

**REGULAR MEETING OF THE CITY COMMISSION**  
**October 26, 2009**

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

The invocation was given by Mayor Bradley, followed by the Pledge of Allegiance.

**Members present:**

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

**Also present:**

City Manager Randy Knight  
City Attorney Larry Brown  
Deputy City Clerk Nancy McLean  
City Clerk Cynthia Bonham

**Citizen Public Comments:**

No citizen comments.

**Mayor's Report:**

a) Proclamation – "Week of the Family"

Mayor Bradley read a proclamation proclaiming the week of October 31-November 7, 2009 as Week of the Family. James Pratt, Orlando Stake President for the Church of Jesus Christ of Latter-Day Saints and Donna Parker, Chair of Orange County Week of the Family accepted the proclamation and thanked the City for their support. Mr. Pratt presented Mayor Bradley with a booklet on "The Family Enrichment Program" that will be forwarded to the library.

b) Keep Winter Park Beautiful/Waste Management Check Presentation

Mayor Bradley explained that the mission of Keep Winter Park Beautiful is to beautify, conserve resources, recycle, educate and preserve Winter Park's environmental legacy. Jim Swan, Waste Management Public Sector Services Manager/Mayor of City of Kissimmee presented a check to the City for \$10,000. Gabriella Serrado, Keep Winter Park Beautiful Director provided the Commission information on solar-powered trash compactors.

c) Board appointment: Environmental Review Board (1)

**Motion made by Mayor Bradley to approve the nomination of Kenneth Tse (replacing Maggie DeVane) to the Environmental Review Board; seconded by Commissioner Dillaha. The motion carried unanimously with a 5-0 vote.**

d) The Gardens at Depugh Nursing Center

Mayor Bradley commented that the Gardens at the Depugh Nursing Center have gone through major enhancements and renovations. He explained that they are creating a neighborhood garden that will benefit the day nursery in addition to the nursing center and they are a recipient of the Business Facade Program.

e) Letter from the Winter Park Women's Golf Association.

Mayor Bradley spoke about the letter from the Winter Park Women's Golf Association and how they were pleased with the recent improvements at the Country Club. He submitted the letter for the record.

f) Letters from the St. Margaret Mary 2<sup>nd</sup> grade class.

Mayor Bradley stated that he spoke with three 2<sup>nd</sup> grade classes from St. Margaret Mary and the children created pictures and wrote thank you notes. He read one of the notes that he received.

Non Agenda Items

Mayor Bradley commented that the Winter Park High School celebrated Homecoming along with a parade and the "ROAR". He also spoke about "Harriet's Park Avenue Fashion Week" from October 18-24. He stated that it is a great program relating to fashion and that the Winter Park merchants host a variety of events that he encouraged citizens to attend in the future.

Consent Agenda:

- a) Approve the minutes of 10/12/09. **PULLED FOR DISCUSSION. SEE BELOW.**
- b) Approve the Releaf Project - Reforestation Plan.
- c) Approve the property swap between the City of Winter Park and the Hannibal Square Community Land Trust.
- d) Approve the Holiday Ice Rink in Central Park contract. **PULLED FOR DISCUSSION. SEE BELOW.**
- e) Approve the cancellation of the December 28, 2009 Commission meeting due to the holiday.

Consent Agenda items a) and d) were pulled for discussion.

**Motion made by Commissioner Anderson to approve Consent Agenda items b), c) and e); seconded by Commissioner Bridges. The motion carried unanimously with a 5-0 vote.**

Consent Agenda item (a): Approve the minutes of 10/12/09.

Commissioner Anderson clarified that the September 28 minutes related to the Golf Pro Shop reflect that "Option A" needs to be evaluated and consider if all the recommendations that have been made by our consultant are incorporated. He also asked that the October 12 minutes regarding the Library's space needs on page 9 be clarified as to whether it should be 62,000 square feet. Mayor Bradley added that the sentence on page 5, "Mayor Bradley asked that this be done as quickly as possible since they are potentially six months behind where they want to be, due to this action" be moved under the Azalea Lane action item.

**Motion made by Commissioner Bridges to approve the September 28 and the October 12 minutes as amended; seconded by Commissioner Anderson. The motion carried unanimously with a 5-0 vote.**

Consent Agenda item d): Approve the Holiday Ice Rink in Central Park contract.

Assistant CRA Director Peter Moore gave an update on the sponsorship status and stated that Florida Hospital will be one of their major sponsors at \$5,000. They are also hoping for Holler Classic and RDV to participate as well. He explained that the majority of the sponsorship money will come from the dasher boards that surround the inside of the rink and other sponsorships are currently being marketed.

Commissioner Dillaha suggested they come up with a methodology to figure out what events have the most impact. Mr. Moore explained that they are presently working with a consultant to determine what kind of matrix they can use to evaluate the success of events and that some technique of surveying may also be used. Commissioner Dillaha stated that it is important they have a plan and hoped that businesses will participate in that as well.

Mayor Bradley commented that the item before them is the contract and not the ice rink; however, he allowed public comment.

The following spoke in opposition to the ice rink because of their concerns with the noise level:  
Gayle Cohen, 200 Carolina Avenue  
Bill Hauck, 200 Carolina Avenue (Maggie DeVane spoke on behalf of her husband)  
Maggie DeVane, 200 Carolina Avenue

The following spoke in favor of the ice rink:  
Woody Woodall, 328 N. Park Avenue

Mr. Moore explained that the City will control the music and will work with the residents as to what is acceptable for them. He stated that they can do a follow up afterwards to see how the ice rink works with the residents. Mayor Bradley asked that staff ensure that the noise ordinances are followed appropriately.

**Motion made by Commissioner Anderson to approve the Holiday Ice Rink in Central Park contract; seconded by Commissioner Dillaha.**

Commissioner Bridges commented that Magic Ice USA, Inc. can impose a charge of \$950.00 per day to the City for delaying setup, but there is no charge from us to them if the City finds a day of downtime. She asked if the contract could be amended. Attorney Brown stated they could ask for some concession on their part such as extended days of operation for each day of downtime.

**Motion made by Commissioner Bridges to amend the contract to include compensation time due to technical difficulties that creates downtime for us; seconded by Mayor Bradley. The amendment carried unanimously with a 5-0 vote.**

**The motion to approve the contract with the amendment carried unanimously with a 5-0 vote.**

**Action Items Requiring Discussion:**

a) Central Park Expansion – Approval of the Fundraising Committee co-chairs.

Mayor Bradley commented that they have received no information in their packet and that concerned him.

Planning consultant Todd Ruopp explained the effort to identify community leaders and to recruit technical staff and volunteers to make the capital campaign a reality. He commented that as they talked to more people about the project they heard the desire among residents for the strategic acquisition of green space. He stated that it proves that the park addition presents an opportunity for all of us to give back to our community in a way that is everlasting. He stated that Lisa Hicks has agreed to be their fundraising coordinator and Lisa Roberts will be their media coordinator. He added that he will continue his role as Project Manager and Susan Skolfield will continue as their spokesperson and community liaison.

He stated that the tentative name of the Winter Park Green Space Foundation acquisition was coined and the intent is to form an organization entitled that. He explained that they are currently assembling the Board of Trustees to consist of a broad cross section of Winter Park residents who they will announce in a few of days. He commented that the steering committee will operate the capital campaign for the foundation and is being recruited as well. He stated that Steve Goldman has agreed to serve as the campaign co-chair.

Steve Goldman, 209 Venetian Way, discussed his views of the project and how important it is to acquire green space especially in strategic areas and to balance the increase of development with additional green space. He commented that they are putting together a very strong coalition of community leaders for the board of the Winter Park Green Space Foundation.

Commissioner Anderson asked about the status of the extension request from the Post Office. City Manager Knight explained that he has followed up with the Post Office, but they have not returned his call. He stated they have indicated that they will approve another one year extension and we need to get through the administration process, but it is not yet in writing.

Commissioner Anderson asked that when they receive the notice of that extension that they look at the impact it has on the activity of the fundraising committee. He believed this is a great report and was excited that Mr. Goldman has taken a sincere interest and hoped that other leaders will step forward.

Mayor Bradley expressed his concern that there needs to be guidelines or an agreement with them because of raising funds on behalf of the City. Attorney Brown commented that there will need to be an agreement between the City and the Winter Park Green Space Foundation. He stated there are business issues that have to be addressed with the management team of the Foundation that includes having a current understanding from the Post Office in terms of specifications of what they want built.

Mayor Bradley had concerns about the "Friends" group raising money without the City's consent and naming rights. Attorney Brown commented that naming rights would always be the government entities prerogative. He believed it would be helpful to decide what the contribution would be and to have that agreement with the Foundation as soon as possible. As for raising money without the City's consent, he stated there is a statute that makes it a crime in Florida to

use the name of the City or another government entity without authorization. He commented that it is imperative that there be an authorization of the City with parameters.

Commissioner Anderson stated that since they are in the process of assembling their Trustee list it might be appropriate that the City Attorney create a one page bullet point of the business terms that need to be addressed between the City and the organization. Mayor Bradley agreed.

**Motion made by Mayor Bradley that the City Attorney draft appropriate language for the Winter Park Green Space Foundation so that we can work in partnership to assure common goals both legally as well as appropriately; seconded by Commissioner Anderson.**

Commissioner Dillaha commented that they need to follow up with other "Friends" groups to make sure they have an understanding of who does what with these different organizations and to go forward with drafting agreements with the other groups. She thanked Steve Goldman and everyone involved for volunteering their time. **Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Diebel and Bridges voted yes. The motion carried unanimously with a 5-0 vote.** Mayor Bradley also thanked the volunteers and believed that the friend's organization will solve several issues. He asked City Manager Knight to reschedule this whenever they are ready to address the issues involved with the project.

- b) Nomination for downtown Winter Park to the State Division of Historical Resources for review and forwarding to the keeper of the National Register of Historic Places.

Planning Director Jeff Briggs explained that there is a 4-1 recommendation from the Historic Preservation Commission to establish an application for the National Register of Historic Places for downtown Winter Park. He stated that this was seen as an important recognition of our "historic downtown" and also as a potentially important economic development tool since listing on the National Register makes 'contributing properties' eligible for a 20% federal tax credit and certain 'non-contributing properties' eligible for a 10% tax credit on monies spent on renovations. He stated that this may be helpful to property owners who need to renovate or want to redevelop. He spoke about the City Commission discussing additional outreach and polling of property owners within the proposed district and that there are 215 individual properties within the proposed district and 154 different owners. He commented that staff needs direction on how to poll the owners.

Mr. Briggs commented if they are a private property owner and they have a historic contributing property but they want to tear down the building, they can do that. He stated they can remodel their building (as long as they meet zoning codes) and there is no architectural control. However, if they tear down and change the building they would not be eligible for the tax credit. He stated that this is also a check and balance against the Federal government so they do not harm historic resources in their actions (in spending Federal dollars). He stated that they have to do documentation about the impact of spending Federal dollars on a historic building or buildings in a district. Mr. Briggs answered questions.

Commissioner Dillaha commented that she attended a few of these meetings and listened to consultant Justin Bland of Bland and Associates who they hired to determine the boundaries which she supports; it increases property values; it is a good economic driver and achieves many of the goals they are setting forth in the CRA.

**Motion made by Commissioner Dillaha to submit the nomination as completed by the consultant and recommended by the Historic Preservation Commission with the boundaries they were looking at; seconded by Commissioner Bridges.**

Woody Woodall, 328 N. Park Avenue, commented that this was not the map he received a few months ago and it is a larger map of the historical buildings. Senior Planner Lindsey addressed the map issue. Mr. Woodall commented that in general he is in favor of this, but believed the Commission needs to add something that keeps the regulators from over regulating.

Ed Sabori, 446 Melrose Avenue, commented that they should ask the property owners whether they want to be included in this.

The following spoke in favor of the historical designation:

Carolyn Cooper, 1047 McKean Circle

Sally Flynn, 1400 Highland Road

Deede Sharpe, 1599 Highland Road

Peter Weldon, 700 Via Lombardy

Tom McMacken, 1821 Shiloh Lane, believed that Mr. Woodall's residence falls under the Park Avenue architectural guidelines which have nothing to do with the Historic District guidelines. He asked for staff to confirm that and spoke in favor of the historical designation the way it was presented.

**Motion made by Mayor Bradley to table this item until the December 14 meeting and in the interim ask City staff to poll in a written format the owners that asks them whether or not they want this designation; seconded by Commissioner Diebel.** Commissioner Diebel stated she believed that was agreed to in the last discussion. **Upon a roll call vote, Commissioners Anderson, Dillaha, and Bridges voted no. Mayor Bradley and Commissioner Diebel voted yes. The motion failed by a 3-2 vote.**

**Motion amended by Mayor Bradley to include only the properties or the boundary (the 1B item they saw) which goes along the train tracks from north to south and exclude the properties north of New England and south of Canton Avenue.** Mr. Briggs clarified that the only properties on the west side of the railroad that were included were the parts of Central Park and the Farmers' Market and everything else was excluded. **Motion failed for lack of a second.**

Commissioner Dillaha addressed this going through the Historic Preservation Commission and the many public meetings that have already been held giving much time and opportunity for public comment. She stated she would not support changing the boundary.

Commissioner Anderson stated the Mayor has good points on redefining the boundary, but sees this as an important economic development tool for the City and have heard that shrinking the boundaries would lessen its likelihood of getting it approved which is why he will not support reducing the boundary. He stated he wants to hear some of Mr. Woodall's concerns and that he wants to find a better way to communicate the benefits more broadly.

Commissioner Bridges addressed the efforts made to communicate with the parties involved who own the properties most affected by this and engaging the experts in historic designation. In recognition of the City's assets she believed as a community we have done everything

possible to communicate the benefits and what some may perceive as drawbacks of this designation.

Commissioner Diebel asked why the polling of the people was not done because of the direction given at the last discussion. Mr. Briggs responded about the lack of time to accomplish this before this meeting. Mayor Bradley stated he is very supportive of historical designations but is concerned that with the many meetings held the City has never asked them specifically what they think.

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

c) Social Media Policy and Use.

Communications Director Clarissa Howard presented the policy and explained how they would monitor and use Facebook and Twitter. Attorney Brown addressed legal aspects of the policy. Questions were asked of Ms. Howard and Attorney Brown for clarification purposes.

Commissioner Dillaha expressed concerns with the staff time utilized to monitor the comments placed on the sites and wanted to see how it works in other cities. She also believed that it would be very difficult to control and could not justify putting this into place.

**Motion made by Mayor Bradley to approve the social media policy as presented; seconded by Commissioner Diebel for discussion.**

No public comments were made.

Commissioner Bridges expressed concerns with the possibility of having a small level of interaction with residents and the amount of staff time necessary to monitor the potential offensive and inappropriate information coming into the City that stays on the site until it is removed from staff. She addressed the various communication tools the City already uses and that the same information will be posted on Facebook and Twitter. Ms. Howard stated there is redundancy in all the communication tools because of their goal to try and reach everyone in one way or another. She stated the accounts will be mostly be used to remind people about upcoming events and that this is a new method of communication.

Commissioner Anderson expressed concerns that this could become a politically sanctioned blog for bashing and critiquing staff and elected officials. He stated he is willing to try it and see what the results are but if it becomes a forum for bashing people and staff outside of a helpful survey tool to improve customer service, he will have a problem with this being a City vehicle. He agreed with it being an output vehicle for sending out information.

There was discussion concerning other accounts out there related to Winter Park that is not the official City of Winter Park site. Ms. Howard explained that on Twitter there is a verified button that shows it is an official City of Winter Park Twitter page and has a verified status. She stated if it is not verified with that symbol, that it is not the official City of Winter Park site. **Upon a roll call vote, Mayor Bradley and Commissioners Anderson and Diebel voted yes. Commissioners Dillaha and Bridges voted no. The motion carried with a 3-2 vote.**

- d) Request of the Winter Park Historical Society to waive fees for the use of the Civic Center for their major fundraiser, the Peacock Ball, and the Spring Luncheon at the Farmers' Market.

Danielle Janesick, Executive Director, Winter Park Historical Society, spoke about their organization and requested a fee waiver for use of the Civic Center for their Peacock Ball.

No other public comments were made.

Discussion ensued regarding which events have been approved per the January 26, 2009 policy adopted by the Commission. Parks and Recreation Director John Holland explained the two lists; the City annual events and the community based organizational status list.

**Motion made by Commissioner Dillaha to approve the fee waiver request; seconded by Commissioner Bridges.**

Commissioner Anderson spoke about the long discussions of the Commission regarding the policy that is now in place. He stated if they reopen this they will have to discuss other organizations that have similar situations but the Commission is not ready to do that at this time. He stated he would love to make exceptions but that he needs to support the policy in place.

Mayor Bradley expressed concerns about the policy because of other organizations in the City that he believed should not be charged fees. He wanted to revisit the policy and to waive the fees for the Historical Association for that night but was not sure how to do that with the current policy in place.

Commissioner Dillaha expressed concerns with organizations that are not charged rental fees that are charging to attend their event to make a profit that they have allowed to happen but we are charging our own Historical Association. Commissioner Bridges stated she is struggling with this decision because of the policy in place but that the money they charge money to attend the event is used to support the museum. City Manager Knight stated if they decide to approve this request that they should be adding them as an annual event versus as an exception to the policy.

After further comments, **a roll call vote was taken with Mayor Bradley and Commissioners Anderson and Diebel voting no. Commissioners Dillaha and Bridges voted yes. The motion to approve the fee waiver failed with a 3-2 vote.**

There was a consensus of the Commission to revisit the fee waiver policy to include the community based status list and adding the Historical Association to the annual City events as well as considering other organizations.

- e) Proposed CRA Economic Investment Programs and hotel prototype.

Assistant Community Redevelopment Director Peter Moore addressed the direction given at the last meeting to look at a menu of options they could use for economic development prompted from the request of Mr. Dan Bellows. He stated this is a timely issue and fits in with goal # 3 of the Park Avenue Strategic Plan. He stated he is asking for direction regarding their views of some of the outlines of the plans and where the Commission would like them to go from there and to look at how Mr. Bellows request fits into some of the plan. He summarized the three



plans; the Targeted Job Creation Program, the Anchor Investment Tax Rebate Program and the Development Fee Rebate Program.

Mr. Moore addressed Mr. Bellows request and the 444 W. New England Avenue project. He spoke about the total fees paid to date on the property; the number of properties redeveloped by Sydgan Corporation throughout Winter Park, and that Real Estate Research Consultants has estimated that the TIF revenue to the CRA from Mr. Bellows properties totals about \$250,000 annually. He stated they want to look at how his specific request would potentially fit into the TIF rebate and the Development Fee Rebate Program. He addressed the proposed hotel investment scenario and building permitting fees and impact fees of about \$220,000 under the Development Fee Rebate Program and about \$18,000 annually under the Anchor Incentive Tax Rebate Program for the tax rebate for the hotel portion of the building to be rebated over a 5 year period.

Mr. Moore answered questions of Commissioner Anderson. Commissioner Dillaha addressed the need to obtain more analysis to determine what type of hotel space is needed and what the market consists of now. She asked if this should be a work session discussion. Mr. Moore stated that they have suggested having a work session to further discuss the financial and technical aspects of the programs. Commissioner Bridges wanted to make sure the feasibility studies and pro forma's, etc. are done. Attorney Brown addressed the plan that is pretty typical and can be tweaked and added to. There was a consensus to schedule a work session.

Commissioner Anderson wanted to be sure that the number is going to be enough of an incentive to make it happen. He also wanted to consider if there is a job creation element that is applicable that as a City they would want to do for our existing residents.

Mayor Bradley asked Mr. Moore what he believed would happen at the work session. Mr. Moore stated they need to discuss more in general about how it has been done in other cities and bring forward other examples of existing programs and get into specifics about protection clauses to protect the City. Commissioner Dillaha stressed the importance that the new CRA Director has this type of knowledge and should be the one to address this because of the complexities involved. Mayor Bradley agreed but commented about the present opportunity that they need to move on with.

Commissioner Anderson stated the work session should be to address the current opportunity with Mr. Bellows and then see how that leads into other things. Other discussion ensued regarding this issue and what should be addressed at the work session. Mayor Bradley addressed the need for the Economic Development Advisory Board to review this. Commissioner Diebel stated she only wants to proceed with the work session if they have some precedent to study on the economics of this to be able to advise them properly in what they are looking to do. Commissioner Anderson agreed on the importance to do this correctly. **Motion made by Commissioner Anderson to schedule a work session to hear from the City's staff and professional advisors; motion was withdrawn.**

**Motion made by Commissioner Dillaha to place this on hold knowing that we want to create some policies until we have a CRA Director on board so we have the right resources in order to do this correctly and take our time with a timeframe of 30-60 days, seconded by Commissioner Bridges.**

Dan Bellows, 511 W. New England Avenue opposed the motion and asked that the Commission vote to support staff's recommendation of the \$305,000 over 5 years and in addition he needs \$825,000 which underwrites a \$2.3 million loan at 5% with a 25 year amortization from Bank Atlantic. Mr. Bellows explained that this is a business boutique hotel of 38 rooms and it will be a tremendous attribute to Hannibal Square.

Rick Frazee, 1921 Englewood Road, Best Western Mount Vernon Inn, requested having the work session. He added that it was unfair to take his tax dollars and extend them to another hotel.

**Commissioner Dillaha restated her motion to table this until they have hired the new CRA Director who will be able to assist them with achieving the goals of the economic investment programs. Upon a roll call vote, Mayor Bradley and Commissioners Anderson and Diebel voted no. Commissioners Dillaha and Bridges voted yes. The motion failed with a 3-2 vote.**

**Motion made by Mayor Bradley to accept staff's recommendation to have a work session regarding economic incentives to be scheduled within the next 30 days and those economic incentives include potential hotels in our City in addition to Fairbanks and other corridors which need to be discussed.**

Dan Bellows, 511 W. New England Avenue, commented that pending the outcome of having a work session in the next 30 days, he asked the Mayor to direct staff to produce a document/letter he could use to present to the Bank saying that the Commission made a motion to have a work session on this agenda item. Mayor Bradley commented that depending on their action this could be provided to Mr. Bellows.

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

**Public Hearings:**

- a) RESOLUTION NO. 2037-09: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, PURSUANT TO SECTION 170.03, FLORIDA STATUTES, CALLING FOR A PUBLIC HEARING TO DISCUSS ALL ASPECTS OF THE UNDERGROUNDING OF ELECTRIC/CATV FACILITIES WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY OF WINTER PARK, CONSISTING OF PROPERTIES ABUTTING FAWSETT ROAD, GLENCOE ROAD, WEST DANA WAY, WEST READING WAY, WEST ROCKWOOD WAY AND LAKE CHELTON CIRCLE; WHICH IMPROVEMENTS BE PAID IN PART BY SPECIAL ASSESSMENTS LEVIED AGAINST ALL PROPERTIES WITHIN THE ABOVE DESCRIBED AREA; PROVIDING AN EFFECTIVE DATE.

Attorney Brown read the resolution by title. Utility Liaison Terry Hotard explained that once this is approved they will notify all 33 homeowners of the Neighborhood Electric Assessment District that there will be a public hearing at a future date.

Bill Walker, 2171 Glencoe Road, encouraged the Commission to vote for this. He stated he was having the 3<sup>rd</sup> annual neighborhood party October 31 at his house.

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

- b) ORDINANCE NO. 2784-09: 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 PROPERTIES AT 1807, 1810, 1850, 1911 and 1922 STONEHURST ROAD AND THE EAST KINGS WAY AND STONEHURST ROAD RIGHT-OF-WAY THEREOF, MORE PARTICULARLY DESCRIBED HEREIN.

This was pulled from the agenda until the road right-of-way agreement is received from Orange County.

- c) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA; AMENDING SECTIONS 1-11 AND 2-108 OF THE CODE OF ORDINANCES TO PROVIDE FOR SUPER-PRIORITY OF CODE ENFORCEMENT LIENS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND EFFECTIVE DATE. First Reading

Attorney Brown read the ordinance by title. No public comments were made. Building Director George Wiggins commented that this ordinance will assist in preventing the City's code enforcement liens from being automatically foreclosed when mortgages are foreclosed on properties in the City where code violations have resulted in the placement of liens on properties for collection of unpaid fines or unpaid costs for cleaning properties, securing buildings or similar enforcement actions. Attorney Brown explained that this gives the code enforcement liens the dignity of ad valorem tax liens which means they cannot be foreclosed out. He added that if this is approved it will apply to other mortgages that are recorded in the future. Mr. Wiggins and Attorney Brown answered questions.

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

- d) Ordinance – To amend Chapter 58 to adopt new Land Development (Zoning) Code to implement the Comprehensive Plan. **This public hearing is scheduled as a “listening session only” to hear public comments and questions. No action to be taken by the City Commission.**

Mayor Bradley explained that no action will be taken by the Commission and that public comment will be taken after the presentation.

Planning Director Jeff Briggs provided a presentation regarding the adoption of the Land Development Code (LDC) and how it corresponds to the new comprehensive plan adopted on February 23, 2009. He explained the process followed to date to get to this point and what will take place after this evening. He summarized the major proposed changes made within the LDC. Mayor Bradley asked Mr. Briggs to make a list showing what was in the LDC and what the proposed changes are for each item. Mr. Briggs stated he would provide that.

Peter Weldon, 700 Via Lombardy submitted letters that he asked to be included in the minutes. He spoke against the code being proposed and Planning and Zoning Commission members

who need to be replaced with ones with a broader perspective and better judgment with how to bring good things to the City.

Geraldine Throne, 1771 Chestnut Avenue, urged the Commission not to intrude into the residential areas of the City which the LDC needs to preserve.

Dan Bellows, 511 W. New England Avenue, spoke against Commissions putting restrictions that ties the hands of future Commissions. He addressed the zoning of the Heritage Museum that is being used for things other than residential. He addressed wanting to move the church next door instead of tearing it down and if this code is adopted the zoning can never be changed. He spoke against other parts of the proposed code that will prevent future re-zonings and other areas of the code that will affect how buildings are constructed (heights and setbacks). He asked that the Commission hold a work session to discuss an opportunity on New England Avenue from Virginia to New York that the proposed code will not work with.

Bill Walker, 2171 Glencoe Road, asked that the information be provided regarding the current code and the proposed changes to better communicate to the public what is being proposed. He asked that staff be directed to draft key items that are mandated and up for discussion and a decision. He also asked to place an opportunity on the website for people to address how the code will impact their specific situations.

Mayor Bradley stated there is direction for staff to put together the list of what is being changed along with the proposed code to better communicate to the commission and public. Mr. Briggs stated they will also take care of Mr. Walker's request.

Commissioner Dillaha expressed concerns that there were only four phone calls as a result of posting the information on the website and the 14,000 mailers sent out. She addressed attending the Planning and Zoning Commission meeting where the turnout was small and not hearing many complaints on the proposed code. She expressed concerns with the process being held up and that we need this enabling language in order for development to take place now that the Comprehensive Plan is in place. In conclusion, she applauded the P&Z and the Planning Department for going forth and making the changes that she believed will benefit the City.

There was a recess from 5:45 – 6:00 p.m.

#### **City Attorney's Report:**

Attorney Brown requested an executive session be scheduled to discuss two pending lawsuits. Mayor Bradley commented that the City Manager's office or City Clerk's office will be contacting the Commission to schedule this meeting.

#### **Non-Action Items:**

- a) City Manager's report.

City Manager Knight spoke about the Family Fall Festival and the property at 2225 Howard Drive. He explained that they were looking at this property for a stormwater project; however,

the neighborhood opposed them purchasing the property and they will not be proceeding with that for now. Mr. Knight and Assistant Public Works Director Don Marcotte answered questions.

**New Business (Public):**

William Shallcross, 1450 Bonnie Burn Circle, expressed that he was impressed with our new City Attorney. He also commented that a solution to funding Mr. Bellows hotel would be for the Commission to have a discussion about the large property owners that are not paying property taxes.

**New Business (City Commission):**

**Commissioner Anderson:**

1) Commuter rail options.

Commissioner Anderson commented this was geared toward the fact that the Legislature has approved a separate funding source for Tri Rail in South Florida and he had concerns they might not approve it for Central Florida. He stated if this occurs he was looking for a more financially beneficial arrangement for the City. He added that if we built our own train station and offered to enter into an operating agreement with the Central Florida Commuter Rail Authority (CFCRA) they could continue to be the beneficiary of the farebox revenue. He commented that perhaps the CFCRA would consider the operating agreement and we would incur the \$300,000-\$400,000 of debt service for 15 years and have no obligation for the O&M expenses whether or not the State Legislature ever approved a state funding source. Commissioner Anderson answered questions.

Commissioner Dillaha wanted to explore this further. She agreed with controlling our costs and not being responsible for the 99 year operating deficit and to see if we could build our own station and have our agreement with whatever authority or agency will be in place if there is a commuter rail project at the time.

Commissioner Anderson stated that he was supportive of commuter rail, but was raising a question of whether the promise of a dedicated funding source will materialize. Mayor Bradley suggested that it may be appropriate to deal with this after they see what the Legislature does in December.

Commissioner Dillaha wanted to explore this now rather than later and to instruct the City Attorney to review the agreement and to give feedback regarding our options. Mayor Bradley reiterated that they wait until December. Attorney Brown explained that he briefly reviewed the agreement, but could look at the City's option to terminate. Commissioner Dillaha spoke about signing the agreement with Orange County before the master interlocal agreement had been disclosed which caused the need for an addendum to the agreement after the fact. She wanted the Attorney to see if they could do that. Commissioner Diebel stated that the terms under which we have agreed to the present agreement will change. She commented that it would be prudent to wait and see how they change and how we want to react to that with Commissioner Anderson's thoughts in mind.

**Motion made by Commissioner Anderson to table any action until December when they have an idea of what is being taken up in the Legislature session; seconded by Commissioner Diebel. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Diebel and Bridges voted yes. The motion carried unanimously with a 5-0 vote.**

**Commissioner Dillaha:**

- 1) YMCA follow-up: What happens to the two residential lots owned by the Y and are those off the tax rolls?

Commissioner Dillaha asked what will happen to the two residential lots owned by the Y and if they are off the tax rolls. Attorney Brown explained that the development agreement does not prohibit them from purchasing property. City Manager Knight responded that both properties are on the tax rolls.

- 2) Policy, going forward, regarding amending Developer's Agreements.

Commissioner Dillaha questioned if the entity should first come to the City Commission to ask if they would entertain an amendment to a developer's agreement or if they should continue to go directly to the Planning Department. She suggested having a policy in place so that there is an understanding among all parties.

Attorney Brown responded it would not be unreasonable to put a provision in the contract that says that they come to the City Commission first to see whether the City is interested in entertaining an amendment to the contract. Commissioner Dillaha commented that they could either put it in the development agreement or create a policy that goes into the code. Attorney Brown recommended they put this in their contract as opposed to the code.

Mayor Bradley asked to see an inventory of all developer agreements. City Manager Knight stated that he would look into that.

- 3) City boards: utilization of Comprehensive Plan goals, policies, objectives in rendering recommendations and in decision-making.

Commissioner Dillaha commented that in order to make decisions or recommendations at the City Board or City Commission level she believed they need to use more solid criteria. She stated when there are issues it is important to know whatever the applicable comprehensive plan goals, policies, or objectives are for the City, our strategic plan and strategic initiatives. She asked City Manager Knight to have more of that kind of information in the staff report for the Commission and the same for the Boards. Mr. Knight agreed.

- 4) RFP Process / Rules and Selection Committees.

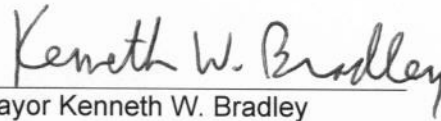
Commissioner Dillaha asked when criteria are set forth in an RFP if the Commission is beholden to ensure that whatever award is given to an entity/applicant that it follows all of the specific criteria. Attorney Brown commented that the general rule is to follow the bid specifications and RFP specifications unless there are minor irregularities and those can be waived by the governing body.

**Mayor Bradley:**


Mayor Bradley asked if there are issues that come before the Commission if they can directly suggest charter review processes at that point on November 9. City Manager Knight stated that the Commission is not required to follow what the committee suggested. Mayor Bradley wanted to address an amendment to the charter concerning election campaign reform on the November 9 agenda. Commissioner Dillaha wanted to address a charter amendment regarding requiring a super majority vote for changes to the Future Land Use Element of the comprehensive plan.

**Motion made by Commissioner Anderson to adjourn the meeting; seconded by Mayor Bradley and carried unanimously with a 5-0 vote.**

The meeting adjourned at 8:32 p.m.

  
Mayor Kenneth W. Bradley

ATTEST:

  
City Clerk Cynthia S. Bonham

PETER J. WELDON  
700 Via Lombardy  
Winter Park, FL 32789

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October 26, 2009

TO: Mayor and City Commissioners – City of Winter Park

RE: Recommendations Regarding P&Z, Comprehensive Plan, and Land Development Code

A version of this letter with live links to content can be found here:

<http://www.winterparkperspective.org/2009/10/26/recommendations20091026/>

The Planning and Zoning Commission has continued to impose significant increased restrictions for commercial and multi-unit residential properties within Winter Park in both the current approved Comprehensive Plan and proposed land development codes. Important elements of both the Comprehensive Plan and proposed land development codes are effectively designed to preclude, not incent redevelopment in our commercial and multi-unit residential zoned areas. As a result of many shortcomings, I have recommended that the City Commission constitute a new group of citizens to serve on the Planning and Zoning Commission.

While many property owners are harmed by both the Comprehensive Plan and proposed land development code, my concern is not to secure rights for these owners. My concern is that both the Comprehensive Plan and the proposed land development code are so restrictive as to deny the City of Winter Park opportunities for redevelopment that can improve our quality of life, add to the diversity of our character and community, and control the financial burden on residential property owners. It should be clear to all observers that the Comprehensive Plan and proposed land development code make Winter Park non-competitive and send a clear signal to those who would consider investing to look elsewhere. This current strategy is dangerously short sighted.

It is not sufficient to simply create rules for what some people don't want. We need a complete sense of Winter Park's role as a unique and special residential community at the literal center of the 30<sup>th</sup> largest Metropolitan Area in the country. The current Comprehensive Plan and proposed land development code include some poignant language to this effect but the substance ignores the implications of this essential context. The only future to be inferred from the substantive rules in the Comprehensive Plan and proposed land development code is one of declining property values, a lesser regional competitive position for Winter Park residential and commercial property uses, higher relative taxes and fees to be borne by our residential community, and increasing challenges to our ability to finance the quality of life that marks Winter Park's attractiveness and value.

With this said, I provide some examples of specific concerns below. Following these examples, I offer recommendations that a new Planning and Zoning Commission may consider.

I provided specific concerns regarding the Comprehensive Plan and related issues in November 2008 that is available here: <http://www.winterparkperspective.org/2008/11/11/we-get-what-we-deserve/>.



After reviewing the proposed land development code I have many questions I believe need to be addressed, a few of which are detailed below.

**Reference – Virtually all sections:** What is the justification for and expected consequences of proposed changes in restrictions on: minimum lot sizes and dimensions, floor area ratios, setbacks, impervious coverage, minimum ground area per dwelling unit, maximum dwelling units per acres, heights, and parking requirements as applied in each land use Section and Planning Area of the Comprehensive Plan and proposed land development code?

**Reference – Development Standards - Virtually all sections:** What is the justification for and expected consequences of granting the City Commission arbitrary and unilateral authority to limit achievable floor area in virtually all cases?

**Reference -** <http://www.cityofwinterpark.org/Docs/Departments/Planning/Sec58-64Nonconforminglots&structures.pdf>

What is the justification for each nonconforming use as defined? What is the justification for and expected consequences of forcing nonconforming uses out of business?

(6) When a nonconforming use of land or structure or land and structure ~~or structure and premises in combination~~ is discontinued or abandoned for two (2) ~~six~~ consecutive months ~~or for 18 months during any three year period~~ (except when governmental action impedes access to the premises), the land or structure or land and structure ~~or structure and premises in combination~~ shall not thereafter be used except in conformity with the regulations of the district in which it is located. If a nonconforming use is discontinued or abandoned on a portion of the land or structure for two (2) consecutive months, that portion of the land or structure shall not thereafter be used except in conformity with the regulations of the district in which it is located. Land or structures shall not be deemed to be active and in continued nonconforming usage solely from the existence of a city or state license or business certificate permitting such a use or business, but such use or business must be actively undertaken, staffed and in operation for such use or business to be deemed in active continued nonconforming usage.

**Reference -** <http://www.cityofwinterpark.org/Docs/Departments/Planning/Sec58-86%20Off-street%20Parking.pdf>.

What is the justification for and expected consequences of the following proposed changes in parking requirements and has input been sought or received from any such existing institutions?

(b) 7. *Convalescent, nursing, assisted living and other institutions:* One parking space for each ~~five~~ three patient beds, plus one parking space for each staff or visiting doctor (average) on the day shift.

*Hospitals:* One parking space for each three patient beds (excluding bassinets), plus one parking space for each ~~two~~ employees, contract personnel, volunteers, etc. including part-time employees, expected on the most active work shift.

*Library:* One parking space for each 375 square feet of gross floor space in the building.

*Restaurants, nightclubs, taverns or lounges:* One parking space for each 50 square feet of floor space for patron use on the premises or one space for every ~~four~~ three seats, whichever is greater.

*Schools (senior high, colleges, universities):* One parking space for each teacher, administrator, and employee, plus one parking space for every ~~four~~ (two) students, plus sufficient off-street space for safe and convenient loading and unloading of students, plus one parking space for each ten seats in the school or college auditorium, provided, however, if the school or college has a gymnasium and has provided off-street parking for that gymnasium, such spaces may be credited toward meeting the requirements for off-street parking for the auditorium located on the same campus.

*Theaters, auditoriums, funeral homes, and places of assembly with fixed seats:* One parking space for each ~~six~~ four seats, plus additional parking spaces equal in number to the number of employees.

#### **Recommendations for a newly constituted Planning and Zoning Commission.**

- For each land use type we need a tabular comparison of density and intensity regulations comparing prior regulations with those included in the current approved Comprehensive Plan and current proposed land development code. Such comparison should at a minimum include; minimum lot sizes and dimensions, floor area ratios, setbacks, impervious coverage, minimum ground area per dwelling unit, maximum dwelling units per acres, heights, and parking requirements. Where the current approved Comprehensive Plan and current proposed land development code vary from prior regulations a narrative justifying each change should be included. (While most pre-existing codes have been effectively tested and modified accordingly over years of experience, mitigating the need for a "zero based" approach, it may be appropriate to provide a zero based rationale for pre-existing code in some cases.)
- Prepare a detailed list of each proposed nonconforming use by specific property by land use Section.
- Mail the tabular comparison of proposed changes with narrative, and detailed list of nonconforming uses, to each affected property owner with an invitation to participate in public meetings. The meetings would be established for the purpose of communicating the implications of proposed changes and to seek and document input from property owners on steps the city can take to enhance the value of their property.

- Hire a professional planner and a land use attorney to consult on all Comprehensive Plan and land development code considerations.
- Remove all specific intensity and density criteria included in the Land Use Element of the current Comprehensive Plan not specifically required by DCA. Such criteria to be removed are to include but not be limited to: minimum lot sizes and dimensions, floor area ratios, setbacks, impervious coverage, minimum ground area per dwelling unit, maximum dwelling units per acres, heights, and parking requirements. Where DCA requires such intensity and density criteria use those limits in place prior to the approval of the current Comprehensive Plan.
- Remove all super majority voting requirements from the Comprehensive Plan and submit the duly revised Land Use Element to the City Commission for approval at the earliest possible date.
- Lead the completion of the form based code project for non-residential properties with the objective of defining model uses and forms for each non-single family zoning Section and Planning Area based on input from all constituencies; to be guided by a professional planner and a land use attorney.
- Lead a public process to define specific objectives for each zoning Section within each Planning Area that justifies each of the following: desired uses, intensity and density, intended impact on character, diversity, and community, infrastructure, and financial costs and benefits; to be guided by a professional planner and a land use attorney.
- Lead a public process that puts the current reality in each zoning Section and Planning Area in context with the objectives defined above for the purpose of documenting the process that gets us from point A to point B.
- Based on the above work, modify the Comprehensive Plan accordingly, and recommend land development code specifically designed to achieve the defined objectives.

Yours Truly,

Peter J. Weldon

PETER J. WELDON  
700 Via Lombardy  
Winter Park, FL 32789

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October 23, 2009

TO: Mayor and City Commissioners – City of Winter Park

RE: Time for Change at P&Z

A version of this letter with live links to content can be found here:

<http://www.winterparkperspective.org/2009/10/23/time-for-change-at-pz/>

- I support neither unfettered private property rights nor unfettered government rights.
- The only property in Winter Park in which I have any interest is our family home.
- I continue to believe that the best city in Florida needs rational, experienced, and professional leadership.

Our City Commission will be having a “listening session” during their regular 3:30 PM meeting this coming Monday, October 26, 2009 on the subject of building codes unanimously approved by the Planning and Zoning Commission (P&Z) on August 18, 2009. Four members of P&Z voted to recommend these codes to the City Commission: Drew Krecicki, Rick Swisher, Michael Dick, and Carolyn Cooper. The fifth P&Z member, Sara Whiting, did not attend the August 18, 2009 meeting.

Our City Commission should “listen” to this:

**It is time to appoint a new slate of citizens to P&Z.**

I, more than most people (I think), appreciate the time our current P&Z members have put in authoring the Comprehensive Plan and related Zoning Codes. However, given the results, it is clear that this work does not serve or represent the interests of the City of Winter Park, our 28,000 residents, 11,500 property owners, 14,000 households, or 17,000 voters; but rather, serves only the personal preferences and political dogma of the people making up the rules.

Current members of P&Z are responsible for a Comprehensive Plan that effectively lowers the value of hundreds of million dollars of downtown Winter Park real estate and also limits opportunities for all commercial and multi-unit residential property throughout the city without any justification (except that they have the power to do so). The Comprehensive Plan and these proposed zoning code changes further restrict floor area, building heights, setbacks, and impervious coverage. Many pre-existing limits have been in place since 1971, some the 1990's, and some from the early 2000s; a long period of time during which our city and commercial core have largely prospered and our quality of life has improved. What is the justification for the increased limitations? There is none.

P&Z members now recommend commercial and multi-unit residential building codes throughout Winter Park that further erode property values and redevelopment opportunities by increasing setbacks and reducing heights, among other new restrictions. These newly proposed restrictions have no basis in experience or reality. No member of the current P&Z Commission has offered any rational social or economic justification, nor considered the consequences of these changes.

Under the general category of "Development Standards" proposed code changes from P&Z members grant the City Commission what can only be interpreted as arbitrary unilateral authority to "limit and restrict the achievable floor area." This applies to all commercial and multi-unit residential building codes, not to single family codes. Think about this a minute. What if you wanted to build a new single family home and the City Commission could step in at any time and deny you the floor area otherwise written into the code after you have invested considerable energy and dollars planning your new home? In such circumstances common sense (remember that?) would tell you to build your home someplace other than Winter Park. That is exactly what has happened to our commercial and multi-unit residential opportunities under the current Comprehensive Plan, and these proposed building codes will only further erode these opportunities. People will invest elsewhere and the value of Winter Park property will decline. Perhaps this is the unspoken objective of the current P&Z members? The wise observer might ask, "To what do we owe this blatant discrimination to the detriment of legitimate interests of commercial property owners?"

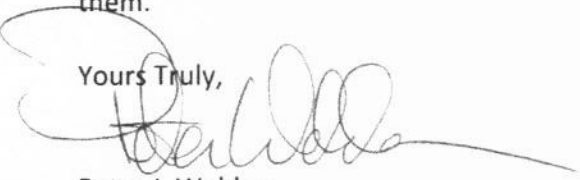
This consistent, grotesque over reaching and unsupportable dogma has reached the point of no return, the point where polite discussion does not elicit rational response.

**These policies and priorities are wrong for Winter Park and dangerously undermine our ability to finance our quality of life.**

My objection to this unrepresentative imposition of personal preference and political dogma on all Winter Park property owners and citizens (directly and indirectly) is not an endorsement of big ugly buildings with parking garages. My objection is founded in a clear need to populate our city boards with rational, experienced, and professional citizens. Citizens with the foresight and judgment to promote land use and related codes that balance interests so as to attract quality reinvestment in our city; reinvestment that will complement the character and quality of Winter Park while contributing new revenue to sustain our roads, our parks, our trees, our lakes, our public safety; our quality of life.

Our City Commissions should thank our current P&Z members for their service and replace them.

Yours Truly,



Peter J. Weldon