

REGULAR MEETING OF THE CITY COMMISSION
June 28, 2010

The meeting of the Winter Park City Commission was called to order by Mayor Kenneth Bradley at 3:34 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida.

The invocation was given by Pastor Jack Cain, Calvary Assembly of God, followed by the Pledge of Allegiance.

Members present:

Mayor Kenneth Bradley
Commissioner Phil Anderson
Commissioner Beth Dillaha
Commissioner Tom McMacken
Commissioner Carolyn Cooper

Also present:

City Manager Randy Knight
City Attorney William Reichmann
City Clerk Cynthia Bonham
Deputy City Clerk Michelle Bernstein

Approval of the agenda

The agenda was approved by acclamation of the City Commission.

Mayor's Report

1. Board appointments

Historic Preservation Commission

Motion made by Mayor Bradley to approve the appointment of Rebecca Talbert as alternate; seconded by Commissioner McMacken. Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

Public Art Advisory Board

Motion made by Mayor Bradley to approve the appointment of Joseph Roviario and Charles Robbins (expires 2013); seconded by Commissioner Dillaha. Mayor Bradley and Commissioners Anderson, Dillaha and McMacken voted yes. Commissioner Cooper voted no. The motion carried with a 4-1 vote.

2. Mayor Bradley wanted to recognize a Winter Park Police Officer for stopping traffic to assist an elderly citizen in distress this past week. He wanted to personally thank both the individual Police Officer and the Winter Park Police Department for a job well done.

3. Mayor Bradley wanted everyone to recognize the 4th of July and encouraged everyone to celebrate this special day.

City Manager's Report

City Manager Knight updated the Commission that the power supply bid process information is enclosed in their packet for their review and comment. He stated that they will be bringing this

item forward as a discussion item in the 90 day plan. He also noted that this is one of the largest contracts that the City has and is approximately \$35 to \$40 million of power supply.

Commissioner McMacken asked how often this item is put out to bid. Mr. Knight stated that this is the end of the first 5 year contract with a 6 month extension. Electric Director Jerry Warren noted that as part of the negotiations they want to leave it flexible, noting a minimum of 3 years and maximum of 7 years in the RFP to allow the power suppliers to provide the best available price.

Commissioner Anderson addressed the fuel cost recovery and asked what percentage of the City's billing it covers. Mr. Warren stated that if they continue under the Progress Energy current rates he is estimating that the power supply cost for the next fiscal year would be about \$31 million (about \$20 million is fuel). He noted that the total budget is approximately \$50 million and mentioned that 40% is for fuel and 2/3 or 60% would be the power supply total.

Mayor Bradley asked for the deadline date for the Commission to make a decision. It was noted that on September 13, 2010 Mr. Warren will bring his preliminary bid ranking and ask the Commission for direction. He noted that if the Commission confirms in that meeting, they will immediately begin contract negotiations with the best evaluated bidder. Mayor Bradley asked about provisions for solar power options and asked that this item be put in the RFP or contract. Mayor Bradley stated that as of July 19, 2010 that everyone shall be silent and refrain from conversation since this item will be out on the street for bid.

Commissioner Dillaha addressed the RFP process asking if a Commissioner or a Utilities Advisory Board (UAB) member will be on the RFP committee to review this. Mr. Warren noted that his intention is to personally prepare the bid evaluation and then make a technical evaluation presentation to the UAB for comments and input. Mr. Warren also noted that there is a very important element of the schedule that needs to be recognized. He stated that if an investor owned utility such as Progress Energy or FPL ends up being the best evaluated bid, when you negotiate a contract with them they have to file that contract with the Federal Energy Regulatory Commission 60 days before service starts which would be November 1, 2010. The schedule pre supposes that if that is the case, if OUC is evaluated as the best bidder, that 60 days is not necessary so the schedule has 60 days of flexibility built into it that goes away. He also noted that he designed the schedule to meet the worst case scenario.

Mayor Bradley reminded everyone that the September 13, 2010 meeting will be the first approval in ordinance format of the budget and to make sure there is ample time scheduled for discussions on both of these items.

Commissioner Cooper questioned the recent drop in valuation of the CRA. She stated she understands that is about a 28% actual hit on their revenue and they looking at projecting a budget of \$2.3 million in gross revenue and fixed costs of \$1.5 million in debt service. She also noted that it is a very tight budget for the CRA and there is a lot of fixed debt against a \$2.3 million and she wants to make sure that everyone is aware of this and is comfortable with how tight the CRA budget is. Mr. Knight addressed her concerns by providing a detailed explanation regarding values, debt service levels and prepayment penalties.

Non-Action Items

a. Proposed changes to animal Ordinance No. 2665-06

Mayor Bradley noted that this is a non-action item and there will be no formal action taken at this meeting regarding this issue. He stated that this is for discussion only and possibly an action to be taken in the future.

Director of Parks and Recreation John Holland provided a presentation and explained in detail the proposed animal ordinance prepared through the Parks and Recreation Commission. The presentation included the processes to date with regards to the rules and regulations along with the proposed animal ordinance changes. The proposed changes are as follows:

- Dogs will be prohibited in Mead Gardens.
- Dogs will be prohibited in Kraft Gardens.
- Dogs will be prohibited in Dinky Dock Park.
- Dogs will not be allowed in the streets that are adjacent to Central Park when they are closed for a "Special Event" with the exception of parades.

Mr. Holland asked the Commission for direction on how they would like to proceed with this issue. Commissioner Dillaha suggested that a work session be scheduled with the Parks and Recreation Board for discussion. She mentioned she would like to discuss the conservation wildlife areas and following real criteria and comprehensive plan objectives and policies in making decisions. Commissioner Anderson wanted to make sure that these discussions address the citizen concerns.

Commissioner McMacken said there is a both a cultural and technical aspect and he would like to have a discussion with the Parks and Recreation Board to make sure that everyone agrees with what the culture is that they are trying to preserve, how parks are viewed in our city and other related items. He also suggested having another separate work session with representatives of various groups that have meaningful relationships with parks prior to bringing it forth to the public. He noted that part of this is managing expectations on everyone's part to gain insight on the different aspects related to the issue.

Commissioner Cooper stated she is comfortable with having the ordinance come forward to the Commissioners and any decision they make on the ordinance will indeed be a statement of the policy of this Commission. She noted that she is not comfortable going down to a board level.

Mayor Bradley asked Mr. Holland what has gone into the process to bring this ordinance to the Commission at this point. Mr. Holland stated that he believes it was brought forward from a parks board member that was aware of some situations from an event on Park Avenue that provided some encroachment into Central Park by some dogs during one of their events. They had some requests from Commissioner Dillaha to look at the ordinance, as well as one of their parks board members who came out during the process of the questioning or changing of the policy at Fleet Peoples Park for the 10-4 issue. They then requested a full review of the ordinance. It went through the process of rewriting the ordinance during several months.

There was an overall discussion as to the different options to be taken in providing direction or action to resolve this issue and move forward.

Mayor Bradley asked Mr. Holland about the May 26, 2010 Parks and Recreation meeting and noted that there was no public input taken on the actions that were brought forward. He asked if there has been public input in the Parks and Recreation Commission on this specific ordinance that is coming before them and in its final state. Mr. Holland stated yes.

Commissioner Anderson wanted to clarify the issue by asking specifically if they are taking the dogs off Park Avenue. It was noted as no. He stated that someone is spreading misinformation and he wanted to make sure that everyone is clear on the issue to help stop this false rumor. He noted once again that this not about getting rid of dogs on Park Avenue.

Commissioner Dillaha made a final comment by stating that she would like to see if they could have a meeting with only the Parks Board. Commissioner McMacken stated that he is willing to start with an initial meeting in house with the Parks Board and subsequent to that he would encourage them to meet with other groups as well prior to bringing it before action to the Commission. Commissioner Cooper reiterated that she is in support to bring the ordinance forward for voting. Mayor Bradley stated that he is going to support her and that it is time to vote on it. He also agreed with Commissioner McMacken that there is a need to talk about policy as it relates to all Friends Organizations and asked Commissioner Anderson for input. Commissioner Anderson stated that he is in agreement to bring the ordinance forward. Mayor Bradley scheduled this for the July 26, 2010 meeting and the first meeting in August 9, 2010.

Commissioner McMacken asked for clarity regarding the existing ordinance and noted that there seems to be two interpretations, one by the Parks Board and one from staff. He asked if there is any precedence as to which one would be valid for enforcement. City Manager Knight provided code information relating to special events which resulted in an overall discussion pertaining to the enforcement and the interpretation power of the ordinances. Attorney Reischmann provided detailed information regarding the steps and process involved related to the enforcement of codes and ordinances. It was clarified that code enforcement will make the ultimate decision and if citizens want to appeal that decision they can seek assistance from the board and the legal courts.

A recess was taken at 4:36 p.m. - 4:47 p.m.

b. Financial Statement – May 2010

Finance Director Wes Hamil summarized the May 2010 financial statement. Mayor Bradley questioned the water and sewer funds, the electric funds and the franchise fee. Mr. Hamil and City Manager Knight provided a detailed response for each item.

Motion made by Commissioner McMacken to accept the report as presented; seconded by Commissioner Cooper. The motion carried unanimously with a 5-0 vote.

City Attorney's Report

No reports to address.

Consent Agenda

- a. Approve the minutes of 6/14/10. - **PULLED FROM CONSENT AGENDA FOR DISCUSSION – SEE BELOW**

- b. Approve the award of RFP-16-2010, Emergency Debris Management Services to Ceres Environmental Services.
- c. Approve the Guaranteed Max Price (GMP) contract with Turner Construction Company for the Community Center Project. **PULLED FROM CONSENT AGENDA FOR DISCUSSION – SEE BELOW**

Motion made by Commissioner Dillaha to approve Consent Agenda Item b; seconded by Commissioner McMacken and carried unanimously with a 4-0 vote. (Commissioner Anderson was not present for the vote.)

Consent Agenda Item 'a' – Minutes of June 14, 2010

Commissioner Cooper asked to change the item on Page 7 where it said 2001, to read "O-1". She also questioned the sentence where it says the City prefers a ground lease with an option to buy. She noted that it was actually "the City requires proposals of ground lease and they have the option of presenting a proposal to purchase". Mayor Bradley questioned this particular item stating that they voted that differently two meetings ago when she brought it up. Commissioner Cooper stated that it is in the Advisory Board Minutes correctly. Mayor Bradley stated that he thought they kept it the way it was. Mr. Knight stated that he believes the motion was in the CRA Meeting not the Commission meeting. Commissioner Cooper agreed that the language that is here should be consistent with the CRA.

Mayor Bradley noted that he does not believe that they took the same action and that is why he is questioning the item and asked if they could have the Clerk's Office look at this item. He stated that it was his understanding that they kept the action which was the action that Commissioner Cooper made in the May meeting. Mayor Bradley then asked how they would like to deal with the issue. Commissioner Cooper said she can remove her second request and have them check on it. Mayor Bradley asked her if she wanted it to come back for that final recommendation. Commissioner Cooper stated that is not necessary.

Motion made by Commissioner Cooper to approve the minutes with that modification to change the 2001 to O-1 (and for the Clerk to clarify her comments as stated above); seconded by Commissioner McMacken. The motion carried unanimously with a 5-0 vote.

Consent Agenda Item 'c' – Approve the Guaranteed Max Price Contract (GMP) with Turner Construction Co. for the Winter Park Community Center Project

Commissioner Cooper questioned the cost of the chiller being paid from the Building Maintenance Fund. City Manager Knight responded in detail and addressed her concern. Commissioner McMacken questioned revision 2 on page 5 and if the rock climbing wall within the gymnasium will be eliminated and if the decorative pavers out front matches the Park Avenue sidewalk. Mr. Attaway stated yes. Commissioner McMacken asked for clarity regarding bricks being used in the parking. Mr. Attaway noted that the parking lot will be a brick paver because it allows water to infiltrate into it and the base of the brick will be designed to accept the water allowing for stormwater retention. It was noted that all value engineering changes have been made to date. **Motion made by Commissioner Cooper to approve Consent Agenda item 'c'; seconded by Commissioner Anderson. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

Public Comments:

Sally Flynn, 1400 Highland Road, spoke about the dog park issue and suggested that the correct information be put on the city website to inform the public and to help stop the rumors.

Public Hearings:

a. Request of Winter Park Towers (WPT), 1111 S. Lakemont Avenue.

Assistant City Attorney Bill Reischmann read the ordinances by title. All three ordinances and the conditional use approval were handled as one simultaneous public hearing. Each member of the Commission disclosed their involvement or ex-parte communications with the Winter Park Towers representatives. Commissioner Anderson noted that he previously served as a board member for the Westminister Retirement Communities which WPT is an affiliate and currently serves on their audit committee which has been determined is not a conflict. Commissioner Dillaha stated she met with Mr. Steve Cook after the January meeting to discuss possible changes to the plan, spoke with Mr. Webb, and had email correspondence with Becky Furman regarding the comprehensive plan policy language. Commissioner Cooper stated she has spoken with Mr. Cook and Linda Kirk to look at the site, with John Webb from the Lake Berry Homeowner's Association, Tommy Cullens regarding this project and received many emails from citizens. Commissioner McMacken stated he met with Mr. Cook, spoke with Mr. Webb, and received emails from numerous citizens. Mayor Bradley stated all his communication since January has been in emails. The City Attorney stated copies of all emails should be provided to the City Clerk for placement with the agenda item for the record.

Mr. Briggs addressed the timing from January 25 to today to get to the second reading of the three ordinances. He explained the City was required to send those to the Florida Department of Community Affairs (DCA) for review and comments because of being large scale amendments to the comprehensive plan. He stated there were no objections or comments from the DCA. He stated that the WPT has revised and modified the conditional use plans since January 25 that were granted a preliminary approval. He stated that there were significant changes to the plans that were returned for another review back to P&Z with respect to the lakefront residential liner building that has been reduced in height from five stories to four stories, it has been moved further back from the lake from the 98' setback that was approved to 110', and the height of the building was reduced from the approved 50' to 47'.

He stated that the changes resulted in the six units being moved over to the future garden apartment building which expanded from 14 units to 20 units and has remained a two story building, 35' in height in same general location. They also submitted the plan details sufficient for a preliminary conditional use approval for that building as well as the other buildings, parking garage and two liner buildings. He stated the preliminary conditional use is modified with respect to the lakefront building and the incorporation of the changes and approval of the garden apartment building as well. He stated that this plan is deemed to be the best location for the parking garage and is being screened by the two liner residential buildings.

He further elaborated on the parking garage, protecting the lakefront environment and the existing live oak trees that they were trying to save but are not able to and as a result a detailed tree compensation schedule was submitted. He further elaborated on the tree replacement plan. He stated that the conceptual stormwater retention plan was also included. The letter

submitted by the WPT engineer was discussed. He commented that the main issue at P&Z was the lakefront building setback.

Mr. Briggs spoke about the 50' courtyard gap in between the parking garage and the lakefront residential building and the 20' courtyard between the northern building and the parking garage. He addressed staff's recommendation for approval of the modifications to the conditional use and the development agreement subject to an increase in the lakefront setback to 130 feet (added 20 feet by reducing the courtyard separation) for the lakefront residential building and to increase the setback. He stated that the P&Z did not concur with the staff recommendation and have provided a recommendation for approval with five (5) conditions. He elaborated on the conditions imposed by P&Z.

Changes made to the language of the policy from the first reading were discussed. It was clarified by Attorney Reischmann that they believe these changes do not require reprocessing through the DCA because it is not a substantive change. Mr. Briggs concurred with this. Attorney Reischmann also asked that one word be changed within the policy as stated in the ordinance: "The City shall encourage single family detached homes as opposed to apartments and condominiums by prohibiting (change 'prohibiting' to 'strongly discouraging') Future Land Use Map amendments from Single Family Residential or Low Density Residential to Medium or High Density Residential."

Commissioner Dillaha asked Mr. Briggs why he recommended moving the building back to 130'. Mr. Briggs explained the importance of protecting the lakefronts around the City in terms of building density and sizes. He also spoke about the 50' courtyard between the parking garage and liner residential building; staff believed they could accomplish both what the WPT wanted which is natural light on both sides of the unit as well as providing further protection to the lakefront environment, shortening the courtyard by 20' and increasing the setback by the difference.

He stated that we now know that the stormwater retention (vault) will be in the courtyard area and because the trees will not survive and that with underground exfiltration we will not be planting new trees in that courtyard. Further discussion ensued regarding the setback requirements within the code.

Commissioner Cooper stated when she was on P&Z, they discussed that the R-4 density is not actually necessary to approve the number of density units; only the location of the parking garage and the units where they are. Mr. Briggs stated that was correct; in the parent parcel of the Towers zoned R-4, they are permitted, all of the units per acre and all the FAR to build the entire project. He further elaborated on this. She asked if it is not the intention of the City to increase density on their property and the reason we are approving the R-4 or the high density is to accommodate the location and the parking garage. Mr. Briggs agreed it is the best location. She asked if the property zoning could revert back to PURD if the project for some reason does not go to fruition. Mr. Briggs stated that special condition would need to be imposed as part of this approval.

Rebecca Furman; Lowndes, Drosdick, Kantor and Reed law firm and representing the residents of WPT addressed the two options they brought before P&Z and the Commission; an 80' setback to save trees and a 98' setback which would not save trees but would move the building back. She stated the decision was made at P&Z and the Commission that what was valued more was preserving views from Lake Berry than all the trees. She also addressed the point of

the building is simply to hide the garage and the point of this exercise it to build a garage. She stated to pay for this they have to have a certain number of units that provides new income to make this building possible.

A slide presentation was provided by Ms. Furman illustrating the process they have been through such as the timeline associated with the project, the site plan, the Lake Berry elevations, proposed setbacks, garden apartment site plan showing building footprint and parking spaces, garden apartment elevations, landscape plan, tree survey results, proposed heights of the garage and buildings, the collaboration and compromises made regarding the project, the developer's agreement, their request for a text comprehensive plan amendment, a Future Land Use amendment (LDR to HDR), a rezoning from PURD to R-4, and preliminary conditional use permit approval. She also introduced the project team. She addressed staff's request for the 130' setback which she stated is not possible because it removes the necessary stormwater retention system, it was rejected by P&Z, it is more than originally approved (98'), and removes the courtyard amenity.

Mr. Sam Sebaali, President of Florida Engineering Group spoke regarding the stormwater issues on the project. Questions were asked about the vaulting under the garage and the existing drainage that runs along the north side of the property that services all the neighbors on the other side of Lakemont. Mr. Sebaali elaborated on these issues and answered questions. He stated there will be no impact on this drainage system.

Ms. Furman stated it has been their high priority to stay away from the drainage ditch and make sure no stormwater flows into it. She stated that the conditional use permit is consistent with all the requirements in the code. She addressed the setbacks and the many policies in the comprehensive plan and the conditional use process that allows the City to have flexibility when it comes to minimum and maximum standards. She stated they agree with that. She commented that it does not allow these to be set arbitrarily and there are reasons they are asking for 110' and that there has to be a rational basis for the numbers they come up with; and they are over twice as far back to what the code requires. In conclusion, she asked to approve the second readings for the comprehensive plan amendments and the rezoning, adopt the recommendation of P&Z and approve the revised preliminary conditional use permit and the development agreement. She stated if the Commission does not want to consider the final development agreement tonight because of things that are still a concern, they will bring that back again.

A recess was taken from 6:18 p.m. to 6:38 p.m.

Commissioner Dillaha commented why she voted no to the project the last time was due to the proximity to the lake. She stated she still believes it needs to come back to the 130'. She asked the Commission their views regarding the building and the setbacks from the lake. Attorney Reischmann addressed the legal tests for the applicant's entitlement for the comprehensive plan and rezoning being defined in the comprehensive plan, the land development code and Florida law.

Commissioner Cooper made comments regarding her recommendations. Ms. Furman asked that public comment be made first. Attorney Reischmann clarified that the comments made are only preliminary and that they have not yet opened the public hearing. It was decided that public input would be taken at this time.

Mr. Webb, 697 Balmoral Road, President of Lake Berry Property Owner's Association, spoke in support of staff's recommendation of the 130' setback. He stated that the height is not as important as the lake setback. He also elaborated on other issues.

Joe Terranova, 700 Melrose Avenue, stated there are two issues, height of the building facing the lake and the setback of those buildings, which were resolved by P&Z and the City Commission. He agreed it is a great project and should be approved.

Former Mayor Allen Trovillion stated he has been on the WPT Board for 8 years, they have a great parking plan and that they have provided better than what is required. He asked that this project be approved.

James Bogner, 1009 Tuscany Place, Chairman of the Board of Presbyterian Retirement Communities, addressed the project being a wonderful addition to the City. He stated the project they are proposing has been what the Board has been wanting for a long time. He spoke about the location of the building and the lakefront issues, the underground excavation system, and the interest of the residents for the space given. He asked that the space they asked for be approved.

Tom Cullens, 1274 Serena Drive, spoke about the Towers providing more than what is being asked for and thanked the Commissioners for passing this issue.

William Finrock, 1600 Sunnyside Drive, spoke in favor of improving the parking and a quality place to live.

Commissioner McMacken stated that his firm was employed in the planning efforts for this but is no longer under contract with this project nor have they been for some time. It was clarified that there is no conflict because of this.

Ms. Furman spoke regarding the setback issue. She addressed the letter sent to the Commission from Mr. Webb asking that there be no view of the parking garage from Lake Berry which they agreed with. They also asked that the site drainage and stormwater retention be behind the building which they have agreed with. She stated they are not able to agree with their requested setback but that the 110' is a minimum and shows a maximum of 132' so they have an average of about 118' setback where the lake is closest to the corner of a building. She further elaborated on this issue and the height from the pitch of the roof. She stated she was told that if this is approved with the 130' setback condition that the garage and liner buildings will not be built.

Commissioner Dillaha commented about not being comfortable with the stormwater information that was just provided at the last minute. She asked that staff review the stormwater details because the information was not presented to the Commissioners. Ms. Furman stated that they provided everything that was required for in the CUP package and there were questions then by residents concerning the stormwater so they hired an expert to do considerably more stormwater design than you would normally do at this conditional stage. She stated they are glad that they did this because they realized they need the courtyard to be able to build it. She stated that information was provided to them and that Mr. Sebaali tried to explain the issue better. She stated their disagreement with the 130' is not new this evening and that they have never indicated that the 130' is acceptable to them.

Commissioner McMacken asked about the limitation of additional purchases of properties in Waterbridge and it referencing streets and limitations on that. Ms. Furman clarified this issue. He then asked about not being able to see lights from the parking garage and the glow from the light poles at night. The type of fixtures was clarified and was agreed to by Commissioner McMacken. Ms. Furman stated they can elaborate on the language in paragraph 10 to deal with this. He then addressed a screen wall or 10' high fence and what material would be used that would last. Mr. Briggs addressed this issue.

Mayor Bradley asked about item 7, the amendment to the conditional use approval, regarding the traffic light requested by the owner. He asked about the process if the owner requests a traffic light or how it is handled if the City requests it. Mr. Briggs responded that the City pays 100% if they request it and if the WPT requests it, there is a funding formula in the development agreement. He stated there would be notice given to the surrounding property owners where the design would be discussed, how it would work and if they want one at all. Further discussion ensued regarding the language within the agreement and whether a light is warranted. Mayor Bradley asked the Towers to speak to their residents who have asked him on numerous times for a traffic light. He stated he is going to refer this issue back to the applicant if he is asked again because the applicant needs to come forth with that.

Commissioner Dillaha addressed the traffic light issue. She did not agree with the City paying for 1/3 of it when it is not the City's doing that we would need a traffic light and were not planning for one or budgeted for one. Commissioner Cooper addressed the dangerous situation at that location and the need for a light. Upon questioning, Public Works Director Attaway addressed what determines the traffic control device and what warrants should be met to be able to install any traffic device. He further elaborated on what they consider when they review the site. Commissioner McMacken questioned if the City wanted to put a traffic light there if we could do it. Mr. Attaway responded yes, in his opinion. Attorney Reischmann addressed paragraph 7 not stating whether or not there will be a traffic light there. He stated if a light is the desire of the Commission, they need to deal with the safety issues and the record needs to be made as to whether there is a factual need for a traffic light.

Ms. Furman stated that staff did a good job protecting the City and that the traffic light is on the owner and not the Commission. She stated based on their traffic study, this does not meet warrants and it is hard to justify that they pay for all of it. She added that they offered to pay their proportionate fair share of a traffic signal going in there. She stated that their fair share per the law would be 5% and did not believe they should have to pay 2/3 of the cost when the study shows 5%.

Attorney Reischmann addressed the developer's agreement contemplating that sometime in the future there could be a traffic light. He stated the applicant at this point is saying there is not sufficient evidence to justify a traffic signal at that location and if not volunteering to amend the developer's agreement to pay for that at this time, but if at some point in the future there was a need or they just want one for their residents, they would pay for 2/3.

Commissioner Cooper asked if we could have an agreement as part of the developer's agreement that said the city may administratively re-designate and rezone the affected property to its current designation should the construction not proceed as set forth in the phased planning. Attorney Reischmann stated the only clear answer is no because you are creating a conditional use and that is different from the rezoning and would not be legally enforceable. Further comments were made regarding this issue.

Commissioner Cooper asked about Policy 1-3.8.4. She asked if the policy should say 200' or a reasonable distance because the policy covers both low density and single family and medium and high density development. She stated she does not want to lose any protection. Mr. Briggs explained their reasoning for putting the 200' but agreed that put 'reasonable distance' instead of the 200' is probably good guidance for the future. She asked which would give them more latitude as a Commission and more defensible latitude as a Commission. Attorney Reischmann stated they need to be careful not to make changes that would affect moving forward and that they want to make sure they do not veer too far away from what the DCA approved. Mr. Briggs addressed how he thinks the proposal will impact the future development of comparable properties.

Commissioner Cooper asked about the drainage and if they cannot save the trees if the 50' is necessary to facilitate the appropriate stormwater retention or if it affects the applicant if it is moved back 20'. Assistant Public Works Director Don Marcotte stated that he met with Mr. Sebaali on the site and there are more constraints than he originally thought. He agreed that the site constraints with the water table and the confining layer are issues and they could make it work if the building was pushed back another 20' but it would cost a more significant amount of money. Commissioner Dillaha asked regardless of cost, if there are other options if pushed back 20' further. Mr. Marcotte responded in the affirmative and that there are options.

Commissioner Anderson spoke very highly of the WPT organization and that it is one of the best run senior housing not-for-profits in the nation and the largest in Florida. He stated that this plan is better than the previous one and elaborated on the height of the building and the visual appearance of the four story building being much better.

- 1) ORDINANCE NO. 2817-10: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE I "COMPREHENSIVE PLAN" SO AS TO REPEAL AND RE-ADOPT POLICY 1-3.8.4 IN THE FUTURE LAND USE ELEMENT REGARDING THE CONDITIONS UNDER WHICH FUTURE LAND USE MAP CHANGES ARE PERMITTED FROM SINGLE FAMILY OR LOW DENSITY RESIDENTIAL TO MEDIUM DENSITY OR HIGH DENSITY RESIDENTIAL, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE. Second reading

Motion made by Commissioner Anderson to adopt the ordinance and approve Policy 1-3.8.4 as noted in the handout, that includes the language that says "with respect to an existing residential elderly housing development" with the following change: that the word 'prohibiting' on line 2 be modified to say 'strongly discouraging'. Motion was seconded by Commissioner Cooper. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

- 2) ORDINANCE NO. 2816-10: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE I "COMPREHENSIVE PLAN" FUTURE LAND USE MAP SO AS TO CHANGE THE COMPREHENSIVE PLAN FUTURE LAND USE MAP FROM LOW DENSITY RESIDENTIAL TO HIGH DENSITY RESIDENTIAL ON 2.74

ACRES WITHIN THE WINTER PARK TOWERS PROPERTY AT
1111 S. LAKEMONT AVENUE, MORE PARTICULARLY DESCRIBED
HEREIN. Second reading

Attorney Reischmann stated there will be a technical change to the effective date in section 2 which will be interlineated upon your approval of this ordinance.

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

- 3) ORDINANCE NO. 2815-10: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE THE ZONING DESIGNATION OF PLANNED UNIT RESIDENTIAL (PURD) DISTRICT TO MULTI-FAMILY (HIGH DENSITY R-4) DISTRICT ON 2.74 ACRES WITHIN THE WINTER PARK TOWERS PROPERTY AT 1111 S. LAKEMONT AVENUE, MORE PARTICULARLY DESCRIBED HEREIN. Second reading

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

- 4) Amendment to the preliminary conditional use approval granted on January 25, 2010 to allow the construction of a four level, 383 space parking garage; a four story residential building of 24 units adjacent to the western and lakefront side of the proposed parking garage; and a five story, 30 unit residential building adjacent to the northern side of the proposed parking garage plus a new 20 unit, two story, garden apartment residential building in the area of the western portion of the existing parking lot on property zoned R-4

Motion made by Commissioner Dillaha to approve the preliminary conditional use but to have the setback from the lake be 130' versus 110'. Motion failed for lack of a second.

Motion made by Commissioner Anderson to approve the preliminary conditional use as presented by the applicant including the Planning Commission recommendation, seconded by Commissioner McMacken. Motion amended by Commissioner Cooper to add to item #5 "Stormwater retention shall not be permitted on the lakefront or creek front side of the proposed project (north of the building)" that is a community drainage system that we need to protect. The motion was seconded by Commissioner McMacken for discussion.

Commissioner McMacken addressed the stormwater and wanted the applicant to understand where you want this line and that he thought they were staying out of that because to get into

that area would require incredible permitting that they do not want to touch anyway. Commissioner Cooper stated there is no harm to put this into the agreement. Ms. Furman commented that they have no stormwater going that way and have no intention to do so. Attorney Reischmann clarified the intent of the amendment. Ms. Furman stated they can agree that there will not be retention or a swale on that side. It was clarified that the final proposal regarding stormwater will come back to the staff and the Water Management District.

Upon a roll call vote of the amendment regarding stormwater, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The amendment to the motion carried unanimously with a 5-0 vote.

Commissioner Dillaha addressed item #9, tree removal where it states the compensation is to be determined by the City. She wanted to add to this sentence: "compensation is to be determined by the City per its tree removal permit application process as outlined in the tree preservation ordinance. Mr. Briggs stated unless you change the tree ordinance to make it less stringent, otherwise they have complied with the code. Commissioner McMacken stated they struck out the tree preservation board which administers the code and asked why it was struck. Mr. Briggs explained they did not want it to go to the tree board and have them deny a permit and remove some of these trees that the City Commission is approving.

Motion amended by Commissioner Dillaha to say "compensation is to be determined by the City codes; seconded by Commissioner Cooper. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The amendment to the motion carried unanimously with a 5-0 vote.

Commissioner Cooper addressed the need to add language where it addresses the light fixtures will not be seen as follows: "there are no adverse lighting effects when viewed by the lakeside." She did not believe that provision is reflected in the developer's agreement. Mr. Briggs stated that any new conditions have to be incorporated into the development agreement. Attorney Reischmann clarified that the Commission is approving the conditional use with direction to staff to make changes to the developer's agreement and that the changes will be made. Commissioner Cooper was satisfied with Attorney Reischmann's comment.

Upon a roll call vote for the original motion to approve the preliminary conditional use, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

A recess was taken from 8:04 p.m. to 8:15 p.m.

- b) Appeal of David Miller appealing the decision of the Historic Preservation Commission regarding COR 10-002 the approval of the request of James and Cynthia Strollo for a Certificate of Review for the demolition of an existing detached garage and shed, and construction of a replacement garage; including a variance request to allow the continued use of the existing rear setback of 5 feet in lieu of the required 10 foot rear setback and to maintain the existing 4,894 gross square feet of building on the site (existing FAR of 47% based on gross square feet) at their property located at 777 French Avenue

Planning Director Jeff Briggs provided a summary of the request for appeal from a decision made by the Historic Preservation Commission (HPC). He showed a plat map which depicted an alley that runs between Antonette and French Avenue and noted that residents access their rear entry garages via this alleyway. Several other photos were presented showing the location and the current appearance of the garage along with a site plan map showing the existing conditions and proposed renovations. Mr. Briggs went into detail regarding the different variances that were requested and presented to HPC at the two different hearings, the process of notifying citizens of public hearings, and the final decisions that were granted by HPC. He also noted that staff recommended approval on May 12, 2010 with the following conditions:

1. The existing smaller accessory building's shell must be demolished at the same time as the existing garage, and may not be reconstructed.
2. The new garage structure shall not exceed 532 square feet to maintain the existing FAR, and shall not be converted to habitable space in the future.
3. The new structure shall not exceed 15 feet in height, and the exterior wall height shall not exceed 10.5" above the existing grade per code.
4. The new structure's rear wall shall not be more than 39 feet from the alley (south) side of the lot, and the driveway shall be 18' from the alley to the structure.
5. The new garage door shall not exceed nine feet in height.
6. The total adjusted impervious coverage shall not exceed 50% of the total land area including calculations for all paved and impervious areas both existing and new per code.

Mayor Bradley stated that he wanted to be clear on the issue and stated that they are dealing with an appeal by Mr. Miller of an HPC decision. He asked the City Attorney to provide clarity regarding staff's recommendations and if it is relevant to the discussion or not. Attorney Reischmann explained the different options that the Commission has including the use of staff's recommendations or not. Mr. Briggs clarified that the only reason he was presenting an explanation of the previous staff recommendation is that the appellant Mr. Miller will be asking for those conditions to be approved to substitute for the action of the HPC which contained no condition.

David Miller, 767 French Avenue, noted that his family shares a property line approximately 150' in length with the applicant. He noted that the applicant's existing home exceeds the floor area ratio. He provided a power point presentation which included photographs, detailed drawings, mass model studies and elevations showing the areas of concern. He stated that he is not asking to stop the project, instead he is asking that the City Commission revise the approval to be consistent with the staff's recommendations dated May 12, 2010 with conditions 1 through 6; noting that it is based on the Winter Park City Code as well as the College Quarter Historic District Design Guidelines. Mr. Miller also provided a petition that was signed by 12 neighbors in opposition to the applicant's current request. He noted that this appeal will help maintain the historic fabric and the predominant scale of the historic district.

Commissioner Cooper asked Mr. Briggs about the original staff recommendation dated May 12, 2010 and how it relates to the Historic Guidelines. Mayor Bradley asked for clarity. Mr. Briggs stated that number 2 is to comply with the code, swap out 532 square feet, number 3 the code would allow up to 18' as opposed to the 15 feet recommended and noted that the code requires without a variance the 10.5' wall height. There was further discussion regarding the historic guidelines, pervious space and setback issues. Commissioner Cooper stated that there are only two items that are on the list because it is in a historic district, one being the alignment to the new garage door to the existing garage door and the 15' height that was requested because

of compatibility within the district and noted that all of the other items are a matter of being in compliance with the code. Mr. Briggs stated yes, except for the other setback issue. Mayor Bradley asked Mr. Briggs what was approved by HPC. Mr. Briggs noted that it was approved by HPC in the form of exactly what the Strollo's asked for.

Mr. Strollo, the property owner, used his presentation boards to help him address several issues and concerns. He responded to a previous comment relating to the alleyway and moving the garage 10' back in his second submittal package. He also mentioned that the alleyway is a unique situation noting that it is only 10' wide and that everyone has a hard time getting in and out of the garages in that narrow space. He also addressed the height issue and stated that the alleyway is not level and that he is 4' off grade from Mr. Miller's house. Mr. Strollo also addressed the comments relating to the setback issue, the floor area ratio system, the current zoning rules and regulations and being held to the current standards.

Commissioner McMacken asked Mr. Strollo about the thought process of the 12' garage door. Mr. Strollo stated that it could be 10' but needs to be more than 8 or 9 feet. He explained his reasoning behind the issue.

Attorney Reischmann stated that this is quasi-judicial in nature and ex-parte discussions need to be disclosed. Commissioner Anderson stated none. Commissioner Dillaha stated she spoke with Mr. David Miller. Commissioner Cooper noted that Mr. David Miller contacted her but she has not spoken with the Strollo's. Commissioner McMacken stated that he spoke with Mr. David Miller. Mayor Bradley stated that he has not spoken with anyone except for what he has received via email, which he thinks all of the Commissioners have received. It was noted yes.

Commissioner Dillaha stated that she looked at the design guidelines, the numbers that staff provided and the height of the garage and needed clarity. Mayor Bradley asked Mr. Briggs what is the height that the applicant has requested. Mr. Briggs noted that the top of roof ridge 17'1", the door height as presented is 12'. Commissioner Dillaha stated that she could not see the justification for a larger door and her concern is about the conformance with the fabric of the historic district guidelines.

Motion made by Commissioner Dillaha to support the staff recommendation and to reverse the decision of the Historic Preservation Commission; seconded by Commissioner Cooper.

Mayor Bradley asked Mr. Briggs to take the staff recommendations specifically and identify how that varies from what has been requested by the Strollo's.

1. The existing smaller accessory building's shell must be demolished at the same time
Mr. Briggs noted that is happening
2. The new garage structure shall not exceed 532 square feet
Mr. Briggs noted that is happening
3. The new structure shall not exceed 15 feet in height versus 17.1".
(17.1" requested vs. 15')
Mr. Briggs stated that the wall height is coming down from 11.5" to 10.5"
(11.5" requested vs. 10.5")
4. The new structure's rear wall shall not be more than 39 feet from the alley –
Mr. Briggs stated it is different, it is closer, 18 feet closer to alley than what was asked for.
(39' vs. 54' requested)

and the driveway shall be 18' from the alley to the structure.

Mr. Briggs stated 30', the condition would make it less, the request is further.

(18' vs. 30' requested)

5. The new garage door shall not exceed nine feet in height.

Mr. Briggs stated yes.

(9' vs. 12' requested)

6. The total adjusted impervious coverage shall not exceed 50% of the total land area including calculations for all paved and impervious areas both existing and new per code.

Mr. Briggs noted that is happening

Mayor Bradley asked why the HPC did not take staff's recommendations. Commissioner Cooper questioned the pervious space in front of the garage. There was also a question of what is in code and what is not in code with regards to staff's recommendations and what the applicant originally proposed. There was also a code question as it relates to garage door height. Mr. Briggs responded by providing detailed information for each item of concern.

Nancy Galyean, 746 McIntyre Avenue, noted that she lives in the historic area. She spoke in favor of appealing the decision of HPC.

Roger Redland, 776 South Pennsylvania, spoke and requested that the variance granted to the Strollo's by the HPC either be reversed or modified to be consistent with staff recommendations.

Douglas Sangster, 1660 Chestnut Avenue, stated that Historical Preservation grants special exceptions and that 12 feet is not a residential character of neighborhood.

Cynthia Strollo, 777 French Avenue, stated that this has been approved two times by the HPC along with letters of support from neighbors and hopes they make the right decision.

Motion for an amendment made by Mayor Bradley proposing a 10 foot door instead of 9 foot door. The amendment failed for lack of a second.

Motion for an amendment made by Commissioner Anderson to Item 4 to leave the garage setback from the alley as proposed and approved by the Historic Preservation Commission, or in other words to not accept staff's recommendation on Number 4 which has to do with the setbacks; seconded by Mayor Bradley for discussion. There was a short discussion between Commissioner Cooper and Commissioner Anderson regarding the setback issue. **Upon a roll call vote, Mayor Bradley and Commissioners Anderson and McMacken voted yes. Commissioners Dillaha and Cooper voted no. The amendment carried with a 3-2 vote.**

Motion to require this to be this new garage be built consistent with staff's recommendations with one exception and that is as to the placement on the lot that will be consistent with that which was approved by the HCP. Upon a roll call vote, Mayor Bradley voted no. Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried with a 4-1 vote with the modification.

- c) Request of SunTrust Bank: Conditional Use approval to construct a drive-in bank teller facility at 301 S. New York Avenue, on the northwest corner of New England and New York Avenues

Mr. Briggs provided a brief summary outlining the request for approval and the recommendations provided by P&Z and staff. He noted that this is a preliminary conditional use approval only and staff proposes final approval to be delegated to the P&Z Commission as is permitted by the zoning code for smaller projects.

Attorney Reischmann stated that this is quasi-judicial and ex-parte communications need to be disclosed. Commissioner Anderson stated he had conversations with the landowner back during the comprehensive plan discussions but not on this particular application. Commissioners Dillaha, Cooper and McMacken stated they had no contact.

Commissioner Cooper had concerns with connecting Park Avenue with Hannibal Square, the vision and what is permitted by code. Mr. Briggs discussed the policy and the permitted versus allowable as a conditional use.

Ms. Rebecca Furman with Lowndes, Drosdick, Doster, Kantor and Reed and representing the property owner New England Partners stated that during the comprehensive plan stage, all of their properties including this property and another property on New England were requested to be changed to match the City plan for CBD and C-2. They were told by the City that it would remain C-3 and it is currently under contract for sale to someone who meets all of the criteria for C-3 and this conditional use permit. She noted that the policy decision was made when the comprehensive plan was adopted and they are now left with that decision.

Justin Polk, CPH Engineers, 500 West Holton Street, Sanford representing the applicant stated that they have been working with staff for several months and noted that most all of the staff's recommendations have been resolved and that they presented a very thorough project meeting all of the conditional use issues. He also stated that they will be a very viable part of the downtown community and an integral part of the city.

Commissioner McMacken asked for clarification regarding the hand sketches and CAD elevations in the submittal package, along with the location of the ATM. Mr. Polk addressed each of these items of concern. Commissioner McMacken asked Mr. Briggs for clarification on the conditions of preliminary approval regarding the sign plans. Mr. Briggs provided a detailed explanation.

Commissioner Cooper asked Mr. Polk about the traffic study and if he gave any consideration in the future analysis to commuter rail and the bus transfer. Mr. Polk stated that the commuter rail would reduce the traffic and also explained the purpose and the results from the study.

Motion made by Commissioner McMacken for preliminary conditional use approval with conditions presented by P&Z and as stated by staff regarding final approval by P&Z; seconded by Commissioner Dillaha. Upon a roll call vote, Mayor Bradley and Commissioners Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 4-0 vote. (Commissioner Anderson was not present).

- d) ORDINANCE NO. 2814-10: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO ADOPT AMENDMENTS TO THE CAPITAL IMPROVEMENT ELEMENT OF THE COMPREHENSIVE PLAN INCLUDING A NEW UPDATED FIVE YEAR CAPITAL IMPROVEMENT PLAN AS PART OF THE COMPREHENSIVE PLAN, GOALS, OBJECTIVES AND POLICIES DOCUMENT

SUBSTITUTING FOR THE CURRENT FIVE YEAR CAPITAL IMPROVEMENTS PLAN AND PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE. Second Reading

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

Motion made by Commissioner Cooper to adopt the ordinance; seconded by Commissioner Dillaha. Upon a roll call vote, Mayor Bradley and Commissioners Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 4-0 vote. (Commissioner Anderson was not present).

- e) RESOLUTION NO. 2053-10: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, PURSUANT TO SECTION 170.03, FLORIDA STATUTES, CALLING FOR A PUBLIC HEARING TO DISCUSS ALL ASPECTS OF THE UNDERGROUNDING OF ELECTRIC/CATV FACILITIES WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY OF WINTER PARK, CONSISTING OF PROPERTIES WITHIN THE TEMPLE GROVE SUBDIVISION (PLAT BOOK 6 PAGE 87) AND COMSTOCK PARK SUBDIVISION (PLAT BOOK K PAGE 87); WHICH IMPROVEMENTS BE PAID IN PART BY SPECIAL ASSESSMENTS LEVIED AGAINST ALL PROPERTIES WITHIN THE ABOVE DESCRIBED AREA; PROVIDING AN EFFECTIVE DATE.

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

Motion made by Commissioner Cooper to adopt the resolution; seconded by Commissioner McMacken. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

Motion made by Commissioner McMacken to recess the City Commission; seconded by Commissioner Cooper at 9:42 p.m.

Mayor Bradley called the meeting of Winter Park Equalization Board at 9:43 p.m.

- f) RESOLUTION NO. 2058-10: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, PURSUANT TO CHAPTER 170, FLORIDA STATUTES, DECLARING THAT THE CITY IS TO FUND CAPITAL IMPROVEMENTS IN AND FOR THE CITY, TO-WIT: UNDERGROUND ELECTRIC/CATV (BHN) FACILITIES ALONG GRANVILLE DRIVE AND WILLIAMS DRIVE FURTHER DECLARING THAT THE COST OF SAID IMPROVEMENTS SHALL BE PAID BY SPECIAL ASSESSMENTS LEVIED AGAINST REAL PROPERTY SPECIALLY BENEFITTED BY SAID IMPROVEMENTS ; SPECIFYING THE MANNER OF AND TIME FOR PAYING THE SPECIAL ASSESSMENTS; AND INVITING THE PUBLIC TO REVIEW THE PROJECT PLANS AND SPECIFICATIONS AND THE ASSESSMENT PLAT, ALL OF WHICH ARE ON FILE AT THE OFFICE OF THE CITY CLERK OF THE CITY OF WINTER PARK; PROVIDING AN EFFECTIVE DATE.

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

Motion made by Commissioner Cooper to adopt the resolution; seconded by Commissioner Anderson. Upon a roll call vote, Mayor Bradley and Commissioners

Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

- g) RESOLUTION NO. 2059-10: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, PURSUANT TO CHAPTER 170.03, FLORIDA STATUTES, CONFIRMING THE SPECIAL ASSESSMENTS FOR THE UNDERGROUNDING OF ELECTRIC/CATV (BHN) FACILITIES WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY OF WINTER PARK, CONSISTING OF PROPERTIES ADJACENT TO GRANVILLE DRIVE AND WILLIAMS DRIVE, GENERALLY DESCRIBED AS THOSE PROPERTIES ADJACENT TO GRANVILLE DRIVE AND WILLIAMS DRIVE, PROVIDING AN EFFECTIVE DATE.

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

Motion made by Commissioner McMacken to adopt the resolution; seconded by Commissioner Anderson. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

- h) RESOLUTION NO. 2060-10: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, PURSUANT TO CHAPTER 170, FLORIDA STATUTES, DECLARING THAT THE CITY IS TO FUND CAPITAL IMPROVEMENTS IN AND FOR THE CITY, TO-WIT: UNDERGROUND ELECTRIC/CATV (BHN) FACILITIES ALONG GOLFVIEW TERRACE AND NORTH PARK AVENUE FURTHER DECLARING THAT THE COST OF SAID IMPROVEMENTS SHALL BE PAID BY SPECIAL ASSESSMENTS LEVIED AGAINST REAL PROPERTY SPECIALLY BENEFITTED BY SAID IMPROVEMENTS; SPECIFYING THE MANNER OF AND TIME FOR PAYING THE SPECIAL ASSESSMENTS; AND INVITING THE PUBLIC TO REVIEW THE PROJECT PLANS AND SPECIFICATIONS AND THE ASSESSMENT PLAT, ALL OF WHICH ARE ON FILE AT THE OFFICE OF THE CITY CLERK OF THE CITY OF WINTER PARK; PROVIDING AN EFFECTIVE DATE.

An email letter dated June 23, 2010 from Mr. Mark Van Dusen Euiler strongly opposing this resolution as well as the confirming resolution was submitted to the City Clerk and will be attached to the minutes for the record.

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

Motion made by Commissioner McMacken to adopt the resolution; seconded by Commissioner Dillaha. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

- i) RESOLUTION NO. 2061-10: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, PURSUANT TO CHAPTER 170.03, FLORIDA STATUTES, CONFIRMING THE SPECIAL ASSESSMENTS FOR THE UNDERGROUNDING OF ELECTRIC/CATV (BHN) FACILITIES WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY OF WINTER PARK, CONSISTING OF PROPERTIES ADJACENT TO GOLFVIEW TERRACE AND NORTH PARK AVENUE, GENERALLY DESCRIBED AS THOSE PROPERTIES ADJACENT TO

GOLFVIEW TERRACE AND NORTH PARK AVENUE, PROVIDING AN EFFECTIVE DATE.

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

Motion made by Commissioner McMacken to adopt the resolution; seconded by Commissioner Anderson. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

Mayor Bradley adjourned the Equalization Board by acclamation.

Mayor Bradley reconvened back into session as the City Commission at 9:53 p.m.

- j) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" WITHIN THE FUTURE LAND USE ELEMENT SO AS TO AMEND POLICIES INVOLVING DENSITIES, BUILDING HEIGHTS AND MIX OF USES WITHIN THE CENTRAL BUSINESS DISTRICT AND MEDIUM DENSITY RESIDENTIAL FUTURE LAND USE CATEGORIES; AMEND POLICIES CONCERNING THE PROHIBITIONS ON SUBDIVISIONS AND CERTAIN FUTURE LAND USE MAP CHANGES AND TO CLARIFY CERTAIN OTHER POLICY PROVISIONS AND DEFINITIONS, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE. First Reading

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

Planning Director Jeff Briggs explained that on March 22 and April 12 there were public hearings which discussed potential changes to the Comprehensive Plan that the City Commission wanted to sponsor in response to issues involving policies that might affect property values, advice from the City Attorney about the "prohibits" that were unenforceable, and some staff clarifications that were needed. In the interim, the staff has undertaken the City wide mailing and the quarter page ads and review by Planning and Zoning (P&Z) and now it is coming to the Commission as recommended by P&Z.

He noted that the materials provided and highlighted in yellow show the changes that P&Z has made to the policies following their public hearing. He noted that there is a sign-in sheet for any members of the public that would like to be informed by DCA on the progress of this issue after the first reading. These amendments will be sent up to the DCA for their review and Objections, Recommendations and Comment (ORC) and come back to the Commission around October for subsequent adoption. He mentioned that the Commission's action earlier regarding the Towers deleted the Policy Section 3 of the ordinance, the first one 1.3.8.4 and the only other change that they discovered that is needed is in the policy on lot consolidations, where they talked about the threshold that you would need a review by the City Commission. The way it is worded is you have to be more than 150% bigger than the lot width and the lot area, you have to meet two tests and it was not what P&Z wanted, it was either, so that "and" needs to change to "or". He stated with that, these amendments have a recommendation for approval by Planning and Zoning and offered to answer any questions they may have.

Commissioner Dillaha questioned Policy 1-4.1.J.3 and requested a definition of urban use. Mr. Briggs noted that a correction needs to be made to "Planned Development". She then asked a

policy question regarding the wording in Policy 1-3.6.7. Mr. Briggs provided a detailed explanation on why the wording should remain as is. She then asked about Policy 1-3.6.9 Lot Consolidations and noted that the wording should be changed and Mr. Briggs noted so. She also asked about Policy 1-3.8.11 noting that she finds it highly confusing and Mr. Briggs noted that the City Attorney has reviewed the final policy language.

Commissioner Cooper questioned Policy 1-2.3.3; she noted that the way she reads it, she would expect that when she looks at the chart that defines what density units per acre are allowed in these different future land use designations, she would see no maximum density under the CBD. Mr. Briggs stated no, they have decided to maintain the 17 units per acre. She asked if they could note it in that policy, since they note it in every other future land use designation. Mr. Briggs agreed and stated that he could add that information. She also mentioned Policy 1-3.8.6 and wanted to understand the logic behind this item and Mr. Briggs then provided a detailed explanation for clarity. She noted a grammatical change on Section 6 with regards to the sentence which references the C-2 Zoning Map, to change the word "means" to "shows". Mr. Briggs agreed to do so. Mr. Briggs noted that all of these comments are duly noted and itemized them one by one and will be changed after the passage on the first reading for what is sent up to DCA. Commissioner Cooper asked Mr. Briggs to then read the requested changes.

Motion made by Commissioner McMacken to accept the ordinance on first reading, subject to the following amendments: In Policy 1-2.3.3 the Central Business District adding the reference to maximum 17 units per acre. Policy 1-4.1.J.3 they are changing the urban use words to plan development. Policy 1-3.6.9 Lot Consolidations they are striking "within one year after adoption of this comprehensive plan" and starting with "The City" and further down where they say "lot width and lot area standards" they are changing that to "lot width or lot area standards". Policy 1-3.8.11 they did not decide to make a change but on the definition map they decided to change "C-2 Zoning Map means" to read "The potential Commercial C2 Zoning within CBD Map shows" then the rest of the text remains. The motion also strikes Policy 1.3.8.4. Commissioner Dillaha seconded the motion.

There was no public comment.

Upon a roll call vote, Mayor Bradley voted no. Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried with a 4-1 vote.

City Commission Reports

a) Commissioner Anderson

Commissioner Anderson stated that his alternate on the Orange County Community Action Board is not going to be able to continue to serve therefore he will not be able to continue to serve. He stated that they need to come up with some other way to serve on the Orange County Board. He stated that they can nominate another Commissioner and whoever is nominated can designate someone else. He noted that Ms. Kramer did an excellent job representing the City unfortunately she will not be able to do so anymore.

b) Commissioner Dillaha

Commissioner Dillaha asked Mr. Briggs that when planning projects come forward if they could provide a cover sheet that shows a matrix with the current zoning, current land use designation, current density allowed, height allowed and what is being requested to help them with the evaluation and decision process.

She also wanted to see if any members would be interested in attending the Florida League of Cities convention this year noting that it is being held on August 19-21, 2010 in Hollywood Florida.

c) Commissioner Cooper

Commissioner Cooper wanted to talk about configuration management of the official comprehensive plan and to understand what the statutes require in this regard and to have a clear process. Mr. Briggs noted that he will put something together because it is not codified.

She also asked about the contract for the attorney if they dealt with the five million versus the one million policy. Mr. Knight noted yes, that it is reflected in the new contract.

d) Commissioner McMacken

Commissioner McMacken mentioned the public gathering on July 3, 2010 for the July 4 festivities and asked if the Commission is participating in this event as Commissioners. Mr. Knight stated that they are all invited to attend and provided the detailed information regarding the parade and events.

e) Mayor Bradley

Mayor Bradley noted that they need to schedule the 90 day planning session to prepare for the next 90 days. He noted that there will be a work session scheduled for August 2, 2010 on the library. July 12 at 2:30 p.m. there will be a Shade meeting and at 3:30 p.m. a regularly scheduled Commission meeting covering the budget presentation. The July 26, 2010 regular Commission meeting will be the dog issue.

Meeting Adjourned

Motion made by Mayor Bradley to adjourn the meeting; seconded by Commissioner McMacken by acclamation.

The meeting adjourned at 10:22 p.m.



Mayor Kenneth W. Bradley

ATTEST:



City Clerk Cynthia S. Bonham