

**CITY OF WINTER PARK
CITY COMMISSION MEETING
October 13, 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 Fire Department Chaplain Reverend Mike Corp, followed by the Pledge of Allegiance and colors posted by the Honor Guard.

PRESENT: Mayor Kenneth Kip Marchman, Commissioners Douglas Storer, John Eckbert and Barbara DeVane; Assistant City Attorney Lionel Rubio; City Manager James Williams and City Clerk Cynthia Bonham. Commissioner Douglas Metcalf was absent.

MAYOR'S REPORT:

- a) Mayor Marchman recognized Daniel Devlin, Firefighter/EMT as October 2003 Outstanding Employee of the Month.
- b) Mayor Marchman appointed L. Todd Shaw to the Lakes and Waterways Board to replace Jim Barnes. Seconded by Commissioner DeVane and carried unanimously.
- c) Dr. Evelio DeHoyos, 1000 Old England Avenue, summarized the series of events that have taken place in the courts regarding the pending lawsuit against Mr. Roger Holler. He requested a resolution by the Commission supporting the public's right of access to Lake Maitland via Old England Avenue and that the City will not vacate the citizen's rights to the public access. Commission comments were made regarding the Commission's position of remaining neutral and after the courts make their determination that the City will be in a better position to respond, the City is not planning to vacate any rights, and that they believed a resolution at this point would only prolong the lawsuit. Commissioner DeVane thanked Dr. DeHoyos for pursuing this on behalf of the citizens.

Commissioner Storer arrived at 3:45 p.m. during Dr. DeHoyos discussion.

CITY ATTORNEY'S REPORT:

No report was given.

PUBLIC HEARINGS:

- a) Request by Am South Bank for the vacant properties at 431, 501 and 531 W. Morse

ORDINANCE NO. 2540-03: 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 CENTRAL BUSINESS (C-2) DISTRICT TO GENERAL COMMERCIAL (C-3) DISTRICT AT 431, 501 AND 531 W. MORSE BOULEVARD, MORE PARTICULARLY DESCRIBED HEREIN. Second Reading

Attorney Rubio read the ordinance by title. Lurline Fletcher, 790 Lyman Avenue, opposed the ordinance. No other public comments were made.

Motion made by Commissioner DeVane to adopt the ordinance, seconded by Commissioner Storer. Upon a roll call vote, Mayor Marchman and Commissioners Storer, Eckbert and

DeVane voted yes. The motion carried unanimously with a 4-0 vote.

b) Firefighters' Pension Plan

ORDINANCE NO. 2541-03: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING THE CITY OF WINTER PARK FIREFIGHTERS' PENSION PLAN, ADOPTED PURSUANT TO ORDINANCE NO. 2477-02, AS SUBSEQUENTLY AMENDED; AMENDING SECTION 4, FINANCES AND FUND MANAGEMENT; PROVIDING FOR CODIFICATION; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE. Second Reading

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

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

c) ORDINANCE NO. 2542-03: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AND ABANDONING THE TEN FOOT ALLEY WITHIN TROVILLION'S REDIVISION OF BLOCK 35, TOWN OF WINTER PARK, EAST OF KNOWLES AVENUE BETWEEN MORSE BOULEVARD AND WELBOURNE AVENUES BUT RETAINING AND RESERVING TO THE CITY A UTILITY EASEMENT OVER THE ENTIRE AREA THEREOF. Second Reading

Attorney Rubio read the ordinance by title. No public comments were provided.

Motion made by Commissioner Storer to adopt the ordinance, seconded by Commissioner Eckbert. Upon a roll call vote, Mayor Marchman and Commissioners Storer and Eckbert voted yes. Commissioner DeVane voted no. The motion carried with a 3-1 vote.

d) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AUTHORIZING THE ISSUANCE BY THE WINTER PARK COMMUNITY REDEVELOPMENT AGENCY OF NOT EXCEEDING \$6,500,000 REDEVELOPMENT REVENUE BONDS, SERIES 2003, IN ACCORDANCE WITH THE COMMUNITY REDEVELOPMENT ACT OF 1969; AND PROVIDING AN EFFECTIVE DATE. First Reading

Attorney Rubio read the ordinance by title. No public comments were provided.

Motion made by Commissioner Storer to accept the ordinance on first reading, seconded by Commissioner DeVane. Upon a roll call vote, Mayor Marchman and Commissioners Storer and DeVane voted yes. Commissioner Eckbert voted no. The motion carried with a 3-1 vote.

- e) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING WITHIN THE CHARTER LAWS OF THE CITY OF WINTER PARK, SECTION 1.02 "CORPORATE LIMITS DESCRIBED" SO AS TO ANNEX THE PROPERTIES AT 330 S. WYMORE ROAD, 2531 AUDREY AVENUE, 2616 AMSDEN ROAD, 750 JACKSON AVENUE AND 661, 665 and 667 HAROLD AVENUE. First Reading

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE" SO AS TO ESTABLISH ZONING AND FUTURE LAND USE DESIGNATIONS ON THE ANNEXED PROPERTIES AT 330 S. WYMORE ROAD, 2531 AUDREY AVENUE, 2616 AMSDEN ROAD, 750 JACKSON AVENUE AND 661, 665 and 667 HAROLD AVENUE. First Reading

Attorney Rubio read both ordinances by title. Planner Jeff Briggs stated these properties asked to be voluntarily annexed into Winter Park and that the zoning establishes the same zoning as exists in Orange County. No public comments were provided.

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

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

- f) EMERGENCY ORDINANCE NO. 2543-03: AN EMERGENCY ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA ESTABLISHING A TEMPORARY MORATORIUM ON THE CONSIDERATION AND ISSUANCE OF PERMITS FOR GAME ROOMS, ARCADES, DANCE HALLS AND SIMILAR INDOOR ENTERTAINMENT AND AMUSEMENT ACTIVITIES PENDING THE INITIATION OF THE PERMITTING CRITERIA OF SUCH ACTIVITIES; PROVIDING FOR THE NON-ACCEPTANCE OF THE OCCUPATIONAL LICENSE TAX RELATING TO SUCH ACTIVITIES; PROVIDING FOR THE ADOPTION OF LEGISLATIVE FINDINGS; PROVIDING FOR GEOGRAPHIC AREA COVERED; PROVIDING FOR THE DURATION OF MORATORIUM; PROVIDING FOR PENALTIES, SEVERABILITY, CONFLICTS, NON-CODIFICATION AND AN EFFECTIVE DATE.

Attorney Rubio read the ordinance by title. Planner Jeff Briggs explained the newspaper articles regarding adult video arcades in Volusia County and the form of gambling that takes place. He spoke about the concern with this type of business spreading and recommended the emergency ordinance be adopted that will last for 60 days. This would forbid the City to issue an occupational license until an ordinance is adopted to make the zoning code permanent. No public comments were provided.

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

CITY MANAGER'S REPORT:

a) Presentation by Pecora & Pecora regarding the Winter Park Update redesign.

A presentation by given by Ron Pecora of Pecora & Pecora regarding the redesign of the City of Winter Park Update newsletter. The newsletter will be more relevant, timely, easier to read and more cost effective. A sample was provided to the Commission for review. There was consensus to move forward with the new design.

Stanley Wilson, 1620 Mayflower Court, asked if the recommendations made by the Winter Park Update Task Force were included in the new design. It was confirmed that they were included.

b) Appeal decision of the Tree Preservation Board - Mr. Chuck Kimmig.

An appeal of the Tree Preservation Board decision made at the September 11, 2003, meeting to levy a \$5,000 fine to be split between the homeowner, Mr. Zera Bromfield and Mr. Chuck Kimmig's tree service for removing a tree without a permit was presented.

Ms. Bromfield, 1001 Horton Court, Oviedo, and property owner of 1341 Michigan Avenue, Winter Park, stated she was unaware of the requirement for a permit to remove the tree. She asked that her \$2,500 fine be expunged.

City Forester Lee Mackin stated the removal of the tree was stopped during the process of removal and that the tree poses a danger as it currently is. He recommended its removal.

Mr. Chuck Kimmig, stated he has never pulled a permit for tree removal in his 20 years of business because it is the homeowner's responsibility. He argued for Ms. Bromfield and asked to dismiss the fine because of an official notice provided by code enforcement citing an incorrect section of the code, they were not trying to disregard the new ordinance because they were not aware of the new code, and because he believed the tree would survive. He provided photos of the tree in question and other trees he had also trimmed/cut that survived. He also spoke about the adjacent neighbor's tree that was also a part of the request to be removed along with Ms. Bromfield's tree but that the other tree is not part of this appeal and fine.

Aaron Jarvis, 1341 Michigan Avenue, Winter Park, spoke in favor of the tree being removed because of being a peril over the last few years with large limbs and debris causing a hardship to his property.

Lee Mackin, City Forester, summarized the series of events by the Tree Board. He stated that the trees were healthy but required maintenance as with all other trees. Questions were made by Commissioners and replied to by Mr. Mackin who recommended removal of both trees at this point. He stated the fine is only reflective of Ms. Bromfield's tree and not the adjacent property owner's tree. Other comments/questions were made regarding who should have been responsible for pulling the permit, the ordinance being relatively new and if the fines should be reduced in this case because of that factor, that Mr. Kimmig was not a participant in the Tree Preservation Board discussion and should be a part of that process, the Commission has the ability to modify the fine, and the need to notify other tree businesses about the ordinance.

Motion made by Mayor Marchman to take this issue back to the Tree Preservation Board with

notice to Mr. Kimmig of the meeting to have him appear before the board; have the board revisit the fines and hold on the fines for Ms. Bromfield until a report is provided from the board; identify the tree removal businesses who are known by the City to have provided tree services within the City about the revised regulations; and have the board send out a letter reminding them of the ordinance in place. Seconded by Commissioner Storer and carried unanimously with a 4-0 vote. Commissioner Storer disclosed his conversation with Mr. Kimmig prior to the meeting.

c) Park Plaza Gardens valet parking.

Economic Development Director Chip Weston introduced this item and explained the request from Park Plaza Gardens for valet parking services on New England Avenue and to use 50 parking spaces in Municipal Lot A (south lot on Morse and New York) from 5:30 p.m.-11:00 p.m., Thursday-Saturday. Various questions were asked by the Commission. Attorney Rubio suggested that an agreement be made to include staff's recommendations and any other issues the Commission may want to be consider, i.e., hours of operation, duration, termination, indemnification clause, etc. Mr. Weston addressed the importance of this agreement.

Applicant Mary Demetri, 1231 Mayfield Avenue, stated they are willing to underwrite the costs necessary to get valet parking started for the use of all vendors on Park Avenue. She spoke about expanding the hours to the day time if valet parking is well received. Ms. Demetri answered questions of the Commission regarding the 50 spaces and hours. Discussion ensued regarding their request to allow non-alcoholic beverages and food to be consumed while waiting for their vehicle and to provide tables and chairs at the valet service area. Assistant Planning Director Alberto Vargas addressed the permitting process and the details that will be worked out at that time with the cafe tables and chairs and their placement and also the canopy that will be installed at the site.

Mayor Marchman questioned whether the improvements should be in place before valet parking begins or wait until a trial period is completed to determine if the valet parking is successful. They agreed to a 90 day trial period.

Sissy Spang, Park Plaza Hotel, expressed concerns with the noise that may occur at the site and the disturbance to her hotel guests.

Joe Terranova, 700 Melrose Avenue, agreed that a 90 day trial period for the valet parking was a good idea and commented about the plans already approved for the park that includes the removal of the parking lot sometime in the future.

Motion made by Commissioner Storer to approve the request for valet parking for a 90 day trial period, with no outdoor dining areas at this time and including staff recommendations as listed; to monitor it to see how it is working with adjacent businesses to determine if this is a benefit or deterrent; and to see how it works with the public lot. Seconded by Commissioner DeVane.

Mayor Marchman asked that staff and the applicant review this during the trial period and to work hard on the details and toward an agreement as to the improvements and when they will be in place and whether or not the ability exists to sell beverages at this site. It was clarified that the noise ordinance will remain in effect during the 90 day period. **Motion carried unanimously with a 4-0**

vote.

A recess was taken from 5:48 p.m. - 6:00 p.m.

d) Joint meeting between Winter Park and Maitland City Commissioners.

City Manager Williams addressed the request of Commissioner DeVane to try again to schedule a meeting with the City of Maitland to discuss common issues between the two cities. Upon discussion, there was consensus to give Maitland a month to respond to set a meeting date before contacting them again.

e) Beloit Avenue Trust For Public Land proposal.

Planner Jeff Briggs provided a report related to this item. He combined both City Manager's items 'e' and 'i' into one item of discussion. He stated that both properties have neighborhood groups that are pursuing the options to purchase the property for a park instead of the land being developed (the undeveloped land located at the intersection of Denning and Beloit Avenues and 1205 Howell Branch Road and other parcels adjacent to Howell Branch Park). He stated the Trust for Public Land (TPL) can provide an intermediary service to the City by negotiating with the property owners and tie up the properties in lieu of a developer putting the property under contract for development. He stated the TPL has an option to purchase the land but will not exercise that option without a guarantee from the City that there is money to complete the purchase and to reimburse their expenditures. He summarized the funding options: a grant with the Florida Communities Trust (it was noted that the grant cycle had just passed), the general fund reserve could be used but had a negative recommendation from staff, a special taxing district where they could undertake a postcard survey to determine any interest, a dedicated park millage (a referendum would be required), and a parks and recreation impact fee levied against new development at the time of issuance of building permits.

Commissioner DeVane spoke about the establishment of the parks acquisition fund that currently has no funding because of the lack of leftover funds at the end of the year that was supposed to go into this fund. She thanked Michelle Rodriguez for involving the TPL. She asked that these type of ideas be sent to the Parks Board to provide recommendations to the Commission. She addressed the other funding options.

Commissioner Storer thanked Michelle Rodriguez for pursuing this and providing another option for acquiring land for green space. He addressed the importance of acquiring more park land. He stated he also wants the Glenridge property to be considered and how that may factor into future plans. He spoke about the lack of a mechanism in place to purchase land when an opportunity surfaces. He addressed the various funding options and asked that staff develop and provide them with projected revenues for these options.

Mayor Marchman addressed the need for funding to purchase additional parks and also to improve/enhance the City's existing parks.

Lindsay Stevens, Trust for Public Land, 2237 Riverside Avenue, Jacksonville, commented that the TPL is a national, non-profit, real estate, conservation organization that works with willing

landowners and governmental agencies to acquire property and convey that to public ownership for parks and open space.

Michelle Rodriguez, 1667 N. Park Avenue, provided a power point presentation regarding their support that this property become a park, community benefits, features of the Beloit property, the opportunity to partner with the TPL and financing options with the TPL, short term and long term funding solutions, long term grant program and the option of a bond referendum to recoup land acquisition costs not reimbursed by a grant program. She asked the Commission to vote to partner with the TPL and commented that the City needs to move quickly to acquire the Beloit property.

Ms. Stevens stated she would like to discuss the Howell Branch property separately. She spoke specifically about the Beloit property and being under significant time constraints because Mr. Hamilton is in the process of finalizing permits to develop the property. She stated that it is very unlikely at this point that she would be able to negotiate but would love to try and negotiate an extended time period with Mr. Hamilton to see if some of the funding options as presented could play out. She stated that she believed it to be highly unlikely that once her option expires that she will be able to retain the property under contract. She stated the contract is for \$2.2 million and that they are currently conducting an independent appraisal on the property and should have a number by the end of the month. She commented she cannot continue or exercise her option if the appraisal does not come out to substantiate the contract price.

She stated the TPL board will not let her acquire property unless they have a buyer. She asked if the City is interested in acquiring this property from the TPL with a specific price to be determined not to exceed \$2.2 million. She also addressed two other options for financing the property, i.e., a commercial pooled paper loan program (her preference) being offered at an interest rate of about 1% at this time and a lease/purchase option. She stated the City would have to apply for the loan through the Florida Association of Counties paper loan program which takes about 60 days.

Discussion ensued regarding the amount that Mr. Hamilton paid for the property. Ms. Stevens stated she is pushing to have the appraisal completed before the next Commission meeting. Commissioner DeVane commented that before any option is pursued, that the appraisal amount be provided first. She also suggested to ask the neighbors if they were willing to help defray the cost for the land. There was further discussion regarding possible grant funds, the funding options and the need to move quickly.

Mayor Marchman suggested to investigate before the October 27 meeting how firm the 1% money might be, if the City can qualify for this money and how long it would remain 1% money because he understood there are also monthly charges that makes this more than 1%. Ms. Stevens will work with staff to put them in contact with the correct people. This issue will be put on the October 27 meeting for further discussion.

Commissioner Eckbert left the meeting at this time (7:05).

Dr. Bette Tallon, 1170 Kenwood Avenue, spoke in favor of acquiring the land for a park.

Joe Terranova, 700 Melrose Avenue, spoke in favor of this issue and the need to expedite it. He stated that the Howell Branch property should not be constructed and should be acquired as well as other areas.

Kevin Barry, 1200 Kenwood Avenue, spoke in favor of the acquisition and addressed his vision for the property.

In conclusion, Mayor Marchman stated that staff will be reviewing what money is available and how the City can be a part of this for the Beloit property. He summarized the funding options. He also commented that he would like to see if the Howell Branch property can also be a part of this. Commissioner DeVane addressed the need to move forward with the grant process and that the Parks Board be a part of this discussion. Both the Beloit and the Howell Branch items will be on the next agenda as well as a discussion regarding how we approach a long term strategy for park acquisition.

- f) Amendment to Personnel Policy Manual - Temporary Reassignment to Non-Hazardous Duty Position.

An amendment to the Personnel Policy Manual was presented regarding temporary reassignment to non-hazardous duty positions for employees who become pregnant.

Motion made by Commissioner DeVane to approve the amendment to the policy to allow employees in hazardous duty positions to be reassigned during periods of pregnancy, seconded by Commissioner Storer and carried unanimously with a 3-0 vote. Commissioner Eckbert had departed the meeting.

- g) Update on the electric power issue.

Assistant City Manager Randy Knight provided the update. He addressed the meetings held and proposals made with Progress Energy. He stated another meeting is being held on Wednesday and hoped to receive some answers regarding the proposals made. He stated there will also be a pre-bid conference on Wednesday with the potential providers of electricity to the City. He added that we have received 8 positive responses from companies who intend to bid on providing the City the power.

h) Road paving update.

A road paving plan update was provided by Public Works Director Jim English. Statistics were provided regarding the miles of roadways with the newly annexed areas included, the average life of asphalt roads and the annual paving that must take place to maintain the current level of roads.

Engineer Troy Attaway summarized the proposed paving program, the need for \$400,000 per year to fund the annual paving needs, and the proposed roads slated for re-paving in the upcoming year.

Discussion ensued regarding the 17-92 roadway and the State agreeing to provide some beautification to that roadway, and also the strategic projects on Orange Avenue that did not pass the 20/20 Mobility and if the FDOT would help with those projects. Mr. English stated they already have a meeting scheduled with FDOT to discuss this. Commissioner Storer addressed the need for a discussion on the City's indebtedness and potential future millage increases to address issues such as parks and roads.

i) Howell Branch Road open space acquisition.

This item was discussed as part of item 'e'.

CONSENT AGENDA:

- a) Approve minutes of 9/22/03.
- b) Approve budget adjustments:
 - 1) Appropriate \$54,103 received from the Florida Department of Environmental Protection for improvements at Phelps Park.
 - 2) Transfer \$12,500 from the Cemetery Trust Fund to the Cemetery Division to cover shortages in open/close expense due to increase in contract pricing and number of services. All Cemetery Division expenses are paid from the Cemetery Trust Fund.
- c) Approve bids, purchases and change orders:
 - 1) Approve the City to become part of the Purchasing Alliance for water/sewer/pipes/parts, etc. with Orlando Utilities commission (OUC), Jacksonville Electric Authority (JEA), Gainesville Regional Utilities (GRU) and National Water Works (NWW) as contractor to the Alliance.
- d) Review calendar and update with upcoming events.
- e) Approve rate adjustment of 3.1% with Waste Management for solid waste collection.
- f) Approve the Interlocal Agreement for Public School Facility Planning between the Orange County School Board and the City of Apopka, Town of Eatonville, City of Maitland, Town of Oakland, City of Ocoee, City of Orlando, Town of Windermere, City of Winter Garden and the City of Winter Park.
- g) Approve the renewal of the revised interlocal agreement with the South Seminole North Orange County Wastewater Transmission Authority (SSNOCWTA).
- h) Approve the modification to the long term disability benefit for employees.

Mayor Marchman asked for public comments. None were provided.

Motion made by Commissioner Storer to approve the Consent Agenda, seconded by

Commissioner DeVane. Motion carried unanimously with a 3-0 vote.

NEW BUSINESS:

1. Commissioner DeVane addressed the Winter Park School Conceptual Memorandum of Understanding with Orange County Schools regarding the potential school on the Westside of Winter Park. She stated that changes were made to the previous agreement and that the revised one has been provided to the Commission. She summarized the changes to the agreement and asked that it be approved.

Motion made by Commissioner DeVane to approve the agreement and forward to the Orange County Public Schools, seconded by Commissioner Storer and carried unanimously with a 3-0 vote.

2. Commissioner DeVane stated she will be attending the upcoming Tri-County League of Cities luncheon this week with the topic being the charter school in Oakland. Commissioner Storer stated he is also going to try and attend.

3. Commissioner DeVane stated that Ruth Prather (formerly on the City's Educational Task Force) informed her that she has been asked to chair the education group for the Chamber of Commerce. She suggested that they meet with the City to incorporate the City's interest with the Chamber's to move forward and have a joint group to review educational issues in the community. They will begin with hosting a meeting on November 4 to ascertain any interest. There was consensus to proceed with this suggestion.

4. Commissioner DeVane spoke about the upcoming rails stakeholder's meeting scheduled for Friday which she cannot attend and will be asking that a staff member attend.

Mayor Marchman adjourned the meeting at 7:55 p.m.

Mayor Kenneth Marchman

ATTEST:

City Clerk Cindy Bonham