

CITY COMMISSION MEETING MINUTES
May 10, 2004

The meeting of the Winter Park City Commission was called to order by Mayor Kenneth "Kip" Marchman at 3:30 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida. The invocation was offered by Mayor Kenneth Marchman, followed by the Pledge of Allegiance.

PRESENT: Mayor Kenneth "Kip" Marchman, Commissioners Douglas Storer, John Eckbert, Douglas Metcalf and Barbara DeVane; City Manager James Williams; City Attorney Brent McCaghren and City Clerk Cynthia Bonham.

MAYOR'S REPORT:

- a) Winter Park High School Girls' Soccer Team recognition.

Postponed until May 24, 2004.

- b) Youth Advisory Board update.

Youth Advisory Board adult advisor Joie Cadle, 1521 Sunset Drive, provided an update regarding the graduating class, the colleges they will be attending, the scholarships the students received, and the many meetings and events they participated in. She introduced two members of the UAB, Hector Gonzalez, 2807 Yucca St., Orlando, who spoke about his experiences while serving on the board; and Mandy Nice, 2200 Azalea Place, who was elected the speaker of the Youth League. She recognized Full Sail for their donation of services and equipment to the annual ParkStock local bands music event.

- c) Mayor Marchman recognized Nichole Bonds, Community Center, as the May 2004 Outstanding Employee of the Month.

- d) Annual board appointments.

Mayor Marchman nominated the following to be appointed/reappointed to the various volunteer boards:

Board of Adjustment:	Re-appoint Lucy Morse and Ronald Ellman
Code Enforcement Board:	Re-appoint Nick St. George and Lynn Hoerter Appoint Zane Williams
Community Redevelopment Advisory Board:	Re-appoint Joe Terranova, John Awsumb and Beverly Neal
Historic Preservation Commission:	Re-appoint Bill Felkel and Eleanor Fisher Appoint Thomas McMacken, Jr.
Lakes and Waterways Advisory Board:	Appoint Michael O'Shaughnessy and Mark Jackson
Parks and Recreation Commission:	Re-appoint Kenneth Murrah Appoint Bob Klettner
Pedestrian and Bicycle Advisory Board:	Re-appoint Mary Sullivan and Julie Carmody
Planning and Zoning Commission:	Re-appoint Thomas Alday Appoint Margie Bridges
Public Art Advisory Board:	Re-appoint Susan Finnegan and Jan Clanton
Utilities Advisory Board:	Re-appoint Patricia Fuselier

Firefighter's Pension Trust Fund Board:	Appoint Mike Whiting
Building Code Board of Adjustments & Appeals:	Appoint Tony Gray
Mechanical Board:	Re-appoint Roger Kansier and Robert Murdock
	Re-appoint Brian Hastings

This item was again discussed at New Business to provide the opportunity for the Commission to review the proposed list of appointments as provided by the Mayor.

Motion made by Commissioner DeVane to approve the list as provided by Mayor Marchman, seconded by Commissioner Storer and carried unanimously.

e) City Manager annual evaluation.

Mayor Marchman stated he has spoken and reviewed issues with City Manager Williams. He believed that this past year was a tremendous year and that the City has a very good City Manager team. He recommended a two-step salary increase for City Manager Williams. **Seconded by Commissioner Storer.**

Commissioner Eckbert stated that he took a different approach to Mr. William's evaluation this year and examined the challenges ahead of the City versus Mr. William's skills. He elaborated on what he believed to be critical turning points in Winter Park's future and stated that he believed the City needs a new City Manager.

Commissioner Metcalf commented that Mr. Williams is a man of incredible honor and integrity but has become concerned with the role of the Commission versus the role of the City Manager in the way the City operates. He addressed the recent annexation failures, budget pitfalls and negative economic development issues on Park Avenue. He stated he was not in favor of a salary increase.

Commissioner DeVane commented about being unhappy with the City Manager review process. She addressed the City's Charter outlining the City Manager's duties and powers which she used for her evaluation which she found in most instances were adequate or superlative. She encouraged the Commission to be very specific in defining what additions/modifications they would like to make to the powers and duties of the City Manager and the areas of concerns should first be addressed. She stated she is not willing at this time to consider a change in management because of being unfair without communicating what the Commission expects and because of the very significant unfinished business of the electric power distribution system acquisition.

Mayor Marchman addressed the great staff the City Manager has assembled and the tremendous leadership he has provided. Commissioner Storer stated he did not agree with Commissioners Eckbert and Metcalf. He stated Mr. Williams has been an excellent leader and spoke about gauging leadership by the results and the people they are leading. He stated that he has seen stability and department heads who have flourished and accomplished major initiatives that many cities would wish they could accomplish. He commented that Mr. Williams style is very appropriate for Winter Park and that his style and staff have made his job much easier. Commissioner DeVane concurred with Commissioner Storer's comments.

Motion to approve a two step pay raise for the City Manager carried with a 3-2 vote with Commissioners Eckbert and Metcalf voting no.

CITY ATTORNEY'S REPORT:

Updates:

Attorney McCaghren spoke about the 1960's agreement with Orange County Public Schools to acquire the Shady Park property. He stated in working on a title update related to a state grant for improvements to Shady Park, it was discovered that the City never received its deed to that property. He reported that a draft of the deed has been furnished by OCPS and we have been assured that their School Board has approved it. He stated they now need to sign the deed and provide it to the City.

Attorney McCaghren reported that a request was made for a recount of the Lee Road annexation referendum that passed last week by two votes and that a recount will take place.

a) Glenridge School Property

Attorney McCaghren provided an update on the status of the old Glenridge School property. He stated he has initiated communication with School Board Counsel Mr. Kruppenbacher and arranged a meeting between City staff and school board staff for later this week. He stated he will provide a more definitive response after that meeting regarding the status.

b) Regent Hotel - Third amendment to the developer's agreement.

Attorney McCaghren reported that the Regent requested changes to their agreement with the City in January 2004 to allow the individual rooms to be sold as individual condominiums but would continue to operate as an upscale hotel. He also addressed the discussions at the meeting to separate the ownership of the hotel amenities as a separate condo ownership and that the hotel rooms would be under a standard type of decor versus each owner decorating their own room. He stated the developer prepared an agreement and meetings took place to ensure this would always remain a hotel, understanding that the request to put deed restrictions requiring the condo owners to put their rooms into the hotel pool could not be done. He stated they then reviewed the possibility of restricting the hotel rooms and preventing cooking facilities to discourage year round occupancy. He stated they were advised that this will not work because of the plans from the beginning to include limited cooking/eating facilities in the hotel rooms so a revised agreement has been submitted to limit the hotel rooms to contain refreshment centers with limited cooking facilities. He stated they are providing an update this evening and need to resolve the agreement and use of the rooms.

Attorney Hal Kantor, representing the Regent Hotel developer, addressed the hearing on January 26 to amend the developer's agreement (Third Amendment) to allow condo/hotel on the entire project. He stated the modified agreement was sent back to the City on February 4, 2004. He stated he believed at that time that the developer's agreement would be signed but that staff informed him they needed to go back through the Planning and Zoning Commission which he objected to. He stated the project has stopped at this time as of May 4 because the lender has ceased discussions with them because of the recommendation for denial by City staff and action taken by the P&Z.

Mr. Mark Ellert, Langford Development, provided an update on the status of the project since January 26, 2004, and the events from the past week that had caused confusion. He addressed a new partner - J. H. Anderson Holdings and the exclusive hotels built by Mr. Anderson. He summarized the amenities being proposed for the project, financial aspects and a new advertising firm they hired to run an advertising campaign to promote the project. He spoke about the condition imposed on them to disallow kitchens which brought forward the discussion of refreshment centers. He stated they agreed to limit full kitchen facilities to 58 of the 158 units. Mr. Ellert further addressed refreshment centers and the need to execute the modification to the developer's agreement (Third Amendment) as presented so they can proceed forward.

Commissioner questions and comments were provided which Mr. Kantor and Mr. Ellert responded to. Mayor Marchman stressed the importance of obtaining a comfort level that a Five-Star hotel will exist. Commissioner Metcalf spoke about his support of the project and the proposed modification to the developer's agreement being acceptable. Attorney McCaghren summarized the previous discussions regarding kitchen facilities and prior conditional use approvals. He stated if it is determined that kitchen facilities are acceptable, the agreement can be approved without going back to the P&Z but the agreement should include this safeguard and a finding that the Commission does not believe the refreshment centers to be a substantive change requiring P&Z hearings. Commissioner Storer asked if sufficient safeguards are in place so purchased units cannot be modified. Attorney McCaghren responded in the affirmative. Attorney Kantor clarified the condominium codes as to what the owner can and cannot modify. Mr. Ellert spoke about hotel regulations regarding modifications to units.

Commissioner DeVane asked that a complete set of documents between the various parties be provided to the City, i.e., management agreement with the hotel, declaration of ownership, etc. She addressed the importance of understanding the issues they are concerned with and receiving a guarantee this will be a hotel. Discussion ensued regarding certain proprietary information that should not be made public. Mr. Ellert suggested that they provide a copy of the technical services agreement to the City which gives the operator all the rights to review and approve and documentation as it is created from an architecture, engineering and design standpoint. He also commented about the condominium document governed by the State that will become a public record.

Commissioner Storer asked if language could be incorporated into the developer's agreement guaranteeing that it will remain a condo/hotel. Mr. Ellert concluded that they have already agreed to this by providing a deed restriction that would preclude the sale of common elements to the association. He stated the unit is subject to the long term management agreement that everyone is comfortable with and the State governs what the association can and cannot do legally. He stated they have also agreed that they will not try to "collapse" the concept by virtue of selling the assets.

No public comments were provided.

Motion made by Commissioner Metcalf to approve the Third Amendment to the developer's agreement with the Regent and for the developer to provide redacted excerpts from the documents to provide the comfort to verify what is being presented regarding amenities,

seconded by Commissioner Eckbert and carried unanimously.

CONSENT AGENDA:

- a) Approve minutes of 4/26/04.
- b) Approve purchase as follows:
 - 1) Corrections to P.O. # 108301 to Ferguson Underground, Inc. for water/sewer inventory, corrected amount \$108,879.50 (Budget: Purchasing/Warehouse)
- c) Review calendar and update with upcoming events.
- d) Authorize the execution of the Bank of America resolutions and to authorize PGCS to utilize City bank accounts for payment of workers' compensation and general liability claims.
- e) Approve the bus policy as presented.

Mayor Marchman asked for public comments. None were provided.

Motion made by Commissioner DeVane to approve the Consent Agenda, seconded by Commissioner Metcalf and carried unanimously.

PUBLIC HEARINGS:

- a) Request of Nicholas Musashe for the property at 2630 Lafayette Avenue:

ORDINANCE NO. 2581-04: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE", ARTICLE I, "COMPREHENSIVE PLAN" AND THE FUTURE LAND USE MAP SO AS TO CHANGE THE FUTURE LAND USE DESIGNATION OF SINGLE FAMILY TO OFFICE ON THE PROPERTY LOCATED AT 2630 LAFAYETTE AVENUE, MORE PARTICULARLY DESCRIBED HEREIN. Second Reading

Attorney McCaghren read the ordinance by title. No public comments were made.

Motion made by Commissioner Metcalf to adopt the ordinance with the conditions imposed by the Planning and Zoning Commission, seconded by Commissioner Eckbert. Upon a roll call vote, Mayor Marchman and Commissioners Storer, Eckbert, Metcalf and DeVane voted yes. The motion carried unanimously with a 5-0 vote.

ORDINANCE NO. 2582-04: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE", ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE THE ZONING DESIGNATION OF SINGLE-FAMILY RESIDENTIAL (R-1A) DISTRICT TO OFFICE (O-2) DISTRICT ON THE PROPERTY LOCATED AT 2630 LAFAYETTE AVENUE, MORE PARTICULARLY DESCRIBED HEREIN. Second Reading

Attorney McCaghren read the ordinance by title. No public comments were made.

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

- b) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AUTHORIZING THE CONVEYANCE

OF THE CITY PARKING LOT BETWEEN CANTON AND GARFIELD AVENUES WITHIN BLOCK 20, REVISED MAP OF THE TOWN OF WINTER PARK, SUBJECT TO MINIMUM REQUIREMENTS AS SET FORTH HEREIN. First Reading

Attorney McCaghren read the ordinance by title. No public comments were made.

Planner Jeffrey Briggs provided information regarding the receipt of the zoning application for the redevelopment of the Jacobson's property. He stated the existing building will become a three story building with a retail store(s) on the ground floor and two floors of offices above. He stated the code requires new parking for the new floor space so the plans include a new four level parking garage in partnership with the City to be constructed in the existing City parking lot behind the building. He stated there are ways to structure this partnership and that the arrangement of a fee simple arrangement is desired by the developers and staff. He stated the ordinance being presented authorizes the conveyance of this property which is in accordance with the City Charter. He stated that adopting this ordinance will signal the Foundation that the City wants to negotiate about a joint parking lot agreement for that structure. He stated that the zoning public hearing will come before the P&Z and Commission next month.

Attorney McCaghren stated that the City will secure a special counsel if this matter moves forward because two of his partners are on the Board of Trustees for the Foundation. Mayor Marchman and Commissioners Storer, Metcalf, Eckbert and DeVane disclosed conversations with the applicant regarding this project.

Harold Ward, President of the Elizabeth Morse Genius Foundation, 2150 Fawsett Road, stated that this is preliminary and will not result in the project being completed without the other necessary approvals. He commented it is important for them to know that the City agrees with the concept of the garage on this property. Commissioner Metcalf asked for certification that the current 83 parking spaces will remain for public use. Mr. Ward confirmed this.

Woody Woodall, 411 Shepard, stated he was speaking for the Whittington properties across from the old Jacobson's and they agreed with the proposed parking at that location but that they may be interested in purchasing parking spaces there. He asked that the ability for other parties to be able to participate in purchasing parking spaces be included within the negotiation/agreement.

Linda Walker, 794 Comstock Avenue, stated that putting a parking garage at Canton Avenue and Garfield Avenue is the appropriate place for a parking garage for the business district as opposed to putting them in front of their houses in the CRA area.

Commissioner Storer commented about the possibility of pre-selling parking spaces to property owners who need parking and adding an additional story onto the garage to accommodate these requests. Attorney McCaghren stated that conversations have already taken place with City staff to add another parking level at the City's expense.

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

c) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND

DEVELOPMENT CODE" ARTICLE VIII, "HISTORIC PRESERVATION" SO AS TO AMEND SUBSECTION 58-456, GUIDELINES FOR ISSUANCE, DEMOLITION, AND CONSTRUCTION EXCAVATION OR OTHER DISTURBANCE IN ARCHAEOLOGICAL ZONES. First Reading

Attorney McCaghren read the ordinance by title. Commissioner Eckbert asked for clarification of the intent of the ordinance. Lindsey Hayes, Planning Department, explained the language being changed at the direction of the Historic Preservation Commission, clarifies the requirement of the HPC to consider the proposed reuse of the property when owners request a Certification of Review for demolition of a historic resource. Other comments and questions were made by other Commissioners regarding the amendment to the ordinance and the existing historical preservation ordinance. They were answered by Ms. Hayes and Attorney McCaghren.

Nancy Shutts, 2010 Brandywine Drive, asked for confirmation that this ordinance will not interfere with the renovations of the Ninth Grade Center. No further public comments were made.

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

A recess was taken from 5:50 - 6:00 p.m.

- d) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA RELATING TO CITY BOARDS; TRANSFERRING THE DUTIES AND FUNCTIONS OF THE NUISANCE ABATEMENT BOARD TO THE CODE ENFORCEMENT BOARD; TRANSFERRING THE DUTIES AND FUNCTIONS OF THE STORMWATER BOARD OF APPEALS TO THE LAKES AND WATERWAYS ADVISORY BOARD; PROVIDING FOR THE DUTIES OF THE INDEPENDENT PERSONNEL REVIEW BOARD TO BE PERFORMED BY THE CITIZEN MEMBERS OF THE CIVIL SERVICE BOARD; PROVIDING AN EFFECTIVE DATE. First Reading

Attorney McCaghren read the ordinance by title. No public comments were made.

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

CITY MANAGER'S REPORT:

- a) Presentation of revised City seal

Communications Director Clarissa Howard presented the new Peacock City seal that was approved at the April 12 meeting in its final format which will replace the present, outdated seal. She displayed photos as to how the vehicles will look with the new seal as well as a black and white image. There

was a consensus to move forward with implementing the new seal the beginning of June. The use of the four colors as shown and the associated costs were addressed.

b) Resident survey for Winter Park Road bricking.

City Manager Williams presented the resident survey for the Winter Park Road bricking. He stated this was discussed at the last meeting and staff was directed to provide a survey send to the residents. He also provided a draft letter to be sent along with the survey.

Public Works Director English provided estimates to brick Winter Park Road and Holt Avenue which were very equal in cost. He stated if Holt was approved for bricking that money would be left over to do the sidewalks and curb improvements on Winter Park Road. Questions by the Commission were answered by Mr. English regarding the various types of bricks and traffic calming issues. Commissioner DeVane stated what she believed was a problem with the road being too rough on the Pennsylvania/Lake Sue Avenue corridor. Commissioner Storer also addressed this roadway and the problems he saw with the bricks. Mr. English commented they will be reviewing this road and the bricks will be corrected as necessary.

Commissioner Eckbert asked if staff could review other streets such as the Lakemont Avenue corridor as to what can be done to traffic calm while the survey is being returned. He also wanted to review what the optimal location for these funds would be to be sure the City puts the funds to the best use. Mr. English responded they have already been reviewing Lakemont.

The following public comments were made:

Jan Nichols, 890 E. Lake Sue Avenue, addressed her concerns with the rough road bricks discouraging shoppers to go to Park Avenue.

Lisa Tellechea, 316 Salvador Square, addressed the need to accurately word the survey to achieve the needed results. She submitted a letter she previously provided to the City and spoke about the consequences with brick roads.

Linda Walker, 794 Comstock Avenue, asked when west Winter Park will be given the opportunity to calm the traffic in their community because of 17-92 and Park Avenue traffic. Mayor Marchman stated that any neighborhood can apply for assistance with brick and there is a process to go through.

Cindy Smith, 2909 Parkland Drive, spoke in favor of bricking streets for traffic calming purposes and the need to continue bricking because of Baldwin Park being developed.

Motion made by Commissioner Storer to approve the letter and the survey as presented, seconded by Commissioner DeVane and carried unanimously.

NEW BUSINESS:

1. Dan Bellows, 533 W. New England Avenue, addressed his approval to build a 9-unit apartment building at 402 Welbourne Avenue and that in the approval process it was presumed that he was encroaching into the right-of-way with some steps and columns. He stated he is required to have a facade encroachment agreement with the City. He provided a copy of the legal which he asked Attorney McCaghren to review.

Mr. Bellows provided comments regarding the Pennsylvania Avenue project. He stated that the Bakers signed a contract with him for their grocery store on Pennsylvania Avenue. He stated this will allow for two nice projects to be built in Hannibal Square which will add dollars in value onto the tax roll and stimulate ad valorem revenue.

Mr. Bellows addressed the Heritage Center proposal to be discussed during the CRA meeting. He stated the City owns the corner of Hannibal Square west and New England; he owns the contiguous vacant lot at the corner of Hannibal Square west and Douglas Avenue as well as the two single family lots behind there. He spoke in favor of the Heritage Center at the proposed location. He asked that if the City is going to have a use other than R-1A next to his three R-1A lots, that he wants the same use so he can provide art galleries, museums, etc.

Mr. Bellows also spoke in favor of rough bricks for traffic calming.

2. Lurline Fletcher, 790 Lyman Avenue, spoke against parking garages in the westside because of increasing traffic in their community.

3. Frank Baker, 650 Northwood Circle, spoke about why an impasse was reached regarding the proposed deal with Pennsylvania Avenue property. He stated the problem was there was not enough money to build the 9,300 square foot building as proposed.

4. Mary Daniels, 650 Canton Avenue, asked that the westside community be remembered as a residential neighborhood when considering the construction of parking garages and re-development on the westside.

5. Janie Baker, 650 Northwood Circle, spoke against the construction of parking lots and large buildings on the westside. She addressed her property at 355 Hannibal Square and acknowledged the City's plans to construct a parking garage which she stated she was unaware of until the previous Friday. She expressed displeasure with this affecting what she wanted to do with her property.

6. Linda Walker, 794 Comstock Avenue, spoke against the new City seal because she believed it was inappropriate to change it after all these years and felt it was an important part of the City's history.

Ms. Walker also spoke about Mr. Bellow's business on the corner of Welbourne and Virginia Avenues. She asked the City to stop work on that construction site because he would not comply with code enforcement by properly enclosing his site.

Mayor Marchman adjourned the meeting at 7:02 p.m.

Mayor Kenneth R. Marchman

ATTEST:

City Clerk Cynthia Bonham