

REGULAR MEETING OF THE CITY COMMISSION
March 23, 2009

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 Pastor Joshua Vickery, Aloma Baptist Church, followed by the Pledge of Allegiance.

Members present:

Mayor David Strong
Mayor Kenneth Bradley
Commissioner Phil Anderson
Commissioner Beth Dillaha
Commissioner Karen Diebel
Commissioner Margie Bridges

Also present:

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

Oath of Office:

The Honorable Lydia Gardner, Orange County Clerk of Courts, administered the Oath of Office to Mayor-Elect Kenneth Bradley.

Citizen Comments:

There were no citizen comments.

Mayor's Report:

- a) Thank you to Mayor Strong.

After the oath of office was administered, Mayor Bradley thanked Mayor Strong for his service to the community and presented him with a token of appreciation on behalf of the City. Mayor Strong expressed his gratitude and thanked the citizens, the Commissioners and City staff.

Mayor Bradley thanked his supporters and addressed facing the challenges and issues ahead. He presided over the meeting at this point.

- b) Proclamation – National START Walking Day.

Mayor Bradley read a proclamation proclaiming April 8, 2009 as National START Walking Day.

- c) Commission meeting adjournment time.

Mayor Bradley suggested they work toward an adjournment time of 7:00 p.m. for Commission meetings and to try and have timed agendas so citizens know when items will be presented.

d) Mayor and Commission meeting process discussion.

Mayor Bradley requested to have a work session on April 13 from 3:30 p.m. to 4:30 p.m. before the Commission meeting. He asked the Commissioners to bring forward issues they want to accomplish within the next 90 days so that agendas and City staff can focus on that.

Consent Agenda:

- a) Approve the minutes of 3/9/09.
- b) Approve award of IFB-11-2009, Construction of East Gate Lift Station, to Price Construction, Inc.; \$66,500.00.
- c) Accept the Comprehensive Annual Financial Report.
- d) Approve the three year conditional use extension for the Mayflower Retirement Community expansion – 1620 Mayflower Court.

Motion made by Commissioner Anderson to approve the Consent Agenda; seconded by Commissioner Diebel. The motion carried unanimously with a 5-0 vote.

Action Items Requiring Discussion:

a) ASTRO Project 25 upgrade.

Police Chief Doug Ball explained they were requesting the approval of the Motorola contract for the communication system ASTRO Project 25 upgrade, as adopted in the fiscal year 2009 budget. He explained that this recommendation completes a two year process preceding the upgrade recommendation. He stated Motorola will not support the current radio system after 2012, the new system will function until 2024, public safety needs will be satisfied, and the upgrade will also ensure interoperability with all other municipalities in Orange County. He commented that they should proceed with this project in two phases. Phase I will occur this fiscal year with an expenditure of approximately \$700,000, which will pay for the infrastructure and the backroom equipment. Phase II will occur in fiscal year 2010 and the remaining portion will be for the replacement of their portable and mobile radios. Chief Ball and City Manager Knight answered questions.

Commissioner Bridges questioned the commitment of the investment at this time. She commented that they should address some of the priorities and hear what Mayor Bradley's direction is regarding the budget. She suggested tabling the issue to have a fiscal work session prior to making a commitment at this time. Mayor Bradley agreed.

Chief Ball commented that, if approved, it would authorize City Manager Knight to proceed and execute the contract with Motorola. He commented that there would be no change to the infrastructure for several months because it involves planning and coordination with other departments, the vendor, and the interconnectivity with our system as well other municipalities. He stated that this project will continue until the end of this fiscal year or possibly the end of the calendar year. He added it will take 6 months to implement the system from the time they sign the contract.

Motion made by Commissioner Bridges to table this item until the second Commission meeting in April; seconded by Commissioner Diebel. Commissioner Diebel commented that when they consider this, she wanted Mr. Knight to bring their projected budget shortfall. Mr.

Knight agreed. Commissioner Anderson suggested leasing the water and sewer and the general fund component instead of paying cash. **The motion carried unanimously with a 5-0 vote.**

- b) Property purchase at 796 Nicolet Avenue, Winter Park to be used to create a regional stormwater treatment facility.

Public Works Director Troy Attaway explained that Public Works is charged with cleaning our lakes and provides stormwater treatment in an effort to remove pollutants. He addressed that the capital improvement funds under the stormwater five year plan have been allocated for the study and removal of pollutants from Lake Killarney. He stated the lake is impaired by stormwater runoff and there are drainage problems in the areas surrounding Minnesota Avenue between Nicolet and Clay Street. These areas provide a significant stormwater pollutant that load directly into Lake Killarney.

He stated the City desires to solve the drainage problems in a more environmentally friendly manner through the concept of an enlarged regional pond system. The property at 796 Nicolet Avenue is ideally suited for enlarging the regional pond since it is directly adjacent to an existing drainage facility. He added that this property is ideally located because of its immediate proximity to the existing undersized stormwater facility and the property is unimproved. He explained there is only one other property in the area that meets this criteria and the City is currently working to obtain it as well. He commented that this is a top priority in their stormwater program. Mr. Attaway, Planning Director Briggs and City Manager Knight answered questions.

Motion made by Commissioner Bridges to approve the purchase of the property at 796 Nicolet Avenue; seconded by Commissioner Dillaha.

Dori Madison, 2900 Cove Trail, expressed that Winter Park would be ahead of other communities if this is approved and urged the Commission to do so.

Peter Gottfried, 1841 Carollee Lane, commented that this is significant for this area of the City for the redevelopment of Fairbanks Avenue and for the water quality of Lake Killarney. He stated this will have a positive impact for the City and residents who live near Lake Killarney. He encouraged the Commission to approve this item.

Commissioner Anderson commented that the more serious issue is the power company and the general funds cash balances, rather than the pursuit of a water improvement program. He asked Commissioner Bridges to consider amending her motion to table the issue until they have a comprehensive review of how the \$2.8 million from the power company will be repaid and the sources of funds to repay them. Commissioner Bridges commented that she would be hesitant to table the issue and does not want the City to miss an opportunity to acquire property that would further the goals of Public Works and also deals with a very serious stormwater issue that has existed for years.

Commissioner Anderson asked if she would consider amending her motion to move this to the top of the capital expenditure priorities and revisit the other capital items in a larger context. She commented that she would consider it. Commissioner Dillaha stated that this may be a difficult discussion because they have not talked about their overall financial situation of how to address the revenue shortfall and fund our reserves, etc. She suggested that they delay this for another 4 weeks so they can discuss their finances and their intent. Mr. Attaway stated the

closing date is anticipated to be May 15, 2009 and they need the due diligence period before that time. Mayor Bradley agreed that the overall finances should be reviewed before they make additional expenditures, but the motion on the table was to approve.

Peter Gottfried, 1841 Carollee Lane, commented that stormwater utility receives funds from two sources which include the ad valorem tax revenue and the stormwater fee that people pay. He explained that the stormwater fee will be an increasing portion of that stormwater utility. He stated that before they decide whether to shift funds, they need to recognize that this is a stormwater utility. He added that people who pay on monthly basis expect those funds to be used to clean up the lakes, sweep the streets and to invest in these capital projects, not pay the electric company.

Upon a roll call vote, Mayor Bradley and Commissioners Bridges and Diebel voted yes. Commissioners Anderson and Dillaha voted no. The motion carried with a 3-2 vote.

- c) Winter Park Library's supplemental funding request. Mark library short fall of 85,000 asked the Commission, matching grant and match.

Mark Van Valkenburgh, 319 Raintree Court, explained that the library is projecting a budget shortfall of approximately \$85,000. He requested the City match dollar for dollar on all the funds the library can raise, up to a maximum of \$42,500.

Commissioner Dillaha commented that the "Bash for Books" event at the library is on May 2. She suggested they wait to see how much money they raise before the City matches the library.

Motion made by Commissioner Dillaha to approve the match of funds up to \$42,500 and to report to the Commission on May 4 after they know how much is raised by that date; seconded by Commissioner Bridges. Commissioner Dillaha explained the intent of her motion. Commissioner Dillaha commented when they have their budget discussions they need to deal with how to fund the library in the future. **The motion carried unanimously with a 5-0 vote.**

Public Hearings:

- a) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE V, "ENVIRONMENTAL PROTECTION REGULATIONS" DIVISION 8, "LANDSCAPE REGULATIONS" SO AS TO ADOPT NEW LANDSCAPING REGULATIONS. First Reading
- b) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE V, "ENVIRONMENTAL PROTECTION REGULATIONS" DIVISION 9, "IRRIGATION REGULATIONS" SO AS TO ADOPT NEW IRRIGATION REGULATIONS IMPLEMENTING THE WATER CONSERVATION RULE FOR LANDSCAPE IRRIGATION OF THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT AND WATER CONSERVATION REQUIREMENTS ON PROPERTIES UNDERGOING NEW DEVELOPMENT OR REDEVELOPMENT. First Reading

Attorney Cheek read both titles together. Building Director George Wiggins commented that they are revisiting ordinances heard at the last Commission meeting. He stated that St. Johns River Water Management District had concerns about the wording in the irrigation ordinance, but recommended proceeding with the ordinance as worded. He explained that they will contact St. Johns between the first and second reading to ensure that our definition of irrigation system is commensurate with their concerns.

Mr. Wiggins summarized the changes to the landscape ordinance from the prior meeting and spoke about the new definition of DBH (Diameter at Breast Height) for a tree or existing tree that had been added to the ordinance. The Commission also discussed and suggested further modifications to: 1) Section 58-344(b) and Section 58-344(d), One and Two Family Dwellings; and 2) Section 58-343(a), General Requirements for All Properties Involving New Construction, Renovation, or Expansion. Mr. Wiggins and Mr. Pategas answered questions.

Commissioner Diebel stated she wanted to table the ordinance until they review the exact language. Commissioner Dillaha suggested they continue to move forward.

Mr. Wiggins explained that changes were made to the irrigation ordinance to reflect the requirements that St. Johns has with their newly established restrictions on irrigation. He stated the ordinance accomplishes water conservation by limiting the percentage of area that has to be covered with low volume irrigation on new properties and developing properties; and there was an update of what St. Johns established in terms of the watering days and restrictions. He also spoke about other changes made within the ordinance.

Mark Hagle, 1220 Park Avenue North, commented that they lost a number of trees in the City and they need to start planting trees now or the tree line will eventually disappear. He suggested if a particular lot does not have room to plant a shade tree, the individual should contribute money toward the City tree fund.

Nancy Christman, St. Johns River Water Management District, commended the Commission and staff for moving forward with the landscape and irrigation ordinances to conserve water. She stated that their district updated the irrigation rule which became effective March 8 and hoped to continue to work with staff to modify the definitions that still achieve the same purpose.

Peter Weldon, 700 Via Lombardy, asked if the City has the right, under current rules, to plant shade trees within its 10 foot right-of-way on all City roads. Attorney Cheek responded. Mr. Weldon also commented that the irrigation ordinance was a good step forward and suggested the City help educate citizens.

Commissioner Anderson commented that the shade trees are the standard, but questioned how we can accommodate the deviation from that standard either out of choice or hardship. Commissioner Dillaha addressed the provision in the proposed landscape ordinance that says if there is a canopy tree on your lot, you are not required to plant an additional one. She commented that if there is a hardship, the homeowner can present their case. She expressed her preference of not paying into a tree fund in lieu of planting a tree.

Motion made by Commissioner Diebel to table the landscape ordinance until the language is correct; seconded by Commissioner Anderson. Mr. Wiggins explained they cannot table one without the other. He stated that the irrigation ordinance also has the redevelopment section with the threshold that kicks in the irrigation requirements and he needs

to modify both ordinances the same way. **Commissioner Diebel amended her motion to table both ordinances dependant on that language; seconded by Commissioner Anderson.** Commissioner Dillaha asked the Commissioners to consider approving the two ordinances with the changes since this is the first reading. She stated it had already been tabled and wanted to move forward.

Upon a roll call vote, Mayor Bradley and Commissioners Anderson and Diebel voted yes. Commissioners Bridges and Dillaha voted no. The motion carried with a 3-2 vote.

- c) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE," ARTICLE IV, "SIGN REGULATIONS" SECTION 58-134, TEMPORARY SIGNS SO AS TO ADOPT A NEW SUBSECTION (g) "PORTABLE SIGNS" WITH RESTRICTIONS. First Reading

Mr. Wiggins explained that the proposed ordinance allows a 2' by 6' portable sign to be placed at the front of a commercial business with limitations that require the sign to be removed when the business is not open, traffic visibility is maintained and it does not interfere with any landscaping on the property. Mr. Wiggins further explained the ordinance and answered questions.

Commissioner Bridges commented that she is supportive of merchants that need to promote and advertise their businesses, but had concerns with the proliferation of sandwich boards. She suggested some changes to the ordinance.

Motion made by Commissioner Dillaha to accept the ordinance on first reading and to give it a 6 month expiration date; seconded by Commissioner Diebel. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Diebel and Bridges voted yes. The motion carried unanimously with a 5-0 vote.

There was a recess taken from 5:56 p.m.-6:06 p.m.

Non-Action Item

Mayor Bradley announced they will begin with the non-agenda item of the electric utility review and the other items would follow thereafter.

- a) Electric Utility Review.

Electric Director Jerry Warren provided a PowerPoint presentation on the Winter Park Electric Review. He discussed the vertically integrated utility system; Winter Park electric perspective; overhead electric; and the underground electric. He spoke about the organization's operation; system reliability then and now; electric system condition; customers, growth, mix, and revenue; undergrounding projects; financial review of reporting/budgeting, performance, rates revenues and fuel cost recovery; and management review, conclusions and strategies for the future.

Mr. Warren commented that both the Utilities Advisory Board (UAB) and the Commission requested that he prepare a rate study to move toward setting rates based on our Winter Park electric costs. He stated that he is currently working on an analysis and will return to the Commission and the UAB regarding this. Mayor Bradley commented that he asked Mr. Knight

to create a five year pro forma with the electric utility going forward. Commissioner Anderson believed that much of this will be discussed in their work session on April 13.

City Attorney's Report:

1. Attorney Cheek requested having a shade meeting for the purposes of discussing a petition filed by Dr. Beattie. He stated that Dr. Beattie is challenging a decision made by the Board of Adjustment. He also addressed the settlement of a minor lawsuit regarding a tanker company that knocked over a pump and clean up costs that he would like the Commission to approve.

2. Attorney Cheek spoke about a proceeding in Tallahassee by the Bureau of Alcoholic Beverages and Tobacco related to Club Harem on Lee Road. He stated he needs to determine if it is legal to have a shade meeting on this and will add it to the list, if necessary.

Attorney Cheek stated he would like to have this meeting within the next two weeks and suggested that staff coordinate the date and time. He also addressed that they may be able to coordinate that meeting with the City's Employment Council, Mr. Fawsett to discuss the current status of some issues related to the Fire Union.

Non-Action Items:

- a) City Manager's Report.

City Manager Knight commented that the City's website has added a new feature called "Ask Winter Park."

New Business (Public):

There was no new business.

New Business (City Commission):

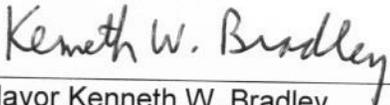
1. Commissioner Anderson stated he wanted to schedule a meeting with Commissioner Dillaha to discuss tree issues and financial matters presented in the financial reports. Mayor Bradley stated that the financial issues were pertinent and they should do that as a Commission. Commissioner Anderson commented that they could do that but also wanted to meet with Commissioner Dillaha individually. He asked that the meeting be noticed and that any Commissioner or member of the public could attend. He commented that he would give Mr. Knight his availability for a meeting date.

2. Mayor Bradley stated that his intention is to begin looking at the financial information on the April 13 agenda.

3. Commissioner Bridges asked about the status of the responses from the property owners regarding the historic designation. Planning Director Jeff Briggs provided an update on the matter.

4. Commissioner Dillaha wanted to have a work session or a Commission meeting to discuss their finances and how to address the revenue shortfalls and reserves. Mayor Bradley agreed.
5. Commissioner Dillaha commented that the population is 28,921 in the Financial Auditor Report and there are 283 acres of park. Mr. Knight explained that the population figure came from the University of Central Florida's official census information.
6. Commissioner Dillaha addressed having discussions about issuing an RFP for the City Attorney. She wanted to reduce our legal fees and believed they need to look at their legal needs going forward. Mayor Bradley commented that he would welcome Mr. Knight's review and asked for an analysis on what their costs have been historically and where they are going.
7. Commissioner Dillaha commented that board appointments are near and discussed having an orientation for all new board members. Mr. Knight stated they plan to conduct these orientations in June/July after they are appointed. Mayor Bradley addressed the need to know that board members are achieving attendance and other requirements. He also commented that he did not see a conflict of interest policy that was evident in their applications and wanted to look at that as well.
8. Mayor Bradley stated that he received several concerns regarding the Parks Board and if true, it is very problematic. He wanted to ensure they address that and work through it efficiently and effectively.

The meeting adjourned at 7:07 p.m.



Mayor Kenneth W. Bradley

ATTEST:



Cynthia S. Bonham, City Clerk