

REGULAR MEETING OF THE CITY COMMISSION
June 8, 2009

The meeting of the Winter Park City Commission was called to order by Mayor Kenneth Bradley at 4:00 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida.

The invocation was given by Pastor Joshua Vickery, Aloma Baptist Church, followed by the Pledge of Allegiance.

Members present:

Mayor Kenneth Bradley
Commissioner Phil Anderson
Commissioner Beth Dillaha
Commissioner Karen Diebel
Commissioner Margie Bridges

Also present:

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

Citizens Comments:

1. Nancy Shutts, 2010 Brandywine Drive, addressed how the community became aware of the Fleet Peoples Park issue.

Mayor's Report:

a) Proclamation – National Garden Week.

Mayor Bradley read a proclamation proclaiming June 7-13, 2009 as National Garden Week. Cynthia Pesch, President of the Winter Garden Club presented the Mayor and the Commissioners with the bromeliad plants.

b) 2009 Board appointments.

Mayor Bradley commented that the Commission was provided additional nominees for the board appointments. The board vacancies were discussed individually and voted upon. The following motions were made for each board.

1. Code Enforcement Board.

Motion made by Mayor Bradley to approve the nomination of Tom Sacha to the Code Enforcement Board; seconded by Commissioner Dillaha. Upon a vote, Mayor Bradley and Commissioners Anderson, Dillaha, Diebel and Bridges voted yes. The motion carried unanimously with a 5-0 vote.

2. Economic Development Board.

Motion made by Mayor Bradley to approve the nomination of Gwen Lennox; seconded by Commissioner Anderson. Upon a vote, Mayor Bradley and Commissioners Anderson, Dillaha, Diebel and Bridges voted yes. The motion carried unanimously with a 5-0 vote.

3. Historic Preservation Board.

Motion made by Mayor Bradley to approve the nomination of Randall Glidden; seconded by Commissioner Diebel. Upon discussion and a vote, Mayor Bradley and Commissioners Anderson and Diebel voted yes. Commissioners Dillaha and Bridges voted no. The motion passed with a 3-2 vote.

4. Lakes and Waterways Board.

Motion made by Mayor Bradley to approve the nominations of Ronald Scarpa and David Morehead (alternate) to the Lakes and Waterways Board; seconded by Commissioner Diebel. Upon discussion and a vote, Commissioners Anderson, Dillaha and Bridges voted no. Mayor Bradley and Commissioner Diebel voted yes. The motion failed with a 3-2 vote. Mayor Bradley will revisit these nominations at the next Commission meeting.

5. Parks and Recreation Board.

Motion made by Mayor Bradley to approve the nominations of Sam Stark and Tom McMacken to the Parks and Recreation Board; seconded by Commissioner Anderson. Upon discussion and a vote, Commissioners Anderson, Dillaha and Bridges voted no. Mayor Bradley and Commissioner Diebel voted yes. The motion failed with a 3-2 vote. Mayor Bradley will revisit these nominations at the next Commission meeting.

6. Planning and Zoning Commission.

Motion made by Mayor Bradley to approve the nomination of Jeffrey Blydenburgh to the Planning and Zoning Commission Board; seconded by Commissioner Anderson. Upon discussion and a vote, Commissioners Anderson, Dillaha and Bridges voted no. Mayor Bradley and Commissioner Diebel voted yes. The motion failed with a 3-2 vote. Mayor Bradley will revisit this nomination at the next Commission meeting.

c) Fleet Peoples Park update.

Mayor Bradley commented that they had a good discussion at the work session earlier that day and believed they are finally coming to a conclusion as a Commission. He stated that this item will be placed on the July 13 agenda.

d) Crime in Central Florida.

Mayor Bradley stated that he spoke with Police Chief Brett Railey and wants the citizens to know that the Chief is very proactive in this area and our City will continue to be safe.

e) 2010 Budget.

City Manager Knight stated that the department heads submitted their budget which are being reviewed and will be provided to the Commission by the end of the month. He also spoke about the Property Appraiser evaluations and explained that anyone can go on the Property Appraiser's website and see the working value for their individual property.

f) 3rd Quarter 90 day plan.

A work session was scheduled for July 13 from 2:30 p.m.-3:30 p.m. Mayor Bradley asked the Commissioners to forward Mr. Knight their key 90 day issues. He commented that they may also have some carryover from "Planning the Possibilities".

g) Passing of Mr. Larry Mosely.

Mayor Bradley spoke about the passing of Mr. Mosely who was a leader in the community. He also mentioned the passing of Winter Park resident Paula Carron. He stated that it is important to realize that we are a City made up of individuals and each individual makes this a better place.

h) 30th Anniversary of the Winter Park Farmer's Market.

Mayor Bradley announced that the 30th Anniversary of the Winter Park Farmer's Market was a success and a great event.

i) Business Facade Grant Program

Mayor Bradley announced they had a ribbon cutting for their first Business Façade Matching Grant program on Morse Boulevard. Assistant CRA Manager Peter Moore stated that they currently have 11 pending applications for that program.

Non agenda items:

1. Mayor Bradley announced that he attended the reopening of the Chestnut Mini Park on Chestnut Avenue and Sunset Drive last week. He understood through Keep Winter Park Beautiful that they have 28 potential mini parks to restore and bring up to standard. He encouraged that and commented about helping to find the funding in their 2010 budget. He stated it was a great park and suggested that citizens visit.

2. Mayor Bradley read a proclamation proclaiming June 8-14, 2009 as Orlando Magic Week.

Consent Agenda:

- a) Approve the minutes of 5/11/09 and 5/26/09. **PULLED FOR DISCUSSION. SEE BELOW.**
- b) Approve entering into negotiations for RFQ-4-2009, Design-Build of Cady Way Parks Maintenance Facility, with the top ranked firm of Gomez Construction Company. **PULLED FOR DISCUSSION. SEE BELOW.**
- c) Authorize the execution of the First Amendment to Lease Agreement with Orange County for the Air Quality Monitoring Station.
- d) Approve the construction activity on Sundays from 8:00 a.m. to 3:30 p.m. at the 9th Grade Center from June 7 to August 30. **PULLED FOR DISCUSSION. SEE BELOW.**

Consent Agenda items a), b) and d) were pulled for discussion.

Consent Agenda Item a): Approve the minutes of 5/11/09 and 5/26/09.

Mayor Bradley stated that he listened to the audio of the 5/11/09 meeting and the minutes in question regarding the Planning and Zoning board appointments were accurate as presented.

Motion made by Commissioner Anderson to approve the May 11, 2009 minutes; seconded by Commissioner Bridges. The motion carried unanimously with a 5-0 vote.

Commissioner Anderson asked that page 11 of the 05/26/09 minutes reflect that he voted for the work session on Fleet Peoples Park.

Motion made by Commissioner Anderson to approve the May 26, 2009 minutes as amended; seconded by Commissioner Bridges. The motion carried unanimously with a 5-0 vote.

Consent Agenda Item b): Approve entering into negotiations for RFQ-4-2009, Design-Build of Cady Way Parks Maintenance Facility, with the top ranked firm of Gomez Construction Company.

Commissioner Bridges voiced concerns that this project was approved at \$300,000 and the title sheet indicated the preliminary estimates have exceeded the budget. Parks and Recreation Director John Holland stated that they would like to enter into negotiations with the contractor to bring this within budget. Commissioner Bridges expressed concern with this being a domino effect where they approved this in order to facilitate the expansion of the Environmental Center and the forward movement of the Mead Garden plans. Mr. Holland answered further questions.

Motion made by Commissioner Anderson to approve item b); seconded by Commissioner Dillaha. The motion carried unanimously with a 5-0 vote.

Consent Agenda Item d): Approve the construction activity on Sundays from 8:00 a.m. to 3:30 p.m. at the 9th Grade Center from June 7 to August 30.

Commissioner Bridges commented that this area is a fairly intense residential neighborhood for such early construction activities on Sundays. She asked the contractor if they would consider a 9:00 a.m. to 4:30 p.m. timeframe. City Manager Knight stated they did the same thing for the Lakemont Elementary project, with an 8:00 a.m. start time.

Steven Wright, Construction Manager Skanska USA, spoke on behalf of the general contractor and stated they would agree with Commissioner Bridges' request.

Motion made by Commissioner Bridges that the construction activity on Sunday mornings at the 9th Grade Center be conducted from 9:00 a.m. to 4:30 p.m.; seconded by Commissioner Dillaha. The motion carried unanimously with a 5-0 vote.

Action Items Requiring Discussion:

a) Aloma Baptist Church fee waiver request.

Parks and Recreation Director John Holland explained that Aloma Baptist Church received approval by the Parks and Recreation Board for the use of the park and it is the second year of the event. He stated they requested a fee waiver, but the new rules and standards for rate adjustments approved by the City Commission in January 2009, did not include this event on the list of approved City annual events. The new policy would allow the Aloma Baptist Church to apply for the status of a Community Based Organization (CBO). If they meet the requirements for the CBO status the rental rates for Central Park will be discounted for the first four hours resulting in a \$412.50 fee waiver. He added that the full rental fee for a large event in Central Park is \$1,650.00.

Commissioner Bridges had concerns with setting up a situation where people who do not meet that specific designated guideline for a CBO will seek a fee waiver request if they are not on the approved list. She commented that the church paid for the park fee last year and believed they should pay again this year. Commissioner Dillaha commented that if they do not abide by their policy, then what they decided upon does not have any merit and did not believe this would be fair going forward. Mr. Holland answered questions.

Mayor Bradley commented that if someone met the CBO status he would be inclined to provide a discount to those fees. Mr. Holland explained that the staff recommendation was for Aloma Baptist Church to pay the use fee for the Central Park event and apply for the CBO status. If granted, a refund for the \$412.50 would be issued. He added that this is an option for the Commission to decide on.

Motion made by Commissioner Bridges to approve the Aloma Baptist Church fee waiver for this particular event; seconded by Commissioner Anderson. Commissioner Bridges clarified that Aloma Baptist is not applying for the CBO status, but rather this event qualifies and meets all the criteria that has been designated under the CBO status.

Commissioner Diebel commented that when this policy came about last year she did not agree with many of the segregation between groups and one of the things she tried to advocate under the CBO status was to consider the 501(c)(4) groups as well. She stated if they follow this criteria it should include filling out the form that qualifies them for this event.

Commissioner Anderson commented that he would be in favor of charging the fee to use the park and refunding the \$412.50 to Aloma Baptist, if they apply for the CBO status.

Commissioner Dillaha commented that she was not inclined to grant the fee waiver request. She wanted to follow the policy so that it is fair and stated that was the intent of everything they decided in January 2009. There was further discussion on the exceptions versus non-exceptions of the fee waivers.

Upon discussion regarding the staff recommendation, **Commissioner Bridges amended her motion to accept the staff recommendation (that the Aloma Baptist Church pay the use fee for the Central Park event and apply for the Community Based Organization status. If granted, a refund for the \$412.50 would be issued.); seconded by Commissioner Anderson.**

Pastor Joshua Vickery, Aloma Baptist Church, asked if they could be placed on the City Annual Events list as they would like to do this annually. Mayor Bradley commented that he would defer their request to the Parks Commission in regards to the City annual events process. There was consensus among the Commission. **The motion passed unanimously with a 5-0 vote.**

Mayor Bradley commented that there may be worthy conversations to have on other fee waivers, but there are probably broad implications of having 501(c)3's or 501(c)4's on the weekends and other things that need to be vetted through the Parks and Recreation Department, as well as the City Commission.

b) Form based code.

Commissioner Diebel commented she requested that this item be placed on the agenda. She stated that they are developing the land use code that compliments the comprehensive plan and we have already invested in the form based code. She wanted a staff summary on the status in bringing these two processes together.

Building Director George Wiggins explained that the Form Based Code project originated as a recommendation of the Architectural Standards Task Force. The Task Force was appointed by the Commission to make recommendations and prepare a report of findings back to the City Commission. He stated that the purpose and scope as delineated in the report included the following: 1) examine the feasibility of establishing an architectural guideline for buildings; 2) review standards currently in effect; 3) see how they apply to both residential and non-residential buildings; and 4) analyze historic preservation, its relationship with architectural review standards and whether to expand our current regulations.

He addressed the Task Force's recommendations under Non-residential/Multi-family buildings in the report which included to "Research the applicability of utilizing form based codes," which provides clear cut rules to facilitate the review and enforcement process. He commented that he sent an overview of the report via email to the Commission for reference purposes.

Mr. Wiggins stated that in mid-2007, the Commission received and unanimously approved the Task Force report and then authorized staff to prepare an RFQ for a consultant to develop a form based code for certain commercial corridors of the City and to develop design guidelines for buildings in these commercial corridors. Upon completion of the RFQ process, Canin and Associates was chosen as the planning consultant to conduct the project for a total cost of \$295,000. Canin and Associates also enlisted the services of Placemakers, a nationally recognized planning team that has worked in many communities including those similar to Winter Park. He stated that Placemakers spearheaded the "Common Ground" Charrette project that included a 4 day workshop charrette held in the Welcome Center in April, 2008. He explained that a form based code provides 3 components: 1) regulating plan, 2) building form standards, and 3) public space standards.

Mr. Wiggins explained that in June 2008, the City suspended work on the form based code project including work by our consultant, with approximately \$200,000 of the original contract amount being expended because the comprehensive plan was not finalized and adopted. He stated that with the completion and final approval of the comprehensive plan, the Commission needs to decide whether to re-engage this project. If so, then a budgetary determination must be made

whether to allocate funds to complete the project. Mr. Wiggins and Planning Director Jeff Briggs answered questions.

Commissioner Dillaha questioned if they should be talking about this before their budget discussion and wanted more information before making a decision on it. Commissioner Anderson commented that this was a good idea and they should finish the project because it is timely. He also agreed with Commissioner Dillaha in terms of putting this back into the budgeting process as to where it falls in the priorities. He stated he was reluctant to restore the funding until they debate it for the next fiscal year.

Mr. Briggs explained that there is no reason why they could not do the wording in the Land Development Code and have this compliment it shortly thereafter. He stated he needs to do the wording as soon as possible because they have a comprehensive plan and people need to use it.

Commissioner Dillaha wanted to be updated on the details of how this works and what the intention is and to understand how the form based code impacts the Land Development Code and the comprehensive plan in regard to densities and floor area ratio.

Commissioner Diebel wanted to understand how they can author the land use code without having the benefit of the form based code direction. Mr. Briggs responded. Mr. Wiggins explained that their immediate task is to get the land development ordinance up to date to fit in with the newly adopted comprehensive plan so that residents and developers know what the rules are with regard to the land development issues. He recommended they do that process first so they will have everything in the comprehensive plan in place which makes it easier to put the form based code in place.

Commissioner Dillaha reiterated the need to address this during the budget discussions. She stated if they move forward with the form based code it can be integrated at any time and before she agrees to spend money she wants to know what it does, what it will accomplish and how they will pay for it. Mayor Bradley wanted to understand whether or not it is an important part of the Land Development Code work. Mr. Wiggins explained they would be codifying into the Land Development Code what was in the comprehensive plan for immediate current use and the form based code is a type of detailed Land Development Code that provides specific criteria for development both in the prescriptive language and pictorially.

Commissioner Anderson commented that it would be desirable to go forward concurrently and believed it might have a better result but was having difficulty thinking about allocating \$95,000 to restart the project. Mayor Bradley agreed.

Commissioner Bridges believed there are discussions they need to have and to understand in terms of the form based code being regulatory and the design guidelines not being regulatory.

Upon comments, City Manager Knight will come back with the planning budget at the next meeting and include what would compete with reestablishing this as a priority.

c) Recommendation to Orange County for the Civic Facilities Authority.

City Manager Knight commented that Commissioner Metcalf was the previous appointee and this does not have to be an elected official. He stated that Orange County asked for two

recommendations of which they will select from. Mayor Bradley asked this be placed on the next agenda. Mr. Knight agreed.

d) Planning the Possibilities immediate action items.

Motion made by Commissioner Dillaha to prioritize the next steps for Planning the Possibilities; seconded by Commissioner Bridges. Mayor Bradley asked to amend the motion to add funding the Possibilities as well. Commissioner Dillaha agreed; seconded by Commissioner Bridges.

Rick Mellin, President of ZHA, provided a PowerPoint presentation on "Plan the Possibilities Meets Fund the Possibilities." He spoke about Planning the Possibilities assumptions; City assets and values; and the costs of City projects, which included City Hall, the library and the post office. He addressed where they would like to be in 1, 3 and 5 years. He discussed the recommended actions to: 1) approve the state office demolition with the Community Center; 2) request a 10 year City Hall plan; 3) negotiate an extension/option for the post office site; 4) negotiate for library parking from Rollins; and 5) determine the desired uses for the State Office Building, City Hall and post office sites.

Mayor Bradley stated that the staff recommendation was to: 1) demolish structures on the State Office Building site; 2) develop a 10 year plan to extend the life of City Hall to include a funding strategy; 3) determine final location(s) for the post office; and 4) funding.

Joe Terranova, 700 Melrose Avenue, concurred with the demolition of the State Office Building and the 10 year City Hall plan. He commented that the post office should stay where it is and it should not be redeveloped. He believed they should try to renegotiate their option to build into an option to purchase, in the event that the post office gives up their property.

Commissioner Dillaha asked Mr. Knight how they plan to fund the State Office Building and City Hall. Mr. Knight explained that they could fund the State Office Building out of the CRA as part of the Community Center project. He stated they are bidding this out as part of demolishing the Community Center site that will come before the Commission later with a figure and how they will pay for it. He commented that with City Hall they are in the process of working with a vendor regarding the energy efficiency type issues by which they could pay for the improvements through the savings and the electric bill. He stated they will have a detailed report before they move forward with that project. Commissioner Dillaha also spoke about other options for the post office site. **The motion passed unanimously 5-0.**

Public Hearings:

- a) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 94 "TAXATION" SO AS TO INCREASE THE BUSINESS TAX FEES BY FIVE PERCENT (5%), PROVIDING AN EFFECTIVE DATE. First Reading

Attorney Cheek read the ordinance by title. No public comments were made. Building Director George Wiggins explained the occupational license tax for Florida cities and counties was frozen by the State Legislature from the early 1980's until 1994, when a legislative act authorized local governments to set up an "Equity Study Commission" to re-establish rates and any new categories of licensing needed to be added to the local ordinance. After this one time allowance to adjustment rates, cities are permitted to increase the tax amount a maximum of 5% every two

years. He stated it has been two years since the last 5% increase and that staff has updated the current ordinance and reviewed licensed categories requiring amendment compared with Orlando and other surrounding jurisdictions. He explained that some categories of licensing have been changed or added to be consistent with surrounding jurisdictions.

Attorney Cheek commented that Section 5 of the ordinance should not be there and suggested the motion include that Section 5 be deleted. Mr. Wiggins agreed.

Motion made by Commissioner Anderson to accept the ordinance on first reading and delete Section 5 per Attorney Cheek's recommendation; seconded by Commissioner Diebel.

Commissioner Bridges voiced that now is not the time to raise these fees. Commissioner Anderson commented that this represents a 2% annualized increase over the last 2 years and the 5% for the next 2 years is not an unreasonable increase. Mr. Knight and Mr. Wiggins answered questions.

Mr. Wiggins commented that the fees are lower compared to other municipalities in the state. He added that if they do not go forward with this increase they will lose this opportunity to do so and can only revisit this every 2 years. After obtaining further information, Commissioner Bridges voted in favor. **Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha and Bridges voted yes. Commissioner Diebel voted no. The motion carried with a 4-1 vote.**

- b) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 10 "ALCOHOLIC BEVERAGES" SECTION 10-48 "CLASSIFICATIONS" SO AS TO ALLOW THEATERS AND EATING AND DRINKING RETAIL ESTABLISHMENTS TO SERVE ALCOHOLIC BEVERAGES UNDER LIMITED CONDITIONS AND AMEND CLASSIFICATIONS TO REFLECT CURRENT STATE ALCOHOLIC BEVERAGE REGULATIONS. First Reading

Attorney Cheek read the ordinance by title. No public comments were made. Building Director George Wiggins provided an amendment to the ordinance that the Commissioners had in their packet and stated this was a housekeeping item. He explained that CRA Manager Sherry Gutch put this together as a method by which these recommended changes will assist two businesses immediately, the Winter Park Playhouse (Class 6), who is going through a renovation and expansion; and The Cheese Shop (Class 7), who would like to serve cheese platters and wine on-site as an ancillary use to their retail operations. He explained that this will provide another type of class of alcoholic beverage licenses that they do not currently have listed in our classes. He commented that Winter Park is one of the few cities in the state that have alcoholic beverage license regulations and they regulate that based on these classes. He stated that Ms. Gutch believed the ordinance needed other modifications and recommended the Commission authorize staff to rewrite the entire alcoholic beverage ordinance to ensure consistency with current Florida statutes. Clarifications were made regarding the Class 6 and Class 7 licenses.

Motion made by Commissioner Bridges to accept the ordinance on first reading for discussion; seconded by Commissioner Dillaha. Mayor Bradley amended the motion to exclude the words "grocery stores." Commissioner Bridges agreed; seconded by Commissioner Dillaha. Mr. Wiggins and Assistant CRA Manager Peter Moore answered questions.

Joe Terranova, 700 Melrose Avenue, spoke about the provisions and urged the Commission to pass the ordinance.

Motion made by Commissioner Bridges to amend the motion to include no intoxicating beverage shall be sold under such license after the hours of serving or selling food have ceased and to add that to the Class 7 license; seconded by Commissioner Dillaha. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Diebel and Bridges voted yes. The motion carried unanimously with a 5-0 vote.

City Attorney's Report:

Attorney Cheek commented that he will have litigation matters to bring back to the Commission for informational purposes.

Non-Action Items:

- a) City Manager's Report.

Mr. Knight explained that the board orientation is scheduled for June 15 at 6:00 p.m. He also stated that they had a conference call with Fitch Rating today and expects to receive an answer tomorrow.

New Business (Public):

No new business.

New Business (City Commission):

1. Commissioner Bridges addressed her 2 year tenure on the Community Action Board in Orlando. She asked to be replaced as she is unable to keep up with the meeting schedules. City Manager Knight explained that they prefer an elected official and they would also like an alternate appointed. Mayor Bradley asked that this be placed on the next agenda.

Commissioner Anderson asked if there is a practice where the Commission can nominate and suggest a delegate of the Commission to serve in that capacity. Mr. Knight spoke about the Community Action Board rules and who makes up the board. He added that the alternate position could be an appointed member of the staff. Mayor Bradley commented that it could also be a citizen.

2. Commissioner Dillaha asked if they could have discussion regarding Charter Review on an upcoming agenda. Commissioner Bridges agreed. Commissioner Anderson suggested they add that as part of their next 90 day plan.

3. Commissioner Dillaha commented that she spoke with Mr. Knight about the Florida League of Cities (FLC) and board orientations. She stated that every year the FLC provides training for newly elected advisory board members and newly elected officials and believed this might be worth participating in as opposed to having newly appointed board members go to a meeting. She explained that they could have someone from the FLC do the orientation. She suggested they consider starting this next year and possibly every year. Mayor Bradley asked that she forward this information to Mr. Knight.

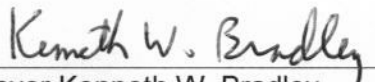
4. Commissioner Dillaha commented that they all received an email from a resident that lives in the Indiana Avenue and Shultz area regarding the conditions of the roads. Mayor Bradley addressed the sidewalks in this area.

Public Works Director Troy Attaway commented that he responded to the residents email with regard to the road she was referring to. He explained that they pulled up and again re-laid all the bricks and the road is in excellent condition.

5. Commissioner Bridges commented that she has been contacted by a number of participants in this recent RFQ process on the Community Center.


Attorney Cheek read the rules of the RFP and recommended that if someone approaches the Commission with any discussion related to a bid that is between the issuance of the bid package and the award (anytime in that window) then defer them to staff. City Manager Knight commented if they believe they were wronged in the process, they can appeal.

The meeting adjourned at 6:51 p.m.



Mayor Kenneth W. Bradley

ATTEST:



Cynthia S. Bonham, City Clerk