMENT
AGREEMENT.**

DATED this 10TH day of March, 2010.




JAMES S. WILLIAMS

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Telephone: 407/647-4455
Attorney for Plaintiff

CITY OF WINTER PARK

By: 

RANDY B. KNIGHT, City Manager



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Telephone: 407/425-9566
City Attorney for Defendant

From: Randy Knight

Sent: Wednesday, March 17, 2010 5:00 PM

To: City Commissioners; 'Carolyn Cooper'; 'Tom McMacken'; 'Bradley, Ken'; 'Phillip Anderson'

Cc: Wes Hamil; Michelle del Valle; Clarissa Howard

Subject: Williams settlement

Attached is copy of the Settlement agreement that is on the agenda for ratification Monday. Below is a proposed allocation of the cost. It is my belief that we will be able to cover the General Fund portion out of savings generated by temporarily frozen or unfilled positions throughout the fiscal year. In the W&S, Electric and General Insurance funds it will come out of reserves. If you have any questions please do not hesitate to contact me.

	FY 2010 Adopted Budget	Percentage	Allocation
General Fund	\$44,597,940	49.94%	\$194,766
Water and Sewer Fund	\$26,830,184	30.04%	\$117,156
Electric Services Fund (less bulk power)	\$17,873,925	20.02%	\$78,078
General Insurance Fund			\$100,000
			\$490,000

Randy B. Knight, C.P.A.
City Manager
City of Winter Park
407 599-3235