

**REGULAR MEETING OF THE CITY COMMISSION**  
**April 12, 2010**

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 given by Electric Director Jerry Warren, followed by the Pledge of Allegiance.

Members present:

Mayor Kenneth Bradley  
Commissioner Phil Anderson  
Commissioner Beth Dillaha  
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

**Non-Agenda Items**

Mayor Bradley presented a proclamation to Fire Chief Jim White recognizing the Winter Park Firefighters 110<sup>th</sup> anniversary and proclaimed the week of April 11-17, 2010 as Winter Park Fire Rescue Week in the City of Winter Park. He encouraged all citizens of Winter Park to celebrate our stellar fire and emergency services.

Fire Chief White stated that he appreciated the proclamation. He welcomed the public to come to the Public Safety Building on Friday, April 16, 2010 to celebrate the 110th anniversary.

**Approval of the agenda**

The agenda was approved by acclamation of the City Commission.

**Tree Preservation Board Update**

Michael Dick, 823 Granville Drive, presented a PowerPoint presentation as Chairman of the Tree Preservation Board and summarized their duties and responsibilities, as well as some of the challenges and recommendations they are facing right now. Mr. Dick addressed the membership and composition of the board as well as the support of staff.

Mr. Dick spoke about the Tree Replacement Trust Fund (TRTF) being for very specific purposes, one of which is promoting the enforcement of the tree protection ordinance. He addressed the primary responsibility for enforcement that lies with the Code Enforcement Department and more specifically, the City Arborist and that the hours of the City Arborist have been reduced from full time 40 hours per week to part time 32 hours per week due to budget restraints. He stated that the TPB is requesting to allocate a portion of the TRTF to supplement the remaining 8 hours per week and that the City Commission designate that these funds be allocated to the general overhead of the Code Enforcement Department.

Commissioner Dillaha asked about the fees and fines for the Tree and General Funds. City Manager Knight responded that he would have to go back and look where the fines go. Mr. Dick stated the ordinance requires the compensations go into the tree recovery trust fund but are asking that you use that discretion to put it back where it could be best used. Commissioner Dillaha asked other questions related to the time spent on appeals and if they educate the

public about trees and the importance of trees. Mr. Dick responded that they only had 7 cases in 2009 and 5 cases in 2008; they reviewed some administrative issues regarding the notice and emergency removal of trees, and they have been provided on an on-going basis, results of the tree replacements and have reviewed the reforestation. He stated that when you look at their specific mandates, it does not enable them to do a lot more; they are looking at educational opportunities and their main goal to review ordinance changes. Commissioner Dillaha questioned whether there is a schedule to remove dead or dying trees that are in right-of-ways that are hacked up from the overhead lines and if the board is involved that. Mr. Dick addressed spending time with Lee Macken, Forestry Manager, in the past where he expressed concern in the frequency and lack of periodic pruning. He spoke about the program in place but believed it was not adequate for our needs.

Commissioner Dillaha asked about the purpose and intent and if there is anything that should be changed that the board could or should be doing. Mr. Dick stated he would like to expand some of the authorities and duties regarding the TPB by putting it in the legislation.

### **Mayor's Report**

a. Nomination of Vice Mayor for 2010-2011

**Motion made by Commissioner Anderson to nominate Commissioner Dillaha as Vice Mayor, seconded by Commissioner Cooper. The motion carried unanimously with a 5-0 vote.**

b. Presentation of Mead Garden Birding Checklist Pamphlet by Dexter Richardson

Dexter Richardson presented a Mead Garden Birding Checklist pamphlet that he compiled and spoke about leading a growing group of bird watchers through Mead Gardens on a regular basis for many years and the support and affiliation provided by the Friends of Mead Garden has provided a foundation for the growing group of birding enthusiasts and has given the opportunity to note and record the sightings of a large variety of bird species within Mead Garden. Mr. Richardson introduced Andrew Boyle (who took the picture and laid out the pamphlet for the printers) and Bruce Anderson who also assisted with the survey who is one of the top birders in the state, past president of the Florida Ornithological Society, currently on the FOS Records Committee, and has written one of the authoritative books on bird distribution in Florida.

Mr. Richardson spoke about the development and publishing of the Mead Garden Birding Checklist being in compliance with the Parks and Recreation Strategic Plan as reflected in Priority Four "pursue environmental protection and green management throughout the parks system, Mead Garden Natural Habitat."

c. Check presentation - The Friends of Mead Garden – Jeffrey Blydenburgh

Mr. Blydenburgh presented the City with a check for \$9,000 for a deep well for Mead Gardens.

### Other items not listed on agenda

Mayor Bradley mentioned that Crealde is celebrating its 35<sup>th</sup> anniversary on April 24, 2010 Crealde and that we will be having a special recognition for Winter Park High School Boys Basketball State Championship, with the parade and Winter Park Celebration in the Park the same day.

Mayor Bradley also mentioned that we will be celebrating Amtrak Train Day on May 7, 2010.

Mayor Bradley provided his condolences for the passing of two individuals this past week; long time resident of Winter Park, Sally Moon, who was the first president of Orwin Manor Homeowner Association and a great citizen who served many years in the City. He also provided condolences to the Mayor O'Neal of South Daytona who passed away

Mayor Bradley referenced a great recognition of Winter Park that was prominently featured in the Wall Street Journal newspaper this past week.

Mayor Bradley welcomed Ann Murrah, a Board Member of the Bach Festival Society. Ms. Murrah announced the celebration of their 75<sup>th</sup> Anniversary and programs in concert.

d. Employee of the Quarter Presentation – Ron Moore

Director of Parks and Recreation, John Holland presented Ronnie Moore of the Parks and Recreation Department with the award for Employee of the Quarter for outstanding service and leadership.

e. Proclamation - Administrative Professionals Week

Mayor Bradley declared the week of April 18-April 24, as Administrative Professionals week. He personally thanked all of the administrative professionals in his life who truly make his life easier, including the City and his hospital staff.

**City Manager's Report**

a. Discussion of scheduling a work session with Canin & Associates regarding the Form Based Codes Project

City Manager Knight addressed the form based code study from a couple of years ago where the Commission determined it was in the best interest to put that project on hold while they were completing the Comprehensive Plan. Subsequent to that, the City Commission during last year's budget shortfall removed the money from the budget entirely to complete that project.

During this last budget session, the Commission discussed doing design guidelines or form based code type guidelines for the Fairbanks Corridor and put approximately \$35,000 in the budget for that project. He stated that the Commission wanted to use Placemakers for that which was a sub-consultant of the original study. We have since been in communication with Canin and Associates, who is the lead on that original project, who objected to the City using their sub-consultant and finishing that project that they felt they had a contract to do. Canin also sent us invoices saying that we owed them money under the original contract. He stated the question before them is whether Canin has done a lot of additional work towards completing the original project, if the Commission is interested in seeing where they are, and whether or not they want to use any of that work. Mr. Knight stated that Placemakers does not wish to do the Fairbanks Corridor because they do not want to get involved in any litigation resulting from them working directly with us on this project. He commented that we have the option of either putting this up for bid or working with Canin to try to get this project complete and asked for direction.

Mayor Bradley questioned if there was anything available in writing that they could read or look at first. City Manager Knight stated he could provide that. Attorney Brown stated that over the last few weeks he has sent letters to Canin's attorney and that he could put together a package of correspondence that lays out the issues. Mayor Bradley stated that the question is whether or not we want to look at the work product at this point and if this is a legal issue for us. Attorney Brown stated that it is part of the settlement process because the issue is if there can be an agreement on the value of the work product they have done to date we may be able to avoid a lawsuit by purchasing the work product they have developed. City Manager Knight is trying to have a work session with Canin to see if there is a consensus whether there is sufficient value there because we certainly have a lot of legal defenses, but on the other hand if the product they have has some value and we can reach an agreement on how much that is worth we may avoid a lawsuit.

Commissioner Cooper questioned if the product they have available to us is on West Fairbanks or something different. City Manager Knight stated that Planning Director Jeff Briggs and Building Director George Wiggins went and looked at the work product at their shop. Mr. Wiggins stated that they proceeded to have a majority of the entire project that included all of the commercial corridors, which was part of the original contract and form based code (architectural guidelines are included in that and there is also the form based code for the commercial corridors). He stated that now it would require further work with staff to refine what they have as a form based code to be in compliance with our code 100% and it would require some further refinement with the Architectural Design Guidelines.

Commissioner McMacken questioned Mr. Wiggins if that was part of the original contract or if further refinement would be an additional service. Mr. Wiggins stated that the original project was about \$300,000 and we cut it short after the comprehensive plan was not completed and had expended funds of about \$200,000. He stated they brought this to the Commission when they contacted us for billing for additional work. Attorney Brown has been negotiating with them on what we actually owe them beyond the original \$200,000 and that has prompted them to ask that you look at the work product you did and see if that has value that we could purchase at and use it for the form based code or architectural design guidelines.

Commissioner McMacken inquired if we were to complete this contract, if we get the whole deal for \$300,000. Mr. Wiggins stated yes, that is his understanding. Mayor Bradley stated he would like to look at the \$200,000 contract and asked that we get a test print of this information. Commissioner Cooper asked to be provided what has what has transpired between the attorney and Canin relative to the work product before we consider making a decision. Attorney Brown stated that he would email the information to the Commissioners this week.

Commissioner Dillaha questioned City Manager Knight in regards to the approved amount that was allocated toward the form based code for the Fairbanks Corridor. Mr. Knight stated that is what brought this issue to a head, because they objected to us taking that money and hiring a different consultant when they thought they had a contract to complete that work. He stated it was in the neighborhood of \$35,000-\$38,000. Mayor Bradley stated that before making a decision, he wanted to see something for the \$200,000 already spent and that the Fairbanks corridor is an important area for us

Building Director Wiggins stated that the main question is that the subcontractor brought this skill set of having performed form based coding for other cities and municipalities and areas, and Canin and Associates brought in the horsepower and the local knowledge to do it but

believed that the real form based coding experience resided in the subcontractor. He addressed them being properly terminated and that they continued to work when there was no comprehensive plan adopted. He agreed with Mayor Bradley that it is probably worth another round of consideration to see if with the assistance of the Tampa based organization, they could complete some scope that was consistent with our comprehensive plan. Mr. Wiggins stated that he is certainly open to considering that and wanted to make it clear that he believes we properly terminated it. He also stated that he does not know where the additional work came from when there was no comprehensive plan in place, but that we are after the goal of having something to apply to Fairbanks.

**b. Schedule executive session – Union negotiations**

The executive session was scheduled for May 3, 2010 from 12:00-1:00 p.m. The strategic planning session was scheduled on May 3 from 1:00-6:30 p.m. with facilitator Marilyn Crotty.

**c. Pro Shop Update**

City Manager Knight recalled that during the budget public hearings last year the City Commission moved a project from 2012 or so forward into the 2010 budget to redo the Pro Shop for about \$125,000. He addressed the volunteer architects that worked on some preliminary design concepts and input from a lot of users in the meantime since we have moved the Pro Shop into the new facility that they would like to see the old Pro Shop become locker rooms and restrooms which are much needed at that location.

Parks and Recreation Director John Holland provided a brief update on this year's financial status and with the changes they have made to the new Pro Shop. He spoke about it being a bad year for golf because of the weather and the economy and they are down for the first 6 months this year of \$17,000 from the point that we were last year. He stated that the new Pro Shop has made a difference; increased 18% in our merchandise sales and 21% in our food and beverage sales per golfer that comes to the course. He spoke about the direction and funds provided by the Commission to evaluate the Pro Shop design renovation and the input and requests for ADA accessible restrooms and dressing rooms and locker rooms. He stated this would provide additional revenue by renting the lockers out and taking the place of moving the Pro Shop back into the old facility.

Mr. Holland asked for guidance going forward with this; they prepared a survey to give out to the members and players asking if they would rent lockers if we put them in. He spoke about the need to preserve the historic Country Club and Pro Shop and not wanting to change anything in any way, but that there are needs to be met if we put the Pro Shop back in the old building. He addressed hiring an architect to do very preliminary drawings of converting the Pro Shop to a dressing room/restroom facility and then working with us to perform some exploratory demolition to the building to see if it can be done. Mayor Bradley asked if Mr. Holland had any recommendations, in which his response was to look at the building and to renovate it into locker rooms if possible and that the Pro Shop remain where it is at this point. Mayor Bradley requested that City Manager Knight take an action under his section of the agenda, asking if he wanted to bring this forward to our next meeting as an agenda item or to move it to an action section. City Manager Knight stated that if they wanted to provide direction, they can certainly bring it back, if they would rather have it come back as an action item for discussion.

Commissioner McMacken addressed the structural integrity of the building and the survey as to whether or not lockers are feasible in that building. He stated he would like to have that backup information before taking an action. Mayor Bradley stated that the need for bathrooms is well known, but that the locker rooms need to be surveyed. He asked if that was something that could be done as part of our architectural contract without expending huge sums of money to do a quick analysis to determine what the options are.

Commissioner Cooper addressed what is the impact on our ability to lease that facility given that we are now putting a retail center inside and asked as the analysis is being done to look at Casa Feliz and how often and to the extent to which they are able to lease their facility. She also asked who is programming the facility and also expressed concerns with the programming at the Community Center. Mr. Holland stated that he tries to coordinate with them as when to rent their facilities, there is a parking conflict and that the staff at the Country Club oversees and sets up the room that we rent (so far this year they have made \$12,600 on the one room; last year we made \$15,300 on two rentals to this point). He stated that they fully expect to equal or exceed the amount of rental we received from two rooms last year because we have now opened up the schedule for lunches and executive meetings during the day and are becoming more popular for luncheons because of having the patio and the service in the Pro Shop. He stated that we do not market much at this point but that it would make a big difference.

Mayor Bradley addressed the two issues of whether it is a Pro Shop or a bathroom; and if the building is not viable, someone needs to tell them pretty quickly because that will determine our direction well into the future will determine what will go into it.

Commissioner Dillaha stated she recalled the conversation last year about viability of the building and it was determined to be a viable building. Mr. Holland stated it was inspected but the whole structure was not looked at. Jack Rogers stated there was no destructive testing beyond the finishes and that is why we were given the suggestion that we hire an architect. Mr. Holland stated we have hired an architect to take a look at it with us and let us know. Mayor Bradley asked that this be expedited. Commissioner Dillaha had several other comments regarding the clubhouse and the revenue coming in.

Mayor Bradley requested that this item be brought back as an action item with additional information and as an action item in the future versus the City Manager's report.

### **City Attorney's Report**

#### **a. Commuter Rail Discussion**

Mayor Bradley noted that we just received Attorney Brown's information at 3:25 p.m. today and that he does not intend to open the floor open for public comment because at this point we are not taking any action so any actions that may come from this conversation will be appropriately calendared.

Attorney Brown stated he sent an opinion by email and provided hard copies to the Commission and Mayor. He stated that he has not addressed every issue, there were many but he wanted to address what he thought would be the dispositive major issues. In summary, he determined that the present interlocal agreement in his opinion presents a legal risk in a few areas which he addressed in detail in the letter. He commented that it is not his purpose or intention to declare that the existing interlocal agreement with Orange County is unlawful but was trying to speak in

terms of legal risk. He summarized the concerns as outlined in the letter to the Commission that is attached as part of these minutes for the record. He concluded that they have the right to either terminate or amend the agreement and elaborated on this as provided within the letter. He addressed liability as provided for in the letter. Mayor Bradley stated if there are any decisions to be made they need to be appropriately calendared.

Commissioner McMacken questioned Attorney Brown about general revenues and ad valorem revenues. Attorney Brown explained the difference. Commissioner McMacken asked other questions for clarification that Attorney Brown responded to. Commissioner McMacken asked if the City took the position that the contract as is, is terminable if that limits the ability for us to receive Federal funds if they have a contrary opinion or if they do not care because they have Orange County to look at anyway. City Manager Knight stated he thinks it would certainly limit our ability to get the \$3 million for that station. Attorney Brown stated that it would require us to review the grant and the documents.

Commissioner Dillaha stated she wants this discussion to go to a work session and believes the contract is a bad one; it is open ended and it is up for misinterpretation or interpretation from either party. She spoke about the flaws in the agreement and putting it off to another Commission being fiscally irresponsible and unethical. She presented what she believed were the options: rewrite portions of the agreement and present to Orange County or terminate and write it from scratch given everything that has occurred and changed in the last three years. Attorney Brown replied by stating you could amend the agreement if you wanted to go forward, because with the amendments he suggested, the remainder of the contract would not hurt you at all. If you want to have a commuter rail stop in Winter Park, that is very doable, but it is risky to have a long term funding commitment.

Attorney Brown addressed the option pointed out by Commissioner Anderson that the amendment specifically limits the pledge of the source of payment to non-ad valorem funds so that you take it outside the Constitutional issue. Commissioner Dillaha asked if you would have to put a cap on that and to not leave it open ended. Attorney Brown stated that you could. Commissioner Dillaha stated that given the magnitude of all of this, and the few amendments that have just come down from FDOT, she recommended having a workshop to go over this in more detail since she and Commissioner Anderson had a list of questions that they do not have time to review now. Mayor Bradley stated it would be appropriate that if there is an action that needs to be taken, to calendar it under our new business section.

### **Non-Action Items**

There were no action items for discussion.

### **Public Comment**

Eileen Duva, 311 E. Morse Boulevard, Whispering Waters, submitted a letter dated March 15, 2010 to discuss with the City Manager Knight regarding the Interlachen Avenue and the Scenic Boat Tour Project. Ms. Duva stated the residents in this area are concerned that the scope of the project does not properly include East Morse Boulevard between Interlachen Avenue and the City Owned property leased to the Scenic Boat Tour. She requested that the scope of the project be expanded to include paving the street, improving the landscaping and changing the streetlights on this section of East Morse Boulevard, from Interlachen to the Scenic Boat Tour. She noted there are numerous pot holes that are continuing to

decline. City Manager Knight is to obtain a price for landscaping, etc. and bring up in the next meeting for residents to be informed.

Bill Walker, 2171 Glencoe Road, stated he noted an excellent editorial in today's Orlando Sentinel newspaper, written by George Wool, underscoring Commissioner Dillaha's comments about the importance of not postponing fiscal burdens on future generations and commissions. This one which addresses the careful attention to the nature and extent and structure of pensions for governmental employees is of great importance.

A 15 minute recess was taken.

**Consent Agenda:**

- a. Approve the minutes of 3/22/10 – **PULLED FROM CONSENT AGENDA. SEE BELOW.**
- b. Approve the Fire Rescue Department's 2010-2015 Strategic Plan.
- c. Approve IFB-11-2010 Bid for PVC Pipe: HD Supply Waterworks – 6" pipe (\$54,800) and Ferguson Waterworks – 8" and 10" pipe (\$72,258).
- d. Approve the three year contract renewal with the YMCA for the operation of the Cady Way Swimming Pool to expire April 17, 2013 - **PULLED FROM CONSENT AGENDA. SEE BELOW.**

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

**Consent Agenda Item 'a'**

Commissioner McMacken stated that under the City Commission reports states that he asked for a copy of the preliminary design for the train station but rather he believes he asked for a copy of the contract with the Architectural Firm that was doing the design for that.

**Motion made by Commissioner Cooper to approve Consent Agenda item 'a' with the correction made; and seconded by Commissioner McMacken and carried unanimously with a 5-0 vote.**

**Consent Agenda Item 'd'**

Commissioner Cooper asked if we can include in the analysis of how the Parks Board makes the decision to outsource.

**Motion made by Commissioner Anderson to approve Consent Agenda item 'd'; seconded by Commissioner McMacken and carried unanimously with a 5-0 vote.**

**Action Items Requiring Discussion:**

a. Potential 2010 Comprehensive Plan changes

Planning Director Jeff Briggs stated that part of this approval includes the hospital but that they received an email that the Winter Park Hospital has withdrawn the request so they are not discussing the last item on the list. The proposed changes are attached to these minutes for the record to clarify the issues voted on.

He spoke about the three areas for discussion: the language concerning the potential adverse effect on property values; the concern over “prohibits” of allowing people to apply for various approvals; and a section concerning staff administrative policy clarifications. He explained that the Commission is only deciding this evening which ones to recommend to the Planning and Zoning Commission (P&Z) so they can advertise and hold public hearings and come back later at the end of June to decide whether to do any of the amendments.

Property Value issue: Mr. Briggs explained this pertains to density of 17 units per acre that they put into the Central Business District Future Land Use category. He further elaborated on this issue. Commissioner Cooper spoke about the tolling agreements and the complaints and that Attorney Brown is settling these as they come forward. She believed they may be getting ahead of themselves if they ask someone to negotiate an agreement and then make changes to one of the items that will be a topic of discussion. Attorney Brown stated this will not impede their work with the land owners and he will be sending letters to the attorney’s asking for detail on all the properties and claims. He suggested moving forward with the changes in the comprehensive plan the way staff is recommending it. Further discussion and questions took place regarding this item.

**Motion made by Commissioner Anderson to send the “Potential adverse effect on property values” issue of the C-2 residential density question back to P&Z for further review; seconded by Commissioner McMacken.**

The second item was discussed regarding “Removing “Prohibits” from comprehensive plan text policies. Mr. Briggs explained that the change made to the R-3 multi-family zoning in the medium density multi-family future land use district may affect property values where buildings were limited from three stories to two stories. He stated that staff recommends sending this back to P&Z as well.

**Motion amended by Commissioner Anderson to also send the changes to Policy 1-3.8.6 as provided regarding the scale and height for medium density multi-family development back to P&Z; seconder (McMacken) agreed.**

Questions were asked for clarification by the Commission. Mr. Briggs explained why the last sentence of Policy 1-3.8.6 was being deleted.

Mr. Briggs addressed the “Prohibits” in the comprehensive plan as brought forward by the City Attorney. He stated this section concerns prohibiting someone from making an application. He stated there are seven (7) policies that deal with rezoning and two (2) policies dealing with lot splits that are in the grouping recommended by the City Attorney.

**Motion made by Commissioner Dillaha that in Policy 1-3.6.7 and Policy 1-3.7.1 to add the phrase or sentence “Such amendments are deemed to be in conflict with the goals of**

**this Comprehensive Plan” at this time and to send it to P&Z. Motion was seconded by Commissioner Cooper.**

Mr. Briggs addressed the last item concerning staff administrative policy clarifications.

**Motion made by Commissioner Dillaha to recommend a change in the language to Policy 1-3.8.11 to delete the word “generally” and to change the language concerning C-2 zoning shall also be permitted to “properties abutting Morse Boulevard, (recommended by Commissioner Cooper) between Capen and Virginia abutting New England between Pennsylvania and New York Avenue and abutting Pennsylvania Avenue between Garfield and Lyman or abutting Hannibal Square, East are also candidates for potential C-2 zoning”. Refer this back to P&Z with the recommended change in language; seconded by Commissioner Cooper.**

Commissioner Cooper addressed the last paragraph under Policy 1-3.8.11 and that they are being asked to make a policy decision regarding the portion of Morse Boulevard between New York and Virginia Avenues, where the Douglas Grande, Smith Barney and Park West condos are located as potential C-2 locations. She recommended this not go back to P&Z. Mr. Briggs stated that staff was pointing out in this that previous speakers have asked the Commission to do this.

**Motion made by Commissioner Cooper not to send back to P&Z; seconded by Commissioner Dillaha.** Commissioner Cooper explained the motion she made because in the City we have very limited R-4 property and it is essential that we keep high density residential property in the CBD in order to facilitate feet on the street and did not want to make a global change.

Dan Bellows, 511 West New England Avenue, spoke about Policy 1-3.8.11 regarding Morse Boulevard saying Capen to Virginia and did not understand why it is not Capen to New York, specifically because you are chopping out the Smith Barney Building. He asked if the Douglas Grand is already C-2 on Morse Boulevard and everything from Virginia all the way to Capen could be applied, why the Commission is chopping out the building that I represent. He requested that the policy read “from Capen to New York” so he could apply for the C2 zoning. Mr. Bellows asked for clarification of 17 units to the acre and the cap.

**Upon a roll call vote of the first motion and amendment (addressing items 1 and 2) and referring them back to P&Z), Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. Mayor Bradley voted no. The motion carried with a 4-1 vote.**

**Upon a roll call of the second motion (prohibits from the comprehensive plan), Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

**Upon a roll call vote regarding the third motion regarding staff administrative policy clarifications, covering items one through three, with the exception of the last paragraph and Policy 1-3.8.11 to delete the word “generally” and modification to wording of Policy 1-3.8.11; Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

**Upon a roll call vote, not to send back to P&Z the issue regarding Morse Boulevard, Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. Mayor Bradley voted no. The motion carried with a 4-1 vote.**

- b. Extension of Conditional Use for the Residences at Morse and Knowles (170 S. Knowles Avenue) – Mr. Felix Furst

**Motion made by Commissioner Cooper to extend the conditional use for 5 years from October 22, 2011 and take it to October 22, 2016; seconded by Commissioner Anderson and carried unanimously with a 5-0 vote.**

Joe Terranova, 700 Melrose Avenue, agreed that this is a good project and we should approve the extension but for the 10 years as requested because of the economy and to protect the leases of the people who are there now.

David Odahowski, President of the Edith Bush Charitable Foundation, stated they own the Welbourne Knowles building directly at the back door of this property and agreed to give the developer a lengthy extension. He added that the shops that were in that building are no longer there and are a detriment to the property and that the economy is not going to turn around anytime soon.

- c. Extension of Conditional Use for the Morse/Pennsylvania Parking Garage

Planning Director Jeff Briggs stated this is an extension to a conditional use approval that was granted in 2005 and at that time we granted approval to add a fourth and fifth level to the parking garage that serves the Morse and Pennsylvania property. That approval is coupled with the development of residential on the back property on Symonds Avenue and that is a condition that has been in place since 2000 when the project was originally approved. This additional fourth and fifth level is primarily needed for the two remaining building sites, the corner building site on Pennsylvania and Simon and the property across the street which is referred to as the "hotel site" on Morse, Pennsylvania and Carolina.

Mr. Briggs stated he believed that their interest is in coupling an extension to the approval of compatible projects on those two vacant building pads so that we and the property owner knows that this fourth and fifth level is necessary for the projects that wind up getting approved. The developer has been seeking rezoning for the residential properties since 2006 and has been unable to get those from the City because of the complications with the Comprehensive Plan and the amendments that were needed and a further delay when we amended the R-3 rules after adoption of the Comprehensive Plan until last February. Those applications are now in-house and will be moving forward in the next month or two. The City has not enabled the applicant to move forward to get an answer. We believe the applicant deserves another year extension of this condition use. We recommend coupling the extension with the approval of compatible development on those two adjacent building pads.

Dan Bellows, 511 West New England Avenue, representing WFG Limited and Venetian LLC asked for an extension of 2, 3, or 4 years. He stated that he agrees with the compatibility but not the number of years. Mr. Briggs clarified that they were granted approval to build the parking garage first, then the buildings.

Commissioner Cooper stated it is hard to make a decision without a copy of the developer agreement. She also requested the following change “We authorize the expansion of the parking garage as required by Code to satisfy approved compatible development” and to reference the address of the property as opposed to dictating a use of the property. Any extension of the conditional use does not indicate or imply that the Commission either approves the development or approves and implies that a fourth and fifth level of parking is required to accommodate development. Commissioner Anderson requested that staff bring back a better worded resolution that grants a 2 year extension, making the changes that Commissioner Cooper has suggested and that has the condition that construction may not commence until the need is demonstrated by the approved project.

**Motion was made by Commissioner McMacken to table this item and request a revised proposal; seconded by Mayor Bradley and carried unanimously with a 5-0 vote.**

d. Proposed Plug-In policy

Jerry Warren, Electric Department Director, spoke regarding accelerating underground electric in neighborhoods with Plug In Policy 51 percent non residential and 75/25 based.

**Motion made by Commissioner Dillaha to approve the Plug-In Policy; seconded by Commissioner Anderson.**

Joe Terranova, 700 Melrose Avenue, approved of this policy. He suggested to not mandate that the money goes into a residential fund as suggested by the Utilities Commission. That should be your goal but keep your flexibility and do not lock it in so that you cannot do something if something else comes along that you think is better.

Jerry Warrant stated the first 75 percent could be used for residential projects, commercial or residential 100 percent, or when we get to that last 25 percent it would be at the Commissions discretion and set the priority for the flexibility.

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

e. Recommendations from the Ethics Board

Julie Zimmerman, Chair of the Ethics Board, spoke on behalf of the Ethics Committee, along with Simon Snider, Barry Greenstein and Bill Walker. Speaking for herself and colleagues she thanked the City for the opportunity to serve on the board. She summarized their recommendations to 1) adopt the Ethics Code consistent with State law; 2) to seek a Special Act of Legislature to restrict campaign contributions to no more than two per related artificial entity; 3) to add a Frequently Asked Questions (FAQ) section on the City’s election page that would inform voters on issues related to campaigns such as signage, PACs, Electioneering Communications, etc.; and 4) to establish an annual meeting of the Board in June or more often as determined by the Commission or the Chair.

Regarding the third recommendation, Mayor Bradley requested that City Manager Knight put the FAQ information on the website. Staff agreed to do so. Mr. Knight stated the City will follow State Statutes with regard to ethics.

**Motion made by Commissioner Cooper to not approve the wording for the ordinance; seconded by Commissioner Dillaha.**

Upon direction of the Commission at the April 26, 2010 meeting, the following verbatim transcript is being added to the minutes:

\*\*\* Mayor Bradley: My first question is, Ms. Bonham, you put out a pretty good question and answer at least for candidates is that something that could just be added to the website, I think it pretty encompassing for election information, I don't know if that would meet that or if you have reviewed the packet that goes to candidates. I think that that could answer the facts questions, and I don't know if that really requires an action on our behalf or if that is something that the city staff could just implement from the ethics board or would you prefer an action for that.

City Manager Knight: We can do it either way, we'll get it on there.

Mayor Bradley: It seems like it's a great idea and run that first electronically puts into place what we are already doing so we already have, so that addresses one of them. Commissioners the first item and before us is the adoption of the, let me be clear of what is being asked of us, it's that we would, and I'm assuming refer this to the City Council to be drawn.

Mayor Bradley: If we approve this we would ask city staff and the city attorney to bring back an ordinance that has the ethics.

City Manager Knight: It would basically, under this recommendation it would basically, our ethics ordinance.

Mayor Bradley: It would look like this, but it's not this, this is from August correct?

City Manager Knight: Yes, it would say that the city would follow state statutes with regard to ethics, something along that line.

Mayor Bradley: What is the role of the Commission on that matter?

Commissioner Cooper: Not approve it, move that not approve that request.

Mayor Bradley: Are you moving to turn that down, to not do that?

Commissioner Cooper: Yes.

Mayor Bradley: Ok, is there is a second for that, that motion lasts....., okay?

Commissioner Dillaha: I'll second that for discussion, I'd like to understand the rationale.

Mayor Bradley: We have been obligated by our Charter to have an Ethics Policy, so I, ah, Commissioner Dillaha you asked a great question, so uh.

Commissioner Dillaha: Ah, yeah, I wanted to understand the rationale for.

Commissioner Cooper: I just think that ethics is extremely important, I understood and I've been out of the loop for a long time so I apologize and I understand that when I read this it

sounds more like a declaration of frustration that you haven't been able to come to agreement on anything. I would prefer it to see to continue to talk about it. I understand we have to have an ordinance and I understand that, that recent um, ruling makes us in a state of limbo and makes it very difficult. But I think ethics is critical and I hate to declare that the best that the Winter Park can do is to pass an ordinance saying were gonna follow state statutes. I think we follow state statutes without an ordinance and I just, I don't want to see to give up that easily, I guess that's where I'm coming from.

Mayor Bradley: Okay there's a motion and a second. Is there a discussion from the Commission? I open the floor for public comment, which would be to not have an ethics policy at this point because that's what the motion states.

Julie Zimmerman: To not have an ethics policy?

Mayor Bradley: That's what she's just moved, I just want to be clear, that's what she moved, was we would not accept this recommendation and not have an ethics policy, which was seconded.

Julie Zimmerman: But don't we have a, um..... Mr. Walker come on up.

Mayor Bradley: We are now in the public comment time, so we're gonna go ahead and give you all some time here.

Bill Walker commented.

Barry Greenstein commented.

Attorney Brown: I want to give the Commission some different ideas, first of all, the recommendation.

Mayor Bradley: Mr. Brown, just before you do that, I'm struggling with, if your speaking to the motion or ideas on what to do after that, or, um.

Attorney Brown: That's a good point.

Mayor Bradley: We have a valid motion on the table that I'd like to deal with and then I'd like to think that you're going to fix after we talk about this.

Attorney Brown: I'm just trying to give information that could, the commission could use that to give direction to them and....

Mayor Bradley: Okay, so let's deal with the motion which is to not have an ethics board at this point.

Commissioner Cooper: I would like to clarify my motion please, Mr. Mayor. My motion was that I did not believe this particular ordinance was the best ordinance that our ethics board could bring forward not that I did not think that there should be an ordinance nor that I thought there should not be an ethics board. I think there should be both an ethics board and a meaningful ordinance; I just did not see this as a meaningful ordinance. That's what I was asking.

Mayor Bradley: So, but you moved to turn it down Commissioner, I want to be very clear.

Commissioner Cooper: Only the ordinance; this particular ordinance.

Mayor Bradley: I'm gonna ask if there's, and there is not even an ordinance that we're discussing, it's.....

Commissioner Cooper: The wording for the ordinance.

Mayor Bradley: Okay, is there any further public comment. I'm gonna close the public comment, Mr. Terranova.

Mr. Terranova commented.

Commissioner Anderson commented.

Commissioner Cooper: Is there a time period certain which an ordinance has to be passed, I guess that's my question, can we take direction from our City Attorney about other ideas and then see if we extend the time period, I'm not saying not to have an ordinance, but I just sometimes....

Mayor Bradley: That is what you moved.

Commissioner Cooper: I moved not to accept this recommendation for a more meaningful ordinance.

Mayor Bradley: Okay, that's what we're gonna vote on right now, so the clerk will read the roll on that and depending on what happens if you are in favor of not accepting this, you'll vote yes, if you want something else I guess you'll vote no, are we clear? Clerk will read the roll. Commissioner Anderson no, Commissioner Dillaha no, Commissioner Cooper yes, Commissioner McMacken no, Mayor Bradley no, the motion passes or fails 4-1.

Mayor Bradley: I'm gonna move that we accept the ordinance recommendation as presented by our Ethics Commission, is there a second?

Commissioner Anderson: There is a second with the suggestion can we rename it the Thomas Alfa Edison Board of Ethics.

Mayor Bradley: There is a motion and a second. Is there further commission discussion? I will open the floor for public comment, seeing that, I'll close the floor for public comment, is there any further commission discussion. The clerk will read the roll. Commissioner Anderson yes, Commissioner Dillaha yes, Commissioner Cooper no, Commissioner McMacken yes, Mayor Bradley yes, that motion passes 4-1.

\*\*\* There is a second recommendation and what is the roll of the commission on this? (End of verbatim).

Bill Walker, 2171 Glencoe Road, stated that varying from the State Statute was problematic. The Ethics Board makes recommendations to the Commission and in November 2009 we provided our first draft, which was not well received. Our next best was to provide that our policy is to look to the State Statutes.

Barry Greenstein, 2348 Summerfield Road, stated it took the Ethics Board a little more than two years of hard work to get approval to authorize an Ethics policy. He commented about not wanting a policy just to follow the state law but that there should be some purpose for this board, either dissolve the board, which he did not agree with, or give the board something to do. He asked for direction from the Commission.

Joe Terranova, 700 Melrose Avenue, stated that he understands the Ethics Board has struggled for a long time trying to come up with a policy. He stated that what the Ethics Board has recommended is minimal and the Commission should show their support by passing this item and move forward. Mr. Terranova stated that he was on the Charter Review Commission and suggested that the current motion not be passed but to pass one positively on the ordinance.

**Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha and McMacken voted no. Commissioner Cooper voted yes. The motion failed with a 4-1 vote.**

**Motion made by Mayor Bradley that we accept the first ordinance recommendation as presented by our Ethics Commission; seconded by Commissioner McMacken. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha and McMacken voted yes. Commissioner Cooper voted no. The motion carried with a 4-1 vote.**

Commissioner Dillaha had several questions for Attorney Brown regarding the second recommendation pertaining to artificial entities or LLC's.

City Attorney Brown spoke on the several legal issues and offered his legal assistance pro-bono as a volunteer by donating a couple of hours of his time and work through all of the issues with the Ethics Board.

Barry Greenstein, 2348 Summerfield Road, stated in view of where we find ourselves right now, he recommended instead of voting on this item, to table it and give the board the ability to do the additional research and in six months report back to the Commission in November with additional information, changes made locally, statewide or nationwide and then see what we can do. Mayor Bradley stated there is no action being taken at this point and effectively it has been tabled.

Bill Walker spoke again and stated that taking no action is a good move and appreciates the offer of council to aide with this work. One of the difficulties of this has been that the Ethics Board comes up with broad recommendations, the particulars come out, and the Board has no chance to articulate particulars.

Mayor Bradley concluded that the Commission has taken two actions, one by not taking an action and about six or eight months ago by taking an action which said specifically that we were not interested in campaign finance reform. They can bring it back up on another agenda item if something comes forward but they were clear that there was a majority of the Commission that previously thought that this was an area that we were not ready to take on.

**Public Hearings:**

- a. RESOLUTION NO. 2048-10: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, SETTING FORTH THE CITY'S INTENT TO USE THE UNIFORM AD VALOREM METHOD OF COLLECTION OF A NON-AD VALOREM ASSESSMENT FOR THE PROPERTIES LYING WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY OF WINTER PARK, CONSISTING OF PROPERTIES ABUTTING GRANVILLE DRIVE AND WILLIAMS DRIVE MORE PROPERLY INDICATED IN EXHIBIT "A" ATTACHED HERETO, TO FUND CERTAIN PUBLIC IMPROVEMENTS OF THE INSTALLATION OF UNDERGROUND ELECTRICAL/BHN FACILITIES; PROVIDING THAT A COPY OF THIS RESOLUTION SHALL BE FORWARDED TO THE PROPERTY APPRAISER, TAX COLLECTOR AND THE FLORIDA DEPARTMENT OF REVENUE IN ACCORDANCE WITH SECTION 197.3632(3)(a), FLORIDA STATUTES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Attorney Brown read the resolution by title. No public comments were made.

**Motion made by Commissioner Dillaha to adopt the resolution; seconded by Commissioner McMacken. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

- b. RESOLUTION NO. 2049-10: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, SETTING FORTH THE CITY'S INTENT TO USE THE UNIFORM AD VALOREM METHOD OF COLLECTION OF A NON-AD VALOREM ASSESSMENT FOR THE PROPERTIES LYING WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY OF WINTER PARK, CONSISTING OF PROPERTIES ABUTTING GOLFVIEW TERRACE AND NORTH PARK AVENUE AS MORE PARTICULARLY INDICATED IN EXHIBIT "A" ATTACHED HERETO, TO FUND CERTAIN PUBLIC IMPROVEMENTS OF THE INSTALLATION OF UNDERGROUND ELECTRICAL/BHN FACILITIES; PROVIDING THAT A COPY OF THIS RESOLUTION SHALL BE FORWARDED TO THE PROPERTY APPRAISER, TAX COLLECTOR AND THE FLORIDA DEPARTMENT OF REVENUE IN ACCORDANCE WITH SECTION 197.3632(3)(a), FLORIDA STATUTES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Attorney Brown read the resolution by title. No public comments were made.

**Motion made by Commissioner Anderson to adopt the resolution; seconded by Commissioner Dillaha. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

- c. ORDINANCE NO. 2797-10: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" SO AS TO ADOPT NEW ZONING REGULATIONS SECTION 58-89 AND SECTION 58-90 AMENDING THE PROCESS AND PROCEDURES, STANDARDS AND CRITERIA FOR APPROVAL OF CHANGES TO THE ZONING REGULATIONS TEXT AND OFFICIAL ZONING MAP AND FOR CONDITIONAL USES, PROVIDING AN ADDITIONAL DEFINITION IN SECTION 58-95; PROVIDING FOR SEVERABILITY, CONFLICTS, PROVIDING AN EFFECTIVE DATE. Second Reading

Mayor Bradley stated this was tabled at the last meeting and that the first reading passed without the supermajority being included. Planning Director Briggs addressed the ordinance discussion at the last meeting whether to put back in the provision that the P&Z recommended to require a supermajority for conditional use approvals for buildings over 10,000 only in the Central Business District. He stated it was taken out of the first reading because of concerns of this being quasi judicial matters and if you have a 3-2 approval by the City Commission and it has been concluded that they met the standards it would be difficult to defend a lawsuit if they have met the standards but you do not have the supermajority. He addressed Commission comments that the downtown is a jewel and needs special protection.

**Motion made by Mayor Bradley to adopt the ordinance as presented, seconded by Commissioner McMacken.**

Commissioner Dillaha spoke about the supermajority requirement that was deleted at the last meeting. **Amendment to the motion made by Commissioner Dillaha (amendment #1) to change the words in 58-90, Section 1( a) Conditional Uses to read as follows: “these conditional use approval requirements are to ensure that such activities and projects are in conformance, etc.”. Motion seconded by Commissioner Anderson for discussion.** Attorney Brown spoke about not seeing a large difference in the wording on this as presented and what is being proposed and did not believe it would have a significant legal effect but is a more precise way of saying it.

Commissioner Dillaha asked about the following line and the word “significant”. Attorney Brown suggested using language such as “lack of compatibility with adjacent properties”. He stated that if your intent is to preserve, lack of compatibility is less of a hurdle to establish than for an adjacent property owner to be required to prove as an intervening party that there are significant adverse effects. Mr. Briggs stated the adverse effects are traffic and you have to have some qualification in there which is the reason for the word “significant”.

Commissioner Dillaha questioned the language added under “Development Agreements”. Attorney Brown stated that Attorney Reischmann worked through this with Mr. Briggs and there are certain types of development agreements that if you are not careful to separate them out, they have to go through very heightened procedural requirements and the effort is to try to define or describe certain types of development agreements that would not need the enhanced procedural scrutiny. Mr. Briggs explained that part is procedure but the large drawback to the Chapter 163 is that they expire after 10 years and we want most of our development agreements to run with the land and to expire. Attorney Brown recommended leaving the language as it is.

Commissioner Dillaha addressed the supermajority issue. She stated after the last meeting and discussion about whether or not this language should be in the comprehensive plan, she believed the supermajority language needs to stay in there. She spoke about other cities, not necessarily in Florida, that require a supermajority vote of the Commission to overturn denials for zoning decisions of P&Z. Attorney Brown stated he provided a detailed legal opinion and referred the Commission to cases from around the country and that the minutes in the packet state his opinion. He stated there is a difference between imposing a supermajority vote at the actual quasi judicial hearing that makes the factual findings and issues the final order and is a different standard of review when the City Commission is reviewing a subsidiary board that actually conducts the quasi judicial proceeding. He addressed cases from around the country that when the issue is presented it can be problematic. Attorney Brown reiterated his opinion

as reflected in the minutes for being the reasons why he recommended against this. Further discussion ensued regarding this issue. Attorney Brown commented that from around the country they are not subject to Florida Law and the Florida Supreme Court has said you have to afford due process and there is no finding of fact proceedings that he is aware of where it takes a supermajority of the fact finder to prevail.

Commissioner Dillaha asked if we keep the language in there, the only way they could be challenged on it is if someone came forward with a project that is three stories or over 10,000 square feet and P&Z says no and it comes to the City Commission and three Commissioners said yes but they have the supermajority requirement which is the only time they could possibly be challenged. Attorney Brown agreed and stated unless the court felt it was a very glaring procedural violation, you could be sanctioned but generally the result would be they would win at the court level and the court would remand it with instructions assuming he is correct.

**Motion amended by Commissioner Dillaha to include the supermajority (amendment #2); seconded by Commissioner Cooper.** Commissioner Cooper stated she agreed with Commissioner Dillaha; additionally she understood the City Attorney to say if the Commission wanted to do this that they could and it would be a procedural issue and if they chose to operate in this fashion they would need to write a clause for our comprehensive plan to tighten up the language relative to the downtown area. She also mentioned how this got started was not about supermajority as much as it was about consistency in the way we process projects.

She asked that the motion include that the City Attorney draft additional language that would recommend this. Attorney Brown stated that he had no concern with the ordinance being adopted that requires a supermajority for text changes because in the amendment to the comprehensive plan is quasi legislative. He stated he pointed out to Commissioner Dillaha in connection with another project that if you want to impose stringent requirements, the comprehensive plan level gives you the greatest flexibility. He stated he does not have a problem with the supermajority requirement with respect with amending the comprehensive plan; it is when you get into rezonings, conditional uses and variances that are quasi judicial. He addressed the severability provision in the ordinance if the Commission chooses to put this back in. He concluded by stating as long as the Commission is not held it to be sanctioned by a court, the penalty is the court would remand it with instructions to have the fact finding hearing with a simple majority and that is the risk.

Commissioner Anderson stated he wanted to see multiple suggestions on putting in checks and balances over a couple of the issues that assuming we do not have the supermajority in the way the language is done. He asked that staff come back with suggestions on how to create the checks and balances they really want and the best route to do that.

Joe Terranova, 700 Melrose Avenue opposed the supermajority and that the Commission needs to listen to the attorney because this will open up the City to lawsuits.

**Upon a roll call of the first amendment to Section 58-90, to delete the word “generally” in (1) (a) and to delete the word “significant” and insert where “significant” was “lack of compatibility and adverse effects”, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

**Upon a roll call of the second amendment to reinstate the supermajority in Section 58-90 for buildings over 10,000 square feet in the Central Business District if recommended for**

**denial by Planning and Zoning Commission.** Mayor Bradley addressed the vote at the last Charter referendum displaying that the citizens were not in favor of the concept of supermajority. He also stated that everyone shares the same desire to maintain the Central Business District, we all want to preserve that and that this is the wrong place to do this according to our City Attorney. **Mayor Bradley and Commissioners Anderson and McMacken voted no. Commissioners Dillaha and Cooper voted yes. The motion failed with a 3-2 vote.**

**Upon a roll call vote to adopt the ordinance presented before the Commission, including the amendment made to the language in Section 58-90; Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

- d. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AUTHORIZING THE REFUNDING OF THE OUTSTANDING PARK AVENUE IMPROVEMENT REVENUE BONDS, SERIES 1998, OF THE CITY; PROVIDING FOR THE ISSUANCE OF NOT EXCEEDING \$3,000,000 PARK AVENUE REFUNDING IMPROVEMENT REVENUE BONDS, SERIES 2010, OF THE CITY TO BE APPLIED TO FINANCE THE COST THEREOF; PROVIDING FOR THE PAYMENT OF SUCH BONDS FROM LEGALLY AVAILABLE NON AD VALOREM FUNDS OF THE CITY BUDGETED AND APPROPRIATED FOR SUCH PURPOSE; AND PROVIDING AN EFFECTIVE DATE. First Reading

Attorney Brown read the ordinance by title. City Manager Knight stated this is the simple refinancing of the Park Avenue Improvement Bonds. He stated they look at all the bond issues from time to time and whether or not it makes sense financially to refund them and that it makes sense to do so for this one.

**Motion made by Commissioner Anderson to accept the ordinance on first reading; seconded by Commissioner Dillaha.**

Warren Petersen, 301-303 N. Park Avenue, objected to the refunding of the bonds because the bonds were originally voted on by the Park Avenue merchants for a specific purpose, amount and purpose to repave Park Avenue and put in sewer lines and water lines and no other purpose. City Manager Knight explained the original bond issue of \$5 million and that the Park Avenue property owners were assessed \$1 million of that. He explained that is the refunding the entire bond issue and that the merchants will see a decrease in their annual assessment as a result of this refunding. He stated there is no new money going to any other project and all the proceeds from this bond issue pay off the old bond issue and the cost of issuing these bonds. He stated the timing has not changed and saves everyone money.

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

- e. Ordinances – Changing the zoning on four properties:

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 EXISTING ZONING DESIGNATION OF COMMERCIAL (C-3A) DISTRICT TO COMMERCIAL (C-2) DISTRICT ON THE PROPERTY AT 400 WEST NEW ENGLAND AVENUE, 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 CHANGE THE EXISTING ZONING DESIGNATION OF COMMERCIAL (C-3) DISTRICT TO COMMERCIAL (C-2) DISTRICT ON THE PROPERTY AT 463 WEST NEW ENGLAND AVENUE, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT COE", ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE THE EXISTING ZONING DESIGNATION OF COMMERCIAL (C-3) DISTRICT TO COMMERCIAL (C-2) DISTRICT ON THE PROPERTY AT 535 WEST NEW ENGLAND AVENUE, 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 CHANGE THE EXISTING ZONING DESIGNATION OF COMMERCIAL (C-3) DISTRICT TO COMMERCIAL (C-2) DISTRICT ON THE PROPERTY AT 227 HANNIBAL SQUARE EAST, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

Attorney Brown read all four ordinances by title. Planning Director Jeff Briggs explained the location of the properties and the comprehensive plan designating these properties as Central Business District (CBD). He commented that in this area most of the properties have the corresponding C-2 zoning but the property owner has asked for the properties that do not carry that designation as listed above to be rezoned as C-2 in conformance with the comprehensive plan. He stated based on the comprehensive plan, if you have CBD Future Land Use, the compatible zoning is C-2. He stated that C-2 zoning permits more building than C-3 or C-3A but that every one of these properties building over 250 square feet has to come through Planning and Zoning and the City Commission so there are no guarantees on any approvals. He stated you can only build new density if you have parking and this area is maxed out which is why the P&Z gave a positive recommendation.

Commissioner Dillaha stated when someone is requesting a rezoning we require an actual project with plans to accompany the rezoning request. Mr. Briggs stated the plans are to keep the properties the way they are because they cannot do anything more with them and do not have any new net parking. Commissioner Cooper addressed her understanding that when we rezone property that the applicant comes forward with plans. She stated some abut single family residential and she is having a difficult time making any decision on these properties without seeing the proposed development. Mr. Briggs spoke about the task given to staff to update the zoning code to implement the comprehensive plan. He stated there are no plans except to maintain the existing buildings. Commissioner McMacken spoke about the comprehensive plan outlining what the Commission wanted to see. He stated we have described these areas as CBD and asked why we would not bring the zoning up to that. Commissioner Cooper stated they will when the applicant comes in with a project for review and will make the rezonings when appropriate. She stated the Future Land Use Map is there to say as these come forward it is the City's intention. Commissioner McMacken stated that it is the City's intention to make this C-2 and if they had said the City will consider that as C-2 then they would have said that in the comprehensive plan and not given the whole area a C-2 designation. Commissioner Cooper reiterated the importance to understand the project coming forward before approving the rezoning.

Commissioner Anderson commented that he believed they had a certain use already that had been previously approved and were bringing those uses and/or densities into compliance with the zoning. He stated he wanted to table this and review this further on his own.

**Motion made by Commissioner Anderson to table all four ordinances, seconded by Commissioner McMacken. Upon a roll call vote, Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. Mayor Bradley voted no. The motion carried with a 4-1 vote.**

Commissioner Anderson stated he did not believe we were going to blanket change every zoning in the City to whatever the comprehensive plan limits were and he needed to understand more about what the procedural requirements are for that.

- f. 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 COMMERCIAL TO CENTRAL BUSINESS DISTRICT ON THE PROPERTY AT 301 WEST NEW ENGLAND AVENUE, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

Attorney Brown read the ordinance by title. Planning Director Jeff Briggs explained they spent a lot of time during the comprehensive plan adoption trying to decide the future land use in the block of New England from Virginia to New York Avenue. He addressed the Grant Chapel property located at 301 W. New England Avenue being rezoned to C-2 in 2003 and under the zoning they were enabled certain entitlements but by virtue of the comprehensive plan they are not allowed to utilize those entitlements. He stated this was not unique as there were other properties that were given the C-2 zoning and that they tried to catch them all but this one was an oversight by staff. He stated this was one of the properties that were the basis of the complaints that led to the tolling agreement so the way to resolve this is to put the appropriate future land use (CBD) on the property.

Commissioner Dillaha spoke about the history of the zoning of this property and that this is being rezoned to C-2 in the middle of an entire C-3 block. She asked if the City is beholden to what happened with this property in the past. Attorney Brown stated they may be and there is a risk factor. He stated if the owner wants to come forward with a project that would be consistent with C-2 but not permitted under the less intense comprehensive plan designation, they would have to evaluate whether they have any defenses to acclaim. He stated if they take no action they will have to wait and see if a claim comes but is possible a claim could be presented. Commissioner Anderson asked if they take action on this tonight and change the future land use element to make it comply with C-2, the books will be straight. Attorney Brown stated they could not make a claim on that parcel if that happened. Commissioner Anderson asked if this creates a spot zoning issue by doing this proactively as opposed to part of the settlement. Attorney Brown responded that legally you could differentiate the other lots because they did not have the vested right of being given a C-2 previously. Attorney Brown stated they were not setting a bad precedent by doing this. Other questions were responded to by Attorney Brown.

**Motion made by Mayor Bradley to accept the ordinance on first reading; seconded by Commissioner Cooper. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

### **City Commission Reports**

a) Commissioner Anderson

No report.

b) Commissioner Dillaha

1. Commissioner Dillaha addressed the coffee talk schedule and proposed that we implement one coffee talk instead of two in a day and either look at a Saturday afternoon or an evening at 7:00 p.m. so that more of the public can participate. She addressed complaints received from people that they work and cannot come at 8:30 a.m. Mayor Bradley stated he is open for the idea so that the public can attend and he would be flexible. After further comments, Commissioner Dillaha suggested maybe an evening session on the first Thursdays of every month at 7:00 p.m.

2. Commissioner Dillaha addressed the supermajority issue that Attorney Brown spoke about earlier. She asked Attorney Brown that when he is looking at language to put together something that ensures more scrutiny and checks/balances on the three story situation with downtown Winter Park, the CBD, and the 10,000 or more conditional use approvals. She asked to define the specific area of the CBD where it is a two-story maximum that amends the comprehensive plan if you are going to three stories.

3. Commissioner Dillaha asked about scheduling a work session to discuss the commuter rail agreement to include the report provided by City Attorney Brown and the changes that have occurred over the last several years. The discussion would also include a more thorough review of the City Attorney's recommendations and findings and to discuss what we are going to do going forward and how we are going to deal with the issues associated with the current agreement. Mayor Bradley stated we cannot take action in a work session so is it better to bring an action up so that we can be talking about it because we have three potential actions: do nothing, seek an amendment to the agreement, or to terminate the agreement as is.

Commissioner Dillaha stated that any action that would be taken would be at the Commission meeting. Mayor Bradley stated if we are going to have a work session, it should be around a plan versus a talk about what we are going to do because they cannot take action. Commissioner McMacken stated maybe that is what it would take to cure this agreement. Mayor Bradley stated he does not know if we need to have a workshop to receive that.

Mayor Bradley asked Commissioner Dillaha if she was seeking to either terminate or amend the agreement and if so then he suggested that she bring it forward as an action item that we calendar and if we need a workshop to discuss that beforehand, we can do that.

Commissioner McMacken stated that it would be a discovery work session where you are discovering the challenges that would be entailed in a curing of the agreement. He stated he would be very much in favor of that type of discovery so that we understand coming in, what all of the implications are that we would be discussing. A work session was scheduled for Friday, April 30, 2010 at 12:00 noon. Mayor Bradley stated he has a conflict and they can meet without him because he is going to rely on the City Attorney's written council in terms of what we are doing.

4. Commissioner Dillaha asked if there was Commission support to bring the animal ordinance forward that the Park's Department has put together for review. Mayor Bradley asked what the ordinance includes. Mr. Holland responded that it adds Dinky Dock, Kraft Azalea Gardens and Mead Gardens to the list of prohibited. Upon discussion, there was a majority of the Commission wanting to move forward with this issue. Mayor Bradley expressed concerns that this issue will be very lengthy and we need to schedule it accordingly. City Manager Knight asked for a specific date of when he wanted this to come. Mayor Bradley asked when the Parks Board will be finished and if they are ready to bring this forward. City Manager Knight stated yes they are ready and that the April 26 and May 10 agenda are full and that this issue will take an entire meeting.

Commissioner McMacken requested to receive a report before we start an ordinance discussion. City Manager Knight stated they could put it as a non-discussion issue and bring it as a report. Mayor Bradley asked to have this ahead of time and agreed that staff can work with the City Attorney on this matter.

5. Commissioner Dillaha stated she does not need to discuss this tonight, but wanted future discussions regarding the Winter Park Hospital master plan and the master plans in general and how they are addressed in the comprehensive plan.

c) Commissioner Cooper

Commissioner Cooper stated there are some items in the comprehensive plan that have not yet been brought forward to be dealt with in our codes and she would like to ask that the Planning Department identify those items. This would include lot consolidations and estate preservation.

She also addressed the Master Plan issues and asked about the status of the Rolling master plan. She suggested reviewing the comprehensive plan and to make sure that we have not let things fall through the cracks.

d) Commissioner McMacken

Commissioner McMacken referenced Item 13D, where we had a recommendation from the City staff to approve the zoning changes and a 4-0 vote from the P&Z to approve that and the Commission has a very different opinion of what that should be. He stated that when we talk about a document that is directing the future development in our city, and that he believes there is a huge disconnect between what the P&Z views the document as and what the Commission views the direction of this document. He recommended to have a joint session with P&Z in the near future so that we can give them direction and what we expect from them.

e) Mayor Bradley

Mayor Bradley asked City Manager Knight if the issue of the traffic light on Lakemont by the Towers can come forward as quickly as possible from their January discussion. City Manager Knight acknowledged.

**Meeting Adjourned**

**Motion made by Mayor Bradley to adjourn the meeting; seconded by Commissioner Cooper and carried unanimously with a 5-0 vote.**

The meeting adjourned at 9:11p.m.

---

Mayor Kenneth W. Bradley

ATTEST:

---

City Clerk Cynthia S. Bonham