

**CITY OF WINTER PARK
REGULAR MEETING OF THE CITY COMMISSION
November 26, 2007**

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

The invocation was given by Parks and Recreation Director John Holland, followed by the Pledge of Allegiance.

Members present:

Mayor David Strong
Commissioner Margie Bridges
Commissioner John Eckbert
Commissioner Douglas Metcalf
Commissioner Karen Diebel

Also present:

City Attorney Trippe Cheek
City Manager Randy Knight
City Clerk Cynthia Bonham

Mayor's Report: No report.

Action Items:

- a) Approve the minutes of 11/12/07.
- b) Approve the following bids and purchases:
 - 1) PR 135649 to Fischer Scientific for the purchase of firefighter gear, piggybacking off Seminole County contract # RFP-4217-04/JVP; \$29,711.20 (Budget: Fire Rescue Clothing)
 - 2) Enter into negotiations for RFQ-36-2007 Winter Park Civic Venues with ZHA, the top ranked firm.
 - 3) Award of IFB-2-2008, Cameras and Equipment for Traffic Control Devices to Iteris, Inc. (Budget: Streets Contractual Services)
- c) Approve the service agreement and electric distribution easement for Progress Energy to provide service to the Wymore storage and re-pump facility.
- d) Approve the City Manager's contract.
- e) Approve the lease agreement with Orange County for the Community Recreation Center at Cady Way Park. **PULLED FROM ACTION ITEMS. SEE BELOW.**

No public comments were made.

Motion made by Commissioner Eckbert to approve Action items 'a-d' with the acknowledgement that item 'e' has been withdrawn; seconded by Commissioner Metcalf and carried unanimously.

Action item e: Approve the lease agreement with Orange County for the Community Recreation Center at Cady Way Park.

Orange County Commissioner Bill Segal spoke about the opportunity presented to Winter Park to build a community recreation center/gym at Cady Way Park. He summarized the history of the project and spoke about the five gyms being built throughout Orange County being funded by the Orlando Magic. He spoke about the location in District 5 within Winter Park that they considered and the meetings held with Parks and Recreation Director John Holland. He

thanked Mr. Holland for his work on the proposal. He stated this would have been a \$5 million investment in Cady Way Park and spoke about his desire to build this facility at this location and the benefits to the children and seniors. Mr. Segal spoke about the need for them to make a decision for today, he has watched as issue after issue has become contentious in Winter Park, and that he pursued this proposal to bring people together. He commented about speaking with the Commission individually to address the pros and cons of this facility.

He addressed the traffic report showing only about 50 cars will be added to the roadways during the rush hour by the gym and that there is a trade-off with having an asset like the community center and the cost of traffic. He spoke about the community meetings held and receiving public input to try and build a consensus and the people that came against the project and the ones in favor of the project not coming to the meetings to voice their opinion which makes it hard to gauge the consensus of the ones for the project. He stated he has no intention of causing more discord in Winter Park and that this is not the only site available but believed it was the best. He commented about everything in Winter Park lately becoming a war, and that a resident can easily decide what is in their best interest and what is good for them but as elected representatives they are asked to make decisions as to what is good for the entire city or county. He stated as contentious as this issue is to the City, he does not want to put this into the laps of the City Commission. He respectfully pulled this proposal of Cady Way Park on behalf of the County and stated they will find another site probably to the east.

Commissioner Metcalf asked Commissioner Segal if he would consider the location of the Westside Community Center as it would be a tremendous boost to getting that done. He stated there are no restrictions as to who uses this facility so it would benefit anyone wishing to use it. Commissioner Segal stated they are not closing the door but they need areas that are easily accessible; the parking is difficult at that location, the location is somewhat too urbanized, and that they are trying to serve a larger 3-4 mile radius. Commissioner Diebel asked for consideration of that location because of the City's support of commuter rail making it more accessible for County residents. Commissioner Segal stated it will be considered. Mayor Strong thanked Commissioner Segal for considering Winter Park as a location.

JW Marriott discussion

Commissioner Metcalf questioned when the appropriate time would be to discuss the JW Marriott property and the changes that were suggested last week. He suggested sending a notification to the surrounding residents of what is going on with the hotel. He spoke about the six amendments to the original agreement and the various issues involved with the project. Mayor Strong asked if a motion can be made to re-consider the prior motion. Attorney Cheek reminded the Commission that Attorney Steve Bechtel is representing this project. Planning Director Briggs stated the document has not been signed and is being reviewed and modified. He stated they can provide the Commission a copy of the finalized document and discuss it at the next meeting before it is signed and that the representatives need to be present if any substantial changes are being considered. Commissioner Metcalf stated he is in favor of the hotel but wanted to be sure they are aware that the project is denser than originally voted on. Attorney Cheek recommended that this be placed on the next agenda after providing notice. Commissioner Metcalf proposed to put this on the next agenda for discussion and/or reconsideration.

Commissioner Eckbert expressed concerns with the amount of 6th floor parking spaces and asked if they need to make a motion this evening to officially reconsider this issue so the opportunity to reconsider this does not pass them by. Commissioner Bridges addressed her conversation with Mr. Murrah and the concern about the 30 parking spaces; she stated those will be restored with the 60 spaces. She expressed concerns with having the discussion this evening without providing public notice. Commissioner Eckbert reiterated his concern that they need to take action this evening to be sure the 6th amendment does not vest and they can consider this at the next meeting. Attorney Cheek spoke about Roberts Rules of Order and when a motion to reconsider has to be made that do not apply to the City because they have never adopted those rules.

Mayor Strong stated he wanted to end the discussion now and if someone wanted to bring it up under new business to reconsider he would like to do that. In the interim, he wanted to see if Mr. Bechtel could be contacted and ask him to come to the meeting. Bill Battaglia spoke from the audience about their concern with not giving notice and that they have concerns with the amendment. Mayor Strong stated they will postpone this until New Business today and can have Mr. Bechtel present.

Public Hearings:

- a) ORDINANCE NO. 2725-07: 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 MULTI-FAMILY RESIDENTIAL (R-3) ZONING TO CENTRAL BUSINESS (C-2) DISTRICT ON THE PROPERTY AT 354 HANNIBAL SQUARE, EAST, MORE PARTICULARLY DESCRIBED HEREIN. Second Reading

Attorney Cheek read the ordinance by title. Planning Director Jeff Briggs explained this is the only property on Hannibal Square where it was designated in the adopted comprehensive plan to have a change in zoning from the existing R-3 to Central Business District (C-2) so when the comprehensive plan becomes official the zoning will comply with the new comprehensive plan. He stated the applicant is asking to adopt the ordinance now with an effective date only until the comprehensive plan is ratified by the state. He stated that the applicant would like to move forward since they are not changing the designation on the comprehensive plan map and the designation is not an issue that the state has any problem with in respect to the comprehensive plan. He stated it was tabled because of the need for a full Commission to vote on the second reading. Mr. Briggs stated this will allow them to build the grocery store but the ordinance will not become effective until the comprehensive plan is ratified by the state which will take a while longer to happen.

April Kirsheman, on behalf of St. Michael's Ltd. asked that this be adopted this evening so they have everything ready to begin when the comprehensive plan is effective. Commissioner Bridges asked if there is any relationship between this project and the fact that the parking garage and retail stores has ceased construction. Ms. Kirsheman responded they are not related and that development is continuing on the parking garage.

Lurline Fletcher, 790 Lyman Avenue, opposed the rezoning because of her desire to maintain the residential areas on the Westside.

Carolyn Cooper, 1047 McKean Circle, showed the map in the new comprehensive plan addressing where Central Business District zoning will be allowed and that the property in question is outside the area where they have agreed to allow CBD zoning. She spoke about the policy in the comprehensive plan being clear that identifies the streets where CBD zoning is allowed and this property is south of those streets. She also addressed the need to honor the City's word to the Westside community and showed the 1994 CRA plan where areas would remain residential or become commercial. She commented regarding the violation of the public notice process and the property violating the policies in the new comprehensive plan concerning edge developments and keeping a nice transition from low density to commercial. She asked the Commission to not exceed the heights allowed and consider the parking.

Janie Baker, 650 Northwood Circle, asked to table this item until the new comprehensive plan is adopted.

No other public comments were made.

Commissioner Eckbert asked Mr. Briggs why staff recommended this for approval. Mr. Briggs explained staff's recommendation and why the Planning and Zoning Commission voted in support of the rezoning. He stated there are no merits to the arguments made by the public regarding a betrayal of the comprehensive plan or of CRA commitments. Other questions were asked and explained by Mr. Briggs.

Ms. Kirsheman commented they are to construct the grocery store and that the location is specific. Mr. Briggs clarified they cannot begin construction until the completion of the comprehensive plan. Ms. Kirsheman commented they are in default until the comprehensive plan is approved and spoke about the City's comprehensive plan adoption process taking too long. Mayor Strong stated he would be comfortable approving the substance of the agreement when the comprehensive plan is approved but not before.

Commissioner Metcalf expressed the need to expedite the construction of the store as soon as possible and did not see a problem with letting the applicant move forward with the planning and execution. Mayor Strong stated he only saw a two week delay from the time the comprehensive plan is approved and expressed concerns with the approval of the comprehensive plan being further delayed. Attorney Cheek stated the City has the ability to adopt the ordinance as it is phrased and that he re-wrote section 3. He stated he believed the applicant is reserving their right to blame the City for not getting the process done faster which is why they are in default and that they are making this complaint. He read from the ordinance it is not effective until if and when a comprehensive plan becomes legally effective that shows the future land use of that parcel as being commercial. He stated he is comfortable with that in terms of whether it can legally be done. Commissioner Metcalf asked if this is adopted if they can do whatever they want to get ready when the comprehensive plan is finally adopted. He stated as long as the comprehensive plan shows commercial use for this parcel, the City will be legally bound to rezone the property anyway.

Motion made by Commissioner Eckbert to adopt the ordinance, seconded by Commissioner Metcalf. Upon a roll call vote, Mayor Strong and Commissioner Bridges voted no. Commissioners Eckbert, Metcalf and Diebel voted yes. The motion carried with a 3-2 vote.

- b) ORDINANCE NO. 2727-07: AN ORDINANCE GRANTING TO PEOPLES GAS SYSTEM, A DIVISION OF TAMPA ELECTRIC COMPANY, ITS SUCCESSORS AND ASSIGNS, A NON-EXCLUSIVE NATURAL GAS FRANCHISE AGREEMENT TO USE THE PUBLIC RIGHTS OF WAY OF THE CITY OF WINTER PARK, FLORIDA, AND PRESCRIBING THE TERMS AND CONDITIONS UNDER WHICH SAID FRANCHISE MAY BE EXERCISED; MAKING FINDINGS; PROVIDING AN EFFECTIVE DATE; AND REPEALING PRIOR ORDINANCE. Second Reading

Attorney Cheek read the ordinance by title. No public comments were made. City Manager Knight explained language in the ordinance that passed on first reading but was not reflected in this version that needed to be added back into the ordinance.

Motion made by Commissioner Metcalf to adopt the ordinance with the proposed changes to the ordinance, seconded by Commissioner Eckbert. Upon a roll call vote, Mayor Strong and Commissioners Bridges, Eckbert, Metcalf and Diebel voted yes. The motion carried with a 5-0 vote.

JW Marriott discussion (continued):

Attorney Steve Bechtel arrived to address the JW Marriott. Mayor Strong stated the issue at this time is whether we have to adopt a motion to reconsider their previous approval of this project. He reminded Mr. Bechtel that the City has not adopted Roberts Rules of Order and asked if we prejudice anyone if they do not consider a motion to reconsider their approval this evening. He addressed the normal process of putting this on the next agenda, noticing the public and applicant and then have a discussion.

Attorney Bechtel stated that he has been working with Mr. Briggs since the last meeting on the 6th amendment which was approved but that there may be more substantive changes needed to that document so the amendment may come back to the Commission anyway. He stated that the Mayor can entertain any motion they want and suggested having a motion to reconsider the previous action and place it on the next agenda.

Motion made by Commissioner Metcalf to reconsider the last decision and schedule this for a decision at the next meeting; that each Commissioner provide Mr. Bechtel and Mr. Briggs their concerns; review the parking requirements for the hotel, library and adjacent residents; send notices to the neighbors and The Residences; and to consider any other negotiations being conducted by Mr. Bechtel and the applicant. The motion was seconded by Commissioner Bridges.

Commissioner Diebel stated she would like a legal opinion about the substantive changes between amendments and to what degree that is or is not the case so they can be factual. Mayor Strong asked if we are exposing the City to anything by reconsidering this matter. Attorney Bechtel stated he did not believe so because the applicant has proposed changes to the City.

Commissioner Bridges asked Commissioner Metcalf if he wanted to put any parameters on some of the concerns. Commissioner Metcalf agreed that parking, amendment 6 stating this supersedes everything from before and it becomes the best and only binding document, and that there are probably items in amendments 1-5 that should be included in amendment 6. He stated over time there have been many changes and that the garage spaces do not increase as

fast as the rooms increase which is a concern he would like reviewed. He stated he wants to make sure that some of the things that happen inside are being considered with the ancillary facilities such as the parking garage and wants to see the impact this has on The Residences. Commissioner Bridges stated she was under the impression that the project as proposed by the JW Marriott met the City's parking requirements. Commissioner Metcalf further addressed this issue. Commissioner Bridges asked that they be provided more time to review the documents before the Thursday delivery. Commissioner Eckbert wanted to hear from the neighbors this evening so the Commission can be considering their thoughts for the next meeting.

Upon a roll call vote, Mayor Strong and Commissioners Bridges, Eckbert, Metcalf and Diebel voted yes. The motion carried unanimously with a 5-0 vote.

Mayor Strong stated he wants to hear from the residents but not at this point but to speak under New Business this evening.

John Nadjafi, Shutts and Bowen, on behalf of The Residences Condominium Association, stated they wanted to review the documents being submitted to the City by the developer in advance of the next meeting so they can be fully informed of everything that is being proposed and be prepared to comment on those items in advance of the meeting. He was assured that they would be provided the information.

- c) Conditional Use Request-Florida Bank of Commerce-to allow a bank with drive-thru teller lanes as part of the redevelopment of the former Limmoncello Restaurant property at 702 Orange Avenue.

Planner Stacey Scowden addressed this item and summarized the request. She spoke about the Planning and Zoning Commission (P&Z) meetings where they were asked to obtain a traffic report validating trip generation figures and to meet on-site with the applicant, staff and the P&Z members that were interested. She addressed what took place at the P&Z meetings held in October and November and changes to the applicant's site plan that they proposed to the P&Z in November. She stated the applicant hired a traffic engineer who provided a study based on a bank around the corner with similar capacity and used those numbers as a comparison. She stated when the applicant came back to the P&Z there were a lot of neighborhood concerns with traffic going down Holt Avenue leaving the bank. She stated that staff recommended approval with the condition that if a larger bank acquires them that they have to come back for additional conditional use approval. She stated the second condition was to take the advice of the Public Works Director and move the ingress/egress on the northeast side further down toward the railroad tracks and that the applicant has already made those changes. She stated the P&Z recommended denial of the project because of the neighborhood concerns.

Mayor Strong asked about a possible conflict of interest he may have. After explanation, Attorney Cheek ascertained he had no financial interest in the project so there was no conflict of interest and the Mayor could vote on this request. There were questions asked by Mayor Strong for clarification purposes.

Applicant Zane Williams, 626 Bonita Drive, stated he is the owner of the property and he has an agreement with the Florida Bank of Commerce that if they receive the conditional use approval, they will take the site if he can provide two drive thru lanes. He summarized how they acquired the property. He spoke about engaging their traffic engineer at their expense who came back

with a Level B of service but that the P&Z discounted the study because of the construction at that time; he believed the bank should not exceed 20 vehicle trips per day. He stated this project is an enhancement to the area.

Bank President Craig Polejas, 2110 Forrest Road, Winter Park, provided background information regarding their bank organization, addressed the low impact the bank has on traffic and the small impact the drive thru will have compared to other alternative uses for the property. He addressed the importance of the drive thru lanes.

Project Contractor David Lamm spoke about the permitted uses for this area, the amount of drive thru trips per day being minimal, the need for two drive thru lanes, stacking issues of vehicles, the aesthetically pleasing structure, and the very minimal impact to the area regarding noise and traffic. He stated the egress/ingress locations are at Holt and Orange Avenues.

David Isaacson, Winter Park Day Nursery, spoke in favor of this project because it would bring less traffic.

Ernie Wilding, 1250 Park Avenue, spoke in favor of the project and that it would improve the corner and eliminate parking issues.

Mayor Strong disclosed meeting with the applicant more than once and that he expressed his concern about traffic which is the only concern. He stated he believes the 20 vehicles a day is accurate and will have a minimal impact. He recommended to the applicant that something would need to change if they find it is more than 20 vehicles. He stated he wants to hold the property owner the way they say they are going to operate by eliminating a drive thru lane or reducing their hours if the traffic is too erroneous.

Commissioner Bridges stated she met with the applicants and lives in the neighborhood. She attended the P&Z meeting and had mixed feelings for this project. She stated the applicant has made a lot of effort to work with the City to correct the ingress/egress situations that happened while she was there on site. She stated the traffic study seems to be appropriate and valid. She had offered a compromise that a single drive thru teller lane should be adequate but was declined. She expressed concerns that this could cause heavier traffic but was open to suggestions in case this happens. She stated she does not want to set a precedent by overturning the P&Z vote but believes in this case it warrants some justification.

Commissioner Eckbert commented that the number of drive thru lanes does not create a demand for drive thru traffic but allows processing of customers that show up at the same time more efficiently. He stated this should be approved the way it was applied for. There was discussion regarding what would happen if the bank created traffic impacts to the roadway. Mr. Williams spoke about trying to reach an agreement but they would not hold themselves to a certain number of cars; no proposal was provided.

Commissioner Bridges expressed a concern with the easement that runs all the way behind Thomas Lumber to Minnesota and at some point may be purchased outright. Mr. Williams stated that is currently in CSX's hands and he is in the process of getting the Zane Williams easements from here to Deland in order which will get transferred over to the FDOT; they have been told it is the intent of the FDOT to sell those easements as surplus land to the respective owners. He spoke about a backup plan concerning this issue. Commissioner Bridges clarified

with Mr. Williams that his future land use (if he actually owns and controls it) would be to take the second drive thru and move it down to one drive thru lane and use it as a bypass. He stated that is not ideally what they want to do and would probably null and void his contract with the bank.

Commissioner Metcalf stated he has no issues with the traffic but that the City almost had the funds last year to square off the five corners to four and wanted to be sure the applicant understands there are plans out there to square off the corner. He did not want to approve this tonight and then have him come back later trying to deny what the traffic engineers say will be a better method of handling the traffic at that intersection. Mr. Lamm stated those discussions have taken place and there is good faith that there would be a cooperative interest to benefit that intersection because it only benefits the bank to have a safe intersection to bring the services to its clients. Mr. Lamm answered a concern of Commissioner Bridges concerning a quantifier regarding traffic.

Motion was made by Commissioner Metcalf to approve the conditional use request, seconded by Commissioner Eckbert. The motion carried unanimously with a 5-0 vote.

A recess was taken from 5:37-5:45 p.m.

- d) Conditional Use Request-Penn Symonds, LLC and Penn West LLC-to permit the construction of a two story, 6,650 square foot office building on the former Lawson Funeral Home property at 271 N. Pennsylvania Avenue, on the northwest corner of Symonds Avenue.

Planning Director Briggs provided the report and addressed the location, zoning, setbacks, and this being a replacement two story building within the CRA. He showed the new site plan just provided to him by the applicant. He addressed the review of the building because of the single family homes down Symonds directly to the west causing the need to be sensitive to the residential proximity causing discussion at the P&Z regarding the fence, materials, site lighting, etc. to make it neighbor friendly to the adjacent single family homes. He addressed the building height originally shown at 42'; the code is 35' and that the applicant asked for the taller height because of the need to include attic space but has agreed to lower the visual height to 39'. He stated the P&Z wanted to hold firm at the height standard on Park Avenue given the rationale of the residential proximity. He stated that is the only remaining issue; all others were resolved.

Tom Alday, 200 East New England Avenue, represented the applicant. He stated they are in agreement with the P&Z and staff but have requested the 39' height to the actual top of the structure. He spoke about the C-3 zoning and being limited by the comprehensive plan to two stories and the various higher heights in the surrounding areas. He stated the package shows a height of 42' but that the height is actually 39' and they are only talking about the slanted part of the roof that extends above the 35' allowable height on all four corners. He stated the flat area in the middle of the roof will be used for air conditioners and compressors. He stated they have complied with everything else that the P&Z has requested. Mr. Alday answered questions of the Commission. He stated by lowering the height 4', they would be giving up storage space that they need.

Lurline Fletcher, 790 Lyman Avenue, spoke in opposition to the project because of the building height, the setback from the sidewalk and bringing more traffic.

Carolyn Cooper, 1047 McKean Circle, applauded the developer for being an excellent building but asked to support the P&Z recommendation on height and to approve this.

Janie Baker, 650 Northwood Circle, asked that the Commission protect their neighborhood and that the height not exceed 35'.

Mr. Alday answered more questions from the Mayor regarding the third floor being an attic for storage. Mr. Alday stated they will do a deed restriction stating this. Mayor Strong also inquired if the 5' setback is adequate for the utility work required; Mr. Briggs responded. Also questioned was the visibility turning from Symonds to Pennsylvania. Mr. Alday stated there is nothing obstructing the view from turning from Symonds to Pennsylvania. Mayor Strong also asked about the zoning of C-3 and the height limit. Mr. Briggs responded as to what could be built there and about the 55' height limit. He stated this is before the Commission because they are sensitive to all aspects in the CRA (heights, setbacks, etc) and have the authority to approve what heights need to be appropriate given the context.

After further discussion regarding the height of 39' as requested, Mr. Alday stated they will withdraw the request for 39' and will agree with the 35' height.

Motion made by Commissioner Bridges to approve the conditional use request with the building height of 35', seconded by Commissioner Diebel. Upon a roll call vote, Mayor Strong and Commissioners Bridges, Eckbert, Metcalf and Diebel voted yes. The motion carried unanimously with a 5-0 vote.

- e) Requests of Rollins College: **REQUEST BY THE APPLICANT TO TABLE UNTIL DECEMBER 10, 2007.**
 - 1. Ordinance-to amend the zoning code to establish a new conditional use provision for non-profit educational facilities. (1)
 - 2. Conditional Use request-to permit the Osceola Lodge and Bigelow House properties at 231 N. Interlachen Avenue and 230 N. Knowles Avenue to be used for the Winter Park Institute.

City Attorney's Report:

No report given.

Non-Action Items:

- a) Commuter rail stop update.

City Manager Randy Knight stated there would be no action taken tonight but there would be action required at an upcoming meeting. He stated they were informed by FDOT that the City will have the 30% design stage for the commuter rail system by Friday, November 30, 2007. Mr. Knight explained the design plans and the agreement whereby the Commission placed an opt-out provision which they have before the 2017 opt-out opportunity if there is no funding source. He addressed that the 30% design is supposed to give detail on the footprint of the station as well as the estimated cost. He stated in January 2008 there will be public input and will have the opportunity to look at proposed designs of canopies and can help select what is

the most appropriate amenities to fit within the park. He explained that the existing center platform will be removed and the rail tracks on the eastern Central Park side will be moved to the west. Mr. Knight commented that the City will have to pay for any upgrades to existing facilities that are not part of the commuter rail stop and that a new platform and interconnecting pedestrian walkways will be constructed on the east side of the relocated track. He stated that FDOT has delivered what they asked for in this process when the Commission approved it to move forward. He explained that once they receive the final 30% design plans that staff will give their final analysis and their recommendations at the next meeting.

Commissioner Metcalf recommended they talk about the area that goes from New York Avenue to Denning Avenue and to see if they can get a walking/jogging/biking path that would parallel the railroad track toward Hamilton Place. He suggested that since they will be speaking about a bike path they should see if it is possible to extend that or to extend it the other way toward PR's Restaurant. He stated if they were talking about giving up some of the right-of-way that he would be interested in using it as green space or to create walking/jogging/bike paths.

Mayor Strong asked what other modes of transportation they will see such as buses and cars. Mr. Knight explained there would be nothing with the 30% design but it would be a part of the January 16 meeting. He explained that will be something the City will have control over with the bus and car drop off/pickup. He stated they have conceptual plans that they will present to the community and they will have input at the January 16th meeting. Mayor Strong asked if there was any discussion about releasing this right-of-way to the City. Public Works Director Attaway stated they discussed it earlier but could raise that issue again.

b) Comprehensive plan update.

Director of Planning Jeff Briggs stated that the Department of Community Affairs (DCA) found the City's recently adopted Comprehensive Plan not in compliance due to technical flaws. He gave the Commission copies of what the State had written and it was placed on the City's website. He explained at this point there are two options to either fight the State and ask for a hearing from the administrative body that rules on this matter which would take months; or to work with DCA on a compliance agreement, make the necessary changes, have their concurrence and bring that package to a public hearing and re-adopt the comprehensive plan in compliance with that agreement. He stated he did not know about the time frame of this because he has not heard from our transportation consultant on the scope of the items that relay to the transportation element. Mr. Briggs explained that staff will make the corrections in December, meet with DCA on the compliance agreement in January and expect the re-adoption of the comprehensive plan with these technical modifications in February. Mr. Briggs answered questions of the Commission.

New Business (Public):

1. Lurline Fletcher, 790 Lyman Avenue, spoke about an incident where the lights on the Westside were out over an hour and asked for a quicker response. She also expressed that the Westside receives no notice when construction takes place.

2. Jack Rogers, 1002 Temple Grove, asked that the 30 firms be contacted regarding the RFQ for form based code. He explained that he contacted Attorney Michael Huey who has represented the State American Institute of Architects and its members for 35 years. He passed out a letter based on Mr. Huey's opinion that the City's RFQ is legally flawed and it should be corrected and reissued. He asked that the presentations on December 6 be delayed to allow Attorney Huey and Attorney Cheek to address the issues discussed in the letter. Attorney Cheek stated that he will review this along with the RFQ provision and will provide his opinion.

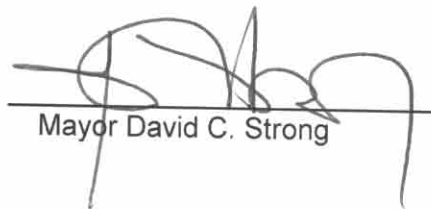
3. Janie Baker, 650 Northwood Circle, asked that Commissioner Segal be encouraged to build the community center on the Westside.

New Business (City Commission):

Mayor Strong stated that he was open for comment with the JW Marriot but there was no discussion.

Commissioner Bridges asked about the construction schedule of the 362 South Pennsylvania Avenue and the 450 N. Denning projects. She stated she drives by the 362 South Pennsylvania daily but has not seen activity within the past three months. She wanted to know the timeline of the project and if they can determine at what point they could force things to move forward. Building Director George Wiggins stated that unless there is a complete stoppage for 6 months it does not cause any action on our part to void the permit. He explained that there had been crane activity working on the project last week which constitutes construction activity and suggested they make a request to the owner for a report on the status and that the City's legal frame work requires that progress proceeds. He explained the process if it becomes a violation. Mr. Wiggins stated that they will look at their inspection records and see where they are on the project and report to the Commission. Mr. Wiggins stated that the parking garage at 450 N. Denning Avenues is completed and the plans for the apartments have been approved.

The meeting adjourned at 6:50 p.m.


Mayor David C. Strong

ATTEST:


City Clerk Cynthia Bonham