

**REGULAR MEETING OF THE CITY COMMISSION**  
**December 14, 2009**

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

The invocation was given by Pastor Mike Armstrong, First Baptist Church, followed by the Pledge of Allegiance.

Members present:

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

Also present:

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

Mayor Bradley stated that action item a) "Percent for the Arts proposal" has been tabled at the request of the Public Art Advisory Board and will be placed on a future agenda.

**Approval of the agenda**

**Motion made by Commissioner Anderson to approve the agenda; seconded by Commissioner Dillaha. The motion carried unanimously with a 5-0 vote.**

**City Board Reports/Updates:**

a) Lakes and Waterways

Lakes and Waterways Board Chairman Robert Trimble spoke about their mission statement and the board history.

Public Works Director Troy Attaway discussed the mandate, plant management efforts, the 2009 strategy map to maintain the quality of lakes as an initiative, the comprehensive plan and policies relating to stormwater, treating stormwater, and protecting lakes and plants within our lakes. He addressed the Water Quality Improvement Program, secchi disk visibility in lakes, a map of the treated areas, results of the program to date, boat dock/seawall site plan approval, vegetation and shoreline management, public education and outreach, and future management objectives. Mr. Trimble, Mr. Attaway and Lakes Division Chief Tim Egan answered questions.

Commissioner Dillaha suggested the board be more proactive and to look at other measures to enhance our lake frontages. Mr. Trimble stated they have ideas, but is often cumbersome to effectuate a goal because of having limited funds. Commissioner Dillaha stated that they need go back to further define what the strategic initiative means and what the staff needs to do in order to be proactive in maintaining our lakefronts.

## **Mayor's Report**

a) **Moment of remembrance – Senator Paula Hawkins**

Mayor Bradley commented that Senator Paula Hawkins passed away on December 4 and she was a resident of Winter Park and the first woman ever elected to a full term in the Senate without a family connection. He asked for a moment of silence for her service to the community and suggested having a special recognition for her in the future. Commissioner Bridges agreed.

b) **Firefighter recognition - 2009 Fight for Air Climb Event to benefit the American Lung Association**

Chief White explained that the firefighters participated in the American Lung Association's Fight for Air Climb last month and placed well in the competition. He stated that they raised money for the American Lung Association by climbing 25 stories of the Bank of America building in Orlando. Mayor Bradley and Chief White presented the firefighters with plaques for their support and participation in the event.

c) **Civil Service Board appointments**

**Mayor Bradley nominated Johnny Jallad to replace John Melaugh who moved out of Winter Park; seconded by Commissioner Bridges. The motion carried unanimously with a 5-0 vote.**

**Mayor Bradley nominated David Johnston; seconded by Commissioner Anderson. Upon discussion and a vote, Mayor Bradley and Commissioners Anderson and Diebel voted yes. Commissioners Dillaha and Bridges voted no. The motion carried with a 3-2 vote.**

Commission confirmation of Police and Fire Civil Service Board members:

**Motion made by Mayor Bradley to confirm the appointments of Jeff Marcum (Police Department) and Ron Ryan (Fire Department); seconded by Commissioner Bridges and carried unanimously with a 5-0 vote.**

d) **The role of the Chairperson and Commission decorum**

Mayor Bradley commented that he sent the Commission an email via the City Manager regarding the conduct of the Commission at the November 23 meeting. He requested this be submitted as part of the minutes and stated that he also sent an email on SunRail (Mr. Knight distributed to the Commission) and requested this be part of the minutes.

Commissioner Dillaha suggested that the Commission read into the minutes at the beginning of each meeting the format of the agenda and the rules for decorum. Mayor Bradley stated that this will be an agenda item for the next meeting.

Commissioner Bridges asked that the email she sent to the City Manager regarding the November 23 meeting be entered into the public record. She also believed that if they are going to recognize decorum and procedures that they should adhere to all decorum guidelines. Mayor Bradley added that all the Commissioners can make a point of order and he is open that.

e) 90 day plan progress and next steps

Mayor Bradley spoke about what they discussed at their last 90 day plan work session and being comfortable with their progress in terms of their priorities. He stated they did not conclude their Post Office/library conversations and they need to calendar this within the next 60 days.

f) Request the City Attorney to review any perceived potential conflicts of interest

Mayor Bradley commented it has been suggested that by virtue of his position and employment, that he has potential conflicts of interest that relates to SunRail and other issues. He asked that the City Attorney review those matters. Attorney Brown commented that he will prepare a letter (if that is the direction) to be sent to the Ethics Commission who will make a ruling. He explained that the Ethics Commission has been very consistent not to issue opinions that would make it difficult for people to serve merely because they are employed by a large employer or because they own a lot of property. He added that he will circulate what he proposes to send and hopes there is a consensus that it is fairly stated.

Commissioner Anderson wanted to exercise caution and did not want this to become a back door way to persecute elected officials. Attorney Brown commented that based on the information he has seen there is no personal special private gain, but this needs to be sent to the neutral independent arbiter of the Ethics Commission.

Commissioner Diebel asked what they were debating. Attorney Brown explained there have been a number of citizens that have suggested that the Mayor has a conflict of interest when he votes on any matter related to commuter rail because of the involvement of or the interest of Florida Hospital. He explained that the assertion by some is that the votes inured to the special private gain of his employer.

Mayor Bradley commented that no Commissioner has influence as to whether SunRail happens or not but only has the opportunity to influence whether it stops in Winter Park. He believed that he did not have a conflict and explained they are doing this to be completely above reproach.

g) Fees for use of City facilities

Mayor Bradley asked staff to investigate the use of fees (especially the parks and recreation facilities). He stated they raised approximately \$40,000 with the increase of those fees. He commented that he will forward the four circumstances that were brought to his attention for staff to investigate if a fee waiver was provided before, is not provided now, or if there has been a dramatic increase in fees as suggested by these citizens. Mr. Knight agreed that staff will review.

h) and i) Holiday events and best wishes

Mayor Bradley addressed his attendance at the Winter Park Day Nursery open house to celebrate 70 years of service in our community. He also spoke about the Holiday Tree Lighting and Politicians on Ice.

Mayor Bradley stated that Ms. Juanita Grant is Mr. Knight's new Executive Assistant and that she will also be the administrative support to the City Commission.  
Mayor Bradley wished everyone Happy Holidays and peace for the City of Winter Park.

### City Commission Reports

- a) Commissioner Anderson
  - 1) Commuter rail interlocal agreement.

Commissioner Anderson addressed the approval of SunRail at the Legislative level and believed it was appropriate to receive an update on the project. He stated that he created a commuter rail list for the City Attorney and staff to review concerning the agreement with Orange County (attached at the end of the minutes). He added another item under "How should we propose amending the agreement to accomplishing the following:" 2. e. Confirmation that funding the insurance retention is not an expense to Winter Park.

Commissioner Dillaha commented that she also had a list of questions for the City Attorney to review and will forward that to him and Mr. Knight. She submitted the FTA report for the project and her questions that are attached at the end of the minutes.

**Motion made by Commissioner Anderson for the City Attorney and staff to review the City/County agreement; seconded by Commissioner Dillaha. Upon a vote, Commissioners Anderson, Dillaha and Bridges voted yes. Mayor Bradley and Commissioner Diebel voted no. The motion carried with a 3-2 vote.**

Commissioner Diebel stated that many of the questions that Commissioner Dillaha raised were already answered by our previous attorney in other meetings. Attorney Brown asked staff to pull previous comments from the minutes by the City's prior attorney because he wanted to consider what he said. Mayor Bradley suggested that they combine Commissioner Anderson's and Commissioner Dillaha's questions.

- 2) Amending the Comprehensive Plan adopting ordinance to incorporate a super majority for text amendments to the comprehensive plan

Commissioner Anderson proposed that they modify the comprehensive plan adopting ordinance to incorporate the provision of a supermajority for text amendments and to remove this as a Charter amendment vote item.

**Motion made by Commissioner Anderson to direct the City Attorney to draft an amendment to the adopting ordinance to incorporate supermajority for text amendments and to require that modifying that supermajority vote would require a supermajority as well; seconded by Commissioner Bridges. Commissioner Anderson explained his rationale. Commissioners Anderson, Dillaha and Bridges voted yes. Mayor Bradley and Commissioner Diebel voted no. The motion carried with a 3-2 vote.**

Commissioner Dillaha commented that she believed they agreed that the citizens should have the opportunity to vote on this and to put this in the Charter as a precautionary measure in order to create more stability with the comprehensive plan.



b) Commissioner Dillaha

1) Performance standards for our City.

Commissioner Dillaha stated that she would like to establish performance standards for departments and department heads in January 2010 with strategic initiatives such as definitive goals in terms of timelines and deadlines in order to determine how well we are doing.

Commissioner Bridges stated she looked at other agencies and as a board member of the Tri-County League of Cities had conversations with Marilyn Crotty regarding this matter. She explained that the Florida Institute of Government offers programs geared toward municipalities and suggested they explore this further and to periodically review our policies and procedures.

Commissioner Anderson asked if this would be more of an operational audit that needs to be done at a level other than the Commission. He stated if she was trying to get to a departmental level of how they actually perform under their own leadership or under the City Manager's leadership, he was not sure it was the Commission's responsibility; however, it may be something that needs to be done but through a different mechanism.

City Manager Knight expressed that they have departmental measurements for most of the departments and was open to an operational audit. He added that they have been working with the Florida Benchmarking Consortium with UCF to try to benchmark against other entities, and this has been an ongoing process. Mr. Knight answered questions.

**Motion made by Mayor Bradley to ask the City Manager in his next report to bring a compendium of all of the performance standards that we track routinely that is already measured in our budget as well as into the comprehensive plan and strategic plan and to find what our current progress is and then determine from there if they need operational audits; seconded by Commissioner Bridges. The motion carried unanimously with a 5-0 vote.**

c) Commissioner Diebel

No items.

d) Commissioner Bridges

1) Developer's Agreement for the YMCA and the City and neighborhoods and the YMCA's commitment into the future.

**Motion made by Commissioner Bridges to move to New Business a workshop with the YMCA, the adjacent neighborhoods to the YMCA and the City Commission to review the existing developer's agreement and open up discussion of the expectations of all parties involved. The motion failed for lack of a second.**

2) Independent audit of billing practices.

Commissioner Bridges believed that they already covered that and it was kind of a joint effort with the billing and process practices and placed it under independent audit.

3) Texting while driving in Winter Park.

Commissioner Bridges suggested the creation of a resolution that would allow us to prohibit texting while driving within the City limits because of the dangers; however, if that is not in the City's purview to do so, she suggested putting forward positive educational information to our high schools and our community at large to raise the awareness level. Commissioner Dillaha agreed and stated that this is extremely dangerous. Attorney Brown stated that in his opinion the City can regulate texting. Mayor Bradley suggested that the Police Department and others take a look at this before they go forward.

**Motion made by Commissioner Bridges to bring this forward under New Business and ask for the Police Department to give them an overview of the enforcement issues and the practical issues of this as well and for the City Attorney to review any legalities; seconded by Commissioner Dillaha. The motion passed unanimously with a 5-0 vote.**

4) Discussion to move the design guidelines process for Fairbanks Avenue forward.

Commissioner Bridges asked for the Commission's support to expedite this process. Mr. Knight explained the status of this. She clarified that her request is specifically for the Fairbanks corridor and to move this forward in conjunction with the other things they are doing. She wanted the citizens to have an opportunity to see the mass, scale, setback and design guidelines in place as an example of where and how they will be moving forward. Mr. Knight and Attorney Brown answered questions.

Commissioner Anderson commented that there seems to be a consensus for the type of design firm they were looking for which is one with a national reputation. He believed they could create a short list that would name nationally renowned firms that have smart based code or form based code experience.

Attorney Brown explained that as long as it is in the nature of a professional services contract for consulting and they are not going to specifically spend City money to improve real property, they could identify and target some professionals. He stated that they could legally waive the RFP process. Commissioner Dillaha suggested that Building Director George Wiggins work on this. Mr. Wiggins answered questions. Mayor Bradley directed the City Manager to bring the Commission the staff recommendation for how they should proceed with the design guidelines on Fairbanks Avenue.

Non Agenda Items:

Commissioner Bridges asked Mayor Bradley if she could add two other items under the City Commission's report. Mayor Bradley agreed and asked that this is done under the approval of the agenda in the future.

1. Commissioner Bridges spoke about their joint partnership of the monies allocated under the CRA of approximately \$300,000-\$350,000 over a three-year period. She stated they talked about what they would do with the CRA that would be supportive of the expansion of Park Avenue and the Park Avenue Merchant's Association. She stated that they supported spending \$120,000 to bring the ice skating rink to our City and to be supportive of our downtown corridor to bring "feet to the street" but that the Park Avenue shops are closing early. She wanted the

Commission to review the CRA funding that they provide because it does not do any good to get the "feet to the street" if the doors are closed. She believed they should also meet with the Merchant's Association.

Commissioner Dillaha agreed that there are number of stores closed at 6:00 p.m. and it is mid-December which is the peak of the holiday season and people want the stores open. However, she did not believe it was their responsibility to dictate when the stores open and close, but it was something they should bring to the attention of the Park Avenue Merchant's Association and the Chamber. She stated they need to stay open later if they expect to have good business during the holiday season and to compete with the malls.

Commissioner Bridges wanted to discuss this as the CRA Agency and to establish mutually agreed upon criteria that defines the partnership. Commissioner Dillaha agreed and believed it was important to make the President of the Park Avenue Area Association and Chamber Director Patrick Chapin aware of the situation.

2. Commissioner Bridges encouraged Mayor Bradley to continue to fill the board vacancies. Mayor Bradley commented that he brought forth numerous appointments that were turned down by the Commission. He stated that he was waiting for this board to take some action as it relates to alternates.

3. Commissioner Anderson commented that the Historic Association is struggling in these economic times and that they may be bringing forward a request for special funding accommodations similar to what they did with the library. He believed that this would be listed under Action Items once they present their materials for next month; otherwise, he will bring it up as a New Business issue for discussion and action on the next agenda.

#### **City Manager's Report**

No report.

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

No report.

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

- a) Update on Winter Park "Outreach" Emergency Alerting Network
- b) Financial Report.

Both items were postponed due to the lateness.

#### **Citizen Comments**

1. Pat McDonald, 2348 Summerfield Road, spoke about the role of the Chairperson and Commission decorum. She believed they should follow Roberts Rules of Order.
2. Bill Shallcross, 1450 Bonnie Burn Circle, wanted to speak about the Mayor's alleged conflict regarding commuter rail. Mayor Bradley commented that this is not the time for specific

questions to specific Commissioners. Commissioner Anderson called for point of order and stated that this seems to be a presentation geared toward one particular Commissioner which is a problem.

Attorney Brown suggested that any information of this type be given to the City Manager who will provide it to him so they can factor it into the information that they present to the Ethics Board. Commissioner Diebel recommended that they follow the policy that is on the agenda that says if there is a question or information directed to the Commission that they refer it directly to staff. Commissioner Bridges agreed.

Mr. Shallcross asked about the Commissioner letters being entered into the record. Commissioner Dillaha stated that the letter he is referring to will be part of the minutes so that the public can access it online.

3. Eileen Duva, 311 E. Morse Boulevard, spoke about the Methodist Church functions and parking issues. She provided a calendar to the Commission. Staff will review this.

There was a recess taken from 6:05 – 6:28 p.m.

**Consent Agenda:**

- a) Approve the minutes of 11/23/09.
- b) Approve the extension of the conservation easement on the 40+ acres of the Genius Preserve at Windsong for an additional 10 years.
- c) Approve the letter of acknowledgment regarding the Friends of Mead Gardens.  
**PULLED FOR DISCUSSION. SEE BELOW.**
- d) Carry forward remaining capital project budgets from FY 2009 to FY 2010.  
**PULLED FOR DISCUSSION. SEE BELOW.**

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

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

Consent Agenda item c): Approve the letter of acknowledgement regarding the Friends of Mead Gardens.

Commissioner Dillaha suggested attaching the deed restrictions to Mead Gardens as part of the letter and for it to state the need to go through appropriate boards when there are different projects or activities that are going to be taking place. She asked that the sentence "The City agrees that having given such approval, the City will adhere to, abide by, and honor and respect such conditions and restrictions on any such funds, once received by or utilized on behalf of the City in connection with ownership, operation and maintenance of Mead Garden, subject to prevailing law and the municipal home rule power" be reworded.

Attorney Brown stated that even though he did not draft the letter, he recommended approving it. He added that he was working on a template for all the charitable groups and he will bring that back.

**Motion made by Commissioner Dillaha that the letter of acknowledgement include the deed restrictions for Mead Garden as an attachment and that there is also a short paragraph stating that the Friends Group is required to go through the appropriate City boards as they work through their plan as to the different activities/projects that are taken on; 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.**

Consent Agenda item d): Carry forward remaining capital project budgets from FY 2009 to FY 2010.

**Motion made by Mayor Bradley to carry forward the remaining capital project budgets from FY 2009 to FY 2010; seconded by Commissioner Anderson for discussion. City Manager Knight answered questions. Mr. Holland and Public Works Assistant Director Don Marcotte addressed the Central Park and Stormwater Capital projects. 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.**

**Action Items Requiring Discussion:**

- a) Percent for the Arts proposal – **PULLED FROM THE AGENDA**
- b) Request to protest RFP-2-2010, Tennis Management Services

Attorney Brown commented that this is a quasi-judicial hearing and they have two bid protesters who will present their witnesses and evidence. He stated that the protest to Frankie C's Pro Shop makes certain allegations which could be read as charges of criminal wrongdoing. He cautioned him not to make any assertions unless he has real evidence to prove them. He clarified that normally under law the third place party on the bid award does not have standing to protest. He added that after Frankie C's appeal, staff can do their presentation.

**Motion made by Commissioner Anderson that following the Frankie C's appeal and the rebuttals they allow the third party a limited time to voice their appeal; seconded by Commissioner Bridges. The motion carried unanimously with a 5-0 vote.**

Frankie Cosentino, Frankie C's Pro Shop, withdrew the items in his appeal that may have reflected criminal allegations. He provided a presentation as to why he was appealing the decision made on November 23, 2009 and asked the Commission to reconsider their decision.

Commissioner Bridges clarified that she based her decision on what she considered to be objective materials and data only.

City Manager Knight commented that staff believed the Commission acted within its authority to make the decision it made. He stated that a procedure was followed and they have the ability in the City's purchasing policy to select a vendor other than the number one vendor.

Commissioner Dillaha stated that she was fair and aware that the Commission has the option to make the final decisions on RFP's. Attorney Brown commented that the bid protest policy in the purchasing handbook gives them four options regarding the decisions they could make.

**Motion made by Commissioner Anderson to deny Frankie C's appeal; seconded by Commissioner Bridges.**

Commissioners Anderson, Dillaha and Bridges disclosed that they met with the tennis committee. Mayor Bradley commented that because it was under appeal he did not meet with them. Attorney Brown stated that he received input as to what the contract should include and if any of the Commissioners want to give their ideas, they should contact him. Commissioner Bridges clarified that she was seeking a community tennis center and to create a financial situation for the City where they cover some of their losses.

**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.**

Alice Reen, Reen Tennis and Events, commented that the Commission chose to override the committee's recommendation on November 23, but in overriding that decision they were not completely and adequately informed about Reen Tennis and Events. She asked the Commission to take their time with this and get it right. Commissioner Bridges commented that she listened to Ms. Reen's oral presentation, read her resume, and the decision was not made in a vacuum.

**Motion made by Commissioner Anderson to deny the appeal of Reen Tennis and Events; seconded by Mayor Bradley. Attorney Brown answered questions. 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.**

Commissioner Anderson commented that he would be sending the City Attorney certain provisions that he would like to see in the contract.

Mary Ann Plante, 915 N. Kentucky, believed the selection committee was not fair and they had no knowledge about tennis. She spoke in favor of Reen Tennis and Events.

Sally Flynn, 1400 Highland Road, expressed that this is a community tennis center and does not want to see it turned into an academy tennis center.

John Hart, unknown address, spoke in favor of Reen Tennis and Events.

David Odahowski, 345 Prairie Drive, member of the Tennis Task Force, clarified the difference between the task force versus the tennis selection committee.

Al Marron, 5328 Halyard Court, Tennis Task Force Chair, expressed that they want the best tennis center for the citizens of Winter Park and all those that play there.

Ellen Goodman, 915 N. Kentucky, did not want Azalea Lane to become a junior tennis facility but rather a Community Tennis Center.

Pat Handwerk, 1760 Via Contessa Court, believed that once they give this bid to High Performance Sports Management, everyone will leave and it will become an Academy Tennis Center.



Laura May, High Performance Sports Management, stated that they are not an academy and everyone is welcome.

Nancy Miles, 687 Penn Place, commented that she wants to keep this a community park.

City Manager Knight and Mr. Holland answered questions.

c) Post Office rezoning and change in the future land use

Planning Director Jeff Briggs explained that this was placed on the agenda in the event that the Commission desires to take action from the discussion held in the work session prior to this meeting. He stated that this is a little over 2 acres that falls into the category where we can only have comprehensive plan changes on rezoning twice a year. He stated that the schedule was tentatively going to be February and August and if the Commission wants to proceed, it will occur in February.

Commissioner Anderson commented that he would like to see a significant portion of this go to park land. Mr. Briggs explained you cannot do that because of it being private property. Attorney Brown agreed. Mr. Briggs answered questions.

Mayor Bradley commented that his concern is that on March 1, 2010 everything lapses and we have C-2 zoning in downtown Winter Park and they are right back to where they started. City Manager Knight stated that on February 2, 2010 the contract lapses unless they give the Post Office notice that we are going to move forward and tell them the location. He addressed that we have until June 2 to give them a 10 percent schematic to show the layout for their approval.

**Motion made by Commissioner Anderson to start the process of returning it to its Public Quasi-Public (PQP) standard; seconded by Commissioner Dillaha.** Commissioner Dillaha commented that this is not the ultimate zoning category, but it seems like it is the only option they have and she was supportive for that reason.

Joe Terranova, 700 Melrose Avenue, commented that the practical way to approach this would be during negotiations with the Post Office and to provide for an option of first right of refusal to purchase that site in the event that the Post Office is to sell this.

Attorney Brown answered questions and commented that he looked at the contract and does not see any financial or legal downside if the City makes a decision as to where they would move them.

**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 Diebel wanted the Commission to support contacting our Federal Lobbyist and to pull together the members of our delegation to create the right conversation with the Post Office, including the regional representative, to ask for the long term status as to where this ranks on consolidation and to discuss that we would like a timeframe and to ask for more support. Commissioner Dillaha suggested contacting Representatives Kosmas and Randolph to see if there is any possible assistance at their level.

Property acquisitions – Mr. Dan Bellows

Mr. Briggs stated that they needed a plan for the fundraisers to fundraise, and tentatively the Commission selected: 1) the retail Post Office on the arrowhead; and 2) the distribution at the State Office Building property. He commented that the State Office Building was not the Commission's top choice for putting the distribution there and the Commission received an unsolicited offer from Benjamin Partners to sell all or a portion of the 5.11 acre vacant property at the southwest corner of Bennett Avenue and Monroe Avenue. The prospective uses could be in part for the Post Office distribution facility or for the electric utility administration.

He stated in order to proceed, the City obtained an appraisal to substantiate the land value they were discussing. He commented that this afternoon they received another unsolicited offer from St. Michael Ltd. for properties on Lyman Avenue which is another option for both the retail and the distribution together. He added that this agenda item is for the Commission to decide if they want staff to pursue either of these two options with the property owner for any of those uses. City Manager Knight and Mr. Briggs answered questions.

Commissioner Anderson commented that they are leasing for \$150,000 a year and he believed that if they could do a transaction with a five year payback, then it is probably worth either borrowing funds from water/sewer or money on their line of credit. He stated that it would be an investment in land. Commissioner Bridges agreed and instead of leasing she wanted to apply those monies to owning. Commissioner Dillaha commented that the Bennett property is too far away for a distribution site and wanted to explore what Mr. Bellow's discussed in the work session earlier this afternoon.

**Motion made by Commissioner Anderson to authorize the City to pursue identifying a long term solution to the leased facilities that we currently are occupying on behalf of the power company; seconded by Mayor Bradley.**

He added that it was a great innovative idea to talk about the economic development options for Ravaudage and it was premature to attach it to a land purchase. He stated that this should be one of the new CRA Director's top priorities and we need to figure out how we can provide incentive for redevelopment and development in those corridors, but it needs to be separate and apart from this land purchase. Commissioner Bridges agreed and wanted to investigate the financial solutions to the lease payments and for the Commission to discuss the priority of this in terms of their long term strategic plans.

**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 asked that staff bring forward the appraisals for the other two properties that they discussed before that included the purchase of the parking piazza and the acquisition of the two lots at 813 West New England Avenue and 426 West Lyman Avenue. Mr. Knight agreed.

There was a recess taken from 8:24 - 8:34 p.m.

**Public Hearings:**

- a) RESOLUTION NO. 2039-09: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, PURSUANT TO CHAPTER 170, FLORIDA STATUTES, DECLARING THAT THE CITY IS TO FUND CAPITAL IMPROVEMENTS IN AND FOR THE CITY, TO-WIT: UNDERGROUND ELECTRIC/CATV FACILITIES 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; FURTHER DECLARING THAT THE COST OF SAID IMPROVEMENTS SHALL BE PAID, IN PART, BY SPECIAL ASSESSMENTS LEVIED AGAINST REAL PROPERTY SPECIALLY BENEFITTED BY SAID IMPROVEMENTS; SPECIFYING THE MANNER OF AND TIME FOR PAYING THE SPECIAL ASSESSMENTS; AND INVITING THE PUBLIC TO REVIEW THE PROJECT PLANS AND SPECIFICATIONS AND THE ASSESSMENT PLAT, ALL OF WHICH ARE ON FILE AT THE OFFICE OF THE CITY CLERK OF THE CITY OF WINTER PARK; PROVIDING AN EFFECTIVE DATE. (MEETING AS THE EQUALIZATION BOARD)

Attorney Brown read the resolution by title. No public comments were made. **Motion made by Commissioner Bridges 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) RESOLUTION NO. 2040-09: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, PURSUANT TO CHAPTER 170.03, FLORIDA STATUTES, CONFIRMING THE SPECIAL ASSESSMENTS FOR THE UNDERGROUNDING OF ELECTRIC/CATV FACILITIES OF PROPERTIES LYING WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY OF WINTER PARK, CONSISTING OF PROPERTIES ABUTTING FAWSETT ROAD, GLENCOE ROAD, DANA WAY AND LAKE CHELTON CIRCLE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (MEETING AS THE EQUALIZATION BOARD)

Attorney Brown read the resolution by title. No public comments were made. **Motion made by Commissioner Bridges to adopt the resolution; seconded by Commissioner Dillaha.** Commissioner Anderson stated he lives on Fawsett Road. Attorney Brown commented that there was no special gain so there is no voting conflict. **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.**

- c) RESOLUTION NO. 2041-09: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, TO EXECUTE A LOCAL AGENCY PROGRAM SUPPLEMENTAL AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE MORSE BOULEVARD ROADWAY RESURFACING PROJECT.

Attorney Brown read the resolution by title. No public comments were made. **Motion made by Commissioner Anderson to adopt the resolution; seconded by Commissioner Bridges.** Mayor Bradley commented that he serves as the Mayor on the Metroplan Council of Mayors and this project was specifically discussed because it is the first LAP program which comes from stimulus money and there was a question of what we applied for and the overage and underage of that. Mr. Knight clarified the funding. **Upon a roll call vote, Mayor Bradley and**

**Commissioners Anderson, Dillaha, Bridges and Diebel voted yes. The motion carried unanimously with a 5-0 vote.**

- d) ORDINANCE NO. 2789-09: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING ORDINANCE NO. 2730-08 TO EXTEND THE DEADLINE ESTABLISHED IN SECTION TWO BY ONE YEAR. Second Reading

Attorney Brown read the ordinance by title. No public comments were made. **Motion made by Commissioner Anderson to adopt the ordinance; seconded by Mayor Bradley. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Bridges and Diebel voted yes. The motion carried unanimously with a 5-0 vote.**

- e) ORDINANCE NO. 2790-09: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, SUBMITTING TO THE ELECTORS OF WINTER PARK PROPOSED AMENDMENTS TO THE CHARTER OF THE CITY OF WINTER PARK AT THE REGULAR CITY ELECTION TO BE HELD MARCH 9, 2010; PROVIDING BALLOT TITLES, SUMMARIES AND TEXT FOR THE PROPOSED CHARTER AMENDMENTS; PROVIDING FOR THE CALL OF A REFERENDUM ELECTION; PROVIDING FOR DIRECTION TO THE CITY CLERK; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, EFFECTIVE DATE OF ORDINANCE AND AN EFFECTIVE DATE FOR THE APPROVED AMENDMENTS. Second Reading

Attorney Brown read the ordinance by title. **Motion made by Mayor Bradley to approve amendments 1-4 and 6-9; seconded by Commissioner Anderson.** Upon discussion of items 1 and 4 and 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 commented that on City Charter Amendment 5, there was additional wording to what the Commission originally received in their Commission packets. Attorney Brown read the additional wording.

**Motion made by Mayor Bradley to approve City Charter Amendment 5: "The Commission may determine the annual salary of the Mayor and Commissioners by ordinance, provided that no ordinance increasing the salary shall have an effective date prior to March 10, 2011. The Mayor and Commissioners shall receive their actual and necessary expenses incurred in the performance of their duties of office"; seconded by Commissioner Dillaha. Mayor Bradley and Commissioners Anderson, Dillaha, Diebel and Bridges voted yes. The motion carried unanimously with a 5-0 vote.**

**Motion made by Mayor Bradley to strike City Charter Amendment 10 as presented; seconded by Commissioner Diebel.** Upon discussion, Mr. Knight and Attorney Brown answered questions.

Joe Terranova, 700 Melrose Avenue, agreed with striking this amendment. He stated that the Charter Review Committee looked at this and decided this is not the proper place to put the supermajority.

Gene Randall, 1285 Richmond Road and Charter Review Committee member, stated that he was in favor of City Charter Amendment 10 and encouraged them to go forward with it.

**Motion made by Commissioner Anderson to table this item for 15 minutes; seconded by Commissioner Bridges. Upon a roll call vote, Commissioners Anderson, Dillaha, Diebel and Bridges voted yes. Mayor Bradley voted no. The motion carried with 4-1 vote.**

**Motion made by Mayor Bradley to approve amendments 11-12; 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.**

City Charter Amendment 10: Discussion continued

Commissioner Dillaha commented that they need to consider that what they are voting on is whether or not to send this to the citizens to decide. Commissioner Anderson stated that he believes there are times when supermajorities are good when there are sweeping changes that affect the entire population. He concluded that he would allow this to go to referendum.

Mayor Bradley reiterated his motion to strike City Charter Amendment 10 as presented. **Upon a roll call vote, Commissioners Anderson, Dillaha and Bridges voted no. Mayor Bradley and Commissioner Diebel voted yes. The motion failed with a 3-2 vote.**

**Motion made by Commissioner Dillaha to include the terms, objectives and goals in addition to policies; seconded by Commissioner Bridges.**

**Motion amended by Mayor Bradley that this requires a 4-1 vote of the Commission; seconded by Commissioner Diebel. Upon a roll call vote, Commissioners Anderson, Dillaha and Bridges voted no. Mayor Bradley and Commissioner Diebel voted yes. The motion failed with a 3-2 vote.**

Commissioner Dillaha addressed her motion. Mayor Bradley spoke against this because to amend it requires a 4-1 vote, but to throw it out requires a 3-2 vote. He stated that he believed that this does not provide any real protection that this amendment is striving for in terms of the will of the citizens or others.

Attorney Brown asked for clarification. Commissioner Dillaha stated that it should say "Amends or changes the objectives, goals or policies" (remove the word text). Attorney Brown commented that this does not affect changes to the map. Commissioner Anderson agreed. Attorney Brown answered questions.

**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.**

- f) Conditional Use Approval Amendment-Community Center approved in May 2009, revising the site plan, floor plan and building elevations for the property at 721 W. New England Avenue.

Planning Director Jeff Briggs explained that they are requesting approval to amend the conditional use for the new Community Center. The Planning Commission voted 4-0 to approve the request subject to an updated landscape plan which provides new trees equal to the previous plan and which emphasizes screening of the parking lot along New England Avenue.



**Motion made by Commissioner Bridges to approve the conditional use; seconded by Commissioner Anderson. 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.**

- g) Request of Randolph Real Estate LLC: Annexing the property at 639 Overspin Drive and change the existing Comprehensive Plan and zoning designation of Single Family Residential to Office.

Mr. Briggs explained the three things involved: an annexation, a change in the comprehensive plan of color from residential to office, and a rezoning. He provided two ordinances to the Commission that substituted for the one on the comprehensive plan and rezoning. Mr. Briggs stated that he was following the instructions from Assistant City Attorney Katie Reischmann to split them apart. Attorney Brown advised that they deal with the ordinances that were presented in the agenda packages and to come back for the second reading with the revised ordinances.

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING WITHIN THE CHARTER LAWS OF THE CITY OF WINTER PARK, SECTION 1.02, "CORPORATE LIMITS DESCRIBED" SO AS TO ANNEX THE PROPERTY AT 639 OVERSPIN DRIVE, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING WITHIN CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE I "COMPREHENSIVE PLAN" FUTURE LAND USE MAP AND ARTICLE III, "ZONING" OFFICIAL ZONING MAP SO AS TO ESTABLISH OFFICE FUTURE LAND USE AND OFFICE (O-2) ZONING ON THE ANNEXED PROPERTY AT 639 OVERSPIN DRIVE, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

Attorney Brown read both ordinance titles together. Planning Director Briggs explained that this is for approval of the request from Randolph Real Estate LLC (Doctor Ajayi) who has the medical office and sleep lab at 2660 West Fairbanks Avenue (corner of Fairbanks and Overspin, west of I-4). Dr. Ajayi has the adjacent single family property at 639 Overspin Drive under contract. He wanted to annex that property into the City and change the comprehensive plan and zoning from single family residential to office to combine that property for added sleep lab space and parking. He stated that the Planning Commission voted 3-1 to approve the request with staff conditions and to have the Development Agreement returned for approval by the Planning Commission. Mr. Briggs answered questions.

Commissioner Dillaha voiced concern whether it goes along with their plans for Fairbanks Avenue and thought it would be better if the property were added onto the existing commercial property. Mr. Briggs explained that they cannot add onto that building without an addition falling on top of the existing parking and it does not work out site plan wise.

**Motion made by Mayor Bradley to approve the annexation ordinance on first reading; seconded by Commissioner Anderson.**

Dr. Akin Ajayi, Randolph Real Estate LLC, explained how the property will look and commented that it will enhance the redevelopment on this corner.



**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.**

**Motion made by Commissioner Anderson to approve the ordinance to amend the comprehensive plan and future land use map as stated in the title and subject to the conditions recommended by Planning and Zoning on first reading. 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.**

- h) Conditional Use Approval Amendment-Rollins College and NovaSol Energy: For the SunTrust Building at 400 S. Park Avenue to install solar panels on a portion of the top deck of the parking garage.

Planning Director Jeff Briggs explained that this is a conditional use approval for the request of Rollins College (as the building owner) and NovaSol Energy (as the project applicant) to allow the construction of 42,075 square feet of solar panels on the roof (fourth level) of the Sun Trust Building parking garage at 400 S. Park Avenue.

He stated that Rollins College desires to set a leadership example in the move toward renewable energy, energy conservation and a "green" community providing a decrease in carbon footprint. Electricity from solar power is more expensive than buying it from the City's sources but Rollins College believes this project sets an example. Rollins has looked at all potential sites on campus and this location gives them the best coverage and best security for the equipment. He added that the City's Utilities Advisory Board (UAB) has reviewed this project and provided its support for this request.

He stated that when this project was first proposed to staff and the UAB, the solar array structure was to cover the entire roof but due primarily to appearance concerns, they reduced the coverage to the two interior parking segments. Mr. Briggs explained that the solar array structure will not be visible in the line of sight from locations close to the parking garage or from the east and west sides but can be seen from the north and south sides if you are far enough away from the structure. He stated the comprehensive plan and zoning code does not permit four story buildings in this location of the Central Business District. He explained the definition of "story" in the zoning code and "roof" in the building code. He added that the Planning Commission voted 4-0 for preliminary approval with the condition that the final development (construction) plans be reviewed and approved by the Planning and Zoning Commission prior to issuance of a building permit. Mr. Briggs answered questions.

Haseeb Qadrie, NovaSol Energy, explained what they do. Rebecca Furman, Lowndes Drosdick Doster Kantor & Reed law firm, representing NovaSol Energy gave a Powerpoint presentation regarding the purpose of the SunTrust garage solar facility, the site selection, the SunTrust parking garage and the code. She discussed the first and current proposal. She requested the Commission approve the amendment to the conditional use and they delegate review of the final CUP permit to Planning and Zoning. Ms. Furman, Mr. Qadrie and Public Works Electric Utility Liaison Terry Hotard answered questions. Commissioner Dillaha commented that she was not comfortable with what this will look like and wanted more information.

**Motion made by Mayor Bradley for the preliminary approval with the condition that the final development plans be reviewed and approved by the Planning and Zoning Commission prior to issuance of a building permit; seconded by Commissioner**

**Anderson.** Commissioner Bridges asked him to amend that and it come back to the Commission. **Mayor Bradley agreed that it will go to P&Z and come back to the Commission prior to the issuance of the building permit; seconded by Commissioner Anderson. 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 Bridges asked Mr. Briggs to craft some language regarding solar panel roofing heights so that the Commission can provide direction in the future to anyone who might be coming forward. Mr. Briggs agreed.

- i) Transmit to the Florida Department of Community Affairs (DCA) an amendment to the Comprehensive Plan to amend and update the Capital Improvement Element to reflect the revised Five Year (FY 2010-FY 2014) Capital Improvements Plan and Narrative.

Planning Director Jeff Briggs reported that they were requesting approval for transmittal of the annual update of the Five Year Capital Improvement Plan within the Capital Improvement Element of the Comprehensive Plan. He also explained minor changes that were made and answered questions. Commissioner Dillaha commented that she still had issues with the language. No public comments were made.

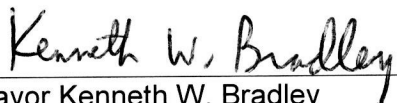
**Motion made by Commissioner Bradley that this be transmitted to the DCA; seconded by Commissioner Bridges. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Diebel and Bridges voted yes. The motion carried unanimously with a 5-0 vote.**

#### Other Agenda Items Not Covered

1. City Manager Knight welcomed new CRA (Economic Development) Director Dori Debord.
2. Commissioner Bridges asked about the status of the RFP regarding the Tennis Management Services item. Mayor Bradley stated that on November 23 the City Commission awarded the Tennis Management Services to High Performance Sports Management. He explained their options. Commissioner Diebel asked if they could take some of the input from the task force and the tennis committee to set some benchmarking in this contract. Mayor Bradley commented that this process has been lengthy and exhaustive and there needs to be some healing and make sure that everyone is comfortable on our courts.
3. Commissioner Anderson commented that the new agenda worked well, but perhaps they should alternate the New Business section sometimes at the beginning and the end of the agenda. Mayor Bradley suggested the New Business section be placed at the end of the agenda.

**Motion made by Commissioner Anderson to adjourn the meeting; seconded by Commissioner Bridges and carried unanimously.**

The meeting adjourned at 10:35 p.m.

  
\_\_\_\_\_  
Mayor Kenneth W. Bradley

ATTEST:

  
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City Clerk Cynthia S. Bonham