

**CITY OF WINTER PARK
CITY COMMISSION SPECIAL MEETING MINUTES
DECEMBER 18, 2006**

The meeting of the Winter Park City Commission was called to order by Mayor David Strong at 4:55 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida.

Members present:

Mayor David Strong
Commissioner Douglas Metcalf
Commissioner Barbara DeVane
Commissioner John Eckbert
Commissioner Douglas Storer

Also present:

City Manager James Williams
City Clerk Cynthia Bonham

PUBLIC HEARING:

A CITIZEN INITIATIVE ORDINANCE OF THE CITIZENS OF WINTER PARK, FLORIDA, REQUIRING APPROVAL BY THE ELECTORS OF THE CITY OF WINTER PARK BEFORE THE CITY CAN AUTHORIZE OR ALLOW TO BE AUTHORIZED THE USE OF ANY LANDS OWNED OR CONTROLLED BY THE CITY IN CENTRAL PARK OR THE CENTRAL BUSINESS DISTRICT OF WINTER PARK FOR THE CONSTRUCTION, RENOVATION, OR OPERATION OF A COMMUTER RAIL STATION; PROVIDING A DEFINITION OF THE TERM "CENTRAL BUSINESS DISTRICT" AND PHRASE "OWNED OR CONTROLLED;" PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE. First Reading

A CITIZEN INITIATIVE ORDINANCE OF THE CITIZENS OF WINTER PARK, FLORIDA, REGARDING THE APPROPRIATION OR EXPENDITURE OF CITY FUNDS ON A COMMUTER RAIL STATION WITHIN THE CITY OF WINTER PARK; SPECIFICALLY REQUIRING APPROVAL BY THE ELECTORS OF THE CITY OF WINTER PARK BEFORE THE CITY CAN AUTHORIZE OR ALLOW TO BE AUTHORIZED THE APPROPRIATION OR EXPENDITURE OF ANY CITY FUNDS FOR PURPOSES OF DESIGNING, PERMITTING, CONSTRUCTING, RENOVATING, MAINTAINING, OPERATING, OR SUPPORTING ANY STRUCTURE OR BUILDING FOR USE AS A COMMUTER RAIL STATION WITHIN THE CITY OF WINTER PARK; PROVIDING FOR A DEFINITION OF THE TERM "CITY FUNDS;" PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE. First Reading

Attorney Cheek read both ordinances by title. He explained where this issue was procedurally and that the Orange County Supervisor of Elections provided certifications of the sufficient number of signatures on the two petitions. He stated this triggers the City's citizen initiative procedure under the Charter and read the portion of the Charter related to the procedure. He spoke about the ordinances that he previously prepared and the ordinances before them that the citizen's initiative committee circulated. He explained the initiative process once the sufficient number of signatures was obtained. He stated the Commission can choose to adopt these ordinances which would avoid the necessity of holding a referendum to determine whether or not these ordinances are placed into the code. He stated if the Commission adopts the ordinances, this would stop the process and these ordinances would be placed into the code and if the circumstances arise regarding placing a commuter rail station in the park or using City funds, then there would be a referendum regarding those issues. He further explained if the Commission does not adopt these ordinances, they are placed on the ballot and there is a referendum to determine whether these ordinances become part of the code which could cause

a sequence of referendums. City Clerk Bonham explained the timing for this to be placed on the ballot for both the February and March elections. The City Attorney clarified that if the Commission passes the ordinances as presented by January 16, these ordinances would not go on the ballot but a commuter rail referendum could go on the ballot.

Commissioner Eckbert questioned Attorney Cheek regarding certain possible scenarios concerning the task force and how these ordinances would come into play. Attorney Cheek replied. Commissioner Eckbert spoke about the challenge to make a decision about an ordinance when the City does not yet know the recommendations of the task force and what Orange County is proposing.

Mayor Strong commented about Orange County moving forward with commuter rail regardless of what Winter Park does and the question is whether or not Winter Park will have a stop. He stated there will be no stop in Winter Park if the City does not commit to paying the O&M costs. He stated he believes at this time Orange County is requiring the City to pay \$500,000+ a year for O&M starting in the year 2017 and he is assuming the commitment from the Federal government is valid which will pay to build the station. He stated his preference of a decision being made during the normal election process and that these ordinances presented this evening should be passed so the process is not delayed and then have a referendum either on February 13 or March 13.

Commissioner DeVane explained her understanding of the citizen's initiative and the ordinances before them. She spoke about the task force facts to be presented, the ordinances before them triggering a referendum if not passed, and the need for an aggressive campaign if the Commission believes it is the appropriate path to follow. She addressed her preference to shortcut the process and not to have two referendums so they do not miss the opportunity with Orange County and the FDOT.

Mayor Strong addressed the need to hold a referendum on commuter rail on February 13 because of the deadline of Orange County for a decision by the City and he did not believe that could happen without adopting the ordinances before them. There was further discussion regarding the ordinances by the petitioner's committee and what will or will not take place depending whether or not the ordinances are adopted. Attorney Cheek spoke about the Commission having the ability to move forward with a referendum whether to have a station. He stated we cannot control where the petitioners will take it from there. Mayor Strong addressed his preference of the real issue being on the ballot as to whether or not the City wants commuter rail at the earliest date to accommodate Orange County.

Commissioner Metcalf spoke against holding two referendums. He addressed the timing of a marketing effort not being possible in the time they have between the task force report and a referendum. He expressed the need for the citizens to vote on commuter rail which should be at the March 13 general election to allow the time to educate the public on the task force and Commission findings. He addressed the need to express the City's position to Orange County based on the vote of a March 13 election. He stated that the ordinances this evening need to be approved and adopted on January 16. Commissioner Eckbert spoke in support of the proposal by Commissioner Metcalf. Commissioner Metcalf stated the task force is in the process of writing the report and will vote at their meeting on January 9 and will provide the report soon thereafter which gives the Commission time to digest the report; hold public

hearings; and vote as the Commission and inform Orange County of the decision, subject to the citizen vote on March 13.

Joe Terranova, 700 Melrose Avenue, Commuter Rail Task Force member, stated they have completed their report which will be made available to the task force on January 3; they will review the report and amend it as necessary on January 9 and vote on the recommendations. He stated they have been working with the Communications Department to prepare a document to inform the public. He stated they were trying to accomplish this in time for the February Primary election but supports the change made this evening with the timing of a referendum for March 13. He stated the report will be provided to the Commission as soon as it is finalized.

Carolyn Cooper, 1047 McKean Circle, asked that the ordinances not be tabled this evening because they will not be able to meet the calendar which she asked they be walked through.

Sally Flynn, 1400 Highland Road, asked if she was correct with her understanding with the petitions meeting the requirements which means the ordinances associated with those petitions must go on the ballot. Commissioners DeVane and Eckbert replied. Attorney Cheek compared the differences in the petitioner ordinances and the ordinances as prepared by him.

Margie Wagner, 4094 Oak Street, Orlando, thanked the Commission for appointing the task force and for their hard work and the citizens for the initiative. She asked about the process now that the Commission voted at the last meeting to delay a vote on the referendum until after the task force findings.

Kit Pepper, 2221 Howard Drive, addressed her understanding of the citizen's initiatives and once it goes through, that it can only be undone by a judge. Attorney Cheek explained the language in the Charter.

Jean Cumming, Golfview Terrace, asked about the ramifications if the voters vote against commuter rail and if that vote would have to hold forever if the citizens realize in the future that they made a mistake. She asked the citizens be educated on this issue for the March election.

Richard Trismen, 1551 Laurel Road, stated that no law is permanent and the Commission can adopt an ordinance and repeal it at another meeting. He spoke about referendum results and the voters being able to repeal the vote at another referendum.

John Butler Book, Past Chairman Legislative Advisory Council, City of Maitland, and advisory counsel for Maitland to study commuter rail, spoke about the importance that voters are able to vote intelligently and that both sides of the issue is explained to the citizens. He further spoke about other issues related to commuter rail and the support thus far from other cities and Orange County.

Commissioner Eckbert asked if these ordinances can be revised and adopted at the next meeting if the changes are not significant and are passed on first reading this evening. Attorney Cheek stated the ordinances provided by the committee and by him are functionally equivalent, there are significant differences in the language, but the operation of them will be the same. He stated that changes can be made between readings that are not significant and was comfortable doing that.

Commissioner Eckbert asked the petitioners committee present if it is their intention that the Commission comes to an agreement regarding ballot language that circumvents the referendum on a referendum and ordinances on a referendum that they would want to go straight to a referendum on March 13 rather than having a referendum on the referendum. The committee members present did not know the answer. Commissioner DeVane spoke about the need to either adopt or not adopt the ordinances submitted by the committee exactly as written and if the Commission does not adopt them, it will go to public for a vote.

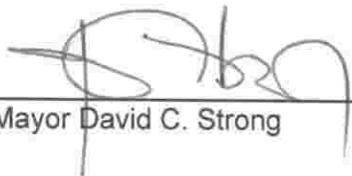
Commissioner Metcalf asked if there was a way for the petitioner's committee to withdraw their petitions. Attorney Cheek spoke about the five person committee for each ordinance and addressed the Charter discussing the need for a four out of five vote to withdraw the petition for consideration up to 15 days prior to the vote. Commissioner Eckbert asked that Attorney Cheek review the legality of the language as written and to address Commissioner Metcalf's concerns whether or not this is an issue that anyone should be concerned about.

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

Motion made by Commissioner Devane to accept the ordinance on first reading requiring the citizens to address the use of any lands owned or controlled by the City in the CBD (as written by the petitioners), seconded by Commissioner Storer. Upon a roll call vote, Mayor Strong and Commissioners Eckbert, Metcalf and DeVane voted yes. The motion carried unanimously with a 5-0 vote.

Mayor Strong concluded that Ms. Howard will prepare, with the help of the task force, a mailer to the citizens. Commissioner DeVane stated it needs to include pros and cons. Ms. Howard clarified the timing of the mailing and was directed to mail it out as early as possible before the March 13 referendum. She stated she will bring the proposed mailer to the Commission for final approval on January 16.

Mayor Strong adjourned the meeting at 6:10 p.m.



Mayor David C. Strong

ATTEST:



Cynthia S. Bonham, City Clerk