

REGULAR MEETING OF THE CITY COMMISSION
August 24, 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 Pastor Jeff Fair, Aloma Baptist Church, followed by the Pledge of Allegiance.

Members present:

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

Also present:

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

Non agenda item

Mayor Bradley announced that the shade meeting will be rescheduled for a later date.

Citizen Public Comments:

No citizen comments were made.

Citizen Budget Comments:

No citizen comments were made. Mayor Bradley stated that the budget hearings will be held on September 14 and 28.

Mayor's Report:

- a) Resolution – Sister City with the City of Sant' Angelo, Italy. **PULLED FROM AGENDA**

Mayor Bradley commented that the Commission needs to go over protocol with our embassies and that this may be on the September 14 agenda.

- b) Presentation by Orange County Property Appraiser Bill Donegan.

Orange County Property Appraiser Bill Donegan provided a PowerPoint presentation titled "Parcel/Value/Tax Information to the City of Winter Park." He spoke about parcel information, value and tax information, tax comparison, the CRA expansion, the current CRA boundary, a possible extension along N. Orange Avenue, 2009 Taxable Value of a possible extension along Fairbanks Avenue and Lee Road, and possible annexation (Lee Road & Orlando Avenue). He stated that this was a public policy issue and is something the Commission will need to decide on; however, they could not do any of these CRA's unless they have a compatible land use that goes along with it. Mr. Donegan answered questions.

c) Office Depot Foundation backpack donations.

Mayor Bradley stated that he represented the City last week at the Office Depot Foundation's backpack donations for the region and they gave out 3,700 back packs; 400 went to Winter Park. Assistant Parks and Recreation Director Ron Moore, Reach Out Winter Park and several churches were involved at the Community Center giving out backpacks and school supplies.

d) School starts.

Mayor Bradley announced that school started today and he wanted to ensure that our children have the best learning environment. He thanked the groups that have been involved with donations for our school children.

e) 90 Day priorities.

Mayor Bradley commented that they are still working on their 90 day priorities that includes the 2010 budget, the land use code, the post office, Charter review, the economic development plan and board involvement. He stated that they have not made progress on the board involvement in terms of prioritization and it being placed on the agenda.

f) Economic development plan.

Mayor Bradley commented that Ms. Gutch sent the Commissioners information and that she welcomes their feedback. He stated this may be on the September 14 agenda including one of the key elements of the Park Avenue Task Force recommendations which should be concluded next month. He added that they will discuss whether they want this added to a work session or brought forth for a Commission meeting. He commented that based on what they heard from Mr. Donegan, the economic development in commercial areas is important and they want to make sure that grows.

Consent Agenda:

- a) Approve the minutes of 8/10/09. **PULLED FOR DISCUSSION. SEE BELOW.**
- b) Approve PR 142470 to Reynolds Inliner, LLC to rehabilitate existing sanitary sewer line main, piggy-backing St. Petersburg contract 06041-111; \$564,260.22.
- c) Approve award of IFB-23-2009 Electric Materials for Hospital Plug-In Project to Gresco Utility Supply, Inc.; \$70,932.38. **PULLED FOR DISCUSSION. SEE BELOW.**
- d) Approve execution of a Design-Build Agreement with Turner Construction Company, Inc. for the design and construction of the Community Center. Approve the Phase I fees of \$327,315.00.
- e) Approve the contract with Brown, Gargenese, Weiss & D' Agresta, P.A. **PULLED FOR DISCUSSION. SEE BELOW.**
- f) Approve the ice skating rink in Central Park West Meadow. **PULLED FOR DISCUSSION. SEE BELOW.**

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

Consent Agenda item a): Minutes of 8/10/09:

Commissioner Anderson addressed amendments he wanted to the minutes: Page 9, 3rd paragraph, replace the words trading ship with "trading chip"; page 14, 3rd paragraph, reflect that "he understands from the discussion that there is unspecified parking in the tenant leases"; page 15, 2nd paragraph, should read, "Commissioner Anderson believes that staff has correctly interpreted our statutes, however, he believes that we had an out of compliance issue and that the use is grandfathered; page 18, New Business, make it clear that he was talking about understanding how items are brought onto the ballot for referendum in February or March and did not want to confuse that to meaning a voter initiative.

Mayor Bradley commented at the top of page 11, the motion should read "Upon a roll call vote, Commissioners Anderson, Dillaha and Bridges voted yes to the original motion as amended. Mayor Bradley and Commissioner Diebel voted no. The motion carried with a vote of 3-2." He also stated that the presentation of the MFT Enterprises appeal was attached at the end of the minutes, but it would not be included with the approval of the minutes as the presentation was for the record.

Motion made by Commissioner Anderson to approve the August 10, 2009 minutes as amended; seconded by Commissioner Diebel. The motion carried unanimously with a 5-0 vote.

Consent Agenda item c): Approve award of IFB-23-2009 Electric Materials for Hospital Plug-In Project to Gresco Utility Supply, Inc.; \$70,932.38.

Mayor Bradley announced a conflict of interest on this item and abstained from voting due to Winter Park Hospital being his employer.

Commissioner Dillaha asked Utilities Director Jerry Warren to clarify the Plug-In Program. Mr. Warren explained that the long term objective of Winter Park Electric is to put all electric lines underground, the main line feeders were identified as the first priority, and the last priority is the branch lines that serve neighborhoods. The Plug-In Program allows customers the ability to accelerate the priority of undergrounding the branch lines that serve them (the customers agree to pay half and the City pays half).

He addressed an ongoing discussion between planning and the hospital regarding the requirement to install the construction of louvers around the hospital's cooling towers. He explained that the Plug-In was a good solution for planning, the hospital and Winter Park Electric. They approached the hospital in November 2008 with the proposal for a Plug-In project to remove our overhead lines and they agreed to do the project. Mr. Warren and City Manager Knight answered questions. Commissioner Bridges suggested they give additional background information to the public. Mr. Warren agreed.

Mayor Bradley turned the chair over to Vice Mayor Diebel.

Commissioner Anderson commented that they are administering the Plug-In Project the way it has been outlined. He suggested they receive an early warning when they are close to running out of funds for the existing Plug-In Program so they can review the power company balances.

Motion made by Commissioner Anderson to approve the award of IFB-23-2009; seconded by Commissioner Dillaha. Mayor Bradley abstained. The motion carried unanimously with a 4-0 vote.

Mayor Bradley resumed the chair for the remainder of the meeting.

Consent Agenda item e): Approve the contract with Brown, Gargenese, Weiss & D'Agresta, P.A.

Mayor Bradley commented that they are initially going with the per hour fee and asked when they would go to a retainer fee. Mr. Knight explained that once they have enough history to determine what an appropriate retainer would be they will come back with a proposal, unless they like the way the hourly is working.

Motion made by Commissioner Anderson to approve the contract with Brown, Gargenese, Weiss & D'Agresta, P.A.; seconded by Commissioner Bridges. Upon a vote, Commissioners Anderson, Dillaha and Bridges voted yes. Mayor Bradley and Commissioner Diebel voted no. The motion carried with a 3-2 vote.

Consent Agenda item f): Approve the ice skating rink in Central Park West Meadow.

Commissioner Dillaha asked if there will be music and how they will handle parking for the ice skating rink. Assistant CRA Director Peter Moore explained that they are looking at tenting most of the activities and want to set up speakers so the music will be towards Central Park and not the residential areas. He commented that they have temporary A frame signs to direct people to the Canton Park Place garage for parking and municipal lot B is below the rink location as well. Commissioner Dillaha commented that she is comfortable with this and knows that it will be monitored as we go.

Motion made by Commissioner Dillaha to approve the ice skating rink in Central Park West Meadow; seconded by Commissioner Diebel. The motion carried unanimously with a 5-0 vote.

Public Hearing:

- a) Appeal of MFT Enterprises of Winter Park, Inc. contesting the City Building and Zoning Official's interpretation and enforcement of Article III, "Zoning" of Chapter 58 of the City of Winter Park's Land Development Code regarding the provisions of Section 58-64 for nonconforming uses relating to the denial by the City for the use of the property at 2190 W. Fairbanks Avenue, zoned C-3, for the sale of motor vehicles as applied to the provisions of the code regarding nonconforming uses.

Mayor Bradley stated that this item was discussed at the last Commission meeting; however, the applicant requested that it be tabled.

Action Items Requiring Discussion:

- a) Azalea Lane Recreational Center: Approve award of RFP-7-2009 to Tennis Management Services (Informal protest proceeding)

Parks and Recreation Director John Holland explained that the Azalea Lane Tennis Center has been running at a deficit for several years. He stated that over the last 18 months, both he and Assistant Director Ronald Moore have visited other facilities. He explained the types of systems used and the requirements of a contracted operation.

He stated that a tennis selection committee was formed who worked through the bids. After the initial ranking, the two top ranked firms were invited to make oral presentations where the selection committee clarified the level of management responsibilities that Mr. Cosentino (Frankie C's Pro Shop) performs currently for the City of Orlando. The committee also clarified that High Performance Sports Management, Inc. had not yet obtained the Professional 1 certification as required within the RFP. At the conclusion of the oral presentations, the selection committee ranked Frankie C's Pro Shop as the top ranked firm. The staff recommendation was to approve the award of RFP-7-2009 to Frankie C's Pro Shop. Mr. Holland, Mr. Moore and Mr. Knight answered questions.

Attorney Cheek commented that a formal written protest was received from High Performance Sports Management, Inc. He suggested they have the opportunity to explain why they should not award the bid as recommended by the selection committee.

Attorney Woody Igou, representing High Performance Sports Management, Inc. explained that High Performance received the highest technical score; however, came in second place after the oral presentation. He commented that whatever the reason Frankie C's Pro Shop was chosen. He addressed speaking with Mike Wilson, the Athletics Area Manager for the City of Orlando who told him they are considering the privatization of the Orlando Tennis Center (OTC) since they are running a deficit of \$250,000 annually. Mr. Igou discussed Frankie's C's qualifications and the year to date sales summary report from OTC, where he was 70/30 contractual (whatever he makes he keeps 70% and the City keeps 30%). He asked the Commission to delay the vote and to review the facts more closely. He added that Ms. Zguna and her group come from Rollins College. Mr. Igou answered questions.

Attorney Cheek commented that there were three procedural issues in the letter of protest and upon his and staff's review they did not believe they were of any significance to cause the Commission to reject that process.

The following spoke in opposition to Frankie C's Pro Shop:

David Odahowski, 345 Prairie Drive (submitted a petition supporting High Performance Sports Management, Inc.)

Kevin Grail, 748 S. Pennsylvania Avenue

Rose Plumley, 1639 Barcelona Way

Melissa McGlinchey, 3838 Cedar Hammock Trail

Terry Mooney, 760 Virginia Drive

Nicholas Pope, 2200 Fawsett Road

Bonnie Jackson, 3009 Temple Trail

Rata Assal, 1455 W. Fairbanks Avenue

The following spoke in favor of Frankie C's Pro Shop:
Bill Swartz, 2020 Taylor Avenue
Nancy Shutts, 2010 Brandywine Drive
Woody Woodall, 328 N. Park Avenue

Will Graves, 3048D George Mason Avenue, provided a copy of a letter from Lawson Lamar regarding an anonymous mailer in Winter Park. Mayor Bradley stated that was not being discussed at this time and it was open for the tennis center discussions.

Laura May, representative of High Performance Sports Management, Inc. spoke about the Professional 1 (P1) certification. She asked the Commission to consider looking at the USPTR and the USTA "High Performance" designation as suitable credentials. She provided an email from Bill Donadio and Angie Zguna's documentation of her P2 certification.

Frankie Cosentino, 301 South Atlantic Avenue, commented that the OTC is different than Azalea Lane in that he only has three courts at that location and his revenue was based on those courts. He explained that he is the Director of Tennis and runs the pro shop and all the tennis programs. He added that he would not raise any of the rates at Azalea Lane.

Commissioner Dillaha stated that she received a copy of the RFP along with the responses from Frankie C's and High Performance Sports Management, Inc. She also contacted Mike Wilson regarding information on Mr. Cosentino and was looking for someone who has operated a facility and has a demonstrated track record. She wanted to see Frankie C's business plan (required by the RFP), a marketing plan and the numbers and projection as to what he might accomplish. She asked to see the revenue generated while Frankie C's was operating in the City of Orlando for 10 years and the pro shop revenue. Mr. Cosentino agreed to provide that information and stated that Mr. Wilson's figures were incorrect. He also answered questions.

Commissioner Anderson addressed the need to have a forecasting business plan or a solid operating history that they could look at to help make a judgment on which of these parties would be the best operator. He was uncertain about the history of Frankie C's and asked if staff looked at the existing operations in Orlando to see if this is the kind of operation we want. Mr. Holland responded they do not have much of a history on Frankie C's and nothing on High Performance Sports Management, Inc. and they could revise our RFP specifications and do it again. Mr. Holland and Mr. Moore answered questions.

Commissioner Bridges addressed also speaking to Mike Wilson. She commented that the courts need ongoing maintenance and as a Commission they should look at this as a policy and share in the cost of keeping the equipment and courts in good condition. She addressed a substantial difference in the caliber of written materials that she reviewed from both parties, there are pros and cons to both and was concerned that we have not received a strong business and marketing plan from Frankie C's. She stated that Ms. Zguna's marketing plan includes a website and it outlined several methodologies by which she will be promoting this which are important things to consider.

Commissioner Diebel expressed the need if they are outsourcing this that they have an assurance that the maintenance costs are not going to escalate. Mr. Holland stated that the maintenance costs would still be the same, the major maintenance of the courts will be the City's responsibility and wanted to designate any profits for the renovation of the courts. Mr. Holland, Mr. Moore and Mr. Knight answered further questions.

Commissioner Dillaha commented that she was not comfortable awarding a contract to someone that has not demonstrated if they can run a very valuable operation. Commissioner Anderson wanted to have personal reference checks done; see a financial history; show what we could reasonably expect out of the business and if they have a demonstrated track record. City Manager Knight explained that whichever contractor they pick or if they choose to bid it out again, there will be an out clause in the contract and if they are not performing to the standard agreed to in the contract they will start the process over again.

Motion made by Mayor Bradley to outsource the contract to High Performance Sports Management, Inc; seconded by Commissioner Bridges. Upon a roll call vote, Mayor Bradley, Commissioners Dillaha and Bridges voted yes. Commissioners Anderson and Diebel voted no. The motion carried with a 3-2 vote.

b) Proposed use of the post office property.

Commissioner Anderson addressed his intent to approve Option A of the Arrowhead proposal and approve Option A of the State Office site for purposes of beginning our fundraising efforts and beginning the post office discussion.

ZHA President Rick Mellin gave an overview on what occurred during last week's work session. He stated that they determined the minimum amount of land that we need at the State Office Building for a distribution facility given the post office's parking, trucks loading and facility requirements. He provided an illustration of alternative post office options and a number of different architectural styles. He commented that they were looking at 1 1/2 acres and as long as they are providing surface stormwater and all the parking on-site, that is the smallest amount of property that they can put the distribution on, given the right geometry. He explained that they did a massing study to see what it looks like, such as a one story in that area from the northeast corner of Denning Avenue down to the site.

They also looked at other alternatives for the retail post office on the Arrowhead. He stated that at their work session on August 17 there was agreement that the focus towards New York and Canton Avenue (which is less than an acre) was preferable with the parking. He added that they were asked to go back and look at the numbers. He addressed that for the retail and distribution, it would be \$3.4-\$3.5 million, exclusive of any compensation for building differential and land cost. In terms of the land cost itself (of \$30 a buildable square foot on any parcel that falls into .4501 type of FAR), a 1 acre parcel would be a little less than \$600,000 and a 1 1/2 acre parcel a little less than \$900,000. He explained that this was what they were charged to do and that the intent was to get something that could be used for fundraising activities and also to have definitive discussions with the post office to extend the current agreement. He stated that the way the contract is currently structured, the land is through its vested rights and a condominium association and all they agreed to receive is a turnkey facility with a condominium interest. Mr. Mellin answered questions.

Motion made by Commissioner Anderson to adopt Option A on the Arrowhead site and Option A on the State Office site as conceptual post office configurations for the purposes of fundraising. Mayor Bradley asked that he adopt the package. Commissioner Anderson restated his motion to adopt the Option A package presented by ZHA for the purposes of discussions with the post office and for fundraising; seconded by Commissioner Bridges.

Commissioner Anderson noted that Mayor Bradley had a good idea about investigating the possibilities of a different location near the train station. He stated this would push this concept forward for fundraising purposes, but also explore the option as the Mayor suggested and consider it at a later date after the fundraising committee has formed and they gather opinions from the primary donors. Mr. Mellin commented that the train station location deserves to be looked at and that it could work. Commissioner Anderson added that he hoped the committee structure will have a guiding group that will also be an appointed group to work with the park design people.

Commissioner Bridges did not believe there would be resistance to another location as long as there is the assurance of a minimum number of acres to add to the park and that the post office stays downtown which this alternative offers. Commissioner Anderson commented that they should expect the fundraising committee to say this is the criteria and the basis for raising \$4 million to do this.

Joe Terranova, 700 Melrose Avenue, believed that long term the post office will either go out of business or will be contracting a great deal. He recommended they negotiate a right of first refusal to buy the post office property.

Tom McMacken, 1821 Shiloh Lane, stated they were talking of collectively making a community investment of over \$8 million in this plan to gain 1 acre of park. He commented that there are options to be looked at before they act on a motion to proceed with this.

Sally Flynn, 1400 Highland Road, stated that the fundraising will be successful if everyone gets behind it. She added that they need to be assured that there is 1 acre of park in the plan because that is why they are fundraising.

Commissioner Anderson commented that this is a continuation of the planning the possibilities project and has been part of the various options that have been studied which is close to matching alternative "B" that was previously examined. Commissioner Dillaha believed they should move forward and see if they can raise the money. She also asked Mr. McMackin how he arrived at the \$8 million figure. Mr. McMackin stated they had spent money to secure the rights to do this for \$3.7 million and now they are going to fundraise another \$4 million which brings the total close to the \$8 million range.

Mr. Mellin, Mr. Briggs and Attorney Cheek answered questions. Mayor Bradley commented that he would vote against the motion because he was concerned about the State Office site being used for anything other than a much higher use than a warehouse at this point.

Commissioner Diebel asked Commissioner Anderson to restate his motion. Motion made by Commissioner Anderson to approve the package as presented by ZHA for the purposes of beginning fundraising and discussions with the post office.

Commissioner Anderson commented that the September 14 fundraising committee presentation would be about understanding what the committee is going to do to raise money and what the vision might be. He stated that this is a conceptual plan.

Commissioner Diebel addressed concerns that we were intending to liquidate a City asset including the State Office Building which competes with funding other higher priorities such as

capital budgeting, the Community Center, the library and others. She was concerned that they have not vetted those issues, but supports the concept.

Commissioner Anderson commented that there are interested parties that are still willing to move this site over to the progress point site who will find a workable solution where the State Office Building is still held for the highest and best use. He addressed the committee is helping us move the post office annex to a different location that makes more sense for the City's long term. Mayor Bradley asked for clarification on what they were asking the committee to do. Commissioner Anderson commented they will raise \$4 million and he is trying to get a process going and to get the extension from the post office. He also wanted to see if there is enough momentum to get \$4 million of capital, refine the program and then commit to moving the post office annex to another location.

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

Commissioner Diebel commented that she was fully supportive regarding the part of the motion that designates that Commissioner Anderson should be discussing this with the post office and thanked him for taking on that responsibility. Mayor Bradley suggested that Mr. Knight be a part of this process with Commissioner Anderson. Mr. Knight agreed.

c) Public notice and process for adoption of the new Land Development Code.

Planning Director Jeff Briggs commented that the City's new comprehensive plan became official on May 14, 2009; however, they have a zoning code with a different set of rules. He stated that part of the strategic plan of the Commission is to adopt a new Land Development Code, particularly the zoning. He stated that on August 18 the Planning and Zoning Commission recommended approval of a document to move forward.

He addressed questions: 1) If the Commission desired any special public notice such as a City-wide mailing other than the quarter page advertisements in the Orlando Sentinel; 2) If the Commission desired to hold work sessions to discuss the new Land Development Code (LDC)/zoning code; and 3) When the Commission wanted to schedule the public hearings. He commented it would likely be October 12 because of other pressing matters coming before the Commission. Communications Director Clarissa Howard answered questions about a City-wide notice and direct mailing.

Motion made by Mayor Bradley to calendar this for the meeting of October 12, they do the City-wide notice in addition to a newspaper ad and at the Commission's discretion they have a work session towards the end of September to be able to prepare for this meeting; seconded by Commissioner Bridges.

Commissioner Dillaha commented that she would not be attending the October 12 meeting. **Mayor Bradley amended his motion to calendar the meeting for October 26; seconded by Commissioner Bridges.** Mr. Briggs answered questions.

Additional comments were made by commissioners regarding the need to have deadlines where all production on the code is completed and the additions previously made to the LDC by the P&Z. Mr. Briggs stated he will have the P&Z changes compiled quickly.

Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Diebel and Bridges voted yes. The motion carried unanimously with a 5-0.

d) Budget discussion.

City Manager Knight addressed sending the Commission a package last week regarding questions that came up during a work session where the Commission requested they begin to vote items up or down today. He stated that they have the two public hearings on the budget in September. Mayor Bradley expressed being uncomfortable voting things up or down today since they will be having formal hearings.

Mr. Knight provided the Commission with two updates. Commissioner Dillaha stated there are capital improvement projects that they should start to look at such as the renovation of the pro shop, the Tennis Center restrooms/lockers, and was concerned with the paving schedule falling back to a 5 ½ miles per year. She wanted to reallocate \$650,000-\$750,000 and believed it was possible.

Mayor Bradley suggested that the Commissioners put in writing what they would like to have proposed as potential actions or motions before the September 14 date and to email that to Mr. Knight. Mr. Knight stated that he could distribute all of the Commissioner's comments as part of the agenda packet. Mayor Bradley suggested voting these up and down during the public hearing. Commissioner Anderson suggested they begin with the capital improvements items first. Mayor Bradley asked that the Commission have this to Mr. Knight by September 3.

e) Winter Park City performance indicators. **PULLED FROM THE AGENDA**

Mayor Bradley postponed this item due to the time. He stated at some point he would like to see the performance indicators on one page instead of having to read throughout the budget package so they can look at these things in totality.

A recess was taken from 7:48 p.m.-7:56 p.m.

Public Hearings:

- a) RESOLUTION NO. 2034-09: 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 FACILITIES, EAST OF KEYES AVENUE, WEST OF PARK AVENUE, SOUTH OF STOVIN AVENUE AND NORTH OF WEBSTER 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.

The Commission met as the Equalization Board for both Resolutions a) and b).

Attorney Cheek read both resolution titles (a) and (b) together. No public comments were made. Public Works Utility Liaison Terry Hotard explained this is part of their Plug-In Program and this is the first neighborhood that has agreed. He stated they received 77% approval in this neighborhood, there were no "No" votes and 6 non votes out of 22 parcels.

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

- b) RESOLUTION NO. 2033-09: 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 FACILITIES, EAST OF KEYES AVENUE, WEST OF PARK AVENUE, SOUTH OF STOVIN AVENUE AND NORTH OF WEBSTER AVENUE, GENERALLY DESCRIBED AS ADJACENT TO THOSE PROPERTIES, EAST OF KEYES AVENUE, WEST OF PARK AVENUE, SOUTH OF STOVIN AVENUE AND NORTH OF WEBSTER AVENUE, PROVIDING AN EFFECTIVE DATE.

No public comments were made. Mr. Hotard explained that they determined the construction costs for Winter Park Electric and the homeowners have agreed to assess themselves 50% of that over 10 years. He addressed no Embarq facilities being involved. There is Bright House facilities involved and with the Bright House agreement they are assessing 95% of the cost over 10 years and Bright House has absorbed 5% of that cost.

Motion made by Commissioner Bridges to adopt the resolution; seconded by Commissioner Dillaha. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Bridges and Diebel voted yes. The motion carried unanimously with a 5-0 vote. Attorney Cheek addressed the need for another vote because they acted as the Equalization Board and they need to act as the Commission.

Motion made by Commissioner Anderson to approve the special assessment methodology approved by the Equalization Board; seconded by Commissioner Bridges. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Bridges and Diebel voted yes. The motion carried unanimously with a 5-0 vote.

- c) RESOLUTION NO. 2032-09: A RESOLUTION OF THE CITY OF WINTER PARK, FLORIDA, SUPPORTING ELIMINATION OF THE CAP ON THE STATE AND LOCAL HOUSING TRUST FUNDS AND SUPPORTING FULL APPROPRIATION OF THE HOUSING TRUST FUNDS FOR HOUSING PROGRAMS.

Attorney Cheek read the resolution by title. No public comments were made. Planning Director Jeff Briggs explained that the Florida League of Cities is requesting support via a resolution to urge the State Legislature to restore funding for affordable housing.

Motion made by Commissioner Dillaha to adopt the resolution; seconded by Commissioner Bridges. 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.

- d) RESOLUTION NO. 2031-09: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, SUPPLEMENTING ORDINANCE NO. 2773-09 OF THE CITY WHICH AUTHORIZED THE REFUNDING OF THE OUTSTANDING ELECTRIC REVENUE BONDS, SERIES 2005A AND SERIES 2005B, OF THE CITY, AND THE TERMINATION OF ALL OR A PORTION OF AN INTEREST RATE HEDGE RELATED TO SUCH BONDS; PROVIDED FOR THE ISSUANCE OF NOT EXCEEDING \$60,000,000 ELECTRIC REFUNDING 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 THE ELECTRIC SYSTEM OF THE CITY; 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.

Attorney Cheek read the resolution by title. No public comments were made. City Manager Knight explained that the primary purpose of these bonds will be to refund the tendered portion of the Electric Revenue Bonds, Series 2005A and 2005B. As a result of the tender offer program, the City will be purchasing \$22,735,000 of the Series 2005A Bonds and \$2,375,000 of the Series 2005B Bonds at \$0.91 representing a discount of \$2,259,900.

He explained that staff and the bond team are currently preparing the bond offering document (Preliminary Official Statement) and expect to close on the bonds on September 1. A Tax Equity and Fiscal Responsibility Act Hearing will be held on August 31 as required in order for interest on these qualified private activity bonds to be exempt from Federal income tax. Commissioner Anderson thanked staff and stated that they saved approximately \$8-10 million.

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

- e) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA RELATING TO THE ABANDONMENT OF AN ELECTRIC DISTRIBUTION EASEMENT RECORDED IN O. R. BOOK 3187, PAGE 363, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, AS LYING WITHIN 343 CHEROKEE LANE AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING AN EFFECTIVE DATE. First Reading

Attorney Cheek read the ordinance by title. No public comments were made. City Manager Knight answered questions.

Motion made by Mayor Bradley to accept the ordinance on first reading; seconded by Commissioner Anderson. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Bridges and Diebel voted yes. The motion carried unanimously with a 5-0 vote.

- f) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AND ABANDONING THE EASEMENT OVER THE EAST FIVE FEET (5.00') OF THE WEST TWO HUNDRED (200') FEET OF BLOCK 3, PETER MACK'S REVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK "G", PAGE 21, OF THE PUBLIC RECORDS OF ORANGE COUNTY, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING AN EFFECTIVE DATE. First Reading

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

Motion made by Mayor Bradley to accept the ordinance on first reading; seconded by Commissioner Anderson. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Bridges and Diebel voted yes. The motion carried unanimously with a 5-0 vote.

- g) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO ADOPT NEW PUBLIC NOTICE AND ADOPTION PROCEDURES FOR AMENDMENTS TO THE CITY OF WINTER PARK, COMPREHENSIVE PLAN, GOALS, OBJECTIVES AND POLICIES DOCUMENT, SUBSTITUTING FOR THE CURRENT AMENDMENT PROCEDURES, ADOPTING A 2009 PUBLIC PARTICIPATION PLAN, PROVIDING AN EFFECTIVE DATE. First Reading

Attorney Cheek read the ordinance by title. No public comments were made. Planning Director Jeff Briggs stated that the Planning and Zoning (P&Z) Commission recommended adoption of this ordinance at their June 2, 2009 meeting which included their recommendation that comprehensive plan amendments occur only twice per year. He explained the ordinance proposes to update the process and notification procedures in our Land Development Code for amendments to the comprehensive plan (last adopted in 1991) as well as adopting an updated Public Participation Plan (last adopted in 1989).

Mr. Briggs explained that the ordinance establishes new code provisions for future amendments to the comprehensive plan given changes in state and City notice requirements since 1991. Staff's goal is to adopt the state statute requirements for comprehensive plan amendments, by reference, so if the State changes those requirements, they automatically change for the City without having to amend our code. State law allows comprehensive plan amendments anytime during the year unless the property is over 10 acres in size, then it is restricted to twice per year. However, the P&Z recommended that the comprehensive plan be amended a maximum of twice per year which is more restrictive than the State Law which allows "small scale" amendments (those involving property of less than 10 acres) to occur more frequently.

The work session with Commissioners Anderson and Dillaha came up with a compromise of allowing comprehensive plan amendments for properties of two acres or less be allowed more frequently than twice per year. The motion at the last City Commission meeting was to place that ordinance on the public hearing agenda.

Motion made by Commissioner Anderson with the following minor amendment to insert the words small scale amendments to Section 1, paragraph 1 of the second line of the yellow insert which would read: "The commencement of the process to amend the comprehensive plan shall be limited to no more than two times during any calendar year except for small scale amendments to the Future Land Use Map involving applications for properties of less than two (2) acres." The motion failed for lack of a second.

Commissioner Bridges asked if he would agree to 1 acre instead of 2 acres since it is more consistent with the language they already have. Commissioner Anderson commented that his goal was to avoid the burden on small landowners that are trying to make a minor change to their property. Commissioner Dillaha did not agree with adding small scale.

Mr. Briggs stated that the question is the size of property they want to limit to being considered twice a year versus coming in the monthly cycle. Commissioner Anderson clarified that anything that is not a small scale amendment is considered twice a year. Mr. Briggs agreed.

Commissioner Diebel expressed her concerns. She asked the purpose for limiting these types of changes knowing that they have a process of review that goes through our Judicial Board to the Commission. Commissioner Anderson stated that he wanted to be more generous for smaller property owners than what is currently on our books. Mr. Briggs answered questions.

Commissioner Dillaha did not think the 10 acres or more was suitable for Winter Park and wanted to discuss the frequency of amending the comprehensive plan and requiring a supermajority vote to amend the comprehensive plan Future Land Use Element. She addressed speaking to Collier County as to how often they amend their comprehensive plan. She explained her reasons for requiring a supermajority vote to amend the comprehensive plan Future Land Use Element. She spoke about the State Legislature, passing of Bill 360 and the lack of oversight of Growth Management at the state level and that local governments need to provide safety nets and have precautions when amending comprehensive plans. She added that the physical appearance of this City is what creates value and to amend that by a 3-2 vote does not give our community enough stability or assurance that they are going to maintain a certain character going forward.

Mayor Bradley spoke about the C-2 zoning of our current post office property and that he did not believe this was a good decision and should be changed immediately. He stated if they see something as a Commission that needs to be modified, which is in the best interest of our citizens, they have the ability and the latitude to do that in a fast manner. He commented that 2 acres twice a year is problematic for something that they would want to change. Mr. Briggs and Mr. Knight answered questions.

Commissioner Diebel commented that she would like to see more fluidity in the review process and they are setting the expectations that they are not going to review every six months, until the next six months and believed this has unintended consequences. Commissioner Dillaha disagreed and did not believe six months is a long time.

Motion made by Commissioner Dillaha to approve the ordinance on first reading with the following change to add the two words (for and amendment) that were left out of the sentence to read: "This twice a year limitation shall not apply or count as one of the two permitted amendment cycles for City sponsored comprehensive plan amendment in the case of an emergency." Also, require a supermajority vote to amend the Future Land Use Element; seconded by Commissioner Bridges.

Sally Flynn, 1400 Highland Road, submitted a petition to pass an ordinance requiring a supermajority in order to change or amend the Land Use Element of our comprehensive plan.

Joe Terranova, 700 Melrose Avenue, opposed going with the supermajority. He stated that they should make the two acres five acres and that would cover most all properties in Winter Park.

Commissioner Dillaha commented that it should not be easy to amend the comprehensive plan when they have spent years creating a growth management plan. Mayor Bradley addressed concerns that a 3-2 vote can require a 4-1 supermajority on any future matter. He reiterated his

concern regarding the post office and that it is not zoned appropriately and they need to make it easy to adjust that as a Commission.

Commissioner Anderson asked Commissioner Dillaha to consider taking out the supermajority. **Commissioner Dillaha removed her amendment to require a supermajority vote to change the Future Land Use Element; seconded by Commissioner Bridges for the purpose of the language in this particular amendment.**

Commissioner Dillaha reiterated that her original motion was that two words (for and amendment) were inadvertently left out and she was not changing any substance. **"This twice a year limitation shall not apply or count as one of the two permitted amendment cycles for City sponsored comprehensive plan amendment in the case of emergency."** Upon a roll call vote, Commissioners Anderson, Dillaha and Bridges voted yes. Mayor Bradley and Commissioner Diebel voted no. The motion carried with a 3-2 vote.

City Attorney's Report:

No items.

Non-Action Items:

a) City Manager's Report.

City Manager Knight gave an update on the tender offer for the water and sewer bond, the Fire Union agreement and the Fairbanks project with FDOT.

b) Monthly financial report.

Mayor Bradley commented that due to the time he would like to move to other items on the agenda. He suggested that when they begin their 2010 budget conversation at the September 14 meeting that Finance Director Hamil begin with a thorough state of the City finances.

c) Reports from the Florida League of Cities Annual Conference.

Mayor Bradley commented that he and Commissioners Dillaha and Bridges attended the Florida League of Cities conference. Commissioner Dillaha addressed the theme of the meeting and the various sessions she attended pertaining to budgeting, police and fire pensions and the Taxpayers Bill of Rights (TABOR) which may be coming up next year for a vote. She asked that Mr. Knight look into TABOR and what impact it may have on our City's budgeting. Mr. Knight agreed. She believed it would be good if they signed up for one of the League's five legislative committees. Commissioner Bridges commented that she also attended a number of workshops which were informative.

Mayor Bradley commented that he attended some of the Mayoral meetings. He addressed the many communities that are facing much more contention in their communities than we are and explained that several of the Commissions have adopted extensive codes for Commissioners, citizens and staff to follow as it relates to dialogue and he wanted to learn more about this. He also stated that Winter Park has things much better financially than other municipalities in our state and believed our City Manager form of government provides continuity and provides for good thinking.

- d) Process/time-line to place Charter items on the March 2010 election; specifically "super-majority" changes to the Comprehensive Plan (Commissioner Anderson)

Commissioner Anderson commented that this was sufficiently answered during the work session on August 17. He stated that whatever originates from that can carry over into our Charter discussions.

New Business (Public):

No public comments were made.

New Business (City Commission):

1. Commissioner Anderson thanked Mayor Bradley and Commissioners Bridges and Dillaha for attending the Florida League of Cities annual conference, City Manager Knight and Finance Director Wes Hamil for their work on the bonds and Attorney Cheek for serving the Commission so well for the last few years.

2. Commissioner Bridges stated that Code Enforcement has an issue with not having up-to-date information on how to connect with property owners. City Manager Knight stated this is a staffing issue and someone is needed full time to deal with addresses in Winter Park and updating our system as addresses are modified. Commissioner Diebel wanted the Outreach System to do more in terms of public communication. She stated if we are going to maintain a City-wide data base of contacts of address changes including email addresses, then they need to figure out what kind of resources they need to move that along. Mr. Knight agreed.

Mayor Bradley stated one of the providers at the Florida League Cities conference had a self regulated system based on phone and email. He wanted Mr. Knight to see if our current system keeps that up-to-date. He stated that some cities are using systems as to whether things should be voted on or not and there is almost instant feedback on issues. He expressed that he was interested in that in terms of public participation.

- a) Charter Review

Mayor Bradley commented that this is based on their last Commission work session where they discussed the Charter. **Motion made by Mayor Bradley that 1) A seven (7) person Task Force be appointed by the City Commission at the September 14, 2009 Commission Meeting; 2) Each Commissioner will appoint one (1) member to the Task Force with two (2) at large members appointed by a majority vote of the City Commission; 3) Marilyn Crotty, Director of The John Scott Dailey Florida Institute of Government be retained to review current Charter and to guide the citizen task force through the process; and 4) the initial recommendation is brought to the City Commission by November 1, 2009 to be ready for the March 2010 Ballot. Motion was seconded by Commissioner Bridges for discussion.**

Commissioner Bridges believed there was consensus at the work session not to bring the Civil Service portion of the Charter forward for the March 2010 ballot. Mayor Bradley commented that he did not want to limit the task force and left this off the motion because he believed they could discuss it on September 14. Commissioner Dillaha agreed they should leave this open and the Civil Service portion can be at the end and see if they have time to address it.

City Manager Knight stated that he was meeting with Marilyn Crotty tomorrow and if they approve this process then he can give her the necessary information.

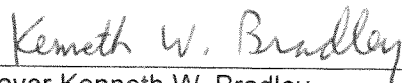
Commissioner Dillaha commented that she wants to ensure those who participate have the time to do so and suggested at the next meeting the Commission recommends to the committee what they might look at. Mayor Bradley asked that they have nominations for the task force and forward them to Mr. Knight.

Mayor Bradley amended his motion that each Commissioner will appoint one (1) resident member to the Task Force with two (2) resident at large members appointed by a majority vote of the City Commission. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Bridges and Diebel voted yes. The motion carried unanimously with a 5-0 vote.

Mayor Bradley addressed scheduling the work session regarding the process for adopting the land use code between September 14 and October 26. Commissioner Dillaha suggested that members of P&Z attend this work session, if they wish to do so. A work session was scheduled for September 14 from 2:30 p.m.-3:30 p.m. to discuss Resolution 1978-07: Policies governing the City Commission meetings. He stated that Mr. Knight will take all of their comments and place them under the specific categories. The shade meeting was also scheduled for September 14 from 2:00 p.m. – 2:30 p.m.

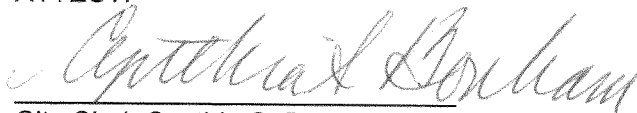
Motion made by Commissioner Anderson to adjourn the meeting; seconded by Commissioner Bridges.

The meeting adjourned at 9:26 p.m.



Mayor Kenneth W. Bradley

ATTEST:



City Clerk Cynthia S. Bonham

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME BRADLEY Kenneth Wayne		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Winter Park City Commission	
MAILING ADDRESS 1612 Elizabeth's Walk		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY Winter Park	COUNTY Orange	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED August 24, 2009		NAME OF POLITICAL SUBDIVISION: City of Winter Park	
		MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Kenneth W. Bradley, hereby disclose that on August 24, 20 09:

(a) A measure came or will come before my agency which (check one)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☐ inured to the special gain or loss of my relative, _____;
- ☐ inured to the special gain or loss of _____, by whom I am retained; or
- ☒ inured to the special gain or loss of my employer - Winter Park Memorial Hospital, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Agenda Item 6. Consent Agenda c)

Approve award of IFB-23-2009 Electric Materials for Hospital Plug-in Project to Gresco Utility Supply, Inc; \$70,932.38

August 24, 2009
Date Filed

Kenneth W. Bradley
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.