REGULAR MEETING OF THE CITY COMMISSION
June 13, 2011

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 provided by Elder Alvin Green, United Church of God by Faith, followed by the Pledge of Allegiance.

Members present:
Mayor Kenneth Bradley
Commissioner Steven Leary
Commissioner Sarah Sprinkel
Commissioner Carolyn Cooper

Also present:
City Manager Randy Knight
Assistant City Attorney Bill Reischmann
City Clerk Cynthia Bonham

Member absent:
Commissioner Tom McMacken

Approval of the agenda

Motion made by Commissioner Leary to approve the agenda with the deletion of Item 9.e. per staff’s request (Approval to officially record the sanitary sewer easement granted to the City in 2004 and the Development and Easement Agreement for 121 Garfield Avenue); seconded by Commissioner Sprinkel and approved by acclamation of the City Commission.

Mayor’s Report

a. 2011 Board appointments (continuation of unfilled positions)

Community Redevelopment Advisory Board
Daniel Butts (2011-2014)

Tree Preservation Board
Christine Menkin (Alternate, 2011-2013)

Utilities Advisory Board
Gregory Seidel

Fire Pension Board
Pat McCabe (re-appoint 2011-2013)
Tony Grey (re-appoint 2011-2013)

Police Pension Board
Det. Murray Daniel (re-appoint 2011-2013)
Sandy Modell (re-appoint 2011-2013)
Parks and Recreation Board
Michael Palumbo (alternate, 2011-2013)

Motion made by Mayor Bradley that the above appointments are accepted as presented; seconded by Commissioner Leary. Commissioner Cooper asked that the Parks and Recreation Board appointment be voted on separately. The Parks and Recreation appointment was removed to be voted on separately. The motion carried unanimously (to approve the appointments made to the Community Redevelopment Advisory Board, the Tree Preservation Board, the Utilities Advisory Board, and the Fire and Police Pension Boards) with a 4-0 vote. Commissioner McMacken was absent.

Motion made by Mayor Bradley that the Parks and Recreation Board appointment is accepted as presented; seconded by Commissioner Leary and carried with a 3-1 vote with Mayor Bradley and Commissioners Leary and Sprinkel voting yes. Commissioner Cooper voted no. Commissioner McMacken was absent.

City Manager’s Report

There were no questions brought forward from the City Manager’s report.

City Attorney’s Report

1. Attorney Reischmann provided an update on the post office box issue regarding placement of mail boxes at residences. He reported that they expect to have a meeting with the postmaster next week and will report back in two weeks after the meeting takes place.

2. Attorney Reischmann spoke about the petition filed with the courts by Sydgan (Mr. Dan Bellows) concerning the Morse/Pennsylvania parking garage conditional use request. He explained there was an executive session held and a counter offer made by Mr. Bellows’ attorney after an offer was made that resulted from the executive session. This resulted in a settlement agreement whereby they asked that one sentence be changed that the plaintiff did not want to see as part of the five conditions pertaining to condition #2 of the five conditions put into place on May 10, 2010 (The maximum parking garage expansion is not to exceed 5 levels. The specific authorized expansion will be determined based on land development code parking requirements for approved projects on the properties governed by the approved Development Agreement that demonstrate the need for such parking).

He explained that the following language from this condition is removed from the settlement agreement as follows: “The specific authorized expansion will be determined based on land development code parking requirements for approved projects on the properties governed by the approved Development Agreement that demonstrate the need for such parking.” (The first sentence of the condition remains as follows: “The maximum parking garage expansion is not to exceed 5 levels.”). Upon discussion, this will be on the June 27 agenda for approval.
Non-Action Items

a. Legislative update

Attorney Reischmann spoke about the laws that passed this Legislative session that impacted local government. This included pensions, non-homestead assessment caps, growth management, pain management clinics, private property rights, clarified the pre-emption issue regarding attempts by local governments to regulate firearms and local businesses taxes (formerly occupational taxes). He also summarized what did not pass to include the repeal the red light camera law, septic tanks among others.

City Manager Knight addressed the changes to police and fire pensions and the impact to the City. He stated they: 1) modified the definition of compensation and limited the amount of overtime to no more than 300 hours a year in determining average final compensation; 2) excluded annual leave from the definition of compensation (when they leave the City they get paid any accrued vacation time); 3) they stated you must at least fund normal costs on an annual basis and cannot fund anything less than normal cost (we also recently adopted a policy saying that); 4) they added you cannot use any surplus for any other purpose other than pension purposes which is not a current issue for the City but could be in the future; 5) added a provision that says you can increase the employee contribution to the plan without at the same time improving benefits; 6) set up a study commission to look at some of the presumptive benefits who will report back next year (there are specific diseases listed that are presumed to be job related); and 7) they did not fix the issue of the growth of the 175/185 money where it can only be used to further enhance these benefits.

He also spoke about the limit placed on severance pay to no more than 20 weeks of compensation that impacts any new employees after July 1. He said that will hurt the State of Florida in recruiting against other states in hiring professionals to run the cities because of being in a highly politically charged position which will reduce the number of applicants.

Attorney Reischmann addressed the issue of growth management. He stated there were revisions to Chapter 163, Part II that affects how we follow our process in the Land Development Code and how we comply with Chapter 163 with regard to our comprehensive plan. He highlighted the revisions that mainly impact the City: 1) we had to have in the comprehensive plan concurrency requirements regarding transportation, schools and parks which now becomes optional and will affect how we do our development and land planning and reduces levels of types of regulations; 2) the super majority vote issue did not make the final version of the growth management bill so it will not change and the City will still be able to have that in our local laws; 3) the Department of Community Affairs (DCA) no longer exists and the limitation of only allowing two large scale comprehensive plan amendments is removed (no change to the small scale process), there are differences in standards for review and differences for a challenge to it as far as standards for review. Third party challenges are now subject to the more deferential standard of fairly debatable which will make it harder for a third party to come in and successfully challenge the comprehensive plan amendment submitted to the state. Attorney Reischmann concluded by stating he will provide a summary to the Commission of the growth management laws that passed and will work with staff to make sure Winter Park’s laws are consistent with the State regarding private property rights. City Manager Knight stated there is a new department called the Department of Economic Opportunity.
He was also directed to review the ordinance moratorium regarding pain management clinics. Police Chief Railey stated they are currently working with Orange County on a comprehensive pain management ordinance that can be adopted countywide and our current moratorium will take us through the time that is developed. He recommended keeping the moratorium here in place as they continue to develop the new countywide ordinance.

b. Presentation by Chief Railey on the Data Driven Approaches to Crime and Traffic Safety (D.D.A.C.T.S.) model being used by the Police Department for more effective and efficient deployment of personnel.

Police Chief Brett Railey provided a PowerPoint presentation regarding the D.D.A.C.T.S model being utilized by the Police Department that uses the integration of location-based crime and traffic data to establish effective and efficient methods for deploying law enforcement and other resources. He summarized why they use DDACTS, their goal to reduce the incidence of crime and crashes, the National partners associated with DDACTS, the operational guidelines, the guiding principles, the challenges to its implementation, the process followed by the Police Department to implement this, the successes with its implementation (further reduction in crime, cooperative planning with staff input, greater efficiency during tough budget years, and "purpose driven" traffic enforcement with fewer complaints, increased positive contacts and citizen buy-in). Chief Railey provided statistics of a year to year comparison of tracked crimes and elaborated on the success of the DDACTS model. He compared January – April 2011 to 2010 and reported on the decreases in incidents, crashes, stolen vehicles, burglaries, robberies and retail thefts.

He concluded that implementing DDACTS has allowed the Police Department to establish a relationship between crashes and crime, renewed the emphasis on traffic safety contacts not tickets, helped with accreditation, and has provided stronger relationships with stakeholders and partners. He listed the return on their investment: a cost effective approach, fewer calls for service, increased time on high visibility patrols, increased deterrence, increased field contacts, increased traffic safety contacts and a reduction in social harm.

Mayor Bradley and Commissioners congratulated Chief Railey and the entire police department on a job well done with implementing this. Chief Railey stated they have been asked to provide a presentation to other agencies concerning their successes.

c. Civility Pledge (suggestions from Ethics Board)

Mayor Bradley stated this has gone through the Ethics Board and will come back to the Commission later. Commissioner Leary spoke about the ‘Code of Boardmanship’ that was provided by Attorney Reischmann at the work session today. He suggested that this be shared with the Ethics Board. There was a consensus for the Ethics Board to review this at their next meeting.

Commissioner Sprinkel voiced her preference of the 3rd choice (The Winter Park Chamber of Commerce Statement of Ethical and Civil Conduct Practices) and disagreed with the #1 choice. She asked who will be required to take this pledge and to make sure the pledge spells this out. Assistant City Manager del Valle stated that would be a policy decision of the Commission. She asked if this could be brought back in July since the Ethics Board is not meeting again in June. There was a consensus to bring this back to them sometime in July.
Commissioner Cooper addressed her preference of the #1 choice and expressed her concerns as to the lack of a definition of what civility is. She asked who will define civility, who will determine if a violation has occurred, who will be the enforcer, and what will be the consequence. She stated she would only be comfortable signing choice #1 because of the lack of a definition of civility and because of the absence of who will make the decision and what the consequence of the decision will be. Assistant City Manager del Valle stated this was a discussion at the Ethics Board meeting.

Commissioner Sprinkel expressed her concerns with the Politico website. She said there is a lot more to this than what you see and that they have taken everyone to task because they would not sign something they created which she did not agree to. Commissioner Cooper stated she has not at this point gone to their website to review what is there. Mayor Bradley stated that more debate on this issue would be prudent and helpful as we strive to find a good ground for this.

Consent Agenda

a. Approve the minutes of 5/23/11.
b. Approve the modification to the minutes of 5/9/11. PULLED FROM AGENDA FOR DISCUSSION. SEE BELOW.
c. Approve the following purchases and contracts:
   1. Blanket Purchase order to SSNOCWTA for June – September 2011) Operation & Maintenance; Depreciation; $622,776.72
   2. Blanket Purchase Order to Waste Pro of Florida for May-September 2011 Residential Garbage, Yard Waste & Recycle Services; $802,000
   3. After-the-Fact Purchase Order to ENCO Utility Services for payment of April 2011 fees; $316,595.63
   4. Blanket Purchase Order to ENCO Utility Services for Professional Services (May – September 2011); $1,500,000
   5. Task Order 2011-01 to CH2M Hill for Fairbanks Avenue Roadway Wastewater System Improvements – Bidding Services & Services During Construction. Approval includes authorization of payment of monthly invoices for actual hours worked; $903,448 - PULLED FROM AGENDA FOR DISCUSSION. SEE BELOW.
   6. Amendment #1 to IFB-29-2010 to Dry Cleaning Services for Police uniforms with American Cleaners of Winter Park and authorize the Mayor to execute Amendment #1
   7. Authorize the Mayor to execute the Service Agreement and Letter of Authorization to GeoStar Consulting Co. for audit of telecommunications systems and invoices, gas and electric invoices, and all electronic transaction processing services
d. Award IFB-9-2011 to GE Prolec Transformers Inc. for the purchase of Power Transformer (Canton Avenue Substation T-2); $963,411
e. Approval to officially record the sanitary sewer easement granted to the City in 2004 and the Development and Easement Agreement for 121 Garfield Avenue – REMOVED FROM AGENDA AT BEGINNING OF MEETING. NO DISCUSSION.
f. Approve the waiver for RideGreen Scooters LLC to park up to three scooters outside each premises (700/704 W. Fairbanks) for a total of six scooters - PULLED FROM AGENDA FOR DISCUSSION. SEE BELOW.

Motion made by Commissioner Sprinkel to approve Consent Agenda Items a, c-1 through c-4, c-6 and c-7 and d (items b, c-5. and f were pulled off the consent agenda for
discussion); seconded by Commissioner Cooper and carried unanimously with a 4-0 vote.

Consent Agenda Item ‘b’: Approve the modification to the minutes of 5/9/11

Mayor Bradley pulled this item for discussion. He stated that they have been asked to modify the May 9 minutes and that after a review of the audio there was no audible vote. He explained that the minutes read there was a 4-1 vote and the only audible one heard by the City Clerk was one ‘no’ vote by Commissioner McMacken. He provided the options he believed they could consider: to allow a Commissioner to vote after the fact (but was not comfortable with a Commissioner voting after the fact on a motion when it was not clearly voted) and clarify their intent of the vote; or have the minutes showing a 3-1 vote with the Commissioner being silent. Attorney Reischmann was requested to provide legal counsel.

Commissioner Cooper stated a roll call vote was not taken. She stated the people at the meeting with her clearly understood that she was opposed to the motion to remove people from boards and if she was not audible she apologized but her vote was definitely a ‘no’. She asked if they can call for a re-vote. Mayor Bradley stated a re-vote is out of order but that the question would be she did not vote ‘yes’ so the best way the minutes could be reflected is a 3-1 with a silent vote. Commissioner Cooper stated she wanted to register a ‘no’ vote as she has the right to vote ‘no’ which she said she voted and was sorry that her vote could not be heard.

Motion made by Mayor Bradley that the minutes of May 9, 2011 be reflected to have a 3-1 vote on the subject of the removal of Commissioners. Commissioner Cooper called for a point of order as they have asked for a legal opinion and that she wants to register a ‘no’ vote. Mayor Bradley stated that she will be given that opportunity after they take action on the minutes.

Motion made by Mayor Bradley that a 3-1 vote be represented into the minutes (with Commissioner Cooper being silent); seconded by Commissioner Leary. Commissioner Leary clarified that they are voting to reflect in the minutes what was heard on the audio and that he agreed with that and was in agreement if they want to move forward with another action, they can do that. Commissioner Cooper stated she understood that if you were on the winning side of a vote which the recorded ‘yes’ vote would have been, she has a right to ask for a re-vote.

Mayor Bradley informed Commissioner Cooper that they are currently talking about the minutes that have been presented to them that were raised at the last meeting, they listened to the audio and the vote was not audible. He stated it is difficult to make a change after the fact but they are going to give Commissioner Cooper the right to say what she wants to say in a ‘no’ vote after they reflect the minutes based on what happened in the meeting. Commissioner Cooper said she did not believe that just because you cannot hear it on a recording constitutes the fact that she did not vote; everyone knew she was opposed to that action and she voted ‘no’. Commissioner Leary stated they are only reflecting in the minutes what was heard and once that is done a secondary vote can be taken so her vote will be heard.

Attorney Reischmann stated that all actions should reflect the vote of all members and that the Commission has discretion in the preparation and approval of the minutes. He understood that the minutes were prepared to reflect a 4-1 vote and then the issue came forward whether the
vote was a 3-2 vote. He clarified that the vote on this one issue is still pending and has not been approved by the Commission so the Commission can consider that portion after discussion. Mayor Bradley expressed concerns with reflecting in the minutes what was not heard. Commissioner Cooper again reiterated that she did in fact vote ‘no.’

**Motion withdrawn by Mayor Bradley.**

Motion made by Mayor Bradley that the record reflect that at the time of the vote a 3-1 vote was heard and that Commissioner Cooper on both May 23 and June 13 states that she voted ‘no’ during that time; seconded by Commissioner Leary. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel voted yes. Commissioner Cooper voted no. The motion carried with a 3-1 vote.

**Consent Agenda Item c.5.: Task Order 2011-01 to CH2MHill for Fairbanks Avenue Roadway Wastewater System Improvements – Bidding Services & Services During Construction. Approval includes authorization of payment of monthly invoices for actual hours worked; $903,448**

Commissioner Cooper pulled this item for discussion. She asked why there is a housing allowance of $15,000 in the backup of the bid and if they are local. Utilities Director Dave Zusi explained that the firm is local but the person who is the expert in this type of construction management is not local. He confirmed that the housing allowance is necessary.

**Motion made by Commissioner Sprinkel to approve the item, seconded by Commissioner Leary and carried unanimously with a 4-0 vote.**

**Consent Agenda Item f.: Approve the waiver for RideGreen Scooters LLC to park up to three scooters outside each premises (700/704 W. Fairbanks) for a total of six scooters**

Mayor Bradley pulled this item for discussion. He asked why staff recommended six when the applicant was requesting 10. Planning Director Briggs responded that staff struggles with trying to help merchants and not have the clutter along the sidewalks and in front of stores. He stated that other merchants have survived with only three out front so in this context six seemed to be a more appropriate number to help the business. Mayor Bradley wanted to approve the request of the merchant for 10 because that is what they asked for and he did not know if we had anything in place that states we can only have a certain number. Mr. Briggs provided insight and stated that the applicant is in agreement with the staff's recommendation. Mayor Bradley expressed his preference to have a process in place that spells out a number so staff does not have to "bargain" for a number that appears to be correct in staff's perspective.

**Motion made by Commissioner Cooper to approve staff’s recommendation (six scooters); seconded by Commissioner Sprinkel and carried unanimously with a 4-0 vote.**

**Public comments**

No public comments were made this evening.

A recess was taken from 5:03 to 5:20 p.m.
Action Items Requiring Discussion:

a. Official City flag objective and public participation process

Communications Director Howard explained their direction from the last meeting to come up with a City flag objective and a public participation process. She asked that the objective be approved that they have outlined in the packet, to approve the public participation process and to consider reversing the decision to raise the flag at the July 4 ceremony because they have not yet determined which flag will be the final flag and that it could possibly confuse residents and taint the artistic process as they move forward with the public participation process.

Commissioner Cooper asked that the Public Arts Advisory Board narrow the choices down to three to bring back to the Commission and to include staff’s recommendation as an entry. She also suggested the possibility of the Arts Board bringing back three choices and to allow the citizens to vote on-line. Commissioner Leary commented he is supportive of the Arts Board but that this is also a communications vehicle and suggested that the Communications Department be represented on the recommendation that the top flags bring forward. He asked that students and artists in the community be added to the list and to open up the process to more individuals.

Mayor Bradley suggested that the form for submission include a caveat that says the submissions are considered property of the City and may or may not be considered for adoption. He deferred that to the City Attorney for the proper language. Commissioner Leary addressed his concerns about wanting citizen input but that he is concerned about the vehicle being used for the voting of approval. He wanted to make sure that everyone was able to actively participate in the voting.

Communications Director Howard recommended that the Public Arts Advisory Board be involved in the process. It was clarified that this will be opened up the entry to anyone in the entire community with no restrictions and that the City staff submission be considered as one of the choices.

Motion made by Commissioner Leary to approve the recommendations and to include the Public Arts Advisory Board and staff in the selection process, seconded by Commissioner Sprinkel and carried unanimously with a 4-0 vote.

Public Hearings

a. ORDINANCE NO. 2843-11: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA CONSOLIDATING CITY BOARDS AND COMMISSIONS, DEFINING THE DUTIES OF BOARDS AND COMMISSIONS OF THE CITY OF WINTER PARK, AND REPEALING CERTAIN ORDINANCES AND RESOLUTIONS RELATING TO SUBSIDIARY BOARDS AND COMMISSIONS; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE. Second Reading

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

Motion made by Commissioner Sprinkel to adopt the ordinance; seconded by Mayor Bradley.
Motion amended by Commissioner Leary to amend the residency requirements (page 6, Section 2, r. that says: “Residency Requirement. Unless non-residency in the City of Winter Park is a requirement of the City Charter, Florida Statutes or Division Three hereof, the Mayor shall appoint to the City boards persons who are residents in the City of Winter Park.”) – to leave the language in until it says “the Mayor” and amend it to say “the Mayor shall show preference to residents of the City of Winter Park when making appointments to City Boards”; seconded by Mayor Bradley. He explained the instance of the EDAB Board that the Chamber of Commerce Presidents currently is appointed to the board but is a non-resident of Winter Park and the way this is currently written, he would not be allowed to serve on the board.

Commissioner Cooper spoke about their prior discussions regarding residency requirements and removal for cause. She stated at that time she was trying to obtain firm residency requirements on all boards and that the Mayor indicated at that time they could talk about certain boards. She addressed the need for the quasi-judicial boards to only include Winter Park residents. Further discussion ensued.

Motion amended by Commissioner Cooper that on page 9 CRA members shall be residents of the City of Winter Park. Motion failed for lack of a second.

Motion amended by Commissioner Cooper that on page 11 that the Winter Park Chamber of Commerce President be invited to serve on the Economic Development Advisory Board; seconded by Commissioner Sprinkel.

Motion amended by Commissioner Cooper that on page 12 under the Ethics Advisory Board that language be added similar to the authority afforded the Economic Development Advisory Board that the Ethics Board has the authority to establish other areas of interest that it deems relevant. Motion failed for lack of a second.

Motion amended by Commissioner Cooper that on page 12, Historic Preservation Board, under membership – that members of this board be residents of the City of Winter Park. Motion failed for lack of a second.

Motion amended by Commissioner Cooper that on page 15 under the Lakes and Waterways Board, also a quasi-judicial board, that the members of this board be residents of the City of Winter Park. Motion failed for lack of a second.

Motion amended by Commissioner Cooper that on page 16 under the Parks and Recreation Advisory Board serving quasi-judicial board, relative to fee waivers, I would request that members of this board shall be residents of the City of Winter Park. The motion failed for lack of a second.

Motion amended by Commissioner Cooper that on page 17, Planning and Zoning Board, that members of this Board shall be residents of the City of Winter Park. The motion failed for lack of a second.

Motion amended by Commissioner Cooper that on page 19, under the Tree Preservation Board, also a quasi-judicial board, that the members of this board be residents of the City of Winter Park. The motion failed for lack of a second.
Motion amended by Commissioner Cooper that on page 2, Item b, at the top, to strike the statement, the last part of the sentence after “Unless the City Charter or state law requires a different number of members, each board shall have seven members and one alternate” I would like to put a period there and delete the last part of that sentence (although boards that had more than seven members prior to May 9, 2011, shall continue to have the greater number of members plus one alternate, as shown hereinafter:”); seconded by Commissioner Leary for discussion.

Commissioner Cooper stated she wanted to leave all the boards at their existing number because anything other than that allows the Commission to appoint an inordinate unbalanced number of members. She stated that when they started this discussion, their objective was consistency. She addressed speaking with prior Commissioners who informed her their objective when they started discussing this was to reduce the size of the boards, sunsetting unnecessary boards, making it clear that the boards had to work toward the objectives in our strategic plan and to clarify their responsibilities. She stated her preference of the board size for quasi-judicial boards to be five but if not, she preferred that all boards be consistent across the board with seven members.

Mayor Bradley disagreed and stated that some boards have additional members and there was no reason to take those back. He believed that this was a compromise because not taking people off boards but bringing all boards up to a consistent level was the consistency he was striving for. He agreed that seven was a good number as well as the alternate. Mayor Bradley stated that the alternates will advance if you take the overall ordinance action.

Commissioner Sprinkel addressed the importance of providing all citizens the opportunity to participate on the boards which is why she is in favor of increasing the members to seven. Commissioner Cooper commented that we are unnecessarily increasing the board sizes and the only result of that is undue influence.

Patrick Chapin, President of the Winter Park Chamber of Commerce, agreed with Commissioner Leary’s comment regarding preference of residency and pointed out that there may be other business leaders besides the Chamber that could be appointed to boards.

Upon a roll call vote, of the amendment by Commissioner Leary to: amend the residency requirements (page 6, Section 2, r. that says: “Residency Requirement. Unless non-residency in the City of Winter Park is a requirement of the City Charter, Florida Statutes or Division Three hereof, the Mayor shall appoint to the City boards persons who are residents in the City of Winter Park.”) – to leave the language in until it says “the Mayor” and amend it to say “the Mayor shall show preference to residents of the City of Winter Park when making appointments to City Boards”. Mayor Bradley and Commissioners Leary, Sprinkel and Cooper voted yes. The motion carried unanimously with a 4-0 vote.

Upon a roll call vote on the amendment that: on page 11 that the Winter Park Chamber of Commerce President be invited to serve on the Economic Development Advisory Board; Mayor Bradley and Commissioners Leary, Sprinkel and Cooper voted yes. The motion carried unanimously with a 4-0 vote.

Upon a roll call vote on the amendment that: on page 2, Item b, to strike the statement, the last part of the sentence after “Unless the City Charter or state law requires a
different number of members, each board shall have seven members and one alternate” I would like to put a period there and delete the last part of that sentence (although boards that had more than seven members prior to May 9, 2011, shall continue to have the greater number of members plus one alternate, as shown hereinafter:”); the motion failed with a 4-0 vote.

Upon a roll call vote of the main motion to adopt the ordinance as amended (with the two amendments), Mayor Bradley and Commissioners Leary and Sprinkel voted yes. Commissioner Cooper voted no. The motion carried with a 3-1 vote. Commissioner McMacken was absent.

b. Request of Winter Park Redevelopment Agency LTD for property at 400 West New England Avenue (Quasi-Judicial hearing):

ORDINANCE NO. 2844-11: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, “LAND DEVELOPMENT CODE”, ARTICLE III, “ZONING” AND THE OFFICIAL ZONING MAP SO AS TO CHANGE THE EXISTING ZONING DESIGNATION OF COMMERCIAL (C-3A) DISTRICT TO COMMERCIAL (C-2) DISTRICT ON THE PROPERTY AT 400 WEST NEW ENGLAND AVENUE, MORE PARTICULARLY DESCRIBED HEREIN. Second Reading

Attorney Reischmann read the ordinance by title.

Motion made by Commissioner Cooper to adopt the ordinance; seconded by Commissioner Sprinkel. No public comments were made.

Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel and Cooper voted yes. The motion carried unanimously with a 4-0 vote. Commissioner McMacken was absent.

c. Request of Backworks, Inc.: (Quasi-Judicial hearing)

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, “LAND DEVELOPMENT CODE”, ARTICLE III, “ZONING” AND THE OFFICIAL ZONING MAP SO AS TO CHANGE THE EXISTING ZONING DESIGNATION OF PARKING LOT (PL) DISTRICT TO OFFICE (O-2) DISTRICT ON THE PROPERTY AT 1605 WEST FAIRBANKS AVENUE, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

Mayor Bradley explained that this request impacts a physician’s office that is an employee of his employer so he has recused himself from voting on this issue (conflict of interest). Form 8B is made part of this record.

Attorney Reischmann read the ordinance by title. Planning Director Jeff Briggs explained the request to construct a free standing new 3,000 square foot single story medical building for the Backworks Orlando Neurosurgery Group. He stated that the Planning and Zoning Commission provided a positive recommendation for approval of the zoning conditioned that a development agreement incorporate the representations of the applicant and the waiver granted by the City. He presented the development agreement for the Mayor’s signature and stated that it incorporates the three P&Z conditions. Questions were answered by Mr. Briggs.
Motion made by Commissioner Cooper to accept the ordinance on first reading with insured incorporation of Planning and Zoning’s comments on page 133 (of the packet); seconded by Commissioner Leary. Upon a roll call vote, Commissioners Leary, Sprinkel and Cooper voted yes. The motion carried unanimously with a 3-0 vote. Commissioner McMacken was absent. Mayor Bradley abstained from voting.

d. RESOLUTION NO. 2085-11: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, TO EXECUTE A PUBLIC TRANSPORTATION JOINT PARTICIPATION AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE WINTER PARK TRAIN STATION/AMTRAK STATION RECONSTRUCTION PROJECT

Attorney Reischmann read the resolution by title. Commissioner Cooper spoke about the start date of September 2011 and the completion date of December 2011 of the grant award process and executive grant agreement completion. She addressed the previous discussion that there are minor differences between the commuter rail configuration of the platform and the Amtrak and since the schedule contemplates the beginning of September and we are supposed to get a decision on commuter rail from Governor Scott in July, she questioned the need for approval of this now. She stated that she preferred to wait to sign the resolution until the end of July when the decision is made by the Governor relative to whether we are configuring an Amtrak or a commuter rail station.

City Manager Knight reminded everyone that this is entirely separate from whether or not there is a commuter rail station. He stated we still want to obtain this grant to rebuild the Amtrak building. He stated we do not have to pay the grant back if commuter rail goes away. Assistant Public Works Director Don Marcotte addressed the importance to move forward with the grant process to obtain the $950,000 and stressed that this is a separate issue apart from commuter rail. He stated all they are asking for at this time is approval of the JPA which starts the process to obtain the $950,000.

Commissioner Cooper asked what the difference is now in the platform and the design between commuter rail and Amtrak. Mr. Marcotte stated they are raising it to a certain level to accommodate wheelchairs and that is the only change they need to make. He stated it has been confirmed more than once that this money can be used for the Amtrak station if SunRail does not happen.

Commissioner Cooper spoke about the sentence in the JPA: “This Amtrak Station Construction project calls for the reconstruction of the existing train station building, at its same current location, for the same current use, with no alterations to the existing railroad tracks.” She asked if they are discussing moving it. Mr. Marcotte responded that we are going through some iterations with the architects in a more logical configuration which would keep Amtrak in operation and build a new station adjacent to it shifted to the south. He stated that will be brought back to the Commission. There was discussion regarding the ordinance in place that structures will not be built in Central Park and whether or not moving the station 100’ feet constitutes a violation of the ordinance.

City Manager Knight stated he believed the citizens will prefer what they are proposing and that the design of the station will be coming back for their approval. Mr. Marcotte reminded the Commission that the Commission has already approved the architectural style of the canopies
that the building will match which has not changed from what was approved. Mayor Bradley reminded everyone that the design of the building will come back to the Commission for approval and at that time the citizens can voice their concerns if they have any. Commissioner Cooper commented that there was a lot of discussion and public presentation regarding the canopies and the design of the station. She stated if they have moved away from that, she wanted to know for sure and asked for copies of the current status of the design of the commuter rail station. Mayor Bradley clarified they are discussing the Amtrak station; not the commuter rail station.

Motion made by Commissioner Sprinkel to adopt the resolution (approve the Joint Participation Agreement); seconded by Commissioner Leary.

Mr. Marcotte at this time stated that the plans that Commissioner Cooper is referring have been on the website for 2 or 3 years and is the same plan. Mayor Bradley clarified that they have not yet been approved by the Commission.

Joe Terranova, 700 Melrose Avenue, addressed following this project and that it needs to be approved.

Commissioner Cooper reiterated her need to obtain a good understanding of what would be the impact to getting this done if we did not submit this document until end of July and why it is imperative that this be done before hearing from the Governor regarding commuter rail. Mr. Marcotte stated it needs to be executed by September in order to use the funding by 2013 and if that slips he did not know that they would be in line for that funding. Commissioner Leary asked Commissioner Cooper what her hesitancy is on this. She responded that it is a design issue and what they are putting out there and if it is an Amtrak station or an Amtrak/SunRail station. Mayor Bradley again clarified the resolution states it is an Amtrak station.

Commissioner Sprinkel responded this is not about the design but is about the agreement and that they need to approve the agreement so they can move forward with obtaining the funding as the design will come back to them for approval at a later time. Commissioner Cooper also commented that if you review the letter from Congressman Mica this money for the Amtrak station is also on the same letter and that is her concern that there is no issue with us having to pay money back to the Federal Government. Commissioner Leary stated staff has said there is no issue with that. Commissioner Cooper stated there isn’t but we would know for sure in July and that is the difference. Mayor Bradley stated he believed Congressman Mica’s word is pretty solid on this.

Upon a roll call vote, Mayor Bradley and Commissioners Leary and Sprinkel voted yes. Commissioner Cooper voted no. The motion carried with a 3-1 vote. Commissioner McMacken was absent.

e. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AUTHORIZING AND PROVIDING FOR THE BORROWING OF AN AMOUNT NOT TO EXCEED ONE MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS FOR THE PURPOSE OF FINANCING THE COSTS ASSOCIATED WITH IMPROVEMENTS TO THE CITY’S AIR CONDITIONING AND LIGHTING SYSTEMS; AND PROVIDING AN EFFECTIVE DATE. First Reading
Attorney Reischmann read the ordinance by title. Finance Director Wes Hamil explained the request for the $1,750,000 for the purpose of financing improvements to the air conditioning and lighting systems in City facilities.

Motion made by Commissioner Leary to accept the ordinance on first reading (the lease purchase agreement); seconded by Commissioner Sprinkel. No public comments were made. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel and Cooper voted yes. The motion carried unanimously with a 4-0 vote. Commissioner McMacken was absent.

Commissioner Reports:

a. Commissioner Leary

Commissioner Leary asked to discuss the work session held earlier today but since it was called by Commissioner Sprinkel, he asked for her to have preference on the discussion.

b. Commissioner Sprinkel

1. Commissioner Sprinkel reported that she attended the Institute of Elected Municipal Officials and provided some highlights from the institute.

2. Commissioner Sprinkel addressed the police department’s presentation this evening that used data to make decisions that impact them and that she was very impressed by the information provided. She commented that she wanted to do something to recognize and award our people that deserve recognition for various reasons.

3. Commissioner Sprinkel spoke about the work session held today and that she appreciated who was able to attend. She stated she missed Commissioner Cooper because one of the reasons for the work session was because of some concerns that have come out as a result of some of the written material that has been sent out. She commented about putting them at risk of violations of the Sunshine Law when this is done. She stated she always receives the publication sent out by Commissioner Cooper and when she receives it, it puts her at risk of Sunshine so she cannot respond back to it because that is not appropriate. She stated she was hoping to reach a common ground on how they go forward with communicating with their constituents.

Commissioner Sprinkel stated she wants to see them stand together as a unit and be united in how they move forward which she believed they can do. She also wanted to see them use some of the same information so that one person is not paraphrasing the same thing for someone else. She stated she did not think they could do that if they all worked separately. She stated she would never stifle anyone’s creativity or ability for free speech but if there are things from the Commission’s standpoint that they can do together we believed that would help them move forward in this community and not be divisive. She expressed concerns with inaccurate information being provided to residents. She stated we received information from our attorney that may be helpful and if the Commission could acknowledge that this may be a good goal to move forward, some of the civility discussions they have might not be so harsh to try and implement if everyone is working on the same goal. She said she was sorry that Commissioner Cooper was not in attendance because that was the reason for the work session
because she gets inundated with people who ask her why they do what they do when she did not do those things.

Commissioner Leary stated that Commissioner Cooper spends a lot of time on the publication and appreciates her commitment to providing a position to the people but expressed concerns with liability issues and Sunshine violations. He stated he also receives the emails and then he receives questions from citizens from those emails. He stated if he responds back to them and that gets back to Commissioner Cooper, this could be an indirect communication between two Commissioners so he is not going to put himself out there and risk a violation. He expressed concerns that those citizens forwarding her email to him is not getting a proper response from him because he is not responding. Secondly, there are legal implications regarding some of the positions (specifically as it relates to quasi-judicial manners before them) which worries him. He stated he wants to figure out a way for Commissioner Cooper to get her message out to those that wish to hear it without putting himself and all of them in jeopardy. He stated he only wants to make sure they are all covered.

c. **Commissioner Cooper**

Commissioner Cooper stated she appreciates the concern for her and whether she is violating the Sunshine Law but she is extremely cautious not to violate the law and do not expect responses from the Commission. She stated she does not send these communications to the Commission but sends them to the people who voted for her and she will continue to do that as she is a representative of the people of Winter Park. She stated she will be cautious and recommended that they also be cautious and not respond to her if that is a problem for them. She stated if anyone believes she has said something that is a misrepresentation of the facts to let the City Manager know who will inform her and she will correct anything that is wrong because she works very hard to get the facts correct.

d. **Mayor Bradley**

1. Mayor Bradley commented as the Governor is ready to contemplate a SunRail decision there are requests and questions whereby there may be potential public forums within the four County areas. He wanted everyone to be aware of this coming up and did not know the format that this will take or the location(s). He stated this will be communicated to the public if this happens and how it will happen.

2. Mayor Bradley addressed the importance that accuracy of all communication is critical and they all need to work on two way communication. He stated it is wonderful when Commissioners communicate with the citizens that elected them and when they as a collective body hear from all the citizens. He stated he wants to do more to increase participation in our meetings and that his goal is to communicate with all the citizens in the City whether or not they helped to elect them.
The meeting adjourned at 6:27 p.m.

ATTEST:

[Signature]

City Clerk Cynthia S. Bonham
WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office MUST ABSTAIN from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a “relative” includes only the officer’s father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A “business associate” means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)
APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

1. Kenneth W. Bradley hereby disclose that on June 13, 2011:

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

- inured to my special private gain or loss;
- ☑ inured to the special gain or loss of my business associate, Orlando Neurosurgery as part of FPMG;
- inured to the special gain or loss of my relative;
- inured to the special gain or loss of ____________________________ by whom I am retained; or
- inured to the special gain or loss of ____________________________ which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

As an employee of Adventist Health System dba Florida Hospital, we share the same employer of the applicant for zoning. While today I have no authority directly over this practice, I am recusing myself from this vote.

June 13, 2011

Signature

Date Filed

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED $10,000.