

REGULAR MEETING OF THE CITY COMMISSION
July 13, 2009

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

The invocation was given by Dean Patrick Powers, Rollins College, 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

Non-agenda item:

Mayor Bradley declared July 11, 2009 as "James Jimmy Carter Day" in Winter Park. He asked the Commission and the public to acknowledge Mr. Carter's 51 years of service to the City.

Citizen Public Comments:

No citizen comments were made.

Citizen Budget Comments:

No budget comments were made.

Mayor's Report:

- a) Check Presentation to Friends of Mead Garden.

Lisa Portelli, Winter Park Health Foundation, presented a check for a \$24,985 grant to the Friends of Mead Garden to implement a Demonstration Community Garden for veteran and new Community Garden groups to gather for education and training. Ms. Portelli, Dori Madison, Friends of Mead Garden and Ed Thralls of Orange County also gave brief remarks.

- b) Employee of the Quarter presentation.

Mayor Bradley recognized Lakes Division Chief Tim Egan as the Employee of the Quarter. Public Works Director Troy Attaway and Assistant Public Works Director Don Marcotte spoke about Mr. Egan's professionalism and the outstanding job he does on a daily basis.

- c) Presentation of the Florida Stormwater Program of the Year Award.

Mayor Bradley commented that the Florida Stormwater Association's 2009 Excellence Award recognizes the City of Winter Park's outstanding commitment to stormwater management practices that provide benefits to the environment and local citizenry. He presented the plaque to Mr. Attaway and Mr. Marcotte.

d) 2009 Outstanding Board Appointments.

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

Motion made by Mayor Bradley to approve the nominations of Candace Chembot and Stephen Pategas (alternate) to the Historic Preservation Board; seconded by Commissioner Anderson. Upon discussion, Mayor Bradley withdrew his motion until the next meeting in order to determine Ms. Chembot's attendance record; seconded by Commissioner Anderson.

Motion made by Mayor Bradley to approve the nominations of Herb Weiss and Robin Roberts to the Parks and Recreation Board; seconded by Commissioner Diebel. Upon discussion, Mayor Bradley amended his motion to approve Herb Weiss; seconded by Commissioner Dillaha. The motion carried unanimously with a 5-0 vote.

Motion made by Mayor Bradley to approve the nominations of Carol Kostick and Myriam Garzon-Greenberg to the Tree Preservation Board; seconded by Commissioner Bridges. Commissioner Bridges withdrew her second. She commented that it was her oversight in failing to recognize that this was one of the boards that has an alternate and believes the alternate should be moved up. Motion was seconded by Commissioner Diebel. Upon discussion, Mayor Bradley withdrew his nominations; Commissioner Diebel withdrew her second. Motion made by Mayor Bradley to approve Myriam Garzon-Greenberg; seconded by Commissioner Anderson. The motion carried unanimously with a 5-0 vote.

e) Citizens serving on more than one City board/Commission at a time.

Mayor Bradley stated that he will be asking individuals who serve on more than one board to consider giving up one of their seats so others can serve. Commissioner Diebel agreed and suggested keeping a consistent policy. Commissioner Anderson commented that there are a number of people who have expressed interest in serving the City. He stated that it is the Mayor's prerogative to ask board members, but if they wish to step down, he had no objection. Commissioners Dillaha and Bridges believed that if citizens were serving on more than one board, then that should continue.

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

Motion made by Commissioner Anderson to nominate Stewart Kramer and James Goff; seconded by Commissioner Bridges. The motion carried unanimously with a 5-0 vote. Mayor Bradley commented that these two nominations will be provided to the Orange County Board of County Commissioners for the Civic Facilities Authority and one of the two nominees will be selected to represent Winter Park.

g) Appointment to the Orange County Community Action Board.

Commissioner Anderson asked that this be placed on the July 27 agenda to allow more time for the citizen alternate discussion. Mayor Bradley agreed.

Consent Agenda:

- a) Approve the minutes of 6/22/09.
- b) Authorize the Police Department to apply for the Justice Assistance Grant in the amount of \$37,624.00 to be used to replace and enhance the mobile data terminal computer system.

Motion made by Commissioner Anderson to approve the Consent Agenda; seconded by Commissioner Bridges and carried unanimously with a 5-0 vote.

Action Items Requiring Discussion:

a) Fleet Peeples Park Master Plan and Entry Fee.

Parks and Recreation Director John Holland stated that on April 27, 2009 the Parks and Recreation Department presented to the Commission a modified master plan for Fleet Peeples Park that had been recommended and approved by the Parks and Recreation Commission. During the meeting, the City Commission approved the expenditure of \$25,704 from the General Fund contingency to address the environmental concerns within the park brought forward in the modified master plan. He explained that the City Commission also scheduled a work session for June 8, 2009 to discuss the recommendations of the proposed fencing and acreage adjustments on the off-leash and on-leash areas of the park. It was agreed that Commissioner Anderson would work with staff to tweak and finalize the master plan to reflect an acceptable alternative to the proposed fencing and acreage adjustments and the implementation of an entry fee for the on-leash portion of the park. He added that he met with Commissioner Anderson, landscape architect of the Fleet Peeples master plan Jan Frazee and Parks and Recreation Chairman Ray Colado who participated in helping to finalize the proposed plan.

Mr. Holland gave an overview of the Friends of Fleet Peeples Park Plan (approved April 14, 2008) and outlined the differences between this plan and the modified master plan that was submitted. He also spoke about the cost estimate for the on-leash area amenities for Phase I and Phase II. Mr. Holland and Commissioner Anderson answered questions.

Motion made by Commissioner Dillaha to deny the revised plan. The motion failed for lack of a second.

Commissioner Anderson explained that the proposed plan addresses environmental concerns within the park and lakefront areas; modifies the parking and boat ramp area; creates a play area, including a playground and open space; and provides for restrooms and pavilions to both on-leash and off-leash areas.

Motion made by Commissioner Anderson to modify the approved plan of April 2008 to incorporate these conceptual modifications to the south part of the park; install the swales as previously described (Mayor Bradley commented that they had already voted on that); and change the stadium seating to a beach erosion control feature to be conditioned on a

Phase I funding by the Friends of Fleet Peoples organization to occur within 12 months from the date of approval. Commissioner Diebel asked Commissioner Anderson to add that the City budget to maintain this park in its normal budgeting cycle. She commented that if they are to approve the concept, then they should put some contingency on the Phase I funding. Commissioner Anderson clarified Commissioner Diebel's suggestion was that, as a way to ensure that the funds can be raised, the City would be willing to take over some of these maintenance costs. Commissioner Diebel agreed and stated that they would make that a designated priority within the Parks and Recreation budget.

Commissioner Anderson added to his motion that it is contingent on Phase I funding, but also assumes that the City will take over the regular maintenance of the park; seconded by Commissioner Diebel.

Mayor Bradley stated that Joseph Brock asked that his comments be placed into the record.

The following spoke in favor of the modified master plan as presented.

Joan Collins, 1820 Edwin Boulevard
Joseph Brock, 2341 Randall Road (letter attached at the end of the minutes)
Sally Flynn, 1400 Highland Road
Pat Brookstein, 2836 Woodside Avenue
Dallas Maddron, 2014 Strathaven Road
Joe Terranova, 700 Melrose Avenue
Neil Frazee, 372 E. Reading Way
Elissa Eunice, 1511 Hibiscus Avenue
Meredith Tracy, 1664 Chatfield Place
Sandy Womble, 940 Old England Avenue
Rick Frazee, 1921 Englewood Road
Charles Namey, 1060 McKean Circle

The following spoke in opposition to the modified master plan as presented.

Nancy Shutts, 2010 Brandywine Drive
Joan Reich, 845 W. Swoope Avenue
Penelope Potter, 1360 Canterbury Road
Dr. Thomas Bonnicksen, 18209 Cluridge Court
James Lien, 1731 Winchester Drive
Bonnie Jackson, 3009 Temple Trail
Carolyn Cooper, 1047 McKean Circle
Marti Miller, 1399 Aloma Avenue
Kim Allen, 271 Virginia Drive
Vicki Krueger, 200 Carolina Avenue

The following spoke in favor of the entry fee as presented.

Nancy Shutts, 2010 Brandywine Drive
Penelope Potter, 1360 Canterbury Road
Neil Frazee, 372 E. Reading Way
Carolyn Cooper, 1047 McKean Circle
Rick Frazee, 1921 Englewood Road

The following spoke in opposition to the entry fee as presented.

Joan Reich, 845 W. Swoope, Avenue
Joan Collins, 1820 Edwin Boulevard
Joseph Brock, 2341 Randall Road
Pat Brookstein, 2836 Woodside Avenue
Lisa Blanck, 250 Orienta Pine Street
Joe Terranova, 700 Melrose Avenue
Elissa Eunice, 1511 Hibiscus Avenue
Sandy Womble, 940 Old England Avenue
Charles Namey, 1060 McKean Circle

Commissioner Anderson commented that the Parks and Recreation Board researched this issue over the last 8-10 years. He believed that there is an improved plan as a result and that the interaction between all the groups will become a win-win situation for a fabulous park but that it will be difficult to figure out how to allocate resources for different population groups of the City.

Commissioner Dillaha spoke about Lakes Division Chief Tim Egan's recommendations in January 2009 on Fleet Peoples Park regarding whether the mixed uses of the park are compatible. She commented that he stated if we want to protect and improve water quality and minimize health risks, then we should prohibit dogs from the lake and beach area to reduce the potential for health threats and to provide enough space. Mr. Egan explained why this is important and why he had those concerns. He answered further questions.

Commissioner Dillaha stated her position has changed because of what has come forward within the last year. She stated that she read Mr. Egan's report, had recommendations from UCF and that the Environmental Protection Agency stated that dog parks should be located away from water bodies and that fencing and public education on managing waste, etc. should be provided. She commented that these things needed to be seriously considered. She also voiced concerns that Fleet Peoples Park is a unique piece of property with 23 acres on a lake, 6 acres of a wooded area for trails and a habitat and they are regulating it as a dog park.

She added that she spoke to Dr. Marilyn Glasser (an expert on dog parks) about consulting and stated that she received an outlined proposal. She explained that Dr. Glasser would spend 2 days, review the parks master plan, meet with staff, spend time at Fleet Peoples Park, look at the master plans we have in place, visit other parks and facilities, and make a recommendation for \$1,600. Commissioner Dillaha wanted to spend the \$1,600 to have this objective professional look at these plans and asked the Commission to consider Dr. Glasser's proposal.

Commissioner Diebel stated that she seconded the motion and supports it as it stands. Commissioner Anderson commented that he was not opposed to listening to a different professional if staff believed they needed that expertise to go from the conceptual plan to the detailed plan.

Commissioner Bridges spoke about the process to date. She stated that she entered into the Memorandum of Understanding discussions as an unbiased Commissioner but after being presented with facts and information by both the Friends of Fleet Peoples and the Parks Board members, she realized that she made a decision without enough facts and has changed her viewpoint. She expressed that she could no longer support this allocation of resources and had serious concerns with the number of dogs on the beach as the City has not protected the water

within the last 10 years or provided the basic environmental swales. She stated that this Commission agreed to pay for that at the last meeting and yet a year ago the Friends of Fleet Peeples (FFP) expressed that they would take care of that cost. She questioned how much money FFP has in place for this park.

She commented that FFP addressed this as a community project in partnership with the City to assist with the implementation of rules and guidelines, but they have not consistently followed them. She stated that the rules were agreed to by the FFP and the Parks Board 8 years ago which were to keep dogs on the leash between certain hours, but over time it has been ignored and is now unenforceable. She also had concerns about the sense of entitlement to this park and when the Parks Board had discussions with this organization, they did not solicit other interested stakeholders. She stated that she has struggled with this but cannot support this plan as it is.

Upon a roll call vote, Mayor Bradley and Commissioners Anderson and Diebel voted yes. Commissioners Dillaha and Bridges voted no. The motion carried with a 3-2 vote.

Park entry fee:

Motion made by Commissioner Anderson to accept the majority of the recommendations of staff on the recommended fee structures with the following caveat that the \$75 fee should apply per household for up to two dogs per year, the daily fee is increased to \$10 per day and to also include 3rd + dogs - \$25 each, no tags or daily passes will be issued without current vaccination certificates, tags are good for one year and will be prorated at 6 and 9 months; seconded by Commissioner Dillaha.

Commissioner Bridges suggested that the daily passes be available on site instead of City Hall. Mayor Bradley agreed that this seemed reasonable and asked staff to look into this. Commissioner Anderson commented that the purpose of the fee would be to cover any expenses occurring in the Parks and Recreation Department. He added that they have a release form that is very specific and has all the rules and regulations. Mr. Holland answered questions.

Commissioner Diebel stated that she understood Commissioner Anderson's intent; however, she did not support that as a general concept. She believed that this would be very difficult and the fee structure will cause a lot of confusion. She expressed that they should not charge people to use our parks since it is already in their budget.

Mayor Bradley addressed the importance to continue discussing the maintenance of our parks and to maintain them. He stated that they have a \$6.5 million budget for the Parks and Recreation Department and they need to look at the capital in the parks budget as well as the 2010 budget. Commissioner Dillaha commented that our revenues and parks budget keeps declining but we are increasing cost centers and expecting to have better maintenance with less money, which is not feasible or fair.

Upon a roll call vote, Commissioners Anderson and Dillaha voted yes. Mayor Bradley and Commissioners Diebel and Bridges voted no. The motion failed with a 3-2 vote.

Commissioner Dillaha asked about retaining Dr. Glasser as a consultant. Mayor Bradley stated that this could be brought up at another time when the Commission studies the material she has.

Commissioner Anderson asked that the FFP approach the Commission with a fundraising plan within a specific timeframe. Mayor Bradley agreed and asked City Manager Knight to contact that group through the Parks and Recreation Department.

- b) Discussion of a potential ordinance establishing succession of alternates on boards and Commissions which can have quasi-judicial and land development duties.

Mayor Bradley commented that items b) and c) are to be dealt with together.

Commissioner Anderson believed they should be pursuing the three quasi-judicial boards of the Code Enforcement Board, Board of Adjustment and Planning and Zoning (P&Z). He addressed the tremendous value to having an alternate learn on the job and move into that position.

Motion made by Commissioner Anderson to direct the City Attorney to draft the enabling resolution or ordinance to provide that the alternate in those 3 Commissions move into the first available open slot on a full time basis as a matter of course and empowering the Mayor to make the nomination for the alternate position; seconded by Commissioner Dillaha.

Mayor Bradley commented that all these boards have different memberships. Commissioner Dillaha commented that the quasi-judicial boards are typically made up of five (5) members and an alternate. Attorney Cheek provided information on the makeup of these boards and answered questions. Commissioner Anderson commented that he strongly believes in these three boards because of their quasi-judicial nature and that it honors the appointment power of the existing and prior Mayor and builds diverse opinions on the boards.

Dave Johnston, 636 Darcey Drive, read section 2.6 of the City Charter, the function of the Mayor and Vice Mayor. He believed that this Commission could not pass an ordinance that is in violation of the City Charter and that they should not have alternates.

Joe Terranova, 700 Melrose Place, did not think that the City Commission should be engaged in the process of trying to put restrictions on the Mayor's ability to perform the duties that are outlined in the Charter.

Sally Flynn, 1400 Highland Road, believed that all alternates should be moved up.

Attorney Cheek recommended that if the Commission decides to move forward with an ordinance or seek the Attorney General's opinion on this issue, they should determine as specifically as possible what provisions or concepts would be likely to be included in the ordinance and which boards/commissions the ordinance would apply to. He stated that there is no guiding authority on this. Mayor Bradley commented that this needs to be settled for other Mayor's to come and that seeking an outside legal opinion would be prudent.

Commissioner Anderson withdrew his motion; seconded by Commissioner Dillaha. Motion made by Commissioner Anderson to ask Attorney Cheek to seek clarity from the Attorney General's Office on the Commission's ability to draft an ordinance or resolution allowing for the automatic advancement of existing alternates who were selected and approved by the prior Commission into the open seats created by vacating or expiring terms and confirming if it requires the sitting Mayor's power to appoint the alternate for

that same advancement; seconded by Commissioner Bridges. He clarified that he was limiting this to the three specific boards.

Commissioner Dillaha commented that she would not limit this to these three boards but for all the boards. Mayor Bradley believed they should choose the best person to serve and commented that the concept of alternates should be eliminated and they should have full boards. He stated that when people are appointed they should serve in the full capacity and if they cannot serve then they should step down. Commissioner Anderson commented that if they do not have the automatic advancement of alternates as a training ground into these three boards, he would agree with Mayor Bradley because this raises the question of why they even have alternates.

Commissioner Diebel agreed with not having alternates and wanted a legal opinion on this because she did not believe it was consistent with our City Charter. **Upon a roll call vote, Commissioners Anderson, Dillaha, Diebel and Bridges voted yes. Mayor Bradley voted no. The motion passed with a 4-1 vote.**

- c) Discussion of a potential ordinance(s) creating the number of regular members on boards and Commissions which can have quasi-judicial duties. Also, the elevation of current alternates to regular members as part of the initial transition.

Motion made by Mayor Bradley that the three quasi-judicial Commissions presented, the Code Enforcement Board, the Board of Adjustment and the P&Z Board move to seven (7) members and the current alternates move into full time positions on those boards and the alternate positions be eliminated; seconded by Commissioner Diebel. Mayor Bradley clarified that there are different numbers of board members and there is no rational reason for that. He stated that if they made them all seven (7) and the alternates were eliminated, the quorum would be four and they would not have this debate regarding alternates.

Commissioner Dillaha commented that there is a lot to consider if they were to change the board configurations. She stated that she was not in favor of increasing them all to seven (7) members.

Building Director George Wiggins gave a brief history of the number of members and alternates on the Code Enforcement Board and the Board of Adjustment. Mr. Knight commented on the number of members on the P&Z Board and explained that alternates were not to be a training ground as mentioned, but rather to ensure there was a quorum. Commissioner Bridges addressed the P&Z Board never having an absentee problem that caused the alternate to be able to vote but was predominately because of a conflict of interest and because of varied skill sets that are required on P&Z. Mayor Bradley commented that this was his reason for saying seven would work as there may potentially be less chance of conflicts of interest.

Mayor Bradley commented that he would table this until the next meeting; seconded by Commissioner Diebel.

- d) Community video showcase program for City web site.

Communications Director Clarissa Howard stated that CGI Communications, Inc. has entered into a partnership with the US Conference of Mayors to launch the technology that CGI has developed for Streaming Video applications on the Internet. As a result of this partnership, the City has been presented with the opportunity to receive a fully produced, no cost Community Video Showcase program to be placed on the City's web site. She stated that this program provides sponsorship

opportunities for local businesses, enhances communication and information sharing with a new website feature and allows web users to share videos via e-mail. She also explained how the Streaming Video Tour Book is beneficial. She added that the City will receive, if desired, a City Guide Avatar that answers FAQ's and guides visitors to areas of interest on the city's website. She stated that this is a 2 year agreement and if approved it will be up and running in four months. She commented that they also want to work in partnership with Full Sail students to produce a quarterly Mayor's Welcome video for the web site, pending approval from Full Sail.

Commissioner Dillaha commented that they could highlight history and heritage for the video component to the website. Ms. Howard agreed and answered questions. Mayor Bradley liked the idea of video on our website, but had concerns using the City website to sell on it. He asked that she do more research on what it would cost if we did it ourselves. He suggested that the Chamber of Commerce might have something they could work with us on or other entities may want to have connections to our website. He believed that if they could do this themselves and control the content and who advertises, they would be in a better position if it is for minimal cost.

Public Hearings:

- a) ORDINANCE NO. 2773-09: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AUTHORIZING THE REFUNDING OF ALL THE OUTSTANDING ELECTRIC REVENUE BONDS, SERIES 2005A AND SERIES 2005B, OF THE CITY; PROVIDING FOR THE ISSUANCE OF NOT EXCEEDING \$60,000,000 ELECTRIC REFUNDING REVENUE NOTES AND/OR BONDS OF THE CITY TO TEMPORARILY AND PERMANENTLY FINANCE THE COST THEREOF; PROVIDING FOR THE PAYMENT OF SUCH NOTES AND BONDS FROM THE NET REVENUES DERIVED FROM THE ELECTRIC SYSTEM OF THE CITY; AUTHORIZING THE SUSPENSION OR TERMINATION OF INTEREST RATE SWAP AGREEMENT PAYMENTS RELATED TO THE REFUNDED BONDS, UNDER CERTAIN CONDITIONS; AND PROVIDING AN EFFECTIVE DATE. Second Reading

Attorney Cheek read the titles of ordinances a) and b) and resolution c). No public comments were made. **Motion made by Commissioner Anderson to adopt the ordinance; seconded by Commissioner Diebel. 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.**

- b) ORDINANCE NO. 2772-09: ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AUTHORIZING THE REFUNDING OF ALL THE OUTSTANDING WATER AND SEWER REVENUE BONDS, SERIES 2004, OF THE CITY, AND THE ACQUISITION AND/OR CONSTRUCTION OF ADDITIONS, EXTENSIONS AND IMPROVEMENTS TO THE WATER AND SEWER SYSTEM OF THE CITY; PROVIDING FOR THE ISSUANCE OF NOT EXCEEDING \$50,000,000 WATER AND SEWER REFUNDING REVENUE NOTES OF THE CITY FOLLOWED BY THE ISSUANCE OF NOT EXCEEDING \$57,000,000 WATER AND SEWER REVENUE BONDS AND/OR LEASE-PURCHASE OBLIGATIONS OF THE CITY TO BE APPLIED TO FINANCE THE COST THEREOF; PROVIDING FOR THE PAYMENT OF SUCH OBLIGATIONS FROM THE NET REVENUES DERIVED FROM THE WATER AND SEWER SYSTEM OF THE CITY; AUTHORIZING THE SUSPENSION OR TERMINATION OF INTEREST RATE SWAP AGREEMENT PAYMENTS RELATED TO THE REFUNDED BONDS, UNDER CERTAIN CONDITIONS; AND PROVIDING AN EFFECTIVE DATE. Second Reading

No public comments were made. **Motion made by Commissioner Diebel to adopt the ordinance; seconded by Commissioner Anderson. 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.**

- c) RESOLUTION NO. 2027-09: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, SUPPLEMENTING ORDINANCE NO. 2772-09 OF THE CITY WHICH AUTHORIZED THE REFUNDING OF ALL OR A PORTION OF THE OUTSTANDING WATER AND SEWER REVENUE BONDS, SERIES 2004, OF THE CITY, AND THE TERMINATION OF ALL OR A PORTION OF AN INTEREST RATE HEDGE RELATED TO SUCH BONDS, AND THE ACQUISITION AND/OR CONSTRUCTION OF ADDITIONS, EXTENSIONS AND IMPROVEMENTS TO THE CONSOLIDATED WATER AND SEWER SYSTEM OF THE CITY, AND PROVIDED FOR THE ISSUANCE OF NOT EXCEEDING \$57,000,000 WATER AND SEWER REFUNDING AND IMPROVEMENT REVENUE BONDS, SERIES 2009, OF THE CITY TO BE APPLIED TO FINANCE THE COST THEREOF, AND PROVIDED FOR THE PAYMENT OF SUCH BONDS FROM THE NET REVENUES DERIVED FROM SUCH SYSTEM; BY MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH AND AUTHORIZING A NEGOTIATED SALE OF SUCH BONDS, SUBJECT TO CERTAIN CONDITIONS; AND PROVIDING AN EFFECTIVE DATE.

No public comments were made. **Motion made by Commissioner Anderson to adopt the resolution; seconded by Commissioner Diebel. 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.** Mayor Bradley asked City Manager Knight to give an update on the progress of these ordinances at their next Commission meeting. Mr. Knight agreed.

- d) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA RELATING TO WATERWAYS; AMENDING SECTION 114-67 - SPEED OF BOATS, BY ADDING AN EMERGENCY "NO WAKE ZONE" DURING PERIODS OF HIGH WATER LEVELS; PROVIDING AN EFFECTIVE DATE. First Reading

Public Works Director Troy Attaway explained that during periods of high water, due to weather events, boat wakes can cause damage to shorelines and boat docks. This ordinance would allow for immediate implementation of a temporary no wake zone when the water level on a lake rises 1.1 feet above the ordinary high water elevation in the event of an emergency. Currently, this is handled on an as-needed basis by the Police Department. Commissioner Anderson asked how the residents would know about the high water levels if they are only posted by the ramps. City Manager Knight suggested that people could subscribe to the Outreach Emergency Alert System on the City web site for notification. Mr. Attaway and Chief Railey answered questions.

No public comments were made. **Motion made by Commissioner Dillaha to accept the ordinance on first reading; seconded by Commissioner Bridges. City Manager Knight commented that they will send out this information in all areas possible if the need arises. Upon a roll call vote, Commissioners Anderson, Dillaha, Diebel and Bridges voted yes. Mayor Bradley voted no. The motion carried with a 4-1 vote.**

City Attorney's Report:

Attorney Cheek requested a shade meeting. City Manager Knight explained that the purpose of the meeting would be to discuss the Fire Union contract. Commissioners Bridges and Diebel commented that they would need to join by phone. Attorney Cheek stated that they will work on the assumption that they can call in by phone, however, if he concludes that they cannot do that they will have to decide on another date. The shade meeting was scheduled for Wednesday, July 15, 2009 at 5:00 p.m.

Non-Action Items:

- a) City Manager's Report.

No report.

- b) Budget presentation.

City Manager Knight explained that this was a presentation on the 2010 balanced budget. He provided a PowerPoint titled "Maintaining Today to Strengthen Tomorrow Fiscal Year 2010 Proposed Budget." He spoke about what's new, the revised format, major parks maintenance, facility closure for maintenance and the five year CIP. He also discussed key statistics, the taxable value table, revenues impacted by the economy, reserves, reserves as % of operating expense, revenue by category of the 2010 general fund revenues, controllable vs. non-controllable of the city's ability to set general fund revenue rates, expenditures by departments, 5 years General Fund expenditures, the employee count, employee per capita, operating millage, millage voting options and the budget schedule. Mr. Knight stated that the budget document will be on the website tomorrow. Mayor Bradley asked that questions be held until the work session on July 27 and requested that the PowerPoint be provided to the Commission. Mr. Knight agreed to do so. Mayor Bradley commented that Mr. Knight is open to the Commission having conversations with him regarding this matter.

New Business (Public):

1. Nancy Shutts, 2010 Brandywine Drive, requested the Friends of Fleet Peeples purchase three table benches for Fleet Peeples Park so people have a place to sit.
2. Roy Brand, contractor for the Winter Park Playhouse, stated that they are building a theater and spoke about potty parity's. He commented that they followed regulation with having a number of potty parity's and have done more than the City requires but are being penalized by the way the City regulates its water and sewer impact fees. He asked the Commission to consider letting them work with the department to measure their water capacity and to determine what would be a fair impact fee. Mayor Bradley asked that City staff look at the impact fees for these entities and services. Mr. Knight agreed.

New Business (City Commission):

1. Mayor Bradley announced that they scheduled a shade meeting July 15 from 5:00 p.m.- 6:00 p.m., a budget work session on July 27 from 2:00 p.m.- 3:30 p.m., Planning the Possibilities work session from 3:30 p.m. – 5:00 p.m. followed by the Commission meeting at 5:00 p.m. and the Charter review work session on August 10.

2. Commissioner Anderson stated they will have the top four proposals on legal services July 22 and asked to hear from the law firm of Winderweede, Haines, Ward and Woodman, even though they were not on the list. City Manager Knight stated that this could be done. Commissioner Dillaha asked about the fairness to the other firms if this is done. Commissioner Anderson wanted to hear the perspective of the firm that has been providing services to the City for a number of years against the perspective of the other new firms. Mayor Bradley commented that Commissioner Dillaha will be representing them in that process.

Commissioner Diebel asked for copies of the scoring sheets, along with the short lists. Commissioner Dillaha commented that they could also look at the RFP responses. Mr. Knight went over the points of some of the firms that were reviewed by the Selection Committee. Mayor Bradley commented that the point differential is close between the firms.

Motion made by Mayor Bradley to invite the six firms which are all above 400 points to present that day; seconded by Commissioner Anderson. Commissioner Dillaha explained that she was on the Selection Committee and they followed the process set forth and was not in favor of listening to the six presentations when they have already been ranked. She believed it was fair and thorough. **Upon a vote, Mayor Bradley and Commissioners Anderson and Diebel voted yes. Commissioners Dillaha and Bridges voted no. The motion carried with a vote of 3-2.**

3. Commissioner Dillaha expressed that at some point she wants to discuss the status of the commuter rail project and the agreement between CSX and FDOT. Mayor Bradley stated that there was nothing to discuss at this point, but believed a status report was worthy. Commissioner Anderson agreed with the status report.

4. Commissioner Dillaha commented that she wanted to discuss the policy on absentee voting for the Commission. She stated that she looked at the City Charter, the Florida Sunshine manual and Florida Statutes and it is clear that there is supposed to be a quorum present to vote on resolutions and ordinances and she does not believe they are following that closely. Commissioner Bridges agreed with looking at this as a policy.

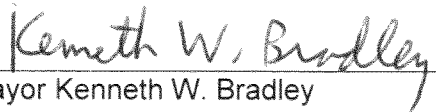
Commissioner Diebel commented that this issue was raised with a different Commission and the City Attorney weighed in at that time. She explained that as long there is a quorum present and there was a need for one or more Commissioners to call in, the City Attorney determined that would be acceptable. She stated that this had already been addressed earlier on in both her and Commissioner Bridges term. Commissioner Dillaha stated that they need to clarify what they can and cannot do regarding calling in votes and believed it is vague and that they have been lax about what their rules and regulations are regarding this matter. Commissioner Diebel reiterated that this has already been discussed and determined by a previous Commission under which our City Attorney has already given an opinion.

Commissioner Anderson commented that they either need to have a briefing by Attorney Cheek on how we are currently applying our rules or have Commissioner Dillaha's issue on the agenda. Mayor Bradley asked Attorney Cheek to look into this and commented that if there is a matter which Commissioner Dillaha does not like in terms of how they are interpreting the policy today, then she can make a motion and it can be discussed. Commissioner Dillaha agreed.

Attorney Cheek stated that he has something in writing which he can formulate in a memo and circulate. He stated this would be a good starting point for everyone. Mayor Bradley agreed.

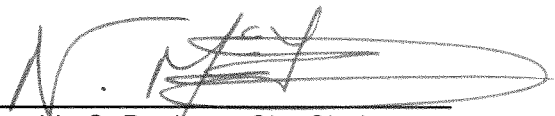
5. Mayor Bradley stated that he would place Senate Bill 360 on the next agenda. He asked Attorney Cheek to look into the policy as it relates to municipalities taking positions. Mayor Bradley commented that even the example of SunRail, which has been discussed by this body before, may not be permitted under the new law. Attorney Cheek agreed to discuss this at the next meeting.

The meeting adjourned at 8:57 p.m.



Mayor Kenneth W. Bradley

ATTEST:



For: Cynthia S. Bonham, City Clerk
Nancy McLean, Deputy City Clerk

JBrock Gmail

From: "Joseph Brock" <jbrocklaw@gmail.com>
To: <MayorandCommissioners@cityofwinterpark.org>
Sent: Monday, July 13, 2009 9:54 AM
Attach: Exhibit 2 - Analysis Of Dog Park Fees Research Chart.pdf; Exhibit 1 - State Division of Rec & Parks Contract 1974.pdf
Subject: Proposed Fees at Fleet Peeples Park

Dear Mayor and Commissioners,

Having just seen the new agenda packet, I am gratified that the present layout of Fleet Peeples Park, approved by the City Commission in April 2008, is apparently going to be retained.

However, I am saddened and dismayed at the Parks Department's new proposal -- sprung on the public less than one week before the City Commission's scheduled vote -- to charge dog owners, including Winter Park residents, exorbitant user fees, while at the same time expecting the Friends of Fleet Peeples Park to somehow raise additional sums of money, to pay for a panoply of luxury improvements *solely* to the free-of-charge on-leash area, which improvements were not even contemplated in the Parks Board's prior proposal.

It is certainly fair and reasonable to expect dog owners to pay for basic improvements to the on-leash area to make it self-sufficient, i.e., a large pavilion and a small restroom facility. The Friends of Fleet Peeples Park should be given a chance to raise the funds to pay for those amenities through private donations, without charging fees.

But the new fee plan asks dog owners to pay not just for those things, but also for a *second* pier in the on-leash area, an additional "lighthouse" pavilion, and a completely unnecessary *third* restroom facility in the park. In contrast, the only expenditures for the off-leash area are basic maintenance repairs and fixes, most of which are park-wide, relatively inexpensive, and should have been done all along if the City had not neglected this park. All the new amenities in the off-leash area under the original master plan have been scrapped. And we have no assurance that the City would maintain the off-leash area any better than it has in the past. How is that fair or reasonable to dog owners?

In addition to the foregoing, the proposed fee scheme should be rejected for the following reasons:

- 1. Charging fees and selling exclusive "memberships" conflicts with the City's obligations under the State Parks Grant Agreement.** The State Division of Recreation & Parks grant agreement, used to purchase and develop this park in 1974, requires the City to maintain and operate the park "at its own expense" and requires that the park be "offered to the general public" for recreational purposes. (See attached Exhibit 1, paragraphs 3, 7). Paying for the park and restricting park access through expensive fees and exclusive "memberships" would seem to violate those covenants, and certainly violates the spirit of them.
- 2. Charging high fees would be an unfair double tax on Winter Park residents, and would exclude many residents from using the park.** This park presently affords basic general recreation for Winter Park dog owners from all over the City, who pay their taxes just like other residents who use other parks or the on-leash area at this park for free. The proposed fee scheme at FPP is a new way for Winter Park to tell its dog owning citizens "NO YOU CAN'T!"

While I have heard that maintaining FPP is supposedly a great financial burden on the City, that has never been demonstrated (despite repeated requests by FFPP member Sandy Womble and others) and I don't believe it. Comparing the way the Parks Department maintains other parks to the way it maintains (or fails to maintain) FPP is a joke. The City didn't even bother to cut the grass for weeks before the 4th of July weekend, leaving park-goers celebrating our National Holiday at FPP to wade through Pensacola stalks nearly two feet high. I don't use the other better-maintained free parks my taxes support, and I should not have to pay extra steep fees just to go to this one.

This plan also callously excludes our residents who cannot afford to pay these fees, including residents who have lost their jobs in this recession; residents struggling to pay their mortgage and stay in their homes; residents with low and fixed incomes; and student residents struggling to make ends meet. "NO YOU CAN'T!"

This plan could also be the "foot in the doorway" to charging admission fees for all of Winter Park's parks. We could emulate the Palatine Park District in suburban Chicago (ridiculously listed on Mr. Holland's "Dog Park Fees Research Chart"),

which requires all users of its parks to purchase a "Park District ID" (\$10 for residents/\$50 for non-residents).
<http://www.palatineparkdistrict.com/generalinfo.html>

3. Charging fees would cause people to feel entitled to be irresponsible. I've heard it expressed that charging high fees to use the park will make dog owners feel a sense of "ownership," and inspire them to take care of it. This reasoning escapes me. Paying user fees makes me feel like a renter, not an owner. Being charged high fees for something I used to get for free does not inspire my good will. I think it is more likely that people paying the high fees would think "I paid my fees, let the City pick up the poop" and such. Why wouldn't I feel *more* grateful to the City for allowing me to use the park free of charge, thus making me want to ease the City's burden by caring for the park and donating money voluntarily?

My reasoning is borne out by experience. The best public off-leash parks and beaches in America are free-of-charge, and are actively supported by "friends" groups, like FFPP, who want to give back however they can, by paying for poop bags, donating money, building improvements, conducting volunteer clean-ups, and promoting responsibility and awareness. For example, Jupiter Beach, a 2.5 mile off-leash dog-friendly beach in Jupiter Florida, is free-of-charge, even with free parking. (<http://www.jupiter.fl.us/parksrecreation/beaches/dogs-on-the-beach.cfm>). Yet despite the high volume of use, the beach is one of the most beautiful, impeccable beaches in Florida. The beach has been actively supported for 15 years by the Friends of Jupiter Beach, which has the good will of approximately 5,100 members from all over South Florida and the world, and which stresses that being allowed to bring your dog to the beach is a "privilege, not a right." (<http://www.friendsofjupiterbeach.com>) That message has become contagious. The financial contributions to the Town of Jupiter and the invaluable volunteer efforts by FJB are legendary. (I am very familiar with this wonderful beach because I grew up in Palm Beach County and my parents still live there.)

For other examples, see Exhibit B, attached.

4. Charging fees would severely hamper the Friends of FPP's ability to fund-raise and attract members, and would likely end the group's volunteer work for the park. The plan would likely mean the end of FFPP as we know it, and would certainly drive away most of its present members. Who would pay to join or renew their membership in FFPP if they already have to pay huge fees to the City to use the park? Realistically, the City could not expect FFPP to raise any significant contributions.

Likewise, I fear FFPP's volunteer clean-up efforts would end. Expecting people who must pay high user fees to volunteer to clean-up stray poop is like expecting theater or sporting event patrons to clean up other peoples' garbage. It probably won't happen.

A leading study of off-leash parks by the U. Cal. Davis School of Veterinary Medicine concluded that "Clearly, an active dog park club is important to the success of a park and the more active the better." (Guidelines, at page 7.)

5. Charging high fees would drive park-goers away, thereby defeating the revenue purpose and making the park less enjoyable. Because the proposed fees are unreasonably high, present park-goers will decide to stop coming to FPP, thereby defeating the revenue purpose of the fee. All the other nearby off-leash parks are free.

Also, half the fun of going to Fleet Peoples Park is meeting all the other dogs and dog lovers, most of whom would be driven away by this fee proposal. It would also likely compel breed meet-up groups, like the beagle group I meet with, to stop holding gatherings at FPP.

6. Charging fees would be costly and difficult to administer. This should be self-evident. Even paying someone to work full-time at the park on Saturday and Sunday would eat up most of what the plan would bring in. Not to mention the administrative costs for the operation at City Hall. What would the City do on weekdays? People lose tags and collars all the time. What if someone says they lost their tag? How would the City prevent people from lending their tags to friends? etc. etc.

7. There is no public safety purpose in issuing "member" tags that is not equally served by requiring all dogs to wear their current rabies vaccine tag or have other proof of rabies vaccination. Florida law, as elsewhere, requires all dogs over 4 months to be currently vaccinated for rabies; and dog owners receive a rabies vaccination certificate along with a corresponding numbered tag for the dog's collar. § 828.30, Fla. Stat. Fleet Peoples Park rules currently require that "All dogs must have proof of current vaccinations." Requiring dogs to wear an additional "member" tag is merely duplicative.

8. The "Dog Park Fees Research Chart," presented in support of the fee scheme, is a sham and a fraud. As more fully shown in my research compilation, attached as Exhibit 2, the so-called "Dog Park Fees Research Chart," presented by Mr. Holland's staff to support the expensive fee plan, is a deplorable sham which includes three entries that are not even

public parks, and only one public park in Florida. Holland's list is not a true representative survey of what other dog parks charge or don't charge, but a twisted pointed effort find a few parks which charge fees. The chart overlooks dozens of *free* off-leash parks in Central Florida; scores of *free* off-leash parks and beaches throughout Florida; and hundreds of *free* off-leash parks and beaches throughout the U.S. The vast majority and the best public off-leash parks in America are *free* and actively supported by "friends" groups like the FFPP.

I urge the Commission to reject the Parks Department's fee proposal and adopt the following:

1. **Keep the off-leash area free and supported by Friends of Fleet Peoples Park.**
2. **Give FFPP a reasonable time frame to raise donations to build the two amenities needed to make the on-leash area self-sufficient: a large pavilion (e.g., 6 months) and a restroom facility (e.g., 18 months).**
3. **Revisit the fee issue if FFPP defaults on its fund-raising obligations.**
4. **Address other improvements to the off- and on-leash areas, and FFPP's role in funding those improvements, at a later date when the need and/or realistic availability of funds arises.**

Thank you for your service and your consideration.

Joseph Brock
2341 Randall Rd.
Winter Park, FL 32789

CONTRACT AND AGREEMENT

THIS AGREEMENT, dated this 27 day of March,
A.D., 1974, by and between the Department of Natural Resources,
Division of Recreation and Parks, hereinafter referred to as
Department, and the City of Winter Park,
hereinafter referred to as City

W I T N E S S E T H :

That in and for the mutual covenants between the
Department and the City, it is agreed as follows:

1. The Department has found recreation to be the prime
purpose of the project known as Lake Baldwin Park

and has agreed to enter into this contract with the City
for construction of recreational facilities on real property,
the title of which is held by the City,
such real property more specifically described in Exhibit "A,"
attached.

2. The City agrees to cause the construction
of certain recreational development at the above mentioned
project, such development being in accordance with the project
plans attached hereto and made a part of this Agreement as
Exhibit "B."

3. The City agrees to operate and maintain
said recreational facilities at its own expense and covenants
that it has the full legal authority and financial ability to
so operate and maintain said facilities.

EXHIBIT 1

4. The City agrees to appoint a liaison agent to be responsible for the successful completion of the project, the prompt implementation of the articles of this Agreement, and the submission of progress reports at least every thirty (30) days from the date of the execution of this Agreement until the project construction is certified complete.

5. The Department agrees to hold in account the sum of One Hundred Thousand Dollars (\$100,000.00) to be expended for the construction of recreational facilities as shown on Exhibit "B" attached. Any portion of said funds may be released at the discretion of the Department upon official billing by the City. Such billing shall include a certification of the satisfactory completion of that work which is the subject of said billing.

6. The City agrees to commence construction of the project within six (6) months, such period beginning on the date of the execution of this Agreement, and further agrees to complete said project within twelve (12) months from the starting date of construction. In the event that construction of the project is not complete within the contract period, the Department reserves the right to de-obligate any and all remaining funds originally approved for said project.

7. The City hereby, with and through this Contract, dedicates the Lake Baldwin Park a recreation area in perpetuity to be offered to the general public for recreational purposes only.

9. The City agrees to return to the Department its original contribution of One Hundred Thousand Dollars in the event that the herein described recreation area becomes utilized for purposes other than recreation.

9. The Department reserves the right to inspect the site and facilities, as well as the right to audit any and all financial records pertaining to this project at reasonable times.

10. Any inequities that may subsequently appear in this Contract shall be subject to negotiation upon written request of either party, and the parties agree to negotiate in good faith as to any such inequities.

11. This Contract is executed in duplicate, each copy of which shall for all purposes be considered an original.

12. IN WITNESS WHEREOF, the parties hereto executed this Contract on the day and year first above written.

EXECUTIVE BOARD OF THE
DEPARTMENT OF NATURAL RESOURCES

By: Harmon Shields Randolph Hodges, Executive Director
Its Agent for this Purpose

Attest:

By: James R. Driver
Its Agent for this Purpose

Attest: Ed Davis

APPROVED AS TO
FORM AND LEGALITY
Jack W. Pierce by
ATTORNEY - D.N.R. H. Lockhart

ANALYSIS OF "DOG PARK FEE RESEARCH CHART" WITH CITATIONS by Joseph Brock.

The so-called "Dog Park Fees Research Chart," presented by the Parks staff to justify the fee proposal for the off-leash area of Fleet Peoples Park, is not a representative survey of public dog parks -- the vast majority of which do not charge a fee -- but a sham list of a few parks selected solely because they charge fees.

Of the 10 parks listed, 3 are not even public parks:

* "Dogwood Park" in Jacksonville and Gainesville, are private for-profit dog parks, operated on privately owned land. (<http://www.jaxdogs.com/>; <http://www.dogwoodpark.com/>)

* "Watauga Dog Park, in Boone NC, is a private dog park on land owned by the Watauga Humane Society, a private non-profit organization. (<http://www.wataugahumanesociety.org/dogpark.php>; <http://www.wataugahumanesociety.org/about.php>)

The only Florida public park listed is Satellite Beach, which charges a fee but is an aberration even in Brevard County. Of all the public off-leash parks in Florida, the only one the Parks staff has listed is Satellite Beach Dog Park, which currently charges a daily fee of \$2.50 for up to 2 persons with up to 3 dogs, and \$3.50 for more than 3 people with more than three dogs. (<http://www.satellitebeach.org/Recreation/RecDogFees.htm>). However, Brevard County, where Satellite Beach is located, has 3 free dog parks, and has plans for 4 more. (<http://brevardparks.com/dogs/index.php>).

The Cary N.C. fee-restricted dog park is surrounded by free off-leash parks. Likewise, the chart lists the Cary N.C. dog park (misnamed "Godbond Park") for the sole reason that it charges fees. (<http://www.townofcary.org/depts/prdept/parks/dogpark.htm>). But Cary is surrounded by cities and towns with free dog parks. Nearby Raleigh has 3 free dog parks; Durham has 2 free dog parks; Chapel Hill has 2 free dog parks; and even Carrboro has a free dog park. ([http://www.raleigh-nc.org/portal/server.pt/gateway/PTARGS_0_0_306_209_0_43/http%3B/pt03/DIG_Web_Content/category/Leisure/Parks and Facilities/Off Leash Dog Park Areas/Cat-Index.html](http://www.raleigh-nc.org/portal/server.pt/gateway/PTARGS_0_0_306_209_0_43/http%3B/pt03/DIG_Web_Content/category/Leisure/Parks%20and%20Facilities/Off%20Leash%20Dog%20Park%20Areas/Cat-Index.html); <http://www.durhamnc.gov/departments/parks/dog.cfm>; <http://www.ci.chapel-hill.nc.us/index.aspx?page=816>; <http://www.ci.carrboro.nc.us/rp/parks.htm>).

The chart overlooks all the free dog parks in Central Florida. The chart, for some unexplained reason, lists three fee-restricted dog parks in suburban Chicago parks districts (Forest Park, Palatine and West Chicago), one in a suburb of St. Louis (Swansea), and one in New Jersey resort area near Philadelphia (Ocean County), but fails to list any of the numerous free off-leash dog parks in Central Florida. Omitted from the chart are the 6 free off-leash parks owned and operated by Orange County (<http://www.orangecountyfl.net/cms/DEPT/CESrvcs/parks/dogparks.htm>), 6 free off-leash areas in Maitland (<http://www.maitland.nsw.gov.au/Recreation/Recreationsub>), and free parks in Avalon Park, Casselberry, Sanford, Mt. Dora, Winter Springs (supported by Friends of Leash Optional Parks) and many more.

The chart overlooks scores of free off-leash parks and beaches throughout Florida. For example, there are 21 free off-leash parks and beaches in Tampa-St. Pete.-Pinellas County alone. (http://www.tampagov.net/dept_parks_and_recreation/park_search/parkdetail.asp?nbr=1; <http://www.stpete.org/parks/dogparks.asp>; http://www.pinellascounty.org/park/paw_playgrounds.htm).

In Palm Beach County, there are 3 free off-leash parks (<http://www.pbcgov.com/parks/dogparks/>); and 2.5 mile long free off-leash beach in Jupiter Fl (<http://www.jupiter.fl.us/parksrecreation/beaches/dogs-on-the-beach.cfm>; <http://www.friendsofjupiterbeach.com/>).

In Broward County, there are 9 free off-leash parks, including one with a dog swimming lake which is free on weekdays and is included in the \$1 general park admission on Saturdays and Sundays. The only fee-restricted areas are two dog beaches in Hollywood and Ft. Lauderdale. (<http://www.broward.org/parks/dogpark.htm>).

EXHIBIT 2 (B)

The Chart overlooks countless *free* off-leash parks and beaches throughout the country, including many with off-leash areas larger than FPP.

For example, in San Francisco CA alone, there are 17 *free* off-leash parks, four of which are over 35 acres and another nine parks are over 10 acres (http://www.sfgov.org/site/uploadedfiles/recpark/dog_policy_03012003a.pdf), on top of 4 *free* off-leash beaches. There are 17 beaches in California allowing off-leash dogs, all *free*. (<http://freeplay.org/wp-content/uploads/2009/05/california-dog-beaches2.pdf?x=56&y=14>)

Point Isabel Regional Shoreline, in Berkeley CA, is a *free* 23 acre off-leash park and shoreline. (http://www.ebparks.org/parks/pt_isabel).

Seattle, Washington has 11 *free* off-leash dog parks (<http://www.seattle.gov/parks/offleash.asp>), including the Magnuson Dog Park, which has a "small and shy area", beach access, and nine acres for running and playing. (http://www.seattle.gov/parks/offleash_detail.asp?id=398). Seattle dog parks are supported by the non-profit Citizens For Off-Leash Areas (COLA) (<http://www.coladog.org/>).

Marymoor Park, in Redmond WA (near Seattle), has a 40 acre *free* off-leash dog park, which includes dog swimming in the Sammamish River at 5 access points and in seasonal streams within the park. (<http://www.kingcounty.gov/recreation/parks/inventory/marymoor/offleash.aspx>) The park is supported by the non-profit Save Our Dog Areas (S.O.D.A.) (<http://www.soda.org/>).

Bandix Dog Park in Kitsap, County WA is a *free* 30 acre off-leash park, supported by the non-profit Kitsap Dog Parks (<http://www.kitsapgov.com/parks/openspace/dogpark.htm>; <http://www.kitsapdogparks.org/>)

Bear Creek Dog Park in El Paso County, Colorado is a 25 acre *free* off-leash park running along a mountain creek. (http://adm.elpasoco.com/NR/rdonlyres/0FCFEDB0-0AE6-4AED-91A5-887D868BF0D9/0/bcrp_dog_park.pdf). Supported by LOOP (Lovers of Off-leash Parks).

Millie Bush Bark Park, in Harris County TX just outside Houston, is a 15 acre *free* off-leash park with walking trails, a small dog area and three swimming ponds. (<http://www.co.harris.tx.us/Pct3/parks/milliebushdogpark.aspx>).

Austin TX has 12 *free* off-leash areas, including one with a dog swimming lake (Red Bud Isle) and one with a dog swimming creek (Bull Creek District Park). (<http://www.ci.austin.tx.us/parks/dogparks.htm>).

Alum Creek Dog Park, in Lewis Center, Ohio, is a 4 acre *free* off-leash park with a dog swimming lake. Supported by non-profit Friends of ACDP (<http://www.alumcreekdogpark.com/>).

Respectfully submitted,

Joseph Brock
2341 Randall Rd.
Winter Park, FL 32789

July 13, 2009

Subject: FW: Response to Winter Park Magazine, reporter Jay Hamburg, re: "Dog Park Is A Bone Of Contention"

From: Joseph Brock [mailto:jbrocklaw@gmail.com]
Sent: Mon 6/29/2009 5:45 PM
To: Mayor and Commissioners
Cc: John Holland
Subject: Response to Winter Park Magazine, reporter Jay Hamburg, re: "Dog Park Is A Bone Of Contention"

Dear Mayor Bradley, Vice-Mayor Diebel, and Commissioners Anderson, Bridges and Dillaha:

I am prominently featured in a misleading article about Fleet Peeples Park by Jay Hamburg in the July 2009 issue of Winter Park Magazine, published last week. As set forth below, I am forwarding to you my letter in response to that article, which I respectfully request that you consider and make part of the record.

Thank you for your consideration.

Joseph Brock
2341 Randall Rd.
Winter Park, FL 32789
(407) 622-8932

----- Original Message -----

From: Joseph Brock
To: mick.lochridge@winterparkmag.com ; editor@winterparkmag.com ; hamburgjay@aol.com
Sent: Monday, June 29, 2009 3:44 PM
Subject: Response to Winter Park Magazine, reporter Jay Hamburg, re: "Dog Park Is A Bone Of Contention" (July 2009 issue).

Dear Mr. Hamburg & Winter Park Magazine,

While I appreciate your sensitive account of my feelings about dogs and the park experience, you evidently stopped listening when I talked about **the facts and the law** regarding Fleet Peeples Park. Did it ever occur to you that my talking like a "bulldog attorney" (your words) about this issue might have something to do with the correctness of what I was saying? My purpose in talking to you at the park was *not* to tell you how much I love dogs. It was to explain to you the *truth* about the Parks Board's plan and the unlawfulness of its conduct; and why, on *every* level, retaining the present configuration of Fleet Peeples Park is the appropriate course of action for Winter Park. Sadly, you chose to present a lot of misinformation and to play down the truth. To the uninformed, your article is as misleading as the *big blank green area* on the Parks Board's and Mr. Holland's map of their plan, which you decided to display twice without explaining what the *big blank green area* really is.

1. You begin your article by falsely stating that I am "part of a group *pushing for more space* for dogs to roam free." This misstatement prejudices your entire presentation. As you surely know, neither I nor the Friends of Fleet Peeples Park are "pushing for more space." We are trying to retain the same off-leash space we have now, and which was approved unanimously by the Winter Park City Commission on April 14, 2008. It is the Parks Board which is pushing for *less space* than the present configuration, in violation of the City Commission's unanimous decision and directive to the Parks Board on April 14, 2008.

As I explained to you, this controversy cannot fairly be understood as simply a choice between two competing plans. The plan supported by FFPP went through a lengthy vetting and approval process, was unanimously approved by the Parks Board in December 2007, and was then unanimously approved by the City Commission on April 14, 2008. (The off-leash

area under that plan is substantially *smaller* than the off-leash area used by dog owners for many years, yet we are now accused of being unwilling to compromise.) As set forth in the official minutes of the April 14, 2008 meeting, the City Commission's decision was as follows:

Motion made by Commissioner Bridges to support the approval of the adoption of the Fleet Peoples Master Plan as proposed with the addition that the Friends of Fleet Peoples Park and the Parks Board meet together and create a set of guidelines outlining the responsibilities of both parties. Commissioner Diebel accepted the amendment. Upon a roll call vote, the motion carried with a 5-0 vote.

http://www.cityofwinterpark.org/2005/qovt/minutes/04_14_08rc.pdf (at page 10).

This has been the standing law of Winter Park for the past year. What could be plainer? The City Commission approved the FFPP master plan "as proposed" and directed the Parks Board to meet with FFPP to create guidelines to implement that master plan. Winter Park dog owners had a basic right to expect that the City would abide by that decision and carry it out. But the actions of the Parks Board and Mr. Holland have directly violated the City Commission's directive. They have no such legitimate authority.

I know talking to Commissioner Dillaha must be confusing. But this is Civics 101 for the City of Winter Park: The elected City Commission is the governing body of Winter Park. All legislative power in the City of Winter Park resides in the City Commission sitting as a quorum. (WP Code Part I Art II Sec 2.01, et seq.) Advisory boards like the Parks Board are subordinate to the City Commission, and provide recommendations, advice and assistance to the City Commission. (Part II Sec. 66-28). When the City Commission decides a matter and directs a board to do something, that board obviously is not free to disregard the City Commission's decision and disobey its directive. Yet that is what the Parks Board has done. Thus, when Mayor Bradley called out the Parks Board for its improper actions, he was exactly right.

Imagine how you would feel as a Winter Park dog owner when -- after winning this unanimous vote by the City Commission and thinking you could enjoy the park in peace -- you learn that new members of the non-elected Parks Board, who don't like the master plan adopted by the City Commission, have refused to do their duty to implement the master plan and instead have directed the Parks Department, at taxpayer expense, to design a radically different plan which converts Winter Park's only off-leash park (among nearly 300 acres of park space) into the park primarily for people who don't want to be around dogs.

Maybe this helps explain the anger of the man who confronted poor Mr. Holland. Winter Park dog owners are rightfully dismayed and angered over what has happened. Their anger is not explained away by Mr. Holland's patronizing remark that "These dogs are their kids."

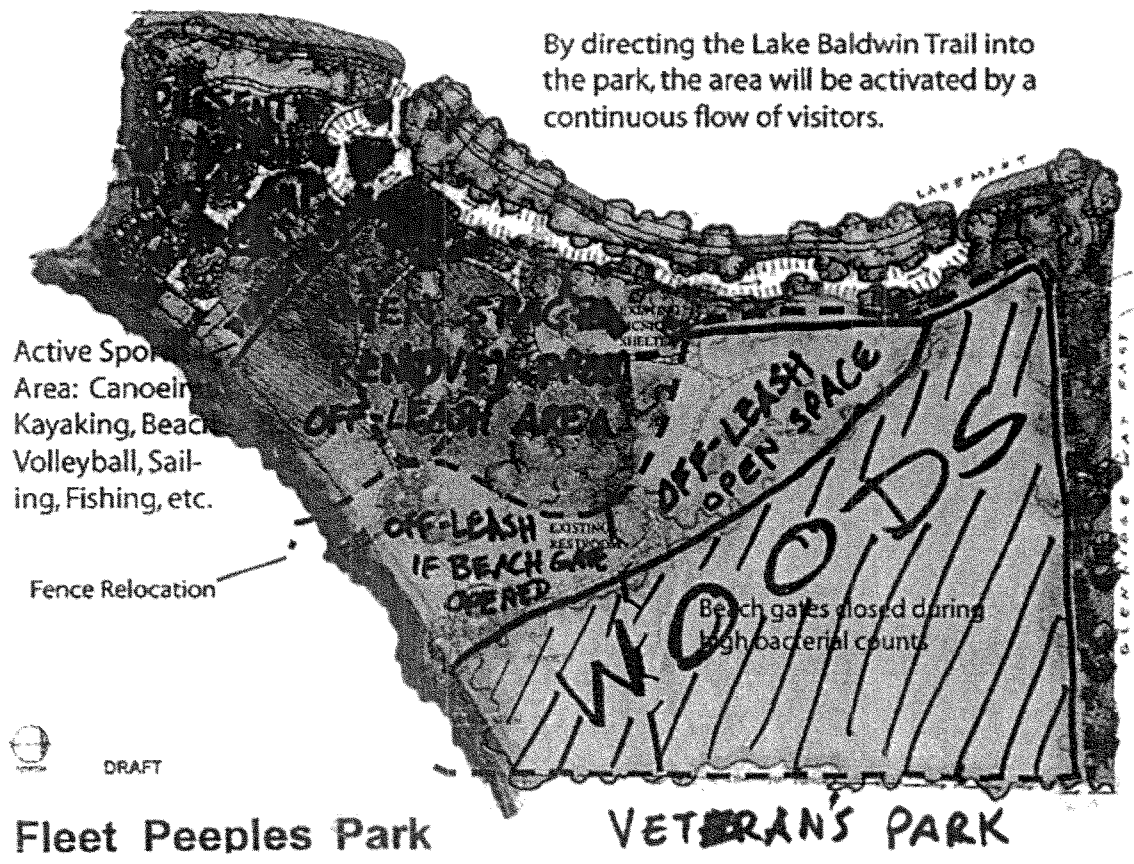
For Commissioner Dillaha to declare that she "hate[s] to see us going around and around like a hamster on a wheel" is the height of irony. Who do you think is pushing this hamster? This issue was decided a year ago in favor of dog owners and should not even be on the table. Dillaha personally voted to approve the FFPP master plan *twice*, first as a Parks Board member and then as a City Commissioner. But she seems to have an endless appetite for re-do's, and demonizes the rest of us for not wanting to go along with her.

Your article misses the boat on this and makes it sound like the position of dog owners is supported only by emotion, while people like Kim Allen, Phil Eschbach and Beth Dillaha are being reasonable. Nothing could be further from the truth. This is not simply about our love for our dogs and this park; it is about following the law under our democratic system of local government. By failing to place this issue in its proper context, you have done Mayor Bradley, Commissioner Diebel, Commissioner Anderson, dog owners like myself, and all citizens of Winter Park a disservice.

2. But the most unpardonable aspect of your article is your misleading attempt to make the Parks Board's plan look generous and reasonable. You never show or discuss the actual master plan for Fleet Peoples Park approved by the City Commission in 2008, except to vaguely call it "the 14 acre plan." But you twice print the Parks Board's and Mr. Holland's misleading map of their plan, and give no explanation of what is really represented in the map. I told you that according to Neil Frazee, the landscape architect who with his wife Jan designed the FFPP master plan (whom you never mention), the "11.5 acre" figure for the off-leash area on Mr. Holland's map is an exaggeration by about 2 acres, and most importantly: ***all but 2.3 acres is the woods.***

But all you state is the unbelievably obscure remark that "FFPP says much of those 11 acres is a densely overgrown area." First of all, it's not "densely overgrown"; it's a natural forest habitat. Second, the presence of the woods is not what "FFPP says"; it is a fact! Third, the woods is not "much of those 11 acres"; it is ***all but 2.3 acres*** of those acres. **The total off-leash open space under their scheme is a narrow 2.3 acre strip running behind the restrooms. That amount would be slashed to 1.2 acres if they decide to close their "beach gate." How generous!**

I showed you a map which marked where the present fence is and where the woods is (see below), but you didn't print that or point out how misleading their map was. **That big blank green area on their map is all woods!** If I didn't know the actual facts, I'd look at the *big blank green area* on their map and say "What are those dog owners complaining about?" Is that the response you were trying to elicit?



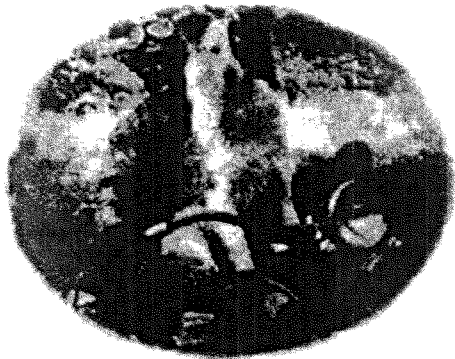
Discounting the woods, their plan is not "one of the largest public dog parks in Florida" -- it is one of the smallest!

When I spoke to you about all the different breeds and types of dogs co-existing at Fleet Peeples Park, the point I was actually making was that the *size and configuration* of the park accommodates all the different types of dogs. The Parks Board's plan would ruin that. By taking away most of the open space from the off-leash area, there would no place for running dogs like greyhounds to run. Large dogs and roughhousing dogs would be forced into close quarters with small and timid dogs. The little-used narrow trails through the woods would become overburdened and could lead to aggression and environmental deterioration. Furthermore, it would end private support from dog lovers for the park, as the Parks Board's plan acknowledges. The plan treats dog owners as second-class citizens.

3. Your attempts to present Phil Eschbach's disingenuous remarks as the voice of reason are astonishing. You quote Eschbach saying "the 11 acres for the off-leash dogs is more than liberal" and calling us "rabid dog people," when Eschbach well knows the actual facts about those so-called "11 acres." You noted that Meredith Tracy's \$300,000 estimate of the value of contributions from FFPP over the years included the "park design plans" (i.e., the extensive services of two expert landscape architects) as well as other "in-kind services"; yet you still quote Eschbach's hyperbole about 10 pavilions and a gold-plated fence as though it were a reasonable and fair statement. And Eschbach's statement that he "thinks" the master plan was passed in exchange for strict enforcement of the 10-4 on-leash rule is a raw fabrication. One of the basic purposes of the master plan was to eliminate the need for restricted off-leash hours by establishing dedicated on-leash and off-leash areas in the park. If that fact is not self-evident, then read what Mr. Holland said in February 2006 when he solicited the master plan from FFPP:

"We are very proud of Fleet Peeples Park and the busy dog-friendly facility it has become. We want nothing more than to make the park as enjoyable as possible for everyone and their dogs. Dog parks have become a reality over the past few years and we realize they are now an important part of our parks system. Our goal is to improve the park... Fleet Peeples Park is over thirty years old and in need of major facility renovation. This process will provide an opportunity to add many of the needed amenities specifically for our dog owners. ***The proper design would eliminate the restricted off leash hours*** and possibly provide for evening hours and night use. This and more can be accomplished through proper and cooperative planning. I hope you will become a positive part of this process and assist us in making Fleet Peeples Park a national standard for dog parks." (emphasis added)

4. One thing you failed to mention in your side-piece about Fleet Peeples: he was a dog and animal lover. This is his beloved dog Prince seated with him on his Harley:



I guess that seemed like an unimportant detail.

Since the vote on this issue comes up in July, I don't know what can be done to correct the misinformation in your article, except for me to forward this letter to the Mayor and Commissioners. I am very saddened and disappointed.

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