

**REGULAR MEETING OF THE CITY COMMISSION**  
**September 27, 2010**

The meeting of the Winter Park City Commission was called to order by Mayor Kenneth Bradley at 3:32 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida.

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

**Members present:**

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

**Also present:**

City Manager Randy Knight  
City Attorney Larry Brown  
City Clerk Cynithia Bonham  
Deputy City Clerk Michelle Bernstein

**Approval of the agenda**

City Manager Knight requested that Item 10b be tabled to the next meeting. Commissioner Dillaha requested that they have a discussion on the Commuter Rail agreement.

**Motion made by Commissioner Cooper to approve the agenda with these changes; seconded by Commissioner McMacken. The motion carried unanimously with a 5-0 vote.**

**Mayor's Report**

Mayor Bradley noted that they will address the City Board Reports and updates at the next Commission meeting in October.

a. **Lynda Hinckley, Winter Park Housing Authority Presenting Audit Report**

Lynda Hinckley, Winter Park Housing Authority (WPHA), presented the Commission with the Audit Report and noted there are no findings in the report. She mentioned that the City created the housing authority in 1970 which started with 171 units and they now have over 700 units and many of those are set aside for the elderly. She said that in 2006 the WPHA asked the Commission for help renovating and bringing the Plymouth Apartments out of foreclosure. At that time the Commission voted to give the WPHA \$1,000,000, to be distributed at \$100,000 for 10 years in order to keep affordable housing as an asset to the City. The first three years were a grant, and they have drawn down the \$300,000 and drawn down the first of the loan portion. She said all of those funds are to be paid back in 2011 at the end of their balloon mortgage upon refinancing. She commented that they will use the \$100,000 that is allocated this year. However, the great news is that the Plymouth Apts. are now on sound economic ground. As a result, the WPHA will not be requesting any additional funds from the remaining \$600,000 commitment so that those funds in the future may be used for other affordable housing projects in the City. She thanked the Commission for helping to save the Plymouth Apts. as affordable housing for the elderly in our community. Mayor Bradley thanked her for her efforts, for their work and contributions to the community.

b. Proclamation - Fire Prevention Week

Mayor Bradley proclaimed October 3-9, 2010 as Fire Prevention Week and acknowledged Fire Chief James White, Jim Santoro and Assistant Fire Chief Pat McCabe for their hard work and safety to the community. Fire Chief White provided safety tips.

**City Manager's Report**

City Manager Knight said the pension scope of services for the consultant work, if approved by the Commission during tonight's meeting, will be circulated to the Commission this week to make sure that everyone is on board with the scope of services. He reminded the Commission of the Transportation Forum that is scheduled for October 7, 2010 at the Civic Center from 6:00-8:00 p.m. which is an open house type of format.

Commissioner McMacken asked for an update on the State Office Building. Attorney Brown commented that he is currently looking at the lease agreement and within the next two weeks it will be ready to go forward.

Commissioner Dillaha commented on the September 20 work session regarding the 90 day plan and asked if the review of City Boards can be moved to October and if the items they discussed can be calendar scheduled. Mr. Knight stated he will provide the Commission with a calendar schedule with dates. She also mentioned the budget policy and debt policy that they discussed in a previous work session on September 16. It was agreed to bring this item forward at the next work session scheduled for October 4, 2010.

**City Attorney's Report**

a. Commuter Rail Agreement Update

Attorney Brown asked to schedule an Executive Session regarding the Club Harem lawsuit that was just filed. Session was scheduled for Monday, October 4, 2010 at 5:00 p.m. It was noted that both Commissioner Cooper and Mayor Bradley will not be able to attend due to appointment conflicts; therefore Attorney Brown said he will contact them via telephone.

Attorney Brown provided an overview of the proposed changes to the Commuter Rail Agreement consisting of the major differences between the proposed second amendment to the commuter rail interlocal with the County (the "Agreement") that they sent on August 24 and what Mr. Harrison sent back on the 17th:

1. In Section 5.4, (in paragraph 3b of the Agreement), the County modified the language so it now reads in relevant part, "The County shall not have the right to require or compel the exercise of the ad valorem taxing power of the City or taxation in any form from any property therein for payment thereof."

This deletes the additional language we proposed that the County would not be "entitled to payment from any other funds of the City." Presumably they deleted this to protect themselves in the event the City defaulted on a payment obligation arising under the Agreement.

2. In Section 6.2, (in paragraph 4 of the Agreement), the following changes:

(a). They amended 6.2(a) by adding that the Agreement automatically terminates if FDOT fails to enter the purchase agreement with CSX by December 31, 2011, the County terminates its participation in Commuter Rail, or if Commuter Rail ceases operation for more than 180 consecutive days. (They also leave in the now irrelevant provision that the Agreement terminates if the Master Interlocal isn't signed by October 31, 2007.)

(b). They substantially reworded the "100% dedicated funding source" language in 6.2(d), BUT, other than the definition of the term (which needs to go back in to clarify the source of funds must be non-City funds), they kept the essential substantive components that we proposed, except for the following:

(i). 6.2(d)(2) adds a statement that doesn't make sense to me in the context of the dedicated funding source issue, so they'll have to clarify what this means as applied to this section of the Agreement: "The City's share of the cost for the Commuter Rail System does not include the County's contribution to the City's cost etc...". I assume that what they are trying to say is, if the dedicated funding source covers the 70% the City owes, then the City may have to front the 30% County contribution amount, and await reimbursement; and such will not trigger the right to terminate. (This discussion, seeking clarification, will be a good time to request a simplification of the current process whereby the City pays 100% and the County reimburses 30%).

(ii). 6.2(d)(3) adds a negotiation requirement whereby the parties will try in good faith to seek a solution short of termination if there is an absence of the funding source. Solutions to consider at such time include a reduction in service or an amendment to the Agreement by which the City will agree to pay additional funds. (This last point is unnecessary because the "Not to Exceed Amount" will cover the City's future decision whether or not to terminate if there isn't a 100% dedicated funding source. Of course a future Commission could always amend and increase the Not to Exceed Amount-subject to legal limits on the sources of funds that may be pledged in future years, and the prohibition against an ultra vires agreement).

(iii). 6.2(d)(4) was changed and now requires the City "close" the station if the City terminates. The original language simply provided for no stop for Commuter Rail in the City if the Agreement is terminated. Especially since they want the City to hold the County harmless for federal and state funds that went into the station, the language needs to go back to where the consequence of termination is ONLY the removal of the City as a stopping place on the Commuter Rail line. Whether the City is willing to indemnify the County IF the state or feds ask for money back if the City terminates is a business decision for the Commission. (If you accept that change I would ask for them to clarify the specific grant(s) and amounts thereof so there is no ambiguity or dispute over that in the distant future.)

(iv). The County reserves the right to fund any deficit in Section 6.2(d)(5), in which case the City may not terminate.

(v). 6.2(e) changes the not to exceed amount to \$500,000 (from \$350k). The annual inflation adjustment language is the same as far as it being the US DOL benchmark starting after the FDOT funding period, capped at 3%, (but we need to correct their typo-"United Stated DOL", and the amount that is subject to the 3% cap is more ambiguous the way they wrote it, as between \$500k and the amount actually funded in the prior year).

3. The County staff have accepted most of what we put in the new Article 10 (at paragraph 6) except:

(a) We need to add an "e" that the parties will, upon notice of Adverse Impacts, consider modifying the number, timing and/or routing of buses and bus traffic.

(b) In 6(d) they changed it so the County will only have to consider "allowing SOME portion of the Not to Exceed Amount to be utilized" for covering the costs to be borne by the City in reducing Adverse Impacts in a manner mutually agreed. Whether to accept, reject or counter something in the middle (such as at least 50% of the cost to count against the Not to Exceed Amount) is a business decision for the Commission.

Attorney Brown commented that these are the major changes as between what they sent and what they received back and that there are many other stylistic and wording changes (with some typos that we can fix with them), and did not believe that the changes that he did not mention were significant. He addressed the Jim Harrison (Orange County) email of September 17, whereby he mentioned it is their intention that claim settlements (liability) will not be included in the Not to Exceed Amount, but they want to discuss the liability issue, and left that out of their counter-proposal. He stated he understands that there will be great interest in this issue, and if the Commission is willing to compromise on this, a resolution could be to define carefully what is included in "claims" that will not be a part of the Not to Exceed Amount, and if the City has not previously terminated and elects to stay in the deal, the most it would pay in any year would be up to the Not to Exceed Amount (but only to the extent of the City's share of the cost of the System, as calculated pursuant to the Agreement, including the "formula" I have never been shown and section 5.1), PLUS the amount of the City's limit of liability under s. 768.28, currently \$100k/\$200k, but increasing to \$200k/\$300k in October 2011.

Mayor Bradley asked if the County is expecting a response back to these ideas and if so, if he would then assemble the items and negotiate a final agreement that will be ratified. He asked what he perceives as the process steps. Attorney Brown said his recommendation would be that the Commission come to a consensus on some of the major issues and give direction to Mr. Knight and himself so they can prepare a counter proposal. He believed that they would then sit down personally with Mr. Harrison and Deputy County Attorney Joel Prinsell and then at that point they would have something that they could jointly place before the Board of County Commissioners and get it done. Mayor Bradley asked if both parties would then end up approving the same document. Attorney Brown said yes. He said another approach would be to go directly in front of the County but has concerns with that since they have made a considerable amount of progress working with the delegated County staff and he would hate to lose any ground if they try to deviate from the program that has been put in place.

Each Commissioner provided comments and suggestions, as follows:

Commissioner Anderson mentioned Item 2(b)(i) and that he would support Attorney Brown's approach at simplifying the whole reimbursement process. Also addressed was Item 2(b)(iii) second paragraph at the top, regarding the condition to close the station whereby he said that should reside with the commuter rail authority and not with the County. He said the original deal on insurance has radically changed since the agreement was first signed and those radical changes increase the exposure dramatically and it would be more appropriate to include those

kinds of liability changes from the original agreement within a cap. He said that staff has done a great job negotiating with the County staff and he agreed with that negotiating manner to continue and then once the staff's have agreed then they can propose something directly to the other Commission.

Commissioner Dillaha asked why this did not go directly to the Orange County Commission as directed. Mr. Knight explained that was not the direction of the Commission and that after listening to the audio from the meeting that all through the conversation everyone understood that they were operating at the staff level. She said she recollected that they had a unanimous decision that they agreed to all the changes that they wanted in this agreement and then they wanted it to go to the Orange County Commission. Mr. Knight stated that was not in Commissioner Cooper's motion.

Commissioner Dillaha said she has concerns about Item 1, second paragraph and that she wants it to be understood that they cannot bind the hands of future Commissioners. She mentioned Item 2(a) the termination date of December 31, 2011 and wanted to insist that they stick with the same termination date on the agreement that the other counties and the City of Orlando has. She spoke about Item 2(b) regarding the dedicated funding source language and said that it should be extremely clear, a 100% dedicated funding source to cover all of the City's share of operating costs. She noted Item (i).6.2(d)(2) and her concerns with the 30 percent reimbursement issue and would be simplified to have a NTE cap. She mentioned Item (v)6.2(e) and said she does not agree and will not be supporting that item. She then mentioned the last paragraph on Page 2 regarding liability insurance and said it should be included in a NTE amount. She also questioned the land use control and asked if the state has the ultimate authority to dictate land use around mass transit stations. Attorney Brown stated yes the state could do that by statute.

Commissioner Cooper addressed concerns with Section 5.4 of the Orange County agreement "Entitled to payment from any other funds of the City" and the language that was deleted being critical to be added back in to cover that because of the CRA funds and the transportation funds that come from the County. She said the actual master agreement has already told the participating counties that if you do not pay us the money owed and you choose not to pay us we will take it out of your roads programs. She stated they need to protect that money.

Additionally, under 6.2(d)(3) where they added the requirement for the City to meet and start to discuss the item, she noted there is some uncertainty as to when the 180 day notice starts and she wants to make sure that clarity be made of when it starts. She said she has concerns with Item 6.2(a)(i) and asked Attorney Brown to look into it and fix it if there is any validity to the item.

She noted Item 6.2(d)(4) regarding closing the station. She stated she wants to make sure that they have a right to utilize the station for Amtrak and on the bottom of that paragraph, a lot of language has been added that says "the City hereby agrees to indemnify and hold harmless the County from any obligation to refund, reimburse, repay, pursuant to their terms, any federal or state funds or grants that were used to construct" and now it says "or permit the station". Her question is relative to environmental assessments and all of the costs that went into permitting the station and asked for clarity as to what the word permit allows. She said it also mentions parking areas and there is no need for an obligation to refund parking areas since we are a kiss and ride and is also uncomfortable with the language about the City having to indemnify them. She also spoke about the increase from \$500,000 to \$350,000 and agreed with Commissioner

Dillaha that it creates too much of a liability for the citizens of Winter Park and mentioned that the escalator certainly needs to be clearly applied to the cost of the proceeding year. She mentioned that they deleted all of our examples of adverse impacts but left in the word "unanticipated", which should be removed. Her last item is the liability and said there is no way from her perspective that they should be going into this agreement unless their not to exceed clearly covers insurance, deductibles, litigations and claims.

Commissioner McMacken spoke about Item 1, Section 5.4 and agreed with Commissioner Cooper. In Section 6.2 where they talk about the date for CSX he thought they talked about 2010. He said he agrees with Commissioners Anderson and Dillaha regarding Section 6.2(d)(2) regarding the opportunity to clarify and get out of the 70/30. He said he concurs on Section 6.2(d)(4) to make sure the station is serving both commuter rail and Amtrak and they should be allowed as a City to maintain the Amtrak one. He also agreed with 6.2(e) and recalled when they discussed the item that they arrived at the \$350,000 figure by backing out the bond cost. He also noted that he is fine with the 180 days for the adverse impacts.

Attorney Brown asked if they would be willing to compromise by increasing the \$350,000 a little bit or if they would allow a small increase to include the liability costs. Commissioner McMacken said that is probably something that they will vote on when the time comes and he will wait until then. Attorney Brown provided his interpretation regarding the language for termination of the agreement and said that if there is not a dedicated funding source and they terminate for that reason which you have the right to do, they are still going to say that you are going to indemnify the county, if the federal government demands that money.

Commissioner Dillaha questioned Attorney Brown's statement from his memo to the Commission dated April 12, 2010, Page 2 referring to the state constitution, Article 7, Section 12 where it says, "a long term financial commitment may be authorized if there is funding out or a non appropriation provision". Attorney Brown responded that the ability to fund out and annually appropriate should not be subject to substantial penalties for exercising that governmental right and he thinks there is a chance that they may be able to get the County to understand that and it may be negotiated further. She said that when he goes back to the County, it needs to be made clear to them that we want to do everything that is lawful and to express that these are important items to include in this agreement.

Mayor Bradley addressed his two areas of concern: the 70/30 and Item 6.2(d)(2) regarding the dedicated funding source. He agreed with Commissioner Anderson's suggestion about simplifying the process for reimbursement. He also mentioned the liability issue and said they need to make sure they are limited to a certain dollar amount and not have an unlimited liability.

**Motion made by Commissioner Dillaha that the not to exceed cap would remain at \$350,000 because it is based on a formula and to cap it at \$350,000 as the not to exceed cap that would include the insurance and liability that has been referred to by Orange County; and that they would have the same termination date for this agreement as due the counties and Orlando and to ensure that the City of Winter Park is not liable for any of the federal funding or the costs of the station should the station be closed down.** Mayor Bradley asked if her motion included that the continued negotiation would be on the matters where we have agreement as Attorney Brown pointed out. She said she can not say yes to that because another Commissioner might want to make a motion and she knows she is not including everything that was discussed. **Seconded by Commissioner Cooper.**

Commissioner Anderson asked Commissioner Dillaha if she would consider removing the \$350,000 so the no indemnity can be voted on separately. Commissioner Dillaha stated that she is going to keep her motion the same.

**Motion amended by Commissioner Anderson to remove the \$350,000 cap and to leave the indemnify in the agreement.** Commissioner Cooper asked for clarification. **Seconded by Mayor Bradley.** There was a brief discussion regarding the clarity of this motion. Commissioner Anderson said it is much more important to have a cap that applies to the insurance and would like to see a higher cap, but it is crucial that the insurance be included in that cap. Commissioner Cooper asked if he would consider separating his two items. Commissioner Anderson stated that he is happy to make it as two different motions and Mayor Bradley said he will second both of those items.

**Mayor Bradley stated that the first motion is for the removal of the \$350,000 cap and the indemnification is the next amendment.** Upon a roll call vote on the amendment for the removal of the \$350,000 cap, Mayor Bradley and Commissioners Anderson and McMacken voted yes. Commissioners Dillaha and Cooper voted no. The amendment carried with a 3-2 vote.

**Motion restated by Commissioner Anderson to keep the agreement the way that the current agreement with the County stands that we are indemnifying the County if we terminate and if someone asks for the money back.** Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha and McMacken voted yes. Commissioner Cooper voted no. The amendment carried with a 4-1 vote.

**Motion amended by Commissioner Cooper to request that they simplify the 70/30 payment arrangement with Orange County; seconded by Commissioner McMacken.** Upon a roll call vote on the amendment, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The amendment carried unanimously with a 5-0 vote.

**Motion amended by Commissioner Cooper to also include that the escalator is clearly applied to the cost paid in the previous year and that our NTE covers our total liability and there is no rolling forward into future years; seconded by Commissioner Dillaha.** Upon a roll call vote on the amendment, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The amendment carried unanimously with a 5-0 vote.

**Motion amended by Commissioner Cooper that if by October 31, 2010 we have not reached an agreement with Orange County on the terms of this amendment we terminate our agreement with Orange County, we formally advise Orange County and the Commuter Rail Commission that we desire to have a stop in Winter Park and we define the terms financially under which we would be interested in participating; seconded by Commissioner Dillaha.**

Attorney Brown clarified that Commissioner McMacken cannot vote to terminate the agreement because he is employed by a company that their scope of the work would be reduced if this contract is terminated and that it just pertains to the last amendment just made. Commissioner

Dillaha questioned Mayor Bradley's conflict of interest with his employment and if he has a right to vote. Attorney Brown clarified that the Commission on Ethics has ruled on this and there is no conflict as it relates to the station in Winter Park. Commissioner McMacken said that he would like to abstain from voting on this item since he has been advised by Attorney Brown that he has a voting conflict. **Upon a roll call vote on the amendment, Mayor Bradley and Commissioner Anderson voted no. Commissioners Dillaha and Cooper voted yes. The amendment failed with a 2-2 vote. Commissioner McMacken abstained from voting due to a conflict of interest.** He filed Form 8B Memorandum of Voting Conflict; see attached.

Peter Weldon, 700 Via Lombardy, asked the Commission to look at the termination date again. He thanked the Commission, City Attorney and Orange County for a beneficial contract for all citizens and urged the Commission to move forward.

Joe Terranova, 700 Melrose Avenue, said he does not concur with a deadline to terminate with Orange County but he does concur that certain items should be a bargaining position and he does not agree with an all or nothing concept.

Barbara Bytell, 700 Melrose Avenue, said she is concerned with what constitutes a dedicated fund and that it needs to be clearly defined. She would like see that it is a dedicated fund at the sole discretion of the City.

Patrick Chapin, 151 W. Lyman Avenue, said he is in favor of continuing the negotiating process with Orange County so that the City can continue to receive a better deal.

Kim Allen, 271 Virginia Drive, said she is concerned with adverse impacts and termination costs and wants to make sure that the City is covered in this agreement.

Nancy Shutts, 2010 Brandywine Drive, said she hopes that they vote yes on all items because it will help show Orange County that we are a team and thinks we should continue to make progress.

**Motion amended by Commissioner Cooper to include reinsertion of the language that explained that should we not terminate because of lack of funds; we are not waiving our rights for future actions; seconded by Commissioner Dillaha. Upon a roll call vote on the amendment, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The amendment carried unanimously with a 5-0 vote.**

**Upon a roll call vote on the original motion as amended, Mayor Bradley and Commissioners Anderson and McMacken voted yes. Commissioners Dillaha and Cooper voted no. The original motion carried with a 3-2 vote.**

#### **Non-Action Item**

##### **a. Financial Report – August 2010**

Finance Director Wes Hamil provided the August 2010 financial report and answered questions of the Commission. **Motion made by Mayor Bradley to approve; seconded by Commissioner Cooper and carried unanimously with a 5-0 vote.**



### **Consent Agenda**

- a. Approve the minutes of 9/13/2010.
- b. Approve Subordination of Utility Easements to FDOT to accommodate the widening initiative of I-4 – **TABLED TO NEXT MEETING – OCTOBER 11, 2010**
- c. Approve RFP-34-2010 to James Moore & Co. for External Audit Services – **PULLED FROM CONSENT AGENDA FOR DISCUSSION – SEE BELOW**

**Motion made by Commissioner Cooper to approve Consent Agenda Item 'a'; seconded by Mayor Bradley and carried unanimously with a 5-0 vote.**

#### **Consent Agenda Item "c": Approve RFP-34-2010 to James Moore & Co. for External Audit Services**

Mayor Bradley asked for clarification of how Firm A went from first to third in the selection process. Mr. Knight explained that they followed the Charter rules requiring that every 3 years they put out a bid for audit services. He said the Committee met and ranked the firms based upon their written proposals and then three firms were scheduled for oral presentations. They voted again after the oral presentations and a different firm was selected. Mayor Bradley asked if there is a list showing who voted and the results. Mr. Knight stated that the paperwork does not say who voted which way; it only shows that after the oral presentations the ranking changed. He said that there were 5 members of the selection team and 3 of the 5 members ranked James Moore as #1 and 2 of the 5 members ranked Moore Stevens as #1.

**Motion made by Commissioner Cooper to approve Consent Agenda item 'c'; seconded by Commissioner McMacken.** Commissioner Anderson asked when the last time was that the City changed accounting firms. It was noted 6 years ago. There was a short discussion regarding the rotation requirements and the use of local firms to help save costs.

A recess was taken from 5:51 p.m. to 6:12 p.m.

Douglas Palmer, 1301 College Point, spoke on behalf of Moore, Stephens, Lovelace, PA. He stated that they are an active participant in the City and they would like for the Commission to have a local preference in the RFP process.

Farlen Halikman, 1201 S. Orlando Avenue, spoke on behalf of Moore, Stephens, Lovelace, PA and in opposition to the Commission's vote. He noted that their company participates in City fundraising and local community organizations and uses local vendors whenever possible. He mentioned that their firm was ranked #1 based on qualifications and that there was no criteria for auditor rotation in the RFP. He asked the Commission to reconsider their vote.

Dan O'Keefe, 2651 Cochise Trail, spoke on behalf of Moore, Stephens, Lovelace, PA said that the RFP process was designed to determine who the most qualified firm is and there was nothing about rotation being a key issue. He said by doing that you lose key knowledge and experience. He asked the Commission to reconsider and look back in terms of purely the qualifications which he thinks was the mission of the selection committee.

Nancy Schwalb, 508 Henkel Circle, said Moore, Stephens, Lovelace, PA contributes to the City by participating in all charitable organizations and events. She urged the Commission to support the local businesses who contribute back to the City.

Bernadette Britz-Parker, 121 Executive Circle, Daytona Beach, spoke on behalf of James Moore & Company. She thanked the Commission for their vote and spoke about the preliminary rankings, qualifications and requirements and said the RFP did not contain a requirement that they had to be based in the City to be considered. She noted that they are one of the 10 largest firms in Florida and that auditor rotation is required by the SEC Commission on publicly traded companies. She said she hopes they go with the process and accepts the recommendation.

Commissioner Cooper noted that she was part of the selection committee process. She noted that mandatory rotation did not influence her personal decision and said if they want to make using local vendors a factor when considering proposals, then they need to fix the process.

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

Peter Weldon, 700 Via Lombardy, said he is against the voter referendum on changing or modifying the Charter. He asked the Commission to pass on the Charter amendment considerations for the upcoming election in March 2011.

Lurline Fletcher, 790 Lyman Avenue, said she was very upset with the streets being closed on Saturday because of the road race. She asked to leave one street open so that local residents can easily get to their homes during any City events.

**Action Items Requiring Discussion:**

- a. First amendment to amended Interlocal Agreement for Public School Facility Planning and Implementation of Concurrency

Planning Director Jeff Briggs noted that every city and Orange County has an agreement with the School Board that implements school concurrency. He noted that the Level of Service (LOS) Standards section 13 has been amended with changes regarding removing separate Standards for all K-8 schools. He said this does not impact regular Winter Park student assignments and that this amendment will keep the agreement current.

**Motion made by Commissioner Dillaha to approve the amended Interlocal Agreement; seconded by Commissioner Cooper.** Commissioner Cooper asked if this has any impact on the City. Mr. Briggs said no because there are no K-8 schools in the City. **Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

- b. RFQ-23-2010, Golf pro shop continuation

**Motion made by Commissioner McMacken to approve negotiations with the recommended firm of Bender & Associates Architects for a scope to include full analysis**

**of the existing structure, design and planning of the renovations including drawings to accommodate, but not limited to restrooms, bag storage and potential locker rooms or changing rooms to the starter house.** He stated that the intent of that is to leave the pro shop where it is. **Motion was seconded by Mayor Bradley.**

There was an overall discussion related to the golf course, the best use for the pro shop and country club buildings and whether or not to keep the pro shop in the clubhouse or to renovate the existing structure. They also discussed the various functions of the buildings, the rental possibilities and the different revenues that can be generated. Commissioner Cooper said this is a major community historic asset and if the country club is treated and maintained the way the starter house has been, they are now giving up two important assets and she thinks it is a very bad idea. Commissioner Dillaha she is not supportive in keeping the pro shop in the clubhouse and eliminating the potential for the revenues and the rentals that can come out of there.

Michael Cole, 1113 Via Del Mar, said he has been a member of the golf club for about 28 years and has seen many phases of the facilities. He commended the Commission for moving the location of the pro shop and it has been a great success. He said any improvements to the old house would be wonderful but it would be fiscally irresponsible to move the pro shop back into the old building.

Carleton M. Cook, 1002 O'Hanlon Court, Oviedo, said the City's golf course is a gem and that it is the only 9 hole golf course in this area that you can walk which is good for his health. Another asset is that members can store their golf clubs. He said the old pro shop was cramped with no room to walk around and asked not to put the pro shop back into a small area where it really is not going to effectively work.

Donna Colado, 327 Beloit Avenue, spoke about the lost revenues due to not renting out the facility supposedly because of inadequate parking. She thinks it was not available for rental during the day by choice of the City.

Joan Cason, 1915 Woodcrest Drive wanted to know the percentage of income that comes from renting the country club. Mr. Knight stated it is about 5-10% of golf revenue.

Peter Weldon, 700 Via Lombardy, said the building should be improved but they need to back up and really think about the two issues because one is improving the building currently not in use and the other issue is how they use it.

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

**Motion made by Commissioner McMacken to accept the recommendation of staff on the selection of the Architect which is Bender and Associates; seconded by Mayor Bradley. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

A recess was taken from 7:37 p.m. to 7:46 p.m.

c. Approval of the Strategy Map

City Manager Knight said assuming this is approved or modified, that staff will come back with an action plan with dates for each of the initiatives.

**Motion made by Commissioner Dillaha to accept with the addition of creation of a conservation code under Quality Environment as a third initiative; underneath the second initiative to add water quality; underneath Quality Development and Redevelopment to add Form Based Code for Fairbanks Avenue; under Quality Government Services and Financial Security to add updating the debt policy and creating a budget policy; seconded by Commissioner Cooper.**

Commissioner Cooper asked Commissioner Dillaha if she can call them Financial Policies so that they can also look at pension policies. **It was agreed by both the maker of the motion and the seconder.** CRA Director Ms. Dori DeBord answered Commissioner Cooper's question regarding the meaning of maximize the value that Winter Park plays regionally and locally which is listed under the section called Quality Economic Development. **Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

**Budget Public Hearings:**

- a. ORDINANCE NO. 2821-10: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA ADOPTING A 4.0923 MILL AD VALOREM TAX LEVY UPON ALL REAL AND PERSONAL PROPERTY FOR APPROPRIATION TO THE GENERAL OPERATING EXPENSES OF THE CITY, A .2394 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 .1019 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. Second Reading

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

- b. ORDINANCE NO. 2822-10: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA ADOPTING THE ANNUAL BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2010 AND ENDING SEPTEMBER 30, 2011; APPROPRIATING FUNDS FOR THE GENERAL FUND, DESIGNATIONS TRUST FUND, STORMWATER UTILITY FUND, AFFORDABLE HOUSING FUND, COMMUNITY REDEVELOPMENT FUND, POLICE GRANT 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 AND UNSPENT PROJECT BUDGETS AS OF SEPTEMBER 30, 2010; AND AUTHORIZING TRANSFER OF FUNDS HEREIN APPROPRIATED BETWEEN DEPARTMENTS SO LONG

AS THE TOTAL FUND APPROPRIATIONS SHALL NOT BE INCREASED THEREBY. Second Reading

Attorney Brown read the ordinance by title. **Motion made by Commissioner Cooper to adopt the ordinance with the addition of \$50,000 for the Golf Pro Shop; seconded by Commissioner Dillaha.** Commissioner McMacken asked if the \$50,000 is in addition to the \$125,000 that has already been allocated under the 2010 budget. Commissioner Cooper said yes.

**Motion amended by Commissioner Dillaha to remove the state lobbyist position; seconded by Commissioner Cooper.** Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Cooper and McMacken voted no. Commissioner Dillaha voted yes. The amendment failed with a 4-1 vote.

**Motion amended by Commissioner Dillaha to put the \$26,000 back in for future Commission compensation; seconded by Commissioner Cooper.** Upon a roll call vote, Mayor Bradley and Commissioners Anderson voted no. Commissioners Dillaha, Cooper and McMacken voted yes. The amendment carried with a 3-2 vote.

Commissioner Dillaha mentioned the Tree Fund and that she really wants to see if it can be listed as a separate line item in the budget, in its own separate fund.

Peter Weldon, 700 Via Lombardy, asked if the Commission has the on-going authority during the year to approve the expenditure of reserves for \$50,000 or \$100,000. Mr. Knight stated yes. He submitted his written comments and asked that they be added to the minutes.

Joe Terranova, 700 Melrose Avenue, complimented the city staff for the great work they did on the budget presented. He said he is totally opposed to increasing the Commissioners salaries while refusing to provide a pay raise for employees this year and last year along with reducing their pension amounts, increasing their insurance deductibles and reducing their health care coverage. He said that it is unacceptable for them to receive a salary increase.

Nancy Shutts, 2010 Brandywine Drive, submitted an article from the Orlando Business Journal published on May 21, 2010 showing the salaries for the Mayors of Central Florida's largest cities and is ranked by current population with Winter Park being ranked 10 out of 25. She said the residents voted last year on the Charter amendment that the Commissioners could increase their pay and that the employee benefits are a separate issue. She asked if the city events such as the Easter egg hunt were going to be eliminated. Mr. Knight stated those events are still in the budget and will be held.

Commissioner Anderson said he agrees that Commissioner's salaries should be increased but he also thinks it looks bad and as soon as employees start to receive pay increases again, maybe that should be the time to do it. He said his position long term has not changed but his position short term has.

Mayor Bradley wanted to make it clear that they are rolling back the millage rate of 9.5%. He said as a Commission and City it is important to belt tighten. He commended everyone for their efforts so that they did not have to vote on a millage rate increase for this year and that is a very positive move for them. He also noted that he will be voting against the budget as presented

and even though there is a lot to like, it is because he does not want to raise his salary in this environment when the employees are not receiving raises again this year.

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

### **Public Hearings**

- a. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO ADOPT AMENDMENTS TO THE CAPITAL IMPROVEMENT ELEMENT OF THE COMPREHENSIVE PLAN INCLUDING A NEW UPDATED FIVE YEAR CAPITAL IMPROVEMENT PLAN AS PART OF THE COMPREHENSIVE PLAN, GOALS, OBJECTIVES AND POLICIES DOCUMENT SUBSTITUTING FOR THE CURRENT FIVE YEAR CAPITAL IMPROVEMENTS PLAN AND PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE. First Reading

Attorney Brown read the ordinance by title. No public comments were made. This item was tabled at the September 13, 2010 meeting. Planning Director Jeff Briggs explained that according to the budget just adopted, it included a Five (5) year Capital Improvement Plan and state law requires that they annually update the Comprehensive Plan to include those items that are relevant with respect to concurrency.

**Motion made by Commissioner Cooper to accept the ordinance on first reading with the following addition or the reinstitution of the Central Park expansion based on fund raising and also re-adding in the Transportation Element the railroad crossing quiet zones to be added back into the CIE. Motion failed for lack of a second.**

Commissioner Dillaha asked if the Tree Farm and Mead Garden will be done in 5 years. Mr. Knight noted that this matches the budget that they just adopted which included the 5 year Capital Plan. She stated she thought they took the Tree Farm out and said it was her mistake. She also asked about the Parks Acquisition and the reserves. Mr. Briggs addressed her concern. Mr. Knight also clarified her concern about Capital Improvement funds and noted that money has been set aside in previous years to purchase lots on land locked lakes and it is not additional money.

Commissioner Cooper asked about the line item on Fleet Peoples Park and where the money is coming from. It was noted through fundraising. She then asked how much money they currently have. Mr. Knight said they have none. She then asked where the money is coming from for the Mead Gardens master plan. He said he believes it also says fundraising and bond issue. Mr. Briggs noted that it has a prospective bond issue but there is a note that the Commission has not determined the size or the timing of the bond. She asked if they had any fundraising funds on hand. Mr. Knight said they do not. She then asked if they have any funds on hand for the Central Park acquisition. Mr. Knight said yes. She then asked if they have any grants in process. Mr. Knight said they have a house bill that includes \$250,000.

**Motion made by Commissioner Cooper to accept the ordinance on first reading with the inclusion of quiet zones and with the inclusion of the Central Park expansion plan, seconded by Commissioner Dillaha.**

**Motion made by Commissioner Dillaha to amend that Tree Farm conversion, they have \$500,000 allocated out in 2014-2015 from the General Funds and she would like to see that moved up to Mead Garden for 2014-2015. Motion failed for lack of a second.**

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

- b. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, RELATING TO WATER AND SEWER UTILITY IMPACT FEES; AMENDING SECTION 102-57 OF THE CODE OF ORDINANCES TO CORRECT THE NOMENCLATURE USED AND REFER TO SUCH FEES AS IMPACT FEES; AMENDING SECTION 102-92 OF THE CODE OF ORDINANCES TO CORRECT THE NOMENCLATURE USED, REFERRING TO SUCH FEES AS IMPACT FEES; REPEALING ORDINANCE 2524-03; AND PROVIDING FOR CONFLICTS AND AN EFFECTIVE DATE. First Reading

Attorney Brown read the ordinance by title. No public comments were made. This item was tabled at the September 13, 2010 meeting. Water and Wastewater Utility Director, Dave Zusi explained that there were some inconsistencies between the ordinance and the fee schedule and this ordinance corrects those items. It also repeals an economic incentive ordinance that was put in place a number of years ago which proved to be problematic in its implementation. He noted that there was an internal audit done by our finance department and some of the recommendations that came out of the audit were corrected by this ordinance. It also incorporates the recommendations from the Utilities Advisory Board.

Mr. Zusi answered Mayor Bradley's question regarding the second ordinance they are working on and explained the rationale of why they are handling them as two separate ordinances. He said this ordinance immediately corrects some of the issues from the audit and they want to handle them separately because there are different portions of the code book to be addressed and he thinks it can be handled section by section without any issues.

He said the second ordinance handles other issues related to water and sewer that need to be fixed and it is a more comprehensive issue. Commissioner Cooper asked what the financial impact is and how the Economic Development Department views this. He stated there is no financial impact; it actually improves the City's financial situation. Mr. Knight mentioned that it makes them pay the impact fee up front if they are going to open up a business.

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

- c. and d. Symonds Avenue:

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE I "COMPREHENSIVE PLAN" AND THE FUTURE LAND USE MAP SO AS TO CHANGE THE EXISTING COMPREHENSIVE PLAN FUTURE LAND USE DESIGNATION OF SINGLE FAMILY RESIDENTIAL TO LOW (MEDIUM) DENSITY RESIDENTIAL ON THE PROPERTY AT 672 SYMONDS AVENUE, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE. First Reading

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE III "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE THE EXISTING ZONING DESIGNATION OF SINGLE FAMILY RESIDENTIAL (R-1A) DISTRICT TO LOW (MEDIUM) DENSITY RESIDENTIAL (R-2) DISTRICT ON THE PROPERTY AT 672 SYMONDS AVENUE, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE. First Reading

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE I "COMPREHENSIVE PLAN" AND THE FUTURE LAND USE MAP SO AS TO CHANGE THE EXISTING COMPREHENSIVE PLAN FUTURE LAND USE DESIGNATION OF LOW DENSITY RESIDENTIAL TO MEDIUM DENSITY RESIDENTIAL ON THE PROPERTY AT 620/630 SYMONDS AVENUE, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE. First Reading

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE III "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE THE EXISTING ZONING DESIGNATION OF LOW DENSITY RESIDENTIAL (R-2) DISTRICT TO MEDIUM DENSITY RESIDENTIAL (R-3) DISTRICT ON THE PROPERTY AT 620/630 SYMONDS AVENUE, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE. First Reading

Attorney Brown read all four ordinances by title. Planning Director Jeff Briggs explained the proposed request and answered questions. He stated this is dealing with two different properties and three different projects; 672 Symonds (asking to go to R-2), and 620/630 Symonds (now R-2 and asking to go to R-3). He stated at the Planning and Zoning Commission (P&Z) meeting there was a request for 660 Symonds which was recommended for denial and withdrawn by the applicant. He stated in 2000 when the offices were approved on Morse and Pennsylvania and the parking garage was approved and built, they rezoned a portion of the residential land (25') to commercial from residential and there was a condition at that time that the developer build some complementary residential development before they could further expand the parking garage or finish the project (the vacant corner of Pennsylvania and Symonds) where the remaining third building pad sits waiting for construction.

He stated the applicant made these requests for different land use designations and zoning in July 2006 and at that time he could not proceed because a valid comprehensive plan was not in place and it was also held up until they adopted the Land Development Code to change the zoning provisions. In February 2010, the applicant resubmitted the applications and at that point they had to decide what can be built on these properties so that the applicant knows what he can go forward with in order to fulfill the conditions and complete the project.

Mr. Briggs stated the project they hope to build on 672 Symonds is a single family home with a garage in the rear and a second story garage apartment. He stated since the property is now single family you cannot build two units and they want to build two units with the second being the garage apartment which is why they are asking for R-2 zoning and low density future land use and allows for more Floor Area Ratio and a little more square footage. He stated that P&Z debated this issue because of single family zoned properties on both sides of the lot and that the R-2 went down that far west to equal the western lot line of this property across the street. He also addressed the rear access which the applicant agreed to if approved. The architecture of the building was addressed. Commissioner Cooper asked about the kitchen being proposed



in the garage apartment and if this will be treated as a single family home or as a principle residence with a cottage or a duplex. Mr. Briggs stated it is a single family home with an accessory cottage and a kitchen is allowed because of the R-2.

Mr. Briggs spoke about 620 and 630 Symonds Avenue. He stated that 620 is referred to as the front of the property and 630 is the back of the property. He stated they are two different building projects even though it is one property; they needed a way to differentiate them. He stated the applicant requested on the front property a two and three story live/work building where the first floor would consist of regular business occupancy but with the upstairs being lived in so you live and work in the same building. He stated there is nothing in the code today but the applicant asked if the City would be interested. He stated the P&Z had issues with the specific design of the building (42' tall sitting next to a single family residence). He stated the P&Z wanted this property to remain residential only. He stated they denied the request for 620 Symonds.

Mr. Briggs then addressed 630 Symonds. He stated the intent is to allow for a three story 12 unit apartment building (four units in each story). He stated the applicant is asking for R-3 because it gives him the option to have more units and smaller ones. He stated the applicant is not asking for more square feet; the FAR is 55% for cluster housing and all the building square footages add up to slightly 55%. He stated the third floor is 35' and is intended to help screen the view of the parking garage when looking at it from Symonds Avenue. He stated the applicant agreed with the condition that the maximum FAR be at 55% and the design condition of the third story being terraced back. He stated the P&Z gave approval for 630 Symonds but denied the 620 Symonds request.

Commissioner Dillaha asked why the applicant is now requesting a comprehensive plan amendment. Other questions were asked and responded to by Attorney Brown for clarity purposes. The appearance of the building was discussed. Commissioner Cooper asked if the properties on both sides of 672 Symonds shows the future land use map of single family and if we changed 672 if we would have to put a medium density development in between two single family homes. Mr. Briggs stated that is an argument against this and clarified it is low density. Other questions were asked by Commissioner Cooper regarding other surrounding properties.

Dan Bellows, 425 W. New England Avenue, spoke about the compatibility issues. He shared his frustrations with just looking at the two single lots versus looking at the entire block. He addressed the years of discussion to get to this point. He stated there is a demand for these apartments and for the live/work product and that the product consistently built is not out of place for Winter Park or the Westside/Hannibal Square area. Mr. Bellows elaborated on the amenities associated with the property and other issues associated with the project. He provided the history on the previous applications submitted and the denials.

Commissioner Anderson asked how you deal with the transitional elements from single family that exists in preserving their transitional rights to what is adjacent. He stated if this was a full assemblage he did not think the intensity use would be a problem but there are pockets with an existing use and their rights to transitional buildings next to them are rights they have. He stated he is struggling with that. Mr. Bellows stated this exists all over the City and the land in question is contiguous to their master parcel and is trying to create a property transitional buffer. Commissioner Cooper addressed concerns with transition.

Joseph Jackson, 710 Symonds Avenue, stated that all of the homes on Symonds are single story three bedrooms or less and the only commercial is on the end of Morse. He stated that he is in opposition to two story buildings and commercial areas being constructed at this location.

Dr. Richard A. English, 2724 Abilem Drive, Chevy Chase, Maryland spoke in opposition to rezoning parts of Symonds Avenue and against having commercial improvements and two/three story buildings. He grew up in this neighborhood and wanted to keep the area as is and to help preserve the land, character and community.

Mary Daniels, 650 Canton Avenue, spoke in opposition to the request and asked for denial. She said they need to stop rezoning property on the Westside and that they need to transition into the neighborhood, but they need to keep the community as is and preserve the residential character.

Denise Weathers, Executive Director of Hannibal Square Community Land Trust, addressed the letter she submitted to the P&Z on behalf of their residents in opposition to this request. She said if they approve the request they will be setting a precedent for the rest of the community to be commercial and they do not want that.

Lurline Fletcher, 790 Lyman Avenue, spoke against the request for two and three story buildings. She said their neighborhood should be single family and they do not want to be pushed into having these big buildings.

**Motion made by Commissioner Anderson to deny the Future Land Use Map ordinance on first reading for 672 Symonds Avenue; seconded by Commissioner Dillaha. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote. The second zoning ordinance regarding 672 Symonds was not voted on since the first ordinance failed.**

**Motion made by Commissioner Anderson to accept the Future Land Use designation ordinance on first reading for 630 Symonds Avenue only as recommended by P&Z; seconded by Mayor Bradley.**

Commissioner Cooper showed an aerial of properties on Symonds Avenue that have a parking garage by their single family homes. She expressed her concerns with abutting multi-family with single family that she is opposed to. She spoke about two story homes being built all over the City next to single story and did not believe they can do anything about that but they can address concerns with multi-family abutting single family.

Mr. Briggs showed the conceptual plan from 2000 when the garage was first proposed and the applicant was trying to buy all the properties but that it did not show how many units or stories being proposed which is where the idea came from for the rear cul-de-sac and the house in the front. He explained they are still entitled to build on the L shape piece, 9 townhomes with parking.

Commissioner Anderson stated that the issue is unit count and building height and is wrestling with which is the better solution: a three story screening apartment or a two story screening apartment with a garage behind it. He stated if the volume of the buildings could be the same, that he believes P&Z had it correct to allow it to be three stories and to cover up more of the garage. Commissioner McMacken expressed concerns with R-3 next to single family. Commissioner

Anderson stated he would advocate moving the units up against the garage. Commissioner Dillaha expressed concerns with R-3 next to R-1 and the height and number of units which causes more people and traffic.

**Upon a roll call vote, Mayor Bradley and Commissioner Anderson voted yes. Commissioners Dillaha, Cooper and McMacken voted no. The motion failed with a 3-2 vote.**

**No motion or vote was taken on the next ordinance since the first one failed.**

- e. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE IV, "SIGN REGULATIONS" SO AS TO IMPLEMENT PROVISIONS OF THE CENTRAL BUSINESS DISTRICT/PARK AVENUE AND MORSE BOULEVARD DESIGN GUIDELINES, PROVIDE REGULATIONS FOR SIGNS IN OFFICE DISTRICTS ON FOUR LANE ROADS, PROVIDE REGULATIONS FOR SIGNS ALONG INTERSTATE FOUR, PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE. First Reading

**This item was tabled and is rescheduled for the October 11, 2010 meeting.**

- f. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" SO AS TO AMEND WITHIN SECTION 58-83 "LAKEFRONT LOTS, CANALFRONT LOTS, STREAMFRONT LOTS, BOATHOUSES AND DOCKS" SUBSECTION (d) (5) SO AS TO MODIFY THE LAKEFRONT SETBACK PROVISIONS, PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE. First Reading

**This item was tabled and is rescheduled for the October 11, 2010 meeting.**

- g. RESOLUTION NO. 2067-10: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, TO EXECUTE A LOCAL AGENCY PROGRAM AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE DESIGN OF SIDEWALK IMPROVEMENTS ALONG HOWELL BRANCH ROAD: FPN 427966-1-38-01.

Attorney Brown read the resolution by title. No public comments were made. Commissioner Dillaha asked if there are any other costs that would be incurred by the City outside of the \$10,000. Mr. Knight said no there is not. Commissioner Cooper asked if the actual construction costs is 100% covered by the grant. Public Works Director Attaway stated yes, that is the next phase.

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

### **City Commission Reports**

- a) Commissioner Anderson

No items.

b) Commissioner Dillaha

1. Amtrak Station discussion

Commissioner Dillaha addressed the information sent to them today from the City Manager. She asked about the process and the allocation of funds. She wanted to make sure this is happening. City Manager Knight stated their understanding is that this is a final budgeted item and they still have to go through the grant process to formalize it but the money is there. He provided the timeline for the project provided by the Federal Transit Administration concerning the allocation schedule.

2. 99-Year (long-term) City contracts

Commissioner Dillaha addressed organizations and businesses that have a long term agreement to use City land. She stated there needs to be more guidelines for buildings on City property and that a 99 year contract should not be allowed. The Chamber of Commerce was mentioned because of their political activity (such as Charter amendments or candidates) concerning decisions being made by the Commission. She stated it is inappropriate to be politically active using government property and land unless they want to pay market value. She stated this would apply to any organization.

Attorney Brown stated they could have a policy saying if you have a long term lease arrangement and is below market rate that they should refrain from partisan political activity. He stated he can research this with other cities. Mayor Bradley addressed the importance to look at both the Chamber and Casa Feliz regarding the major contributions they have made to the City. City Manager Knight addressed other organizations in the City that have long term leases and are below market value. There was not a consensus of three for the City Attorney to research this.

3. Providing Code Enforcement on weekends

Commissioner Dillaha asked if we could have code enforcement on the weekend so someone is on duty in the City because of the amount of signs and other activities going on. City Manager Knight will review this.

Encroachment agreements

Commissioner Dillaha addressed the need for the Commission to sign off of encroachment and easement agreements and the conveyance or use of City land. She addressed the lakefront property at the end of Webster and Kiwi Circle. She asked that this be addressed at a future meeting. City Manager Knight stated the discussion of signing off on these agreements does not need to be on an agenda and that he has already informed department heads how this will be handled and all future ones will come before the Commission for approval.

City Manager's evaluation

Commissioner Dillaha addressed the need to discuss Mr. Knight's evaluation at the next Commission meeting. Commissioner McMacken requested to schedule this for a work session. There was a consensus to schedule this as a work session item.

Meetings with citizens regarding the vision for the City

Commissioner Dillaha asked Mayor Bradley about information in the last Update newsletter regarding him meeting with groups of citizens to vision about Winter Park. She asked if this should be done as a Commission as a whole. Mayor Bradley commented this not being any different than Commissioners sending out letters monthly or communicating in other ways. Commissioner Dillaha addressed letters she sends out monthly to her supporters to keep them informed. Mayor Bradley noted that he would be happy to invite the Commissioners to attend.

c) Commissioner Cooper

No items.

d) Commissioner McMacken

1. Fees for street closures within the CBD

Commissioner McMacken asked for confirmation of what was agreed to concerning the rentals for streets within the CBD. City Manager Knight stated they approved the \$550 and \$1,650 which are the same rates charged for the park for street closures. He asked that this be brought back up for discussion because of the collateral damage he believed this has caused. There was a consensus to do so.

City preference in contracts awarded to the City

Commissioner McMacken stated that he would like to discuss the issue of City preference in contracts. There was a consensus to bring this forward as a future agenda item for discussion.

e) Mayor Bradley

1. Tolling Agreement updates

Mayor Bradley asked for an update on tolling agreements. Attorney Brown commented that Frank Hamner and Rebecca Furman are moving forward and are at the point where they can terminate the agreement with Mr. Bellows.

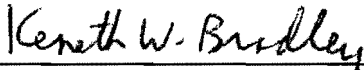
2. Fairbanks Corridor improvements

Mayor Bradley addressed attending the Fairbanks Corridor improvement conversation and the citizen concerns regarding turning lanes. He asked how staff is processing that and what can be done to mitigate this. City Manager Knight stated that they have put in as many median cuts as they can and that the FDOT limit has been met. Commissioner Dillaha asked for information for another meeting as to how they are moving forward. City Manager Knight stated he will add this to the City Manager's Report. Mayor Bradley also addressed concerns brought forward concerning commercial abutting residential.


**Meeting Adjourned**

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

The meeting adjourned at 10:00 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<br><b>McMACKEN THOMAS JAMES</b> |                         | NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE<br><b>W.P. CITY COMMISSION</b>   |  |
| MAILING ADDRESS<br><b>1021 SHILOH LAKE</b>                       |                         | THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:  |  |
| CITY<br><b>WINTER PARK</b>                                       | COUNTY<br><b>ORANGE</b> | <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY<br>NAME OF POLITICAL SUBDIVISION:<br><b>CITY OF WINTER PARK</b> |  |
| DATE ON WHICH VOTE OCCURRED<br><b>27 SEPT 10</b>                 |                         | MY POSITION IS:<br><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, THOMAS J. McMACKEN, hereby disclose that on 27 SEPTEMBER, 2010:

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

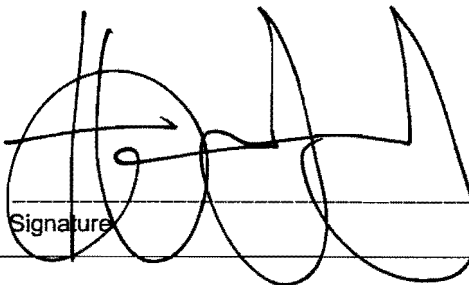
- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, \_\_\_\_\_;
- ☐ inured to the special gain or loss of my relative, \_\_\_\_\_;
- ☐ inured to the special gain or loss of MY EMPLOYER (RECON), by whom I am retained; or
- ☐ inured to the special gain or loss of \_\_\_\_\_, 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:

TERMINATION OF SUNKAL AGREEMENT

27 SEPTEMBER 10

Date Filed

  
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.