

**CITY OF WINTER PARK
REGULAR MEETING OF THE CITY COMMISSION
March 10, 2008**

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

The invocation was given by Reverend Dr. Cuthill – Winter Park Presbyterian Church, followed by the Pledge of Allegiance.

Members present:

Mayor David Strong
Commissioner Margie Bridges
Commissioner Douglas Metcalf
Commissioner Karen Diebel (arrived at 3:36 p.m.)
Commissioner John Eckbert

Also present:

City Attorney Trippe Cheek
City Manager Randy Knight
Deputy City Clerk Nancy McLean

Mayor's Report:

- a) Proclamation – National Purchasing Month.

Mayor Strong read a proclamation proclaiming March as Purchasing Month.

- b) Formation of a Charter Review Committee.

Mayor Strong stated that he would not appoint members to any Charter Review Committee today nor will he relinquish his responsibility or authority to other Commissioners to appoint a Charter Review Committee today. He believed that this was a timely issue to consider and was appropriate to discuss this at the strategic planning session. He commented that he would be interested in areas the Commission find they need to address as they move forward and was also interested in individuals that wish to make recommendations as to who they think would be appropriate to serve on that committee.

Commissioner Eckbert explained that raising this issue was specifically to form a special Committee for Charter Review that would have 10 members with each Commissioner nominating two. He expressed his preference that each Commissioner make their appointments rather than having a committee that was created by the Mayor's nomination and their confirmation. Mayor Strong stated he was not prepared to pursue that today but he assured Commissioner Eckbert that his views and nominees would be respected. He believed it was important to have the input of the Commissioners and incoming Commissioners and wanted to hear their opinions. Mayor Strong commented that they will form the committee as quickly as possible but it will not be today.

There was discussion regarding the Mayor's ability to determine how appointments are made and if the Mayor could decide himself not to form a committee. Mayor Strong told Commissioner Eckbert that he will appoint him or one of his designees to serve on this committee if and when the new Commission forms that committee. Mayor Strong asked Commissioner Eckbert to identify specific areas of the Charter that concerned him. Commissioner Eckbert stated that his intent was never to target one particular area but rather to introduce what he believed is a best business practice to review governing rules and put it in the hands of a committee to make their recommendation. Mayor Strong commented that he was

willing to do that but the new Commissioners elect should have a say in that and he would support Commissioner Eckbert's nominee if he wished to make it now or at a later date.

Commissioner Metcalf stated that 10 years ago he was on the Civil Service Review Committee who went through a civil service rules re-write process for firefighters and police officers. He explained that they completed a report that gave the City Manager the standard supervisory authority over all employees; they passed it on, but it was never approved by the Commission. He recommended they find this report and give it to the committee and incorporate into the discussions. Mayor Strong commented that he would be comfortable looking at that report.

Commissioner Diebel stated she would support what the Commission would like to do but it seemed prudent to have a past Commissioner on the review board. There was consensus that this should be discussed at the next strategic planning session.

Commissioner Metcalf suggested that the long term planning meeting not be a part of the strategic planning and encouraged the Commission to focus on the future 25-50 years from now. Mayor Strong stated this was a good suggestion and was interested in what the new Commissioners may think about this.

Commissioner Diebel asked the Mayor if it was his intention to have each Commissioner nominate members of this committee or if he will appoint the committee himself at the next meeting. Mayor Strong commented that he would like to hear the new Commissioners opinions as well as hers and Commissioner Bridges.

Action Items:

- a) Approve the minutes of 2/25/08.
- b) Approve PR 136773 to Control Specialists for the purchase of materials and installation of a traffic light at Denning Drive and Canton Avenue, piggy-backing off Osceola County contract #AR-07-489-DD; \$65,885.00 (Budget: CRA Projects – Denning Drive Intersection Improvements)
- c) Approve the transfer of \$12,000 from the Water and Sewer Fund to the Building Maintenance special project account for the camera security system at the Public Works Complex.
- d) Request to extend the conditional use for the Morse/Pennsylvania parking garage extension. **PULLED FOR DISCUSSION. SEE BELOW.**

The following item was pulled from Action Items for discussion: Item d.

Motion made by Commissioner Metcalf to approve Action items a, b, and c; seconded by Commissioner Bridges and carried unanimously.

Action Item d: Request to extend the conditional use for the Morse/Pennsylvania parking garage extension.

Planning Director Jeff Briggs gave a brief description on the background of this item. He explained that on April 9, 2007 the City Commission extended the conditional use approval for adding two levels (4th & 5th) onto the existing parking garage at Morse/Pennsylvania to expire on

May 23, 2008. He stated Mr. Bellows is now requesting an additional extension of five years and to remove the original condition of approval requiring residential construction. He added that cannot be done without going back through the advertisement, notice and P&Z recommendation process and City Commission. He explained that staff recommendation was to support an extension for one additional year. Mr. Briggs answered questions.

April Kirsheman, on behalf of WFG Ltd, gave a brief history on this project and asked for an additional five year extension. She stated that there can be no certificate of occupancy on the buildings that are to be built until they complete the residential. Ms. Kirsheman asked that they be allowed to do the last two levels of the parking garage because they have submitted the plans which have already been approved. She explained they are ready to move forward, and hoped in the meantime the comprehensive plan would be finished so they can present their plans to P&Z.

Joe Terranova, 700 Melrose Avenue, stated they should approve the request for the developer for the extension of five years and leave the terms and conditions as is.

Commissioner Bridges addressed that this particular item did not show up on the website on the agenda for public notice. She stated it was correct in the agenda packet but not on the agenda and there may be immediate adjacent neighbors that have not been advised of this. She asked that this be tabled to give the neighborhood the opportunity to voice their opinion because the five year extension was substantial and warrants the input from the residents. City Manager Knight stated that it was posted correctly at City Hall which is the legal requirement and it was correct on the agenda packet.

Motion made by Commissioner Bridges to table this item; seconded by Mayor Strong for discussion.

Mayor Strong voiced concerns about the length of the development agreement. Attorney Cheek commented that the City can legally give them a lengthy time however, he suggested that they do not keep it open for too long. He commented that there is a 2 year limit on many of their approvals and this development agreement was done in connection with a conditional use that has that kind of limit on it which is why Mr. Bellows returned asking for an extension. Commissioner Metcalf suggested that the time should start when the comprehensive plan is finished. Commissioner Bridges asked Mr. Briggs questions.

Commissioner Bridges suggested to table this until the comprehensive plan has come back which gives them the opportunity to have a plan and move forward. City Manager Knight explained that the only problem with that would be his conditional use would expire. Commissioner Bridges let her motion stand.

Commissioner Diebel asked what kind of notices they would give other than what is on the agenda. Mr. Briggs explained the notice requirements and process if they were changing conditions which they were not doing. Commissioner Bridges commented that since the extension they gave last year does not expire today, that would give them ample time for appropriate public review.

Commissioner Diebel asked Commissioner Bridges if she would be comfortable extending this for a shorter period of time knowing that the comprehensive plan has to be ratified for action to be taken. Commissioner Bridges stated she would not be inclined to grant the extension unless she fully understands. She asked Mr. Bellows to explain what he was asking for.

Dan Bellows, 533 West New England Avenue, stated he does not wish to change anything from the original plan. He explained from the beginning he had the opportunity to build this single family product on Symonds Avenue and at the time it was always predicated that they were going to create transitional type housing.

He stated that the plans for the two level parking garages have been approved by the Building Department and asked the City to allow him to pull the permit. He also stated that there was no financial gain for him to expend that money to build the two levels and is motivated per the developer's agreement that he cannot get a building permit for buildings 3 or 4 until the residential is completed. He concluded by stating if they would allow him to pull the permit he will move forward with the garage; the original language will stay into play, he cannot get his building permits for any additional commercial buildings and he will submit the residential drawings/plans as soon as they get the approval from the State. He added that he would like up to five years or 30-36 months to be voted on this evening.

Mayor Strong asked him to clarify buildings 3 and 4. Mr. Bellows stated they were the two buildings on Pennsylvania Avenue and the plans submitted to staff were that the two buildings become one building with a nicer façade, it was also commercial with a third floor and four residential units. Mr. Bellows stated they are committed to build the residential that they have always agreed to build.

Mayor Strong asked Mr. Bellows if six months to process his conceptual plan and another six months for his construction drawings would be adequate from the time the comprehensive plan is approved. Mr. Bellows agreed. Commissioner Eckbert commented he would support that. Commissioner Diebel also supported the Mayor's suggestion.

Commissioner Bridges asked Mr. Bellows for clarification on when he intends to break ground and what goes where. Mr. Bellows suggested that in exchange for the flexibility to pull the permit any time on the garage he would agree to put \$100,000 into escrow with the City. He stated after that one year approval and if he does not break ground in six months, then they can put the \$100,000 towards the Hannibal Square Community Land Trust. He emphasized that they want to build the residential. Commissioner Bridges stated she appreciated that assurance.

Mr. Briggs explained they were only dealing with extending a conditional use tonight with the same conditions as they had before in the existing development agreement. Attorney Cheek commented that the current motion was to table.

Upon a roll call vote, Mayor Strong and Commissioners Bridges voted yes. Commissioners Eckbert, Metcalf and Diebel voted no. The motion failed with a 3-2 vote.

Mayor Strong asked for assurance that the residential was going to be built. Mr. Briggs explained that they will be built because the parking garage (4th & 5th) level cannot be started until the residential is started and the agreement requires it be completed.

Motion made by Commissioner Eckbert to grant a one year extension after the Winter Park comprehensive plan becomes effective; seconded by Commissioner Metcalf. Attorney Cheek clarified that it would be an extension to run from now until one year after the comprehensive plan becomes effective. **Upon a roll call vote, Mayor Strong and Commissioners Bridges, Eckbert, Metcalf and Diebel voted yes. The motion carried unanimously with a 5-0 vote.**

Public Hearings:

- a) Appeal by Keller Outdoor Inc. from the decision of the Winter Park Planning and Zoning Commission regarding the interpretation and enforcement of the City of Winter Park zoning code as to the determination by the P&Z that Keller Outdoor's use of the property with heavy duty equipment and trucks at 1221 Indiana Avenue is not a permitted business use of the General Commercial (C-3) zoned property.

Mr. Briggs gave a brief overview about the appeal process as outlined in the Land Development Code. He stated that the appellant is seeking to appeal a zoning determination made by the Building Official that allowed Keller Outdoor to set up business operations at 1221 Indiana Avenue. He stated the adjacent neighbor Mr. Zouzoulas, 1270 Harper Place took the appeal to the P&Z Commission who held a public hearing.

Building Director George Wiggins explained that the subject property is zoned C-3 commercial and has offices across the rear. He indicated that he met with Mr. Keller of Keller Outdoor and Mr. Roll (one of the property owners) and discussed the rationale for allowing this temporary use of the property. The site had been used for warehousing and contractor related operations in the past as the former location of Harper Plumbing and Harper Mechanical. He commented that Keller placed screening on the exterior fence surrounding the property and placed several live oak trees as a buffer along the west side of the property. He stated based on those actions and the past grandfathering of the property they felt it would be appropriate to use the property on an interim basis until May 20, 2008 while Keller Outdoor is awaiting a new facility that is being constructed in Sanford.

Mr. Wiggins stated the recommendations he gave to P&Z in order to remedy the situation and responded to questions and concerns.

1. Make a determination as a finding of fact that the current temporary use of the property as a commercial landscaping enterprise is not compliant with the General Commercial (C-3) zoning on the subject property.
2. Place a limitation on the continued use of the property by Keller Outdoor until May 20, 2008.
3. Give official notice to the owner of the subject property that uses conducted at this location after the date cited in item #2 must strictly comply with the uses permitted in Section 58-75 of the Land Development Code.

Rebecca Furman, representing Keller Outdoor, gave a brief presentation on the surrounding zoning; zoning C-3 permitted uses; zoning C-3 conditional uses; past uses of the property; and storage use of the property. She stated on October 22, 2007 the Building Official granted written approval; on October 24, 2007 the City granted their occupational license and Mr.

Zouzoulas filed an appeal November 21, 2007. She explained their operation and stated they entered into a lease with Orwin Villas LLC; and entered into a lease for employees to park offsite; they currently park 40 vehicles on site, large tractor trailers park off-site; there is limited truck activity; and there are no code enforcement or noise violations.

She explained that the P&Z heard the appeal on January 8, 2008 and the motion made was “to grant the appeal to the extent that the Building Official allowed use of the subject property in violation of Section 58-75(b)(5)(C-3 Zoning) but otherwise deny.” She stated that after the appeal they received a letter from the Building Official that asked that they cease parking, storing or continually bringing to the site heavy duty construction equipment and trucks. She stated they appealed this because they believed that Mr. Wiggins letter went further than what P&Z had originally recommended.

Ms. Furman requested to allow Keller to continue the current use of the property until May 20, 2008; or uphold P&Z’s motion and find that the Building Official’s letter should be stricken to the extent that it prohibits the trucks from entering the property and to the extent that it prohibits the parking of box trucks on site. Ms. Furman answered questions posed by the Commission.

Mr. Zouzoulas, 1270 Miller Avenue, provided video presentation that depicted what he believed to be a vastly different picture than what was presented by counsel for Keller Outdoors. He believed that it was important to consider Keller’s request today in conjunction with the stated goals, intents and purposes of the City code. Mr. Zouzoulas stated that his video demonstrated storage on site, the parking of commercial vehicles, noise disturbances, and debris which was an everyday occurrence.

Patty Heidrich, 1112 Schultz Avenue, spoke in favor of allowing Mr. Keller to remain until May.

Commissioner Eckbert commented that he received a call and spoke with the appellant’s counsel last week. Mr. Wiggins answered further questions regarding this matter.

Motion made by Commissioner Metcalf to allow Keller Outdoor to continue until May 20, 2008; seconded by Commissioner Eckbert.

Commissioner Bridges stated that Mr. Zouzoula’s video illustrations of the lack of compatibility between the C-3 use and his residential use is understandable. She commented that he gave a very clear illustration of how we must be very careful about that and would support Commissioner Metcalf’s motion.

Mayor Strong expressed concerns with the noise that Mr. Zouzoulas had to endure and with the dirt and if it came from the Keller’s property. He believed that they should try and do better to ensure that it is contained on site. He commented that he would like for Keller and Mr. Wiggins to do what they can from now until May 20 to mitigate that dirt. Mr. Wiggins explained that a large part of this has been taken care of by the screening of the large trees that go above the fence which acts as an additional buffer.

Upon a roll call vote, Mayor Strong and Commissioners Bridges, Eckbert, Metcalf and Diebel voted yes. The motion carried unanimously with a 5-0 vote.

- b) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE V, "ENVIRONMENTAL PROTECTION REGULATIONS" SO AS TO ADD DIVISION 9 "LIGHTING STANDARDS", PROVIDING FOR APPLICABILITY, PROVIDING AN EFFECTIVE DATE. First Reading

Building Director George Wiggins explained the intent of the ordinance. He stated that it was modeled after the Orange County lighting ordinance. He added that he met with representatives from Orange County and with private industry lighting specialists in crafting this ordinance. Mr. Wiggins answered questions.

Commissioner Eckbert commented that before there is a final vote on this they should think about whose properties might be impacted and to notice those people. Commissioner Metcalf asked about the lighting standards since we are to become a "Green City." Mr. Wiggins explained that there is a provision that allows us to be fully compliant with any green building standards that comes forth and it will not violate the ordinance.

No public comments were made.

Motion made by Commissioner Metcalf to accept the ordinance on first reading; seconded by Commissioner Diebel. Upon a roll call vote, Mayor Strong and Commissioners Bridges, Eckbert, Metcalf and Diebel voted yes. The motion carried unanimously with a 5-0 vote.

- c) Water Supply Plan transmittal.

Planning Director Jeff Briggs explained that the Water Supply Plan amendment to comprehensive plan went before the City Commission in January 2008 but staff made an error in thinking it could be adopted at that time. He stated that staff had already communicated the plan to the Department of Environmental Protection (DEP) and St. John's Water Management District which they reviewed and said it was good so staff moved forward with adoption instead of transmittal. Mr. Briggs explained that they need to transmit the Water Supply Plan to the State Department of Community Affairs and that was the reason it was placed back on the agenda, otherwise nothing has changed.

No public comments were made.

Motion made by Commissioner Eckbert to approve the transmittal; seconded by Commissioner Diebel. Upon a roll call vote, Mayor Strong and Commissioners Bridges, Eckbert, Metcalf and Diebel voted yes. The motion carried unanimously with a 5-0 vote.

City Attorney's Report:

No items.

Non-Action Items:

No items.

New Business (Public):

1. Patty Heidrich, 1112 Schultz Avenue, asked what happened to the appointment to the Land Trust. She also suggested that the City buy the art that was currently presented in the Commission Chamber.

Mr. Knight stated they can find out the price and see if the Commission would like to move forward with the purchase. Mayor Strong suggested the Art Board negotiate with the artist and bring back a specific proposal. Commissioner Metcalf commented about trying to give a variety of artists an opportunity to display their art with ongoing exhibits. He stated he liked the variety and would like to continue to give people an opportunity to show their work to the citizens.

2. Joe Terranova, 700 Melrose Avenue, addressed the press talking about prescription/non-prescription drugs finding its way in the water supply today. He believed that it may be useful that Director of Utilities Dave Zusi hold a press release with regard to the City's water supply. Mayor Strong suggested handling that with the next utility billing.

3. Lurline Fletcher, 790 Lyman Avenue, asked if the stop signs on Denning and Canton Avenue could stay where they were because the traffic has slowed down. She also asked if they were adding onto the Morse/Pennsylvania parking garage.

4. Phil Anderson, 2020 Fawsett Road, expressed his gratitude to Commissioners Eckbert and Metcalf for their years of service.

New Business (City Commission):

1) Discussion of appointments of citizen board vacancies.

Commissioner Diebel addressed asking the City Manager for an inventory of the board vacancies. She asked what would be a reasonable time to nominate an appointment when they have vacancies. She believed they should review this whenever there is a vacancy and hold themselves to a timeline to fill that position. Mayor Strong agreed and wanted to ensure that all vacancies are open to all citizens to apply for. He stated this is typically done in May for expiring board members and believed that everyone who has an interest in these vacancies should be informed there is a vacancy and they can make an appointment as quickly as the Commission thinks is appropriate.

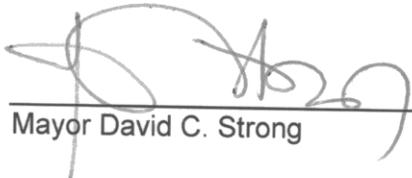
Commissioner Diebel also stated that last May they received a catalog of all of the board applicants and suggested to Mr. Knight to contact the same applicants for the upcoming vacancies and see if they wish to renew their application. She also suggested that the City Manager notice when there is a vacancy and place it on the agenda. Mayor Strong agreed and stated the application has a provision that lasts a year. He added that board members who have served an initial term and would like to serve a second term have to file an application and the staff members who are liaisons for various boards should ensure they do that before May.

Attorney Cheek commented that he believed our subordinate boards, commissions and task forces need to be established by ordinance. He stated that he has been encouraging that to happen for the last 3 years and a number of them are but some are not. He believed that new ones should be done by ordinance and the old ones need to be converted to an ordinance.

Mayor Strong asked he look at that for the next meeting. Attorney Cheek agreed. Commissioner Bridges suggested that when there are vacancies they need to utilize as many communication avenues that they have to publicize those openings and remind people if they have an application to bring that forward.

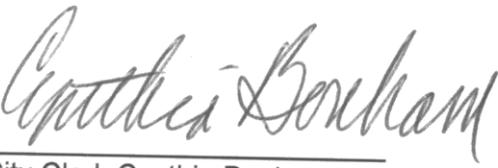
2. Commissioner Metcalf stated that he noticed that political signs are already up for the election for early November. He commented that they will have a blighted City unless they start to enforce the ordinance that says they can place signs 45 days prior to the election. Mayor Strong agreed. Director of Code Enforcement Sylvia Wooten commented that they were on top of the situation and will be more proactive.

The meeting adjourned at 6:21 p.m.



Mayor David C. Strong

ATTEST:



City Clerk Cynthia Bonham