

**CITY OF WINTER PARK
REGULAR MEETING OF THE CITY COMMISSION
July 25, 2005**

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

The invocation was offered by Building Official George Wiggins, followed by the Pledge of Allegiance.

Members present:

Commissioner John Eckbert
Commissioner Douglas Metcalf
Commissioner Barbara DeVane
Mayor Kenneth Marchman

Also present:

City Attorney Trippe Cheek
City Manager James Williams
City Clerk Cynthia Bonham

Members absent:

Commissioner Douglas Storer

MAYOR'S REPORT:

- a) Proclamation – "First Day of School".

Mayor Marchman presented School Board member Joie Cadle with a proclamation proclaiming August 8, 2005, as "The First Day of School Celebration." Ms. Cadle thanked the Commission for their support of the Winter Park schools throughout the year.

- b) Stulz Foundation Event – Fashion Week in Winter Park.

Ms. Michelle Jaminet, Stulz Foundation, provided information on an event they want to host from January 24-28, 2006. The first annual Fashion Week in Winter Park event that includes a fashion runway, hopes to break the Guinness World's Longest Fashion Runway Record. Ms. Stulz will be providing information to staff for event planning and approvals.

c) Mayor Marchman asked to replace Patrice Shirer as the BOA representative on the Tree Preservation Board with Lucy Morse. Seconded by Commissioner DeVane and carried unanimously.

NEW BUSINESS:

1. Joie Cadle, 1521 Sunset Drive, asked the Commission to continue their support in the upcoming budget for the Youth Advisory Board.

CITY ATTORNEY'S REPORT:

- a) RESOLUTION NO. 1918-05: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, DESIGNATING THE PROPERTY LOCATED AT 419 SOUTH INTERLACHEN AVENUE, WINTER PARK, FLORIDA AND KNOWN AS

THE WOMAN'S CLUB OF WINTER PARK, AS A HISTORIC LANDMARK ON THE
WINTER PARK REGISTER OF HISTORIC PLACES.

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

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

- b) RESOLUTION NO. 1919-05: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, DESIGNATING THE PROPERTY LOCATED AT 925 ARAGON AVENUE, WINTER PARK, FLORIDA AS A HISTORIC RESOURCE ON THE WINTER PARK REGISTER OF HISTORIC PLACES.

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

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

- c) RESOLUTION NO. 1920-05: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, DESIGNATING THE PROPERTY KNOWN AS MI E TAW LOCATED AT 1015 GREENTREE DRIVE, WINTER PARK, FLORIDA AS A HISTORIC LANDMARK ON THE WINTER PARK REGISTER OF HISTORIC PLACES.

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

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

- d) RESOLUTION NO. 1921-05: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, DESIGNATING THE PROPERTY LOCATED AT 1345 CLAY STREET, WINTER PARK, FLORIDA AS A HISTORIC RESOURCE ON THE WINTER PARK REGISTER OF HISTORIC PLACES.

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

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

CONSENT AGENDA:

- a) Approve the minutes of 7/11/05. **PULLED FROM CONSENT AGENDA. SEE BELOW.**
b) Approve the following:
1) Task Order #2005-02: CH2M Hill for survey associated with the gravity portion of the sewer improvement project, amount not to exceed \$72,485.00: (Budget: Utility CIP).

- 2) Task Order #2005-03, to CH2M Hill for sewer collection system evaluation for expected growth due to redevelopment; \$32,049.00 (Budget: Utilities CIP)
 - 3) Change Order to Southland Construction, Inc. under a JPA with Orange County Highway Construction Division, to provide installation of 24" ductile iron pipe for Forsyth Roadway Reconstruction, Paving and Drainage Improvements; \$48,954.24 (Budget: Utilities CIP)
 - 4) LOX Equipment Pre-Purchase from Chart Industries, Inc. for the Aloma and Magnolia Water Treatment Plant (WTP) construction to provide consistency (standardization) with existing equipment at Swoope WTP; \$410,520.00 (Budget 2005 Water & Sewer Revenue Bonds).
- c) Authorize the City Manager to issue an acceptance letter to the developer of the Hamilton Place Subdivision. **PULLED FROM CONSENT AGENDA. SEE BELOW.**
 - d) Approve the addendum to the mausoleum policy regarding the east and west elevation of mausoleums in Palm Cemetery.
 - e) Approve the use of Shady Park on August 20 for a barbeque and blues festival as requested by Mr. Adrian Mann, Mr. John Washburn and Mr. Richard Rodrigo.
 - f) Approve the Combo Plans Examiner/Inspector position and the Inspection Request System for the Building Department.
 - g) Approve the interlocal agreement with the Central Florida Fire Academy.
 - h) Approve the special assessment deferral policy for low income seniors.

Motion made by Commissioner Metcalf to approve the Consent Agenda with the exception of Items 'a' and 'c'; seconded by Commissioner DeVane. The motion carried unanimously.

Consent Agenda Item 'a' – Minutes

Commissioner Metcalf made a correction to the commuter rail portion of the amended minutes that was provided. He clarified that his comments regarding Georgetown and Alexandria were to read that both areas did not elect to have commuter rail put through their areas; not only Alexandria. He stated they both now wish they had because of the billions it will now cost to reroute the lines through Georgetown so there is one line. The minutes will reflect this change.

Motion made by Commissioner DeVane to approve the minutes as amended with the inclusion of the verbiage as included this evening and the correction as made regarding commuter rail as presented by Commissioner Metcalf; seconded by Commissioner Metcalf and carried unanimously.

Consent Agenda Item 'c' – Hamilton Place Subdivision

Commissioner Metcalf asked if developer has agreed to keep the right-of-way clean. Planner Briggs stated the Homeowner's Association has to maintain the right-of-way and the park. Commissioner DeVane asked who is responsible until the HOA is formed. Planner Briggs stated he is currently working to have the developer assume the responsibility. Commissioner DeVane asked that a report be made to the Commission regarding this issue.

Motion made by Commissioner Metcalf to approve Consent Agenda item 'c'; seconded by Commissioner Eckbert and carried unanimously.

PUBLIC HEARINGS – EQUALIZATION BOARD:

a) Hibiscus Avenue Special Assessment:

RESOLUTION NO. 1914-05: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, PURSUANT TO SECTION 170.03, FLORIDA STATUTES, CONFIRMING THE SPECIAL ASSESSMENTS FOR THE INSTALLATION OF AND FUNDING OF PUBLIC IMPROVEMENTS AND MUNICIPAL SERVICES CONSISTING OF STREET BRICK ON A PORTION OF HIBISCUS AVENUE; WHICH IMPROVEMENTS AND MUNICIPAL SERVICES WILL BE PAID FOR BY SPECIAL ASSESSMENTS LEVIED AGAINST ALL PROPERTIES ABUTTING HIBISCUS AVENUE FROM AND INCLUDING ADDRESS 1600 TO AND INCLUDING ADDRESS 1698, TO LAKEMONT AVENUE; PROVIDING AN EFFECTIVE DATE.

Attorney Trippe read the resolution by title. No public comments were provided.

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

b) Lakemont Avenue Special Assessment:

RESOLUTION NO. 1915-05: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, PURSUANT TO SECTION 170.03, FLORIDA STATUTES, CONFIRMING THE SPECIAL ASSESSMENTS FOR THE INSTALLATION OF AND FUNDING OF PUBLIC IMPROVEMENTS AND MUNICIPAL SERVICES CONSISTING OF STREET BRICK ON A PORTION OF N. LAKEMONT AVENUE; WHICH IMPROVEMENTS AND MUNICIPAL SERVICES WILL BE PAID FOR BY SPECIAL ASSESSMENTS LEVIED AGAINST ALL PROPERTIES ABUTTING N. LAKEMONT AVENUE FROM PINE AVENUE, NORTH TO AND INCLUDING ADDRESS 1682 N. LAKEMONT AVENUE; PROVIDING AN EFFECTIVE DATE.

Attorney Trippe read the resolution by title. No public comments were provided.

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

c) Seminole Drive Special Assessment:

RESOLUTION NO. 1916-05: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, PURSUANT TO SECTION 170.03, FLORIDA STATUTES, CONFIRMING THE SPECIAL ASSESSMENTS FOR THE INSTALLATION OF AND FUNDING OF PUBLIC IMPROVEMENTS AND MUNICIPAL SERVICES CONSISTING OF STREET BRICK ON A PORTION OF SEMINOLE DRIVE; WHICH IMPROVEMENTS AND MUNICIPAL SERVICES WILL BE PAID FOR BY SPECIAL ASSESSMENTS LEVIED AGAINST ALL PROPERTIES ABUTTING SEMINOLE DRIVE FROM GEORGIA AVENUE TO PALMER AVENUE; PROVIDING AN EFFECTIVE DATE.

Attorney Trippe read the resolution by title. No public comments were provided.

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

d) Via Tuscany/Cypress Lane Special Assessment:

RESOLUTION NO. 1917-05: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, PURSUANT TO SECTION 170.03, FLORIDA STATUTES, CONFIRMING THE SPECIAL ASSESSMENTS FOR THE INSTALLATION OF AND FUNDING OF PUBLIC IMPROVEMENTS AND MUNICIPAL SERVICES CONSISTING OF STREET BRICK ON A PORTION OF VIA TUSCANY/CYPRESS LANE; WHICH IMPROVEMENTS AND MUNICIPAL SERVICES WILL BE PAID FOR BY SPECIAL ASSESSMENTS LEVIED AGAINST ALL PROPERTIES ABUTTING VIA TUSCANY/CYPRESS LANE FROM VIA DEL MAR TO VENETIAN WAY; PROVIDING AN EFFECTIVE DATE.

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

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

PUBLIC HEARINGS:

a) ORDINANCE NO. 2638-05: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, RESULTED WAS LESS THAN SIXTEEN (16) YEARS OF AGE AT THE TIME THE OFFENSE WAS COMMITTED) WITHIN THE CITY LIMITS OF THE CITY OF WINTER PARK AND PROHIBITING THE RENTAL OF CERTAIN REAL PROPERTY TO CERTAIN SEXUAL OFFENDERS AND SEXUAL PREDATORS; AMENDING CHAPTER 62 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER PARK "DEFINITIONS," 62-194 ENTITLED "SEXUAL OFFENDER AND SEXUAL PREDATOR RESIDENCE PROHIBITION; MEASUREMENT; PENALTIES; EXCEPTIONS," PROVIDING FOR A PROHIBITION FOR SEXUAL OFFENDERS AND SEXUAL PREDATORS CONVICTED OF CRIMES UNDER CERTAIN FLORIDA STATUTES FROM LIVING WITHIN 2,500 FEET OF SPECIFIED LOCATIONS WITHIN THE CITY OF WINTER PARK AND CREATING SECTION 62-195 ENTITLED "PROPERTY OWNERS PROHIBITED FROM RENTING REAL PROPERTY TO CERTAIN SEXUAL OFFENDERS AND SEXUAL PREDATORS; PENALTIES,"PROHIBITING OWNERS OF REAL PROPERTY FROM RENTING OR LEASING ANY PLACE, STRUCTURE, STRUCTURE, OR PART THEREOF, TRAILER OR OTHER CONVEYANCE LOCATED WITHIN 2,500 FEET OF SPECIFIED LOCATIONS WITHIN THE CITY OF WINTER PARK TO SEXUAL OFFENDERS AND SEXUAL PREDATORS CONVICTED OF CRIMES UNDER CERTAIN FLORIDA STATUTES; PROVIDING FOR CODIFICATION, SEVERABILITY, AN EFFECTIVE DATE, AND CONFLICTS. Second Reading

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

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

Commissioner Eckbert stated he read where the City of Sanford is taking a step further regarding where predators/offenders can congregate. He asked that the police observe what they see happening out there and any ideas they feel is helpful to let the Commission know.

- b) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AND ABANDONING THE UTILITY EASEMENT WITHIN THE PROPERTY AT 1770 GLENCOE ROAD, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

Attorney Cheek read the ordinance by title. Planner Jeff Briggs explained that the property had a water line that went through it and recently the City upgraded the water mains in this neighborhood and replaced this line. He stated the property owner wants to build a larger house and needs this easement vacated. He stated we no longer have a use for this easement. No public comments were made.

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

- c) Subdivision request of Sandra Jordon to split the property at 341 E. Reading Way into two separate single family lots.

Planner Briggs addressed the request to split the property into two 64' wide lots. He stated the zoning is R-1AA which is for 100' lots, so variances are necessary to split it into the two 64' lots. He stated the left lot will be about 9,800 square feet and the right lot about 10,240 square feet which requires a slight variance for the 240 square feet short on the left hand side lot. He explained the history of other subdivision requests in the neighborhood. He stated that based on the past track record with other requests that have been approved here, and that this street section is between Winter Park Road and Laurel Road so there are homes that are 95' in width on either side of this. He added that the other nine (9) and two (2) lots going toward Laurel Road and the seven (7) homes across the street all are on similar 62'-64' wide lots. He stated that from the comprehensive plan test of the comparison of the adjacent neighborhood and some of the precedent, that the variances may be justified.

Mr. Briggs stated at the Planning and Zoning Commission (P&Z) meeting, there was a turnout of about five neighbors who appeared against the request and asked for the City to keep the mix of big and small on the street and not to approve the variances. He stated based on the citizen input, the P&Z recommended denial of the request.

Attorney Hal Kantor, Lowndes Drosdick Doster Kantor and Reed, representing the applicant Sandra Jordon, spoke about the previously approved lot splits in the neighborhood and that none of the lots in the entire subdivision meets the R-1AA standards. He addressed the other lots 64' or less that is a majority at this location. He stated the applicant is asking to be treated like her neighbors. He stated all the neighbors opposing the request, except for one, live on 64' wide lots or less. He stated the request is consistent with the neighborhood. He expressed concerns brought forward related to the type of house(s) that will be built on the two lots. He stated that they agreed that any home built on either lot will be subject to P&Z architectural review as a

condition of moving forward. He stated the neighbors objecting can tear down their home and build a home without any architectural review oversight.

He addressed the petition in opposition to the request. He stated that they spoke with some of the residents that signed the petition to find out why they opposed the request. He stated they were told by some residents that they did not understand the request. He provided two letters withdrawing their name from the petition because they were either given the wrong information or misunderstood the request. He stated a concern of the neighbors was that there will be oversized houses in this community; but if you leave these lots as is you could have a house not keeping with the community. He asked to be able to provide other comments after the residents have expressed their concerns. Commissioner DeVane asked if there have been any lot combinations in this area because an overwhelming number are narrow lots.

The following residents spoke in opposition to the request because of various reasons including the need to keep the character of the neighborhood, opposing two story houses that would not fit into the neighborhood character, the concern that other requests to subdivide will come forward if this is approved, the loss of trees and green space, more density and the loss of privacy:

1. Ed Brennan, 350 E. Reading Way (representing the 14 names on the petition).
2. Joseph Griffin, 330 E. Reading Way
3. Cindy Wilson, 360 E. Reading Way (concerns about losing her view and sense of being separate and being surrounded by trees).
4. Beth Dillaha, 1801 Forest Road (provided petition from citizens residing on E. Kings Way and Winter Park Road opposing the split.)
5. Linda Mazzonetto, 340 E. Reading Way

The following spoke in favor of the subdivision request:

1. Neil Frazee, 371 E. Reading Way, addressed his home that he believed added new architecture to the area. He spoke about the residents wanting to keep the character of the neighborhood and that if this is not subdivided that it could allow the construction of a home up to 6,600 square feet on the property. He also spoke about the condition that the P&Z must approve the type of homes being built.

Attorney Kantor addressed neighbors in opposition owning two story homes and having lots smaller than 64'. He asked to have the same size lots as the residents that spoke in opposition. He spoke about the redevelopment that will take place in this neighborhood because of the older homes. He repeated his statement that they agree to allow the P&Z to approve the type of homes to be built. He asked for approval of the request.

Commissioner DeVane asked about the procedure if the P&Z decision is overturned on this request. Mr. Briggs stated the Commission needs a majority present (3 out of 4 voting yes). She asked when this area became R-1AA zoning because no lots in the original platting meets this criteria. Mr. Briggs responded he was not exactly sure but that he knows it has been zoned R-1AA since 1971 and a lot of the changes made at that time comprehensively around the City were to turn back some of the density. Mr. Briggs clarified the two zonings R-1A and R-1AA. He stated you would still need a variance if the zoning had been R-1A. Commissioner DeVane expressed that the community needs to talk about whether they want to revisit their zoning and change the

category. She stated it needs to be revisited why it is zoned R-1AA when almost all the properties are 64'.

Commissioner Metcalf questioned the two possible zonings and what could be built on the two lots. Commissioner Eckbert asked about the Canton Avenue Land Trust homes and their width. Mr. Briggs clarified the sizes of the lots and homes.

Commissioner DeVane inquired about a Neighborhood Association that is active in their community. She was informed they did not have one. Commissioner Metcalf spoke about prior requests to subdivide property that have been approved in this neighborhood. He stated he does not have a good justification for not approving this request because it meets all of the neighborhood standards they have tried to uphold for the past several years. He stated he is inclined to support the landowner.

Commissioner DeVane addressed concerns with changing the zoning years ago to R-1AA for 100' lots that do not exist in this neighborhood. She stated we have seen lot splits occur in this neighborhood. She stated she very seldom overturns P&Z decisions but unless she hears a reason to have R-1AA lots, she did not see why they can not approve this request. She stated all the lots are 64' lots with the exception of three on that street; the neighbor across the street has no problem with the request; and there has not been a movement to combine lots. She added she would like to see the neighborhood discuss an identity development session to decide the zoning they want their neighborhood to be.

Commissioner Eckbert addressed the concerns of the residents regarding loss of privacy in their homes, a sense of size and scale of the neighborhood and garages in front of the homes. He stated as there is turnover in the neighborhood; the issues of privacy, size and scale come into play regardless of the size of the lot. He stated the possibility of building a very large home on those lots that generates loss of privacy on all sides. He stated he did not believe the size of the lots was the issue but the way the homes are being built there. He supported the need for neighborhood standards and guidelines to address this issue rather than opposing a lot split that has consistency with what has been approved in the past.

Mayor Marchman stated the possibility of a larger home being built on these lots is more out of character than what is being requested with the lot split. He addressed the economy and that it appears within Winter Park that the future is going to be mainly two story homes because of the land values within the City and the lack of single story homes being built. He stated the lot split is more consistent with what the residents want.

Commissioner DeVane suggested that staff organize a neighborhood meeting to discuss this neighborhood and what would be appropriate zoning language to address their community.

Motion made by Commissioner Metcalf to approve the staff recommendation to approve the subdivision request with the plans to go back to the Planning and Zoning Commission for review and approval. Staff is directed to involve the neighborhood and hold discussions concerning the design parameters for the proposed homes; seconded by Commissioner Eckbert and carried unanimously with a 4-0 vote.

Commissioner Metcalf asked that shared driveways be considered. It was clarified that staff will return with recommendations as to how to move forward with the public process to review the zoning. Mr. Briggs stated they will arrange a small neighborhood meeting to discuss the design of how they would like to see these two lots developed.

d) Subdivision Request – Mr. and Mrs. Jahanmiry to split the property at 791 Northwood Circle into two single family lots.

Planner Briggs provided the staff report. He stated this request for a lot split is for Lots 19 and 20 which is the entrance into Northwood Circle. He stated the other lots contain individual homes on each lot. He explained the R-1A zoning and this is before the Commission because Lot 20 does not have the 8,500 square feet of lot area (only has 8,300) so a variance was needed requiring the lot split approval process. He stated to eliminate the need for a variance, they are requesting to shift the lot line to the north because there is more than enough land in Lot 19 to contribute some to Lot 20 to even out the square footages more appropriately to the lot sizes in the neighborhood.

Mr. Briggs stated the Planning and Zoning Commission (P&Z) reviewed this request in March 2004 and that the discussion revolved around the orientation of the homes because a previous applicant requested that the homes be facing outward toward Pennsylvania Avenue to mimic the homes adjacent in Pennsylvania Place; not if there could be two homes on the two lots. He stated that upset neighbors who felt the orientation of the homes should be consistent with inward facing Northwood Circle.

He stated the issue was compounded by the hurricane causing an oak tree to fall on the subdivision wall on the north side and that the remainder of the wall was taken away when the house occupying the two lots was taken down. He stated that the wall dates back to the origins of the subdivision and there are no provisions for a homeowner's association for an easement for the wall, maintenance agreement, etc. so that one could be reconstructed. He stated part of the resolution for the residents who want their wall restored has been to tag that requirement onto this request; require that the homes face inward and the rear wall subdivision wall be restored by the applicant with a 2' easement which would prohibit driveways so they could get a new updated, attractive subdivision wall the way it has been since the 1950's as part of the conditions of approval. He stated the wall on the south entrance of the subdivision is dated and that is where the Neighborhood Council and Grant Program helped with funding to make the south wall match the new architecture of the north wall.

Attorney Frank Hamner, on behalf of the applicant, addressed the history of the lots in question. He stated the wall is not of historic significance and is not a subdivision wall; but a private wall installed on private property. He stated that after the hurricane damaged the wall and the wall was taken down, staff's recommendation was to advise the homeowner's in that area that this is a private matter and the City could not mandate its replacement. He commented that the request is to make two conforming lots; not to request to build on a non-conforming lot. He addressed the conditions attached to the P&Z approval and asked to reconsider the attached conditions. He stated they do not oppose sending the architectural plans back through the P&Z. He addressed the orientation of the homes.

He stated the City has no legal right to mandate replacement of the wall because of it being on private property. He stated they do want to install the wall at some point but do not want to give

up 2' of their property to the City for an easement. He stated they want to submit the design for the homes and wall back through P&Z. He stated the Northwood signs are in place and will continue to be maintained at their expense, including the one on Lot 20. He concluded by stating they are asking that the Commission confirm the approval of the lot split and remove the condition of the wall and the orientation of the homes because that can be handled in the submittal to the P&Z, subject to their agreement to submit both a new fence/wall and the architectural plans for the home to the P&Z for further consideration.

Mayor Marchman confirmed that the applicant is going to construct a wall along Pennsylvania Avenue. Mr. Hamner stated they would like to agree on a wall that would be acceptable to the homeowners and his applicant.

Commissioner DeVane addressed her concerns with the applicant coming in at this point and asking for a change that the P&Z unanimously approved thinking that this issue was worked out to everyone's satisfaction. She spoke about the historical significance of this neighborhood and the importance of this neighborhood to her. She stated her request to restore the wall was very heartfelt and they looked to the City for help. She stated the problem with the original wall was it was built behind the four homes along Pennsylvania Avenue so there is not an easement on the other two either. She stated this is important to the neighborhood. She stated the orientation of the homes has repeatedly been turned down by the P&Z; the orientation is to face toward Northwood Circle. She stated they have been trying to rebuild the wall but requires the owner of the property to participate to have that happen.

Attorney Hamner stated they are not asking for this to fall apart but was concerned that the orientation and approval of the plans back going through the P&Z is redundant. Secondly, they want to resubmit the wall plans to the P&Z after review and consensus by the neighborhood. He clarified they are not stating they do not want to replace the wall but believed it is not a proper condition to attach to the property that they will be granted their lot split but you have to give up 2' of your property. He stated they have committed to restore a wall and sign on the property.

Commissioner DeVane commented that she is trying to avoid being in the same situation as right now in the future that if the wall does not become part of the neighborhood association and their responsibility, that whoever owns the property in the future can come back to try and change the wall. She stated that is why the request for the 2' easement exists.

Attorney Hamner stated he would like rebuttal time after the residents have spoken. Mayor Marchman agreed to that.

Margie Bridges, 767 Antonette Avenue, spoke as a citizen and previous member of the Historical Preservation Board and as a current president of the neighborhood council. She stated she has met with the neighbors to try and work with them concerning neighborhood improvements. She addressed the issues of the historical element and the importance of this neighborhood, the walls surrounding the neighborhood and the importance of the homes facing Northwood Circle. Commissioner Eckbert asked Ms. Bridges about the property rights of the property owner and commented that his neighbors would have no right to ask him to put a wall around his personal property.

Susan Gabel, 1539 Golfside Drive, expressed her disbelief that the issue of the orientation of the homes was once again up for discussion.

Martha Hall, 331 W. Lyman Avenue, commended Commissioner DeVane for her efforts regarding this issue. She spoke against the request to face the proposed homes on Pennsylvania Avenue. She asked the Commission to consider the residents there and to be fair to all residents in the City.

Lurline Fletcher, 790 Lyman Avenue, spoke against the request by the applicant regarding the orientation of the homes and was against two story homes there.

Dan Bellows, 533 W. New England Avenue, spoke in favor of the homes facing Pennsylvania Avenue and the garages facing inward because of adding value to the homes in the subdivision. He stated he would have also removed the wall. He addressed the need for personal property rights to be held up high and for the community to come together and encourage the developer to do something wonderful for the entryway.

Francis Daniely, 721 Northwood Circle, emotionally expressed her disbelief of others trying to take away what she has worked for her entire life. She was upset about what the applicant was proposing. She spoke against Mr. Bellows and what she considered to be demands.

Attorney Hamner stated they have the right to face the houses toward Pennsylvania Avenue because it is private property but that they are not going to oppose that. He stated it is redundant to say you need to orient them a certain way and that the P&Z has to review it. He stated that could be reviewed architecturally and approved by P&Z under condition three.

Attorney Hamner addressed the wall issue. He stated the wall has been there since 1964. He stated they are asking to remove a condition of the approval that requires the applicant for no compensation to grant a 2' easement to the City for the reconstruction of the wall. He stated they have proposed, included with their plans to P&Z that they will have a pre-proofed wall proposal included with the plans to the P&Z that has gone past the community to the extent and fashion they are interested in. He asked that the rule of law apply here and that the City act in keeping with what the recommendations have already been. As to conditions one and three, they have no opposition and asked to approve the lot splits with conditions one regarding the orientation and three regarding the review of the plans; but remove condition two mandating the 2' easement upon their promise on the record to submit a wall proposal that has been examined by the residents prior to submission to the P&Z. He also commented about the P&Z discussion regarding the existing south part of the wall where the entire P&Z admitted needed work; there was an issue about contributing perhaps a neighborhood grant or looking at that possibility proposed by the P&Z to also bring that wall back up to standards as well. He stated they are willing to cooperate in that process to have walls that reflect the character of the neighborhood.

Mayor Marchman summarized the history of the subdivision and wall. He spoke about how important the wall is to the neighborhood. He applauded the applicant for trying to agree on a resolution amenable to everyone but wished they were already at that point.

Commissioner DeVane commented about when the neighborhood was established and the lack of plans to identify common areas or mandate a neighborhood association with the responsibilities to maintain the wall; the residents did that because it was their community and the

wall was put on private property because of the sidewalk. She addressed the residents coming before the Commission and P&Z repeatedly asking for help to rebuild the wall. She spoke about the importance of being respectful of one of the oldest neighborhoods in the City and to reestablish their wall around that community. She offered the suggestion of the City purchasing the 2' for the easement. She also stated that the discussion of creating a neighborhood association is ongoing with this community so they will have the right to own property to assess the participants in the neighborhood for the maintenance of items in the neighborhood such as a wall. She addressed Mr. Bellows was one of the original people who wanted to purchase this property and to turn the lots to face Pennsylvania Avenue which has been turned down repeatedly. She spoke about the wall being destroyed by the hurricanes and the issue of how to rebuild it. She stated she wanted to find a resolution to this and to also be respectful of the property owner.

Commissioner Eckbert addressed the lack of justification to disapprove a lot split with conforming lots. He spoke about having equal protection under the laws of the City to have the law applied equally. He stated he did not see how the wall can be justified under equal protection.

Commissioner Metcalf stated the homes should face Northwood Circle. He stated he hopes that the residents will agree on a type of wall there. He stated he hopes that a neighborhood fund can be established and used to make sure the other side of the wall matches the side that will be put in so Northwood Circle has its own defined character. He agreed with conditions one and three.

Commissioner DeVane suggested that we ask the developers to sit down with Planner Briggs and having heard the Commissions comments to come up with a solution that everyone agrees with. She suggested to table this until the next meeting. Mayor Marchman stated the property owner has agreed to the orientation of the homes going toward Northwood Circle and the review of the P&Z. Regarding the wall, he commented it needs to be consistent on the total amount of the Pennsylvania Avenue facing. He stated he would like to either approve the lot split, contingent upon an agreement related to the wall; or table this until the next meeting to see if a resolution can be reached.

Attorney Hamner stated instead of tabling the item, they would rather see the contingency. He stated his concern that the contingency comes too broad. He stated the wall will go back through the P&Z for approval, then if there is no resolution that the wall will come back before the Commission. He stated if they are to come back to make the wall consistent on both sides, that it will take a lot of participation of his clients, the City and neighborhood and the owners of Lots 1 and 2. He stated they are already adequately protected by having to resubmit the plans, including the wall, back through P&Z. He stated he will be happy to sit down with Planner Briggs and anyone else to work that out before the P&Z meeting. He asked to approve the lot split, with conditions 1 and 3 and that condition 2 can be dealt with when the plans are resubmitted back to the P&Z.

Commissioner DeVane addressed the two parts to Condition 2; that an easement be granted along Pennsylvania Avenue which solves any future concerns over the wall and ensures that the wall will remain no matter who owns the property there. Secondly, she stated the applicant has not made a commitment to pay to construct the wall. Attorney Hamner commented that if they were allowed to put up a wall of their choice that they would pay for that; but if it is mandated by residents throughout the subdivision, he believed they should share in the cost. He stated they

are committed to pay their portion of the wall and if it is a wall that is acceptable to their perimeter, they will commit that they will pay for the wall.

Commissioner DeVane spoke about the importance of having the entities including the residents, staff and applicant to agree on the wall.

Motion made by Commissioner DeVane to table this until the August 8, 2005, meeting; seconded by Mayor Marchman. Discussion ensued regarding staff's recommendations and whether it should go back to the P&Z before coming back to the Commission. **The motion to table carried with a 3-1 vote, with Commissioner Eckbert voting no.** It was clarified that the parties will try and resolve this issue before that meeting. The need to resolve the wall and to protect the wall from future property owners and the need to clearly identify the Northwood Circle subdivision agreeable to everyone was addressed. Mayor Marchman stated if this cannot be accomplished by the August 8 meeting, that the Commission will have to make a decision at the next meeting as to the wall.

- e) Request of Sydgan Corporation to amend the Planned Development Approval granted at 411 W. New England Avenue to permit the construction of a rooftop terrace for the third floor residential unit including summer kitchen, hot tub and other residential amenities.

Planner Briggs presented the staff report. He explained the request of Mr. Bellows and the location of the request. He spoke about this project being before the Commission in July 2004 for a three story building on this property that has begun construction and the request for a rooftop terrace because the elevator will go to the roof for access to the necessary equipment in the rear of the building. He stated the building across the street at 350 W. New England Avenue at that time was going to have 36 apartments on the second and third floor with laundry facilities and recreational space on the rooftop that prompted many concerns with tenants on top of the rooftop and the noise that would affect the neighborhood. He stated that building rooftop terrace facilities was deleted on that building and because they did not know at the time what the rules should be, it was deleted for the 411 W. New England Avenue property. He stated staff reviewed other cities and how they control or not control the potential for nuisances on rooftop terraces. He addressed being unproductive in finding good rules in place at other locations and was not able to provide concrete information regarding this issue. He stated the applicant has now decided he will be living in the third floor unit and that he wants the facilities on the rooftop to include a summer kitchen, toilet, goldfish pond, reflecting pool, shower and spa area. He stated Mr. Bellows is going to make this a single family residence so the impact on noise to the community would be no different than from a patio or balcony. He stated the Planning and Zoning Commission (P&Z) felt because it is a single family residence that it did not have a major nuisance potential than could happen elsewhere in the City so the P&Z recommended approval.

Commissioner DeVane addressed the denial of this request for the rooftop terrace in August 2004 because the Commission asked staff to work with the P&Z to develop guidelines for the City on how to deal with amenities on rooftops. She suggested to table this item and send it to the P&Z and ask them to specifically to come back with guidelines for what will be approved to put on top of buildings for various zonings within the City. **Motion made by Commissioner DeVane to table this item until the P&Z provides recommendations.**

Dan Bellows, 533 W. New England Avenue, asked that this not be tabled because of the impact to his construction. He addressed the building with balconies around the entire building and the impact that would have with residents utilizing those balconies at a lower level than his request for a rooftop terrace where he would be up higher. He summarized the surrounding residences and the property owned by Ms. Moore where she is now asking \$1 million for the 50' lot. He listed the amenities that he was requesting for the rooftop and stated those will not cause any detrimental cause to the community. He stated this will be his primary residence and will not be a multi-family situation if he ever sells the property.

Harold Barley, 1671 Oakhurst Avenue, addressed the need to have guidelines in place as to what type of situations are appropriate for this type of request because of potential problems this can cause in neighborhoods. He asked when the top level of a building becomes another story to the building and when it is only considered a rooftop.

Lurline Fletcher, 790 Lyman Avenue, spoke in opposition to this request because of the impact this could have to the neighbors. She stated she could not understand why someone would want this on top of their residence.

Martha Hall, opposed this request because of the surrounding neighbors, churches and daycare. She spoke in opposition to the City approving Mr. Bellows requests. She stated she does not want to see this in her community.

Discussion ensued regarding the appropriateness of this type of request versus various zonings. Commissioner DeVane spoke about the need for guidelines from the P&Z and the potential for noise on top of the building as compared to balconies where the noise is not projected on all sides. The staff recommendation was addressed. Commissioner Eckbert agreed that guidelines are needed City-wide, the property is zoned C-2 and will not impact the residential zoning of the City.

Motion to table this request failed for a lack of a second.

Motion made by Commissioner Eckbert to approve the request (P&Z's recommendation) and to ask them to review zoning on a city-wide basis and consider the potential applications for rooftop activities across different zoning categories in the City; seconded by Commissioner Metcalf.

Commissioner DeVane asked to amend the motion to allow Mr. Bellows to move forward with installing his plumbing but to postpone the actual installation of the kitchen, hot tub or shower postponed until this property is sold and becomes redeveloped as commercial property. Amendment to the motion failed for a lack of a second.

The motion to approve carried with a 3-1 vote with Commissioner DeVane voting no.

A recess was taken from 6:15 – 6:20 p.m.

- f) Request of Sydgan Corporation and Robert Saltsman for Planned Development Approval for a new three story office and residential mixed use building at 248 S. Pennsylvania Avenue.

Planner Jeff Briggs provided the staff report. He explained the site and the plans as submitted and that the building will be owned jointly by Mr. Bellows and Mr. Salzman. He commented that the building is being proposed as a three story building to add additional residential units to the building. He stated the Planning and Zoning Commission (P&Z) recommended approval and the request is consistent with buildings in the Hannibal Square area in terms of scale and mixed usage and the condition that it be deed restricted to residential on the third floor. Mr. Briggs addressed questions imposed by Commissioner DeVane.

Applicant Dan Bellows, 533 W. New England Avenue, clarified the property that Mr. Salzman owns and clarified the property he owns at this location. He addressed the parking associated with this request and the residential building they are proposing. He stated they had unanimous approval from the P&Z for a three story building with residential on the top level and office/retail. He stated they delayed a decision for a rooftop terrace. He stated they are not proposing a rooftop terrace on top of this building but that Mr. Salzman would like to walk out of his apartment right onto the roof of his existing building. He stated he is not asking for any type of amenities there but would like a terrace with flower pots, etc. He stated the deed restrictions will eliminate future requests for pools, hot tubs, etc. but would like the approval for a terrace on the top of the existing two story building. It was clarified that this proposal is only for the building and that the terrace request will be considered at a later date.

Lurline Fletcher, 790 Lyman Avenue, spoke in opposition to this 3 story building and residential that is too expensive to purchase.

Motion made by Commissioner DeVane to accept the Planning and Zoning Commission recommendations to approve the request with the conditions to install new landscape areas adjacent to Hannibal Square, East street and 3rd floor deed restricted to residential only; seconded by Commissioner Metcalf and carried unanimously with a 4-0 vote.

- g) Conditional Use Request - James Pugh to construct a tennis court at 802 Georgia Avenue.

Planner Jeff Briggs explained the proposed location and layout of the tennis court. He stated they are working on a landscape plan and planning to rotate the tennis court 90 degrees in the existing location. He also addressed the absence of night lighting and the agreement to commit to maintain this property as an in-tact lakefront estate and not come back at a future time to subdivide the property into smaller lots. He stated they agreed to this in exchange for approval of the tennis court. He stated the Planning and Zoning Commission (P&Z) recommended approval and that they have not seen the shift in the landscape plans which will go back before the P&Z for approval.

Richard Barrette, 1243 Wald Road, Orlando, architect for the applicant, stated he was present for questions.

Motion made by Commissioner Metcalf to approve the conditional use request, seconded by Commissioner DeVane and carried unanimously with a 4-0 vote.

h) Request of the City of Winter Park for approximately four acres of the Howell Branch Preserve property located adjacent to Howell Branch Road

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 SINGLE FAMILY RESIDENTIAL FUTURE LAND USE DESIGNATION TO OPEN SPACE AND RECREATION ON THE FOUR ACRES OF THE HOWELL BRANCH PRESERVE PROPERTY, 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 LOW DENSITY RESIDENTIAL (R-2) ZONING DISTRICT DESIGNATION TO PARKS AND RECREATION (PR) ZONING DESIGNATION ON THE FOUR ACRES OF THE HOWELL BRANCH PRESERVE PROPERTY, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

Attorney Cheek read both ordinances by title. No public comments were made. Planner Jeff Briggs explained the 11 acres purchased of the Howell Branch Preserve property with the State grant assistance. He commented that seven (7) acres are wetland floodplain and four (4) acres are buildable and has residential zoning. He stated a term and condition of the state grant is that we change the comprehensive plan and zoning designation to Parks and Recreation because that is the intended use of the property and why they have provided the grant money. He stated this complies with state grant requirements.

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

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

i) Request of the City of Winter Park:

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING REGULATIONS" SECTION 58-81 "OFF-STREET PARKING AND LOADING REGULATIONS" SO AS TO REQUIRE ADDITIONAL PARKING FOR RESIDENTIAL PROJECTS OF THREE UNITS OR MORE. First Reading

Planner Jeff Briggs explained the intent of the ordinance to change parking requirements for residential projects (triplex or larger) to require 2 ½ parking spaces per unit versus the two (2) per unit which is currently required in the code. He explained problems they have encountered with current residential areas and parking. He also stated this gives the Commission variance authority for any conditions or circumstances on a case-by-case basis where conditions warrant.

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

Lurline Fletcher, 790 Lyman Avenue, spoke about the need to plan for parking when the buildings are being proposed to make sure there is sufficient parking for residential units.

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

- j) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AUTHORIZING THE CONVEYANCE OF THE CITY PROPERTY AT 650, 662, 701, 681, 671, 661, 651 ISREAL SIMPSON COURT; 652, 654 CANTON AVENUE; AND 657 SYMONDS AVENUE SUBJECT TO MINIMUM REQUIREMENTS AS SET FORTH HEREIN. First Reading

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

Planner Jeff Briggs explained the Charter requiring an ordinance be adopted before property can be conveyed. He stated these lots are being conveyed to the Hannibal Square Land Trust. He also addressed the requirement of an advertisement of a Notice of Proposals before land can be conveyed in the CRA area that has been completed. He stated they hope to receive that from the Land Trust before the second reading. He stated all State requirements have been met.

Bedilia Campbell, 715 Douglas Avenue, thanked the Commission and staff for making this happen. She spoke about the importance of the Land Trust and that this will allow the community to change from a dysfunctional type of relationship toward a healthy relationship, helping to realize the American dream across the board. She stated this will help to enlighten the homeowners that will take part in homeownership there.

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

CITY MANAGER'S REPORT:

- a) Appeal Tree Preservation Board Decision – Wendy Aidif.

City Manager Williams stated that the petitioner wishes to appeal the decision of the Tree Preservation Board because she wants to be able remove a 28" diameter specimen camphor tree to install a pool. He explained that according to the guidelines, removal would result in compensation to the City's Tree Replacement Fund in the amount of \$5,760 and Ms. Aidif would also have to plant one 6" caliper tree and one 3" caliper tree in her back yard.

Wendy Aidif, 640 Virginia Drive, explained her request to remove the tree.

Mayor Marchman elaborated on how the decision by the Tree Preservation Board was arrived at. Commissioner DeVane spoke in support of the Tree Preservation Board's decision. Commissioner Eckbert inquired why that would require compensation into the City's Tree Replacement Fund. City Forester Lee Mackin explained the guidelines used for requiring

compensation into the tree fund. Commissioner Metcalf sought clarification into the types of trees that are listed under the current tree ordinance. Ms. Aidif spoke about current programs that are involved with the eradication of camphor trees. Mayor Marchman expressed that the City believes in the protection of its tree canopy.

Commissioner Metcalf spoke of the need to revisit the tree ordinance, but noted that the rules and provisions in existence are applicable to this issue.

Motion by Commissioner Metcalf to uphold the decision of the Tree Preservation Board, seconded by Commissioner DeVane. The motion carried unanimously.

b) Appeal Tree Preservation Board Decision – Fred Michel.

City Manager Williams addressed the petitioner wanting to appeal the decision of the Tree Preservation Board and wants to be able to remove three trees, a 14" in diameter Live Oak, a 15" in diameter Live Oak, and a 16" in diameter Live Oak. Mr. Williams explained that according to the guidelines, the removals would result in Mr. Michel's requirement to plant three 6" caliper trees in his back yard or plant six 3" caliper shade trees somewhere else in the City and maintain them for one year. He said the guidelines also dictate that Mr. Michel pay \$900 to the City's Tree Replacement Fund but that payment was waived by the Tree Preservation Board.

Mr. Michel spoke about the trees that he would like to remove and the poor condition of his yard as a result of last year's storms. He spoke about the \$900 fee to remove the trees and the requirement to also replace them. He asked to be able to take down the trees and landscape his yard. Commissioner DeVane explained that the Tree Preservation Board has waived the fee, but has asked that Mr. Michel plant (3) 6" trees or (6) 3" trees. Mr. Michel expressed his refusal of complying with the requirement imposed by the Tree Preservation Board and the City Commission by stating his intent to remove the trees in question.

Commissioner Eckbert inquired into the loss of trees on Mr. Michel's property as a result of last year's hurricanes and the current state of the tree canopy. Mr. Mackin stated that it was suggested to Mr. Michel to landscape and plant small trees now and to return with the request to remove the original trees once the trees have matured. Mr. Mackin elaborated on the status of the City's tree canopy since the hurricanes and the tree recovery process.

Commissioner Eckbert addressed his concerns with portions of the tree ordinance. He expressed that if Mr. Michel presented a plan that would restore the tree canopy, he would consider granting an approval of his request. He suggested that Mr. Michel remove the trees and plant (3) 6" caliper trees within 30 days and to allow for smaller caliper trees to restore the tree canopy that was adversely impacted as a result of the hurricanes.

Commissioner DeVane elaborated on the options that have been proposed to Mr. Michel that he has been unwilling to accept. She encouraged the Commission to uphold the decision made by the Tree Preservation Board.

Motion made by Commissioner Devane to uphold the decision of the Tree Preservation Board, seconded by Mayor Marchman. The motion carried unanimously.

Commissioner Eckbert elaborated on the need to revisit the tree ordinance. Mayor Marchman asked that Lee Mackin along with the Tree Preservation Board review the tree ordinance and return with a report by the first Commission meeting in October.

c) Request for Proposals – City Attorney services.

Mayor Marchman addressed the guidelines included in the scope of services and other options, and the exclusion of the services for labor relations from the scope of services. Commissioner Eckbert expressed his appreciation for the quantifiable nature of the scope of services and the results it should produce. There was discussion on the methodology for the presentations and whether they will be provided by individuals or by firms. Mayor Marchman suggested the

composition of the Selection Committee as follows: himself (Mayor), City Manager, Police Chief, Planning Director, Building Official, City Planner and Harold Barley (representing the CRA). He suggested that the Selection Committee review proposals, rank the candidates, and return to the Commission with recommendations of the top three candidates. Commissioner Eckbert inquired from the Mayor about his preference of why he is relying heavily on staff and not residents for the Selection Committee. Mayor Marchman explained that his preference of staff was because of the interfacing that occurs between staff and the City's counsel on a routine basis.

Commissioner Eckbert elaborated on his preference of having a variety of perspectives on the Selection Committee. He expressed his belief that the City Manager should be a part of the Selection Committee and he should represent staff conclusions to reduce redundancy. He believed that including primarily staff members will weigh down the Committee and will not result in a recommendation that is diversified in perspectives and opinions. Commissioner Metcalf suggested that the inclusion of attorneys and business leaders to the Selection Committee can only benefit the City. Mayor Marchman elaborated on the advantages of having the Selection Committee comprised as suggested. Commissioner DeVane discussed the importance of comprising the Selection Committee with staff members because of their area of expertise as it relates to issues and decisions concerning their respective departments.

Mayor Marchman suggested to plan and to determine the actual ranking and selection process at the next Commission meeting. Mayor Marchman noted that he maintained his preference of seven members for the Selection Committee. Consensus was to approve the Request for Proposals for City Attorney services.

d) Memorandum of Understanding – City Hall redevelopment.

Planning Director Don Martin summarized the Memorandum of Understanding (MOU) for the redevelopment of the City Hall site. He explained that the MOU is non-binding in terms of the future commitment, but that it does commit the City to a schedule of 60 days of intense negotiations with the developer that will result in an agreement to be presented to the Commission for review. Mr. Martin highlighted the main points of the agreement and the schedule for the approvals process.

Commissioner DeVane inquired into the status of a financial analysis that the developer had received an extension for which she preferred to review before agreeing to move to the next step. Mr. Martin explained that the developer has nothing to review at this point. He continued that the main portion of the developer's contract requires him to lead the City through the 60-days of negotiations which begins August 1, 2005. Commissioner DeVane expressed that someone needs to re-compute the inaccurate figures that were included in the original proposals and she believed the developer was going to provide those figures.

Mr. Martin responded that the MOU allows the City to give assurances to the developer that their efforts are not in vain. He said it doesn't commit the City to move forward with the redevelopment of the City Hall site. Commissioner DeVane noted that she would like to review the revised numbers as well the assumptions that are implicit from the revenue stream of the parking garage. Mr. Martin stated that he had challenged the development team to provide these answers and they would like to proceed with the execution of a development agreement and then move forward

with a complete financial development of the City Hall site going forward within the 60-days as specified in the MOU.

Paul Bryant, as a partner of the City Hall redevelopment team, noted that the team was very aware that a number of the assumptions in the original financial analysis were inadequate if not inaccurate and that the team shares the same concerns expressed by Commissioners. He said before substantial dollars are invested in the project, they need to understand the financial feasibility of the project. He said at this point the developer is asking for the execution of the MOU by the City, the commitment to move forward, and to work with the development team. Commissioner DeVane expressed that she can not move forward until she reviews the assumptions in terms of the revenue streams and how it may impact the millage rate. Mr. Bryant explained that the team was unprepared to provide the assumptions that were sought by Commissioner DeVane.

Discussion ensued regarding the proposed schedule for the design charettes and citizen input. Commissioner DeVane reiterated her preference of reviewing a finance model before scheduling the public design charettes. Mr. Bryant stated the team will provide preliminary financial models for the Commission to review at the August 22, 2005, Commission meeting.

Motion by Commissioner Eckbert to approve the Memorandum of Understanding with the understanding that a preliminary financial model will be presented at the August 22, 2005, City Commission meeting, seconded by Commissioner Metcalf. The motion carried unanimously.

Discussion regarding State Office Building – not listed on the agenda:

Commissioner Metcalf provided a brief update on the status of the State Office building. Mr. Martin reported that the appraisals are supposed to be available on Friday. He said when he hears that the appraisals have been released, he will forward the information to the Commission. Additionally, Mr. Martin reported on an inspection of the State Office building as a potential space for a temporary City Hall. He said the building is in move-in condition for a temporary City Hall.

e) Budget discussion and setting the tentative millage cap.

Finance Director Wes Hamil presented this item. He said the City is required to notify the Orange County Property Appraiser of the City's tentative millage cap and the rolled-back rate by August 4, 2005. He explained the rolled-back rate and the budget projections using the current operating millage rate of 4.654 mills. He said the proposed millage rate that is agreed on tonight will be used on the TRIM notices that are mailed to property owners next month to indicate to them what their taxes will be if the proposed budget and millage rates are adopted. He said the TRIM notices will also advise them of the first public hearing that is scheduled for the first Commission meeting in September.

Budget deliberations ensued regarding the selection of an appropriate millage cap. Commissioner Metcalf expressed his concern with the City meeting its financial responsibilities and that the budget and millage cap remain the same. Commissioner DeVane said that the critical pieces of the budget were to keep the same millage and accomplishing the projects that need to be done, and the unknowns involved with the electric system.

Commissioner Eckbert expressed his concern with the maintenance of the City's infrastructure. He said his primary concern is that the City is operating as efficiently as it should be and expressed his belief that a process lacks to indicate that the City is operating efficiently. He said until he can see a demonstration of efficiency, he will be unsupportive of a millage rate increase. He commented that his vote would be against anything because of the incorrect process that he believed was used to put the budget together. Commissioner DeVane spoke of the need to increase the maintenance of the City's parks.

There was discussion on the need for the Commission to be unified on the decision of a millage increase. Commissioner Eckbert expressed that he would support a millage increase if there was Commission support of his preference of pursuing a benchmarking exercise that will link a budgeting process to the City's strategic planning process. He commented that until the Commission is willing to do what he believes is responsible he would not support a millage increase. Commissioner Eckbert compared the number of employees employed by the City of Winter Park versus the number employed by the cities of Maitland and Coral Springs. Commissioner DeVane explained the difference in the numbers of employees is because the City of Winter Park performs many services in-house instead of outsourcing services. She said she was supportive of setting the millage rate at the highest level because it could later be adjusted.

Motion by Commissioner Metcalf to set the tentative millage rate at 5.25, seconded by Commissioner DeVane. Upon a roll call vote, Mayor Marchman and Commissioners Metcalf and DeVane voted yes. Commissioner Eckbert voted no. The motion carried with a 3-1 vote.

NEW BUSINESS (CITY COMMISSION):

1. Commissioner DeVane asked that staff create a policy that addresses corner houses that are assessed for bricking on two sides. Public Works Director Troy Attaway responded that the current policy includes that if there is a corner property being proposed to be bricked on both sides, the assessment is adjusted for that property owner.
2. Commissioner DeVane commented on the septic tank systems that are sporadic throughout the City. She asked that staff return with information and discussion points on how to proceed with a conversion process from septic to sewer systems.
3. Commissioner Metcalf asked about the progress of a plan that addresses setbacks and temporary zoning in regards to future master planning the City. Planning Director Don Martin responded that the information obtained from the City's planning consultant will be forwarded to the Planning Commission.

Mayor Marchman adjourned the meeting at 8:27 p.m.

Mayor Kenneth R. Marchman

ATTEST:

City Clerk Cynthia Bonham