

REGULAR MEETING OF THE CITY COMMISSION
July 11, 2011

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

The invocation was provided by Finance Director Wes Hamil, followed by the Pledge of Allegiance.

Members present:

Mayor Kenneth Bradley
Commissioner Steven Leary
Commissioner Sarah Sprinkel
Commissioner Carolyn Cooper
Commissioner Tom McMacken

Also present:

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

Approval of the agenda

Motion made by Commissioner McMacken to approve the agenda as presented; seconded by Commissioner Sprinkel. The motion carried unanimously with a 5-0 vote.

Mayor's Report

- a. Proclamation: "Playdays 2011" promoting healthy lifestyles and participating in the national "Let's Move" campaign

Mayor Bradley read a proclamation "Playdays 2011" and declared July 16 and September 17, 2011 as Playdays in the City to encourage outdoor exercise and to participate in the National "Let's Move" campaign. He thanked the Parks and Recreation Department for the work they perform every day which greatly improves the quality of life for residents. Parks and Recreation Director John Holland invited everyone to come to the new playground at Cady Way Park this Saturday to enjoy the festivities.

- b. Presentation: Employee of the Second Quarter 2011, Howard Hadden

Mayor Bradley presented Howard Hadden with Employee of the Second Quarter 2011 and thanked him for his dedication and outstanding performance in the Stormwater Department for the past 9 years. Mayor Bradley and the entire City also thanked him for his heroic efforts when a serious accident happened to one of his crew members on the job last month. With his quick action by placing pressure to the injury and reducing the blood loss until Fire Rescue personnel could arrive he was able to save the co-workers arm and his life.

- c. Board appointments

Mayor Bradley appointed the following board members:

Construction Board of Adjustment

Benjamin McCoy (New, alternate 2011-2012)

Keep Winter Park Beautiful

Kelly Olinger (New appointment 2011-2014)

Motion made by Mayor Bradley that the above appointments are accepted as presented; seconded by Commissioner Leary and carried unanimously with a 5-0 vote.

City Manager's Report

City Manager Knight advised that the new board member orientation is this Wednesday at 6:00 p.m. in the Commission Chambers.

The community conversations blog and survey have been activated and emails have been sent to all the City News subscribers. The deadline to respond is July 25, 2011.

Commissioner McMacken requested that the 90% drawings for the Fairbanks Avenue project be posted to the website. The request was acknowledged.

Commissioner McMacken said he wanted to see the new HydroBurst machine in full operation mode even if it means coming out in the middle of the night. Water and Wastewater Utility Director Dave Zusi said the next bursting will be around 10:00 p.m. on either Tuesday or Wednesday of this week and will email the information to the Commissioners. Mayor Bradley explained that a few months ago the City purchased equipment to help maintain the pipes and sewers and the Commission was so intrigued that they requested to see it in action.

Commissioner Cooper asked if the pension consultant is going to provide them with a cost analysis relative to moving new hires onto a defined contribution program. City Manager Knight said yes. He also advised that the pension report will be ready in August instead of July due to the pension consultant's vacation schedule.

- a. Announcement of a Public Hearing for a Brownfield Designation Request for 1240 Miller Ave and 1111 S. Orlando Ave.

City Manager Knight announced that a public hearing for a Brownfield designation request will be held on July 25, 2011.

Commissioner Cooper mentioned the need for policy decisions regarding incentive levels, local level responsibilities relative to EDAB and notification to neighbors. CRA Director Dori DeBord explained that the current property owner is not looking for incentives. She advised that as part of the public hearing process the neighbors will be notified and that statutorily there is no requirement for a neighborhood meeting. Ms. DeBord clarified for Commissioner Leary that this is a local designation as a Brownfield resolution.

Commissioner Sprinkel requested staff to provide an incentive package for their review and comment. Ms. DeBord acknowledged and advised that if staff does not have the opportunity to provide the list by the July 25 meeting, a complete list will be provided by the second public hearing in August.

City Attorney's Report

Commissioner McMacken asked for clarity concerning ex-parte communications because his understanding is that it is up to the Commission to decide how they would like to proceed on these types of issues.

Attorney Brown clarified that most cities do not have expressed prohibitions and that Winter Park has decided to operate under Florida Statute 286.0115 which allows for ex-parte communication if it is disclosed, particularly with land use matters. He further explained that it allows them to obtain expert opinions, to conduct site inspections and to view the property as long as they disclose all of that information.

Commissioner Cooper said she would like for the Commission to decide how they are going to operate since she prefers consistency and suggested having a work session to discuss this. Mayor Bradley clarified that this was not an agenda topic but was for informational purposes.

Non-Action Items

a. Streamlining the permitting process – 90 day plan

Planning Director Jeff Briggs spoke about improving the efficiencies with the timeframe that it takes for applicants who need zoning approvals from the Planning and Zoning Board and City Commission and to improve the efficiencies from the time someone applies for a building permit until they receive the building permit.

Mr. Briggs explained that the zoning approval process can be streamlined or shortened for applicants by changing the code to permit more administrative staff approvals versus planning board approvals and by shortening the public notice requirements for citywide notices for conditional uses, significant changes to approved plans, building plans in the CRA, lakefront reviews and large scale comprehensive plan changes. He suggested increasing the threshold for a citywide notice from 25,000 sq. ft. to 50,000 sq. ft. and for FLU/rezonings from 1 acre to 2 acres. Mr. Briggs mentioned that they will not be voting on this tonight since it has to be advertised, hold a Planning & Zoning hearing and then two more public hearings.

Building Director George Wiggins addressed the steps taken to improve the building permit process: 1) created flowcharts for residential and commercial construction that identifies the normal processes of the permitting process; 2) implemented computer usage for citizens so they can have access and up-to-date information on the status of their project; 3) issued guidelines; 4) made checklists; and 5) made a step-by-step guide making it user friendly to residents and contractors/designers.

Mayor Bradley said he would like to see community comparisons for benchmarking purposes and instead of having an approximate review date, to include an exact date such as "there will be a three day process." Mr. Wiggins said they can provide a time period in which the City will have the plans reviewed and comments back to the applicant but then it is up to the applicant which may take longer thus the reason for the wording of approximate. Mayor Bradley said maybe there should two different processes, an applicant process and a City process. Mr. Wiggins acknowledged.

Commissioner Cooper mentioned that she would prefer to not remove the public hearing process for conditional uses when it pertains to future land use changes in excess of one acre since it requires public notification. She also did not want to remove conditional uses for liquor licenses, restaurants, bars, taverns and cocktail lounges providing alcoholic beverages within 300 feet of a residential home because of the impact to the quality of life or the character of the community.

Commissioner Sprinkel suggested that staff review what other cities are doing to help fine tune our process and to come up with another system of notification, possibly on-line communication.

Commissioner Leary said perception is reality and asked staff to work with the Communications Department to get the word out to the public that the City is easy to deal with.

b. 2012 Budget Presentation

City Manager Knight provided a Powerpoint presentation on the 2012 budget which is listed on the City's website. The presentation included the budget goals, new beginnings, key statistics, major changes, budget overview, taxable value and operating millage, millage rate comparison, Orange County vs. City of Winter Park Fire Service, Orange County vs. City of Winter Park library comparison, general fund balance, human resources salary and benefits, Police and Fire pensions, capital improvement program, potential add backs or new items, millage voting options and the budget schedule. There were no questions from the Commission.

There was consensus to hold the first budget work session on July 18, 2011 at 3:30 p.m.

Consent Agenda

- a. Approve the minutes of 6/27/11. – **PULLED FROM CONSENT AGENDA FOR DISCUSSION – SEE BELOW**
- b. Approve a permanent drainage easement between Presbyterian Retirement Communities, Inc. and the City (Winter Park Towers). – **PULLED FROM CONSENT AGENDA FOR DISCUSSION – SEE BELOW**
- c. Approve early morning concrete pours at Winter Park Towers construction project located at 1111 S. Lakemont Avenue – **PULLED FROM CONSENT AGENDA FOR DISCUSSION – SEE BELOW**
- d. Approve the Pole License Joint Use Agreement with Embarq Florida, Inc. d/b/a/ Century Link and authorize the Mayor to execute the agreement.
- e. Approve the following change order and contracts:
 1. Deduct Change Order COR-023 to Community Center contract (RFQ-17-2009) with Turner Construction Company and authorize the Mayor to execute the change order document; \$239,160.83
 2. Piggybacking the State of Florida contract 425-001-06-1 for Office Furniture and Files and authorize the Mayor to execute the Piggyback Contract as required for specific purchases
 3. Piggybacking the State of Florida contract 991-160-11-2 for Statewide and Global Courier Services with UPS and authorize the Mayor to execute the Piggyback Contract
 4. Piggybacking the State of Florida contract 420-420-10-1 for Furniture: Educational/Institutional and authorize the Mayor to execute the Piggyback Contract as required for specific purchases

Motion made by Commissioner Sprinkel to approve Consent Agenda Items 'd' and 'e.1-4'; seconded by Commissioner Leary and carried unanimously with a 5-0 vote.

Consent Agenda Item 'a' - Approve the minutes of 6/27/11.

Commissioner McMacken referenced page 4, paragraph 1 referencing "conditions of approval as discussed during their last shade meeting with Attorney Reischmann." He recalled that Attorney Brown was present and asked to change this to Attorney Brown. City Manager Knight and Mayor Bradley confirmed. Commissioner Sprinkel referenced page 8, paragraph 1 and requested to change the word "gain" to "game".

Motion made by Commissioner McMacken to approve Consent Agenda Item 'a' with the above changes; seconded by Commissioner Cooper and approved by acclamation of the City Commission. The motion carried with a 4-1 vote with Commissioner Cooper voting no.

Consent Agenda Item 'b' - Approve a permanent drainage easement between Presbyterian Retirement Communities, Inc. and the City (Winter Park Towers).

Commissioner McMacken said his understanding is that Winter Park Towers is going to contribute money towards the purchase of the material to be used for the drainage easement. Assistant Public Works Director Don Marcotte said that is correct and clarified and explained that it would not benefit the City to upsize the pipe.

Motion made by Commissioner McMacken to approve Consent Agenda Item 'b'; seconded by Commissioner Sprinkel and approved by acclamation of the City Commission. The motion carried unanimously with a 5-0 vote.

Consent Agenda Item 'c' - Approve early morning concrete pours at Winter Park Towers construction project located at 1111 S. Lakemont Avenue.

Commissioner McMacken asked if the concrete trucks are going to back up the morning rush hour traffic on Lakemont. Building Director George Wiggins said this is one of the major reasons for this request which will prevent the interference with the morning rush hour traffic and for safety reasons with children getting ready to go to school. Vice President Joe Robertson of McCree General Contractors, Inc. confirmed that the concrete trucks will not back up the morning traffic on Lakemont.

Commissioner Cooper asked Mr. Robertson if they can include a stipulation that the approval of the eight pours are conditioned upon acceptable mitigation of any complaints that may ensue and that between Mr. Wiggins and himself they would successfully mitigate those complaints. If not, it would be the Commission's option to change their decision relative to this approval. Mr. Robertson said that would be acceptable to them.

Motion made by Commissioner McMacken to approve Consent Agenda Item 'c'; seconded by Commissioner Sprinkel.

Motion amended by Commissioner Cooper that they approve the eight pours conditioned upon acceptable mitigation of any potential noise complaints to the satisfaction of City staff; seconded by Commissioner McMacken.

Upon a roll call vote on the amendment, Mayor Bradley and Commissioner Sprinkel voted no. Commissioners Leary, Cooper and McMacken voted yes. The motion carried with a 3-2 vote.

Upon a roll call vote to approve the item, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

Public comments

1. Dan Bellows, representing Sydgan and W. G. Limited, spoke about the development agreement from 2000 that was amended in 2007 and extended to 2014. He stated that a year ago six new conditions were placed and he wanted to make sure that the Commission was aware that all of the residential components within the development agreement that refer to the additional two levels of the parking garage is adhered to. He also clarified that there is no modification or removal of that condition. He then spoke briefly about compatible development and explained his position. He believed that they have the right and are entitled to build the two additional levels of the parking garage which provides for extra parking and said that he appreciates the extension.

Mayor Bradley explained that this is a pending litigation matter and thanked Mr. Bellows for bringing forth these points. He advised that this would be best handled between his counsel and the City's counsel and instructed Attorney Brown and City Manager Knight to work with Mr. Bellows on accomplishing a mutual agreement that everyone will be satisfied with.

2. Joe Terranova, 700 Melrose Avenue, spoke about the budget and commended staff for a dynamite budget. He said in these economic times the library usage has increased by 25% and agreed that the library should receive the 1% increase.

A recess was taken from 5:10 p.m. to 5:30 p.m.

Action Items Requiring Discussion:

a. Temporary partial hiatus for water and sewer impact fees

Planning Director Jeff Briggs provided background and that the City has been contacted by several new full service restaurants requesting reconsideration of the water and sewer impact fees charged by the City. The issue is not the impact fee charge per gallon but whether the 40 gallon per seat estimate of peak usage is accurate. The City has been using this estimate for many years and it is derived from information provided by the Florida Department of Environmental Protection. It is based on peak usage not average usage and now that we have AMR (Automated Meter Reading) we have actual readings every day of the year. The City is currently engaged in a utility rate study to look at the rates used by other cities and the actual peak usage experience of various restaurants. He noted that the study is due in October.

Mr. Briggs explained that there are two restaurants in particular that may be permitted prior to the September rate study. Staff is proposing to permit a partial payment of 50% of the impact fees with an agreement that commits the restaurant to pay the balance following adoption of the

rate study by the City Commission. Mr. Briggs noted that this would only pertain to restaurants and not office buildings, etc.

Commissioner McMacken asked about the study and if there is going to be a standard format for the usage of water/sewer or if it will be on a per restaurant basis. Mr. Briggs said there will still be a standard that they would apply to restaurants of a certain type and three categories.

Commissioner McMacken asked if the City is able to bond or have the applicant bond the fees. Attorney Brown said it would be lawful if a majority of the Commission wanted to make it a condition of the contract.

Motion made by Commissioner McMacken that the City charge the applicants 1/2 of the fee for water/sewer with the remaining 1/2 to be bonded or provided by a letter of credit until such time as the City has completed their study and is able to determine whether that should be added to the total or not. Attorney Brown clarified that this is a contract issue but it could be a consistent policy. Commissioner McMacken said he would be happy to amend his motion to include anything in the interim that may occur between now and the conclusion of the City's study on water/sewer rates. Mayor Bradley asked if it would be better to have a date certain. Attorney Brown said he would recommend adoption of the rate study. **Motion was seconded by Commissioner Leary.**

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

Public Hearings

- a. RESOLUTION NO. 2087-11: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, TO EXECUTE A LOCAL AGENCY PROGRAM AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE HOWELL BRANCH ROAD PEDESTRIAN IMPROVEMENTS (TEMPLE TRAIL TO TEMPLE DRIVE).

Attorney Brown read the resolution by title. **Motion made by Commissioner McMacken to adopt the resolution; seconded by Commissioner Cooper.** No public comments were made. **Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

- b. RESOLUTION NO. 2088-11: A RESOLUTION OF THE WINTER PARK CITY COMMISSION, AMENDING RESOLUTION NO. 2013-08, PURSUANT TO THE PROVISIONS OF SECTION 110-107 OF CHAPTER 110 OF THE CODE OF THE CITY OF WINTER PARK, ESTABLISHING AN EMERGENCY FUEL SURCHARGE FOR TAXICABS.

Attorney Brown read the resolution by title. Building Director George Wiggins provided background that due to increased fuel costs, taxi fares in the Orlando area are being increased slightly to cover the higher costs of fuel. On June 27, the City of Orlando approved a surcharge under their "Vehicle for Hire" ordinance with a resolution which is to be in place until the national average fuel price drops below \$3.40 for two consecutive months or on March 31, 2012. The City approved a similar Resolution on August 25, 2008 after passing Ordinance No. 2746-08 amending our taxi ordinance that enabled the Commission to make this fuel surcharge adjustment by resolution (expired on March 31, 2009).

Mr. Wiggins explained that the taxicab drivers lease their cabs from the taxi company so this would help the taxi drivers compensate their operating costs. He clarified that this is an optional surcharge at the discretion of the driver.

Roger Chapin, Vice President of Mears Transportation, explained the taxicab rates and how they are established. He explained the emergency surcharge will help to have consistent rates throughout geographical boundaries. He mentioned that the City of Orlando and Winter Park regulate taxicab rates and Orange County does not.

Motion made by Commissioner Sprinkel to adopt the resolution; seconded by Commissioner Leary.

Mayor Bradley asked staff to provide the pros and cons on regulating taxicab rates in Winter Park. City Manager Knight acknowledged the request.

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

- c. RESOLUTION NO. 2089-11: A RESOLUTION OF THE CITY OF WINTER PARK, FLORIDA REQUESTING THAT THE FLORIDA ELECTIONS COMMISSION INVESTIGATE AN ALLEGED DELIBERATE VIOLATION OF THE FLORIDA ELECTIONS CODE IN THE MARCH 8, 2011 WINTER PARK COMMISSION ELECTION.

Attorney Brown read the resolution by title. Mayor Bradley advised the Commission to limit their conversation to the Resolution since they are not an official body to accept testimony about whether there is validity or not to this or to adjudicate. They are to address whether or not the Resolution needs to be reviewed by the State authorities.

Commissioner Leary advised the draft Resolution that was included in the agenda packet labeled 'draft' has since been revised. On July 8, 2011 Commissioner Leary emailed the City Manager's office with a revised Resolution labeled "final" which was distributed via email to each of the Commissioners by the City Manager's assistant Juanita Grant for their review and acceptance. A hard copy of this document was distributed by the Deputy City Clerk to each Commissioner at the start of the meeting.

Motion made by Commissioner Leary to adopt the resolution; seconded by Commissioner Sprinkel.

Mayor Bradley stated that he was concerned, based on Attorney Brown's comments in the last meeting, that this may also need to be investigated by the Florida Commission on Ethics since it pertains to a seated Commissioner at the time of the incident. Attorney Brown replied that this would be a Commission decision.

Motion amended by Mayor Bradley that the State Attorney's investigator letter also be sent to the Florida Commission on Ethics; seconded by Commissioner Leary.

Motion amended by Commissioner Cooper that they limit the signature authority to the signature authority outlined in the Charter and they include the Mayor and delete the additional signatures; seconded by Mayor Bradley.

Attorney Brown provided counsel regarding ethics and the acceptance of gifts.

Commissioner Cooper read her memorandum dated July 11, 2011 and provided the Deputy City Clerk with a copy (see attached). She recommended that they initiate a standalone Resolution in support of transparency and ethical behavior in all aspects of government. She believes it is inappropriate for them to be involving themselves in a challenge or complaint when no probable cause has been determined by the Florida Elections Commission and it is an inappropriate use of their power.

Commissioner Leary explained that this Resolution is to assure the citizens and residents that when the Commission talks about ethics and transparency they mean it, regardless of who is involved.

There was a brief discussion pertaining to how the Commission will handle future complaints relative to elections. Commissioner Cooper asked which ones merit their endorsement and which ones do not.

Commissioner Leary said he hopes they are setting precedence that says to Commissioners that you should not participate in questionable activities. He mentioned that he is very comfortable if this comes before them again in the same manner.

Mayor Bradley said if this happens to a Commissioner there is precedence setting. He advised that this was not a citizen, it was a Commissioner and he thinks a Commissioner has a different level of review. He clarified that this is a request for an investigation and is not an endorsement.

Commissioner Cooper felt this is a bad precedence and did not want to be put in the position of having to judge which complaints from private citizens deserve the endorsement of a body of the government.

Commissioner Sprinkel said this is hurtful and upsetting to her and it needs to end. She shared her frustration with Commissioner Cooper's memo and that she is against this since it relates to transparency. She explained that transparency is not word. Transparency is how you live your life and standing up for what you believe in.

Commissioner Cooper explained that they are discussing a government agency supporting the complaint of a private individual and airing selective excerpts from a potential case against a citizen in the minutes without allowing that person due process. She believed that is inappropriate use of the power of the Commission.

Mayor Bradley indicated that there was a State Attorney's investigation letter that alleges certain things and it needs to be reviewed.

Commissioner Cooper asked if it would be more appropriate if the Resolution did not have specific references to selective excerpts from the State Attorney's letter. Attorney Brown said those excerpts are specific factual statements in the State Attorney's letter and they are in the recitals to demonstrate why the City may be taking this unusual action.

Attorney Brown clarified the importance for everyone to understand that the final draft of the Resolution does not state any findings concerning anyone and as worded does not invoke someone's liberty interest, but is merely a request to a state agency to investigate. Attorney Brown then provided counsel regarding liberty interest.

Commissioner McMacken explained his struggle with where they draw the line on this going forward and what warrants a Commission setting forth such a Resolution. He said we have a country of laws and there is a process in place in which this should be handled without their intervention and he is comfortable that due process will be served. He explained that he understands where they want to go with this and it is the right thing to do, but he is not sure that this is the vehicle to do that. Commissioner Leary said the line starts and stops here, with the Commissioners.

Will Graves, 3048D George Mason Avenue, apologized and explained that he is the anti-anonymous person that everyone is talking about. He advised that he had never seen the mailer, he did not write the language nor did he have anything to do with the mailer being conceived, produced or mailed. He submitted his letter of explanation to the Deputy City Clerk and asked that a copy be given to each of the Commissioners (copy attached).

Donna Colado, 327 Beloit Avenue, fully supported Mr. Weldon's complaint but did not support the Resolution.

Charles Namey, 1060 McKean Circle, said he is in favor of and supports the Resolution.

Upon a roll call vote on the amendment (that the State Attorney's investigator letter also be sent to the Florida Commission on Ethics); Mayor Bradley and Commissioners Leary, Sprinkel voted yes. Commissioners Cooper and McMacken voted no. The motion carried with a 3-2 vote.

Upon a roll call vote on the amendment (that they limit the signature authority to the signature authority outlined in the Charter and they include the Mayor and delete the additional signatures); Mayor Bradley and Commissioners Leary, Cooper and McMacken voted yes. Commissioner Sprinkel voted no. The motion carried with a 4-1 vote.

Upon a roll call vote to adopt the resolution, Mayor Bradley and Commissioners Leary and Sprinkel voted yes. Commissioners Cooper and McMacken voted no. The motion carried with a 3-2 vote.

Commissioner Reports:

a. Commissioner Leary

Commissioner Leary thanked staff for the great July 4 event.

b. Commissioner Sprinkel

Commissioner Sprinkel said numerous individuals have asked her about the flags on the dais and what they represent. She requested this information be provided so it can be shared with everyone.

c. Commissioner Cooper

1. Commissioner Cooper mentioned that she could not support the Resolution because she felt it was an inappropriate action by the Commission but she would be happy to support a resolution on transparency.
2. Commissioner Cooper mentioned that she would like to continue the earlier conversation relative to ex-parte communications and how they want to function as a Commission. There was a brief discussion and a consensus to follow Attorney Brown's advice that ex-parte communications should be disclosed.

d. Commissioner McMacken

Commissioner McMacken agreed that it was a great July 4 celebration in Winter Park.

e. Mayor Bradley

1. Mayor Bradley advised that the Governor approved SunRail this past week and encouraged all citizens and Commissioners to support this as they move forward.
2. Mayor Bradley thanked everyone that was involved in creating a wonderful July 4 event.
3. Mayor Bradley spoke about pedestrian safety. He learned that 50% of pedestrians are under the influence and in terms of safety the installation of medians is very important because it could help reduce deaths.
4. Mayor Bradley mentioned air quality monitoring in the City and that we are borderline in terms of air quality as a region. He asked City Manager Knight to provide more information on this. He acknowledged.

The meeting adjourned at 6:42 p.m.



Mayor Kenneth W. Bradley

ATTEST:



City Clerk Cynthia S. Bonham

Memorandum for Record

Subject: Com. Leary's Proposed Resolution regarding Weldon's Election Complaint
From: Com. Carolyn Cooper
To: Mayor and Commissioners, City Manager, City Clerk, and City Attorney
Date: July 11, 2011

Commissioners, ask yourselves, if the names in the letters and complaints were changed to a resident whom you did not know, would you still feel comfortable asking this City Commission to endorse a complaint filed by private citizen?

I, too, found the campaign mailer in question to be offensive and inappropriate. For years, I have advocated campaign reform, calling for greater transparency and empowerment of our local Ethics Board.

If a violation of our election laws has occurred, those responsible should be subject to the existing Florida Division of Elections due process.

I do not believe this Commission should endorse *any* individual complaint submitted to the Elections Commission. Mr. Weldon's correspondence indicates he intends to pursue this with the Florida Division of Elections. Our intervention is neither necessary nor appropriate. We should avoid interfering with existing due process.

Statutes include a process by which a citizen submits a formal complaint and the Elections Commission investigates and rules on the complaint. As a Commission, we should not preempt that process. Mr. Weldon has taken steps to initiate the complaint. Once his complaint is submitted to the Elections Commission, they are empowered by law to judge its merit, investigate and enforce the existing statutes.

I have concerns that we have misused the authority of this Commission by publicly and selectively presenting and discussing details of Mr. Weldon's complaint prior to a determination from the Elections Commission. Had the complaint been filed with the FEC, confidentiality would have been ensured until that Commission made a determination of probable cause.

I recommend we initiate a stand alone Resolution in support of transparency and ethical behavior in all aspects of government.