

REGULAR MEETING OF THE CITY COMMISSION
April 28, 2008

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

The invocation was given by Dean Patrick J. Powers – Rollins College, followed by the Pledge of Allegiance.

Members present:

Vice Mayor Margie Bridges
Commissioner Phil Anderson
Commissioner Beth Dillaha
Commissioner Karen Diebel

Also present:

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

Members absent:

Mayor David Strong

Mayor's Report:

- a) Proclamation-Building Safety Week.

Vice Mayor Margie Bridges read a proclamation proclaiming the week of May 5-11, 2008 as Building Safety Week.

Building Director George Wiggins explained that he serves on the International Code Counsel and Relations Committee and he will be representing the City next week in Washington, D.C. with Congressional offices. He will be asking for their support in the Senate and House bill that will allow local Building Departments to apply for community grants for Building Code Enforcement.

Action Items:

- a) Approve the minutes of 4/14/08.
- b) Approve the budget adjustment appropriating \$20,000 in carry forward reserves for code enforcement training and building code enforcement for related allowable expenses.
- c) Appropriate rebates received on the City's purchasing card program and Office Depot for the purchase of software for processing purchasing card transactions.
- d) Approval to host the "Salute to the Military All-Stars Pre-Game Luncheon".

Motion made by Commissioner Anderson to approve Action Items b and c; seconded by Commissioner Dillaha and carried unanimously with a 4-0 vote.

The following items were pulled from the agenda for discussion: Items a and d.

Action Item a: Approve the minutes of 4/14/08.

Commissioner Anderson addressed the parking lot b discussion from the last meeting. He explained that the minutes noted that he asked for clarification that the funding was from CRA funds. He added that his comments extended to the discussion of the funding of the graphics and

signage to get people to the parking areas. He also mentioned the comments made about valet parking which were not within the minutes but was not a problem that they were not included.

Motion made by Commissioner Anderson to approve and amend the 04/14/08 minutes with his clarification regarding funding; seconded by Commissioner Dillaha and carried unanimously with a 4-0 vote.

Item d: Approval to host the "Salute to the Military All-Stars Pre-Game Luncheon".

Commissioner Dillaha asked for the details on the program and how it works. City Manager Knight explained The Florida Collegiate Summer League (FCSL) baseball program will be hosting their annual Military All-Stars game the week of July 4. He stated that Sarah Whiting, representative for FCSL, asked the City to host the "Salute to the Military All-Stars Pre-Game Luncheon" to be held at the Rachel D. Murrah Civic Center on July 3. He stated they asked for a fee waiver of \$368 for the rental. Parks and Recreation Director John Holland answered questions.

Commissioner Dillaha recommended that events like this go to the Parks Board first in the future. Commissioner Diebel agreed. Commissioner Bridges believed that it should go through the process and asked if this would be a part of the July 4 celebration. Mr. Knight agreed that it tied in with that celebration. Commissioner Bridges clarified that it was intended to be part of the Independence Day celebration and recognize the extreme sacrifice of our military.

Mr. Holland stated that if they take this to the Parks and Recreation Board they will only approve the 50% wavier and if the client wants the additional 50%, it will be brought before the Commission again.

Motion made by Commissioner Diebel to approve hosting the Salute to the Military All-Stars Game with a 50% fee waiver of the venue should the Parks Board also support a 50% fee waiver of the venue; seconded by Commissioner Anderson and carried unanimously with a 4-0 vote.

Public Hearings:

- a) Rollins loan regarding emergency sirens:

ORDINANCE NO. 2736-08: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AUTHORIZING AND PROVIDING FOR THE BORROWING OF NOT EXCEEDING \$135,000.00 TO FINANCE THE PURCHASE OF AND INSTALLATION OF AN OUTDOOR EMERGENCY WARNING SYSTEM; PROVIDING AN EFFECTIVE DATE
Second Reading

Attorney Cheek read the ordinance by title. He explained it is necessary to do both the resolution and the ordinance. He stated the ordinance was approved at the last meeting and the resolution essentially tracks it. No public comments were made.

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

RESOLUTION NO. 1991-08: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, SUPPLEMENTING ORDINANCE NO. 2736-08 OF THE CITY WHICH AUTHORIZED THE BORROWING OF NOT EXCEEDING \$135,000.00 TO FINANCE THE COST OF PURCHASING AND INSTALLING AN OUTDOOR EMERGENCY WARNING SYSTEM; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

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

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

- b) ORDINANCE NO. 2737-08: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE V, "ENVIRONMENTAL PROTECTION REGULATIONS" DIVISION ONE "STORMWATER MANAGEMENT" SO AS TO REVISE THE DESIGN STANDARDS FOR STORMWATER SYSTEMS TO PROHIBIT GRADES ELEVATED ABOVE TWO FEET FROM ADJOINING PROPERTIES Second Reading

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

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

- c) ORDINANCE NO. 2738-08: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING THE CITY OF WINTER PARK POLICE OFFICERS' PENSION PLAN; AMENDING SECTION 3, BOARD OF TRUSTEES; AMENDING SECTION 4, FINANCES AND FUND MANAGEMENT; AMENDING SECTION 19, DOMESTIC RELATIONS ORDERS; RETIREE DIRECTED PAYMENTS; EXEMPTION FROM EXECUTION, NON-ASSIGNABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND 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, Vice Mayor Bridges and Commissioners Anderson, Dillaha and Diebel voted yes. The motion carried unanimously with a 4-0 vote.

- d) ORDINANCE NO. 2739-08: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING THE CITY OF WINTER PARK FIREFIGHTERS' PENSION PLAN; AMENDING SECTION 3, BOARD OF TRUSTEES; AMENDING SECTION 4, FINANCES AND FUND MANAGEMENT; AMENDING SECTION 19, DOMESTIC RELATIONS ORDERS; RETIREE DIRECTED PAYMENTS; EXEMPTION FROM EXECUTION, NON-ASSIGNABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE. Second Reading

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

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

- e) RESOLUTION NO. 1992-08: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, SUPPLEMENTING AND AMENDING IN CERTAIN RESPECTS RESOLUTION NO. 1898-05 OF THE CITY ADOPTED ON MAY 9, 2005, APPROVING A CHANGE IN INTEREST RATE MODE FROM AN AUCTION RATE MODE TO ANOTHER AUTHORIZED INTEREST RATE MODE FOR THE CITY'S OUTSTANDING ELECTRIC REVENUE BONDS, SERIES 2005A AND B; PROVIDING FOR THE PURCHASE OF A LIQUIDITY FACILITY, THE EXECUTION AND DELIVERY OF THE LIQUIDITY FACILITY DOCUMENTS AND THE APPOINTMENT OF THE LIQUIDITY FACILITY PROVIDER; AUTHORIZING THE EXECUTION AND DELIVERY OF A REMARKETING AGREEMENT WITH RESPECT TO SAID BONDS AND APPOINTING THE REMARKETING AGENT; AUTHORIZING THE EXECUTION AND DELIVERY OF A TENDER AGENT AGREEMENT WITH RESPECT TO SAID BONDS AND APPOINTING THE TENDER AGENT; APPROVING THE COVENANTS REQUIRED BY THE BOND INSURER IN ORDER TO FACILITATE THE MODE CHANGE; AMENDING THE RESOLUTION WITH RESPECT TO THE BANK BONDS PROVISIONS THEREIN; AUTHORIZING THE CITY'S AUTHORIZED OFFICERS, THE CITY'S FINANCIAL ADVISOR, THE CITY ATTORNEY, BOND COUNSEL AND DISCLOSURE COUNSEL TO DO ALL THINGS NECESSARY AND APPROPRIATE TO ACCOMPLISH THE MODE CHANGE; AUTHORIZING THE PREPARATION AND DELIVERY OF A REOFFERING MEMORANDUM FOR THE BONDS; AND PROVIDING AN EFFECTIVE DATE.

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

City Manager Knight gave a brief overview on the resolution. He stated that in 2004 when they were anticipating doing the electric bonds and acquiring the electric system, the Commission entered into a swap agreement to lock in interest rates. He explained due to the fallout of the subprime, the auction rate securities that were in place are no longer trading the way they should. He addressed this allowing them to change the security that the swap is with to something that will match the money that is being paid out.

Financial Advisor Craig Dunlap, Dunlap and Associates, answered questions posed by the Commission. Vice Mayor Bridges asked if this was the appropriate measure to take at this time for the safety of our bond rating and our financial situation. Mr. Dunlap agreed and recommended this as the proper finance plan. He stated they have evaluated bank loans, public offerings, conversion of the variable rate demand obligations and this is the most cost effective option at this time.

Larry Lokken, 719 French Avenue, expressed that the recommendation to do a variable rate in a low interest rate environment did not make sense. He commented that there is a large market for municipal bonds because after taxes they are better than CD's or Treasuries.

Mr. Dunlap responded that the City will be paying a fixed rate but what they are recommending is changing the underlying issuances of the variable rate, so that the variable rate payment that the

City receives matches the rate that the variable rate is paying. He reiterated that they are fixed on the rate.

Commissioner Anderson stated the fixed rate was 4.9% on \$36 million for the electric bonds, as one example. He explained that after they do this, assuming that the swap works and the index matches what they pay out, by the time they add these other add on's to keep our rate fixed it would be 5.3%. He stated it would go from 4.9% to 5.3% and that would be after the liquidity facility fee, the FSA fee and the remarketing fee.

Mr. Dunlap explained that if they were to fix the rate on this by traditional means it would cost about \$500,000-\$600,000 more a year in debt services. A big part of the increase was because of the unwind fee that would have been in the \$7-\$9 million range.

Finance Director Wes Hamil stated that our Bond Attorney Jack Williams asked to add a sentence to the resolution on page 5, section 4.01 Liquidity Facility at the end of the paragraph. He read this into the record "To the extent that the terms of the Liquidity Facility conflict with the provisions set forth in this Resolution regarding the remarketing and the optional and mandatory tenders of the Bonds, the provisions of the Liquidity Facility shall govern." Attorney Cheek agreed with bond counsels advice.

Commissioner Diebel asked if they were entertaining this now to create some stability in both the interest of debt service as well as solving the liquidity problem. Mr. Knight agreed and mentioned they will come before the Commission with a similar type of fix for the Water and Sewer bond. She also asked if it improves the liquidity of the bonds for the long term or are they going to be facing this if they come up to another interest rate gap. He stated that it should fix the liquidity problem for the long term. Commissioner Anderson agreed with Commissioner Diebel that the real risk with the liquidity facilities fee they were quoted is only for one year and that the question is what that liquidity fee will be one year from now. He stated that he viewed this as a bridging until they see stability in the market place and see what happens.

Motion made by Commissioner Diebel to adopt the resolution with the additional language that was read into the record by Wes Hamil from our bond attorney; seconded by Commissioner Anderson. Upon a roll call vote, Vice Mayor Bridges and Commissioner Anderson, Dillaha and Diebel voted yes. The motion carried unanimously with a 4-0 vote.

f) Request of Fields Motor Cars of Florida:

- Conditional Use Approval to build a new Mini Cooper car dealership at 951 N. Wymore Road.

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" SECTION 58-75 "GENERAL COMMERCIAL (C-3) DISTRICT" SO AS TO REVISE THE LIST OF CONDITIONAL USES TO ADD LOCATIONS ON WYMORE ROAD, NORTH OF LEE ROAD AS ELIGIBLE LOCATIONS FOR CAR SALES CONDITIONAL USES, PROVIDING AN EFFECTIVE DATE. First Reading

Attorney Cheek read the ordinance by title.

Building Director George Wiggins, speaking on behalf of Planning Director Jeff Briggs, explained the conditional use request by Fields Motor Cars to build a new mini car dealership at 951 N. Wymore Road, with a three story showroom, service building and a parking garage for the new car sales inventory. He stated that the proposal does exceed the Floor Area Ratio (FAR) but when it went to the Planning & Zoning Commission (P&Z) they were looking toward the new comprehensive plan proposal that was at the DCA in light of the fact that the comprehensive plan rescission would be considered tonight. Before he went into further detail, he asked the Commission and the applicant whether it would be more appropriate to defer this until that is more effectively dealt with regarding parking garages or FAR because that was a substantial part of this.

Commissioners Dillaha and Anderson agreed with Mr. Wiggins on deferring. Commissioner Anderson believed the concept was great and did not have any comments or concerns about the use.

Mr. Wiggins explained that this came before P&Z on April 1, 2008 who recommended approval with a vote of 5-0, subject to the following: 1) the exterior sound system be further reviewed by the City Commission; 2) final approval is contingent upon comprehensive plan adoption or variance approval by the Board of Adjustment; and 3) signage to be static and must be approved through the City's signage approval process. Mr. Wiggins answered questions.

Johan LaRose, representing the applicant, explained that their understanding was that given the FAR they had 2 options either to apply for a variance or to wait for the comprehensive plan approval. His understanding was that the comprehensive plan would exclude the parking garages from the FAR, and if it does it would put them 10% below the FAR. He agreed with Mr. Wiggins that they should table this issue until further matters are resolved. He expressed that on behalf of his client they would like to move forward with the project as soon as possible, pending the resolution of the comprehensive plan.

Vice Mayor Bridges expressed that the Commission is dedicated to expediting the comprehensive plan and resolving that as quickly as possible. She appreciated their willingness to table this as they resolve this matter.

Will Graves, 3048 George Mason Avenue, expressed that it would be unfair to limit the loud speakers system. He stated this is the type of project where you get tax revenue.

Carolyn Cooper, 1047 McKean Circle supported this type of development on the I-4 corridor. She believed it would give the City an opportunity for higher intensity of land use but at the same time they are very sensitive to the process in Winter Park. She explained that they need to give a land use designation that allows this in only that specific location along the I-4 corridor. She also asked as they look at their design to consider their neighbors, the mature trees, and the color. She stated that the Land Use Development designation needs to come first and the zoning district needs to come second.

Commissioner Dillaha agreed with Ms. Cooper and stated they do not have a comprehensive plan or a code to support it yet and she would like to defer discussion on the project. She stated they welcome that business and it will be great for the tax base but that they need more time.

Commissioner Diebel asked Commissioner Dillaha if she was advocating a change in the comprehensive plan that would be in conflict with what they are applying for. Commissioner

Dillaha stated that they have not gone through the comprehensive plan yet and one of the issues that will need to be discussed is parking garages and whether or not to include those in the FAR calculations. She expressed because they have not done that yet they really cannot consider this project. She also had an issue with approving projects based on something yet, to be approved whether it is a comprehensive plan or a code. Commissioner Dillaha stated that they should give it some time and go through the process in the correct way. She believed it also provides fairness to other applicants that come before the P&Z Commission and City Commission as well.

Vice Mayor Bridges explained that bringing this forward at this time without a comprehensive plan and without specifics creates uncertainty. She stated this provides the momentum to get this current comprehensive plan repealed and have issues resolved with P&Z, send this to the DCA and have it resolved quickly. She stated they want this type of development but it needs to be fair and equitable to all.

Commissioner Diebel asked if she was advocating that the P&Z not hear any application which requires a conditional use change. She stated she was trying to get direction since they spent time getting the 5-0 support from the P&Z only to be told they should not have gone that route since they were not going to entertain their application anyway. Vice Mayor Bridges clarified that any project is permitted to come forward and request a conditional use; however, to have a request to change our code and approve something that is outside our comprehensive plan right now is premature and does not achieve their goals of getting predictability and the essence of law within our codes for everyone. She expressed this was a premature request at this time.

Commissioner Diebel commented that they need to be clear with the P&Z so they understand not to entertain these until the comprehensive plan is adopted, otherwise, they will continue to have these types of projects on the agenda to render the same discussion. She wanted to understand the feeling of the Commission so they could give direction to the P&Z Commission to be able to do that. Building Director Wiggins explained there are numerous projects that could still come forward and those that do not come forward are probably in violation of the comprehensive plan because they exceed the FAR, height or any other parameters relating to the existing comprehensive plan.

Commissioner Dillaha suggested the direction be that no projects should go through the Planning Department and to the P&Z that go above and beyond the boundaries of the comprehensive plan as it exists today. Mr. Wiggins agreed. He stated the rules are limited to the comprehensive plan that they have in place and requests that are outside that would have to be deferred until the comprehensive plan is changed, revised and adopted. Attorney Cheek stated anyone can ask for permission to do whatever they want but whether or not the City is going to move forward with that is governed by our laws.

Commissioner Diebel clarified if it was the will of the Commission that they do not want to hear applications for anything outside the current comprehensive plan because they will not be under consideration until the adoption of the new comprehensive plan. Vice Mayor Bridges and Commissioner Dillaha agreed.

Attorney Cheek added that technically the City cannot amend its comprehensive plan at this stage because of the status of where we are. However, when they get through the process with the DCA they will be able to do that. Vice Mayor Bridges suggested their recommendation as a Commission should be to direct the Planning Department to make this clear to applicants that we are unable to do so at this time until we have completed our comprehensive plan. Commissioner

Diebel asked Attorney Cheek questions. He encouraged the Commission to do an ordinance or instruct the Planning Department to tell people that if they need a comprehensive plan change, they might as well not come forward but they were not going to stop them.

Vice Mayor Bridges stated the discussion before them was the request from Fields Motor and legally it was not appropriate to approve a comprehensive plan change; therefore with the agreement of the applicant they were going to postpone their request. She believed that Mr. Briggs would support advising applicants that the City cannot grant any comprehensive amendments at this time.

The applicant agreed to table the approval of this project until the comprehensive plan adoption.

Motion made by Commissioner Dillaha to table the request of Fields Motor Cars of Florida for approval to build the Mini Cooper car dealership at 951 North Wymore Road; seconded by Commissioners Anderson. Upon a roll call vote, Vice Mayor Bridges and Commissioners Anderson, Dillaha and Diebel voted yes. The motion carried unanimously with a 4-0 vote.

Mr. Wiggins moved onto the ordinance and addressed this being a good ordinance because it allows the development of new and used motor vehicles and boat and trailer sales in an area of the City that is entirely appropriate. He stated that the P&Z unanimously recommended this ordinance and if they come back ahead of the comprehensive plan change, this would allow them to do that. Mr. Wiggins answered questions.

Vice Mayor Bridges had concerns that the language was too broad in the ordinance. She stated that potentially they have C-3 that immediately abuts residential a half a block to a block over. Mr. Wiggins stated she could make it more specific with the locations on the West side of Wymore Road, North of Lee Road. She commented that she would like thoughtful discussion and review of these kind of situations with the P&Z, with the land use map in front of them and with the understanding of the impacts these comprehensive plan changes will incur. She stated right now would not be the appropriate forum to have that discussion.

Commissioner Dillaha advocated approving the ordinance but changing it to the west side of Wymore Road. She also agreed with Vice Mayor Bridges that there is a need to look at what they want to achieve in certain sections of the City and update the Land Development Code where it no longer works. Commissioner Anderson stated that he would support making clear that this type of conditional use is acceptable if it is within the comprehensive plan.

Motion made by Commissioner Dillaha to amend the Land Development Code with the revision to the ordinance to include language that states on the west side of Wymore Road, North of Lee Road for the conditional use to allow for car sales; seconded by Commissioner Anderson. Vice Mayor Bridges commented that although she appreciates this, she does not like this planning effort at this time and she was not in favor of this. Upon a roll call vote, Commissioners Anderson, Dillaha and Diebel voted yes. Vice Mayor Bridges voted no. The motion carried with a 3-1 vote.

- g) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, RESCINDING ORDINANCE 2720-07 ADOPTED ON AUGUST 27, 2007 THAT ADOPTED A NEW COMPREHENSIVE PLAN FOR THE CITY OF WINTER PARK AND AMENDED

CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN"
First Reading

City Manager Knight read the ordinance by title. Attorney Cheek stated he met with the attorney for the DCA and Mr. Ross Burnaman representing the Trismen suit regarding the ordinance. Both agreed to have sections of the ordinance edited for clarity purposes. Mr. Cheek indicated the sections they were changing in the ordinance. He stated if they made those changes, the DCA will dismiss the administrative proceeding that is pending if they pass it with that language. It was also his understanding that counts one and two of that litigation will also be dismissed at an appropriate time if they use that language. He recommended that they make the changes if they deem it appropriate to pass this.

Attorney Ross Burnaman, speaking on behalf of Leila Trismen, advocated Mr. Cheek's changes and guaranteed the Commission that adoption of this repeal ordinance will result in the dismissal of the first two counts of the three count lawsuit filed against the City by Mr. Trismen. He explained that the third count pertains to a number of amendments that have been made over the years and there has been a moratorium in effect for a number of years. He stated that once the Commission takes the affirmative vote to repeal ordinance 2720-07, the City should be in a position to report to the Department of Community Affairs that it has done a number of plan amendments that the Department is not formally aware of. That will then begin the process of bringing the City fully to compliance with State law and will allow the DCA to work with the City and resolve issues raised by prior invalid adoption of amendments. He spoke about Count 3 and the State moratorium in effect where the City was prohibited from amending their plan if it did not have school criteria sighting. He explained there were three nuances to Count 3. He preferred to defer to Count 3 and maybe the Commission will direct the City Attorney and the City Planning staff to work with the Department to resolve those notification issues that related to Count 3 so that it would result in the dismissal of the count as well. Mr. Burnaman answered questions.

Commissioner Diebel asked Attorney Cheek if he knew what the issues were in Count 3. Mr. Cheek stated that one issue is whether or not the City met the school sighting requirement in its comprehensive plan up to date and if it did not, what the impact of that was on any amendments through that time. The other issue would be a technical requirement that appears to forward small scale comprehensive plan amendments but they are supposed to send them to the DCA. He explained that he knew what the issues were and they were being addressed.

Gene Randall, 1285 Richmond Road, spoke on behalf of 41 of his fellow neighbors and residents who supported rescinding this ordinance. He stated the comprehensive plan has not met the DCA requirements, there are lawsuits, P&Z is not in favor of the ordinance and the current comprehensive plan does not meet the requirement of the majority of the citizens in his opinion. Mr. Randall handed in 41 speaker forms for the record. The names were as follows:

Shay Silver, 735 Pansy Avenue
Yvonne Traylor, 150 Chelton Circle
Bruce Becker, 300 Fountain Lane
Martha McHenry, 530 Clarendon Avenue
Donald Doyle, 1000 Golfside Drive
Guy Colado, 327 Beloit Avenue
Judy Maynard, 1531 Bershire Avenue
Marianne McKinney, 1285 Richmond Road
Pat Boyer, 842 Granville Drive

Martha Rosalind Ray, 1400 Bonnie Burn Circle
Georgia Roark, 1258 Arlington Place
Ruth Griffin, PO Box 2792
Vicki Krueger, 200 Carolina Avenue
Leila Trismen, 1551 Laurel Road
Susan Gabel, 1539 Golfside Drive
Leslie Grammer, 200 S. Interlachen Avenue
R.J. Hale, 1640 Palmer Avenue
Dorothy Jarvis, 221 Oakwood Way
Ruth McDaniel, 700 Melrose Avenue
Eva Ann Foster, 1731 Palm Avenue
Jan Nichols, 1505 Bonnie Burn Circle
Phil Eshbach, 210 Chelton Circle
Susan Roberts, 1551 Highland Road
Butch Adams, 1832 Mizell Avenue
Margaret Moran, 2500 Lee Road
Sally Flynn, 1400 Highland Road
Jacqueline Becker, 300 Fountain Lane
Karen James, 1551 Dale Avenue
Paula Dorney, 503 N. Interlachen
Susan Skolfield, 210 Stirling Avenue
Pat McDonald, 2348 Summerfield Road
Antoinette Foley, 1270 Lakeview Drive
Barry Greenstein, 2348 Summerfield Road
Bee Epley, 151 North Orlando Avenue
Randall Robertson, 1350 College Point
Kathryn Grammer, 200 South Interlachen Avenue
C. Lee Maynard, 1531 Berkshire Avenue
Pat and Randy Robertson, 1350 College Point
Sherry Davis, 481 East Webster Avenue
Nancy Peck, 863 Granville Drive
Donna Colado, 327 Beloit Avenue

Rebecca Furman, citizen and Lowndes Drosdick Kantor and Reed lawfirm, spoke in opposition of this ordinance. She stated that the City was in violation of Florida Statutes and there were items not in compliance with the DCA. She expressed that by rescinding the comprehensive plan they will increase the length of time at least an additional 9 months or more and will open the City up to more costly and time consuming lawsuits. She recommended they get things straight with the DCA, enter into a compliance agreement and attach as an exhibit 'b' with everything the DCA says the City should amend to get in compliance. She explained that they have one hearing where the Commission agrees with the compliance agreement then they have a one hearing adoption of those changes. She stated at that time if they have anything that is outstanding that they would like to tweak in the comprehensive plan, this would be the appropriate time to do so. She expressed that as a win-win.

Mimi Dickinson, 730 Pine Tree Road, supported rescinding the ordinance. She stated that legal expenses and costly delays will be eliminated and the City will be able to properly submit a plan that will more closely reflect the wishes of the citizens and be in compliance with the DCA. Carolyn Cooper, 1047 McKean Circle, corrected Ms. Furman's comments. She stated that the notice of intent sent to the City of Winter Park very specifically included an objection to the urban

use zone. Therefore, if it is their intention to revisit that specific zone that will be part of the compliance agreement. She stated that the Commission needs to get things right with the DCA as quickly as possible and have a compliant comprehensive plan that gives clear guidance to the citizens and the development community.

Commissioner Anderson addressed that rescinding the ordinance and the re-approval will end up with a more cohesive definitive document that could have some staying power.

Commissioner Dillaha stated she was in favor of rescinding this ordinance because it would clean up the legal issues they have and the outstanding issues they have with DCA. She also stated this version of the comprehensive plan does not represent the will of the citizens and they need to get this right and expedite the process.

Commissioner Diebel had concerns that repealing this would take them back to the beginning and asked about the time table/schedule of the comprehensive plan. Attorney Cheek and City Manager Knight responded.

Commissioner Dillaha stated that they should start with the document dated July 18, 2007 which was recommended by Planning Director Jeff Briggs and the P&Z and that is the post ORC version. She reiterated that she did not want to go forward with a document that sets expectations and have it amended at the last minute.

Vice Mayor Bridges expressed that she was in favor of rescinding this ordinance. She believed this was clean, it resolves the lawsuit with the Trismen estate, this is the appropriate expeditious way that deals with the issues that represents the citizens and their wishes, and moves us forward in a positive way. She did not believe that modifying it and trying to deal with the existing ordinance is the way to go.

Commissioner Diebel asked Attorney Cheek further questions and stated that she was not comfortable rescinding an ordinance when we do not know how the re-adoption time line will be dictated to us. She expressed that she would like to know that information and not only provide some surety to our citizens at large but all property owners as well. She also believed that it was important that they understand the process that they will go through from the DCA on the review, the adoption and the re-adoption before they are held to something they do not understand. She stated that if this meant tabling repealing the ordinance until the next meeting to get a definitive answer for the community at large, she believed it to be very pertinent.

Commissioner Dillaha commented that she would not be in favor of delaying this and they need to move forward. She stated that she personally does not need to know a specific timeline from the DCA to make a decision.

Commissioner Diebel reiterated that she wants to make sure they know what they are voting on.

Motion made by Commissioner Dillaha to accept the ordinance on first reading, rescinding ordinance 2720-07 comprehensive plan that was adopted on August 27, 2007. This was to include the language that Mr. Burnaman asked they include in this ordinance; seconded by Commissioner Anderson. Upon a roll call vote, Vice Mayor Bridges and Commissioners Anderson and Dillaha voted yes. Commissioner Diebel voted no. The motion carried with a 3-1 vote.

City Attorney's Report:

Attorney Cheek announced that going forward he will bring things up so that everyone is up to date on matters. He stated they have been working both through his office and with City staff on the Mr. Ellis situation that was mentioned previously with the cleanup of the Ellis' properties. He commented it appears that the cleanup is happening by the property owner, however, if not, the City has the ability to move forward and force a resolution. He mentioned there was a class action that has been filed in federal court in Tampa against all counties and municipalities in the State of Florida who charge occupational license fees to attorneys. He believed they should take a look at what kind of revenue Winter Park gets from that and consider their risk and it's potential impact to the City. He was also looking into the various assortments of negotiating easements, water lines, sewer lines, electrical easements and things of that nature.

Non-Action Item:

- a) Discussion of applicant requests to table agenda items.

Vice Mayor Bridges spoke about the investment of time to review agenda items and when they are removed at the Commission meeting, it is a waste of time for the Commissioners and staff and the citizens who came to the meeting. She provided a policy for the Commission to consider and read it as follows: "Whenever the Clerk of the City has posted an agenda item for the Commission's review and that agenda packet has been published for public review, those items must follow certain procedures. If the item is being requested for removal by the applicant, it may be removed 72 hours prior to the Commission meeting and may be placed on any of the following Commission agendas within six (6) months time without penalty. The City Clerk will post this change immediately to the website and also at City Hall and notify the Commissioners. This will serve as adequate notice to the public and Commission. Should an applicant give no notice of his intent to remove the item from the agenda prior to the Commission meeting, the applicant may not bring the proposed item back to the Commission for six (6) months. Lack of notice will also require a second filing fee with penalty to cover the necessary administrative costs." She asked for a discussion.

Commissioner Dillaha agreed because of concerns with citizens coming to the meetings and that the applicant will take the process more seriously and may reconsider removal of their item. City Manager Knight suggested allowing the Commission authority to waive the six month delay if there is a legitimate reason to do so. Vice Mayor Bridges agreed that emergencies would warrant this. Commissioner Anderson addressed the six month portion being punitive and his concern that this would push people to seek professional representation before they come to the Commission. He commented that the policy has some merit. After further comments concerning the six month portion, there was a consensus that the City Manager would bring back a policy for their consideration.

NEW BUSINESS (Public):

1. Lurline Fletcher, 790 Lyman Avenue, addressed how parking lots are being used other than as a parking lot (Lyman, Pennsylvania and Douglas Avenues). She spoke about the dumpster, dirt and trucks being parked there. City Manager Knight stated they would check into this.
2. Kim Allen, 271 Virginia Drive, asked about the status of the project behind the Winter Park Village that has been a parking garage for many months. Building Official Wiggins

addressed the status of this project. He stated the developer has not obtained the building permit for the apartment building and he is contesting the payment of the affordable housing fee. There was a discussion regarding what can be done to expedite this and the process for dealing with an impasse such as this on a development project.

City Manager Knight addressed the contention with the affordable housing fee where the applicant believes it should be waived. Mr. Knight stated his development does not meet the definition of affordable housing but that any waiver of fees would have to be requested by him to the Commission which has not been done. Mr. Wiggins stated they have approved plans and the site has been maintained but that the developer has many other projects in the works at this time. He believed it to be inappropriate to initiate code enforcement action and that they can ask for a more formal response from the developer as to the status. Vice Mayor Bridges addressed the elaborate process that was going through for this project to grant variances and design modifications and that she wanted to see the project completed. Mr. Wiggins stated he would seek an update and provide that to the Commission at a future meeting.

NEW BUSINESS – COMMISSION:

1. Commissioner Dillaha addressed the board appointments coming before them. She addressed the need for an orientation to all new board members as to how the board functions, what their responsibilities are, and the documents necessary for them to effectively serve on the board. City Manager Knight addressed the more generic orientation that used to take place that covered the public records and sunshine laws and where all boards came together at one meeting that was not unique to a particular board. He stated they can provide this via the board liaison for each board. He stated they can have this ready and in place in time for the new board appointments.

2. Commissioner Dillaha spoke about the 1997 YMCA contract where they would not expand any further and would not purchase any adjacent residential properties. She stated the YMCA has purchased two adjacent residences on Palmer Avenue with the intention of expanding their facility and asked that this be followed up on. She provided a petition addressing concerns of the residents. There was a discussion as to how the public would know about deed restrictions, property sales, etc. Attorney Cheek spoke addressed the recording of documents into the public record. Mr. Knight stated that Planning Director Briggs met with the YMCA before they purchased the property and informed them about the agreement in place. Commissioner Diebel expressed concerns with other documents not being recorded (besides the development agreement) that would become part of the public searchable record.

After further discussion, Vice Mayor Bridges addressed the need for the Commission to be informed of the developer's agreements in place. Mr. Wiggins spoke about the developer's agreement being in the public record, they have met with them regarding the expansion, and whatever properties they purchase has to comply with the zoning. He stated what prevents the expansion is the development agreement and past conditional use conditions in place.

3. Vice Mayor Bridges asked that the City Attorney communicate to the Commission as the City Attorney deems it necessary for them to know regarding negotiations so they are aware of the facts.

4. Vice Mayor Bridges asked for an update on ZHA and our process for public places and that a timeline be provided. City Manager Knight informed her regarding the ZHA Plan the Possibilities study where staff met with ZHA with preliminary drawings and gave them some direction to go back and work. He commented that a report will be provided to the Commission for the third Monday work session but that the timing has to be worked out with the Commission because of the comprehensive plan discussion continuations.

5. Vice Mayor Bridges asked for an update on the design for the commuter rail station/stop. She asked that the next Update include an update as well. Mr. Marcotte stated this would be on the next agenda.

6. Vice Mayor Bridges asked for clarification on Parking Lot B. City Manager Knight stated they met with the Chamber to review their concerns and have come to a resolution on most of their items; some will come to the Commission for consideration such as the signage plan. He addressed the communication efforts and the issue of a Park Avenue Area Association board member being on the Parks Board (which is a decision of the Commission). He stated the Chamber is going to provide more information on the valet service to encourage the Commission to contribute towards that effort because they believe it is working and is paying dividends.

Vice Mayor Bridges asked about the parking signage program. Mr. Knight addressed the program being in the works for several years that has not been approved in previous year's budgets but that we have set about \$80,000 aside over the years for the signage program. Mr. Knight stated there will a request for the CRA to see if CRA funding can be used for parking signs in the Central Business District which will be at the next CRA Agency meeting.

7. Vice Mayor Bridges spoke about behavior changes with going green and if this is publicized and promoted, what the solutions are to encourage the citizens to engage in this. Communications Director Howard addressed her publicity plan for Parking Lot B by Central Park going green. City Manager Knight addressed a request that will come back to the Commission concerning the current entrance to the post office and the request to put perpendicular parking on the right hand side of the drive going in so you will gain 10-12 spaces. The parking map being worked was addressed as well as signage counting down the time when the parking is gone to make the public aware this is going to happen in six months.

8. Commissioner Anderson addressed the need to put a strategic plan update and a financial pro forma on the calendar. Mr. Knight stated we need to bring back the proposal that Commissioners Dillaha and Anderson worked on for a Commission statement as part of the strategic planning as well as the financial pro forma worked on by Commissioner Anderson and staff to project revenues given different scenarios of development. He stated this will be part of a future work session.

9. Commissioner Diebel addressed the motion regarding the comprehensive plan and the importance of giving staff direction as to how they are to handle requests that involve contingencies based on a comprehensive plan change. She stated it is unfair of the Commission to provide a lack of direction and wanted to be sure they are very clear as to what staff and the Planning and Zoning Commission (P&Z) is supposed to do and what they expect over the next

months because they are talking about between now and October or December not accepting items requiring a change to the comprehensive plan on any agenda.

City Manager Knight clarified what he believed to be the direction to tell applicants through the Planning Department that the City would expect any requests for a comprehensive plan amendment or a future land use map amendment tied to the comprehensive plan not adopted yet to be turned down if they go forward but the City will not stop an applicant from going forward. Then the P&Z will make a recommendation to the Commission and the Commission will take action to not approve any project relying on a future comprehensive plan.

Commissioner Diebel spoke about this setting the expectation of a moratorium and if direction such as this is given to the public, it needs to be stated legally. Attorney Cheek recommended that staff inform an applicant that after reviewing the project, it would require a comprehensive plan amendment and the City is not legally in a position to grant a comprehensive plan amendment at this time. He further explained the law concerning this and the City's ability to consider the project or take action on it. He advised not to amend the comprehensive plan at the current time and that the City should not interfere with an applicant's ability to request that. Commissioner Diebel stressed the importance of clear direction as to what they are recommending to the P&Z that they either consider projects that are contingent upon a comprehensive plan approval or the Commission is recommending they do not consider those and do not bring them to the Commission approval level.

Commissioner Anderson stated he understood that we can continue our current practice which is advising people when they come in for significant changes where they stand in the comprehensive plan without giving specific direction and leaving the consideration open to either the P&Z or Commission. He believed we should keep the current practice going. Commissioner Dillaha stated she wanted to see more decisions based on the comprehensive plan and the Land Development Code. She stated there are other avenues to pursue, i.e., conditional uses or a variance. Commissioner Diebel asked Commissioner Anderson if it okay for the P&Z to have items on their agenda and to vote on them contingent on the adoption of a new comprehensive plan and with the item to come before the Commission for items they do not want to consider anyway. Commissioner Anderson clarified we do not have to restrict applicants from deciding what they want to present. Commissioner Diebel agreed we should not restrict applicants but that it is prudent to let staff make any applicants and the Planning and Zoning Board members aware of the Commission's decision on this.

The meeting adjourned at 7:16 p.m.



Mayor David C. Strong

ATTEST:



City Clerk Cynthia Bonham