

REGULAR MEETING OF THE CITY COMMISSION
January 28, 2013

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 Parks and Recreation Director John Holland, 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
City Clerk Cynthia Bonham
Deputy City Clerk Michelle Bernstein

Approval of the agenda

Motion made by Commissioner Cooper to accept the agenda; seconded by Commissioner Leary and approved by acclamation with a 5-0 vote.

Mayor's Report

a. Winter In the Park Holiday Window Contest awards presentation

CRA Director Dori Stone announced this year's Holiday Window Contest. The People's Choice Award was given to Capricci Ricci Salon. The Design Excellence Award was given to Rosey Wray's Roost. Winners received a plaque award and an electric utility credit.

Mayor Bradley congratulated the following:

Commissioners Cooper and McMacken on their re-election; Police Lieutenant Randy Durkee; and the Communications and Economic Development Departments who were honored at the Chamber's annual banquet.

City Manager's Report:

City Manager Knight announced that FDOT approved the Lee Road landscape median project. He noted that a majority of the Commission agreed to meet with the legislatures in Tallahassee on March 13/14, 2013. Final details are forthcoming.

City Manager Knight advised that last week he and City Clerk, Cynthia Bonham met with Attorney Brown to discuss the election filing process and as a result there may be some minor revisions that will be brought forward to the Commission for consideration. Mayor Bradley requested that a full report be provided to the

Commission within 60 days including a list of items that need to be filed or not filed. City Manager Knight acknowledged.

City Attorney's Report

Attorney Brown advised that there is still no ruling from the Federal court regarding the Bell case.

Attorney Brown advised that his office is in the process of requesting a legal opinion from the Division of Elections, in particular whether or not Florida law requires that the filing fees are to be paid out of a campaign account. He explained that the overall goal is to bring back an ordinance which clarifies the deadline and the required items needed for election filing.

Attorney Brown addressed Commissioner Sprinkel's comments regarding the two reports issued by his office; whether or not auditors can participate in political endorsements and general rules for participating in online blogs. Attorney Brown explained that during his review of the auditor's contract he did not find an opinion that expressly said giving an endorsement violates the standard of independence. He notified the Commission that if they participate in online blogs they should not reply back and forth.

Commissioner Cooper explained her position regarding the endorsement of James Moore & Company during her election campaign. She clarified that they provided a written recommendation with no monetary contributions. After a brief discussion, a majority of the Commission requested that the auditor, James Moore & Company address the issue of endorsing a candidate in a letter of explanation.

Non-Action Item – No items.

Consent Agenda

- a. Approve the minutes of 1/14/2013. – **PULLED FOR DISCUSSION, SEE BELOW**
- b. Approve the following purchases and contracts:
 1. PR 151213 to Winter Park Library for Contribution for Library Automated System; \$65,000.
 2. Credit card payment to Crop Production Services, Inc. for purchase of Aquathol K and Tribune (Diquat) for Hydrilla Treatment on Lake Killarney; \$99,042.
 3. Piggybacking the State of Florida contract 425-001-12-1 with Aurora Storage Products for office furniture and files and authorize the Mayor to execute the Piggyback Contract.
 4. Piggybacking the National Joint Powers Alliance contract 081209 with John Deere Company for landscaping equipment and authorize the Mayor to execute the Piggyback Contract.

5. Piggybacking the South Florida Water Management District contract 6000000526 for various herbicides and related adjuvants.
- c. Approve the fee waiver for ½ of parks rental not to exceed \$825 for the Michael Andrews and Swinger Head Concert on February 10, 2013.

Motion made by Commissioner McMacken to approve Consent Agenda items 'b.1-5' and 'c'; seconded by Commissioner Cooper and carried unanimously with a 5-0 vote.

Consent Agenda Item 'a' – Approve the minutes of 1/14/2013

Mayor Bradley recalled that the 90 day plan discussion included both annexations and enclaves and requested that the minutes be amended. **Motion made by Mayor Bradley to approve Consent Agenda item 'a' as amended; seconded by Commissioner Sprinkel and carried unanimously with a 5-0 vote.**

Action Items Requiring Discussion

- a. Review and acceptance of ULI recommendations for West Fairbanks Avenue

CRA Director Dori Stone provided a brief summary. She asked the Commission to approve the ULI TAP panel so that staff can continue their efforts on the West Fairbanks Avenue corridor which includes a visioning session with interested property and business owners along the corridor. Ms. Stone noted that staff recommends bringing in a professional facilitator for the visioning process and the costs would be determined upon Commission approval.

Motion made by Mayor Bradley for the acceptance of ULI report recommendations as well as convening a visioning process with the key stakeholders on Fairbanks Avenue to advance all of the recommendations; seconded by Commissioner Leary.

Ms. Stone answered questions. City Manager Knight addressed Commissioner Cooper's question pertaining to sewer impact fees.

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. Public Art Advisory Board update regarding Art in Transit for SunRail proposal

Dana Thomas, Chairman of Public Art Advisory Board (PAAB), provided a PowerPoint presentation which included the proposal for the SunRail Art in Transit, the initial concept example and the eight responses for the call for artists. She

presented one prototype sample being proposed by artist Diane Boswell consisting of eight double sided three dimensional metal photographic panels to be installed on the SunRail platform. Ms. Thomas explained that the FDOT agreement will provide \$6,500; however, based on the eight proposals received, additional funding of \$19,500 would be needed. She commented that the PAAB has considered the options presented and is seeking input from the Commission to continue working with the artist, Diane Boswell.

Motion made by Commissioner McMacken to approve the proposal; seconded by Commissioner Sprinkel.

Following a brief discussion regarding warranties, the dollar amount budgeted and the estimated date of installation, Commissioner Leary recommended that the artist and the architect work together in sync. Mayor Bradley asked for clarification of the stained glass to be installed in the canopy gable of the Amtrak building.

Assistant Public Works Director Don Marcotte addressed the artwork in the train station. Mayor Bradley requested that this item come back to the Commission with a detailed list of all art that is planned for the Amtrak station, including free standing pieces and sculptures. City Manager Knight acknowledged.

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.

c. State Legislative priorities

City Manager Knight provided a brief summary regarding the list of priorities including the potential funding for land acquisition for, or construction of, a minor league baseball stadium at the old Harper-Shepherd field site or possibly at Ravaudage. City Manager Knight answered questions including a potential cost analysis to pave West Fairbanks Avenue.

Motion made by Commissioner Leary to approve the list of priorities including funding for public art; seconded by Commissioner Sprinkel. 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.

d. Schedule a work session to discuss the City Master Plan draft

Following a brief discussion, a majority of the Commission agreed on February 25 at 2:00 p.m. prior to regular Commission meeting.

Mayor Bradley added a couple of items to the list and asked for direction: 1) the two acre property at Progress Point (the bank and drive-thru area); and 2) the Orange County Pubic School Vo-Tech property. City Manager Knight encouraged the Commission to submit their items to him via email.

Following a brief discussion, a majority of the Commission requested that the master list of City owned properties be updated, re-distributed and posted to the City's website. A suggestion was made for staff to also create a list of City owned assets. City Manager Knight acknowledged.

Public Hearings

a. Request of Atlantic Housing Partners, LLLP:

ORDINANCE NO. 2903-13: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE I "COMPREHENSIVE PLAN" FUTURE LAND USE MAP SO AS TO CHANGE THE FUTURE LAND USE DESIGNATION OF SINGLE FAMILY RESIDENTIAL TO HIGH DENSITY RESIDENTIAL ON THE REAR PORTION OF THE PROPERTY AT 835 WEST CANTON AVENUE, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE. Second Reading

ORDINANCE NO. 2904-13: 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 ZONING DESIGNATION OF SINGLE FAMILY (R-1A) DISTRICT TO MULTI-FAMILY (HIGH DENSITY R-4) DISTRICT ON THE REAR PORTION OF THE PROPERTY AT 835 WEST CANTON AVENUE, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE. Second Reading

Attorney Brown read both ordinances by title. Since this was a quasi-judicial proceeding, communications were disclosed. Commissioner Leary spoke with staff and the applicant's attorney. Mayor Bradley and Commissioners McMacken, Cooper and Sprinkel noted that no communications transpired since the first public hearing.

Motion made by Commissioner Sprinkel to adopt the first ordinance (comprehensive plan); seconded by Commissioner Leary.

Motion made by Mayor Bradley to adopt the second ordinance (zoning); seconded by Commissioner Sprinkel.

Lurlene Fletcher, 790 Lyman Avenue, spoke in opposition.

Commissioner Cooper shared concerns with encroaching on single family homes by changing this property from R-1A to R-4 which is the highest maximum density allowable so she would not be supporting this.

Upon a roll call vote on the first ordinance (comprehensive plan), Mayor Bradley and Commissioners Leary, Sprinkel and McMacken voted yes. Commissioner Cooper voted no. The motion carried with a 4-1 vote.

Upon a roll call vote on the second ordinance (zoning), Mayor Bradley and Commissioners Leary, Sprinkel and McMacken voted yes. Commissioner Cooper voted no. The motion carried with a 4-1 vote.

b. Police and Fire Pension Ordinances:

ORDINANCE NO. 2905-13: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING THE CITY OF WINTER PARK POLICE OFFICERS' PENSION PLAN; AMENDING SECTION 74-201, DEFINITIONS; AMENDING SECTION 74-206, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 74-209, VESTING; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HERewith; PROVIDING AN EFFECTIVE DATE. Second Reading

ORDINANCE NO. 2906-13: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING THE CITY OF WINTER PARK FIREFIGHTERS' PENSION PLAN; AMENDING SECTION 74-151, DEFINITIONS; AMENDING SECTION 74-156, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 74-159, VESTING; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HERewith; PROVIDING AN EFFECTIVE DATE. Second Reading

City Manager Knight provided a brief summary and asked that both ordinances be effective March 1, 2013 versus being effective immediately. He explained that since there have been several interpretation discussions within the departments this extra time would allow those individuals who would be impacted sufficient time to make a retirement type decision.

Attorney Brown read both ordinances by title. A simultaneous public hearing was held on this matter.

Motion made by Commissioner Cooper to adopt the first ordinance effective March 1, 2013 as implementation (police pension); seconded by Commissioner Sprinkel.

Motion made by Commissioner Leary to adopt the second ordinance effective March 1, 2013 as implementation (fire pension); seconded by Commissioner McMacken.

No public comments were made.

A brief discussion transpired regarding Union negotiations including the status of the contracts. City Manager Knight advised that the Police contract expired

September 30, 2012 and the Fire contract will expire on October 1, 2013. The City is currently in negotiations with both organizations and the length of the contract is to be decided; it can be anywhere from one to three years.

Upon a roll call vote on the first ordinance (police pension), Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

Upon a roll call vote on the second ordinance (fire pension), Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

Public Comment

Lurlene Fletcher, 790 Lyman Avenue spoke about the increase in development on the West side and would like to receive formal notification from the City regarding any type of improvements being requested.

A recess was taken from 5:08 p.m. to 5:29 p.m.

- c. Request of TD Bank: Conditional use approval to construct a branch bank with drive-in tellers on the property at 810 N. Orlando Avenue.

Planning Director Jeff Briggs provided background and advised that the Planning and Zoning Board voted unanimously (6-0) to recommend approval with the following two conditions: (1) that the proposed dumpster is enclosed with an architecturally compatible wall and that the landscape plan is modified to screen the two sides of the dumpster enclosure visible to the street; and (2) that the eastern property line concrete fence (from the adjacent building out to the street) either be repaired or removed and if removed that landscaping be added to that eastern landscape buffer area. Mr. Briggs answered questions regarding the dumpster.

Motion made by Commissioner McMacken to approve the conditional use request with the conditions that were asked for by staff (P&Z conditions); seconded by Commissioner Sprinkel.

No public comments were made.

Rebecca Wilson of the Lowndes, Drosdick, Kantor and Reed Law Firm, spoke on behalf of the applicant regarding the dumpster. She confirmed that they need a smaller dumpster than what is depicted and the final plans will illustrate that.

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.

- d. ORDINANCE NO. 2896-13: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, ANNEXING THE PROPERTY AT 500 EAST LAKE SUE AVENUE; MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR THE AMENDMENT OF THE CITY OF WINTER PARK'S CHARTER, ARTICLE I, SECTION 1.02, CORPORATE BOUNDARIES TO PROVIDE FOR THE INCORPORATION OF THE REAL PROPERTY DESCRIBED HEREIN; PROVIDING FOR THE FILING OF THE REVISED CHARTER WITH THE DEPARTMENT OF STATE; PROVIDING FOR REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. Second Reading

Attorney Brown read the ordinance by title. **Motion made by Commissioner McMacken to adopt the ordinance; seconded by Commissioner Sprinkel.** 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.**

- e. 500 East Lake Sue Avenue:

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE I "COMPREHENSIVE PLAN" FUTURE LAND USE MAP SO AS TO ESTABLISH SINGLE FAMILY RESIDENTIAL FUTURE LAND USE ON THE ANNEXED PROPERTY AT 500 EAST LAKE SUE AVENUE AND TO INDICATE THE ANNEXATION OF THIS PROPERTY ON THE OTHER MAPS WITHIN THE COMPREHENSIVE PLAN, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

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 ESTABLISH SINGLE FAMILY (R-1AA) ZONING ON THE ANNEXED PROPERTY AT 500 LAKE SUE AVENUE, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

Attorney Brown read both ordinances by title. Since this was a quasi-judicial proceeding, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken noted that no communications were made.

Motion made by Commissioner Sprinkel to accept the first ordinance (comprehensive plan) on first reading; seconded by Commissioner McMacken.

Motion made by Commissioner Sprinkel to accept the second ordinance (zoning) on first reading; seconded by Commissioner McMacken.

No public comments were made.

Upon a roll call vote on the first ordinance (comprehensive plan), Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

Upon a roll call vote on the second ordinance (zoning), Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

f. Repeal of Supermajority needed for adoption of ordinances:

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING SECTION 58-6 TO REVISE THE PROCEDURES FOR AMENDMENTS TO THE COMPREHENSIVE PLAN, REPEALING SECTION 58-7 REGARDING DEVELOPMENT AGREEMENTS ADOPTED PURSUANT TO CHAPTER 163, FLORIDA STATUTES; AMENDING POLICY 1-1.1.3 AND REPEALING POLICY 1-1.1.5 OF THE CITY'S COMPREHENSIVE PLAN OF THE GOALS, OBJECTIVES AND POLICIES OF THE FUTURE LAND USE ELEMENT TO REMOVE THE REQUIREMENT OF SUPERMAJORITY OF VOTES FOR ORDINANCES; PROVIDING FOR SEVERABILITY, CODIFICATION, AND CONFLICTS; PROVIDING AN EFFECTIVE DATE.
First Reading

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA; AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" BY REPEALING THE REQUIREMENT FOR A SUPERMAJORITY VOTE OF THE CITY COMMISSION TO ADOPT ORDINANCES; REPEALING SECTION 58-89(e) REGARDING REZONING ORDINANCES; AMENDING SECTION 58-95 REGARDING COMMUNITY REDEVELOPMENT AREA; PROVIDING FOR SEVERABILITY, CODIFICATION, AND CONFLICTS; PROVIDING AN EFFECTIVE DATE.
First Reading

Attorney Brown read both ordinances by title.

Planning Director Jeff Briggs explained that the City Attorney has prepared a legal opinion indicating that the City Charter sets forth that all ordinances are adopted by the affirmative vote of a majority of the City Commission. As such, the code sections that require either four votes or a supermajority of the City Commission to adopt ordinances are in conflict with the City Charter. As the City Charter supersedes and controls the procedure for the adoption of ordinances, these two ordinances have been advertised to remedy and remove those conflicts.

The amendments repeal the following supermajority vote requirements;

1. Supermajority needed for an Ordinance to adopt Comp. Plan/Zoning changes if recommended for denial by P&Z and also for any Ordinance change to the text of the Future Land Use element. (Sec. 58-6 and Policy 1-1.1.5 and Sec. 58-89 (e).
2. Supermajority needed for an Ordinance to create or expand a CRA or CDD. (Policy 1-1.1.3 and Sec. 58-95).

It was explained that this conflict with City Charter only relates to the adoption of ordinances. There are provisions of our Code that require a supermajority for the adoption of certain types of conditional uses or to waive time limits for re-applications. Those are not in conflict with the City Charter. Mr. Briggs noted that the Planning and Zoning Board recommended approval (7-0) of both ordinances.

Motion made by Mayor Bradley to accept the first ordinance (comprehensive plan) on first reading; seconded by Commissioner Sprinkel.

Motion made by Mayor Bradley to accept the second ordinance (zoning) on first reading; seconded by Commissioner Sprinkel.

Attorney Brown provided legal counsel and explained the two different types of development agreements (home rule vs. statutory agreement) and the reasons why the proposed modifications are needed.

No public comments were made.

Upon a roll call vote on the first ordinance (comprehensive plan), Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

Upon a roll call vote on the second ordinance (zoning), Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

- g. RESOLUTION NO. 2119-13: A RESOLUTION OF THE CITY OF WINTER PARK SUPPORTING CENTRAL FLORIDA'S "OPEN FOR BUSINESS" INITIATIVE TO PROMOTE BUSINESS CLIMATE, GREAT SERVICE, JOB CREATION AND BUSINESS INVESTMENT THROUGH STREAMLINING PERMITTING PROCESSES; PROVIDING AN EFFECTIVE DATE.

Attorney Brown read the resolution by title. Building Director George Wiggins explained the intent of the resolution. He noted that participation in this process is totally voluntary and does not legally limit the City or our development and permitting approval process in any way, but instead allows us to continue to implement common sense methods to make our permitting systems easily accessible and as streamlined as possible.

Motion made by Mayor Bradley to adopt the resolution; seconded by Commissioner Sprinkel. Mr. Wiggins answered questions. 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.**

City Commission Reports:

- a. Commissioner Leary – No items.

b. Commissioner Sprinkel

Commissioner Sprinkel asked for a status regarding the "Protect a Pet" box that was suggested by Elizabeth Watson. Director of Parks and Recreation John Holland noted that he met with the family and something is in the works.

Commissioner Sprinkel welcomed outside organizations such as the Eagle Scouts and Girl Scouts to attend Commission meetings and felt we should lift them up in every way possible.

Commissioner Sprinkel asked for a status regarding the conditional use request for New Hope Baptist Church that was approved on September 24, 2012 because no improvements have been made to the two modular buildings. She also felt they are unsafe since they have no skirting. Building Director George Wiggins provided a brief status and said they will address the safety issues with the church.

Commissioner Sprinkel asked that we find a special way to celebrate our Volunteer Boards since they are a very important asset to our City.

c. Commissioner Cooper

Commissioner Cooper mentioned the email received from the Parks and Recreation Department asking to revisit their decision on the use of Lake Island for \$100,000 and asked if there was an official process. City Manager Knight said there is a process and provided the details.

Commissioner Cooper felt that the language in the Writ of Mandamus that was filed last week by Vose Law Firm concerning the election process spoke inappropriately about the City Attorney and felt there should be a code of conduct between attorneys.

d. Commissioner McMacken - No items.

e. Mayor Bradley

Mayor Bradley asked for a follow up on last week's Century Link phone outage that affected 911 calls. He requested City Manager Knight and our public safety/emergency management personnel to approach Orange County and Century Link to discuss the after lessons learned. Fire Chief James White provided a follow up summary and acknowledged the request.

Mayor Bradley thanked staff for their outstanding efforts in making the following events a huge success: Annual Mayor/City Commission luncheon, the Martin Luther King Jr. Park dedication and the 11th Annual Unity Heritage Festival.

The meeting adjourned at 6:18 p.m.

