

**CITY OF WINTER PARK
REGULAR MEETING OF THE CITY COMMISSION
June 10, 2003**

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 Pastor Jim Book, First Christian Church, followed by the Pledge of Allegiance.

PRESENT: Mayor Kenneth "Kip" Marchman, Commissioners John Eckbert, Doug Metcalf (arrived at 3:55) and Barbara DeVane; City Attorney C. Brent McCaghren; City Manager James Williams and City Clerk Cynthia Bonham. Absent: Commissioner Douglas Storer

MAYOR'S REPORT:

Mayor Marchman recognized Gregory Oas, Public Works Department, as the June 2003 Outstanding Employee of the Month.

CITY ATTORNEY'S REPORT:

No report was given.

CITY MANAGER'S REPORT:

- a) Feasibility Study Partnership Proposal for proposed Central Park Cultural Center between the City and the Central Park Foundation, Inc.

Forest Michael, Anne Grey and Mark Brewer of the Central Park Foundation, provided by way of powerpoint, a presentation on their proposal for a Feasibility Study Partnership between the City and Foundation for a cultural center in Central Park.

A request for City funding of \$20,000 was presented by the Foundation for a portion of the Feasibility Study. The Foundation also requested that the Mayor and one Commissioner serve on the feasibility study committee as well as three staff members. The Central Park Master Plan was addressed as well as the proposed site location for the cultural center. Commissioner Eckbert stated that a transition site was identified as the current post office parking lot that was designated as a potential civic site and did not encompass the entire post office site. Mr. Michaels confirmed that was correct and that they would like to address the proposed location of the site within the Feasibility Study. Further discussion ensued regarding what is shown in the Central Park Master Plan regarding the possible location of the civic site.

Mayor Marchman spoke that the City needs to go forward with the proposals but a contribution of funds from the City is difficult at this time. He stated that if they move forward with the Feasibility Study, they should review and consider this specific site but that the study should not only review that particular site. Commissioner Metcalf stated an evaluation is needed of what the total cultural needs of the City are and did not want large projects to fill up Central Park.

Commissioner Eckbert addressed the proposed composition of the Foundation Feasibility Study Advisory Committee and expressed concerns that there is more City staff and Commissioners proposed than Foundation members/private residents. He stated this was previously discussed as being primarily a privately initiated/privately led organization and wanted the membership to reflect that and to only have staff attend when necessary. Attorney McCaghren expressed Sunshine Law issues with having the Mayor and one Commissioner together on the committee.

Commissioner DeVane spoke about the need to involve City staff and Parks and Recreation Commission members if the Foundation's primary purpose is fundraising, operating and being a partner in Central Park. She addressed the need for the Parks Department to have early input into the discussion. She spoke about the upcoming tight budget and the already approved consultant to provide a Master Parks Plan with significant planning for the future which is temporarily placed on hold because of budget considerations. She suggested that the Foundation meet with Parks Director John Holland to see if the proposal this evening could be a part of that plan.

Ms. Grey asked the Commission what they should do at this point. After a suggestion by Mayor Marchman, there was consensus that the Foundation go back and digest the comments made this evening and try to determine a way to accomplish the study that would not require City funding at this time and to reconsider the proposed composition of the Feasibility Study Advisory Committee. He asked them to come back with another proposal containing the changes. There was discussion about the necessity for the Foundation to discuss the plans for developing the post office location with ACi. Commissioner Eckbert suggested that they be a part of the communications to receive input coming from ACi or any input or direction coming from the Commission regarding the site.

b) Update from Parks Director John Holland regarding the Central Park Rose Garden.

Parks Director John Holland provided a timeline on the progress and development of the rose garden as requested by the Commission. He highlighted prior Commission approvals related to this issue. He stated that he believed the hardscape already constructed would soften after it is fully landscaped and will provide an entrance at this end of the park. Commissioner DeVane asked when the roses will be planted and if one will be named after Mrs. Crane. Mr. Holland stated they are reviewing that.

c) Discuss whether to change the Commission regular meeting day to Monday.

City Manager Williams commented that the Commission decided at the last meeting to combine the Monday and Tuesday meetings into one Tuesday meeting on a trial basis. He stated he has received calls from some Commissioners asking that Mondays be considered as the day for regular meetings because it would help them schedule their job traveling. He provided a list of pros and cons of both Monday and Tuesday meetings. He stated that the next meeting will have to be held on Tuesday, June 24 because the public hearing advertisements have already been publicized. He stated the first meeting in July would be the first Monday meeting if they decide to change it. Commissioner Metcalf spoke that he along with two other Commissioners are required to travel more than other Commissioners and that Monday would help them schedule their work plans. Mayor Marchman reminded the Commission that this is a trial for the summer months. He addressed the importance of ensuring the community is aware of the new meeting day and time. There was a consensus to try the Monday days during July and August at 3:30 p.m. and to revisit

it in late July to see how it is going.

d) Sewer connection fee policy for economic development.

City Manager Williams spoke about the discussion at the last meeting whereby staff was asked to provide a policy that would help the businesses in the downtown area. Planner Jeff Briggs stated that the policy before the Commission concentrates the sewer connection fee deferrals in the CRA areas as opposed to allocating it toward other restaurants in other areas of the City. He stated it is a sewer deferral policy that would allow the City Commission to waive sewer connection fees for fine dining, full service restaurants only for a year. He explained that after the year has ended that they would review the actual water usage so the fee is precise depending on water usage and they could pay that fee over the next 5 years in equal installments with 5% interest. Discussion and questions ensued and were answered by Mr. Briggs. Commissioner DeVane suggested to try this for a year to see how well it works.

Public Works Director Jim English stated that this method of allowing them to base their connection fee on actual flow would be the lowest method of capacity charge the City could ever give them. He stated everything else they use is based on an energy standard. There was discussion that this policy could be used as an alternate procedure for restaurants. There was consensus to have the City Attorney draft an amendment to the current ordinance for first reading at the next meeting.

Glenn Partin, Hot Olives Restaurant, spoke about his restaurant expanding their seating and asked for clarification as to the fees they are required to pay. An explanation was provided by the City Attorney as to the proposed amendments.

Joe Terranova, 700 Melrose Avenue, addressed the need to expedite economic development. He also asked when public comments would be allowed for the City Manager's Report because of the newly formatted agendas.

e) Update concerning Progress Energy (Florida Power Corporation).

Assistant City Manager Randy Knight stated he had four items needing discussion: 1) the Financial Feasibility Study, 2) a bond ordinance later on the agenda, 3) a settlement offer that was submitted by Progress Energy which he recommended not to discuss tonight because it was provided to us after this meeting had already started, and 4) a mailer sent to residents containing some misleading statements. After review of a draft letter, changes per the request of Commissioners will be incorporated into the final letter to be sent to City residents clarifying certain statements in Progress Energy's letter.

Commissioner DeVane spoke to Progress Energy representatives Mr. Stewart and Ms. Simpson who were present at the meeting that she hoped that they will state facts and not misrepresent them.

Gerry Warren, First Southwest Company, provided a powerpoint presentation updating the Commission on the municipal electric utility feasibility analysis. Mr. Knight addressed the bond ordinance under public hearings and asked if there was any direction concerning the settlement agreement presented this evening from Progress Energy. Commissioner Eckbert asked that we

compare it with the feasibility analysis as far as the economics to the City.

There was Commission consensus for the City to send the letter to residents with the noted changes. The settlement proposal will be discussed at the next meeting.

- f) Review of Hamilton Place final plat submissions and decision to schedule and advertise rehearing.

Special Counsel Scott Glass, Shutts and Bowen law firm, replaced City Attorney McCaghren on this issue because of the conflict with the Morse Foundation selling this property.

Planner Jeff Briggs addressed the six reasons for denial at the last meeting. He commented about receiving additional submissions from the Hamilton Place developers and before another public hearing is scheduled, they wanted to have a sufficiency review to be clear that the materials presented addressed specifically the six grounds for denial of the request. He stated that there will be a future public hearing on this matter and this is not intended to be a public hearing. He stated no advertisements have been submitted for a public hearing and that no decision can be made this evening on the final plat. He clarified that the Commission is only to inform staff whether they agree with their analysis of the sufficiency and to provide any direction to staff.

Attorney Glass read the memorandum that was provided to the Commission regarding this agenda item and the procedure of how the sufficiency review needed to be handled. He stressed the point that the Commission should not entertain any argument from either the applicant or staff as to the ultimate merit of the material presented or decision as to approval of denial of the final plat because of the materials submitted.

Mr. Briggs stated that Mr. Hamilton has been provided a copy of the submission. He briefly reviewed the six points for the residents who were present at the meeting. Upon completion of the review, Commissioner Metcalf addressed #4 about the location of the wall and wanted to be sure that this right-of-way is preserved for future use after the CSX trains are extinct and the access to the path running down the tracks allows the citizens to be able to get directly downtown. Commissioner DeVane spoke about concerns with item #3 and the traffic that will be generated from the development and paving the road which may cause cut through traffic.

Mayor Marchman stated that the applicant needs to be advised that his submissions are not complete based upon the reasons that staff has raised and that the Commission has just endorsed and commented on. There was consensus to notify the applicant that he has not complied with the Commission's previous request and that the Commission endorsed what staff has provided and was not adding additional items.

A recess was taken from 5:30 - 5:35 p.m.

CONSENT AGENDA:

- a) Approve minutes of 5/27/03.
- b) Approve bids, purchases and change orders:
 - 1) Change Order #1 to Gomez Construction, Inc. for the Construction of the Rose Garden in Central park to deduct \$29,203.00 for landscape and irrigation allowance (\$26,563); and labor to install plaza area brick pavers (\$2,640).

- 2) Change Order #2 to Core Construction Group, Inc. for Bid WP-9-2002, Construction of Restrooms at Dinky Dock to add after-the-fact (as of 1/16/03) removal of concrete to conform to City's changes, reform and re-pour new concrete, relocate electric and water near entry door, \$7,100 (Budget: CIP)
 - 3) Approve Change Order to CH2M Hill for Task Order 2000-01, for General Engineering Support Services for water and wastewater systems, \$75,000 (Budget: CIP)
 - 4) Approve Change Order #2, to CH2M Hill for emergency repairs to Clarifiers 1 & 2 at Winter Park Estates WWTP: Clarifier #1, \$220,000, Budget in FY03 Capitol Project, Utilities. Budget of \$207,272 for repairs for Clarifier # 2 is coming from the FY 04 budget. Total for both repairs \$427,272.00.
- c) Approve budget adjustments:
- 1) Transfer \$12,307 from General Fund Contingency and \$9,793 from General Fund Reserves to ITS Internal Service Fund to purchase five tablet computers and one laptop computer to implement the paperless agenda project.
 - 2) Approve \$1,458,775 in budget reductions to compensate for revenue shortfalls projected at \$725,000 and additional Police and Fire pension contributions in the amount of \$696,337.
- d) Review calendar and update with upcoming events.
- e) Approve the request of AT&T to place an antenna on the cell tower located at 3111 Temple Trail which extends the height to 140' and is consistent with the lease (license) agreement approved by the Commission on March 21, 2001.

Stanley Wilson, 834 Antonette Avenue, asked for increased funding for the library in the upcoming budget and addressed the need to increase the millage to take care of the needs and wishes of the community.

Joe Terranova, 700 Melrose Avenue, spoke about City Manager items a, c and e. He agreed with the concept of a Feasibility Study for a Cultural Center and the need for it to sustain itself financially and to be located downtown. He addressed the time of the upcoming Commission meetings being changed to 3:30 p.m. He also spoke about the Progress Energy letter they sent to citizens and the importance of providing citizens correct facts. He addressed certain language within documents he believed needed clarification on specific issues to ensure the public receives good and correct input on this issue.

Dr. Bette Tallon, 1170 Kenwood Avenue, asked about the procedure being used where Mr. Hamilton can make changes after being denied to be brought back to the Commission and not go back through the Planning and Zoning Commission. Mayor Marchman clarified her concerns.

Lurline Fletcher, 790 Lyman Avenue, asked about how the meetings will be handled in the future. Attorney McCaghren explained the new procedure.

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

PUBLIC HEARINGS:

- a) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 LAND DEVELOPMENT CODE, ARTICLE III, "ZONING REGULATIONS" SUBSECTION 58-85 "ZONING

CHANGES AND AMENDMENTS" AND ARTICLE VI "SUBDIVISION REGULATIONS" SUBSECTION 58-378 "SPECIFICATIONS FOR PRELIMINARY PLATS AND PLANS" SO AS TO REQUIRE PROSPECTIVE BUILDING PLANS AND BUILDING ELEVATIONS AS PART OF THE APPLICATION. Second Reading

Attorney McCaghren read the ordinance by title.

Planner Jeff Briggs explained the intent of the ordinance and spoke about comments made by builders since the first reading believing the ordinance will not work because of concerns with the subdivision review and lot splits. He suggested to delete the portion of the ordinance regarding the requirement of submitting house plans because they do not know who the buyer or the plans are at that time. He spoke about the rezoning portion remaining important but that the subdivision portion should be reviewed again. He suggested to adopt the ordinance with only the rezoning portion. Commissioner DeVane spoke about the substantial change being made to the ordinance and suggested that staff meet with the concerned parties to receive input to rewrite the ordinance. Attorney McCaghren stated that because of the substantial changes with deleting Section 2, that the ordinance will once again become first reading.

Charlie Clayton, 1230 N. Park Avenue, opposed the ordinance as presented because of concerns with forcing people who own land to provide the end product prematurely. He welcomed a work session with staff.

Rick Dye, 2300 Lee Road, and landowner in town, spoke concerning the ordinance with having to plan your site plan and building elevations beforehand not being practicable.

Jeff Hamilton, 726 Eastlawn Drive, Celebration, spoke in opposition to the ordinance as presented. He provided a list of Model Codes for the Commission to review and agreed that a work session was in order.

Rick McKee, Home Builders Association, opposed the ordinance and asked for a work session.

No further public comments were made.

After Commission comments, **motion made by Commissioner Eckbert to table this item and receive input from the public, seconded by Commissioner DeVane, and carried unanimously with a 4-0 vote.**

- b) ORDINANCE NO. 2518-03: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 LAND DEVELOPMENT CODE, ARTICLE III, "ZONING" SO AS TO AMEND SUBSECTION 58-75 "GENERAL COMMERCIAL (C-3) DISTRICT TO ADD RESIDENTIAL UNITS AS A PERMITTED USE WITHIN THIS DISTRICT. Second Reading

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

Motion made by Commissioner Metcalf to adopt the ordinance, seconded by Commissioner DeVane. Upon a roll call vote, Mayor Marchman and Commissioners Metcalf, Eckbert and DeVane voted yes. The motion carried unanimously with a 4-0 vote.

- c) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, VACATING AND ABANDONING THAT PORTION OF COMSTOCK AVENUE LYING EAST OF INTERLACHEN AND NORTH OF FAIRBANKS AVENUE BUT RESERVING A UTILITY EASEMENT, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

Attorney McCaghren read the ordinance by title. Planner Jeff Briggs explained the All Saints Episcopal Church property survey that he provided. He stated the request is to vacate a portion that the City did not know existed.

Daniel McIntosh, 1891 Winchester Drive, spoke in favor of the ordinance. 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 Metcalf, Eckbert and DeVane voted yes. The motion carried unanimously with a 4-0 vote.

- d) AN ORDINANCE CALLING FOR A BOND REFERENDUM TO BE HELD ON THE QUESTION OF THE ISSUANCE OF NOT EXCEEDING \$ _____ ELECTRIC REVENUE BONDS OF THE CITY OF WINTER PARK, FLORIDA, TO FINANCE THE COST OF THE ACQUISITION AND/OR CONSTRUCTION OF CERTAIN ELECTRIC SYSTEM DISTRIBUTION FACILITIES AND IMPROVEMENTS IN THE CITY; AUTHORIZING THE ISSUANCE OF SUCH BONDS IF APPROVED BY REFERENDUM; AND PROVIDING AN EFFECTIVE DATE. First Reading

Attorney McCaghren read the ordinance by title. Assistant City Manager Randy Knight reminded the Commission that the City's bond counsel and the City's financial advisor for the bonds were present to answer questions. He addressed the main points within the ordinance.

Joe Terranova, 700 Melrose Avenue, spoke about the need to inform the public. He addressed risks involved with purchasing an old technology and being subject to not knowing what will happen in the future when new technology comes in, making the current technology obsolete.

Gary Brewer, 1250 S. Denning Avenue, asked if the not to exceed cost would include the cost of the separation of the system. Mr. Knight answered in the affirmative. He also asked how citizens can make a decision without knowing who the provider will be.

No other public comments were made.

Assistant City Manager Knight spoke about the need to set a not to exceed number for the bonds. He recommended to set the number at \$49,800,000 which would give the flexibility to cash fund the debt service reserve and other flexibility for other related items.

Motion made by Commissioner Eckbert to accept the ordinance on first reading with the not to exceed number of \$49,800,000, seconded by Commissioner Metcalf. Upon a roll call vote, Mayor Marchman and Commissioners Metcalf, Eckbert and DeVane voted yes. The motion carried unanimously with a 4-0 vote.

- e) ORDINANCE NO. 2519-03: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA RELATING TO THE EXCHANGE OF REAL PROPERTY; AUTHORIZING THE EXCHANGE OF A

PARCEL OF PROPERTY OWNED BY THE CITY BEING THE NORTHERLY PORTION OF 851 WEST NEW ENGLAND AVENUE, WINTER PARK, FLORIDA, IN EXCHANGE FOR TWO PARCELS OF PROPERTY OWNED BY VALENCIA COMMUNITY COLLEGE FOUNDATION, INC., BEING 845 AND 859 WEST NEW ENGLAND AVENUE, WINTER PARK, FLORIDA, ALL MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING AN EFFECTIVE DATE. Second Reading

Attorney McCaghren read the ordinance by title. Lurline Fletcher, 790 Lyman Avenue, spoke against more parking on the westside of Winter Park. Jay Vaughan, Canton Avenue, addressed procedural procedures regarding this issue. He spoke about an agreement with Valencia that the south 50' would remain grass and residential and that they would not expand their boundaries. He also commented about how the City is to dispose of property in the CRA area and the process that it must follow. He stated he did not see a rezoning posting on the property. He requested that the City reject or table these ordinances at this time.

Motion made by Commissioner Eckbert to adopt the ordinance to exchange the property, seconded by Commissioner DeVane. Upon a roll call vote, Mayor Marchman and Commissioners Metcalf, Eckbert and DeVane voted yes. The motion carried unanimously with a 4-0 vote.

ORDINANCE NO. 2520-03: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 LAND DEVELOPMENT CODE, ARTICLE I, "COMPREHENSIVE PLAN" AND THE FUTURE LAND USE PLAN MAP SO AS TO CHANGE THE FUTURE LAND USE DESIGNATION OF LOW DENSITY RESIDENTIAL TO EDUCATIONAL AND COMMUNITY SERVICES ON THE REAR 80 FEET OF THE PROPERTY AT 851 W. NEW ENGLAND AVENUE, MORE PARTICULARLY DESCRIBED HEREIN. Second Reading

ORDINANCE NO. 2522-03: 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 LOW DENSITY RESIDENTIAL (R-2) DISTRICT TO PUBLIC, QUASI-PUBLIC (PQP) DISTRICT ON THE REAR 80 FEET OF THE PROPERTY LOCATED AT 851 W. NEW ENGLAND AVENUE, MORE PARTICULARLY DESCRIBED HEREIN. Second Reading

Attorney McCaghren read both ordinances by title. Jay Vaughn and Lurline Fletcher dittoed their comments made above.

Motion made by Commissioner Eckbert to adopt the comprehensive plan ordinance, seconded by Commissioner Metcalf. Upon a roll call vote, Mayor Marchman and Commissioners Metcalf, Eckbert and DeVane voted yes. The motion carried unanimously with a 4-0 vote.

Motion made by Commissioner Eckbert to adopt the zoning ordinance, seconded by Commissioner Metcalf. Upon a roll call vote, Mayor Marchman and Commissioners Metcalf, Eckbert and DeVane voted yes. The motion carried unanimously with a 4-0 vote.

NEW BUSINESS:

There was no new business brought forward.

Mayor Marchman adjourned the meeting at 6:30 p.m.

Mayor Kenneth R. Marchman

ATTEST:

City Clerk