

**CITY OF WINTER PARK
REGULAR MEETING OF THE CITY COMMISSION
March 11, 2003**

The meeting of the Winter Park City Commission was called to order by Mayor Roland Hotard at 4:30 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida.

The invocation was offered by Reverend Linda Tice, First United Methodist Church, followed by the Pledge of Allegiance.

PRESENT: Mayor Roland Hotard, III; Commissioners Douglas Storer, John Eckbert, Douglas Metcalf (via telephone conferencing for a portion of the meeting) and Barbara DeVane; City Attorney C. Brent McCaghren; City Manager James Williams and City Clerk Cynthia Bonham.

MAYOR'S REPORT:

- a) Mayor Hotard presented a resolution to retiring employee Garfield Bass for 40 years of service. Mr. Bass commented about his years with the City and how much he enjoyed them.

RESOLUTION NO. 1816-03: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA RECOGNIZING THE CONTRIBUTIONS OF GARFIELD BASS DURING HIS 40 YEARS OF SERVICE TO THE CITY OF WINTER PARK.

Motion made by Commissioner Storer to adopt the resolution, seconded by Commissioner DeVane. Upon a roll call vote, Mayor Hotard and Commissioners Storer, Eckbert and DeVane voted yes. Commissioner Metcalf was not present. The motion carried unanimously with a 4-0 vote.

- b) Mayor Hotard recognized Butch Margraf, Engineering Division, Public Works Department, as March 2003 Outstanding Employee of the Month.
- c) The Civil Service Board vacancy was postponed.

CITY ATTORNEY'S REPORT:

No report.

CONSENT AGENDA:

- a) Approve minutes of 2/25/03.
- b) Receive the presentation and check to the City by CH2M Hill, Senior Vice President, Robert W. Bailey for support of the Parks and Recreation Basketball Program.
- c) Approve the expenditure to implement paperless Commission agenda packages.
- d) Proceed with the modifications to the Water System Improvement Program as outlined. Proceed with the necessary steps to issue new water and sewer revenue bonds to fund the Modified Water Improvement Program and sewer improvements as described in the modified program.
- e) Receive the update concerning the proposed study of the Lake Maitland weir.
- f) Approve budget adjustments as follows:
 - 1) Transfer \$3,333 from the Water and Sewer fund to ITS Internal Service Fund to purchase a GIS server. \$6,666 had previously been transferred from Public Works and Planning for this server.
 - 2) Transfer \$2,000 from Parks special project account for Civic Center Equipment to ITS Internal Service Fund to purchase a new multi media server for the Commission

- Chambers.
- 3) Transfer \$8,595 from the capital projects fund for the Public Works Complex to ITS Internal Service Fund to purchase a new multi media server for the Commission Chambers.
 - 4) Transfer \$100,000 from the capital projects fund for the Public Works Complex to the Capital projects fund for the Public Safety Complex to assist in funding the cost of site work.
- g) Bids, Purchases and Change Orders:
- 1) PO 99631, after-the-fact for instrumentation for Swoope WTP Improvements to Byrd Automation Services (per request from CH2M Hill), \$399,915.00 (Budget: CIP: Utilities (approved by City Manager)
 - 2) Change Order to Southland Construction, Inc. for Forsyth Road Utility Relocation Agreement to increase the size of an existing 12" water main to 24", \$437,932.23 (Budget: Water & Sewer Revenue Bonds, Series 2002)
- h) Review calendar and update with upcoming events.
- i) Receive updates concerning Progress Energy (Florida Power Corporation) and City Hall redevelopment.

There were no public comments made. **Motion made by Commissioner DeVane to approve the Consent Agenda, seconded by Commissioner Storer and carried unanimously with a 4-0 vote. Commissioner Metcalf was not present to vote.**

CITY MANAGER'S REPORT:

- a) Perimeter fencing, artwork panels and signage panels for The Regent Hotel site.

City Manager Williams spoke that Mr. Jennings was not at the meeting and he was not sure if Mr. Jennings spoke with the two churches and the library. Building Official George Wiggins spoke that Mr. Jennings met with All Saints Church, the First Congregational Church and the library today and that they are in 100% agreement with what is being proposed.

Motion made by Commissioner Storer to approve the perimeter fencing plan, subject to it not interfering with traffic visibility at the intersections, seconded by Commissioner Eckbert and carried unanimously with a 5-0 vote (Commissioner Metcalf was present by phone).

- b) Time line update for the redevelopment of City Hall site.

City Manager Williams stated that an update time line has been provided as requested by the Commission. The space needs study portion of the proposed schedule was discussed. Mr. Williams stated they will contact the consultant to see if the schedule can be expedited. Planning Director Martin addressed the second phase concerning the space alternative evaluation and the importance of obtaining an understanding of a space use plan. Commissioner DeVane expressed concerns with the two current sites being vacant in the near future and wanted them utilized quickly if possible. She stated she hoped the process can move along more expeditiously with staff being more directly involved.

PUBLIC HEARINGS:

- a) ORDINANCE NO. 2504-03: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA RELATING TO NOISE CONTROL; AMENDING DIVISION 2 - NOISE CONTROL, OF CHAPTER 62, OF THE CODE OF ORDINANCES; PROVIDING NEW DEFINITIONS AND AMENDING CERTAIN

DEFINITIONS; PROVIDING GUIDELINES FOR DETERMINATION OF NOISE DISTURBANCES; AMENDING THE BOUNDARIES OF THE CENTRAL BUSINESS DISTRICT TO INCLUDE PROPERTY ZONED C-2; REGULATING THE OPERATION OF RADIOS AND OTHER MECHANICAL SOUND MAKING DEVICES FROM VEHICLES OR PERSONS ON THE PUBLIC STREETS WITHIN THE CENTRAL BUSINESS DISTRICT REGULATING THE USE OF LIFE AMPLIFIED MUSICAL ENTERTAINMENT; PROVIDING FOR A CLASS II CITATION; PROVIDING EXEMPTIONS; PROVIDING AN EFFECTIVE DATE. Second Reading

Attorney McCaghren read the ordinance by title. He explained that the revisions made during the first reading are provided in the books and additional language was added to Section 3 (g).

Planner Jeff Briggs spoke about the ordinance language at first reading regarding the mandated 10:00 p.m. time to lower the music. He spoke about the loud music at 310 Park Avenue the weekend after the first reading where the restaurant did not close their door at 10:00 p.m. requiring the police to respond. He stated they may report back before the 90 days is over if situations like this continue. Discussion ensued that in order to have amplified music they must apply for a conditional use permit. It was clarified that this weekend is the first time the newly adopted ordinance will be in effect. Mr. Briggs spoke that Village Bistro, 310 Park Avenue, and Dexter's have already applied for a conditional use permit which is pending the resolution of this issue this evening. He stated that Park Plaza Gardens will be applying after the soundproofing of the ceiling within the building is addressed.

Joe Terranova, 700 Melrose Avenue, asked for approval of the ordinance because he believed it to be a compromise. He addressed the importance of attracting people to Park Avenue and at the same time not driving people away from the Park Plaza Hotel because of the noise. No further public comments were made.

Motion made by Commissioner Eckbert to adopt the ordinance, seconded by Commissioner Storer. Upon a roll call vote, Mayor Hotard and Commissioners Storer, Eckbert, Metcalf (by phone) and DeVane voted yes. The motion carried unanimously with a 5-0 vote.

Commissioner Metcalf left the meeting at this time.

b) Conditional Use Request of First Florida Bank to establish two bank drive-in teller lanes at the rear of the building at 976 Orange Avenue

Planner Jeffrey Briggs explained the conditional use request is to put two drive-in teller lanes in the rear of the building at 976 Orange Avenue. He stated that the property consists of two buildings on lots 8-10 fronting on Orange Avenue and with some frontage on Minnesota Avenue. He spoke that the building on 972 Orange Avenue is the current location of the First Florida Bank and that all the property is under single ownership. He stated they plan to downsize the Orange Avenue building by about 1,000 square feet to allow the bank to have drive-in tellers on the property. He stated by decreasing the square footage of the building and reconfiguring the parking, they lose one space but that the need for that space is lost because of the reduction in the building. He addressed the overflow parking along the railroad.

He summarized the issues that the Planning and Zoning Commission (P&Z) discussed at their meeting and the condition imposed that this approval was strictly for the First Florida Bank because of its small size. He spoke that this is to insure that sufficient stacking room exists and vehicles are

not backed up into the street. He addressed the new landscape area created on Minnesota Avenue which is to come back to the P&Z for approval. He explained the condition that ground signage on Minnesota Avenue be limited to directional signs because residential properties exist across the tracks and a 40' square foot sign will be permitted on Minnesota. Mr. Briggs stated the only P&Z meeting public comment received at this time was from Mr. Herb Watson who owns the property to the east who wanted to be sure the service road remained open for deliveries. He concluded that all issues were resolved at the two P&Z meetings and they have recommended approval subject to the three conditions.

Commissioner DeVane asked questions concerning the current road at that location continuing to exist, the entry and exiting location of the driveway to the bank (Mr. Briggs clarified you enter from Minnesota and exit onto Orange Avenue) and the estimated number of vehicles utilizing the bank. She expressed concerns with the heavy traffic on Pennsylvania Avenue because of Baldwin Park and people talking about shunting more traffic onto Minnesota Avenue. She asked if this was considered during the discussion because of doubling the volume on Pennsylvania and eliminating left hand turns onto Fairbanks and Orange Avenues. She stated a decision should wait on this until after the Charrette takes place tomorrow evening.

Commissioner Storer expressed concerns with potential stacking of vehicles entering into the drive-in lanes and suggested to reverse the teller lanes so they enter off of Orange Avenue and exit onto Minnesota Avenue. Mr. Briggs spoke about the P&Z discussion to reverse the teller lanes and addressed the problem with doing this. He spoke that the choice was not to hold up Orange Avenue traffic for people turning into the bank and that the anticipated vehicles utilizing the bank is minimal compared to a larger banking institution. No public comments were made.

Motion made by Commissioner Storer to approve the conditional use request with the Planning and Zoning Commission recommendations that: 1) the conditional use approval is limited to the use by First Florida Bank and any subsequent change/merger with another financial institution requires approval by the City to insure that sufficient stacking room will exist; 2) that a landscape plan be reviewed and approved by the Planning Commission prior to issuance of a building permit; and 3) that ground signage on Minnesota Avenue be limited to directional signs. Motion amended by Commissioner DeVane and accepted by Commissioner Storer as the motioner that if problems exist in the future with traffic stacking back onto Minnesota Avenue, that the property owner revise the parking area to provide a bypass lane or other modifications to avoid traffic congestion on Minnesota Avenue. Seconded by Commissioner Eckbert. The applicant indicated they agreed with the motion and amendment. Motion carried unanimously with a 4-0 vote. Commissioner Metcalf was not present to vote.

- c) Request of Mr. and Mrs. Brian Duke to remove a deed restriction condition of a subdivision approval granted for the property at 1404 Palmer Avenue which prohibits access from the rear flag lot onto Elizabeth Drive.

Planner Jeffrey Briggs explained the request to remove a condition of the subdivision approval granted when the home was constructed to allow access to their property via Elizabeth Drive. He summarized the prior lot split approval in 1999 for lots 3-5 and the history of the creation of the two lots utilizing a flag lot arrangement which was approved with the condition that there be no vehicle access onto Elizabeth Drive. He explained the history of Elizabeth Drive and that it was a 23' right-of-way until the time of the Temple Grove platting where another 10' was taken from Temple Grove to make it 33' wide. He spoke with the vegetation and trees that have grown since then it is basically a one way dirt alley that exists behind the lots on Bonita and that front on Temple Grove.

He addressed the ordinance that passed in 1979 affecting Elizabeth Drive which disallowed building any homes in the future on dirt streets. He spoke about homes on Bonita Drive that utilize Elizabeth Drive to access their homes for convenience which was allowed because it is a public street. He spoke about concerns with allowing more vehicles because it cannot accommodate two way traffic safely. He commented about the condition that was placed in 1999 not allowing lots to front solely on Elizabeth Drive and that the Dukes understood the conditions when they bought the property. He addressed the denial by the Planning and Zoning Commission. Commissioner DeVane asked about the official address of the property. Mr. Briggs stated it was originally 1404 Palmer Avenue when the home was built but that the City allowed it be changed to Elizabeth Drive which probably should not have happened.

Applicants Mr. and Mrs. Brian Duke, 1010 Elizabeth Drive, stated this is the first time they have come before the City and this lot has been before the City for this request. He asked that the City not eliminate their access from Palmer Avenue but to open up a small section of their hedge row that would encourage and enhance the movement of traffic in and out of the property. Mrs. Duke stated they are asking for secondary access, not primary, and felt their request was within the ordinance. She commented about residents on Temple Grove using Elizabeth Drive as a City street. Spoke that this is an issue of safety and convenience for their family and asked for approval.

Mr. Duke stated they are not asking the City to pave the road but are only trying to enhance vehicular movement in and out of their property. They addressed the difficulty of getting around their circular drive. Mr. Duke stated there are eight property owners abutting Elizabeth Drive, four of which have access onto Elizabeth. He stated all four of those owners have signed a petition and agreed to support their request for access. He stated the other four are on Temple Grove and one of them has agreed; the other three have not. He spoke that the primary property owner being affected has agreed to their access. Mr. Duke stated they will have to remove 14 bushes located on the property line to allow their access.

Robert Gardner, 1014 Temple Grove, spoke in opposition to the request. He spoke about the history of the property and concerns with allowing more traffic on Elizabeth Drive.

Joe Doremus, 1016 Temple Grove, spoke in opposition to the request because of concerns with setting a precedent.

Commissioner Storer disclosed his conversation with Mr. Duke. He asked several questions

regarding the road and buffering between Elizabeth and Temple Grove. Other Commission questions were brought forward and clarified by Mr. Briggs. Commissioner DeVane suggested the installation of signs to try and keep vehicles from utilizing Elizabeth Drive. The need to distinguish the type of roadway that Elizabeth Drive should be characterized as was discussed because it is a public street and there are problems with garbage and fire trucks not being able to use the road and the City not being able to stop people from using the road.

Commissioner Eckbert suggested to try and come up with another solution whereby the Dukes needs could be met while protecting the concerns of the Temple Grove residents. He spoke about the impact to certain lots on Temple Grove. Commissioner Storer spoke about the need to explore giving more buffer to Temple Grove and to provide a better permanent access that is more recognizable than it currently is. He asked if this request is denied if Mr. Duke can come back with an alternative plan. Mr. Briggs commented that he did not see how a compromise could be reached.

Commissioner DeVane asked about property owners wanting to split their lots and using Elizabeth Drive to take the larger one and make them into more than one lot and if this can be accomplished by making Elizabeth Drive an alley. Attorney McCaghren spoke that you would accomplish preventing vehicles from using Elizabeth Drive if they wanted to split their property by denying their request. He suggested that the Planning and Zoning Commission and staff study what type of other restrictions you may want to put into the codes to prevent those kinds of lot splits. He stated calling it an alley versus a drive is not going to accomplish this. He stated to make the road private, you would be vacating all of Elizabeth Drive and lots 11-13 would no longer have access directly on a public street, making Elizabeth Drive an easement for their private use. He stated he was not sure this would accomplish what is needed.

Mr. Briggs addressed the ordinance stating that no house can have sole access onto an unpaved street. It was clarified that this request does not relate to the 1999 approval for the flag lot stating that a permanent hedge or barrier will be installed the entire length. Further discussion ensued regarding the previous subdivision approval for this property that prohibited access from the rear flag lot onto Elizabeth Drive. Commissioners Eckbert and Storer stated he would not support this request if the affected neighbors did not agree because they are directly impacted by this. Commissioners Storer and DeVane suggested that Mr. Duke continue to try and find a solution. Commissioners DeVane and Eckbert disclosed their conversations with Mr. Duke.

Motion made by Commissioner Storer to deny the request, seconded by Commissioner Eckbert. Upon a roll call vote, Mayor Hotard voted no; Commissioners Storer, Eckbert and DeVane voted yes. The motion carried with a 3-1 vote. Commissioner Metcalf was not present to vote.

- d) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" SO AS TO AMEND THE R-1AAA, R-1AA, R-1A AND PURD ZONING DISTRICTS TO PROVIDE AN OPTION TO PROVIDE A SECOND KITCHEN ON PROPERTIES CONTAINING HOMES AT LEAST 5,000 SQUARE FEET IN SIZE AND WHERE A DEED RESTRICTION IS EXECUTED WITH CERTAIN CONDITIONS. First Reading

Motion made by Commissioner Eckbert to postpone the ordinance until the March 25, 2003,

Commission meeting, seconded by Commissioner DeVane and carried unanimously.

- e) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" SO AS TO AMEND THE R-1AAA, R-1AA, R-1A AND PURD ZONING DISTRICTS TO PROVIDE A CORRECTION IN THE FLOOR AREA RATIO ALLOWANCE FOR PROPERTIES IN THESE ZONING DISTRICTS. First Reading

Motion made by Commissioner Eckbert to postpone the ordinance until the March 25, 2003, Commission meeting, seconded by Commissioner DeVane and carried unanimously.

- f) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" SO AS TO AMEND SUBSECTION 58-64(D) "NONCONFORMING STRUCTURES TO CLARIFY THE EXTENT OF WORK WHICH CAN TAKE PLACE ON NONCONFORMING STRUCTURES. First Reading

Motion made by Commissioner Eckbert to postpone the ordinance until the March 25, 2003, Commission meeting, seconded by Commissioner DeVane and carried unanimously.

Mayor Hotard adjourned the meeting at 6:15 p.m.

Mayor Kip Marchman

ATTEST:

City Clerk