

**CITY OF WINTER PARK
REGULAR MEETING OF THE CITY COMMISSION
September 12, 2005**

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

The invocation was offered by Bill Swartz, Parks and Recreation Department, followed by the Pledge of Allegiance.

Members present:

Commissioner John Eckbert
Commissioner Douglas Metcalf
Commissioner Barbara DeVane
Mayor Kenneth Marchman

Also present:

City Attorney Trippe Cheek
City Manager James Williams
City Clerk Cynthia Bonham

Members absent:

Commissioner Douglas Storer

MAYOR'S REPORT:

- a) Rollins College #1 ranking recognition.

Mayor Marchman presented Rollins College President Dr. Lewis Duncan with a proclamation declaring September 23, 2005, as Rollins Day in recognition of their consistent high rankings and dedication to excellence. Dr. Duncan addressed the warm relationship that Rollins has with the City.

- b) Randall Smith recognition – Art in the Chambers Exhibit.

Mayor Marchman recognized Randall Smith for his photography exhibit on trains as displayed in the Commission chamber. Mr. Smith thanked the City for allowing him to be the first artist to display their work at City Hall.

- c) Presentation of a check by the Fire Department to the American Red Cross for Hurricane Katrina victims.

Fire Chief White presented Monica Turateck of the American Red Cross with a check for \$3,163.77 for monies raised by the Fire Department at the Winter Park Village for the Hurricane Katrina victims. Ms. Turateck spoke about the help they have provided to disaster victims with the monies the City and other entities have raised. She thanked the City for their support.

- d) Mayor Marchman announced that the Denning Drive project for Mr. Bellows will not be heard this evening.

NEW BUSINESS – CITIZENS COMMENTS:

1. Dan Bellows, 533 W. New England Avenue, addressed his request for a reimbursement of \$180,000 for permit and impact fees he paid for the Winter Park Redevelopment Agency (WPRA) projects constructed in the CRA district on W. New England Avenue and West Welbourne Avenue. He provided a copy of a letter dated May 2005 related to his request. He stated he did not receive a written response and that the projects are fully constructed and paid for. He spoke about the quality of his construction, the high cost of construction and his low rental properties. He stated he has just begun construction of the 450 W. New England Avenue building. He said the permit for this building is about \$275,000; contains 17 residential units with affordable rent but that he is being asked to provide a park trust fund fee and an affordable housing fee.

He asked for either a waiver or a discount but at worst case the City did on the last building he did – he paid all his permit fees at time of getting the permit but did not pay his sewer or water meter fees. He stated the water and sewage fees are over \$135,000 and asked that until the Commission makes a decision as to his request to waive or discount any impact fees on projects that are providing residential affordable housing that he is allowed to pay the fees as he needs it. He spoke about the large amount of fees he is required to pay to begin construction. Mr. Bellows stated he currently has a building permit pending that he would like to pay of \$18,030 and then in two weeks the Commission can decide on his request to waive, discount or delay the cost of connection fees until the meters are needed.

City Manager Williams stated he told Mr. Bellows to approach the Commission this evening to see about any interest to discuss his request and that he is the only person he is aware of that the City would be doing this with. He stated it is common that water and sewer fees are paid up front. He stated staff can provide recommendations if the Commission wishes to consider this request.

There was a consensus that this item be placed on the September 26 agenda so staff can provide their recommendations. There was also consensus to allow Mr. Bellows to pay the \$18,030 permit fee now and to delay the remaining fees depending on the outcome on September 26.

2. Mr. Dan Bellows, 433 W. New England Avenue addressed the City's electric service. He stated he has installed 20 plus pad mount transformers to date and paid for the under grounding of New England Avenue. He stated that Attorney David Cardwell who specializes in CRA's will speak. He spoke about the 1994 CRA document addressing that the proceeds from the CRA should be used in the right-of-way and to underground power and that he is hoping to be reimbursed for that. He addressed the transformers at 411 West New England Avenue being paid for and the undergrounding of utilities for the project. He stated because of his elevator, it needs to be three phases and there is no provision for that. He stated the City Utilities Department provided him a lengthy list of his requirements as the developer. He said he has never been subjected to this with the numerous projects he has built. He stated the transformer was typically provided but that the City billed him for \$15,000 to provide the transformer after he dug the holes, ran the conduits, provided secondary feeders, etc. He addressed the land on his private property that he gave to Progress Energy to put a switch in that does not benefit any of his properties. He compared the costs imposed by Progress Energy versus the City and

addressed the \$25,000 he is required to pay that the City has charged him. Mayor Marchman told Mr. Bellows that these items need to go through staff and be put on the agenda.

Attorney David Cardwell, representing Mr. Bellows, recommended that the Commission authorize the CRA staff to meet with him so they can work on a comprehensive agreement as to how Mr. Bellows will proceed with redevelopment on the Westside. Mayor Marchman stated they would want staff to meet with Mr. Bellows and/or his attorney and that the City would like to agree on a comprehensive plan. He asked Mr. Cardwell to meet with staff and that anything needing to come back to the Commission should become an agenda item.

3. William Harris, Traditional Neighborhoods, stated he wanted to discuss Traditional Neighborhoods and that Mr. Bellows is the founder of this organization. He summarized his background and commented that Mr. Bellows asked him to be the president of the group. He stated he is also the president of the Winter Park Tiger Pop Warner Football League and Cheer and has worked extensively with children and hopes to find sponsors to allow the underprivileged children to play. He stated TNI wants to make a difference in this organization and that he needs help from the City. Mr. Harris was asked to meet with staff and to make this an agenda item for another agenda.

CITY ATTORNEY'S REPORT:

1. RESOLUTION NO. 1925-05: A RESOLUTION BY THE CITY OF WINTER PARK, FLORIDA TO ENTER INTO A FLORIDA RECREATION DEVELOPMENT ASSISTANCE PROGRAM GRANT WITH THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, DIVISION OF PARKS AND RECREATION

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

Motion made by Commissioner DeVane to adopt the resolution, seconded by Commissioner Eckbert. Upon a roll call vote, Mayor Marchman and Commissioners Eckbert, Metcalf and DeVane voted yes. The motion carried unanimously with a 40 vote.

2. Attorney Cheek presented a resolution amending the prior resolution regarding rules for meetings. This was not on the agenda for discussion this evening.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, AMENDING RESOLUTION NO. 1415, "RULES FOR THE CONDUCT OF MEETINGS", TO PROVIDE THAT THE RULES OF DECORUM STATED THEREIN APPLY TO THE MEETINGS OF CITY BOARDS; THAT DISRUPTIVE BEHAVIOR CAN RESULT IN REMOVAL OF PERSONS FROM THE MEETING; AND FOR POSTPONEMENT OF BUSINESS AS MAY BE NEEDED; PROVIDING AN EFFECTIVE DATE.

Attorney Cheek read the resolution by title and explained the amendments to the proposed resolution. No public comments were made. Upon Commission review and comments, there was consensus to further revise the resolution to give the board that the matter is pending before the authority to decide if the agenda item will be heard that evening or postponed if the applicant

is removed from the meeting. The resolution will be on the next agenda with the agreed revisions.

CONSENT AGENDA:

- a) Approve the minutes of 8/8/05 (special meeting) and 8/22/05.
- b) Approve the following bids and purchases:
 - 1) PR 120068, to Chaz Equipment Co., from the Del Ray Beach contract #2002-37, for Sanitary Sewer Manhole Interior Rehabilitation; \$53,230.00 (Budget: Utilities CIP).
 - 2) RFP-14-2005 to Pepsi Bottling Group for service and products for the drink vending machines in the city. There is no cost to the City for the service.
 - 3) Extension of contract with Respect of Florida for workers to assist Parks/Recreation Department; \$30,121.80/yr. (Budget: Parks/Recreation). **ITEM WAS PULLED FOR DISCUSSION – INCREASE IN FUNDING. SEE BELOW.**
 - 4) Reject the only response for ITN-15-2005: Food Catering Service for Emergency Standby from Puff 'n Stuff Catering. The pricing was too high.
- c) Approve the following budget adjustments:
 - 1) Appropriate \$610,600 in revenues in excess of budget estimates to cover cost of required contributions that are in excess of those anticipated in the budget process. City staff is working with the Police and Fire Pension Boards to move to prospective actuarial valuations for the pension plans which could be used to budget known amounts for City pension contributions. The required contribution for FY 2006 will not be known until the actuarial reports are received in February 2006. Prospective valuations would help with preparing the budget for FY 2007.
 - 2) Appropriate \$450,000 in debt proceeds for upgrading the phone system as approved by the City Commission on July 11, 2005.
 - 3) Appropriate \$19,568 in Carry forward fund balance for ongoing Building Maintenance project balances as of 09/30/2004 to FY 2005.
 - 4) Transfer \$77,375 in savings on the Police Department digital communication equipment project for use in installation of a fiber line for the security system at the Public Safety Complex.
- d) Approval of the understandings expressed in the letter received from Dan Bellows regarding the confirmation of responsibilities and understanding for the 450 W. New England Avenue and 362 S. Pennsylvania Avenue projects, contingent upon incorporation into an agreement approved as to form and content by the City Attorney.
ITEM WAS PULLED FOR DISCUSSION – INCREASE IN FUNDING. SEE BELOW.

Items 'b) 3)' and 'd' were pulled from the Consent Agenda.

Dan Bellows, 433 W. New England Avenue, addressed Consent Agenda Item 'd' being pulled. No further public comments were made.

Motion made by Commissioner DeVane to approve the Consent Agenda with the exception of items 'd' and b) 3); seconded by Commissioner Metcalf. The motion carried unanimously.

Consent Agenda Item 'b) 3)'

City Manager Williams addressed the proposal received from Respect for Florida and their willingness to clean the restrooms at Azalea Lane for an additional \$7,400 to change the total to \$37,523. He recommended approval.

Motion made by Commissioner DeVane to approve Consent Agenda Item 3)b) with the increase in cost, seconded by Commissioner Eckbert and carried unanimously.

Consent Agenda Item 'd'

Planner Jeffrey Briggs explained that the City is ready to issue the permit for the project at 450 W. New England Avenue but that the parking project at 362 S. Pennsylvania Avenue that is not ready for a permit. He stated it will be 10 months before the shell is ready and ready to do build out of the spaces in the 450 building. He wanted to put on record the understandings the City has in respect to the parking and the understandings we have in terms of the sequencing of permitting so that there are no complications when tenants move in. He stated the construction sequence will be put into a form of an agreement.

Commissioner DeVane expressed concerns that we have seen changes in the plans for both projects. She suggested that this go back to the Planning and Zoning Commission to work out and come to an agreement to where there is parking on 450 W. New England Avenue. She stated she does not want to see a building built out and have the first two floors unoccupied because we do not have parking for those locations. She stated there is no plan how the new parking garage is going to be built.

Dan Bellows, 533 W. New England Avenue, stated he has a plan that was discussed in detail in the City Manager's Office with various department heads. He spoke about the other projects that were built that sat as a shell until deals could be worked out. He stated that the building will have 35 on site parking spaces constructed underground and about 20 spaces on site at the grade level behind the building. He stated he will have 17 apartments and the ground floor retail with second floor office as shell that he did not believe would take away from anything. He addressed the rising costs of construction and interest rates. He spoke about the proposed building and other properties that he owns in the area or is trying to purchase on Pennsylvania Avenue and the impacts to the parking garage. He stated he will not obtain a Certificate of Occupancy for his building on 450 W. New England Avenue without first obtaining one for the parking garage. He stated this is happening simultaneously per the plan that was approved at P&Z and staff.

Commissioner DeVane asked how many parking spaces are required on 450 W. New England when it is completely built out. Mr. Bellows responded they need about 120 more (for a total of 176). She stated she would rather Mr. Bellows identify some of his other properties for temporary parking until the garage is completed on 362 S. Pennsylvania Avenue. Mr. Bellows stated he would appreciate not going back to the P&Z because they are moving forward with the project and has obligations with his financing. Mr. Bellows stated he can pay the \$18,000 tomorrow for the permit and has no problem continually meeting with staff to address the concerns of the Commission. Commissioner DeVane addressed the significant changes to the garage plans. Mr. Bellows stated he is not building out the building until the parking is in place. He stated he has available parking for what is going to be occupied. Commissioner DeVane expressed her interest of having the entire building occupied when the building is fully completed.

Mr. Bellows clarified that the apartments will have parking up front and that the other spaces will not be occupied until the parking garage is built. He stated he has extra parking in the garage at Morse and Pennsylvania and is adding two more levels for the residential construction on Symonds. He stated he can work this out with staff. Mr. Bellows agreed to use this parking until the garage is built on Pennsylvania. Mayor Marchman asked that Mr. Briggs modify the letter and approve it.

There was Commission consensus to allow Mr. Bellows to pay the \$18,000 for the full building permit fee and in two weeks either work out an agreement with the Commission regarding impact fees or he will pay the balance in full of the total fees.

Motion made by Commission Eckbert to approve Consent Agenda Item 'd' as discussed and modified, seconded by Commission Metcalf and carried unanimously with a 4-0 vote.

PUBLIC HEARINGS:

- a) Request of Nodarse & Associates for property at 991 Bennett Avenue to construct two story office buildings of 32,500 square feet with parking:

ORDINANCE NO. 2644-05: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING WITHIN THE CHARTER LAWS OF THE CITY OF WINTER PARK, SECTION 1.02, "CORPORATE LIMITS DESCRIBED," SO AS TO ANNEX THE PROPERTY AT 991 BENNETT AVENUE, MORE PARTICULARLY DESCRIBED HEREIN. Second Reading

ORDINANCE NO. 2645-05: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" AND THE FUTURE LAND USE PLAN MAP AND ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO ESTABLISH FUTURE LAND USE AND ZONING DESIGNATIONS ON THE PROPERTY ANNEXED AT 991 BENNETT AVENUE, MORE PARTICULARLY DESCRIBED HEREIN. Second Reading

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

Motion made by Commissioner Eckbert to adopt the annexation ordinance, seconded by Commissioner Metcalf. Upon a roll call vote, Mayor Marchman and Commissioners Metcalf, Eckbert and DeVane voted yes. The motion carried with a 4-0 vote.

Motion made by Commissioner Metcalf to adopt the comprehensive plan ordinance, seconded by Commissioner Eckbert. Upon a roll call vote, Mayor Marchman and Commissioners Metcalf, Eckbert and DeVane voted yes. The motion carried with a 4-0 vote.

b) Request of the City of Winter Park:

ORDINANCE NO. 2646-05: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE", ARTICLE III, "ZONING" TO PROVIDE ALLOWANCES FOR ADDITIONAL HEIGHT ON BUILDINGS FOR PARAPET WALL HEIGHTS ON ROOFS AND ROOFTOP MECHANICAL EQUIPMENT WITHIN THE OFFICE (O-2) AND COMMERCIAL SHOPPING CENTER (C-1) DISTRICTS COMPARABLE TO THAT PERMITTED IN THE OTHER OFFICE AND COMMERCIAL ZONING DISTRICTS, TO PROVIDE CONSISTENCY AMONG THE ZONING DISTRICTS AND TO ADD CERTAIN CONDITIONAL USES TO THE R-2 DISTRICT. Second Reading

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

Motion made by Commissioner DeVane to adopt the ordinance, seconded by Commissioner Metcalf. Upon a roll call vote, Mayor Marchman and Commissioners Metcalf, Eckbert and DeVane voted yes. The motion carried with a 4-0 vote.

CITY MANAGER'S REPORT:

a) City-wide implementation of the National Incident Management System (NIMS)

Fire Chief White provided a powerpoint presentation that summarized the NIMS system and the impact to Winter Park. A resolution in support of NIMS will be on the next agenda for adoption.

b) Billboard proposal for 2329 West Fairbanks Avenue.

Planner Jeff Briggs addressed the request from Clear Channel to build a new, single 65 foot tall billboard in place of four existing ones at 2329 West Fairbanks Avenue (Fairbanks & I-4 on the northeast side). He commented how this would clean up this property which is at a gateway entrance into the City. He stated they will be giving the City the use of the property and the development rights around the property which the City can use to do an attractive entrance feature.

No public comments were made.

After further comments and questions by the Commission which were clarified by Mr. Briggs, a **motion was made by Commissioner Metcalf to approve the request, contingent upon the City Attorney's approval of the Development Agreement; seconded by Commissioner DeVane and carried unanimously.**

The remainder of the Commission meeting continued after the Public Hearings for the millage and budget.

NEW BUSINESS (CITY COMMISSION):

1. Commissioner DeVane spoke about conditions of yards after demolition of houses or buildings and concerns with demolitions and the property not being developed within a reasonable period of time. She expressed concerns that some owners are neglecting their properties and addressed concerns of surrounding neighbors when these properties are neglected. She spoke about the City's code enforcement ordinance needing revision to require owners to maintain their lots and to look at options to better control this type of situation. Commissioner Eckbert suggested charging property owners for mowing if they do not do it themselves. Commissioner DeVane asked that staff return with recommendations.

2. Commissioner DeVane spoke about grandfathered parking for commercial enterprises that have not done business for a certain agreed upon time. She stated if something sits vacant for whatever period of time is agreed on, the grandfathered parking should be forfeited and be required to meet current codes. She asked that suggestions from staff be provided.

BUDGET PUBLIC HEARINGS:

- a) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA ADOPTING A 4.698 MILL AD VALOREM TAX LEVY UPON ALL REAL AND PERSONAL PROPERTY FOR APPROPRIATION TO THE GENERAL OPERATING EXPENSES OF THE CITY, A .275 MILL VOTED DEBT SERVICE LEVY UPON ALL REAL AND PERSONAL PROPERTY FOR APPROPRIATION TO THE CITY OF WINTER PARK, FLORIDA GENERAL OBLIGATION BONDS, SERIES 2001, AND A .117 MILL VOTED DEBT SERVICE LEVY UPON ALL REAL AND PERSONAL PROPERTY FOR APPROPRIATION TO THE CITY OF WINTER PARK, FLORIDA GENERAL OBLIGATION BONDS, SERIES 2004. First Reading

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

Mayor Marchman opened the first public hearing for the 2005 fiscal year budget at 5:01 p.m. He stated that the millage rate needed for fiscal year 2006 to generate the same property tax revenue for the City as in 2005, based on the Property Appraiser's certification, is 4.251 mills. The budget proposed by the staff with amendments that were generally agreed to by the City Commission requires a millage of 4.698 mills. This proposed millage of 4.698 mills would represent an increase in property taxes not counting new construction of 10.52%. In addition, a .275 mill voted debt service is levied to cover the debt service of the General Obligation Bonds, Series 2001 approved by the citizens of Winter Park at the May 16, 2000, bond referendum; and a .117 mill voted debt service is levied to cover the debt service of the General Obligation Bonds, Series 1996 approved by the citizens of Winter Park at the June 4, 1996, bond referendum.

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

Motion made by Commissioner DeVane to accept the ordinance to set the millage on first reading, seconded by Commissioner Metcalf. Upon a roll call vote, Mayor Marchman and Commissioners Metcalf and DeVane voted yes. Commissioner Eckbert voted no. The motion carried with a 3-1 vote.

- b) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA ADOPTING THE ANNUAL

BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2005 AND ENDING SEPTEMBER 30, 2006; APPROPRIATING FUNDS FOR THE GENERAL FUND, CONTRIBUTION FUND, STORMWATER UTILITY FUND, AFFORDABLE HOUSING FUND, COMMUNITY REDEVELOPMENT FUND, DEBT SERVICE FUND, WATER AND SEWER FUND, GOLF COURSE FUND, ELECTRIC UTILITY FUND, FLEET MAINTENANCE FUND, VEHICLE/EQUIPMENT REPLACEMENT FUND, EMPLOYEE INSURANCE FUND, GENERAL INSURANCE FUND, CEMETERY TRUST FUND, GENERAL CAPITAL PROJECTS FUND AND STORMWATER CAPITAL PROJECTS FUND; PROVIDING FOR MODIFICATIONS; PROVIDING FOR AMENDMENTS TO SAID ANNUAL BUDGET TO CARRY FORWARD THE FUNDING OF PURCHASE ORDERS OUTSTANDING AS OF SEPTEMBER 30, 2005; AND AUTHORIZING TRANSFER OF FUNDS HEREIN APPROPRIATED WITHIN DEPARTMENTS SO LONG AS THE TOTAL DEPARTMENTAL APPROPRIATION SHALL NOT BE INCREASED THEREBY. First Reading

Mayor Marchman opened the public hearing on the City's budget for the fiscal year starting October 1, 2005, and ending September 30, 2006. Attorney Cheek read the ordinance by title. No public comments were made.

Motion made by Commissioner Metcalf to accept the proposed budget ordinance on first reading, seconded by Commissioner DeVane. Upon a roll call vote, Mayor Marchman and Commissioners Metcalf and DeVane voted yes. Commissioner Eckbert voted no. The motion carried with a 3-1 vote.

Mayor Marchman announced that the second public hearing for these two ordinances will be September 26, 2005 at 5:00 p.m. in the Commission Chambers.

Mayor Marchman adjourned the meeting at 5:25 p.m.

Mayor Kenneth R. Marchman

ATTEST:

City Clerk Cynthia Bonham