

**CITY OF WINTER PARK
REGULAR MEETING OF THE CITY COMMISSION
December 11, 2006**

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

The invocation was offered by Reverend Steve May, First Baptist Church of Winter Park, followed by the Pledge of Allegiance.

Members present:

Mayor David Strong
Commissioner John Eckbert
Commissioner Douglas Metcalf
Commissioner Barbara DeVane
Commissioner Douglas Storer (departed 5:13 p.m.)

Also present:

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

MAYOR'S REPORT:

a) Civil Service Board appointments

Mayor Strong recommended reaffirming the appointment of Don Palladeno for another three year term; and to appoint John Melaugh to replace Rick Frazee for a three year term. **Motion made by Commissioner Storer to approve the reappointment and appointment, seconded by Commissioner DeVane. Upon a roll call vote, Mayor Strong and Commissioners DeVane, Metcalf and Storer voted yes. Commissioner Eckbert voted no. The motion carried with a 4-1 vote.**

b) Chamber of Commerce Welcome Center Update and check presentation by Embarq.

Chamber Executive Director Sam Stark provided an update on the donations received to help with the construction of the new Welcome Center. Dan Peterson, representing Embarq, presented a \$35,000 check with the remainder of \$15,000 to be provided at a later time. Mayor Strong asked how much money they needed to raise. Mr. Stark estimated it would be \$100,000 - \$200,000.

c) "Cool Cities" recommendation from the Environmental Review Board.

Michael Rippey, 251 West Fawsett Road, member of the Environmental Review Board, recommended endorsement and participation in the nationwide initiative "Cool Cities." He addressed the purpose of the program to encourage municipal governments to reduce CO2 emissions and the goal for the City to reduce the carbon dioxide pollution by 7% over the next six years. He asked the Commission to accept the recommendations of the Environmental Review Board and authorize them to draft a resolution for approval by the City Commission. Mr. Rippey responded to questions. Commissioner Eckbert suggested looking at the budgetary impacts of implementation. Mayor Strong asked they return with a resolution for the Commission's consideration with an estimate of what the expenses will be for the City.

d) Resolution-Supporting the Nemours Orlando Children's Hospital.

RESOLUTION NO. 1961-06: A RESOLUTION OF THE CITY OF WINTER PARK, FLORIDA IN SUPPORT OF NEMOURS ORLANDO CHILDREN'S HOSPITAL; ENCOURAGING SUPPORT OF OTHER MUNICIPALITIES AND LOCAL GOVERNMENTS IN CENTRAL FLORIDA FOR NEMOURS ORLANDO CHILDREN'S HOSPITAL, AND PROVIDING AN EFFECTIVE DATE.

President John Bozard, Arnold Palmer Medical Center, addressed concerns about duplication of services that will impact cost and quality. He explained they hoped that Nemours would consider bringing their resources here to add new services to benefit the community. Commissioner DeVane commented on modeling the City's resolution after Orange County's and to move forward. Mayor Strong stated the Commission was not prepared to take action and he would like to compare the two resolutions and consider a resolution (or not) at the next scheduled meeting.

Commissioner Metcalf spoke in support of this opportunity as a community and a region to increase the resources, medical capabilities and support in Central Florida. He was supportive of Nemours building a hospital and about ensuring there is little duplication. He expressed concerns about having a one sided resolution. Commissioner DeVane stated if the Commission has a position on this, she would like them to be fully informed. She disclosed that she serves on the Winter Park Health Foundation and in that role she is a member of the board of Florida Hospital. Mayor Strong stated they will try and draft a resolution that meets everyone concerns for the next Commission meeting.

e) Confirm the dates of the January 2007 Commission/SLR meetings.

Mayor Strong announced a shade meeting on Wednesday, December 13, 2006 at 10:30 a.m.; and the Carlisle presentation work session on December 18, 2006 at 3:30 p.m. Commissioner Metcalf stated he would not be attending. Further announced was a CRA meeting on December 18 after the Carlisle workshop; and Commission meetings changed to January 16 at 3:30 p.m. and January 29 at 3:30 p.m.

City Clerk Cynthia Bonham announced the strategic planning sessions scheduled for all day on January 25 and ½ day on January 26. Commissioner Metcalf suggested having the Public Works Service Level Review meeting on January 29 at 1:00 p.m. and the Parks and Recreation SLR at 2:00 p.m. There was a consensus to schedule these meetings as stated. Commissioner Eckbert asked about the election dates. Ms. Bonham stated the qualifying period is January 2 –16, ending at noon on January 16. She announced the election days of February 13 if there is a primary election and March 13 for the general election.

f) Lobbyist Bill Peebles report.

Mayor Strong announced that Mr. Peebles could not attend due to illness and read his report. He stated that Mr. Peebles is pursuing three projects: 1) \$600,000 stormwater project on the south end of Bonita Drive; 2) funding of transportation improvements to the Fairbanks corridor along Ward and Pennsylvania Avenue; and 3) funding for a Cultural Center/Home of the Florida Film Festival.

Building Director George Wiggins stated Mr. Peebles sent his regrets and he may attend the meeting in late January. There was a consensus to move forward with these budget requests. Commissioner DeVane asked if Mr. Peebles could see if there was other money available for

the corridor along St. Andrews and up through the wetlands to the north. Mr. Wiggins stated he would relay that information to him.

g) Housing Authority Loan Request – Plymouth Apartments

Housing Authority Director Lynda Hinckley stated they provided additional information that the Commission requested at their last meeting regarding the City's loan to the Housing Authority for the Plymouth Apartments. Mayor Strong stated he met with Ms. Hinckley and others about the loan commitment and he suggested that the \$1,000,000 be a loan for 15 years but if they repay it by year ten, and they will receive a discount equal to the first three years of the \$300,000 grant. Mayor Strong explained that if it goes between 10-15 years they would pay an additional \$60,000 per year. He commented that if everything goes well there is a reasonable opportunity that they can pay this loan off in 10 years with zero percent interest.

Mayor Strong recommended to approve this final structure of Winter Park commitment to the Housing Authority; seconded by Commissioner Metcalf and carried unanimously with a 5-0 vote.

CITY ATTORNEY'S REPORT:

City Attorney Cheek confirmed that the shade meeting was being held at his request. He also stated he was asked to look into the legality of the potential regulation of advertising on vehicles in public parking lots and was prepared to move forward if that was the direction of the Commission. Commissioner Eckbert stated he asked the City Attorney to look into this matter. Mayor Strong suggested that Attorney Cheek present versions of regulations to Commissioner Eckbert who can present the preferred regulation to the Commission. Commissioner Eckbert and Attorney Cheek agreed to work on this.

Mayor Strong asked Attorney Cheek to review construction projects causing lanes to be out of service and blocking/closing streets and if the City was being reimbursed. Mr. Wiggins stated there is an additional fee in the new fee schedule for utilizing City streets for any construction job but no funds have been received yet.

CONSENT AGENDA:

- a) Approve the minutes of 11/27/06.
- b) Approve the following bids and purchases:
 - 1) Future purchases, as needed, from Fisher Scientific Company under the Florida State SPURS Agreement #490-000-03-1 (Budget: Utilities/Lab)
 - 2) PR 130288, for a used, demo, Track Loader from Vermeer Southeast Sales and Service, Inc.; \$43,500.00 (Budget: Streets)
 - 3) PR 130353, to Flagler Construction Equipment, for a used-demo Wheel Loader for the Streets Department; \$46,930.00 (Budget: Vehicle Replacement Fund)
 - 4) Task Order #2006-02 to CH2M Hill, for Fairbanks Corridor Wastewater Collection & Transmission System Preliminary Design and Permitting; \$532,803 (Budget: Sewer impact fees)
 - 5) Change Order #1 to CH2M Hill for Wymore Re-Pump facility, Aeration System Modifications for East Wastewater Treatment Plant; \$918,580.00 (Total: Budget: \$68,580 will come from utility reserves, future R&R or shared savings from Water Improvement Program. The rest is budgeted from WW R&R account).

- c) Approve the following budget adjustment:
 - 1) Carry forward \$10,452,636 in capital project budget balances remaining from FY 2006 to FY 2007.
- d) For Your Information-Carry Forward purchase orders from FY 2006 to FY 2007.
- e) Authorize the Mayor to execute the interlocal agreement with Orange County regarding school capacity. **ITEM PULLED. SEE BELOW.**
- f) Approve the donation of the City-owned vacant lot at 865 English Court to the Habitat For Humanity for the construction of a Habitat home.
- g) Approve the request for valet parking for Hannibal Square for a six month period with One Way Valet.

Motion made by Commissioner DeVane to approve the Consent Agenda with the exception of item 'e'; seconded by Commissioner Storer and carried unanimously.

Consent Agenda Item 'e'

Patricia Greenstein, 2348 Summerfield Road, asked for an explanation of the agreement.

Carolyn Cooper, 1047 McKean Circle, expressed concerns with the quality of schools and the definition of rezoning because it allows residential in all office and commercial zones. She had an issue that it was not binding in a City where the schools bring people to Winter Park and was in favor of the agreement being signed. She asked the Commission to consider a resolution. Planner Lindsey Hayes explained the agreement.

Commissioner DeVane stated she would like the Commission to think more about this and to come back with a version that is more equitable to Winter Park. She suggested tabling this item until the next meeting.

Motion made by Commissioner DeVane to table Consent Agenda item 'e'; seconded by Commissioner Eckbert and carried unanimously.

CITY MANAGER'S REPORT:

- a) Presentation by the Cultural Center Task Force.

Cultural Center Task Force Chairman Frank Herring summarized the task force members, the history of the task force, and the advantages and disadvantages of the top three sites for the possible development of the center (City Hall Phased development, Municipal Lot A and the Lawrence Center parking lot). He addressed the next step to approve the final report and to authorize them to move forward with a more detailed analysis of the top three sites. He concluded that their goal is to come back with a final site with a budget, a schedule and a detailed report sometime in the spring.

Mayor Strong asked about the projected height. Mr. Herring responded that the theatre was 25' and a performing arts theater would be an addition of 35-40' or higher. Mayor Strong asked if the City can provide a site if the non-profit organization will raise the funds to build the structure. Mr. Herring stated the Enzian was contemplating a capital drive for the building. He explained the idea was it would be for performing arts with the Enzian as the anchor tenant and were contemplating three theaters. He explained the largest theater was for live performances to be available for some groups within the community and there has been encouraging discussions with Rollins College about cooperating with them. Commissioner Eckbert asked what happened

to the New England surface parking lot site opportunity. Mr. Herring explained that the task force felt the site was no longer viable to continue pursuing and had been abandoned.

Mayor Strong stated that he would like to identify a site within 90 days and analyze the New England site. Commissioner DeVane stated she did not want to remove the Civic Center site from discussion. Commissioner Metcalf stated the New England site seemed to be the best and he would like this site included in any further analysis.

Jan Nichols, 1505 Bonnie Burn Circle, provided an update of the Regent.

A recess was taken from 5:13 – 5:24 p.m. Commissioner Storer departed the meeting during the break.

b) Ethics Task Force recommendation for campaign contribution reform.

Task Force Chairman Barry Greenstein provided a report concerning campaign contribution reform. He addressed the philosophy statement of the Ethics Task Force and their proposed ordinance. There was discussion regarding the amount of allowable contributions, i.e., \$250 from individuals or \$100 from organizations or corporations. Commissioner DeVane expressed her preference of restricting contributions by anyone other than Winter Park registered voters and to impose a maximum contribution of \$100, and limiting the amount of money a candidate could contribute to their own campaign. She commented about being uncomfortable with accepting contributions from Winter Park employees. Mr. Greenstein responded that City employees would be part of the Ethics code they are drafting.

Commissioner Metcalf recommended a \$250 contribution per individual and \$100 per corporation. Mayor Strong asked Attorney Cheek if this was an action that needed to be taken via an ordinance or a charter amendment. Attorney Cheek stated there may be some question as to whether some of these issues are constitutional or not. He stated he has looked at the law regarding this and has asked State Attorney Lawson Lamar to provide their research.

Marc Hagle, 1220 Park Avenue North, stated there are three individuals (including him) interested in running for seat four. He commented if the Commissioners were interested in passing something and were concerned about the legalities of it, he was sure that he, Kit Pepper and Mark Van Valkenburgh would agree to abide by its rules and to waive any challenge they might have.

Kit Pepper, 2225 Howard Drive, agreed to accept the maximum contribution of \$250 and would not accept contributions from corporations or partnerships. She stated this needs to be the focus of their discussion and should be addressed.

Joe Terranova, 700 Melrose Avenue, praised the Ethics Committee for their work. He addressed a problem with corporations and the way they are set up and possibly dealing with one person who controls several corporations who could possibly donate one check from each corporation. Mr. Terranova addressed setting the individual amount at \$250 and focus on eliminating organizations.

Mark Van Valkenburgh, 319 Raintree Court, had no objections to limiting contributions to \$250. He suggested that the Commission limit campaign contributions and look at conflicts of interest.

Carolyn Cooper, 1047 McKean Circle, spoke about the need to accept contributions only from individuals and not companies, agreed with a \$100 contribution limit, and to only allow contributions from property owners within our zip codes. She recommended this be handled by ordinance and to require a super majority vote to overturn it.

Mayor Strong suggested a \$250 limit for any purpose, and that any payment to a Commissioner delivered 6 months prior to the commencement of their term of office will require the Commissioner to announce a conflict of interest and not be allowed to vote on the donor's issue. He explained that there should be no contributions from anything other than a human being; no PAC's, partnerships, corporations or LLC's. Mayor Strong addressed this as a starting point that gives the current candidates and others what they need to plan for this upcoming election. Attorney Cheek stated they need to consider language of when this will become effective or grandfathered. He explained they cannot adopt this during the meeting because it needs to be advertised as an ordinance and then follow the normal procedure.

Mayor Strong asked Attorney Cheek to prepare an ordinance for their consideration. Commissioner DeVane asked that they be two separate ordinances; one specifically about campaign contributions and the other dealing with prior pecuniary benefits. Commissioner Eckbert stated he would like to hear the thoughts of the Ethics Task Force on some of the issues they have discussed concerning corporations, creating a maximum on campaign expenditures, and creating a maximum on contributions to one's own campaign. He commented as they move toward an ordinance, they can include the critical elements that might be more comprehensive. Mayor Strong stated he would personally like to see a small step towards reform or specific criteria for campaign financing. He stated maybe they can do this for the forthcoming election.

Martha McHenry, 530 Clarendon Avenue, believed contributions should be made by Winter Park residents only.

c) Brookshire New School Alternatives Committee final report.

Commissioner Metcalf declared that he has worked with the school boards in the past which dealt with Minority Business Enterprise and was paid by the school board for that purpose. He stated on many occasions he has voted on school issues in Winter Park and wants it to be apparent that he has worked with the school board before but, it will not affect his vote about this school or any other school directed at the City of Winter Park.

Kit Pepper, 2225 Howard Drive, provided a presentation on behalf of the Brookshire New Schools Alternatives Committee that was appointed to review and recommend options for Brookshire Elementary School. She spoke about their committee meetings and their primary objective to determine if they could bring an improved facility prior to the 2011 school year. She summarized the other issues they considered: renovation versus a new school (they determined they need a new school); the advantages of a new school; site alternatives and advantages; their recommendations to upgrade soon and address parking, green space and traffic if the school is rebuilt rather than renovated; and changes to the park and school sites that would benefit the neighborhood and the City.

She explained the committee was provided four options by ZHA, Inc. (consultants) for a site "swap." She stated the park was approximately 58 acres and the school property was 10.4 acres. The committee recommended option 2, the northeast site, as the best location for a new school facility because it allows for shared parking for the school and Showalter field events; the

Aloma access removes buses and traffic from the neighborhood; and can access the school and Showalter Field from either the north (Aloma) or the neighborhood, but not allow cut-through traffic.

Ms. Pepper stated that City funds were not being looked at and they felt they could narrow that gap through some of the economies created by shared-use facilities. She spoke about the committee recommending that the vacated school property be acquired by the City in exchange for providing a school site on City property. She summarized other recommendations made by the committee to include relocating the school, moving a section of the road, and closing the funding gap for paying for the new school. She explained that the committee recommended possibly creating 11-22 lots along the south and west sides of the vacated Brookshire property and that the revenue generated by the sale of these lots could create some of the gap funding needed to build the new school.

Ms. Pepper asked the Commission to validate their proposal and to assign the appropriate technical expertise to explore if this is feasible. Commissioner DeVane suggested they continue with ZHA since they helped with the original four sites and they have been working with the committee and jointly with the school board. Mayor Strong asked Planning Director Jeff Briggs if he was comfortable with ZHA doing the planning for this project. Mr. Briggs stated they were the best and agreed with retaining ZHA. Mayor Strong requested Mr. Briggs request a proposal from ZHA on this project so they can move forward.

d) Proposed Orange County Community Center at Cady Way Park.

Parks Director John Holland addressed the Orange County proposal to build a Community Center in Cady Way Park. He explained that staff met with Orange County Parks and County Commissioner Segal regarding the placement of the proposed 28,000 square foot facility. He stated this would include a gymnasium, meeting and classroom space, restrooms, trail maintenance facility and parking for 100 vehicles. Mr. Holland explained that this was an opportunity to incorporate Brookshire Elementary in with the Community Center and the Community Center with the park and pool. He spoke about Orange County asking for a land lease of five acres and in doing so they will make it work with the two possible entries from the north along St. Andrews or Balfour Avenue.

There was a consensus to move forward and to continue the planning and discussion with Orange County regarding the placement of the proposed Community Center in Cady Way Park.

e) Comprehensive Plan implementation.

Mayor Strong requested they table this item. Commissioner DeVane agreed. Commissioners Eckbert and Metcalf disagreed.

Mr. Briggs briefly explained the discussion from the last City Commission meeting regarding the activities that would occur between transmittal and adoption of the plan in April 2007. He spoke about the Canin & Associates proposal for continuing the community visioning and consensus building process related to the Central Business District. He commented about their \$225,000 proposal being expensive and that the City does not have money budgeted for this project.

Mr. Briggs explained the need for an RFQ (for qualifications) and a RFP (for proposals) and to see what other firms will do and then choose the best candidate. He spoke about the work their department has between now and April and that assistance from a consultant on design guidelines would be helpful but staff would like to organize a RFP/RFQ for this project after the

Comprehensive Plan is adopted. Mayor Strong asked for clarification of the staff recommendation not to take action on the Canin & Associates proposal at this time and to prepare a RFP/RFQ. Mr. Briggs concurred, with the recognition that the work will begin in late spring to summer.

Motion made by Commissioner Metcalf to table this item and to discuss it after the Strategic Planning Session in January, seconded by Commissioner DeVane. The motion carried with a 3-1 vote with Mayor Strong and Commissioners Metcalf and DeVane voting yes and Commissioner Eckbert voting no. Commissioner Storer was absent.

- f) Billboard agreement with Charles Clayton and Clear Channel at 611 N. Wymore Road.

Motion made by Commissioner Metcalf to approve the billboard agreement, seconded by Commissioner DeVane. The motion carried unanimously with a 4-0 vote. Commissioner Storer was absent.

A recess was taken from 7:04 – 7:27 p.m.

PUBLIC HEARINGS:

- a) ORDINANCE NO. 2692-06: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA RELATING TO ABANDONMENT OF THE WEST 10 FEET OF A 15 FOOT UTILITY EASEMENT REDUCING THE UTILITY EASEMENT TO 5 FEET; ABANDONING THAT PORTION OF THE 15 FOOT PLATTED UTILITY EASEMENT ON LOT 2 AS RECORDED IN PLAT BOOK 8, PAGE 76, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, AS LYING WITHIN ANCHORAGE ESTATES, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING AN EFFECTIVE DATE. 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 DeVane. Upon a roll call vote, Mayor Strong and Commissioners Eckbert, Metcalf and DeVane voted yes. The motion carried unanimously with a 4-0 vote. Commissioner Storer was absent.

- b) ORDINANCE NO. 2691-06: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" SO AS TO REPEAL 58-90 "PLANNED DEVELOPMENT (PD) OVERLAY" AND AMENDING SECTION 58-86 "CONDITIONAL USES" TO PROVIDE THE CITY COMMISSION VARIANCE AUTHORITY FOR SETBACKS AND LOT COVERAGE AND LIMITED BUILDING HEIGHT, PROVIDING FOR APPLICABILITY, PROVIDING AN EFFECTIVE DATE. Second Reading

Attorney Cheek read the ordinance by title.

Joe Terranova, 400 Melrose Avenue, spoke in favor of repealing the ordinance.

Carolyn Cooper, 1047 McKean Circle, spoke in favor of repealing the ordinance. She asked not to include building setbacks and lot coverage in the conditional uses clause. She addressed the

need for a Planned Development Overlay for the commercial properties, shared her concerns about the moratorium coming to an end, and asked not to move building setbacks and allow them to be made and adjusted without a super majority vote of the Commission.

Beth Dillaha, 1801 Forrest Road, asked to review the language in the ordinance concerning conditional use. She stated she would like to see a super majority required.

Patricia Greenstein, 2348 Summerfield Road, asked to repeal the current ordinance and to write a new one.

Commissioner DeVane asked when the new PD Overlay ordinance would be presented. Mr. Briggs stated after the adoption of the Comprehensive Plan. Mr. Briggs responded to Commission questions.

Motion made by Commissioner DeVane to adopt the ordinance with the condition that discussion goes back to P&Z about the super majority. Commissioner Metcalf amended the motion to leave out the last portion regarding the super majority. He stated he wanted this repealed and to move on.

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

- c) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA RELATING TO ABANDONMENT OF A RIGHT-OF WAY; ABANDONING THAT PORTION OF VIA PALERMO ROAD EXTENDING APPROXIMATELY 282 FEET SOUTH FROM THE NORTH LINE OF LOT 1A OF SICILIAN SHORES, PLAT BOOK O, PAGE 34, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED HEREIN; RETAINING UTILITY RIGHTS; PROVIDING AN EFFECTIVE DATE. First Reading

Terry Hotard, Utilities Department, explained that the property owner at 2070 Via Tuscan, requested that the City vacate and abandon the unused portion of the northern part of the Via Palermo right-of-way. He stated the staff recommendation was to comply and to grant the request of the adjoining property owner with retaining utility rights. He addressed receiving letters from other property owners asking to have the roadway vacated. He commented that letters were sent out to residents within 500' and there were no objections. Mr. Hotard answered questions posed by the Commission.

Attorney James Johnston, 301 East Pine Street, Orlando, representing the requestor, spoke in support of the vacation. He stated there will be a utility easement reserved for the utilities located there and this will be beneficial to the City because it will be cleaned up and improved.

Robert Klinger, 845 Via Lombardy, expressed concerns because of the property being used extensively by pedestrians and bikes. He stated without this property pedestrians will have to go onto Via Tuscan which is a busy road. He had no objection to the abandonment of most of the right-of-way but believed it to be the best interest of the City to maintain a 6' right-of-way for a pedestrian walkway/bikeway through this area.

Mick Night, 1930 Via Venetia, spoke in favor of the vacation because of the improvements that will be made to the property; it will be landscaped and maintained and the City will have the utilities they need.

Attorney Johnston spoke about developing a pathway through that area and not abandoning the entire street. He addressed maintaining the right-of-way for the pedestrians and children to use and commented that the governing body of the Winter Park Racquet Club was in favor of the vacation.

Commissioner DeVane spoke against vacating the property and mistakes made in the past with the giving up rights-of-way. She commented she would like to pursue developing a pathway through there and maintain it, but that she would vote against a vacation.

Commissioner Metcalf spoke about the property having a public use and the importance of the property for green space in the future. He liked the idea that this area is improved and maintained to allow more access to biking and walking. He was not in favor of giving up the road right-of-way.

Commissioner Eckbert addressed the access to the racquet club being safe. He spoke in support of finding a solution since the road is private at the end and the racquet club is in favor of it. Mayor Strong agreed with Commissioner Eckbert because of it being a right-of-way that only goes to the racquet club. He suggested the property owners work out a compromise where there is a pedestrian right-of-way and to arrive at an agreement the Commission can agree with.

Attorney Johnston asked that this be pushed back until the next meeting. Commissioner Eckbert asked the racquet club to provide input then. Attorney Johnston concurred.

Mr. Klinger explained that the racquet club was in favor of abandoning a portion of this and by gaining more of the property, it works in favor of the racquet club. He stated that maintaining the path has not been presented to the racquet club and that he was in favor of improving the property.

Motion made by Mayor Strong to table this item, seconded by Commissioner Eckbert. Upon a roll call vote, Mayor Strong and Commissioners Eckbert, Metcalf and DeVane voted yes. The motion carried unanimously with a 4-0 vote. Commissioner Storer was absent.

Commissioner Eckbert stated that he was concerned that there are other public right-of-ways throughout the City being utilized that do not appear to be safe and are possible liabilities for the City. Mayor Strong agreed with Commissioner Eckbert.

- d) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE VI, "SUBDIVISION REGULATIONS" SO AS TO REQUIRE THE AFFIRMATIVE VOTE OF FOUR MEMBERS OF THE CITY COMMISSION FOR APPROVAL OF SUBDIVISIONS AND LOT SPLTS. First Reading

Planning Director Jeff Briggs explained the intent of the ordinance and the notification they provided. Mr. Briggs responded to Commission questions and concerns.

Marc Hagle, 1220 Park Avenue N., spoke in favor of adopting the ordinance. He stated he brought this before the Commission previously for adoption.

Peter Weldon, 700 Via Lombardy, prepared a letter to be included into record as part of the minutes. He provided a copy to the Commission and read the letter. The letter is attached at the end of the minutes.

Commissioner Metcalf stated he was not in favor of super majorities. Commissioner Eckbert commented that he would not support the ordinance. Commissioner DeVane spoke in support of the ordinance and about losing the diversity in the community and was concerned about what is happening in Winter Park. She stated she would like to see us do more to promote what has been Winter Park's charm and character. Mayor Strong supported the ordinance and expressed his concerns about Winter Park as a whole.

Motion made by Commissioner Eckbert to table this item until there is a full Commission present for consideration of the issue, seconded by Commissioner Metcalf.

Motion made by Commissioner Metcalf to reject the proposal, seconded by Commissioner Eckbert. Upon a roll call vote, Commissioners Eckbert and Metcalf voted yes; and Mayor Strong and Commissioner DeVane voted no. The motion failed with a 2-2 vote. Commissioner Storer was absent.

Mr. Briggs stated this will be rescheduled for the next meeting when there is a full Commission present. Mayor Strong stated this needed to be re-advertised and the Commission will hear this matter again. Mr. Briggs concurred.

- e) Request of Wilford Woodruff Academy: CU-to operate a private school for a maximum of 50 students in grades K-12 from the existing buildings of the Winter Park Christian Church at 760 N. Lakemont Avenue.

Planning Director Jeff Briggs explained they are leasing space at Winter Park Christian Church and the property is a six acre parcel. He stated they are operating a small private school that has four classrooms in the fellowship hall and would like to increase their enrollment from 24 to 50 students. Mr. Briggs stated that due to the property size, traffic would be minimal and there were no negative impacts concerning the parking and pick-up/drop-off.

Brent Holiday, 820 Eastgate Trail, Longwood, provided a power point presentation on behalf of Wilford Woodruff Academy. He summarized the makeup of their school, their educational philosophy, why their request should be approved, the layout of the property, and the number of vehicles that would utilize the property. He stated that 49 residents supported the school.

Erich Scherer, 800 N. Lakemont Avenue, property owner abutting the church property, spoke against the request use because of the noise associated with increased traffic and vehicles that will affect his lifestyle.

June Sullivan, 308 East Hillcrest Street, Altamonte Springs, founder of the academy, explained the minimal traffic is because the high school students are driven by their parents. She stated they are a reform program and are very careful about the behavior of the students.

Motion made by Commissioner Metcalf to approve the conditional use request, seconded by Commissioner Eckbert. Upon a roll call vote, Mayor Strong and Commissioners Eckbert, Metcalf and DeVane voted yes. The motion carried unanimously with a 4-0 vote. Commissioner Storer was absent.

- f) Subdivision request of Holloway Custom Homes to allow the property at 1660 Pine Avenue to be divided into two lots.

Planning Director Jeff Briggs explained the 150' wide lot zoned R-1A and their request to divide the property into two 75' lots. He addressed the standard for the neighborhood and that both lots have 9,750 square feet of land and meet the requirements of the R-1A zoning rules of width and land area. He stated it does not meet the comprehensive plan test and was not comparable to the average. He explained P&Z's recommendation for denial because the lot does not meet the comprehensive plan test. Mr. Briggs responded to Commission questions.

Applicant Gordon Cantley stated the best option is to have the lot split. He explained that their neighbors submitted letters in support and asked for approval to split the lot.

Motion made by Commissioner Eckbert to approve the lot split, seconded by Commissioner Metcalf. Upon a roll call vote, Mayor Strong and Commissioners Eckbert, Metcalf and DeVane voted yes. The motion carried unanimously with a 4-0 vote. Commissioner Storer was absent.

- g) Subdivision request of the Estate of Sarah Galloway to allow the property at 860 Via Lugano to be divided into three lakefront lots.

Planning Director Jeff Briggs explained the subdivision request to divide the property at 860 Via Lugano into three single family lots and the property being zoned R-1AAA. Mr. Briggs stated the Commission referred this request back to the Planning and Zoning Commission (P&Z) on July 10, 2006. He stated the applicant at that meeting suggested adjusting the lot sizes to make them more comparable and to be close to an acre in size. Mr. Briggs mentioned the direction of the Commission that the applicant bring a surveyor on Lot # 3 (western lot with the stand of live oaks) to establish the possible buildable area of that lot if approved. He explained the lots will be 48,326 square feet, 42,388 square feet, and 41,053 square feet in size with frontages on the street and lake of 125' or greater. He addressed the P&Z's unanimous recommendation to split the property into two lots, not three. Mr. Briggs stated the P&Z recommended if the Commission approves the three lots, they should approve it with a restriction incorporated in the deed that there is an easement for (lot #3) to preserve the live oaks to the drip-line. He stated the applicant is in concurrence with this recommendation and they are willing to accept an approval with that restriction placed upon the deed for this lot. Mr. Briggs responded to Commission questions.

Attorney Frank Hamner, representing the applicant, spoke about the history of this project. He stated that Via Lugano is 3.30 acres in size and they were asking to divide the property into three lots to enable the possibility of a sale. He addressed meeting the zoning tests and the comprehensive plan test, the lots conform to the neighboring lots and there were no variances requested. He explained that the trees will be protected and they are agreeing to the deed restriction that the City has requested if the three lots are approved. Mr. Hamner stated they have gone above and beyond what the City has asked them to do and they have worked with City staff to reach the best possible solution for the lot arrangement. Mr. Hamner answered questions.

Mayor Strong asked him to explain the mission/purpose of the foundation. Mr. Hamner stated it was a charitable foundation and their main focus was to give back to the Winter Park

community. He explained that Ms. Galloway established the trustees to handle her estate and gave them direction to maximize the value of the foundation for charitable purposes.

Peter Weldon, 700 Via Lombardy, spoke in favor of the subdivision request. He spoke about the rights of property owners and the movement to restrict development that has become one sided and the importance to recognize the multiple interests at stake in development matters. He asked the Commission to support the request because it is in keeping with the laws that we have and is consistent with the neighborhood.

Will Graves (non-resident), 3048-D George Mason Avenue, spoke about the need to preserve the character of the City.

Marc Hagle, 1220 Park Avenue N., opposed the subdivision of the property into three lots. He compared this lot to other estate lots in the area and explained the importance of keeping these lots preserved for the character of the City.

Curtis McWilliams, 970 Via Lugano, opposed the subdivision of the property into three lots; but agreed to two lots.

Carolyn Cooper, 1047 McKean Circle, addressed the importance to preserve the estate lots in the City.

Commissioner DeVane spoke about her concerns with splitting the property into three lots. She expressed concerns with eroding the lake front as has been done over past years and addressed her belief of the difficulty for a third lot in the middle.

Motion made by Commissioner DeVane to deny the request, seconded by Mayor Strong for discussion.

Commissioner Eckbert addressed the request passing the zoning and comprehensive tests and that he would not vote for the motion. Commissioner Metcalf spoke about the consistency he tries to apply to these types of requests; their compliance with the rules, averages, and surrounding neighborhood; and that he would vote in favor of the three lots.

Mayor Strong addressed a potential conflict of interest for him because his mother owns an estate lot. He commented he could not vote for approval because he perceived this as a unique asset in Winter Park that would be changed dramatically. He supported Commissioner DeVane's motion and stated that this will come back before the Commission when there is a full Commission present.

Upon a roll call vote, Mayor Strong and Commissioner DeVane voted yes; Commissioners Eckbert & Metcalf voted no. The motion failed with a 2-2 vote. Commissioner Storer was absent.

h) Commuter rail ordinances:

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, PROVIDING FOR A REFERENDUM BY THE ELECTORS OF THE CITY OF WINTER PARK FOR APPROVAL OR REJECTION OF THE EXPENDITURE OF PUBLIC FUNDS ON A COMMUTER RAIL STATION ON PROPERTY NOT OWNED BY THE CITY; PROVIDING AN EFFECTIVE DATE. First Reading

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, PROVIDING FOR A REFERENDUM BY THE ELECTORS OF THE CITY OF WINTER PARK FOR APPROVAL OR REJECTION OF THE CONSTRUCTION OF OR OTHER CREATION OF A COMMUTER RAIL STATION WITHIN THE AREA OF CENTRAL PARK; PROVIDING AN EFFECTIVE DATE. First Reading

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, PROVIDING FOR A REFERENDUM BY THE ELECTORS OF THE CITY OF WINTER PARK FOR APPROVAL OR REJECTION OF THE CONSTRUCTION OF OR OTHER CREATION OF A COMMUTER RAIL STATION WITHIN THE AREA OF CENTRAL PARK OR IN THE CENTRAL BUSINESS DISTRICT; PROVIDING AN EFFECTIVE DATE. First Reading

Attorney Cheek read all three ordinances by title and answered questions of the Commission.

Deirdre MacNab, 1860 Summerland Avenue, League of Women Voters of Orange County, spoke in favor of commuter rail for the region. She explained that the task force has met repeatedly with a number of experts; they have surveyed local businesses, examined data from around the country and asked countless questions. She urged the Commission to stay the course and make a decision after they receive the recommendation from the task force and then make a decision on a timely basis that will enable them to negotiate from a position of strength with Orange County.

Will Graves (non-resident), 3048D George Mason Avenue, spoke against a stop in Winter Park.

Lennon Moore, 1321 Magnolia Avenue, spoke about concerns that the ordinances are on the agenda without the final report of the task force.

Sally Flynn, 1400 Highland Road, stated they want the voters to have the right to vote on commuter rail and they want the third ordinance to be adopted.

Carolyn Cooper, 1047 McKean Avenue, asked that the citizens be allowed to vote and spoke about commuter rail not being the right thing for Winter Park.

Margie Wagner, 4094 Oak Street, Orlando, stated it was her understanding that the task force was originally formed to gather facts instead of making recommendations. She stated she was uncertain if the board consisted of a cross section of the public. She asked that the public have the opportunity to vote on this issue.

Rick Frazee, 1921 Englewood Road, asked the Commission to vote for ordinance #1. He stated the citizens deserve a referendum. He suggested that the Orange County Commission vote to pay 100% of the cost of having a station in Winter Park if they hope to receive a positive vote.

Mayor Strong stated we are not here to determine whether or not the City wants commuter rail. He spoke about the task force not completing their job and the need to respond to Orange

County's timeframe. He explained the only way they can do this within the set timeframe is by having this matter come before the voters on February 13th (special referendum) assuming that the citizens initiative becomes valid.

Commissioner DeVane emphasized the citizen's initiative that is going to require a referendum that has to happen independent of whenever they receive a report from the task force. She stated that this is not a reflection on anything the task force has done or anything the Commission is doing, but is a separate issue. She spoke about the citizen's initiative and the challenge of how to manage that, move forward in a timely manner and receive their report at the same time.

Motion made by Commissioner DeVane to approve the first and the third ordinance, seconded by Mayor Strong for discussion.

Commissioner DeVane stated this has nothing to do with her position on commuter rail. She expressed the need to streamline this when they vote as a community and to receive a timely request that will satisfy the timeframe of Orange County.

Commissioner Eckbert stated it may be the right thing to have a referendum but the entire process of having a commuter rail task force is undermined by voting to have a referendum. He stated that he appreciates Mr. Stanley Wilson's memo, his request was that if the referendum is considered then it should be after the citizens have been informed about the findings and recommendations of the commuter rail task force. Mayor Strong stated he was ok with that decision, but he explained that if they wait for the task force the timing will be difficult for them to respond to Orange County's timeframe.

Commissioner Metcalf addressed the task force working diligently to provide the Commission with the necessary answers and to have all the information and a recommendation from them. He explained these are residents having the best interest of Winter Park as a priority and he was not prepared to vote for a referendum until the task force gave their recommendation.

Mayor Strong agreed with that decision but explained if they wait for the task force that would be an issue and it may preclude them from participating in commuter rail if there is a citizen's initiative. He stated if there is a valid citizen's initiative, there will be a referendum on whether or not to pass these ordinances as early as February 13, 2007. Attorney Cheek concurred with Mayor Strong.

Commissioner DeVane believed they would receive the report from the task force in January 2007, supporting they move forward with commuter rail and it would specify the pros and cons. She stated that she was concerned that if they do not move forward and vote on this then they will not be able make the decision for Orange County during their requested timeframe. Commissioner DeVane stated she agreed with Mayor Strong. Commissioner DeVane withdrew her motion.

Motion made by Commissioner Eckbert to consider the referendum after the citizens have been informed of the findings and recommendations of the commuter rail task force, seconded by Commissioner Metcalf. Upon a roll call vote, Mayor Strong and Commissioners Eckbert, Metcalf and DeVane voted yes. The motion carried unanimously with a 4-0 vote. Commissioner Storer was absent.

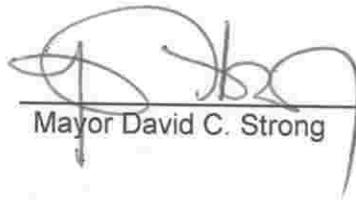
NEW BUSINESS (PUBLIC):

No new business.

NEW BUSINESS (CITY COMMISSION):

No new business.

The meeting adjourned at 10:34 p.m.



Mayor David C. Strong

ATTEST:



City Clerk Cynthia Bonham

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December 11, 2006

Subject: Super Majority Vote of City Council Required for Subdivision of Residential Lots.

Dear Members of the City Commission of Winter Park,

I respectfully request that a copy of this letter be included in the public minutes of this meeting.

I fully understand and support the importance of trees and green space as one of the characteristics that define our city. I respect the fact that Marc Hagle has invested both his money and his time in supporting the City Tree Fund.

I object to the proposed ordinance requiring an affirmative vote of 4 of 5 City Commissioners to approve subdivisions and lot splits. I ask you reject this proposed ordinance for the following reasons.

1. The City of Winter Park has historically respected private property rights and permitted subdivisions and lot splits where such actions are (1) consistent with zoning and comprehensive plan standards and (2) acceptable to the property owners in the effected neighborhood.
2. The intent of Marc Hagle's proposed ordinance is to prevent all future residential subdivisions and lot splits, therefore denying current property owners any reasonable opportunity to make the best use of their property under zoning and comprehensive plan standards. More specifically, Marc Hagle has put this proposal forward as part of an effort to deny a specific subdivision, that of the Galloway property into three 40,000 square foot lots. Approving material changes to City ordinances in support of personal preferences such as in this case establishes a dangerous precedent; one where any determined resident can impose their personal values to restrict the property rights of every Winter Park resident.
3. Marc Hagle's proposal argues that subdivisions and lot splits reduce greenbelt areas. This would only be true in limited particular cases where an existing home on a property to be split has a Floor Area Ratio less than that of new homes built after subdivision.
4. The claimed environment benefits of any available greenbelt expansion resulting from denial of any particular subdivision or lot split request is likely to be immaterial, and is unknown and unmeasured. Adopting supermajority voting and other rules that grant the City virtual control over private residential development for no measurable benefit is clearly not in the interest of Winter Park taxpayers.
5. Marc Hagle's proposal states that subdivision of residential lots results in "downgrading of the neighborhoods". There is no principal in our legal system that encourages or permits the limitation of property rights based on such individual value judgments. For example, I happen to believe that my neighborhood would be "upgraded" by splitting the Galloway property into four 30,000 square foot lots so that resulting homes would be more in scale

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with the rest of the neighborhood. The point is that such value judgments (mine or Mr. Hagle's) have no place in the making of law.

6. Marc Hagle's proposal argues that a supermajority rule would minimize the political considerations in approving subdivisions and lot splits. Certainly, this personal effort to restrict the rights of all Winter Park property owners reveals the true political considerations at hand.

Most generally stated, this supermajority proposal should be rejected because it restricts private property rights in exchange for ill-defined subjective benefits supported only by personal value judgments. A higher standard should apply when seeking to amend laws that affect the balance of private and public interest.

Yours Truly,



Peter J. Weldon