



city commission agenda

April 27, 2020
3:30 PM
Virtual meeting

mayor & commissioners				
seat 1 Marty Sullivan	seat 2 Sheila DeCiccio	Mayor Steve Leary	seat 3 Carolyn Cooper	seat 4 Todd Weaver

Virtual City Commission public comment procedures:

- The Public Comment Form located at cityofwinterpark.org/public-comment will be available during live meetings for members of the public to submit comments. These comments will be read into the official record during the City Commission Meeting.
- If you would like to provide comments prior to the meeting, please send them to MayorandCommissioners@cityofwinterpark.org. These comments will be received by the City Commissioners and staff, however, will not be read publicly into the record during the meeting. This is consistent with our normal procedures for emails received prior to a City Commission meeting.
- If you do not have the ability to submit comments online, the city will activate the public comment line 407-599-3410. This phone line will only be available during the live meeting. These calls will be answered by city staff and your verbal comments will be entered into the online system on your behalf. Phoned-in comments will be read during the meeting as part of the official record.
- All comments will be screened and not be read into the record if they violate our normal City Commission decorum procedures.

agenda

*times are projected and
subject to change

1. Meeting Called to Order

2. Invocation

Finance Director Wes Hamil

Pledge of Allegiance

3. Approval of Agenda

4. Mayor's Report

5. City Manager's Report

a. City Manager's Report

1

6. City Attorney's Report

7. Non-Action Items

8. Citizen Comments | 5 p.m. or soon thereafter

(if the meeting ends earlier than 5:00 p.m., the citizen comments will be at the end of the meeting)
(Three (3) minutes are allowed for each speaker)

9. Consent Agenda

- a. Approve the minutes of April 8, 2020** 1 minute
- b. Approve the minutes of April 13, 2020**
- c. Approve the following piggyback agreements:** 1 minute
 - 1. Cubix (multi-year): Orange County contract #Y19-1018 – SaniGlaze Services; Not to exceed \$75,000 per year.
 - 2. Danus Utilities: City of Clermont contract #RFP-17-40 – Lift Station Rehabilitation Services; Not to exceed \$150,000.
- d. Approve the following purchase:** 1 minute
 - 1. Jacobs Engineering Group: Risk and Resilience Assessment and Emergency Response Plan update of the city's water and wastewater systems; Not to exceed \$211,267.

10. Action Items Requiring Discussion

- a. Consideration of revised Letter of Intent (LOI) to Purchase the USPS Property Located at 300 N New York Avenue** 45 Minutes
- b. Backyard Chicken Program** 20 minutes

Under the direction of the Commission a draft Backyard Chicken Ordinance is proposed using the framework of existing ordinances in the City of Orlando and the City of Maitland

11. Public Hearings

- a. Request of The City of Winter Park for:** 10 minutes

An Ordinance to amend the Official Zoning Map to change the zoning designations of Office (O-1) to Parks and Recreation (PR) on the city park property at 1390 Orange Avenue. (First Reading)
- b. Ordinance: Vacating a portion of Kindel Avenue right-of-way** 5 minutes

An ordinance vacating and abandoning a portion of

the right-of-way of Kindel Avenue. (Second Reading)

c. Ordinance - Revising subsidiary advisory board appointment processs

Ordinance revising subsidiary advisory board appointment process and one time board appointment transition plan.

12. City Commission Reports

Appeals and Assistance

"If a person decides to appeal any decision made by the Commission with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, and that, for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." (F.S. 286.0105)

"Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office (407-599-3277) at least 48 hours in advance of the meeting."



city commission **agenda item**

item type	Invocation	meeting date	4/27/2020
prepared by	Assistant City Manager	approved by	
board approval	final vote		
strategic objective			

subject

Finance Director Wes Hamil

motion / recommendation

background

alternatives / other considerations

fiscal impact



city commission **agenda item**

item type	City Manager's Report	meeting date	4/27/2020
prepared by	Budget and Performance Measurement	approved by	
board approval	final vote		
strategic objective			

subject

City Manager's Report

motion / recommendation

background

alternatives / other considerations

fiscal impact

ATTACHMENTS:

Description

City Manager's Report

Upload Date

4/21/2020

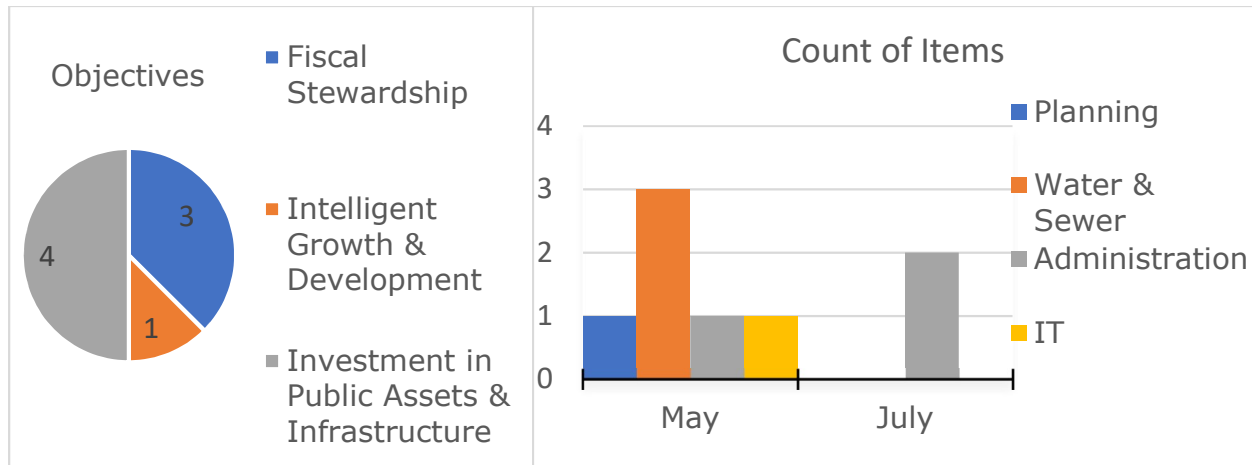
Type

Cover Memo



90-Day Report

This outline provides a timetable for issues and items that are planned to come before the commission over the next three months as well as the status of initiatives that do not have any determined completion date. These are estimates and will be updated on a monthly basis.



Upcoming Commission Items

Title 1: Fiscal Stewardship

Item	Description	Item Department	Item Date
Adoption of Tentative Millage Rate	Adoption of the Tentative Millage rate that will become part of TRIM notice for the 2020 property tax year.	Administration	July
Budget Presentation	Presentation of the Fiscal Year 2020-2021 Budget to the City Commission.	Administration	July
CAFR Presentation	Comprehensive Annual Financial Report for fiscal year ended Sept 30, 2019.	Administration	May

Title 1: Intelligent Growth & Development

Item	Description	Item Department	Item Date
Planning Public Hearings	Hotel at Penn. Project continued to April by applicant for full commission. Property 1390 Orange Ave current O-1 rezoning future land use to PR for open space and recreation.	Planning	May

Title 3: Investment in Public Assets & Infrastructure

Item	Description	Item Department	Item Date
Consumptive Use Permit	Request approval for a CUP 5 year analysis report.	Water & Sewer	May
Wastewater Interlocal Capital Contribution Payment	Finalize approval to the City of Orlando for waste water plant upgrades.	Water & Sewer	May
Wastewater Interlocal Contract	Renewal of Conserv II sewer treatment contract with Orlando.	Water & Sewer	May
City Fiber Network	Beginning construction of Central Park Wi-Fi early, to be completed in April. Contract for buildout of the City's private fiber network in response to ITN. Master design and inventory of existing assets is currently being finalized.	IT	May

Additional Items of City Interest

Title 4: Exceptional Quality of Life

Item	Description	Item Department
Agenda Management Program	In coordination with the Accessibility Requirements, the City is upgrading to an ADA compliant agenda management program. Staff is currently training on this software and hopes to go live with the Commission at the first meeting in June.	IT
Launch of redesigned cityofwinterpark.org	The Communications and IT departments presented a preview of the 2020 redesign of the city's website, cityofwinterpark.org at the end of February. The redesign is focused on meeting ADA compliance and enhanced user-experience. The launch of the new site is expected in May 2020.	Communication
MLK Park Plan	City has contracted professional services through Dix-Hite to conduct review of MLK master plan, assessment of neighborhood connectivity with MLK Park and Library/Event Center, and provide suitable options for replacement of Shady Park spray feature. CRA has ability to address some improvements at this site with potential funding as part of the CRA CIP.	Parks
Public Art for I-4	Design selection by the Public Art Advisory Board was approved by the City Commission and the winning company, RLF, will finalize construction costs and options to bring the project in at the \$150k budget. This public art project, paid for by FDOT, is planned to be installed at the NE corner of W. Fairbanks and I-4.	Administration

Title 5: Investment in Public Assets & Infrastructure

Item	Description	Item Department
17/92 Corridor	Staff is currently working with FDOT Arterial Team to assess needs and scope for model development and funding needs. CRA has reserved funds for this project. FDOT hopes to have 60% plans designed by Feb 2020. The city will work with FDOT on design and other associated improvements such as coordinating of utility undergrounding, landscaping, and water & sewer improvements, over the next couple months. The corridor traffic modeling effort is underway with data collection.	CRA
Electric Undergrounding	Miles of Undergrounding performed Project G: 4.1 miles 85% complete Project I: 6.9 miles 15% complete TOTAL so far for FY 2020: 2.9 miles	Electric
Fairbanks Transmission	End of June 2020 is the estimated completion date for the Fairbanks project from Duke transmission contractors. Distribution and transmission work due to be complete by the end of March. Poles are scheduled to be removed 30 days after the completion by transmission contractors.	Electric
Lakemont Avenue	Scope to be determined. Work to be tentatively performed by new transportation planner position in conjunction with the Public Works and Planning Departments.	Public Works
Lakes Health Analysis	The Natural resources division of Parks (where lakes management now resides) along with Public Works, are preparing a presentation detailing historic and existing lake water quality along with previously implemented improvement projects and proposed future projects for information and discussion. It will illustrate excellent, good and impaired water quality criteria and where the City lakes rank accordingly.	Parks
Parks and Recreation Bike Path and Green Spaces Plan	Will be part of the overall Transportation Master Plan being performed by the Planning and Public Works Departments.	Public Works



city commission **agenda item**

item type	Consent Agenda	meeting date	4/27/2020
prepared by	City Clerk	approved by	
board approval	final vote		
strategic objective			

subject

Approve the minutes of April 8, 2020

motion / recommendation

background

alternatives / other considerations

fiscal impact

ATTACHMENTS:

Description

Minutes of April 8, 2020

Upload Date

4/16/2020

Type

Backup Material



City Commission Special Meeting Minutes

April 8, 2020 at 5:00 p.m.

City Hall, Commission Chambers
401 S. Park Avenue | Winter Park, Florida

Present

Mayor Steve Leary
Commissioner Marty Sullivan
Commissioner Sheila DeCiccio
Commissioner Carolyn Cooper
Commissioner Todd Weaver

City Manager Randy Knight
City Attorney Dan Langley
City Clerk Rene Cranis

1. Meeting called to order

The meeting was conducted via GoToWebinar.

Mayor Leary called the special meeting of the City Commission to order at 5:13 p.m.

Mayor Leary stated the purpose of this meeting is to discuss options to provide support to residents and businesses during the COVID-19 health crisis and stated that the CRA Agency approved funding for some programs in its meeting just prior to this special meeting.

2. Approval of Agenda

3. Citizen Comments

No comments.

4. Action Items Requiring Discussion

a. COVID-19 Community Assistance Proposal

Commissioner DeCiccio stated that in the CRA Agency meeting she supported the microloan program but after reconsideration she is opposed to microloan program and will vote accordingly in this meeting, although she could support a grant program.

Mayor Leary asked when information will be available on the programs. Mr. Knight stated that staff will discuss a grant program with the Chamber and bring a proposal to the CRA Agency in another meeting.

Commissioner Sullivan said he has received offers of support of the 211 Program.

Commissioner Cooper urged caution in the use of the city's reserves and continued fiscal responsibility. She asked that the commission return to its regularly scheduled meetings and manage routine city business.

Commissioner Weaver agreed with Commissioner Cooper. He spoke in support of the utility assistance programs but feels the city is over-reaching on the microloan and grant proposal and is uncomfortable in determining who receives support.

Motion 1: Motion made by Commissioner Weaver to approve the contribution to United Way's 211 Program as recommended by city staff (\$25,000 direct contribution and up to \$25,000 matching contribution with funding split equally between the electric and water and sewer funds); seconded by Commissioner Sullivan.

Mr. Knight responded to questions stating that general funds can be used community-wide, not just within the CRA. He said funding will come from the water side of the water and sewer utility but could be used for sewer since this helps with the sewer portion of the utility bill. Mayor Leary clarified that assistance is available only to City of Winter Park residents not city utility customers outside the city's jurisdiction.

Motion 2: Motion made by Mayor Leary to authorize the electric fuel rate reduction to be given in May as opposed to over 12 months; seconded by Commissioner Cooper.

Motion 3: Motion made by Commissioner Sullivan to amend the motion to extend the reduction to two months; seconded by Commissioner Weaver.

Mr. Knight stated that \$250,000 of CRA funds was allocated to utility assistance program and to meet the \$1M needed, \$250,000 is proposed from the general fund and \$250,000 each from the electric and water and sewer funds, if approved.

Motion 4: Motion made by Commissioner Weaver to approve \$250,000 from the general fund; seconded by Commissioner Cooper.

Commissioner Weaver stated that his reason for excluding electric and water and sewer funding is to retain those funds in case of potential maintenance issues with increased use during this time.

Mayor Leary stated that those funds have a healthy fund balance and their use is restrictive, so this is an opportunity to leverage those funds. He asked for the time frame for implementation.

Mr. Knight said the grant application process could be open within a couple of weeks. He questioned whether the maximum assistance should be lowered from \$5,000 due to the decreased funding of the program, which would allow the opportunity to help more businesses but with a smaller amount.

Motion 5: Motion made by Mayor Leary to reduce the maximum support from \$5,000 to \$2,500 per business; seconded by Commissioner Cooper.

Mayor Leary questioned how this will affect the CRA Agency's approval of CRA funding of \$250,000 at a maximum amount of \$5,000. He asked Mr. Knight to meet with the city attorney to see whether the CRA Agency's approval can be changed since a majority of the CRA Agency are present in this meeting.

Consensus was to approve the city's suspension of late fees and interest payments and discontinuance of disconnects for non-payment through May 31, 2020.

Motion 6: Motion made by Mayor Leary to contribute \$25,000 from the general fund to 4River's Feed the Need program; seconded by Commissioner Cooper.

Motion 7: Motion made by Commissioner Weaver to approve the energy efficiency program as presented by staff; seconded by Commissioner DeCiccio.

In response to questions by Commissioner Cooper regarding waste pickup, Mr. Knight stated the city pays Waste Pro and bills customers so there will be no lapse in pickup. He added that it is difficult to project usage on the residential side due to changes in customers. There has been a decline in commercial usage with smaller containers and less frequent pickups.

Commissioner Cooper said that she received a suggestion from a resident for a program to provide aid to residents who test positive for COVID-19 for getting groceries or medicines. She stated a group of residents have made face masks and encouraged resident participation in this effort. Mr. Knight stated that Kim Allen delivered some masks for employees.

Commissioner Weaver stated that he has received complaints that Waste Pro is not picking up yard waste. Mr. Knight stated he will confirm with Waste Pro to ensure yard waste pickup continues.

Public Comment:

Jennifer Adams, 383 Sylvan Drive, suggested that the city self-manage and disburse funds rather than through another agency.

Michael Poole, 1671 Summerlin Avenue, spoke in support of residential utility bill payment assistance, suspension of late fees, interest payments and disconnects, and community support programs. He opposed any loan programs and urged the city and Chamber to work together to reopen businesses in Winter Park.

Michael Perelman, 1010 Greentree Drive, expressed his appreciation for the city's efforts and expressed his concern that the microloan or grant program will not address longer-term support needed through recovery.

David Odahowski, Edyth Bush Charitable Foundation, expressed his concern regarding the ineffectiveness of gaining public input during these virtual meetings. He suggested that the donation to United Way should be a direct contribution of \$50,000 without a matching donation provision and a single donation to Second Harvest Food Bank to manage programs.

Motion 8: Motion made by Commissioner Sullivan to move forward with funding the microloan program as presented in conjunction with Winter Park Chamber of Commerce; seconded by Mayor Leary.

Mayor Leary said he can support funding this program but would like to see the program details before funds are spent. He agreed with the Chamber that a loan program will be challenging but he prefers a loan program versus a grant program to ensure return of some funding.

Commissioner Weaver said he feels it is troublesome to approve funding before a program is in place.

Commissioner Cooper said she is opposed as she feels it is a duplicative effort and that the details of the program need to be developed including a requirement that applicants must have applied for loans or grants available for small businesses. Commissioner Weaver agreed.

Discussion followed on allocating funds while allowing staff and the Chamber to develop a program and bring it back before the commission for consideration. Mr. Knight committed that no funds will be spent without Commission approval of the program.

Mayor Leary stated his understanding of the motion is approval of \$250,000 allocation from the general fund reserve toward a microloan program for matching dollars and that city staff will move forward to develop a plan for approval by the commission before any funds are spent.

Commissioner Weaver said he does not see the benefit in using city staff time on this initiative as he feels it will be ineffective in helping struggling businesses.

Commissioner Cooper stated that although she feels compassion for everyone that is struggling, she feels the city cannot meet all of the needs and that it the city's responsibility to be fiscally conservative and determine first what needs are being met and what needs are not being met and also ensure city infrastructure and services are maintained during recovery.

Vote on Motions

Motion 1: Upon a roll call vote, Mayor Leary and Commissioners Sullivan, DeCiccio, Cooper and Weaver voted yes. Motion carried unanimously with a 5-0 vote.

Motion 3: Upon a roll call vote, Commissioners Sullivan and Weaver voted yes and Mayor Leary and Commissioners DeCiccio and Cooper voted no. Motion failed with a 2-3 vote. (Commissioner DeCiccio rescinded her original "yes" vote and changed to "no.")

Motion 2: Upon a roll call vote, Mayor Leary and Commissioners Sullivan, DeCiccio, Cooper and Weaver voted yes. Motion carried unanimously with a 5-0 vote.

Motion 4: Upon a roll call vote, Mayor Leary and Commissioners Sullivan, DeCiccio, Cooper and Weaver voted yes. Motion carried unanimously with a 5-0 vote.

Motion 5: No action taken.

Motion 6: Upon a roll call vote, Mayor Leary and Commissioners Sullivan, DeCiccio, Cooper and Weaver voted yes. Motion carried unanimously with a 5-0 vote.

Motion 7: Upon a roll call vote, Mayor Leary and Commissioners Sullivan, DeCiccio and Weaver voted yes and Commissioner Cooper voted no. Motion carried with a 4-1 vote.

Motion 8: Upon a roll call vote, Mayor Leary and Commissioner Sullivan voted yes and Commissioners DeCiccio, Cooper and Weaver voted no. Motion failed with a 2-3 vote.

5. Commission Reports:

Commissioner Weaver

- Requested that the backyard chicken program be brought forward for further discussion including the ordinance that was considered several years ago. He commented on other agency's ordinances and results. After discussion, Mayor Leary said that he would bring up the matter under his report in the next meeting.
- Said he has received comments on the number of flyers left in driveways. He questioned whether the city could issue a temporary ban on those. Consensus was to bring up under commission reports on Monday.
- Commented on the contractors working at the library who are not wearing masks or practicing social distancing onsite nor when visiting Publix or other local restaurants.

Mayor Leary said that he feels this encroaches into private businesses and the city may be overstepping its authority.

Mr. Knight stated that he spoke with construction manager who assured they would remind workers of social distancing rules. He said they should be practicing social distancing but it is the responsibility of the construction manager to monitor its workers.

Commissioner Sullivan said as the city's contractor, it very reasonable for the city to "ask" them to conform to distancing. Commissioners DeCiccio and Cooper agreed.

Commissioner Cooper

- Thanked Tina, The Master Tailor, for making masks.

Commissioner Sullivan

- Thanked the Chamber of Commerce for conducting the survey and asked that staff list the Winter Park restaurants offering takeout. Director of Communications Clarissa Howard stated the Chamber of Commerce has a listing of businesses on their website but the information will be published on the city's COVID-19 page.
- Encouraged businesses work remotely if they are able to do so.
- Asked for a letter of support for the Polasek Museum's grant request. Mrs. Howard stated that staff is working on the letter.
- Stated he has received requests to suspend leaf blowing.

Commissioner DeCiccio

- Thanked those who are making masks.
- Asked for status of purchasing properties along Fairbanks from the former bowling alley property to the dry cleaner at the corner of Denning and Fairbanks. He suggested re-engaging in conversations to purchase property for turn lanes or add to MLK Park.

Commissioner Cooper stated that funds have been allocated in the budget and encouraged discussions with property owners as opposed to eminent domain proceedings. Commissioner Weaver agreed.

Mr. Knight stated he would provide an update in the next commission meeting.

The meeting adjourned at 6:43 p.m.

Mayor Steve Leary

ATTEST:

City Clerk Rene Cranis, CMC



city commission **agenda item**

item type	Consent Agenda	meeting date	4/27/2020
prepared by	Assistant City Manager	approved by	
board approval	final vote		
strategic objective			

subject

Approve the minutes of April 13, 2020

motion / recommendation

background

alternatives / other considerations

fiscal impact

ATTACHMENTS:

Description

Minutes of April 13, 2020

Upload Date

4/20/2020

Type

Backup Material



City Commission Regular Meeting Minutes

April 13, 2020 at 3:30 p.m.

City Hall, Commission Chambers
401 S. Park Avenue | Winter Park, Florida

Present

Mayor Steve Leary
Commissioner Marty Sullivan
Commissioner Sheila DeCiccio
Commissioner Carolyn Cooper
Commissioner Todd Weaver

City Manager Randy Knight
City Attorney Kurt Ardaman
City Clerk Rene Cranis

1. Meeting called to order

The meeting was conducted via GoToWebinar.

Mayor Leary called the regular meeting of the City Commission to order at 3:30 p.m.

2. Invocation and Pledge of Allegiance

City Manager Randy Knight provided the invocation followed by the Pledge of Allegiance.

3. Election of Vice-Mayor

Motion made by Commissioner Weaver to appoint Commissioner Cooper as Vice-Mayor; seconded by Commissioner Sullivan. Motion carried unanimously.

4. Approval of Agenda

Motion made by Commissioner Sullivan to approve the agenda; seconded by Commissioner DeCiccio and carried unanimously.

5. Mayor's Report

Commissioner Weaver spoke on the need for food sources during the COVID-19 health crisis. Since the Commission's previous discussion on allowing backyard chickens, the cities of Maitland and Orlando have allowed hens in residential areas with no complaints or code violations. He stated that he would like to limit the number of hens to four and asked to move this forward and have staff prepare ordinance.

Commissioner DeCiccio questioned whether approval of contiguous neighbors would be required and whether the hens would attract coyotes. Commissioner Weaver stated that coops need to be secured.

Commissioner Cooper recalled that this was a very controversial issue when previously discussed and said she would support only a pilot program and extensive community input and neighbor consent.

Commissioner Sullivan said that he feels requiring neighbor approval impacts a person's property rights.

Consensus was to place on a future agenda and base the discussion on Orlando's ordinance.

6. City Manager's Report

- a. Capital Project Update
- b. City Manager's Report
 - COVID-19 Update

Mr. Knight provided an update on Orlando Mayor Demings report on COVID-19 who stated that Orange County is near the peak with a slow-down in new daily cases and hospitals are able to meet the need. Mayor Demings reported that he has spoken with leaders of larger corporations regarding reopening the economy.

Mr. Knight commented on the proposed microloan program stating that area banks do not have capacity to process additional loans.

Betsy Gardner Eckbert, President and CEO of Winter Park Chamber of Commerce, stated that bank capacity to process loans is not likely to become available. She stated that it is more important to implement measures that address the need for the most vulnerable businesses who may not qualify for other funding. She responded to questions stating that although the business survey they conducted is only two weeks old, the data changes often. She expressed concern about the loss of business as it impacts employees and their families. She said she is pleased to provide support jointly with the city and is grateful for the city staff's concern and support.

- Purchase of properties on Fairbanks Avenue and Denning Drive for right-of-way

Mr. Knight stated that appraisals have been received and submitted to the owners of the two properties that are part of the sinkhole and have requested the owner's interest in selling the properties. Staff has reached out to the owner of the dry cleaner but did not receive a favorable response. Staff has requested its real estate broker to reach out to the eight property owners along Fairbanks Avenue and act on the city's behalf to acquire right-of-way. He responded to questions stating the two sinkhole properties are under water and appraised at less than \$25,000. The combined estimate of the eight properties is around \$8 million. He said the combined assessed value of the ten properties is approximately \$4.5 Million according to the Orange County Property Appraiser.

- CIP projects

Commissioner Cooper asked for clarification of projects that were on hold versus pending. Mr. Knight stated that items on hold are those that have been stopped during the health crisis. Pending items are delayed due to issues other than the health crisis. He explained that it is staff's intent to complete started projects and will start new projects depending on revenues.

- Purchase of Post Office property

Commissioner Cooper asked that the purchase of the Post Office be on the on next agenda to discuss the city's next steps in order to keep process moving forward. Consensus was to place on the next agenda to act on the Letter of Intent.

Mr. Knight advised that if the city signs the Letter of Intent it would immediately commit the city to \$75,000 in expenditures, a \$25,000 non-refundable deposit and \$50,000 cost deposit.

Mayor Leary said he is reluctant to spend \$75,000 at this time until more is known on construction costs and setup costs of a new post office and asked for a timeline and accounting of future outlay. Mr. Knight stated that \$75,000 has been budgeted and he will provide the estimated time line and financial output.

Commissioner Cooper asked for dates and links to action already taken by CRA and City since 2010.

7. City Attorney's Report

Attorney Ardaman addressed the matter of banning leaf blowers stating that it can be done, but must be done reasonably. In response to concerns previously raised, he added that infectious diseases can be spread by leaf blowers but nothing with respect to COVID-19.

Mr. Ardaman commented on the issue of banning handbills/materials dropped in driveways or yards. He stated that prohibiting unsolicited distribution of handbills has been held to be unconstitutional until a recipient has provided notice to distributor to stop delivery. An ordinance could be drafted and narrowly tailored to permit distribution provided the materials are secured and in areas where no solicitation or no trespassing signs are posted.

Mr. Ardaman reviewed the Petition for a Formal Administrative Hearing brought by several residents/business owners against the city challenging the Orange Avenue Overlay Comp Plan amendment. He asked the Commission for direction on whether to request the petitioners to abate, or put on hold, their petition to allow the city to move forward with the actions it may see fit with respect to the Overlay.

Commissioner Cooper asked for the process and options. Mr. Ardaman stated that if the petitioners do not enter into abatement, the administrative hearing process moves fairly quickly with the petitioners likely filing an amended petition and moving through the discovery process. He advised that he received communications from Holler and Demetree attorneys stating their desire to intervene in that proceeding. Additional parties intervening would complicate the proceeding. He advised that Florida Statute provides that effective date of ordinance adopting the OAO would be placed on hold during this process and would not become effective until the administrative challenge has been resolved. This is further complicated by the pending ordinance to rescind the OAO.

Mr. Ardaman responded to questions stating that if the ordinance that rescinds the OAO is adopted, challenged and ultimately overturned and there is no pending administrative hearing then the OAO would become effective. He added that he will call a shade meeting of the Commission only if there is no abatement. If there is an abatement, then everything stops and waits for a period of time. If there is no abatement, then there will be case filings, discovery orders and hearings. Discussion followed on potential actions and responses.

Mayor Leary addressed the matter of delivery of handbills in plastic bags and recalled previous discussion to prohibit distribution and challenges from local media. Mr. Knight advised that the city adopted an ordinance that states a resident can contact the company and request delivery be stopped.

Mayor Leary said that he does not see a need to take action on leaf blowers as it is an undue burden on users to purchase different blowers that create less noise.

Commissioner Weaver stated his intent is not to ban all leaf blowers but to ban contractor's use of gas-powered blowers due to noise. Mayor Leary questioned the city's authority to require use of gas-powered equipment. Mr. Ardaman advised that the city must have a rational basis to ban both/either electric and gas-powered equipment.

Commissioner Weaver expressed his concern with the spread of bacteria by leaf blowers and would like for contractors to transition to electric blowers.

Commissioner Cooper said she has received noise complaints but feels this will be an added expense for small businesses during the health crisis and economic shutdown. She asked that the sustainability board provide the pros and cons and the economic impact and bring back after health crisis. Commissioner Weaver agreed.

Discussion followed on the level and duration of noise and obtaining professional landscaping contractor input. Consensus was to delay until boards are reconvening after the health crisis and new board members are appointed.

8. Non-Action Items

9. Citizen Comments

Assistant City Manager Michelle Neuner advised that no citizen comments were received via the website unrelated to agenda items.

10. Consent Agenda

- a. Cancel City Commission meeting on Memorial Day, May 25, 2020.
- b. Approve the minutes of March 9, 2020
- c. Approve the minutes of March 30, 2020 (**Pulled by Commissioner Cooper**)
- d. Approve the following piggyback agreements:
 1. Stuart C. Irby Co.: Orlando Utilities Commission contract #4670 OQ - Padmount Switchgears; Not to exceed \$250,000.
 2. Rainbow Distributors; Transportation Control Systems: Florida Department of Transportation contract #DOT-ITB-20-9034-GH - FDOT APL Traffic Equipment; Not to exceed \$75,000 per year per vendor.
 3. Rainbow Distributors: Seminole County contract #IFB-603660-19/BJC - Purchase of Signal Cable Wires and Hardware; Not to exceed \$75,000 per year.
 4. SiteSecure: Extension of Osceola County contract #RFP-16-4469-TP - Video Surveillance and Access Control Repair, Maintenance, Upgrades and New Installation; Not to exceed \$300,000.
 5. (After-the-Fact) Florida Catastrophe Corp.: Piggyback of Osceola County contract #RFP-1-9-10971-VJ - Indoor Air Quality Remediation Services; Not to exceed \$75,000 per year.
- e. Approve the following purchases:
 1. Service Electric Co.: Fairbanks Transmission & Distribution Wreck-Out Project; \$808,481.16.

2. Sanders Co.: Installation of replacement lift station on Ranger Blvd; \$91,883.
- f. Approve the following contract items:
 1. GAI Consultants; Redevelopment Management Associates: Amendment to renew RFP-3-2018 - General Planning Services; To be utilized on an as-needed basis.
 2. (After-the-Fact) Brance Diversified: Increase allowable spend under IFB-7-2018 - Dredging Services for the clearing of the Mayflower canals; Not to exceed \$175,000.
 3. (After-the-Fact) ICMA-RC: Administrative services agreement for the management of city employees' retirement plan; No fiscal impact to be incurred by the city.

Commissioner Cooper pulled item 10c.

Motion made by Commissioner Cooper to approve the Consent Agenda except 10c; seconded by Commissioner DeCiccio.

There were no public comments.

Motion made Commissioner Cooper to amend her comments on Page 6 of the minutes of March 30th, adding “that our charter is more restrictive than state statute”; seconded by Commissioner Weaver. Motion carried 4-1 vote. Mayor Leary no.

Motion to approve the Consent Agenda as amended carried unanimously with a 5-0 vote.

11. Action Items Requiring Discussion

12. Public Hearings

- a. RESOLUTION NO. 2230-20 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, EXTENDING THE TERMS OF SUBSIDIARY BOARD MEMBERS WHOSE TERMS OF OFFICE EXPIRE IN MAY 2020; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Attorney Ardaman read the resolution by title.

Mayor Leary clarified that this resolution does not revise the board appointment process but extends the terms of current board members to allow time for adoption of the ordinance establishing new board appointment procedures.

Commissioner Cooper said she feels that staff can develop the process and the ordinance can be adopted quickly without the need to extend current board member terms to July 31st. She suggested changing the board member term end date to May 31, 2020 and removing the whereas paragraphs relating to COVID-19 crisis.

In response to questions by Mayor Leary, Mr. Knight stated that staff prepared the resolution keeping in mind the time needed to adopt an ordinance, notify board members, open the application process, receive and distribute applications to the commission for review and to contact applicants and make decisions on appointments. The challenge will be if members of the commission select the same applicant for appointment. He stated that the procedures have been developed by staff and the ordinance will be ready for first reading on April 27th.

Commissioner Cooper reviewed her proposed changes establishing an expiration date of all terms of all boards and stated that she feels reference to affected city charter sections and code should be broad, not subsection specific, so it is inclusive of all boards.

Discussion followed on manner of appointment term expiration. Mr. Knight stated staff's proposal is that board member terms coincide with the commission member that appointed them.

Motion made by Mayor Leary to adopt the resolution; seconded by Commissioner Sullivan.

Motion made by Commissioner Cooper; seconded by Commissioner Weaver to amend the resolution as noted in the attachment as follows:

- Delete the six Whereas paragraphs relating to COVID-19 pandemic
- Revise title to read: A resolution of the City Commission of the City of Winter Park, Florida, establishing new expiration dates for the terms of all subsidiary board members to facilitate implementation of Charter Amendment No. 7, passed March 17, 2020; providing for severability and an effective date.
- Add/amend the Whereas paragraphs as follows:
 - WHEREAS, as a result of that referendum, 60.06% of Winter Park electors opted to adopt proposed Charter Amendment No. 7, which sets the size of all city boards at 7 members, removes the Mayor's ~~one~~ sole authority to adopt appoint board members, and reassigns such authority so that the Mayor has the authority to ~~adopt~~ appoint 3 board members on each such board with one appointment each to be made by the remaining 4 City Commission members; and;
 - WHEREAS, the Commission has scheduled public hearings on April 27, 2020 and May 11, 2020 to adopt said ordinance implementing such section; and
 - WHEREAS, as currently defined the term of office for the City's appointed subsidiary board members is three years; and several subsidiary board member terms are set to expire in May of this year; to allow time to implement Charter Amendment 7 terms for these board members are hereby extended through May 31, 2020 and
 - ~~WHEREAS, several subsidiary board member terms are set to expire in May of this year; and~~
 - WHEREAS, as currently defined the term of office for the City's appointed subsidiary board members is three years; in order to facilitate a prompt and smooth implementation of Charter Amendment 7, May 31, 2020 is hereby established as the new expiration date for the terms for all subsidiary board members. Existing board members whose terms expire after May 2020 are hereby encouraged to submit applications for boards for which they have relevant experience, interest and qualifications; and
 - WHEREAS, it is the intent of the City Commission for Winter Park, Florida, to allow the current sitting City Commissioners to be able to exercise their authority under newly adopted § 2. 19(a) of the City Charter (part of Charter Amendment No. 7) concerning board appointments made in 2020; and
 - WHEREAS, the purpose of this Resolution is to extend establish May 31, 2020 as the new expiration date for the terms of office for all members of subsidiary boards (those boards identified in § 2-47, Winter Park City Code) whose terms will expire in May of this year until July 31, 2020, to afford the City Commission additional time to consider and adopt an ordinance implementing recently adopted § 2.19 of the City's Charter; and

- ~~○ WHEREAS, this Resolution does not affect the terms of office for any subsidiary board members whose terms do not expire in May 2020; and~~
- ~~○ WHEREAS, this Resolution is authorized by Executive Orders No. 20-52; § 252.38, Florida Statutes; the City's home rule authority; and any other applicable provisions of law.~~
- **Revise Section 2: Establishing New Expiration Date for Extension of Terms of Office for All Subsidiary Board Members.** For the reasons set forth herein, the City Commission hereby establishes May 31, 2020 as the expiration date of ~~extends~~ the terms of office for all subsidiary board. ~~whose terms would ordinarily expire in May of this year through and until July 31, 2020.~~ Thus, the Mayor will not make board appointments in May of this year. Such expiration date may be extended by majority vote of the commission as deemed necessary.

After discussion on the board member term end dates, Commissioners Cooper and Weaver accepted an amendment to change the term end date to June 22, 2020.

Jim Fitch, 1820 Via Genoa, opposed this resolution and urged the Commission to move forward with implementing the change approved by the voters.

Michael Perleman, 1010 Greentree Drive, disagreed with staff's proposal to have board member's terms coincide with commission terms as some members would be appointed for one or two years.

Upon a roll call vote on the amendment, Mayor Leary and Commissioners Sullivan, DeCiccio, Cooper and Weaver voted yes. Motion carried unanimously with a 5-0 vote.

Upon a roll call vote on the resolution as amended, Mayor Leary and Commissioners Sullivan, DeCiccio, Cooper and Weaver voted yes. Motion carried unanimously with a 5-0 vote.

9. Citizen Comments - Items not on the agenda

Samantha Goodowens, 1722 N. Park Avenue, spoke in favor of allowing 4-6 hens with appropriate restrictions.

Jason Goodowens, 1772 N. Park Avenue, thanked the commission for considering allowing chickens.

Frank Hamner, 407 Balmoral Road, spoke in opposition to allowing chickens.

Kimberly Murphy, 1835 Bryan Avenue, expressed support for allowing hens but opposed requiring neighbor consent.

Sarah Sleeth, 317 Valera Court, spoke in support of using CRA funds for small business grants.

Danielle Whitehall, 433 Whitehall Avenue, spoke in support of allowing chickens.

Kristopher Haddock-Murphy, 1770 Goodrich Avenue, spoke in favor of allowing chickens.

Julie von Weller, Williams Drive, spoke in support of providing assistance to small businesses and the use of CRA funds for small grants.

Mayor Leary declared a recess 5:31 and reconvened the meeting at 5:45 p.m.

b. Request of William Keegan for:

Subdivision approval to split the properties at 1760 and 1780 Bryan Avenue into three single-family lots, zoned R-1A. Variances are requested from the R-1A lot dimension standards. **Applicant requested that this item be tabled until the Commission physically convenes when allowed under COVID-19 health crisis orders.**

c. Ordinance repealing adoption of Orange Avenue Overlay

ORDINANCE 3172-20 - AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, RESCINDING ORDINANCE 3166-20 AND ORDINANCE 3167-20, WHICH RESPECTIVELY AMENDED THE COMPREHENSIVE PLAN AND ZONING CODE TO ESTABLISH THE ORANGE AVENUE OVERLAY DISTRICT AND GOVERNING POLICIES AND LAND DEVELOPMENT REGULATIONS; PROVIDING FOR CONFLICTS; SEVERABILITY AND AN EFFECTIVE DATE.
SECOND READING

Attorney Ardaman read the ordinance by title.

Mayor Leary read a from a prepared statement that he feels this process is in poor board behavior and given established procedures this matter should not be before the Commission. He cited Commission protocol which allows for a member on the winning side of a vote to recall an issue and makes no allowance for new Commission members, which has been confirmed by the city attorney. If the protocol is not agreeable then the appropriate action would be for the procedures to be rewritten and presented to the commission for consideration. He feels it is improper for commissioners to work with the public to attempt to stall the project at the state level and to work with bloggers and others in an attempt to preempt the Commission on Ethics decision on his ability to vote on this matter. He cited other actions which he feels were improper and an attempt to undermine the process. He said he feels the Commission's action opens the city to legal action and has sunshine implications. Although the majority votes are in favor of overturning the OAO, it should be done following established protocol. He spoke in support of the OAO, the process and the committee. He ruled that this item is out of order given existing city commission rules and policies that govern commission procedures as it was not brought up by someone on the prevailing side of the original vote to approve the OAO.

Commissioner Sullivan said that throughout his campaign he stated his position on the OAO. His vote reflects his position on the OAO and what he feels the citizens want to happen.

Commissioner DeCiccio thanked everyone for hard work on the OAO. She addressed comments received in the last meeting stating the city has not ignored COVID-19, the tax base is driven by residential not commercial and that many businesses along Orange Avenue were developed before the Overlay and in the scale of Winter Park, which is what she is working to maintain on the Progress Point property. She commented on a video that was posted prior to her first commission meeting, although she did not see it until after the meeting. She feels the video was designed to bully her into withdrawing her motion to rescind the OAO. She stated her position has always been clear as she voted against the OAO as a committee member and spoke against it at the Planning and Zoning Board and Commission meetings prior to the election. She said her intent is make Progress Point a jewel and to work with residents and developers to make the Overlay a reality.

Commissioner Cooper expressed her disappointment in the video.

Motion made by Commissioner Cooper to overturn ruling of the chair and move forward to consider the repeal of the OAO; seconded by Commissioner Sullivan.

Mayor Leary asked for confirmation that a member of the commission by majority vote has the right to overturn what has been protocol and operation of the commission. Mr. Ardaman confirmed that the commission sets its own rules and policies so they have the authority to overturn it. He advised that the policy states no item can be brought back up for reconsideration by a commission member that was on the minority side of the vote until six months have passed since that action was taken; however, a commission member on the majority side of the vote can request reconsideration at any time following established procedures. In the case of new commissioners that did not vote on the item, there is nothing in the policy that addresses the authority of new commissioners to request reconsideration of an item taken by the member of the commission whom they replaced.

Commissioner Cooper provided information on policies and procedures regarding reconsideration of prior actions of the commission. Mr. Ardaman stated the Commission sets its rules and those rules can be changed by the commission. Based on commission prior actions, the rule has been treated where a member of the commission on the prevailing side can bring an item back up but one on the minority side cannot. Since the commission sets the rules it can change the policy to state that a new commissioner would take the same position as their predecessor.

Commissioner Cooper said she would support Commissioners DeCiccio and Sullivan assuming the vote of prior Commissioners, which in the case of the OAO was the prevailing vote.

Mayor Leary stated that Mr. Ardaman has opined that unless it expressly called out then that opportunity to reconsider an action does not exist. He stated that he feels that this matter was placed on an agenda by Commissioner DeCiccio before she was sworn in and also that it should have come back as a discussion item, not directly as an ordinance, which has been past practice of the commission. He restated his position that protocol and process was ignored.

Commissioner DeCiccio stated that the process was initiated due to the deadlines imposed by State Statute to act to repeal the OAO ordinance.

Commissioner Weaver stated that he attended a majority of the Overlay Committee commented the OAO process stating the process did not allow for sufficient public comment during the meetings and traffic concerns were addressed. He feels that some were unprepared to make decisions on the motions and that some involved in the decision-making process should have filed a conflict of interest due to ownership of properties within the OAO.

Mayor Leary said he feels he has been transparent on his ownership of property within the OAO which is less than a one percent.

Upon a roll call vote on the motion to overturn the ruling that this item is out of order, Commissioners Sullivan, DeCiccio, Cooper and Weaver voted yes and Mayor Leary voted no. Motion carried with a 4-1 vote.

Motion made by Commissioner Weaver to adopt the ordinance to repeal the OAO on second reading; seconded by Commissioner Sullivan. (Motion withdrawn after public comments)

The following spoke in favor of repeal

- Carey Bond, 1551 Grove Terrace
- CJ Williams 757 Antonette Avenue
- Rachel Andre, 1131 Oxford Road
- Yvonne Rausch, dentist, 1355 Orange Avenue, Suite 7
- Shelley Rife, 724 Via Bella
- Barbara Anderson, 1016 Tuscany Place
- Nancy Freeman, 1055 Tuscany Place
- Winnie Leung, Owner, Black Bean Deli, 1346 Orange Avenue
- Kim Allen, 1800 W. Fawsett Road
- Laurie Davis, 2171 Turkey Run
- Sally Miller, 222 Alexander Place

The following spoke in opposition to ordinance and repeal:

- Patrick Brazil, 2005 Lake Baldwin Lane, Orlando
- Jeffrey Blydenburgh, 204 Genius Drive
- Mickey Grindstaff, resident and attorney representing Demetree Global and all its affiliates
- Michelle Heatherly, resident and Director of Strategic Development for Demetree Global
- Kyle Sleeth, Floyd's Barbershop, 317 Valera Avenue
- Julie von Weller, Williams Avenue
- Heather Lewis, 1351 Oneco Avenue
- Hollie Finley, 1581 Grove Terrace
- Bradd Burkhardt, 1600 Legion Drive
- Suzanne Burkhardt, 1600 Legion Drive
- Frank Hamner, 405 Balmoral Road
- Genean McKinnon, 701 Via Bella
- Betsy Gardner Eckbert, Winter Park Chamber of Commerce
- Lawrence Lyman, 1731 Diana Drive

Motion to approve the ordinance on second reading was withdrawn by Commissioner Weaver as the maker and Commissioner Sullivan as the second.

Motion made by Commissioner DeCiccio to adopt the ordinance to repeal the OAO on second reading; seconded by Commissioner Sullivan. Upon a roll call vote, Commissioners Sullivan, DeCiccio, Cooper and Weaver voted yes and Mayor Leary voted no. Motion carried with a 4-1 vote.

d. Ordinance vacating a portion of Kindel Avenue

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AND ABANDONING A PORTION OF THE RIGHT OF WAY OF KINDEL AVENUE, TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK "M", PAGE 97, OF THE PUBLIC RECORDS OF ORANGE COUNTY, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR CONFLICTS, RECORDING AND AN EFFECTIVE DATE. **FIRST READING.**

Ardaman read ordinance by title.

Applicant Dan Bellows was available by phone.

Public Works Director Troy Attaway reviewed the request from Dan Bellows, Ravaudage developer, to abandon a portion of Kindel Avenue between Benjamin and 17-92. He stated that this road will be rebuilt in the same manner as other roads in Ravaudage and with drainage and on-street parking. All utilities will be relocated or an easement will be granted for utilities not relocated. He responded to questions stating that the developer will bear the cost to maintain the abandoned portion and for relocation of utilities.

In response to questions by Commissioner Weaver, Director of Planning and Transportation confirmed that Mr. Bellows owns the property at 1231 Kindel Avenue.

Commissioner Cooper asked if the vacated portion will be available for parking and if it meets city code.

Mr. Bellows confirmed that he owns the property. He explained that other blocks of Kindel have already been vacated and this section is one of the of original sections without stormwater or sidewalks. His proposal is to develop the same as other streets in Ravaudage. He reviewed current parking and the parking plan of the area which will result in more parking than currently exists.

Motion to sell the right-of-way to the developer at cost of \$1.9 million/acre or \$117,120 for the .06 acres made by Commissioner Sullivan. Motion failed for lack of second.

Mr. Attaway stated that the city cannot sell right-of-way but can only vacate or abandon.

Mr. Ardaman stated there are some criteria for vacation and abandonment and suggested that if there is support to sell the right-of-way, no action be taken to allow for discussion with the developer.

Motion made by Commissioner Weaver to table to allow staff to review Commissioner Sullivan's request; seconded by Commissioner Cooper.

Mr. Bellows thanked the city for considering this request and stated that he has been allowing the city use three acres as laydown yard for the Fairbanks construction project at no cost when he charges other contractor \$4,000 per acre for laydown yard. He pointed out that he will be paying taxes on the abandoned portion and spending money to improve a city road. He responded to questions stating that the current building is occupied by his contractor developing the Marriott Hotel but will be demolishing the building after completion of that project.

Discussion followed on the city's ability to sell right-of-way. Mr. Ardaman suggested he meet with Commissioner Sullivan to discuss the criteria for vacating and abandoning right-of-way.

Upon a roll call vote on the motion to table, Commissioners Sullivan and Weaver voted yes and Mayor Leary and Commissioners DeCiccio and Cooper voted no. Motion failed with a 2-3 vote.

Motion made by Mayor Leary to approve the ordinance on first reading; seconded by Commissioner DeCiccio.

There were no public comments.

Upon a roll call vote on the motion to approve the ordinance on first reading, Mayor Leary and Commissioners DeCiccio and Cooper voted yes and Commissioner Sullivan and Weaver voted no. Motion carried with a 3-2 vote.

12. City Commission Reports:

Commissioner Sullivan

- Stated on a recent boating trip on the St. John's River he found many violations of social distancing and stated what he saw confirms that the city made the correct decision to close public boat ramps in the city.

Commissioner DeCiccio

- Stated that with the repeal of the OAO, she would like to move forward on Progress Point plans and begin work on Overlay.

Consensus was to schedule a work session next week to discuss the OAO and Progress Point.

Mr. Ardaman asked for direction on the administrative petition. He stated that abatement would not compromise the city's position. Approved by consensus to authorization moving forward with request abatement with the petitioners.

Commissioner Cooper

- Suggested revising virtual meetings to provide a way for the public to make their comments in their own voice. Mr. Knight said staff will have to look at options.
- Questioned the advantages of removing Progress Point from the OAO and asked Commissioner DeCiccio to provide the benefits of removing Progress Point from the OAO for discussion in the work session.
- Asked staff to advertise for board applications and start forwarding to Commissioners and advising current board members that they must re-apply. Mr. Knight stated the applications can be forwarded; however, there are several policy decisions to be made regarding the new process.
- Offered to participate in the weekly Florida League of Cities dial-in meetings. Mayor Leary stated is in contact with local Mayors.
- Asked for a summary of support to small businesses that are not members of the Chamber of Commerce.
- Asked for consideration of appointments to the tree preservation board. Mr. Knight stated matters that were handled by tree preservation board are being handled by Code Compliance Board.

Commissioner Weaver

- Stated he has received inquiries regarding assistance for non-profits due to COVID-19. Mr. Knight stated that the city could expand its utility assistance program to include non-profits that would not normally qualify as a small business and support from other programs. Consensus was to offer non-profit organizations the same assistance as small businesses for utility payment assistance.

- Asked the city to consider possibility of expanding its community gardens to other locations for residents who are experiencing financial difficulty during the health crisis. He suggested individual plots and city property along the railroad tracks at Progress or at the former Swoope Avenue water plant. Discussion followed on current and potential locations. Consensus was to bring up at a future commission meeting.
- Expressed his concern for small businesses unable to pay their rent and said he feels the microloan or a grant program will not significantly help businesses who are not generating income. He said he would like to review the program again and how it would be administered. Mr. Knight said he will send an e-mail to respond to Commissioner Weaver's comments.

Mayor Leary

- Stated he continues to be in contact with fellow city leaders and receiving and sharing information on the CoVID-19 pandemic and other matters.

The meeting adjourned at 7:43 p.m.

Mayor Steve Leary

ATTEST:

City Clerk Rene Cranis, CMC



city commission agenda item

item type	Consent Agenda	meeting date	4/27/2020
prepared by	Purchasing	approved by	
board approval	final vote		
strategic objective	Fiscal Stewardship		

subject

Approve the following piggyback agreements:

1. Cubix (multi-year): Orange County contract #Y19-1018 – SaniGlaze Services; Not to exceed \$75,000 per year.
2. Danus Utilities: City of Clermont contract #RFP-17-40 – Lift Station Rehabilitation Services; Not to exceed \$150,000.

motion / recommendation

Commission approve items as presented and authorize the Mayor to execute contracts.

background

Formal solicitations were issued by the originating agencies to award these contracts.

Item 1: The initial contract term shall be in effect through 3/7/2022.

Item 2: The initial contract term shall be in effect through 8/7/2020.

alternatives / other considerations

N/A

fiscal impact

Item 1: Total expenditure under the initial contract term not to exceed \$75,000 per year.

Item 2: Total expenditure under the initial contract term not to exceed \$150,000.



city commission **agenda item**

item type	Consent Agenda	meeting date	4/27/2020
prepared by	Purchasing	approved by	
board approval	final vote		
strategic objective	Fiscal Stewardship		

subject

Approve the following purchase:

1. Jacobs Engineering Group: Risk and Resilience Assessment and Emergency Response Plan update of the city's water and wastewater systems; Not to exceed \$211,267.

motion / recommendation

Commission approve item as presented.

background

Work shall be performed under existing city contract RFQ-17-2010 – Continuing Professional Engineering Services for Water and Wastewater Systems.

alternatives / other considerations

N/A

fiscal impact

Total expenditure included in approved budget.



city commission agenda item

item type	Action Items Requiring Discussion	meeting date	4/27/2020
prepared by	City Manager	approved by	City Manager, City Attorney
board approval	N/A final vote		
strategic objective	Investment in Public Assets and Infrastructure		

subject

Consideration of revised Letter of Intent (LOI) to Purchase the USPS Property Located at 300 N New York Avenue

motion / recommendation

Approve the Letter of Intent with the USPS.

background

On October 14, 2019 the City Commission held a work session to discuss the potential acquisition of the USPS property on New York Avenue. The back up provided by Commissioner Cooper at the work session is attached. That Power Point contains a good history of the city's dealings with the USPS property.

On October 28, 2019 the Commission adopted Resolution number 2224-19 supporting that acquisition. Attached is a copy of that Resolution.

City Manager Knight opened a dialogue with the USPS representatives and on December 27, 2019 the USPS representative provided a Letter of Intent (LOI) for the City's consideration. That LOI was presented to the Commission on January 27, 2020. At that meeting the Commission authorized the City Manager and City Attorney to negotiate a revised LOI to that would more favorable to the city and bring it back to the Commission for approval.

Attached are a redline version of the revised LOI showing their response to our counter proposal. This version has reduced some of the unknowns that were in the first LOI and provides that at the Purchase Sale Agreement (PSA) stage the city will know more of the costs and can opt out if it desires.

The LOI sets forth the following parameters for the proposed acquisition:

- * The City must provide replacement facilities at locations approved by the USPS at the City's cost for both the retail and carrier buildings. At the end, the USPS must own both facilities.
- * There is a Fair Market Value adjustment the city would have to pay if the

appraised value of the replacement properties do not exceed the value of the current property.

- * Requires a \$25,000 non-refundable deposit (Project Initiation Fee) upon execution of the LOI to cover the costs of its internal planning efforts.
- * Also upon signing the LOI the City would pay a \$50,000 Cost Deposit to cover the USPS costs to comply with operational, financial, legal and regulatory requirements. If costs exceed this amount an additional deposit may be required.
- * Upon identifying the location of the replacement properties the City would be required to remit an additional \$25,000 (Project Continuation Fee) for the additional internal planning efforts of the USPS. At this point the parties would agree to a Purchase and Sales Agreement (PSA).
- * City is responsible for site design costs.
- * City is required to pay for equipping the new facilities if the USPS determines its existing equipment cannot be used.
- * City would pay the cost of moving the operations to the new facilities.

There are other provisions in the LOI but the above are the major ones.

Also attached is a Chronology of Major Action Items Going Forward which is just a chronological view of the deal point in the LOI.

It is difficult at this stage to put a definite total cost for the acquisition. To get a better idea of the total costs the commission would need to approve the LOI and move forward to the PSA level. To do so would require the \$25,000 non-refundable deposit mentioned above and the \$50,000 Cost Deposit. The city would then need to locate sites acceptable to the USPS for the replacement facilities. At that point a more firm cost could be established.

At the October 14, 2019 work session we discussed a range of probable cost of \$4.6 to \$8.8 million. Those numbers assumed there would be no land acquisition for the retail component.

The CRA has already budgeted \$100,000 to pursue the acquisition so no further budget is needed at this time.

It is important to note that we would not be committing to the entire purchase. At the PSA approval stage the Commission would have the option of stopping the process if the price is higher than it is willing to pay.

alternatives / other considerations

fiscal impact

The CRA has budgeted \$100,000 to pursue the purchase so no further budget is needed at this time.

ATTACHMENTS:

Description	Upload Date	Type
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Redline Version of Letter of Intent	3/11/2020	Backup Material
Chronology of Major Action Items going forward	4/15/2020	Cover Memo
Resolution 2224-19	3/11/2020	Backup Material
Minutes from 1-27-2020 Commission Meeting	3/11/2020	Backup Material
USPS Facility Requirements	3/11/2020	Backup Material
Back up ffrom Oct 14, 2020 Work Session	3/11/2020	Backup Material

February 3, 2020

City of Winter Park, FL
401 Park Ave. South
Winter Park, FL 32789
Attn: Randy Knight

RE: Potential Sale of Winter Park Main Post Office

Dear Mr. Knight:

The City of Winter Park ("**Purchaser**") has expressed interest in acquiring the above referenced Postal Service property and relocating the Postal Service's operations. The Postal Service is willing to discuss that potential transaction based on the proposed terms outlined in this letter. Please review these proposed terms and contact me with any questions. If these proposed terms are acceptable, please execute the letter and return it to me. The terms set forth in this letter will expire if an executed copy is not returned to me within thirty (30) days of the date set forth above.

Proposed Terms.

Property Potentially for Sale	Winter Park Main Post Office, with a street address of 300 N New York Ave, Winter Park, FL (the " USPS Property "). Excluded from the sale are all intangibles, including artwork, and all rights to the use of USPS marks, including all trademarks, service marks, trade names, brands, and domain names, containing the terms "POST OFFICE," "UNITED STATES POSTAL SERVICE," "U.S. POSTAL SERVICE," "POSTAL SERVICE," and "USPS" in any form or format, with or without any accompanying design or additional terms, and regardless of spacing, logos, images, insignia, and other intangibles and USPS intellectual property.
Purchaser	City of Winter Park, FL (" Purchaser ").
Seller	United States Postal Service, an independent establishment of the Executive Branch of the Government of the United States (" USPS ").

Purchase Price	The purchase price for the USPS Property would be the sum of: • \$1.00 + • Purchaser’s conveyance of the Replacement Facilities (defined below) to USPS and relocation of USPS operations to the Replacement Facilities + • The Multi-Facility Adjustment, if applicable + • The FMV Adjustment, if applicable. <u>Multi-Facility Adjustment:</u> USPS gains efficiency and convenience from combining operations in one facility at the USPS Property. If the parties agree to relocate Postal operations into multiple Replacement Facilities, then to offset the decrease in efficiency and convenience, USPS would require increasing the Purchase Price by an amount to be determined. <u>FMV Adjustment:</u> Within 60 days after USPS’s approval of the final design and construction plans and drawings, as described in the section titled “Replacement Facilities - Identification and Design Process” below, the parties would engage a qualified appraiser to determine (i) the fair market value of the USPS Property (“USPS Property FMV”) and the aggregate of the projected fair market values of the Replacement Facilities (“Replacement Facilities FMV”), assuming completion of the Replacement Facilities according to the approved final design and construction plans and drawings. • If the USPS Property FMV is <u>greater than</u> the Replacement Facilities FMV, then the FMV Adjustment would be an amount equal to the USPS Property FMV minus the Replacement Facilities FMV, calculated as USPS Property FMV - <u>Replacement Facilities FMV</u> = FMV Adjustment • If the USPS Property FMV is <u>less than</u> the Replacement Facilities FMV, then the FMV Adjustment would be zero; i.e., there would be no purchase price adjustment. Additionally, except for any size adjustment (discussed below), USPS would not reimburse Purchaser for any costs incurred, even if the aggregate of such costs is greater than the USPS Property FMV.
Project Initiation Fee	Concurrently with counter-signing and returning this letter, Purchaser must deliver a Project Initiation Fee of \$25,000 by certified check payable to United States Postal Service. This Project Initiation Fee is consideration for USPS initiating internal planning for the transaction and providing the Search Parameters (described below under “Replacement Facilities.”) USPS will have no obligation to refund any portion of the Project Initiation Fee under any circumstances, including termination of negotiations by either party for any or no reason or failure to close the transaction for any reason.

Project Continuation Fee	If the Purchaser identifies one or more sites within the Search Parameters and USPS notifies Purchaser that USPS believes one or more of those identified sites may be feasible, then Purchaser must deliver an additional Project Continuation Fee of \$25,000 by certified check payable to the United States Postal Service. This Project Continuation Fee is consideration for USPS dedicating further internal resources for continued planning, seeking approvals, initial due diligence, and initial design work. USPS will have no obligation to refund any portion of the Project Continuation Fee under any circumstances, including termination of negotiations by either party for any reason or no reason or failure to close the transaction for any reason.
Deposit	Upon execution of the PSA, Purchaser must deliver a deposit of an amount to be agreed upon to be held in escrow. If the parties close the transaction, they will apply the deposit toward the purchase price. USPS and Purchaser would include in the PSA certain limited circumstances permitting a partial refund of the deposit.
USPS Property Condition	USPS would convey the USPS Property in strictly AS IS condition. No USPS representations or warranties. The USPS Property may contain asbestos and may contain other hazardous substances. Purchaser would assume all environmental liability for the USPS Property, both on-site and off-site, and all responsibility for remediation and disposal of hazardous substances in accordance with law.
Operative Agreement	Starting with a USPS form, Purchaser and USPS would negotiate a Purchase and Sale Agreement (“ PSA ”) consistent with this letter.
Responsibilities for Costs	Purchaser must agree to bear all costs that are necessary or appropriate to accomplish the transaction, including without limitation, USPS’s costs to comply with its operational, financial, legal and regulatory requirements. Accordingly, in addition to the Project Initiation Fee, promptly after Purchaser returns an executed copy of this letter, Purchaser must provide a \$50,000 initial funding into a USPS designated escrow to pay costs for USPS’s initial work to satisfy those compliance requirements. USPS may require Purchaser to add additional funds to the escrow, if costs exceed USPS’s estimate. Purchaser and USPS would then negotiate the PSA, while USPS completes its preliminary work. After USPS completes those undertakings and after accounting for all incurred costs, including USPS’s estimate of the amount necessary to cover unbilled costs, USPS would direct the escrow agent to refund any amount remaining in the escrow. USPS would have no obligation to refund any amount used or reserved to pay costs, even if USPS terminates the transaction or the transaction fails to close for any reason.

Current Postal Operations at USPS Property	Currently, USPS conducts the primary operations listed below, plus other operations, in a single facility at the USPS Property: • Carrier Operations • Retail Operations USPS may conduct other operations now or in the future at the USPS Property.
Replacement Facilities	To accommodate Purchaser’s proposed acquisition, USPS would require another property and facility (such property and facility are together a “Replacement Facility”) to replace the USPS Property. USPS strongly prefers replacing the USPS Property with a single Replacement Facility. However, as an accommodation to Purchaser, USPS will consider replacing its existing property with two Replacement Facilities (“Replacement Facilities”). Because USPS owns the USPS Property, Purchaser must convey <u>ownership</u> of the Replacement Facilities to USPS.
Search Parameters	After the parties exchange executed copies of this letter and USPS receives the Project Initiation Fee, USPS will provide Purchaser with a brief list of certain basic requirements for a single replacement facility and for two replacement facilities (“Search Parameters”). Prior to committing to any transaction, USPS may revise the number of replacement facilities it requires, their size and dimensions, their location boundaries, or other attributes. The Search Parameters may include: • Geographic boundaries • Approximate size and dimensions for site and for facility • Parking requirements • Access requirements • Loading dock requirements
Responsibility for Construction	USPS and Purchaser to discuss which party would construct each of the Replacement Facilities. In any event, Purchaser would be responsible for all costs. If USPS constructs a facility, then Purchaser must fund the entire estimated cost into escrow prior to USPS bidding for contracts. If Purchaser constructs the Replacement Facilities, Purchaser must comply with requirements applicable to contractors engaged by USPS, including wage and procurement requirements.
Size Adjustment	If the combined square footage of the Replacement Facilities buildings is larger than the square footage of the USPS Property building, then following USPS acceptance of the Replacement Facilities, USPS would reimburse Purchaser for any increase in construction costs that Purchaser reasonably incurred attributable to the size difference, as reasonably determined by a USPS designated licensed architect.

Purchaser's Title and Property Review	Beginning on the PSA effective date, Purchaser would have 30 days to review the USPS Property's title and physical condition. USPS would have the option, but no obligation, to cure any asserted defects. If USPS opts not to cure, Purchaser would have the option to purchase with those defects or to terminate the PSA. Purchaser would not conduct any invasive testing absent USPS's prior written consent. At closing, USPS may require recordation of a covenant or other agreement with the deed, as necessary to satisfy, in USPS's sole judgment, USPS's obligations under Section 106 of the National Historic Preservation Act and its implementing regulations, 36 CFR Part 800.
Purchaser Indemnity/Release	Purchaser would indemnify USPS against costs, damages and claims arising out of any Purchaser defaults. After Purchaser acquires title to the USPS Property, Purchaser would indemnify USPS against costs, damages and claims arising out of or related to the USPS Property. Purchaser would fully release and indemnify USPS for environmental contamination or other property conditions.
NEPA, NHPA (106), IGN, 241.4	Before completing this transaction, USPS must comply with several different Federal regulatory requirements for taking into account the anticipated transaction's effects on environmental, historical and certain other interests, as well as input from the community and elected officials. Although these regulations do not mandate a particular outcome, each requires USPS to follow a prescribed process. The length of each process depends on the particular circumstances of the anticipated transaction. USPS would be responsible for its compliance with the applicable Federal regulatory requirements, but at Purchaser's cost. Insofar as these regulations require USPS to seek input from the community, governmental officials and others, and concurrence from state and federal agencies that may impose conditions on their concurrences, if USPS is not satisfied with the results of any of these regulatory processes, then USPS may terminate the transaction or require changes in the terms. Purchaser would cooperate fully with USPS to obtain regulatory approvals. More information about these regulatory requirements can be found at these links: Historic Preservation (NHPA (106)) Environmental Protection (NEPA) Intergovernmental Cooperation (IGN) Relocation of Retail Postal Services (241.4)
Party Approvals	Each party's obligation to close would be contingent on securing necessary internal approvals.
Replacement Facilities -Identification and Design Process	

• Preliminary Site Selection	Purchaser to identify potential Replacement Facility site(s) consistent with USPS's Search Parameters. USPS may reject any site for any reason.
• Site Due Diligence	USPS to conduct preliminary site due diligence on each preliminarily identified site, using escrowed funds to pay costs.
• Securing Site	When USPS approves a potential Replacement Facility site, Purchaser would secure the right to acquire the site (e.g., by purchasing an option).
• 30% Design	After Purchaser secures the right to acquire the potential Replacement Facility site, then Purchaser would engage an architectural/engineering firm acceptable to USPS to produce design-build drawings according to USPS specifications through the 30% design stage. Purchaser would submit such drawings to USPS for USPS review and approval. Purchaser would pay all costs for USPS's outside consultant's design review. Purchaser must obtain and comply with USPS's design standards, which are extensive and available on CD.
• 70% Design	If USPS approves the 30% drawings, then Purchaser would cause the A/E firm to produce design-build drawings according to USPS specifications through the 70% design stage. Purchaser would submit such drawings to USPS for USPS review and approval. Purchaser would pay all costs for USPS's outside consultant's design review.
• Final Design	If USPS approves the 70% drawings, then Purchaser would cause the A/E firm to produce complete design and construction plans and drawings. Purchaser would submit such drawings to USPS for USPS review and approval. Purchaser would pay all costs for USPS's outside consultant's design review.
• FMV Adjustment and Site Acquisition	After USPS's approval of the final design and construction plans and drawings, the parties would determine the FMV Adjustment, as described in the Purchase Price section above. Then, Purchaser would acquire fee simple title to the site for the Replacement Facility on terms and conditions acceptable to USPS (e.g., the seller must have satisfied USPS's title and due diligence concerns).
Construction of Replacement Facility	If the PSA obligates Purchaser to complete the Replacement Facility, then the PSA would prescribe the date(s) by which Purchaser must complete construction of each Replacement Facility. If Purchaser fails to complete each Replacement Facility by its required construction completion date, then USPS would have the option to terminate the PSA without any liability to Purchaser or any third party. Purchaser would bear all costs of construction, change orders, and of USPS's engaging an independent A/E firm to review each Replacement Facility's conformance to USPS's requirements. Purchaser would provide warranties, satisfactory to USPS, covering construction and property conditions.

Equipping Replacement Facility	USPS would identify which existing equipment USPS can relocate and which equipment Purchaser must replace with new equipment and provide Purchaser with a cost. USPS would relocate or replace equipment accordingly, at Purchaser's cost. Additionally, Purchaser would pay associated one-time capital costs. Until the closing, Purchaser would bear all risks of damage to, or loss of, relocated and new equipment.
Closing	Within 30 days after USPS acceptance of the Replacement Facilities, the parties would close on the purchase and sale of the USPS Property, and concurrently, Purchaser would convey good, marketable, lien free, fee simple title of each Replacement Facility to USPS. Purchaser would pay all costs of closing, including taxes, recording charges, escrow fees, and title insurance for USPS. Purchaser would bear all risk of damage to, or loss of, each Replacement Facility through closing.
Relocation of USPS Operations	After closing, USPS, at Purchaser's cost, would relocate USPS operations to the applicable Replacement Facility according to a USPS approved schedule and plan. USPS would deliver possession of the USPS Property after the relocation of all operations is complete. The Purchaser will be provided an estimate of this cost and time to relocate prior to the execution of the PSA.
Outside Date	If closing does not occur by the 3 rd anniversary of PSA effective date, then USPS may terminate the agreement, regardless of whether Purchaser has commenced construction, and USPS would have no liability.
Profit Restrictions to Ensure Governmental Purpose	<u>Purchaser Acknowledgment</u>: Purchaser acknowledges that, as an accommodation to Purchaser, USPS is willing to discuss a sale to Purchaser and that otherwise, USPS is not seeking to sell the USPS Property. Further, Purchaser acknowledges that when USPS decides to sell a property, USPS policy generally requires publicly marketing the property for competitive bidding, but allows an exception to forego competitive bidding, upon the recommendation of the Manager, REA or Vice President – Facilities, for sales to state and local governments. The Vice President – Facilities is willing to recommend foregoing competitive bidding and negotiating directly with Purchaser, based upon Purchaser's representation that Purchaser will use the acquired property for governmental purposes to benefit its citizens and Purchaser is not acquiring the property merely to re-sell it for a profit. <u>Restrictions</u>: To support the recommendation for direct negotiation with Purchaser in lieu of competitive bidding, Purchaser must agree to the requirements set forth on Exhibit A.

Termination of LOI	This Letter of Intent shall terminate if Purchaser has not delivered both (i) the Project Continuance Fee into escrow and (ii) a list of proposed sites for a Replacement Facility or Replacement Facilities that meet the Search Parameters, within 60 days after USPS provides Purchaser with the Search Parameters. Thereafter, this Letter of Intent shall terminate if a mutually agreeable Purchase and Sale Agreement has not been executed within one year of the date this Letter of Intent is executed by the Postal Service.
---------------------------	---

We are providing this letter to further discussions of a possible contract. This letter is not an offer. The terms in the Project Initiation Fee section and in the Project Continuance Fee section above are binding on the parties, but nothing else in this letter is binding on either party. In negotiating the PSA, either party may propose to vary terms or to add or substitute terms. At any time, either party may terminate discussions for any or no reason without any liability. Only a separate written PSA contract that is executed and delivered by both parties will evidence binding obligations. Each party will bear its own costs incurred in the discussions and negotiation of a contract.

If the City wishes to pursue discussions as outlined in this letter, please sign below and return a copy to me, together with the Project Initiation Fee.

Sincerely,

Tom Samra,

Vice President – Facilities

ACCEPTED:

City of Winter Park, FL

By: _____

Print Name: _____

Title: _____

February 3, 2020
City of Winter Park, FL
RE: Potential Sale of Winter Park Main Post Office
Page 9 of 11

S:\AKA\CLIENTS\Winter Park\Parks Department W600-26044\Post Office\Winter Park FL - LOI With City Recommended Changes (2) (MFA Redline 1.28.20).Docx

Exhibit A

Profit Restriction Requirements

- Purchaser Representation: In the PSA, Purchaser would represent that Purchaser will use the USPS Property for governmental purposes to benefit its citizens and the Purchaser is not acquiring the property merely to re-sell it for a profit. Purchaser also would represent that it plans to maintain ownership of the property in perpetuity utilizing it for park space, parking or other amenities complimentary to Central Park.
- Public Input: The Purchaser would promise not to enter into any agreement, or deliver any letter of intent, memorandum of understanding or similar document, whether or not binding, to convey, lease, license or transfer all or any portion of the USPS Property, and the Purchaser would promise not to convey, lease, license or transfer all or any portion of the USPS Property, without first:
 - Completing a public solicitation seeking bidders for all or the applicable portion of the property, and
 - Obtaining approval of such agreement, letter of intent, memorandum of understanding or similar document, and the anticipated transaction, by the appropriate public decision making bodies, including the Winter Park City Council, after public meetings discussing it.
- Profit Recapture: If Purchaser conveys, leases, licenses or transfers all or any portion of the USPS Property to any private or public person or entity for a profit, then Purchaser immediately would pay USPS, in cash, an amount equal to (1) the profit amount multiplied by (2) the Profit Recapture Percentage in the table below. For this purpose, “profit” means the amount (but only if such amount is positive) equal to (i) aggregate of all cash plus the market value all other consideration Purchaser receives, minus (ii) the USPS Property FMV (see “Purchase Price”), pro-rated by size if Purchaser conveys, leases, licenses or transfers only a portion of the USPS Property. If Purchaser will receive the consideration over time, then the profit will include the present value of future receipts, discounted at the current Applicable Federal Rate matched to the anticipated consideration receipt date.

In the table below the “Purchaser Acquisition Date” is the date the Purchaser closes its acquisition of the USPS Property and the “Purchaser Transfer Date” is the date the Purchaser conveys, leases, licenses or transfers all or any portion of the USPS Property.

If the Purchaser Transfer Date is:	Then the Profit Recapture Percentage is:
On or before the 5 th anniversary of the Purchaser Acquisition Date	100%
After the 5 th anniversary of the Purchaser Acquisition Date and on or before the 7 th anniversary of the Purchaser Acquisition Date	75%
After the 7 th anniversary of the Purchaser Acquisition Date and on or before the 10 th anniversary of the Purchaser Acquisition Date	50%
After the 10 th anniversary of the Purchaser Acquisition Date	Zero %

February 3, 2020
City of Winter Park, FL
RE: Potential Sale of Winter Park Main Post Office
Page 11 of 11

Chronology of the Agreement's Major Action Items

City Approves LOI and Executes

City submits \$25,000 Project Initiation Fee by certified check to USPS along with executed LOI

Promptly after delivering the executed LOI, City must provide \$50,000 initial funding into a USPS designated escrow to pay costs for USPS's initial work to satisfy compliance requirements. Note: If actual costs exceed the \$50k additional payments will be required.

City identifies one or more sites within the search parameters that USPS considers feasible. City delivers a \$25,000 Project Continuation Fee to USPS.

Once agreed upon sites are identified, USPS will conduct preliminary site due-diligence on the sites.

If sites are acceptable to the USPS, City will put a contract on the sites.

USPS and City would negotiate the Purchase Sale Agreement (PSA).

Upon execution of the PSA, City must deliver a deposit of an amount to be agreed upon to be held in escrow. If the parties close the transaction, the deposit will be applied toward the purchase price.

City would engage an architectural/engineering firm acceptable to USPS to produce 30% Design, 70 % Design and Final Design drawings meeting the USPS specifications with USPS having approval authority at each level.

FMV Adjustment and Site Acquisition – upon final design approval the parties would determine the FMV Adjustment and the City would close on acquiring the properties.

Construction of Replacement Facilities – When negotiating the PSA we will decide whether the City or USPS will construct the facilities. If it is to be constructed by USPS, the City would fund the entire estimated cost into escrow prior to USPS

bidding for contracts. If City constructs the Replacement Facilities, City must comply with requirements applicable to contractors engaged by USPS, including wage and procurement requirements.

USPS would identify which existing equipment can be relocated and which has to be replaced. City would pay cost to move and/or require said equipment.

Closing

Relocation of Operations – City would pay cost to relocate USPS operation to the replacement facilities.

RESOLUTION NO. 2224-19

**A RESOLUTION OF THE CITY OF WINTER PARK, FLORIDA
SUPPORTING THE ACQUISITION OF THE PROPERTY CURRENTLY
OWNED AND USED BY THE UNITED STATES POSTAL SERVICE FOR
THE PURPOSE OF PUBLIC PARKLAND.**

WHEREAS, the United States Postal Service (USPS) currently owns the property located at 300 N. New York Avenue in Winter Park (the Property) and has been using said property since 1963 for both retail and distribution functions of the post office, and,

WHEREAS, the Property is located within the heart of downtown Winter Park and is directly adjacent to the City's Central Park and upscale shopping district, and

WHEREAS, the City Commission of Winter Park has recognized that the distribution center located on the Property is not compatible with Central Park, the upscale nature of the surrounding uses, or the desire to promote economic development downtown, and

WHEREAS, alternative nearby local sites are readily available for the construction of a replacement Post Office and

WHEREAS, as the city and surrounding region increases in intensity and density of land uses the need for added green space has grown substantially, and

WHEREAS, parks are a priority of Winter Park and the city guarantees the citizens' a minimum of 10 acres of parkland per 1000 residents; and

WHEREAS, there is a desire to have the Property become park land for the purpose of expanding Central Park for future generations of Winter Park residents and visitors.

WHEREAS, the City of Winter Park desires to purchase the current Winter Park Post Office land from the Federal government to guarantee it will not be sold for commercial purposes and commits to utilize the property as parkland.

NOW, THEREFORE, be it resolved by the City Commission of the City of Winter Park, Florida that:

Section 1. The City Commission of the City of Winter Park hereby declares its intention that the Property located at 300 N. New York Avenue be converted to public parkland.

Section 2. The City Commission humbly requests the USPS to work with the City of Winter Park to ensure that the Property becomes park through the sale of this property to the City of Winter Park

Section 3. The City Commission respectfully asks Winter Park Congressional Representatives to assist the City in acquiring the Property in order to stimulate economic development along the New York Avenue corridor and to provide an

expansion of the much-needed green space in this urban environment.

Section 4. The City Commission commits to deed restrict the Property as park land in perpetuity for the recreational use and enjoyment of current and future residents and visitors.

Adopted at a regular meeting of the City Commission of the City of Winter Park, Florida, held at City Hall, Winter Park, Florida on the 28th day of October 2019.

Steve Leary

Steve Leary, Mayor

Attest:

Rene Cranis

Rene S. Cranis, City Clerk

b. Consideration of Letter of Intent (LOI) to purchase the USPS property located at 300 N. New York Avenue

Mr. Knight provided a brief history of this matter and stated this letter of intent expires tomorrow but Post Office representatives were aware of the need to bring this to the Commission for approval but are expecting a quick response. He explained that the attorney has proposed some changes that would close some gaps in the letter and that when getting to the purchase sell agreement stage some of the costs would be known of the new facility and land and to address time constraints to build a new facility. He asked authorization to move forward and for the City Attorney and him to negotiate an acceptable agreement. He said the cost of moving forward at this point is \$75,000.

Mayor Leary advised that there is a lot of support for the city to own the property but it is a matter of timing, cost, details and terms of contract.

Attorney Ardaman stated there are some key points in the LOI where at each step of the process the city can reconsider the terms or agree to the terms.

Commissioner Cooper provided a brief background on the city's communication with the post office to purchase the property and the terms of the letter. She spoke in favor of moving forward with attorney recommended clarifications in the LOI.

Motion made by Commissioner Cooper to authorize the City Manager and City Attorney to negotiate terms of LOI and return to City Commission for approval; seconded by Commissioner Weaver.

Mayor Leary questioned the city's willingness to pay up to \$10 million before paying \$75,000 to continue negotiations.

Commissioner Sprinkel expressed her concern with the terms of the contract, which indicate to her that the post office is not a willing seller. She said there are a number of terms that have to change before moving forward but she could not support \$10 million for the property.

Commissioner Cooper pointed out that nothing else in this letter is binding on either party. She said she feels the property is worth the \$75,000 investment.

Commissioner Weaver said he feels the highest and best use of property is parkland and supported moving forward.

In response to questions by the commission, Mr. Knight advised that the cost was in the range of \$4.5 to \$8.8 million, but it did not include the land acquisition for the retail component. He added that the retail component could be a condominium-type ownership.

Bob Bendick, 1211 Oxford Road, stated this is a rational first step to explore and move forward one step at a time.

Upon a roll call vote on the motion, Mayor Leary and Commissioners Seidel, Sprinkel, Cooper and Weaver voted yes. Motion carried unanimously with a 5-0 vote.

USPS Requirements

Carrier Consolidation/Relocation Options:

- 1) Relocate to stand alone site – Building 21,773 sq/ft on 92,538 sq/ft site
- 2) Combine Winter Park (MPO) with Metric (WTP-Aloma) – building 28,135 sq/ft on 118,854 sq/ft site
- 3) Combine Winter Park with Fashion Square Mall (ORL-Mall) – building 26,107 sq/ft on 111,637 sq/ft site
- 4) Combine all three – building 33,918 sq/ft on 138,678 sq/ft site

Retail Relocation – must remain in downtown. Building 6,874 GSF/6,229 NISF, 62 total parking spaces (55 customer and 7 employee)

Notes on existing Carrier Sites:

Winter Park – 72 Carriers. Zones 32 and 33

Metric (4214 Metric Drive, Winter Park 32792) – 34 Carriers. 15,400 sq/ft building on 70,000 sq/ft site. Lease \$150k per year

Fashion Square (800 Warehouse Road, Orlando 32803) – 24 carriers. 15,500 building on 220,000 sq/ft site. Lease 292k per year

Use \$160 square foot for carrier buildings plus site development costs

Acquisition of Winter Park Post Office for Expansion of Central Park

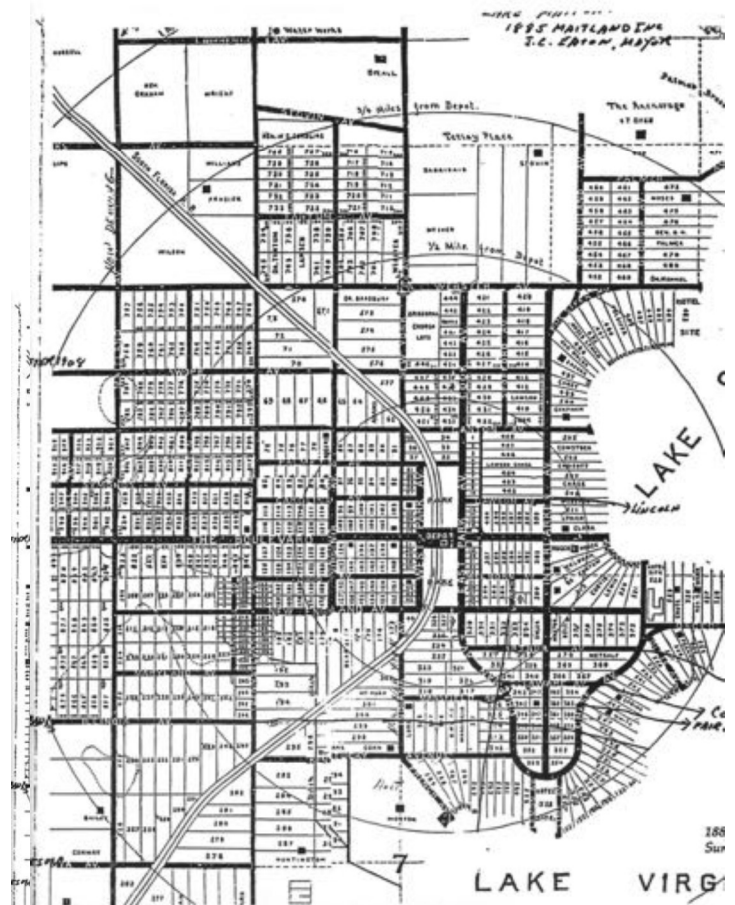
October 2019

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Town Plan: 1881

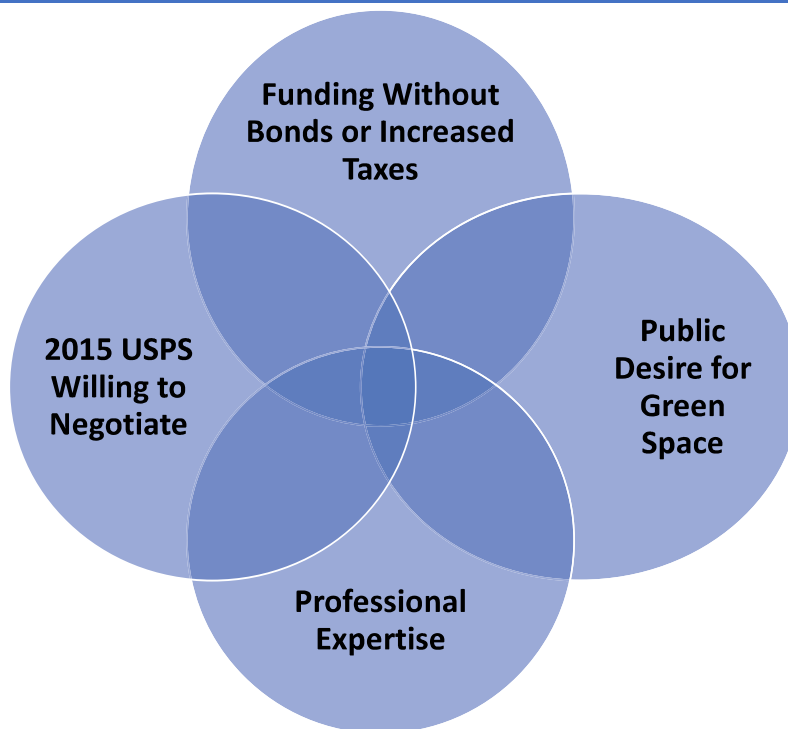
The only platted park in the Town of Winter Park.

In 1881, Loring Chase, Oliver Chapman and Robinson designed the "Park" as the center piece of the town patterned after a New England "commons," similar to the well-known Boston Commons (1634).





Expanding Central Park - Legacy to be Proud Of



History of Strong Community Support

1999

- City adopted an Ordinance requiring voter approval of any proposed construction on city owned lands in or adjacent to Central Park. (Canton to New England and Park to New York)

2002

- A new Central Park Master Plan reflected the City's vision for the future enhancement of Central Park, including expansion west to New York Avenue.

2004

- Zoning on the Post Office Property was changed from Government and Institutional use to Central Business District zoning to enable a joint public-private mixed use development adjacent to Central Park.

2006

- The National Trust for Historic Preservation, Online Preservation Magazine, identified Winter Park's Central Park as a "Threatened" historic asset stating, "rapid construction of condos, parking garages, and retail space could compromise this tranquil centerpiece of historic Orlando suburb."

2007

- Winter Park residents initiated a fund raising campaign, Help Our Park Expand (H.O.P.E.), in an attempt to raise the funds required to acquire the Post Office Property. The H.O.P.E. initiative received 335 pledges and \$1.8M in contributions.

Preliminary Approval @ C-2 Zoning 01/24/05:

C-2 Central Business District Zoning

3-0 Vote of Commission (Preliminary Approval)

4-story Mixed Use

2 levels Underground Parking

~194,000 Square Feet

Floor Area Ratio 220%

Included:

~22,000sf Post Office

~11,000 Office Space

~11,000 Retail

130 Condominiums

515 Parking Spaces



History of Strong Community Support

2007

- City Commission committed ~ \$4M to deter commercial redevelopment of the USPS property.

2008

- The Central Park West Meadow was created from the municipal parking lot located west of Central Park, in furtherance of the Central Park Masterplan. The West Meadow is now home to the annual Autumn Art Festival and the Park Avenue Fashion Show.

2008

- Winter Park is listed as the #38 Historic Destination by National Geographic Travel Magazine celebrating Winter Park's crown jewel, Central Park.

2009

- Residents formed the Winter Park Greenspace Foundation (501(c) 3) to raise funds to obtain the Post Office Property to increase the greenspace in Winter Park.

History of Strong Community Support

2010

- The City Commission passed a Resolution supporting the acquisition of the USPS property for the purpose of expanding Central Park and increasing public parkland.

2010

- The Post Office property was changed from Central Business District zoning (put in place to enable redevelopment in 2004). The north end of the Post Office property was reverted to Government and Institutional zoning and the south portion to Parks & Recreation zoning.

2011

- Downtown Winter Park Historic District was approved by the National Park Service and added to National Register of Historic Places. Central Park and the Post Office building are documented as contributing properties in the district.

2011

- United States Senators Marco Rubio and Bill Nelson and Representatives Sandy Adams, Corrine Brown, John Mica and Daniel Webster sent a letter to the Postmaster General requesting they grant the City of Winter Park a Right of First Refusal on the Post Office property.

2012

- The City of Winter Park sent a letter to the Postmaster General offering maintenance of the local Post Office property in exchange for a Right of First Refusal on the Post Office property.

RESOLUTION NO. 2043-10

**A RESOLUTION OF THE CITY OF WINTER PARK,
FLORIDA SUPPORTING THE ACQUISITION OF THE
PROPERTY CURRENTLY OWNED AND USED BY THE
UNITED STATES POSTAL SERVICE FOR THE
PURPOSE OF PUBLIC PARKLAND.**

WHEREAS, the United States Postal Service (USPS) currently owns the property located at 300 N. New York Avenue in Winter Park (the Property) and has been using said property since 1963 for both retail and distribution functions of the post office, and,

WHEREAS, the Property is located within the heart of downtown Winter Park and is directly adjacent to the City's Central Park and upscale shopping district, and

WHEREAS, the New York Avenue corridor adjacent to the Property is prime for economic redevelopment, and

WHEREAS, the City Commission of Winter Park has recognized that the distribution center located on the Property is neither appropriate nor compatible with Central Park, the upscale nature of the surrounding uses, or the desire to promote economic development downtown, and

WHEREAS, alternative nearby local sites are readily available for the construction of a replacement Post Office and

WHEREAS, as the city and surrounding region increases in intensity and density of land uses the need for added green space has grown substantially, and

WHEREAS, parks are a priority of Winter Park and the city guarantees the citizens' a minimum of 10 acres of parkland per 1000 residents; and

WHEREAS, there is a desire to have the Property become park land for the purpose of expanding Central Park for future generations of Winter Park residents and visitors.

WHEREAS, the City of Winter Park desires the donation of the current Winter Park Post Office land from the Federal government, and guarantees it will not be sold for commercial purposes or financial gain, but will only be utilized for the public good;

NOW, THEREFORE, be it resolved by the City Commission of the City of Winter Park, Florida that:

Section 1. The City Commission of the City of Winter Park hereby resolves that the Property located at 300 N. New York Avenue be

City of Winter Park Resolution 2010

The City Commission passed a Resolution supporting the acquisition of the property currently owned and used by the United States Postal Service for the purpose of public parkland in perpetuity.

The City expressed its desire that the USPS *donate* the Post Office property to the City to be utilized for the public good.

July 15, 2011

Postmaster General Patrick Donahoe
U.S. Postal Service
475 L'Enfant Plaza SW
Washington, D.C. 20260

Dear Postmaster General Donahoe:

We write to you today concerning an issue of great importance to our constituents in Winter Park, Florida. Winter Park is known for its abundant parks, trees and natural surroundings in Central Florida, and the city continuously works to preserve and enhance its parkland. The city of Winter Park has informed us of their interest in the land upon which there is a U.S.P.S. distribution center located in the city. As such, we think there are ways in which the local government in Winter Park and the U.S. Postal Service can work together that would be beneficial to all parties involved.

The local government officials from Winter Park informed us that the property is currently used as a U.S. Post Office location for both retail and distribution functions at 300 North New York Avenue. It is located within the heart of downtown Winter Park directly adjacent to the City's Central Park and upscale shopping district. The local government officials conveyed to us that the city wants to retain a retail location in the area, but that the large distribution center is incompatible with the historic downtown area. In short, the city of Winter Park is highly interested in using this land to expand its Central Park if and when the U.S.P.S. no longer wants to operate a distribution center from this location. While it is our understanding that the U.S. Postal Service currently has no plans to discontinue operating at the current location, we ask that the U.S. Postal Service consider granting the City a right of first refusal in the land so that if and when the Postal Service decides they want to sell the property, the City would have an opportunity to purchase it.

We appreciate your consideration regarding this issue. We look forward to hearing from you in the future. Lastly, if we can be of any assistance to you, please do not hesitate to contact us.

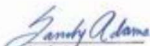
Sincerely Yours,



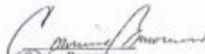
Marco Rubio
United States Senate



Bill Nelson
United States Senate



Sandy Adams
Members of Congress



Cebenne Brown
Member of Congress



John Mica
Member of Congress



Daniel Webster
Member of Congress

Congressional Delegation Support for Right of First Refusal 2011



August 23, 2011

The Honorable Sandy Adams
House of Representatives
Washington, DC 20515-0924

Dear Congresswoman Adams:

This is in response to your July 15 letter to Postmaster General Patrick R. Donahoe, which was cosigned by five of your colleagues, regarding postal operations in Winter Park.

I recognize and understand your interest in assisting the City of Winter Park in this matter. The City of Winter Park is interested in negotiating with the U.S. Postal Service to acquire the land located at 300 North New York Avenue, specifically the property that houses the Winter Park Distribution Center. At this time, postal officials at our Southwest Facilities Service Office (FSO) report that there are no plans to vacate or sell this building. Should the Postal Service decide in the future that it would be favorable to relocate from the existing facility, our FSO will follow the mandated public and intergovernmental notification processes. This will provide the City of Winter Park enough notice to make an offer on the property should they choose to do so.

Thank you for writing. If I can be of assistance with other postal issues, please let me know.

Sincerely,



Mico Milanovic
Government Relations Representative



July 20, 2012

CITY OF WINTER PARK

401 Park Avenue South

Winter Park, Florida

32789-4386

OFFICE OF THE CITY MANAGER

P: 407.599.3235

F: 407.599.3436

The Honorable Patrick R. Donahoe
Postmaster General
U.S. Postal Service
475 L'Enfant Plaza, SW, Room 10804
Washington, DC 20260

Dear Mr. Donahoe:

As we discussed, the City of Winter Park would like to obtain a Right of First Refusal for the property located at 300 N. New York Avenue, Winter Park, FL 32789. Below is our proposal to secure that right.

To obtain this right, the City will:

1. Maintain the USPS landscaping at that location until such time the property changes hands.
2. Sweep the public parking area (south side of building) with a street sweeper once per month until the property changes hands.

Upon deciding to surplus or dispose of the property, the USPS will:

1. Notify the City of its intent to dispose of the property.
2. Enter into negotiations with the City for a period of not less than 60 days unless the City waives its right to purchase.
3. If agreeable terms cannot be reached by both parties, provide the City the right to match any written offer as long as the City matches said offer within 90 days.

I have attached a copy of the July 15, 2011 letter from the City's Congressional Delegation, a copy of Resolution 2043-10 supporting the acquisition, a one page summary of the history of the property and surrounding area, and a map of our historic district.

The citizens of Winter Park have historically been very supportive and protective of Central Park and abutting properties. Citizen surveys, recent contributions and pledges to the Green Space Foundation reflect their commitment to expanding Central Park to include the current USPS property. We look forward to offering our citizens the security of obtaining

City of Winter Park Offer of Maintenance in Exchange for Right of First Refusal 2012



August 6, 2012

Randy B. Knight
City Manager
City of Winter Park
201 Park Avenue South
Winter Park, Florida 32789

Re: 300 N. New York Avenue, Winter Park Florida, 32789

Dear Mr. Knight:

This is in response to your July 20, 2012, letter to the Postmaster General. Thank you for your interest in the Winter Park Main Office. At this time, the property is not available for sale, nor do we anticipate the property will become available in the foreseeable future. However, if the Postal Service does determine it is in its best interest to sell the property, we will notify government officials and the public of the proposed sale in accordance with applicable community notification, community relations, and intergovernmental notice procedures.

When a Postal Service project calls for disposal of a postal facility, the Postal Service is required to generate adequate market exposure of the property and competition among all interested parties, to meet our obligation to secure best value to the Postal Service. A Right of First Refusal to the City of Winter Park would impair our ability to assure the Postal Service has maximized the property's overall value because it will prevent us from exposing the property to the market. The current financial exigencies facing the Postal Service require the Postal Service to maximize the value of our assets.

Again, we appreciate your continued interest.

Sincerely,

History of Strong Community Support

2013

- The City Commission held a work session with Congressman Mica to discuss strategies for the possible acquisition of the Post Office property.

2014

- Congressman Mica arranged a meeting between the City and the USPS Vice President of Facilities to discuss splitting the Post Office retail and distribution facilities and providing Winter Park deal points to acquire the property.

2015

- Staff identified a property satisfying the USPS facility requirements for the distribution center and ask for Commission direction. The City Commission found the cost unacceptable and offered to purchase the existing USPS property at the appraised value and lease it back to the USPS for 20 years. The City Commission voted to discontinue negotiations if that offer was not accepted by USPS.

2015

- The USPS rejected the City's offer and negotiations were discontinued.

**USPS statement before City terminated negotiations:
(2015)**

“After completing a few layouts, we believe that the site has high potential of working for us (subject to a 30% design). I think you should proceed with your discussions with the city council.”

Source: Email from USPS Vice President of Facilities, 1/08/15

OBJECTIVE

Acquire the USPO property for the purpose of expanding Central Park for future generations of Winter Park residents and visitors.

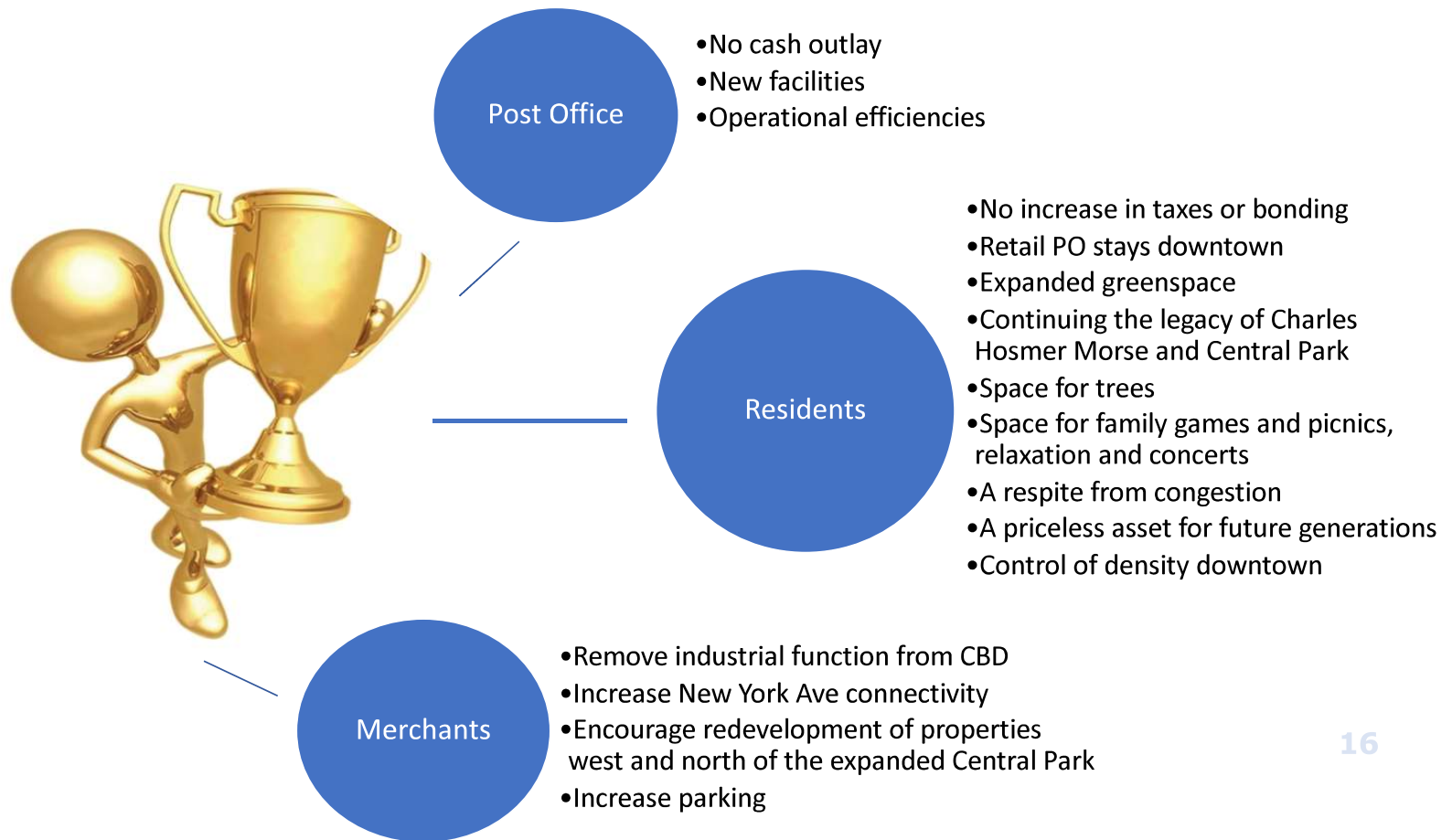
Retain the retail portion of the USPO in downtown Winter Park and relocate the back of house operations to a more appropriate location outside the City core.

Protect the character of Winter Park's quaint downtown by controlling future use of the USPO property.

Improve connectivity and encourage redevelopment of New York Ave Properties.

Strategic Alignment





USPS Requirements (Presented 01/12/15)

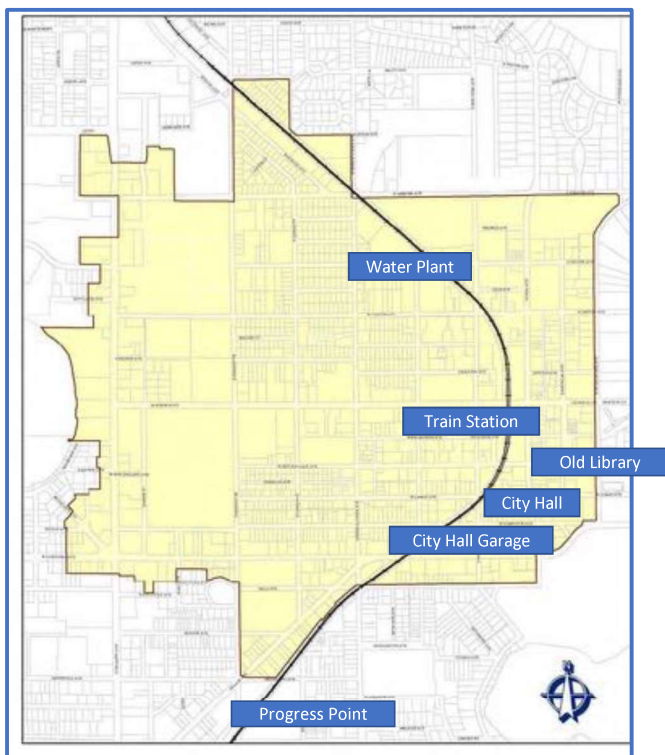
- 1 Replace the carrier site or consolidate it with either the Metric Drive or Orlando Fashion Square Mall carrier site.
- 2 Retail space to remain in the downtown core of Winter Park.
- 3 Market value of new property must equal value of property the USPS would be giving up.

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Carrier/Distribution Site (Presented 01/12/15)

- An acceptable site in proximity to other USPS operations, was identified.
- Site offered operational efficiencies for the USPS.
- Site offered opportunity for consolidation.
- USPS stated site offered “**high potential of working**”.
- Property still undeveloped.

Retail Site



Retail PO to remain in downtown core of Winter Park.

USPS stated requirement.

6,875 sf

Parking 66

Potential sites include:

City Hall

City Hall Future Garage

Old Library

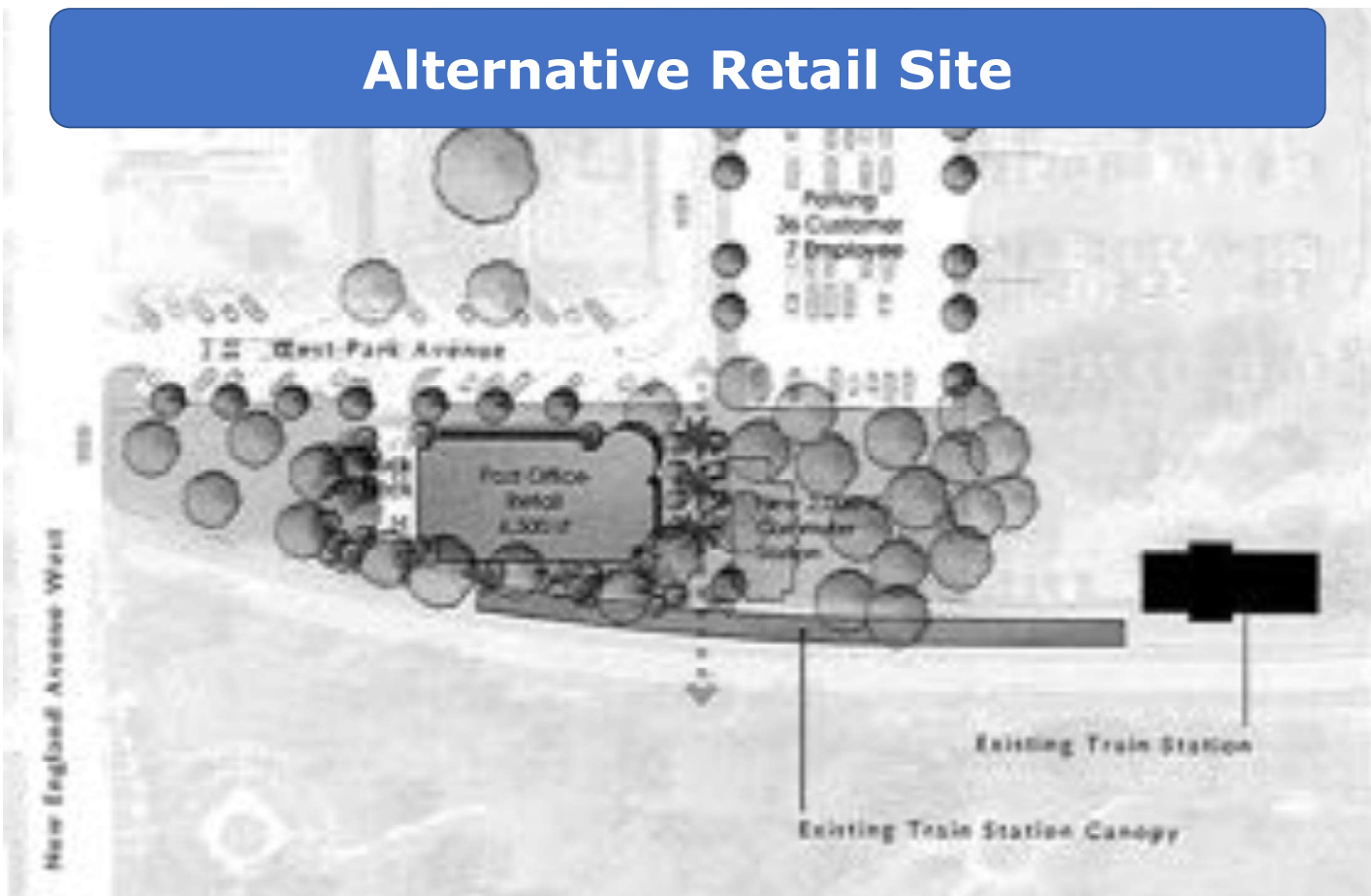
Water Plant

Adjacent to Train Station

North End of Current PO Property

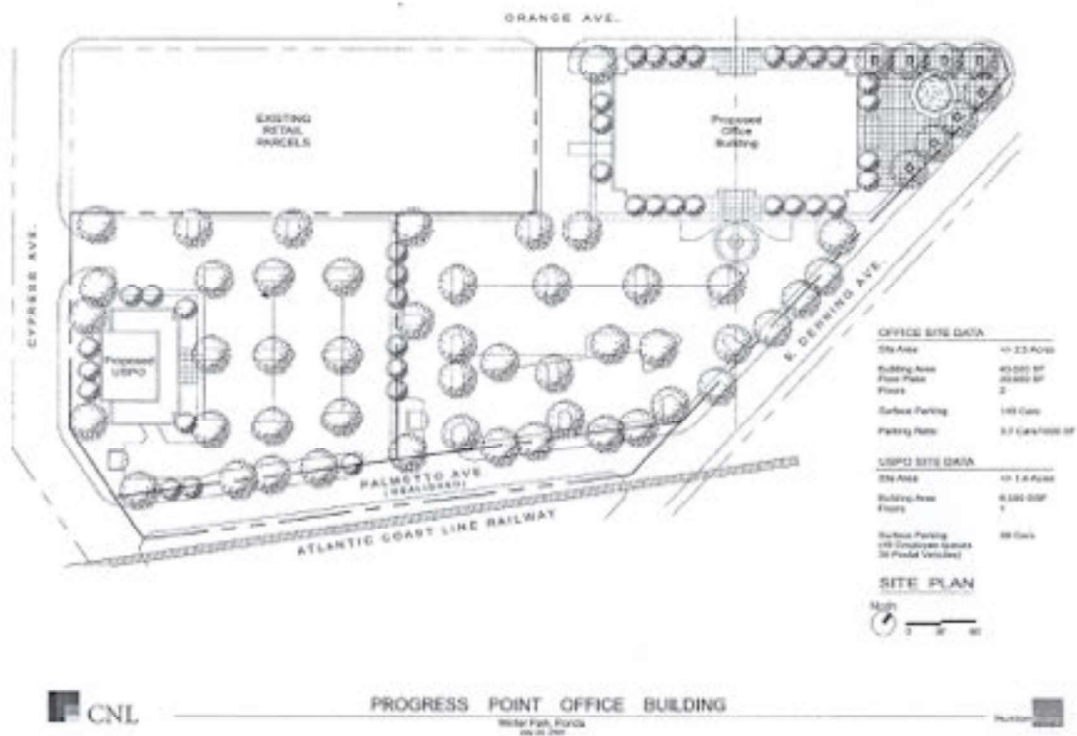
Progress Point Property

Alternative Retail Site



20

Alternative Retail Site



Alternative Retail Site



Alternative Retail Site



Possible New Parking (81 spaces)



Possible New Parking (288 spaces)



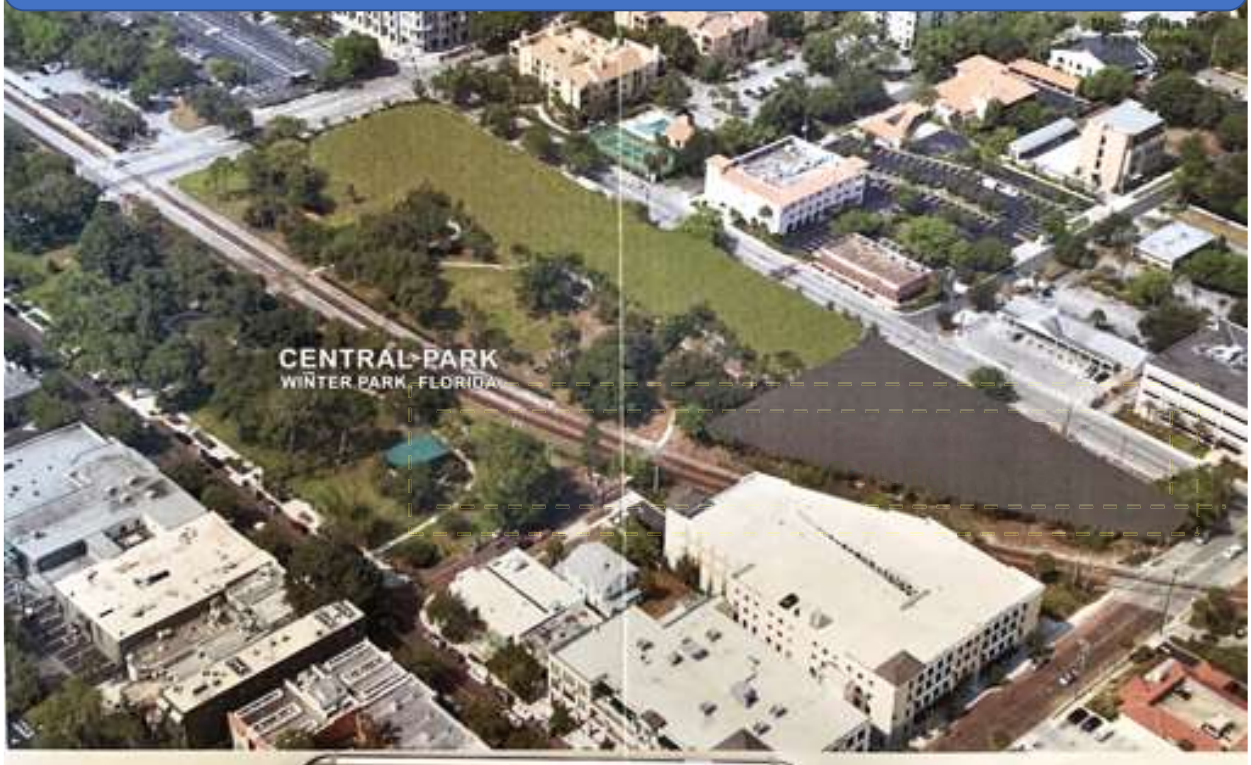
25

Maximum Central Park Expansion



26

Encourage New York Ave Redevelopment



27

Project Options

Option 1: City Led

- Purchase at appraised value if USPS is willing to sell **or** ...
- Negotiate facilities replacement
 - Acquire land for distribution center now
 - Build distribution center in approved location
 - Build Retail PO in Downtown Core
- Phase project using available CRA TIF
- No bond or tax increase

Option 2: Developer Led

- Purchase at appraised value if USPS is willing to sell **or** ...
- Developer executes facilities replacement
 - Developer acquire land and construct distribution/ retail facility to meet USPS requirements
 - Transfer Progress Point property to developer
 - Progress Point entitlements restricted by the Orange Avenue Overlay
 - PO property transfers directly to City
- Use of CRA/TIF funds minimized.

Risk of maintaining status quo with hope that ultimately the USPS will donate the property to the city or sell at a lower cost

- Funding availability when USPS is ready to sell
- Allowable uses in current zoning (hospitals, colleges, dormitories, nursing homes, etc.)
- Attractive location for high density mixed use development
- Potential development to offset SunRail operations and maintenance cost

Land Deals on Fast Track

“Transit officials expect real estate to become an increasingly important revenue source, amid stagnant federal funding and rising costs of upkeep for aging systems.”

Land Deals on the Fast Track

Transit Agencies See Developing Property Around Rail Hubs as a Revenue Driver

By CHARLEY DOLANEY

The nation's transit agencies, long tasked with helping people get around, are putting more effort into giving them a place to live, work and play.

New York's transit agency is in talks with a developer to build an apartment complex and shopping center on land that holds parking lots used by suburban train commuters. The Los Angeles transit authority has leased out land for 47 developments around its 80 stations since 1969. Atlanta's system recently announced plans to develop property around more than a dozen of its 38 rail stations in the next half-decade.

For decades, city and county transit agencies have leased out idiosyncratic or small storefronts in their rail stations to businesses such as newspaper stands and coffee shops. Now, agencies are far more ambitious, developing large-scale, rent-producing developments, including hotels, apartment buildings and shopping malls, around their rail hubs. Transit officials expect real estate to become an increasingly important revenue source, amid stagnant federal funding and rising costs of upkeep for aging systems.

"The uncertainty at the federal level has forced them to look wherever they can just to maintain service levels they're providing," said Rob Healy, a vice president at the American Public Transportation Association, an advocacy group. Federal funding is "growing at really a very modest pace, and the bottom line is we're not keeping up with demand to expand service or demand to replace vehicles."

According to APTA data, public transit ridership grew 13% in the U.S. from 2000 to 2013, with



A train pulls out of the Huntington Metro station, one of several on which the Washington transit agency has sold or leased its land.

commuter-rail ridership climbing 62% in the period. But riders' fares don't nearly cover agencies' operating costs, at a time when their worker-related expenses such as health-care and pension costs are also rising. New York's Metropolitan Transportation Authority, the nation's largest transit agency, expects to pay out about \$1.3 billion in pension costs this year, compared with \$480 million a decade earlier.

Now, facing a \$15 billion funding gap for its capital program, the MTA has made plans to lease out or sell about 10 other lots, including the agency's headquarters in Manhattan. The money can be used for projects such as subway expansions and upgrades.

"We've made a huge effort to comb through our real-estate portfolio and identify parcels that could potentially be used for revenue," said MTA spokesman Aaron Donovan.

The Los Angeles County Metropolitan Transportation Authority has brought in about \$20 million a year from leasing out its properties. Last year, Metro spent the reverse from some leases on renovations to its historic Union Station, which have included adding signage, new restaurants and improving public spaces.

Art Leahy, chief executive of Metro, said the authority is now one of the largest public real-estate developers in Los Angeles County, with thousands of residential units—many designated as affordable—on properties the agency owns and leases to developers. In addition to annual rent payments, Metro also has profit-sharing agreements with some developers.

One of its highest-profile developments is above a Metro train station near the intersection of Hollywood Boulevard and Vine Street, which provides rent

payments of about \$750,000 annually. A decade ago, the property housed a gritty parking lot. Today, the intersection holds large-scale developments including luxury condominiums and a W Hotel.

The Metropolitan Atlanta Rapid Transit Authority, called MARTA, is negotiating leases for three parcels with developers that are planning to build more than 1,600 residential units on parking lots owned by MARTA and about 50,000 square feet of retail space around MARTA stations. MARTA officials declined to say how much the agency hopes to raise from the leases, saying an estimation would be premature.

The Washington Metropolitan Area Transit Authority's real-estate team both sells and leases excess land around its 91 rail stations. At the Ballston station in Arlington, Va., the agency has leased out two plots to developers, who have put up a 233-room hotel, condominiums and office space. Another office, residential and retail development is under construction at the station.

The money from these leases goes into a special investment fund used to pay for infrastructure renewal and projects to increase access to stations. The agency's ground leases, now totaling 32, have brought in more than \$140 million to the fund since it was created in 1997.

The Washington agency hopes to someday lease land around the majority of its stations and is soliciting or negotiating leases with developers at 14 other stations. The agency has considered another 20 for future development.

"For developers, this is the best real estate," said Stan Wall, who heads the agency's real-estate office. "It's the best place to be in the region."

Relationship to Other Projects

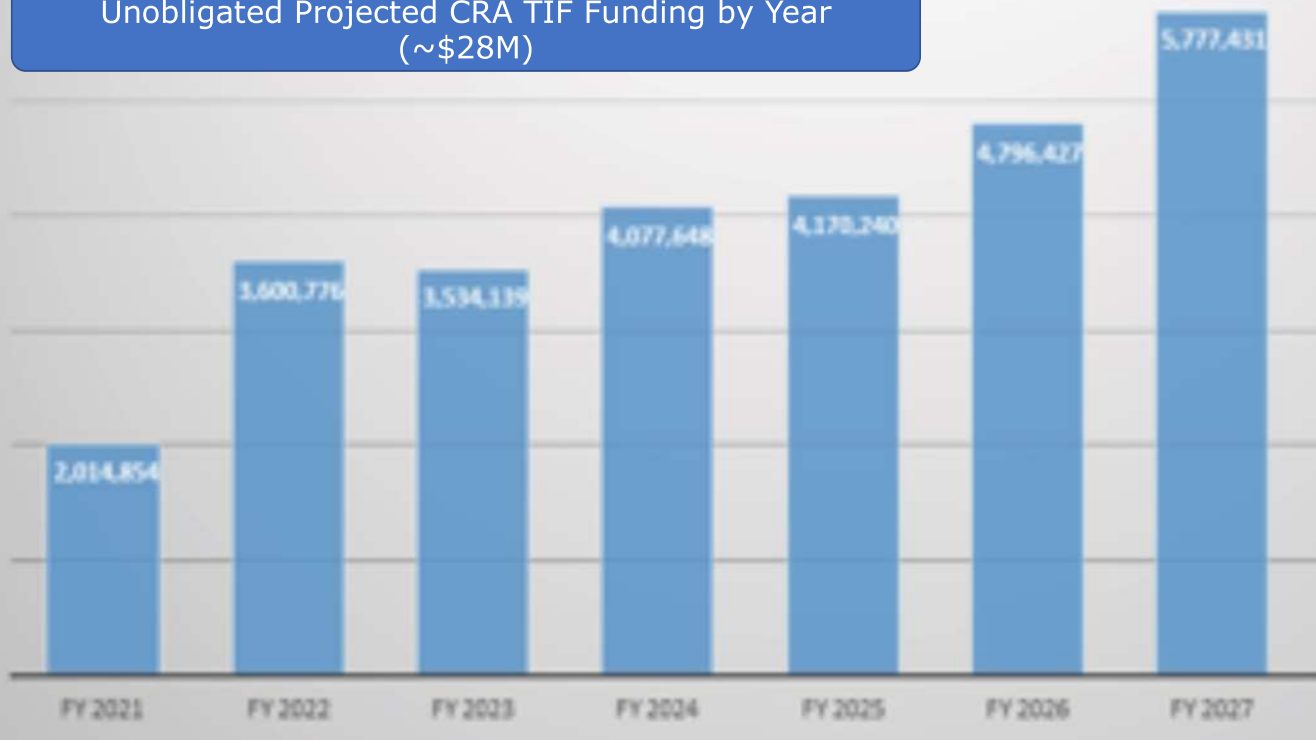
- Tax Increment Finance (TIF) funds must be used only for projects consistent with the Community Redevelopment Area (CRA) Plan and located in the CRA district.
- Expansion of Central Park is identified in the CRA Plan and the Post Office is within the CRA district.
- Projected TIF funding is adequate to fund **all** projects identified in our CRA Strategic Plan and Capital Improvements Plan.
- TIF funds cannot be used for the existing Library or Progress Point as they are outside the CRA district.
- The CRA Plan specifically excludes using funds for City Hall.

Potential Funding Sources

- CRA Tax Increment Financing (TIF)
- Parks Trust Funds
- Help Our Park Expand (H.O.P.E.) Fund Carryover
- Florida Recreation Development Assistance Program

TIF Funding Availability

Unobligated Projected CRA TIF Funding by Year
(~\$28M)



Range of Probable Cost Reflects Varied Distribution Center Options. \$4.6 – \$8.8M

	FY20	FY21	FY22	FY23	FY24	FY25	FY26	FY27
Land Acquisition	\$1.2M- \$1.9M*							
Distribution Facility Construction		\$2.2M- \$5.4M*						
Retail Facility Construction			\$1.2M - \$1.5M					

34

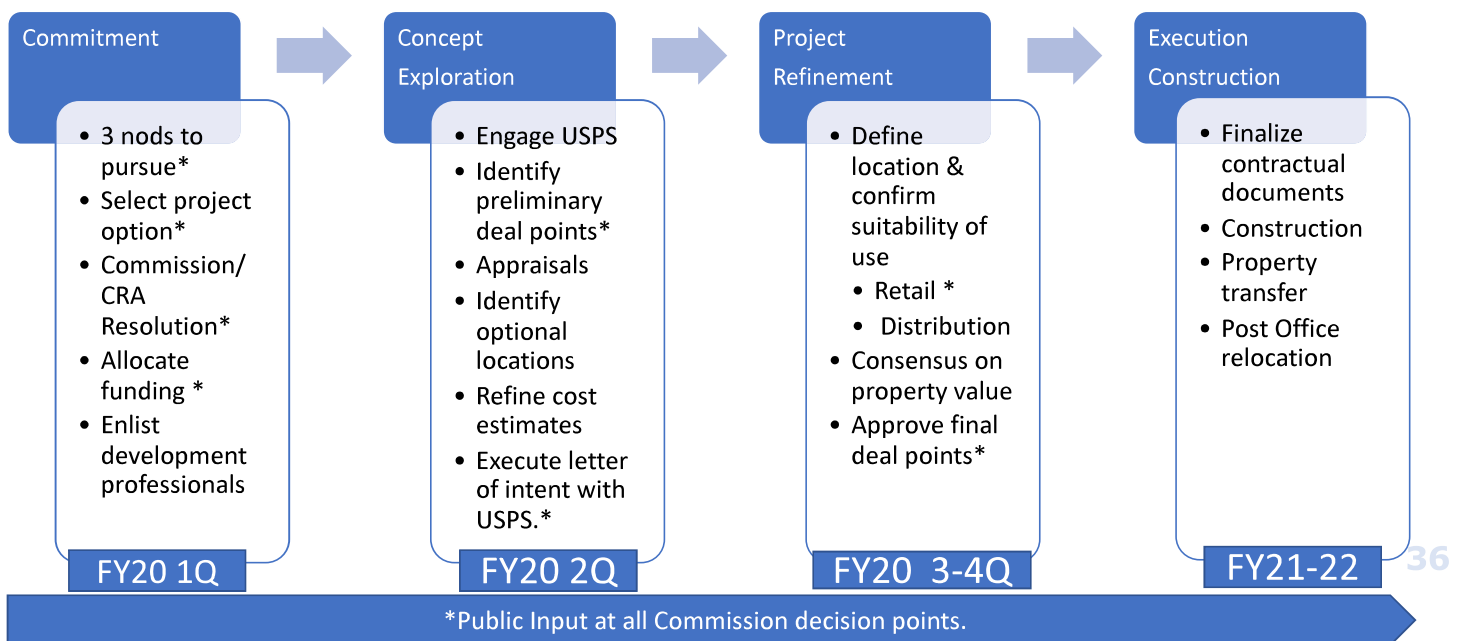
Park & Parking Design will be formulated through a follow-on public process and is not included in this project.

Challenges

- Political will to move forward in a timely manner
- USPS willingness to sell
- Ability to reach agreement on property value
- CRA funds being committed to other projects
- Commercial/institutional interest given zoning permitted uses
- Future availability/cost of suitable property for distribution function
- Market changes and impact on TIF funding projections

Path to Success

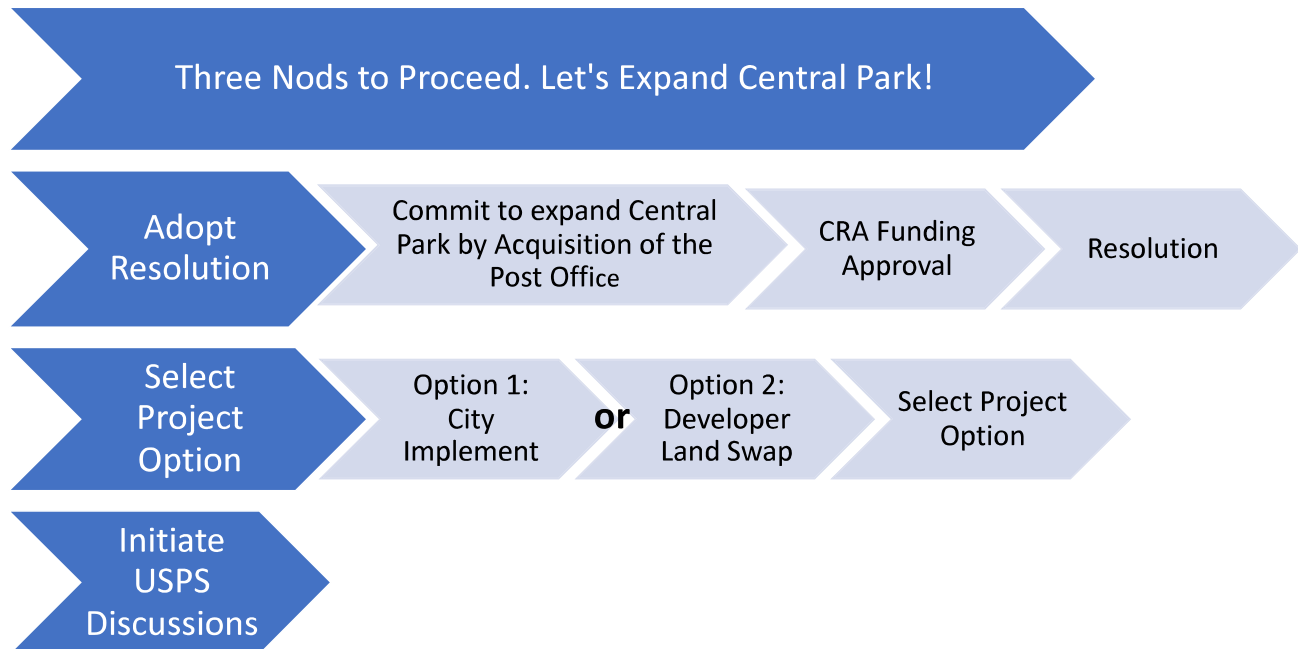
Park & Parking Design will be formulated through a follow-on public process and is not included in this project.



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Now is the Time for Action

Commission Decision Needed to Proceed



37



city commission agenda item

item type	Action Items Requiring Discussion	meeting date	4/27/2020
prepared by	Building	approved by	
board approval	N/A final vote		
strategic objective	Exceptional Quality of Life		

subject

Backyard Chicken Program

Under the direction of the Commission a draft Backyard Chicken Ordinance is proposed using the framework of existing ordinances in the City of Orlando and the City of Maitland

motion / recommendation

Motion to take to Planning and Zoning Board for consideration

background

In 2014 a proposal to consider a pilot Backyard Chicken Program similar to the program existing in the City of Orlando was supported by the Keep Winter Park Beautiful and Sustainability Board was presented to the Commission. It did not receive support at that time to move forward. During recent Commission reports this item was brought forward to replicate ordinances currently in place with the City of Maitland and the City of Orlando

alternatives / other considerations

Consider a pilot program

fiscal impact

No fiscal impact

ATTACHMENTS:

Description	Upload Date	Type
Proposed draft ordinance	4/21/2020	Backup Material
Presentation comparing local backyard chicken ordinances	4/21/2020	Backup Material
City of Orlando Ordinance	4/21/2020	Backup Material
City of Maitland Ordinance	4/21/2020	Backup Material
City of Longwood Ordinance	4/21/2020	Backup Material

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, RELATING TO BACKYARD CHICKENS; ESTABLISHING REGULATIONS FOR THE ISSUANCE OF BACKYARD CHICKEN PERMITS AND THE KEEPING OF BACKYARD CHICKENS; PROVIDING FOR CIVIL PENALTIES; PROVIDING FOR CONFLICTS, AND FOR SEVERABILITY, CODIFICATION, CORRECTION OF SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, there is increased interest in backyard and community food production to provide local food sources; and

WHEREAS, many communities in Florida and throughout the United States have been enacting regulations to compatibly integrate the keeping of backyard chickens into urban residential settings; and

WHEREAS, chickens can make good pets, and findings indicate that four are sufficient to meet the needs of the average family's egg consumption; and

WHEREAS, the City Commission of the City of Winter Park, Florida (the "Winter Park City Commission"), recognizes the desire of all residents to live in a clean environment free of excessive odor, noise, vermin and disease; and

WHEREAS, the Winter Park City Commission hereby finds and declares that this ordinance is in the best interest of the public health, safety, and welfare; and

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, AS FOLLOWS:

SECTION 1. Recitals. The above recitals are incorporated herein by reference and form an integral part of this Ordinance.

SECTION 2. Portions of Chapter 18 and Chapter 58, Code of Ordinances of the City of Winter Park, Florida, is hereby amended to read as shown below, and words with single underlined type shall constitute additions to the original text and ~~strike through~~ shall constitute deletions to the original text.

SECTION 3. Chapter 18, Animals, Article I, Subsection 18-16 "Keeping farm animals prohibited" is hereby amended and adding new Subsection 18-18 "General Conditions for the keeping of backyard chickens" as shown below:

Sec. 18-16 – Keeping farm animals prohibited.

It shall be unlawful to keep, harbor or maintain within the city limits any horse, mule, sheep, cattle, hog, pig, goat, geese, turkey, ~~chicken~~, livestock or other farm animals, including but not limited to grazing and browsing animals.

Sec. 18.18. – General Conditions for the keeping of backyard chickens.

Any person keeping chickens as an accessory to an occupied dwelling shall be subject to the following restrictions:

- 1) Permit Required. A Backyard Chicken permit (hereinafter "permit"), is required for the keeping of chickens. The permit is personal to the permittee and may not be assigned. If the person applying for the permit is not the fee simple owner of the subject property, the fee simple owner must provide owner authorization and consent to the application. The fee for the permit will be set by Resolution of the Winter Park City Commission.
- 2) Up to four chickens may be kept at an occupied single family residence upon receiving a permit from the City.
- 3) Ducks, geese, turkeys, peafowl, male chickens/roosters, pigeons, or any other poultry or fowl are not allowed.
- 4) Chickens are not allowed on duplex, triplex, townhomes, multifamily properties, community gardens, or any other uses.
- 5) Chickens must be secured within a covered chicken coop, chicken tractor, or fenced pen/run area at all times and are not allowed to run at large upon any public properties or off the premises of the owner. The coop and pen/run area must be completely secured from predators with hardware cloth or similar material. Chicken wire shall not be used.
- 6) The coop and pen/run area must be cleaned regularly and kept free of insects and rodents. Odors from chickens, chicken manure, or other items associated with the keeping of chickens must not be perceptible at the property boundaries. Chickens must not be permitted to create a nuisance consisting of noise or pests, or contribute to any other nuisance condition.
- 7) No manure may be allowed to accumulate on the floor of the coop or ground. All feed and other items associated with the keeping of chickens that are likely to attract or to become infested with rodents or other pests shall be kept in a rodent and pest-proof container.
- 8) Composting of chicken manure is allowed in an enclosed bin. The composting bin shall be kept at least 20 feet away from all property lines.
- 9) Chickens must be kept for personal use only. Selling chickens, eggs, feathers, or chicken manure, or the breeding of chickens is prohibited.
- 10) Chickens may not be slaughtered on premises.
- 11) Any person who violates any provision of the article will, upon conviction, be punished as provided in Section 1.7 of this Code. Additionally, the building official has the sole discretion to revoke the permit and require that the chickens be removed within 10 days if he or she determines that the permittee is in violation of the requirements of the Code.

SECTION 4. Chapter 58, Land Development Code, Article III, Zoning, Subsection 58-71(i) is hereby amended as follows by adding Subsection (11):

(11) Backyard Chicken Coop Accessory Structures.

- 1) Chicken coops must be located in the rear yard (behind the home) and be set back a minimum of ten (10) feet from the rear and a minimum of five (5) feet from the side lot lines. No coop will be allowed in any front or side yard.
- 2) The coop, pen, or chicken tractor must be a minimum of 20 (25)feet from any neighboring residential homes, at least 5 feet from the principal structure on the subject property, and at least 5 feet from any property line. The coop, pen, or chicken tractor may be placed 0 feet from the property line if placed adjacent to a masonry wall on property in a non-residential zoning district. A 0 foot setback is allowed between a coop and another accessory structure on the subject property.
- 3) Chicken coops must be less than 50 (100) square feet and may have an attached run. The coop must also be tied down for wind resistance.
- 4) An applicant for a permit must demonstrate compliance with the criteria in the Code in order to obtain a permit. The application for a permit must be submitted to the building official. Applicants must submit photos of the proposed site of the coop/run areas, a survey/site plan of the subject property showing the location, and proof of successful completion of a University of Florida Agricultural Extension Service class or an equivalent class approved by the building official.
- 5) A building official determination is required for a permit. The building official is authorized to implement reasonable rules and regulations regarding backyard chickens. The building official must not approve locations with outstanding code violations.
- 6) No more than 100(50) permits will be issued citywide. Permits will be issued on a first-come, first-served basis. If a participant chooses to leave the program, he/she must provide notice to the City. The City is then authorized to re-issue the permit to another qualified applicant. If a participant is removed from the program due to violations of the terms of this ordinance, his/her permit may also be re-issued to another qualified applicant.

SECTION 5. Chapter 1, General Provisions, Article II, Subsection 1-24 “Schedule of violations and penalties” is hereby amended as follows:

Sec. 1.24. – Schedule of violations and penalties.

(a) Civil infractions of city codes and ordinances for which citations may be issued include, but are not limited to:

Class	Violation	Ord. No.
II	<u>Compliance with backyard chicken restrictions</u>	XX-XX

SECTION 6. CONFLICTS. The provisions of this Ordinance shall prevail in the event of conflict with the provisions of any existing ordinance.

SECTION 7. CODIFICATION. The city clerk and the city attorney shall cause the Code of the City of Winter Park, Florida, to be amended as provided by this ordinance 132 and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

SECTION 8. SCRIVENER’S ERROR. The city attorney may correct scrivener’s errors found in this ordinance by filing a corrected copy of this ordinance with the city clerk.

SECTION 9. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are 143 severable.

SECTION 10. EFFECTIVE DATE. This ordinance is effective upon adoption.

DONE, THE FIRST READING, by the City Commission of the City of Winter Park, Florida, at a regular meeting, the _____ day of _____, 2020.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Winter Park, Florida, by the City Clerk of the City of Winter Park, Florida, the _____ day of _____, 2020.

DONE, THE SECOND READING, THE PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City Commission of the City of Winter Park, Florida, at a regular meeting, the _____ day of _____, 2020.

Steve Leary, Mayor

ATTEST:

City Clerk



Backyard Chickens update

Backyard Chickens



- Update from neighboring cities
 - Orlando-75 permits issued (pilot 2012, ordinance 2016)
 - Maitland-10 permits issued (2013, ordinance 2014)
- Similarities in ordinances
 - Rear yard; \$50 permit fee; chicken-care class requirement; site plan approval; first-come, first served; max # of chicken: 4; single-family residences only; PROHIBITED: selling eggs/chickens, slaughtering on premises; roosters + other poultry/fowl
- Difference between ordinances
 - Max. # of permits (Orlando-100, Maitland-50)
 - Maitland ord. includes language on follow up inspection, coop height, chicken feed storage and square footage per bird, disposal of deceased chickens
 - Distance from neighboring res. structure (Orlando 20', Maitland 25'), distance from property line (Orlando 5', Maitland 7.5'), max size of coop (Orlando 50 sqft, 100sqft)



AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA, RELATING TO BACKYARD CHICKENS; ESTABLISHING REGULATIONS FOR THE ISSUANCE OF BACKYARD CHICKEN PERMITS AND THE KEEPING OF BACKYARD CHICKENS; PROVIDING FOR CIVIL PENALTIES; PROVIDING FOR CONFLICTS, AND FOR SEVERABILITY, CODIFICATION, CORRECTION OF SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, there is increased interest in backyard and community food production to provide local food sources; and

WHEREAS, many communities in Florida and throughout the United States have been enacting regulations to compatibly integrate the keeping of backyard chickens into urban residential settings; and

WHEREAS, chickens can make good pets, and findings indicate that four are sufficient to meet the needs of the average family's egg consumption; and

WHEREAS, the City Council of the City of Orlando, Florida (the "Orlando City Council"), recognizes the desire of all residents to live in a clean environment free of excessive odor, noise, vermin and disease; and

WHEREAS, the City enacted a two-year pilot program to allow staff to assess the backyard chicken program and desires to make the program permanent; and

WHEREAS, the Orlando City Council hereby finds and declares that this ordinance is in the best interest of the public health, safety, and welfare; and

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA, AS FOLLOWS:

SECTION 1. Recitals. The above recitals are incorporated herein by reference and form an integral part of this Ordinance.

SECTION 2. CHAPTER 6, AMENDED. Chapter 6, Code of the City of Orlando, Florida, is hereby amended to read as follows:

ARTICLE III.-Backyard Chickens

Sec. 6.19. – General Conditions for the keeping of backyard chickens.

Any person keeping chickens as an accessory to an occupied dwelling shall be subject to the following restrictions:

- (1) Permit Required. A Backyard Chicken permit (hereinafter "permit"), is required for the keeping of chickens. The permit is personal to the permittee and may not be assigned. If the person applying for the permit is not the fee simple owner of the subject property, the fee simple owner must provide

owner authorization and consent to the application. The fee for the permit will be set by Resolution of the Orlando City Council.

(2) Up to four chickens may be kept at an occupied single family residence upon receiving a permit from the City.

(3) Ducks, geese, turkeys, peafowl, male chickens/roosters, pigeons, or any other poultry or fowl are not allowed.

(4) Chickens are not allowed on duplex, triplex, townhomes, multifamily properties, community gardens, or any other uses.

(5) Chickens must be secured within a covered chicken coop, chicken tractor, or fenced pen/run area at all times and are not allowed to run at large upon any public properties or off the premises of the owner. The coop and pen/run area must be completely secured from predators with hardware cloth or similar material. Chicken wire shall not be used.

(6) The coop and pen/run area must be cleaned regularly and kept free of insects and rodents. Odors from chickens, chicken manure, or other items associated with the keeping of chickens must not be perceptible at the property boundaries. Chickens must not be permitted to create a nuisance consisting of noise or pests, or contribute to any other nuisance condition.

(7) No manure may be allowed to accumulate on the floor of the coop or ground. All feed and other items associated with the keeping of chickens that are likely to attract or to become infested with rodents or other pests shall be kept in a rodent and pest-proof container.

(8) Composting of chicken manure is allowed in an enclosed bin. The composting bin shall be kept at least 20 feet away from all property lines.

(9) Chickens must be kept for personal use only. Selling chickens, eggs, feathers, or chicken manure, or the breeding of chickens is prohibited.

(10) Chickens may not be slaughtered on premises.

(11) Any person who violates any provision of the article will, upon conviction, be punished as provided in Section 1.08 of this Code. Additionally, the planning official has the sole discretion to revoke the permit and require that the chickens be removed within 10 days if he or she determines that the permittee is in violation of the requirements of the Code.

SECTION 3. SEC. 58.901, AMENDED. Section 58.901, Code of the City of Orlando, Florida, is hereby amended as follows:

(j) Backyard Chicken Coop Accessory Structures.

1. Chicken coops must be located in the rear yard (behind the home). No coop will be allowed in any front or side yard.

2. The coop, pen, or chicken tractor must be a minimum of 20 feet from any neighboring residential homes, at least 5 feet from the principal structure on the subject property, and at least 5 feet from any property line. The coop, pen, or chicken tractor may be placed 0 feet from the property line if placed adjacent to a masonry wall on property in a non-residential zoning district. A 0 foot setback is allowed between a coop and another accessory structure on the subject property.
3. Chicken coops must be less than 50 square feet and may have an attached run. The coop must also be tied down for wind resistance.
4. An applicant for a permit must demonstrate compliance with the criteria in the Code in order to obtain a permit. The application for a permit must be submitted to the planning official. Applicants must submit photos of the proposed site of the coop/run areas, a survey/site plan of the subject property showing the location, and proof of successful completion of a University of Florida Agricultural Extension Service class or an equivalent class approved by the planning official.
5. A planning official determination is required for a permit. The planning official is authorized to implement reasonable rules and regulations regarding backyard chickens. The planning official must not approve locations with outstanding code violations.
6. No more than 100 permits will be issued citywide. Permits will be issued on a first-come, first-served basis. If a participant chooses to leave the program, he/she must provide notice to the City. The City is then authorized to re-issue the permit to another qualified applicant. If a participant is removed from the program due to violations of the terms of this ordinance, his/her permit may also be re-issued to another qualified applicant.

SECTION 4. SEC. 5.19, AMENDED. Section 5.19, Code of the City of Orlando, Florida, is hereby amended as follows:

Sec. 5.19. - Classes of Violations and Reduced Civil Penalties.

(1) Violations of city codes and ordinances, and the applicable reduced civil penalties, shall be as follows:

	Reduced Civil Penalty		
Violation Classifications	First Offense	Second Offense	Third and Subsequent Offense
Class I	\$ 50.00	\$100.00	Court Hearing Mandatory
Class II	100.00	200.00	"
Class III	150.00	300.00	"
Class IV	200.00	400.00	"

Class V	500.00	500.00	"
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(2) Violations of City codes and ordinances which constitute civil infractions for which citations may be issued are as follows:

Code/Ordinance Chapter or Section	Description	Class
CH. 6, CONTROL AND REGULATION OF ANIMALS		
Sec. 6.01	Removal of excreta by any animal on public property	II
<u>Sec. 6.19</u>	<u>Compliance with backyard chicken restrictions</u>	<u>II</u>
****	****	****

SECTION 5. CONFLICTS. The provisions of this Ordinance shall prevail in the event of conflict with the provisions of any existing ordinance.

SECTION 6. CODIFICATION. The city clerk and the city attorney shall cause the Code of the City of Orlando, Florida, to be amended as provided by this ordinance and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

SECTION 7. SCRIVENER'S ERROR. The city attorney may correct scrivener's errors found in this ordinance by filing a corrected copy of this ordinance with the city clerk.

SECTION 8. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 9. EFFECTIVE DATE. This ordinance is effective upon adoption.

DONE, THE FIRST READING, by the City Council of the City of Orlando, Florida, at a regular meeting, the _____ day of _____, 2016.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Orlando, Florida, by the City Clerk of the City of Orlando, Florida, the _____ day of _____, 2016.

DONE, THE SECOND READING, THE PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City

ORDINANCE NO. 2016-79

Council of the City of Orlando, Florida, at a regular meeting, the _____ day of _____, 2016.

BY THE MAYOR OF THE CITY OF
ORLANDO, FLORIDA:

Mayor

ATTEST, BY THE CLERK OF THE
CITY COUNCIL OF THE CITY OF
ORLANDO, FLORIDA:

City Clerk

Print Name

THIS ORDINANCE DRAFTED BY AND
APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
CITY OF ORLANDO, FLORIDA:

City Attorney

Print Name

ORDINANCE NO. 1250

AN ORDINANCE OF THE CITY OF MAITLAND, FLORIDA, AMENDING THE MAITLAND CITY CODE, CHAPTER 4. ANIMALS AND FOWL TO ALLOW CHICKENS TO BE KEPT ON LOTS OR PARCELS WITH SINGLE FAMILY RESIDENTIAL ZONING DESIGNATIONS AS A PILOT PROGRAM; AND AMENDING CHAPTER 21 ZONING, SECTIONS 21-8, 21-10 AND 21-10A TO ALLOW CHICKEN-KEEPING AS AN ACCESSORY USE IN CERTAIN RESIDENTIAL DISTRICTS; PROVIDING FOR REPEAL OR EXTENSION OF THESE REGULATIONS UPON REVIEW BY THE CITY COUNCIL; PROVIDING FOR A PERMITTING PROCESS; PROVIDING SPECIFIC CRITERIA FOR KEEPING CHICKENS IN THE CITY LIMITS; PROVIDING FOR PENALTIES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The Maitland City Council recognizes the general trend in society to pursue a green lifestyle and to incorporate fresher products into diets, a lifestyle which can be supported by allowing residents to keep and raise chickens on their single-family property for the purposes of producing their own eggs for consumption; and

WHEREAS, The Maitland City Council also recognizes the desire of all residents to live in a clean and pleasant environment free of excessive odor, noise, vermin, and disease; and

WHEREAS, The Maitland Planning and Zoning Commission, which also sits as the Local Planning Agency and the Land Development Regulation Commission duly scheduled, advertised and held a public hearing to consider an ordinance to allow the keeping and raising of chickens on residential properties under certain conditions; and

WHEREAS, The Planning and Zoning Commission has heard all persons who desired to speak for and against said zoning amendment and did, at their regularly scheduled meeting on October 17, 2013, recommend that the City Council approve said request for a modification to the City Code; and

WHEREAS, The Planning and Zoning Commission found the City Code

amendment request to be in substantial compliance with the *2030 City of Maitland Comprehensive Development Plan*; and

WHEREAS, The City Council of the City of Maitland, Florida has duly considered the recommendation of the Planning and Zoning Commission and reviewed all comments, both written and verbal, pro and con, regarding this requested City Code amendment; and

WHEREAS, The City Council of the City of Maitland, Florida, considers that said City Code amendment will be in the best interest of the residents of the City of Maitland, Florida, and that said land development code amendment is in compliance with the *2030 City of Maitland Comprehensive Development Plan*; and

WHEREAS, to ensure the long-term viability of residential neighborhoods and conformity and compatibility with surrounding uses, the amendment provides that the accommodation of chickens in residential areas shall not cause undue noise, odor, and unsanitary conditions within the community; and

WHEREAS, the City Council finds it is necessary and in the best interest of the public health, safety and welfare to provide for a pilot project which shall expire after 18 months. At that time, the City shall evaluate the success, failures, and feedback from staff, the public, and professionals relative to the raising of chickens until satisfactory evidence has been compiled; and

WHEREAS, after evaluating all relevant data and feedback on the success or failures of the pilot program, City Council shall determine if the keeping of chickens as an accessory use shall continue for a further determined amount of time, enacted permanently into the Land Development Code, or if it shall be discontinued; and

WHEREAS, Section 553, Florida Statutes, entitled "Building Construction Standards," provides authorization for local governments to establish a schedule of reasonable fees to carry out the local government's responsibility in enforcing the Florida Building Code.

NOW THEREFORE, BE IT ENACTED by the City Council of the City of Maitland, that:

SECTION 1.

The allowance of chickens in single-family residential zoning designations is hereby established as a pilot program of the City of Maitland which shall expire 18 months from the date of the adoption of this ordinance. At that time, City Council shall analyze the impacts of the pilot program, both negative and positive, and determine if the pilot project shall be continued for an additional limited amount of time, or be incorporated permanently into the City Code, or be discontinued.

SECTION 2.

Part II, Chapter 4 (Animals and Fowl) of the City Code is hereby amended as follows:

Sec. 4-5. Keeping live poultry.

It shall be unlawful for any person, either as owner or keeper, to permit or otherwise allow any chickens, ducks, geese, turkeys, guineas, pigeons or doves to remain in the city, except as might be specifically authorized ~~and regulated in certain zoning districts in other sections of this code.~~

Sec. 4-5.1 Chicken-keeping Pilot Program.

City of Maitland residents shall not be permitted to keep or raise chickens without first obtaining a permit for such activity pursuant to the criteria established in Sec 4-5.2 of the Maitland City Code. No more than a total of 50 permits for the

keeping of chickens shall be issued, throughout the City, during the 18 months of the pilot program. Only one permit per single-family residence shall be issued. Permits shall be awarded by the City on a first-come, first-served basis. If a participant chooses to leave the pilot program, they must provide notice to the City. The City is then authorized to re-issue the permit to another qualified applicant.

During the pilot program, City of Maitland staff shall be permitted to perform follow-up inspections on the premises where permits have been issued for the keeping of chickens. Inspections shall be to ensure that all of the program criteria are being met. The City shall provide 48-hour notice to permit holders prior to performing inspections. Staff will keep a record of the progress and conditions for evaluation at the end of the 18-month program.

Sec. 4-5.2 Chicken-keeping as an Accessory Use.

Chicken-keeping shall be permitted as an Accessory Use within Single-Family Residential Zoning designations, including RS-1, RS-1A, RS-2, RS-3, RS-4, and RS-5, where the lot or parcel is occupied by a single-family detached residence. Chickens shall not be kept at residential property with a townhome, duplex, condominium, apartment, or other multi-family residential unit.

Permission for chicken-keeping within the Maitland City limits shall be subject to the following standards and conditions:

- a) In order to obtain a permit for chicken-keeping, an applicant shall submit an application for a building permit site plan to the Community Development Department, including a scaled drawing showing the location of the proposed chicken coop and fenced pen area. The chicken coop and fenced pen area shall meet the following requirements:

- i. The maximum size of the coop and pen area shall be 100 square feet. A building permit from the Building Division will be required. The application submittal shall show construction materials and methods as well as anchoring methods, such as tie-downs. Mobile coops shall be prohibited unless properly anchored to the satisfaction of the Building Department.
- ii. The maximum height of a coop and the pen fence around the coop shall be seven (7) feet, as measured from the existing grade to the highest part of the coop or fence.
- iii. The coop and pen area shall be located in the rear yard of the single-family detached residence and be set back a minimum of seven and one-half (7 1/2) feet from the side and rear lot lines and a minimum of 20 feet from any side street, so long as the coop and pen area shall be at least 25 feet from any residential structure on an adjoining lot. A coop and pen may abut a solid wall or the side of an applicant's house.
- iv. Chicken coops shall be covered and ventilated, and a fenced pen enclosure/run is required. The coop and pen must be constructed in a way that establishes a clean, safe and pleasant environment free of odor, vermin, noise, and disease.
 - a. All enclosures for the keeping of chickens shall be so constructed and maintained as to prevent rodents or other pests from being harbored underneath, within, or within the walls of the enclosure. Chicken coops must be impermeable to rodents, wild birds, predators and weather, including all openings, ventilation holes, doors and gates. Enclosures shall be kept in neat condition, including provision of clean, dry bedding materials and regular removal of waste materials, so as to not create an odor.

- v. The space per bird in the coop shall not be less than three (3) square feet.
 - vi. All chicken feed shall be kept in a secured and covered metal or plastic container, or otherwise protected so as to prevent rodents and other pests from gaining access to it.
 - vii. Chicken coops and pens shall be completely screened from adjacent roadways and parcels by a six (6') foot tall opaque fence, wall, or equivalent landscape vegetative material.
 - viii. A signed affidavit is required to be submitted with all chicken-keeping permit petitions. The affidavit shall state that the chicken coop and pen will be designed, constructed and operated to the standards outlined in the City of Maitland's code of ordinances. The affidavit shall also state that the drawings submitted as part of the petition are a reasonably accurate representation of the subject site features and adjacent properties.
- b) The application for a chicken-keeping permit shall include proof to the Community Development Department that the applicant has attended and successfully completed a class at the Orange County Agricultural Extension Service on the care and raising of chickens.
 - c) A maximum of four (4) chickens may be kept on a lot or parcel with a detached single-family residence.
 - d) Chickens shall be housed at all times within a covered coop or fenced pen area, except that they may be removed from the coop or fenced pen area by a resident or visitor of the home, provided the resident keeps them under his or her continuous custody and control while they are outside the coop or fenced pen area. Chickens must be secured within the chicken coop during

non-daylight hours.

- e) Chickens shall not be permitted to trespass on neighboring properties, run at large, be released or set free at any time.
- f) Chickens are allowed to be kept in single-family residential areas for non-commercial purposes in order to produce eggs for consumption. Eggs or manure produced by the chickens shall not be sold or utilized for commercial purposes.
- g) Chickens shall not be bred or slaughtered on the premises.
- h) All deceased chickens shall be properly disposed of, off-site, within 24 hours of expiring.
- i) Roosters and poultry or fowl other than chickens shall be prohibited City-wide.
- j) Nothing herein shall be construed or interpreted to mean that chickens are permitted where private covenants or restrictions prohibit such use, or where rules promulgated under such covenants and restrictions prohibit such use.
- k) The City Council hereby establishes a fee of \$50.00 to process petitions for residential chicken-keeping.

Sec. 4-5.3 Penalties.

Failure to comply with the provisions of this ordinance may result in fines or revocation of a chicken-keeping permit. Imposition of a fine or revocation of a permit shall take place upon a finding by the Special Magistrate for code enforcement that a permit holder has violated the conditions of the permit as stated in Section 4-5.2.

SECTION 3.

In order to establish the general objective of this ordinance, add language to certain individual zoning districts as follows:

(A) Sec. 21-8. - RS-1, RS-1A, RS-2, RS-3, single-family residential districts.

...

III. *Permitted accessory uses and structures.*

...

f) Chicken-keeping

(B) Sec. 21-10. - RS-4, single-family residential district.

...

III. *Permitted accessory uses and structures.*

...

f) Chicken-keeping

(C) Sec. 21-10a. - RS-5, single-family residential district.

...

III. *Permitted accessory uses and structures.*

...

e) Chicken-keeping

SECTION 4. Severability Clause. In the event that any term, provision, clause, sentence or section of this Ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, illegality or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences or sections of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, illegal

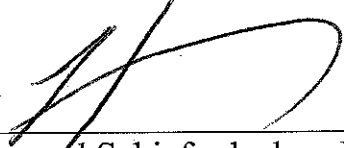
or unenforceable term, provision, clause, sentence or section did not exist.

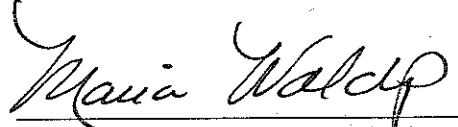
SECTION 5. Ordinances and Resolutions in Conflict. All ordinances or resolutions or parts thereof, which may be determined to be in conflict herewith, are hereby repealed.

SECTION 6. Effective Date. The effective date of this Ordinance shall be the date the City Council of the City of Maitland approves the final hearing of the proposed Ordinance.

ADOPTED by the City Council of the City of Maitland, Florida, on the 11th day of November, 2013.

CITY OF MAITLAND, FLORIDA

By: 
Howard Schieferdecker, Mayor

Attest: 
Maria Waldrop, City Clerk

Sec. 14-6. - Backyard chickens.

- (a) *Applicability.* The standards of section 14-6, backyard chickens, applies to all single family properties. Regardless of the underlying future land use district, chickens shall not be kept on properties developed with commercial uses, mobile home/manufactured home parks, duplexes, triplexes, and apartments or other multifamily properties.

This section does not authorize persons to violate applicable restrictive covenants and homeowners' association rules and regulations. The city does not police or enforce private restrictive covenants and homeowners' association rules and regulations. Persons applying for and receiving permits under this section are solely responsible for compliance with all applicable restrictive covenants and homeowners' association rules and regulations and shall be required to comply with section 18-62, appearance requirements for single-family residential structures in deed restricted subdivisions where applicable.

- (b) *Permit requirements* The issuance of a permit for the keeping of chickens is conditioned upon and subject to the terms and conditions of this section. Persons desiring to participate in the backyard chicken program must show that they can meet the requirements of this section and shall apply for and obtain a permit from the community development director or his/her designee prior to keeping chickens.

- (1) Fee. A fee shall be charged to persons applying for a permit under this section to cover processing costs.
- (2) No more than 50 permits will be issued. Permits shall be awarded by the city on a first-come, first-served basis. If a person holding a permit chooses to leave the program, they must provide notice to the city of the same. The city is then authorized to re-issue the permit to another qualified applicant.
- (3) The following items are required for submittal:
 - a. Consent letter. If the person applying for a permit is not the fee simple owner of the subject property, the fee simple owner must join in and consent to the application.
 - b. Approval from a homeowners' association where applicable.
 - c. A site plan of the back yard showing the property lines, existing structures and the location of the proposed structures. Include the distance from the side and rear property line and primary structure on adjacent lots in accordance with section (d). This plan shall also show the location of the required fence.
 - d. A description of the proposed or existing fence.
 - e. A plan showing coop construction in accordance with section (d) and (e).
 - f. Proof of successful completion of a University of Florida Agricultural Extension Service class on the care and raising of chickens.
 - g. A signed affidavit is required to be submitted with all chicken-keeping permit petitions. The affidavit shall state that the chicken coop and run will be designed, constructed and operated to the standards outlined in this section. The affidavit shall also state that the drawings submitted as part of the petition are a reasonably accurate representation of the subject site features and adjacent properties.
- (4) All applicable building permits shall be obtained prior to constructing enclosures to house chickens.
- (5) The community development director may deny a permit application if he/she determines that the person(s) applying for a permit cannot meet the requirements of this program.
- (6) The city may conduct site inspections of the subject property to make compliance determinations under this section prior and after issuance of a permit.

- (c) *General conditions for the keeping of chickens.*

- (1) Up to four chickens may be kept on an occupied detached single-family property upon receiving a permit from the community development director or designee.
 - (2) Every person who owns, controls, keeps, maintains or harbors chickens must keep them confined on the premises at all times within a chicken coop or chicken run unless a person is supervising the chickens within the confines of a fenced rear yard on the same premises as the coop. After a person has completed the personal interaction and supervision of chickens within the confines of the fenced rear yard, the chickens shall be returned to the coop or run enclosure.
 - (3) Ducks, geese, turkeys, peafowl, roosters, or any other poultry or fowl are not allowed under the provisions of this section.
 - (4) Chickens shall be kept for personal use only. Selling chickens, eggs, or chicken manure, or the breeding of chickens for commercial purposes is prohibited.
 - (5) Chickens shall not be slaughtered on premises.
- (d) *Location and requirements for chicken coops and enclosures.*
- (1) The maximum size of the total coop and run area shall be 100 square feet. A building permit from the building division will be required. The application submittal shall show construction materials and methods as well as anchoring methods, such as tie-downs. Mobile coops shall be prohibited unless properly anchored to the satisfaction of the building official or his/her designee.
 - (2) The maximum height of a coop and the run fence around the coop shall be six feet, as measured from the existing grade to the highest part of the coop or fence.
 - (3) The coop and run area shall be located in the rear yard of the single-family detached residence and be set back a minimum of seven and one-half feet from the side and rear lot lines and a minimum of 20 feet from any side street. The coop and run area may be located in the side yard, however, at all times the coop and run shall be at least 25 feet from any primary structure on an adjoining lot.
 - (4) A coop and run must be built within a rear (or side, when consistent with subsection (3)) yard that is surrounded by an opaque wall or fence that is at least six feet in height. A chain-link fence, chain-link fence with slats, or similar fence shall not constitute an opaque wall or fence. Nothing in this section shall prevent construction of a coop and pen to abut the side of an applicant's house, so long as it otherwise meets the requirements of the Code of Ordinances.
 - (5) Chicken coops shall be covered and ventilated, and a fenced run is required. The coop and run must be constructed in a way that establishes a clean, safe and pleasant environment free of odor, vermin, noise, and disease.
 - (6) All enclosures for the keeping of chickens shall be so constructed and maintained as to prevent rodents or other pests from being harbored underneath, within, or within the walls of the enclosure.
 - (7) Chicken coops must be impermeable to rodents, wild birds, predators and weather, including all openings, ventilation holes, doors and gates. Enclosures shall be kept in neat condition, including provision of clean, dry bedding materials and regular removal of waste materials, so as to not create an odor.
 - (8) The space per chicken in the coop shall not be less than three square feet and be of sufficient size to permit free movement of the chickens. The attached fenced-in chicken pen shall provide a minimum of ten square feet per chicken and be of sufficient size to permit free movement of the chickens. Runs may be enclosed with wood and/or woven wire materials, and must allow chickens to make contact with the ground.
 - (9) All chicken feed shall be kept in a secured and covered metal or plastic container, or otherwise protected so as to prevent rodents and other pests from gaining access to it.

(e) *Health, sanitation and nuisance as applied to the keeping of chickens.*

- (1) Chickens shall be kept within a coop and run. No person shall release or set any chicken free from such coop or enclosure except as set forth in section (c)(2), above. Chickens shall not be permitted to trespass on neighboring properties.
- (2) Chicken coops and runs shall be maintained in a clean and sanitary condition at all times. Chickens shall not be permitted to create a nuisance consisting of odor, noise or pests, or contribute to any other nuisance condition.
- (3) In a public health emergency declared by the county health department, including, but not limited to, an outbreak of avian flu or West Nile virus, immediate corrective action may be required, in accordance with applicable public health regulations and procedures and in conjunction with animal services.

(f) *Violations.* No person convicted as a repeat violator of subsections (a) through (e) of this section may be permitted to, or continue to, keep chickens on their premises. In the event that a violation of this section occurs, the city shall have the right to one or more of the following remedies or actions:

- (1) Institute code enforcement proceedings and prosecute code violations against the violator and the property owner of the real property where the violation occurs;
- (2) Prosecute the violator for a criminal misdemeanor punishable by a fine not exceeding \$500.00 or imprisonment for a term not exceeding 60 days, or by both such fine and imprisonment in the discretion of the court;
- (3) Take any other action or remedy authorized by law or in equity, including, but not limited to, instituting an action in court to enjoin violating actions, in which case the violating person shall be liable to the City for reimbursement of the city's attorneys' fees and costs concerning such action; and
- (4) Revoke the permit for the keeping of chickens.

(Ord. No. 18-2140 , § 2, 8-20-2018)



city commission agenda item

item type	Public Hearings	meeting date	4/27/2020
prepared by	Planning	approved by	City Manager, City Attorney
board approval	yes	final vote	
strategic objective			

subject

Request of The City of Winter Park for:

An Ordinance to amend the Official Zoning Map to change the zoning designations of Office (O-1) to Parks and Recreation (PR) on the city park property at 1390 Orange Avenue. (First Reading)

motion / recommendation

Recommendation by the P&Z Board and Staff is for approval of the Rezoning Ordinance.

background

The City owns a mini-park park property at the southeast corner of Orange and Orlando Avenues, with an address of 1390 Orange Avenue.

This mini-park property is designated Open Space and Recreation in the Comprehensive Plan, but has a zoning designation of Office (O-1). This request would change the zoning designation to Parks and Recreation (PR). Staff is unaware of why this mini-park has a Future Land Use of Open Space and Recreation, but is zoned O-1. The historical zoning maps going back to 1952 show both commercial and office zoning on this property. This park has always been included in the Park inventory of the City. In summary, this rezoning request is implementing the Comprehensive Plan.

Minutes from the March 3, 2020 P&Z Board Meeting:

- RZ #20-03 Request of the City of Winter Park for: An Ordinance to amend the Official Zoning Map to change the zoning designations of Office (O-1) to Parks and Recreation (PR) on the City property at 1390 Orange Avenue.
Mrs. McGillis explained that the item was a request of the City of Winter Park to change the zoning designation of 1390 Orange Avenue, from Office (O-1) to Parks and Recreation (PR). She explained that the property has always been City-owned and included in the City's Parks inventory with a Future Land Use designation of Open Space and Recreation, but historical records dating back to 1952 show that the property had been zoned office. Mrs. McGillis explained that the request was to implement the Comprehensive Plan to rezone the property to Parks and Recreation

(PR) zoning.

Staff recommendation was for approval.

No one from the public wished to speak. The public hearing was closed.

The Board agreed with the Staff recommendation.

Motion made by Chuck Bell, seconded by Laura Walda, for an Ordinance to amend the Official Zoning Map to change the zoning designations of Office (O-1) to Parks and Recreation (PR) on the City property at 1390 Orange Avenue.

Motion carried with a 6-0 vote.

alternatives / other considerations

N/A

fiscal impact

N/A

ATTACHMENTS:

Description

Ordinance - Zoning

Backup Materials

Upload Date

3/10/2020

3/10/2020

Type

Ordinance

Backup Material

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE OFFICE (O-1) DISTRICT ZONING TO PARKS AND RECREATION (PR) DISTRICT ZONING ON THE PROPERTY LOCATED AT 1390 ORANGE AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, the City of Winter Park, as owner of the subject property has requested a Zoning map amendment consistent with the Comprehensive Plan, and such municipal zoning meets the criteria established by Chapter 166, Florida Statutes and pursuant to and in compliance with law to notify the public of this proposed Ordinance and of public hearings to be held; and

WHEREAS, the Planning and Zoning Board of the City of Winter Park has recommended approval of this Ordinance at their September 3, 2019 meeting; and

WHEREAS, the City Commission of the City of Winter Park held a duly noticed public hearing on the proposed zoning change set forth hereunder and considered findings and advice of staff, citizens, and all interested parties submitting written and oral comments and supporting data and analysis, and after complete deliberation, hereby finds the requested change consistent with the City of Winter Park Comprehensive Plan and that sufficient, competent, and substantial evidence supports the zoning change set forth hereunder; and

WHEREAS, the City Commission hereby finds that this Ordinance serves a legitimate government purpose and is in the best interests of the public health, safety, and welfare of the citizens of Winter Park, Florida.

NOW THEREFORE BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, AS FOLLOWS:

SECTION 1. Official Zoning Map Amendment. That Chapter 58 "Land Development Code", Article III, "Zoning" and the Official Zoning Map is hereby amended so as to change the zoning designation of Office (O-1) District to Parks and Recreation (PR) district on the property at 1390 Orange Avenue, being more particularly described as follows:

PALMETTO ADD TO WINTER PARK E/14 LOT 94 (LESS ST RD R/W) & LOT 95 (LESS NELY 10 FT)

Orange County Property Tax ID# 12-22-29-6600-00-940

SECTION 2. Severability. If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

SECTION 3. Conflicts. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 4. Effective Date. This Ordinance shall become effective upon its passage and adoption.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this _____ day of _____, 2020.

Mayor Steve Leary

Attest:

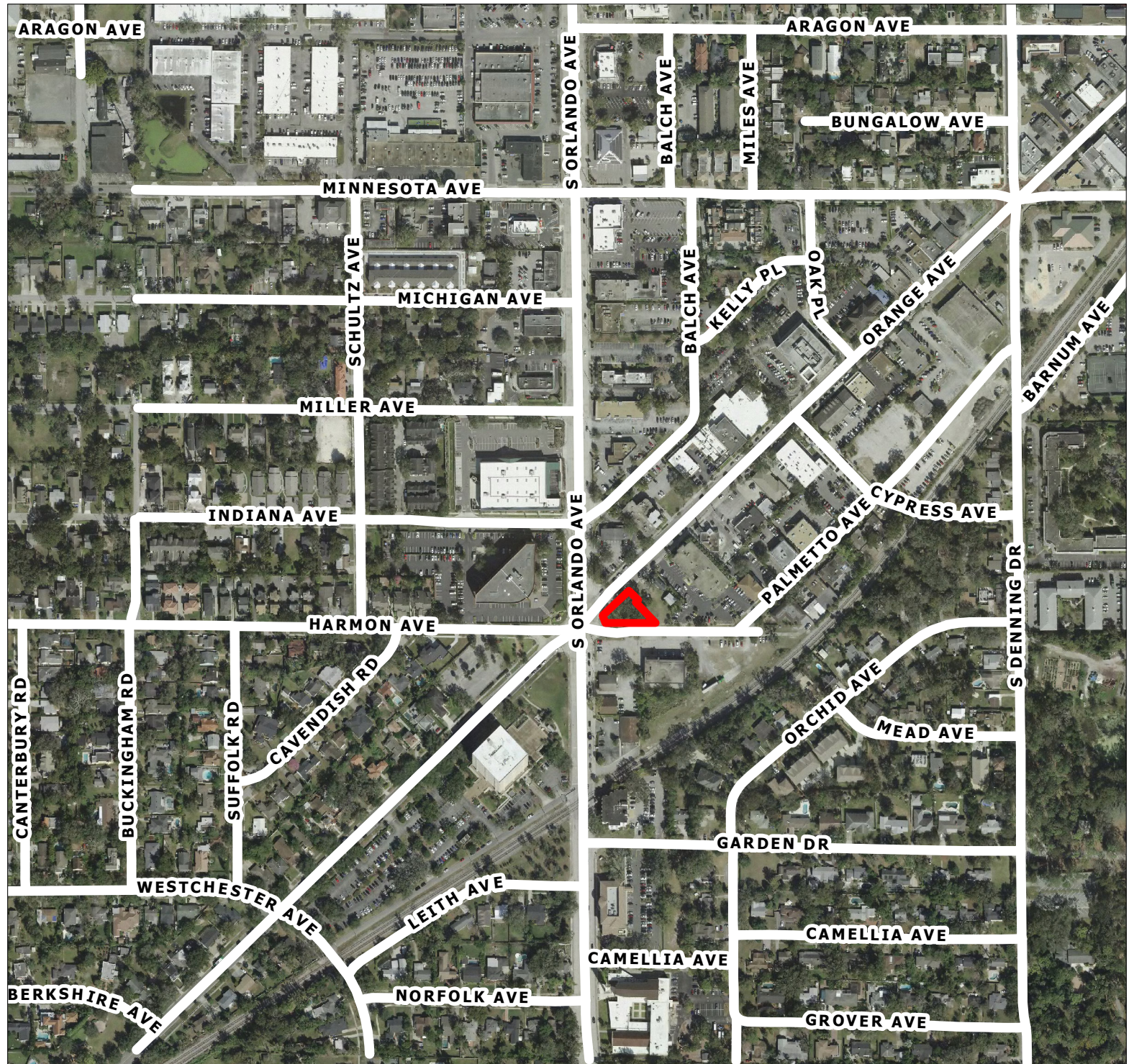
City Clerk



LOCATION MAP

1390 Orange Avenue

City of Winter Park
Florida

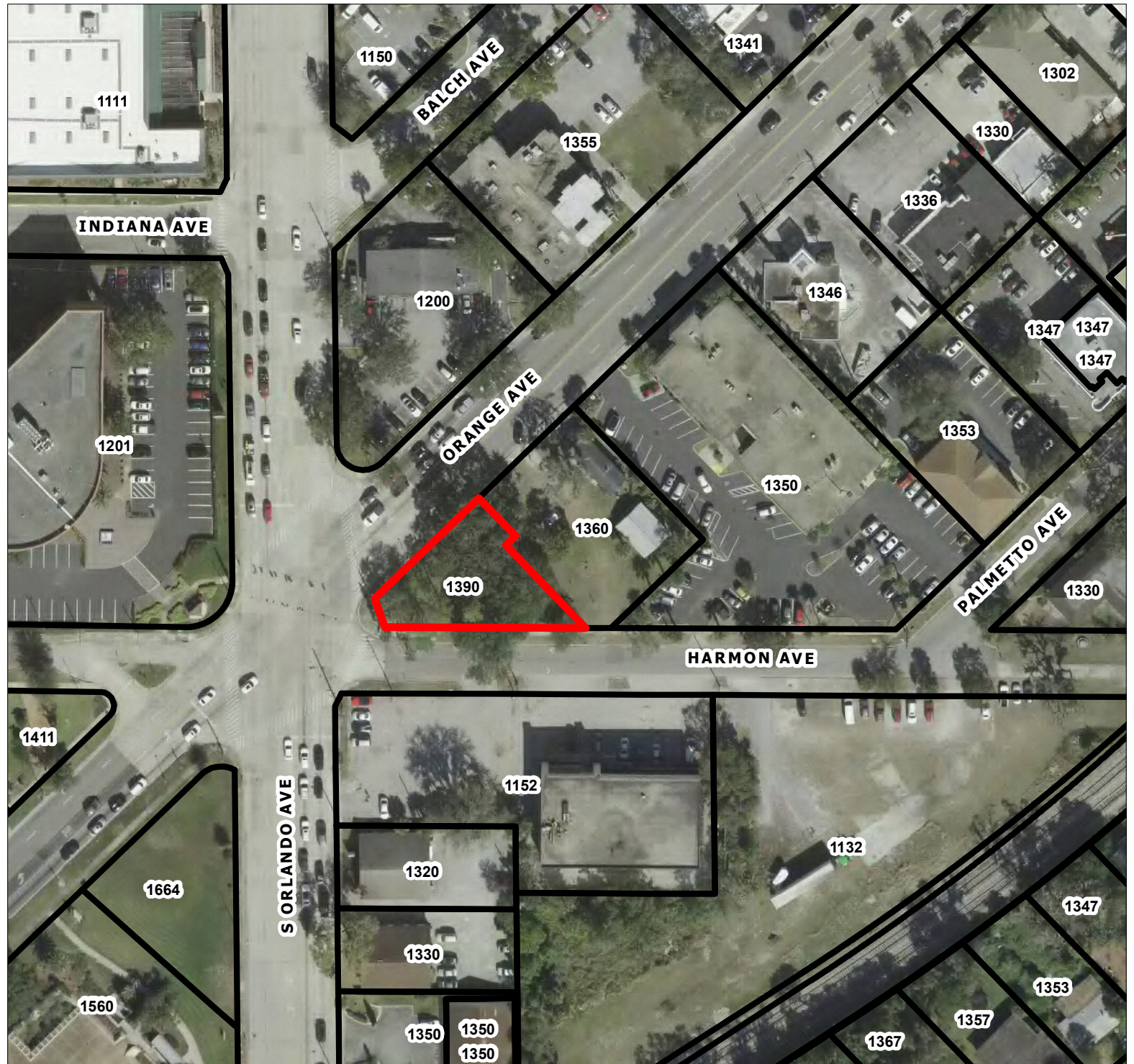




LOCATION MAP

1390 Orange Avenue

City of Winter Park
Florida





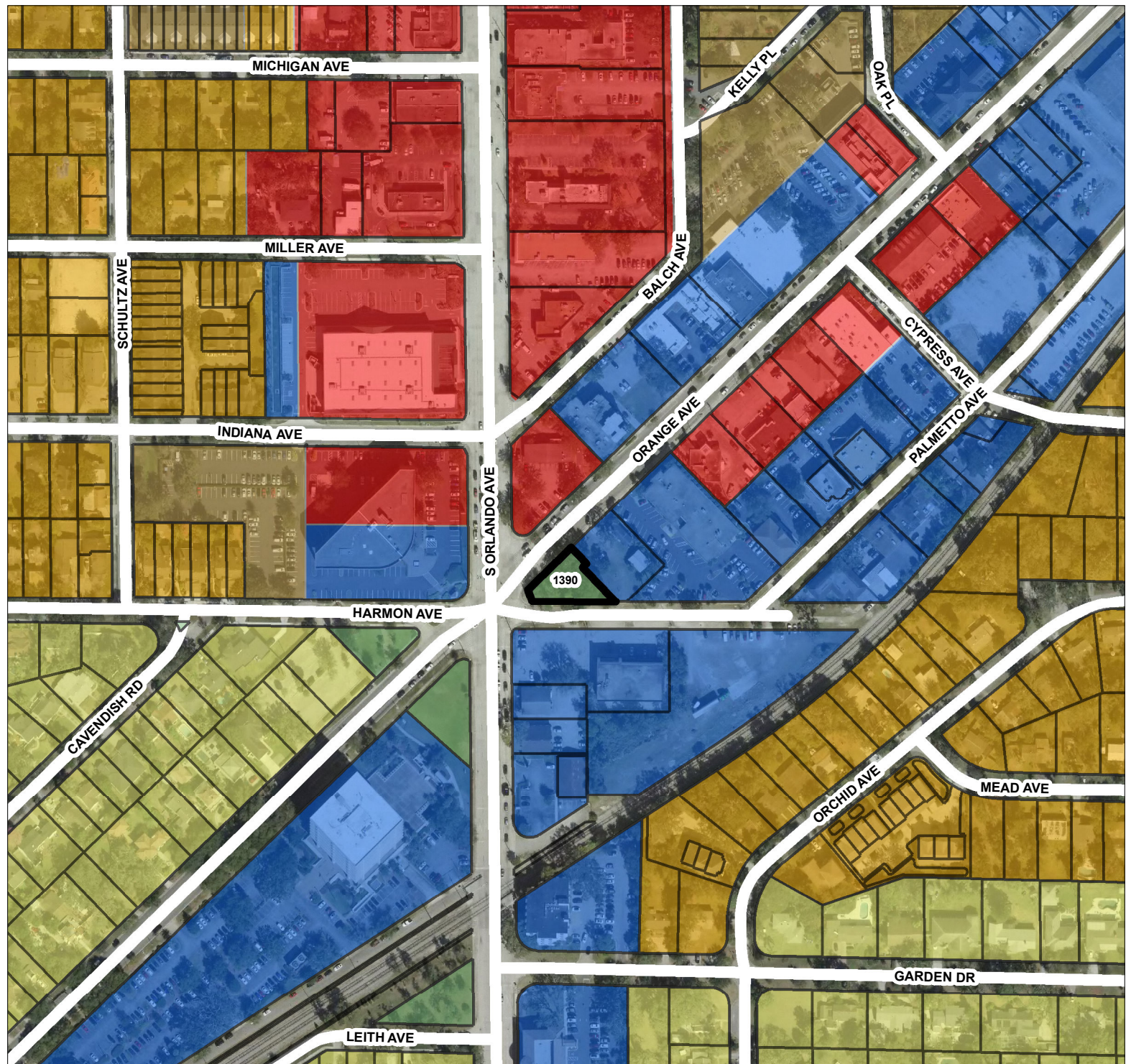
FUTURE LAND USE

1390 Orange Avenue

City of Winter Park
Florida

Future Land Use

- Commerce
- Office Professional
- Medium Density Residential
- Low Density
- Single Family
- Open Space Recreation





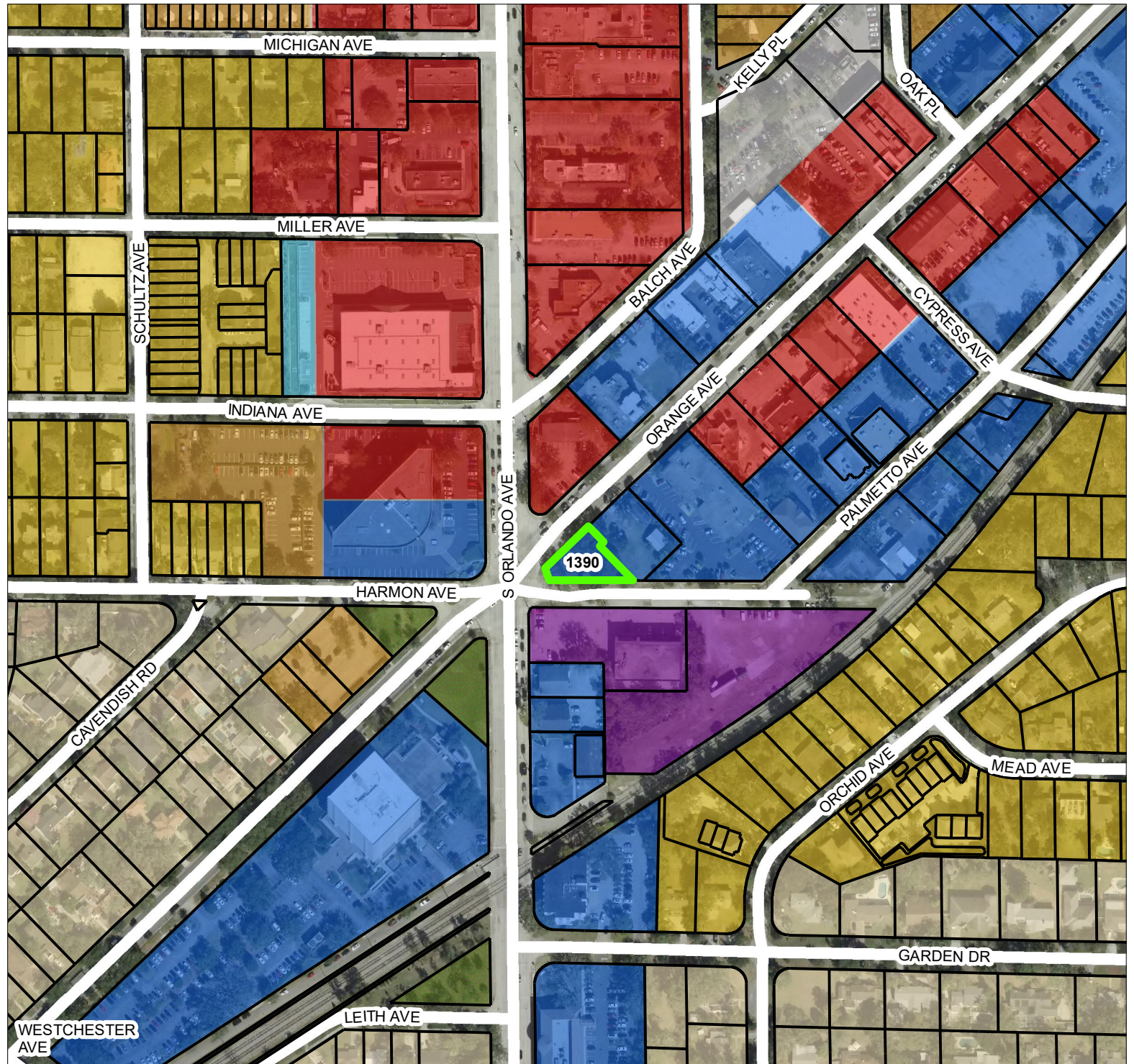
ZONING

1390 Orange Avenue

City of Winter Park
Florida

Zoning

- C-3
- I-1
- O-1
- O-2
- PL
- PR
- R-1A
- R-2
- R-3





city commission agenda item

item type	Public Hearings	meeting date	4/27/2020
prepared by	City Clerk	approved by	
board approval	final vote		
strategic objective	Intelligent Growth and Development		

subject

Ordinance: Vacating a portion of Kindel Avenue right-of-way

An ordinance vacating and abandoning a portion of the right-of-way of Kindel Avenue. (Second Reading)

motion / recommendation

Approve Request to Vacate

background

The City received a request from the Ravaudage master developer to vacate the northern 13.7 feet of the unusually wide Kindel Avenue Right-of-way from Benjamin Avenue east to 17-92 approximately 193.67 feet long. The developer has plans underway to develop the adjacent lot and reconstruct the 2 lane road with wide sidewalks, tree wells, and proper curbing and drainage. There still remains room in the remaining right-of-way totaling 57' for 2 way traffic and wide sidewalks. As can be seen on the attached Exhibit B, the current right-of-way is very close to the existing building and what appears to be private perpendicular parking along Kindel is actually all within the road right-of-way. Given the original extra wide platted right-of-way width, the vacation of the northern 13.7' will not impact the use of the remaining right-of-way for roadway and sidewalk purposes. The proposed street redevelopment plan from the developer is attached as Exhibit C. There is no loss of public access to any properties as a result of this partial vacation.

alternatives / other considerations

Do not approve request

fiscal impact

None

ATTACHMENTS:

Description	Upload Date	Type
Ordinance	4/14/2020	Backup Material
Exhibit A	4/8/2020	Backup Material
Exhibit B	4/6/2020	Cover Memo

After Recording Return To:
City of Winter Park, City Clerk's Office
401 Park Avenue South
Winter Park, Florida 32789

ORDINANCE _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AND ABANDONING A PORTION OF THE RIGHT OF WAY OF KINDEL AVENUE, HOME ACRES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK "M", PAGE 97, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR CONFLICTS, RECORDING AND AN EFFECTIVE DATE.

WHEREAS, the City of Winter Park has authority to adopt this Ordinance by virtue of its home rule powers and Charter with respect to abandoning and vacating rights of way no longer needed for public purposes, and the City Commission has made such a determination.

BE IT ENACTED by the People of the City of Winter Park, Florida as follows:

Section 1. The City Commission of the City of Winter Park, Florida hereby vacates and abandons that certain portion of the Kindel Avenue right of way legally described in that certain legal description and sketch of description attached hereto as **Exhibit "B"**.

Section 2. In the event of any conflict between this Ordinance and any other ordinance or portions of ordinances, this Ordinance controls

Section 3. After adoption, this Ordinance shall be recorded in the public records of Orange County, Florida.

Section 4. This ordinance shall take effect immediately upon its passage and adoption.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held at City Hall, Winter Park, Florida, on the _____day of _____, 2020.

Mayor Steven Leary

ATTEST:

City Clerk Rene Cranis

SKETCH OF DESCRIPTION

(THIS IS NOT A SURVEY)

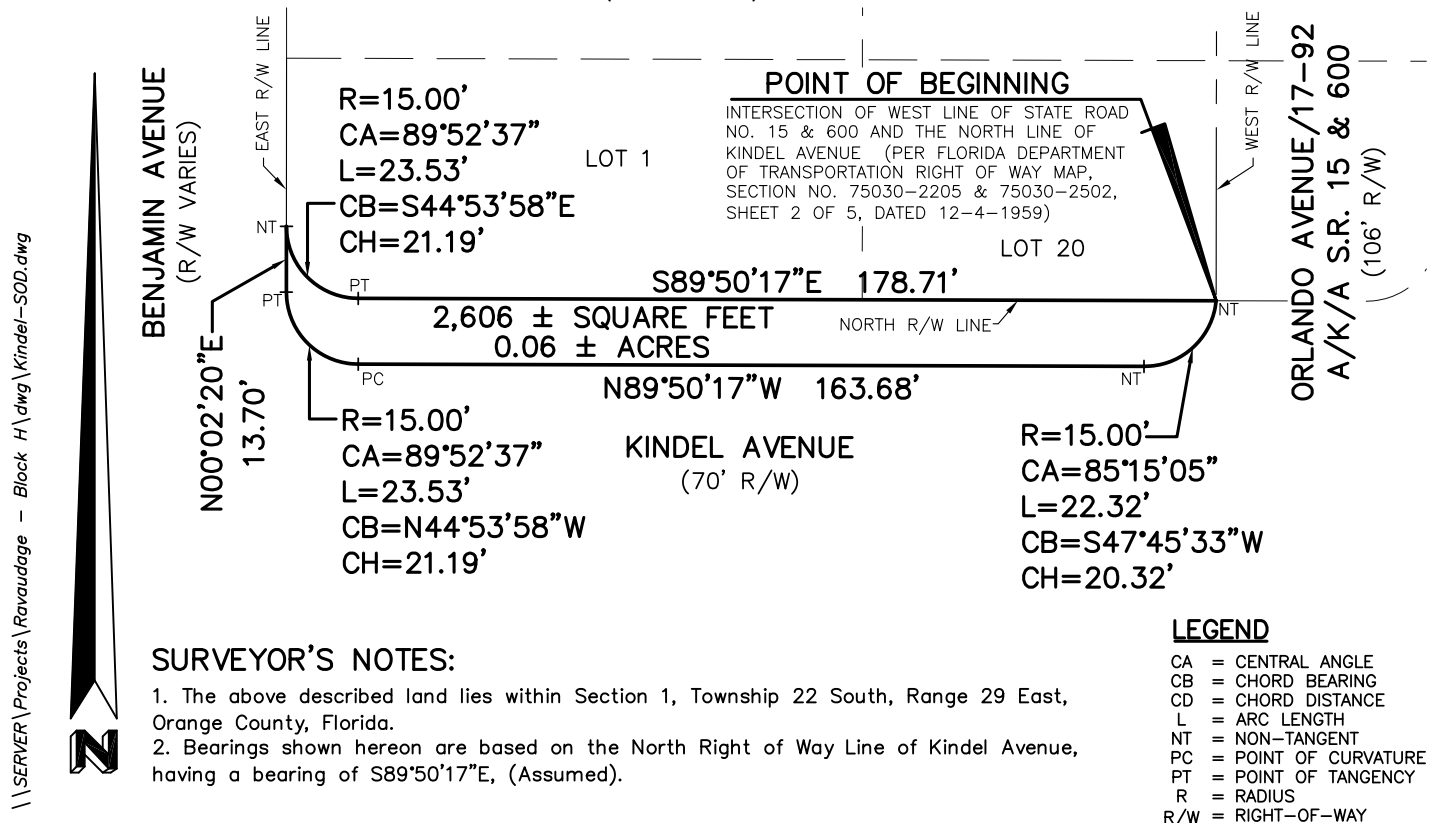
"EXHIBIT A"

DESCRIPTION:

THAT PORTION OF KINDEL AVENUE LYING EAST OF BENJAMIN AVENUE AND WEST OF STATE ROAD NO 15 & 600, HOME ACRES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK "M", PAGE 97, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF WEST LINE OF STATE ROAD NO. 15 & 600, A 106 FOOT RIGHT-OF-WAY AND THE NORTH LINE OF KINDEL AVENUE, A 70 FOOT RIGHT-OF-WAY; SAID POINT BEING A POINT ON A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 85°15'05", CHORD BEARING OF S47°45'33"W AND A CHORD DISTANCE OF 20.32 FEET; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, A DISTANCE OF 22.32 FEET TO A POINT OF NON TANGENCY; THENCE N89°50'17"W, A DISTANCE OF 163.68 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 89°52'37", CHORD BEARING OF N44°53'58"W AND A CHORD DISTANCE OF 21.19 FEET; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, A DISTANCE OF 23.53 FEET TO THE POINT OF TANGENCY AND A POINT ON THE PROLONGATED EAST RIGHT-OF-WAY LINE OF BENJAMIN AVENUE, A VARIABLE WIDTH RIGHT-OF-WAY; THENCE, ALONG SAID EAST RIGHT-OF-WAY, N00°02'20"E, A DISTANCE OF 13.70 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 89°52'37", CHORD BEARING OF S44°53'58"E AND A CHORD DISTANCE OF 21.19 FEET; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, A DISTANCE OF 23.53 FEET TO THE POINT OF TANGENCY; SAID POINT ALSO BEING A POINT ON THE NORTH RIGHT OF WAY LINE OF SAID KINDEL AVENUE; THENCE S89°50'17"E, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 178.71 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAINING 2,606 SQUARE FEET, (0.06 ACRES), MORE OR LESS.



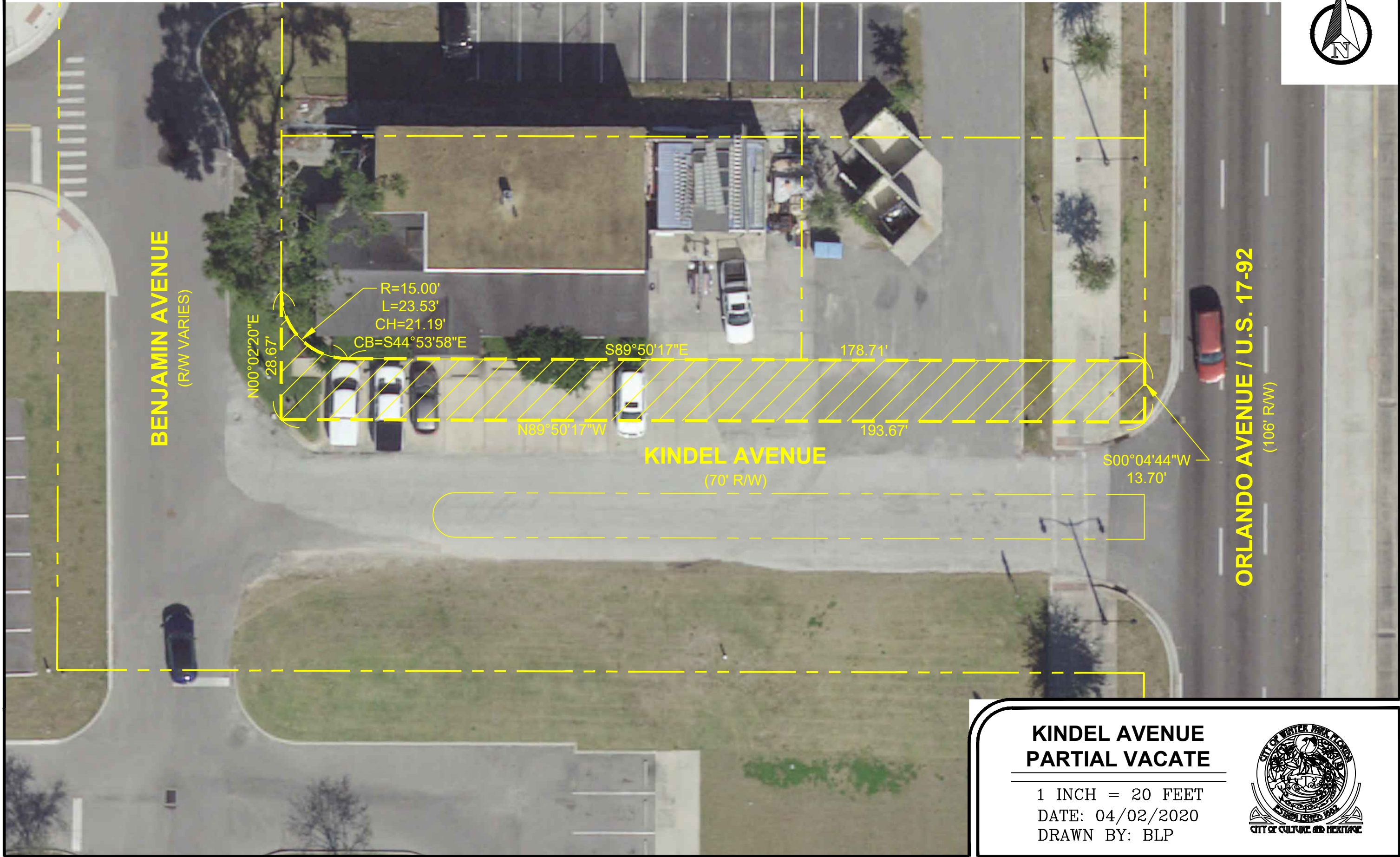
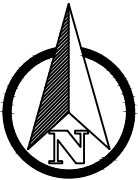
HLSM, LLC
Henrich-Luke-Swaggerty-Menard
Professional Surveyors & Mappers
Licensed Business No. 7276
302 Live Oaks Boulevard
Casselberry, Florida 32707
P. (407) 647-7346
Survey@HLSM.US www.hlsml.us

Revision: 04/07/20
Job No: K-205
Date: 03/01/20
Drawn By: JJR
Scale: 1"=40'

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

William F. Menard
Professional Surveyor & Mapper
Florida Registration #5625

EXHIBIT B



**KINCHEL AVENUE
PARTIAL VACATE**

1 INCH = 20 FEET
DATE: 04/02/2020
DRAWN BY: BLP







city commission agenda item

item type	Public Hearings	meeting date	4/27/2020
prepared by	Assistant City Manager	approved by	City Manager, City Attorney
board approval	final vote		
strategic objective			

subject

Ordinance - Revising subsidiary advisory board appointment processs

Ordinance revising subsidiary advisory board appointment process and one time board appointment transition plan.

motion / recommendation

Move the ordinance on first reading.

Accept one time board appointment transition plan.

background

alternatives / other considerations

On March 17, 2020 Winer Park voters approved charter amendment #7 to delete the Mayor's sole board appointment authority and create a new section of the charter to establish the size of city boards at seven members and to provide for the Mayor to have three appointments and one appointment by each Commissioner.

This ordinance modifies the language in *Charter 2. Article III. -Subsidiary Boards of the City of Winter Park* to be consistent with the new practices proposed as a result of the charter amendment.

Additionally, a transition plan is provided to outline the one-time process of implementing board appointments in 2020.

fiscal impact

N/A

ATTACHMENTS:

Description	Upload Date	Type
Ordinance	4/16/2020	Backup Material
Ordinance Exhibit A	4/21/2020	Backup Material
Board member letter	4/16/2020	Backup Material
Transition Plan	4/16/2020	Backup Material

ORDINANCE _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING ARTICLE III, CHAPTER 2 OF THE CITY CODE WITH RESPECT TO SUBSIDIARY CITY BOARD AND AD HOC COMMITTEE COMPOSITION, APPOINTMENT, MEMBERSHIP, REMOVAL, QUORUM, VACANCIES, ALTERNATE MEMBERS, TERMS OF OFFICE, REAPPOINTMENT, COMMISSION AND MAYOR AUTHORITY, BOARD AND COMMITTEE AUTHORITY, AND OTHER MATTERS RELATED TO THE CITY'S SUBSIDIARY BOARDS AND AD HOC COMMITTEE, INCLUDING BUT NOT LIMITED TO CHANGES NECESSITATED BY A RECENT CITY CHARTER AMENDMENT RELATED TO THE FOREGOING; PROVIDING FOR SEVERABILITY, CODIFICATION, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, at the general election of March 17, 2020, the electors of the City of Winter Park approved the adoption of Section 2.19 of the City Charter, which sets forth requirements for the size of and appointment of members to City subsidiary boards and ad hoc committees and other matters related to such boards and committees; and

WHEREAS, the foregoing amendment to the City Charter necessitates the amendment of the City Code to be consistent with such Charter amendment, as provided in this Ordinance; and

WHEREAS, this Ordinance constitutes the implementing ordinance referenced in and required by Section 2.19(d), City Charter.

NOW THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA AS FOLLOWS:

SECTION 1. Recitals. The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

SECTION 2. City Code Amendment. The City hereby amends Article III, Chapter 2 of the City of Winter Park Code of Ordinances as shown in the attached **Exhibit "A"** (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions and sentences not included are not being amended).

SECTION 3. Codification. The City Code amendments provided in Section 2 of this Ordinance shall be incorporated into the Winter Park City Code. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance and the City Code may be freely made.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional

by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 5. Conflicts. In the event of a conflict or conflicts between this Ordinance and any other ordinance or provision of law, this Ordinance controls to the extent of the conflict, as allowable under the law.

SECTION 6. Effective date. This Ordinance shall become effective immediately upon adoption by the City Commission.

FIRST READING: April 27, 2020.

SECOND READING: _____, 2020.

ADOPTED this ____ day of _____, 2020, by the City Commission of the City of Winter Park, Florida.

CITY COMMISSION
CITY OF WINTER PARK

Steve Leary, Mayor/Commissioner

ATTEST:

Rene Cranis, City Clerk

EXHIBIT "A"

ARTICLE III. - SUBSIDIARY BOARDS OF THE CITY OF WINTER PARK³

Footnotes:

--- (3) ---

Editor's note— Ord. No. 2843, § 2, adopted June 13, 2011, repealed Art. III except for § 2-81(b) (which shall be renumbered as 2-81) and §§ 2-90—2-100 and 2-104—2-120, and enacted a new Art. III with the exceptions as noted above. Further amendments were made to Art. III as per memo dated Feb. 22, 2012, from Usher L. Brown, city attorney and said changes have been noted accordingly. Former Art. III, §§ 2-46—2-52, 2-61—2-70, 2-81—2-93, 2-101—2-110, 2-121—2-124, pertained to boards and commissions. See the Code Comparative Table for a complete derivation.

DIVISION 1. - ESTABLISHMENT OF CITY BOARDS

Sec. 2-46. - Establishment of city boards.

(a) There shall be established in this division all boards of the City of Winter Park. If a board is required to be in existence by Florida Statute or City Charter, the section providing for the board shall so provide, as well as any special requirements. If, by Florida Statute or Charter there is a requirement with respect to the board that is different than the general rules in this chapter and article, then the requirements of state statute and the Charter shall control.

(b) During the general election held on March 17, 2020, the electors approved the adoption of Section 2-19, City Charter, which sets forth requirements for the size of and appointment to city boards and ad hoc committees. The city commission, by a majority vote, may establish a transition plan providing for the transition of the membership of the city boards to be consistent with Section 2-19, City Charter. Such transition plan may provide for the timing of initial appointments by the mayor and city commissioners and initial terms of office different from those prescribed in this chapter and may provide for the early removal of board and committee members serving as of the adoption of this subsection. The city clerk may delete this subsection after the transition of membership of the city boards occurs in the manner approved by the city commission.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

Sec. 2-47. - List and size of boards established.

~~The following boards and number of members are established. The general requirements for boards are specified in division 2 herein and the board specific requirements are specified in division 3. Unless otherwise provided by the City Charter, state law, other ordinance or the city commission requires a different number of members than as specified in this article, each board shall have seven members, and one alternate member.~~ The following boards are established:

- (1) Board of adjustments;
- (2) Civil service board (also sits as the independent personnel review board);
- (3) Code compliance board (which also sits as the nuisance abatement board and tree preservation board and performs the functions of a code enforcement board pursuant to F.S. ch. 162);
- (4) Community redevelopment agency;

- (5) Community redevelopment advisory board;
- (6) Construction board of adjustments and appeals;
- (7) Economic development advisory board;
- (8) Historic preservation board;
- (9) Housing authority board;
- (10) Keep Winter Park beautiful and sustainable advisory board;
- (11) Lakes and waterways advisory board;
- (12) Parks and recreation advisory board;
- (13) Transportation advisory board;
- (14) Planning and zoning board;
- (15) Public art advisory board;
- (16) Utilities advisory board;
- (17) Winter Park Firefighters' pension board;
- (18) Winter Park Police Officers' pension board.
- (19) Golf course advisory board.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A); Ord. No. 2880-12, § 2, 8-13-12; Ord. No. [3035-16](#), § 2, 5-9-16; Ord. No. [3067-17](#), § 2, 2-27-17)

DIVISION 2. - GENERALLY

Sec. 2-48. - General rules applicable to subsidiary boards of the City of Winter Park.

(a) ~~Date of Appointment of members.~~

(i) With the exception of the civil service board and as otherwise provided by ordinance, including as may be set forth in this article, pursuant to Section 2.19(c), City Charter, the members of all boards of the city shall be appointed as described in Section 2-19(a), City Charter generally at the second regular city commission meeting occurring after the mayor or city commissioner responsible for making an appointment(s) is sworn in for a new term of office; however, this provision does not prevent the mayor or city commissioner from delaying a decision on appointments for which they have responsibility.

(ii) For boards and committees appointed pursuant to Section 2-19(a), City Charter, each membership position on a city board and committee will be assigned seat numbers 1 through 7. Seats number 1 through 4 will be those positions appointed by each of the city commissioners with the same corresponding seat number (e.g. city commissioner holding seat no. 1 will appoint seat no. 1 on each city board and committee, etc.). Seats 5 through 7 will be those positions appointed by the Mayor.

(iii) When considering appointments, the mayor and city commissioners should take into consideration for applicable boards or committees as set forth in this article, specialized knowledge or vocations required or desired for persons serving on boards or committees.

(iv) The city commission may adopt rules governing the process for making nominations and appointments to board or committee positions appointed by the city commission as a body to the extent not inconsistent with general law, the Charter or any ordinance. by the mayor, subject to the approval of the city commission, at the first commission meeting in May of each year or as soon thereafter as possible and such members shall be seated at the first meeting following May 31. The

~~members of the civil service board shall be appointed in December and be seated effective the third Tuesday in January.~~

- (b) *Removal of members.* Members of city boards and committees are subject to removal, with or without cause, at any time. Members of city boards or committees whose seats are appointed by the mayor shall serve at the mayor's pleasure. will of the city commission and shall be subject to removal at any time, with or without cause, by a majority vote of the city commission. Members of city boards or committees whose seats are appointed by a city commissioner shall serve at the pleasure of the city commissioner holding the commission seat that appointed the member. Members of city boards or committees whose seats are appointed by the city commission shall serve at the pleasure of the city commission. This provision is intended to be supplemental to, and not in conflict with, the provisions of F.S. § 112.501 which concerns the procedure for removal or suspension of a member of a municipal board for cause. In instances when a member is removed for cause, the procedures in F.S. § 112.501 shall apply.
- (c) *Resignations.* Members of all boards shall be entitled to resign at any time by delivery of written notice thereof to the city commission.
- (d) *Quorum.* A quorum shall be established if at least a majority of the total board membership is physically in attendance at a meeting. A board member who has declared a voting conflict and abstains from voting shall count for establishing the quorum if that member is physically present at the meeting. For a motion to be approved, at least a majority of the members present at a board meeting in which a quorum has been established must vote in favor of such motion.
- (e) *Applicability of rules of ethics.* No member shall take any action or vote if such vote or action is prohibited by a standard of conduct or voting conflict of interest as defined or prohibited in the code of ethics for public officers and employees stated in F.S. ch. 112 or if such action or vote is in violation of the Code of the City of Winter Park.
- (f) *Vacancies.* When a vacancy in a board or committee member seat occurs, the mayor, the city commissioner or the city commission as body who is responsible for appointing that member's seat or position shall promptly appoint a person to fill the vacancy. The mayor, subject to approval of the city commission, shall promptly fill all vacancies, including alternate members, occurring on city boards. A vacancy shall be filled for the unexpired term of the member whose term becomes vacant.
- (g) *Alternate members.* The city commission, by at least a majority vote, may create (or eliminate) an alternate position and appoint (or remove) an alternate member to any board or committee. If a vacancy in an alternate position occurs, the city manager will place an agenda item on a regular city commission meeting occurring within 30 days of the occurrence of the vacancy, asking the city commission to make an appointment. Any member of the city commission may, during a city commission meeting, make a nomination for the appointment of an alternate member to any board or committee. Voting on nominations for an alternate position will occur in the order in which nominations are made, with the first person receiving at least a majority vote of the city commission being appointed as the alternate member. Alternate members to boards and committees shall serve at the city commission's pleasure and may be removed by the city commission, with or without cause, at any time. Once appointed by the city commission, an alternate member will serve a three-year term from the date of appointment unless otherwise specified by the city commission at the time of appointment. An alternate member may always participate in board discussions subject to the rules adopted by each board for the conduct of meetings and member discussion at meetings. Unless a member of the board is absent, an alternate member may not make motions or cast a vote at a meeting. However, if a member of the board is absent, then at such meeting where the member is absent, an alternate may make motions and cast a vote in the stead of the absent member. In the event a regular member of a board is removed from office or vacates his or her office prior to the end of the appointed term, the alternate of said board, will automatically advance to the vacated position for the remainder of the regular term without additional action of the city commission. If there is no alternate, the mayor shall appoint subject to commission approval.
- (h) ~~*Exception to automatic advancement.* If a vacancy occurs in a board position within 60 days before the end of the term of the member, the position shall remain vacant until filled as part of the regular~~

~~appointment process by which the mayor shall appoint the member, subject to the approval of the city commission, at the first commission meeting in May of each year.~~

- (ih) *Representation by member of third parties.* No member of a board shall represent a third party in any proceeding before such board to which the member belongs.
- (ji) *Role and responsibility of members of subsidiary boards of the City of Winter Park.* Members of subsidiary municipal boards shall have such authority as provided by law, including ordinances of the City of Winter Park and the City Charter. No member of a board shall exceed his or her delegated authority, and except to the extent Florida law or an ordinance or Charter provision expressly requires the board to perform an adjudicatory function as a quasi-judicial board, the function and duty of each subsidiary board and the members of those boards is limited to acting in an advisory capacity only, by which the members of the various city boards are authorized to receive and gather information, attend board meetings, and apply their best efforts to render advice and recommendations to the Commission of the City of Winter Park in the interest of the city and its residents. Although city boards may make recommendations concerning provisions of the City Code, no member of a city board shall, by virtue of such office, have the authority to represent the City of Winter Park in any action to enforce the City Code or any provision thereof.
- (kj) *Term in office and reappointment.* ~~Unless otherwise required by Florida Statutes, or City Charter or as otherwise provided by ordinance, each member of the city's boards shall have an initial term that generally overlaps with the term of office of the mayor or city commissioner's seat that appoints such board seat, except that such board member's term shall start from the date of appointment and end upon the earlier of the following to occur: (i) when such board member's successor is appointed, or (ii) 75 days after the end of the term of office for the mayor or city commissioner that appoints the board seat, of three years in office. A person and may be reappointed to serve up to two one additional consecutive three-year terms on the same city board.~~ Following a break in service of at least one year, a former member may be appointed again to the same board subject to the limitation expressed herein, ~~that the term shall be for three years with an opportunity to be reappointed for one three-year term immediately following the expiration of the initial three-year term. For good cause shown, the mayor may waive this term limitation, subject to approval by majority vote of the commission.~~ The serving of a partial term of office on a city board due to filling a vacancy shall not count towards the term limits set forth in this subsection.
- (lk) *Attendance, participation by telephone, and procedures if there is lack of a quorum.* Each member of a city board shall be automatically terminated from the board if the member misses three consecutive meetings, or if the member is absent from more than 50 percent of the scheduled meetings of the board in any 12-month period. Should a board member be terminated, the appointing Mayor/Commissioner shall be notified and reappoint promptly.

Each member of a city board may participate in a meeting by telephone if he or she gives good cause for the need to appear by telephone, and in such instances the appearance by telephone shall be counted as the member being present at the meeting. However, a member participating by telephone may only vote if a physical quorum is present at the meeting, and votes and other action may not be taken at a meeting unless a quorum of members is physically present at the meeting. Notwithstanding, if a quorum is not physically present, the members who are in attendance may vote to adjourn the meeting for lack of a quorum. And, so long as a meeting is properly noticed and is in compliance with the requirements of the Sunshine Law, less than a quorum of a board may meet for purposes of discussion so long as there is no action or vote taken at such meeting.
- (ml) *Evaluation process.* Each city board shall make provision for an annual self-evaluation process by which it and the individual board members are evaluated, and the activity and accomplishments of each board shall thus be annually evaluated and reported to the commission. The city manager shall work with the presiding officer or designee of each city board to insure that the report concerning the evaluation of each board member and each board is presented to the city commissioner prior to the first day of April each year to insure that the information is available before the annual appointment of members at the first meeting in May of each year. The city manager shall develop a standard city form and format for evaluations that will be used for each subsidiary board of the city. The city

manager shall recommend the evaluation instrument and format and the city commission shall approve the same with such revisions as the commission determines may be appropriate.

- (Am) ~~Ad hoc boards or committees~~Task forces. The city commission may, from time to time, establish by resolution or ordinance certain boards or committees of an ad hoc nature to study a particular issue and in accordance with section 2.19(c), City Charter specify the number of positions on such boards or committees and how appointments to such boards or committees are to be made. An ad hoc board or committee task force established by the city commission will have a limited scope of responsibility and will address only the issue or issues designated, and following the study of such matters shall report the findings of their work ~~task force~~ to the commission with recommendations. Unless otherwise established by the city commission or extended by action of the commission, no ~~ad hoc board or committee task force~~ shall continue in existence beyond 180 consecutive calendar days following the effective date of the ~~decision~~, resolution or ordinance providing for the establishment of the ad hoc board or committee task force.
- (en) *Sunset of boards unless a board is required by statute or Charter.* Except for those boards that are required to be in existence pursuant to Florida Statute or City Charter, each city board shall sunset and terminate every five years following May 1, 2011, unless the board is renewed by a majority vote of the commission. This will allow the commission to evaluate the effectiveness and need for the particular board on a regular basis. Notwithstanding this provision, any advisory board may be terminated at any time by a majority vote of the city commission, unless such board is required by Florida Statute or Charter. The following quasi-judicial boards will not sunset: board of adjustments; planning and zoning; construction board of adjustments and appeals; code compliance; civil service; lakes and waterways advisory board (to the extent it hears stormwater fees appeals); historic preservation board (to the extent it acts in a quasi-judicial capacity with respect to recommendations for or against rezonings, demolitions, developments, lot splits, lot consolidations or conditional uses that could impact historic resources identified in the Florida Master Site File Survey of the City of Winter Park, reviews applications for certificates of review for designated landmarks, resources and property within designated districts, or approves variances appropriate for the preservation of historic resources in conjunction with applications for certificates of review); and the tree preservation board (to the extent it sits as a quasi-judicial board with respect to the consideration of applications for tree removal permits and appeals to the tree preservation board from any denial of an application or any of the conditions attached to the approval of a tree removal permit, or to the extent it sits as a quasi-judicial board with respect to the recommendation of modification of building plans or variances regarding the preservation of protected trees, or the waiver of up to a maximum of five parking spaces for the purposes of preserving existing protected trees). Additionally, without first complying or satisfying legally imposed conditions, the community redevelopment agency and the housing authority may not be abolished.
- (po) *Expenses and reimbursement.* No member of any board shall receive a salary or fee for service as a member. However, the city manager may authorize reimbursement of necessary expenses for travel, per diem or other expenses if the same are documented in advance and approved by the city manager in writing in advance of the member incurring such expense while on official business for the city, it being a requirement that no expense will be reimbursable unless it is reasonably related to city business performed by a member of a subsidiary board of the City of Winter Park.
- (qp) *Internal rules of conduct.* Each board shall adopt such rules as are necessary to the conduct of its business. Each board shall elect a chair and vice-chair from its membership on an annual basis. All meetings of the board shall be in accordance with the Sunshine Law, F.S. § 286.011, and the records thereof shall be public records as required by F.S. ch. 119 unless the record is specifically subject to a statutory exemption. The city manager, city attorney and/or a designated city staff member shall be reasonably available upon request to provide technical support and advice to assure each board that it is operating in conformance with the requirements of law. Each board shall be responsible to keep minutes of its proceedings as required by law, showing at a minimum the date, time and place of the meeting, members physically in attendance, appearing by telephone, and absent, and also showing each matter discussed, moved, and voted upon. The records of each matter voted upon shall show the vote of each member on each question, and those members

absent or abstaining or otherwise failing to vote. All of such records shall be kept, and the minutes and records of official actions shall be public records and retained in the office of the city clerk.

- (fg) *Residency requirement.* Unless nonresidency in the City of Winter Park is a requirement of the City Charter, Florida Statutes or division 3 hereof, the city commission and its members shall appoint ~~show preference to residents of the City of Winter Park for appointments to city boards.~~
- (gr) *Provision of legal and staff services.* To the extent not specifically mentioned in division 3 of this chapter and article, a subsidiary board of the City of Winter Park may request from the city manager that the city manager direct staff or the city attorney to provide technical and legal support to the board with respect to such matter or matters that may be identified by the board.
- (ts) *Frequency of meetings.* Unless otherwise provided with respect to a specific board of the City of Winter Park, each board shall provide in its internal rules of procedure the frequency and schedule for its meetings. The board shall notify the city clerk and city manager in writing with respect to the schedule of meetings established by such board. Unless a board determines otherwise for good cause, it shall meet monthly. However, if it is not necessary to hold monthly meetings to conduct the business of the board, the board shall provide for an alternative schedule of meetings.
- (ut) All subsidiary boards shall allow for public comment in the manner required by Chapter 2013-227, Laws of Florida.
- (vu) *Fundraising.* Each board shall have the role and function with respect to fundraising to explore opportunities and to give advice and make recommendations to the city commission, and in all instances the city commission shall be the responsible entity to enter specific fundraising programs in behalf of the City of Winter Park.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A); Ord. No. 2944, § 2, 11-11-13; Ord. No. [3035-16](#), § 2, 5-9-16)

Sec. 2-49. - Divisions 1 and 2 apply to all city boards.

Except as otherwise expressly provided in division 3, with respect to a specific board, the Charter, or Florida Statutes, the requirements governing city boards stated in divisions 1 and 2 of this article shall apply to each city board.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

DIVISION 3. - DESCRIPTION, DUTIES AND PROCEDURES OF EACH CITY BOARD

Sec. 2-50. - Board of adjustments.

There is established within the City of Winter Park, pursuant to the provisions hereof, a board of adjustments, subject to the following provisions:

- (1) *Membership.* The number of members and the procedures for appointment thereof shall be in accordance with the provisions in divisions 1 and 2 hereof.
- (2) *Quasi-judicial proceedings.* The board of adjustments shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the board of adjustments is in accordance with the requirements of Florida law.
- (3) *Authority.* The board of adjustments shall have the jurisdiction to hear appeals in specific cases where an owner or authorized owner's representative requests a variance from sections of the land development code. A request for variance shall be subject to the requirements of the public interest and the land development code, and may be appropriate where, because of special

conditions, an interpretation of the provisions of the code relating to zoning or signs will result in an unnecessary hardship.

- (4) *Incorporation into land development code.* Subject to the provisions of this article, the requirements and procedures in chapter 58 of the City Code, including article III thereof for zoning, shall apply to the conduct of the business of the board of adjustments. The board of adjustments shall comply with the city's land development code, including the provisions concerning notice and procedures at sections 58-91 and 58-92. By this reference this section is incorporated into the city's land development code.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

Sec. 2-51. - Civil service board.

There is established pursuant to the authority in Article 3, Section XIV of the Florida Constitution, and section 4.07 of the City Charter, a civil service board, subject to the following provisions:

- (1) *Membership.* Membership of the civil service board shall be as provided in section 74-52 of the City Code. The provisions of divisions 1 and 2 hereof shall apply to the extent those general provisions are not in conflict with section 74-52 of the City Code. In the event of any conflict between division 1 and section 74-52, the provisions of section 74-52 of the City Code shall control. The civil service board shall have seven members. Five members shall be appointed by a majority vote of the city commission in the manner provided in divisions 1 and 2 of this article, and such appointees shall be persons of different vocations residing in the city who are not employed by the city. The remaining two members shall be chosen, one by the members of the police department and one by the members of the fire department, according to election procedures set out in chapter 74, article III, section 74-51 et seq., of the City Code. The members of the civil service board shall be appointed in December and seated the next month in January. The chief of police and chief of the fire department shall be ex officio members of the civil service board and shall be permitted to address matters in any proceeding, but shall have no vote. The terms of all civilian members of the board will be three years and each term shall commence on the third Tuesday in January. The terms of the police and fire department members shall be for one year. The remaining details concerning membership are set out in section 74-52 of the City Code.
- (2) *Quasi-judicial proceedings.* The civil service board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the civil service board is in accordance with the requirements of Florida law.
- (3) *Authority.* The civil service board shall have such authority and responsibility as set out in chapter 74, article III, section 74-51 et seq., of the City Code, which concerns the civil service board, and shall abide by the procedural and substantive requirements set out in said sections in chapter 74 relating to the board. To the extent the general provisions in divisions 1 and 2 hereof are not in conflict with chapter 74, then the provisions in divisions 1 and 2 shall control. The civil service board (less the two employee members) shall also serve as the independent personnel review board as provided in section 2-61 of the City Code.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A); Ord. No. [3035-16](#), § 2, 5-9-16)

Sec. 2-52. - Code compliance board.

There is established within the City of Winter Park pursuant to F.S. § 162.05, and by the authority of the city commission, a code compliance board, subject to the following provisions:

- (1) *Membership.* The number of members and the procedures for appointment thereof shall be in accordance with the provisions in divisions 1 and 2 hereof. Members shall be residents of the

city. In accordance with F.S. § 162.05(2), the membership of the code compliance board shall, whenever possible, include an architect, a businessperson, an engineer, a general contractor, a subcontractor, and a realtor.

- (2) *Quasi-judicial proceedings.* The code compliance board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the code compliance board is in accordance with the requirements of Florida law.
- (3) *Authority.* The code compliance board shall have the authority, responsibility and jurisdiction of a code enforcement board pursuant to F.S. ch. 162 and any other matters set forth in the City Code conferring authority or quasi-judicial responsibility on the code compliance board, including without limitation false fire alarm appeals, pursuant to subsection 46-29(d) and those matters provided for in sections 2-104 through 2-110 of the City Code. The code compliance board shall also serve as the nuisance abatement board as provided in section 2-81 of the City Code and the tree preservation board as provided in section 2-68 of the City Code. In performing its function, the code compliance board shall be governed by the procedures set out in Florida law and section 2-101 et seq. of the City Code.

The provisions in divisions 1 and 2 of this article shall apply to the conduct of the code compliance board except for any provision thereof that conflicts with a provision in sections 2-104 through 2-110 of the City Code, in which case the conflicting provision in sections 2-104 through 2-110 shall control.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A); Ord. No. [3035-16](#), § 2, 5-9-16)

Sec. 2-53. - Community redevelopment agency.

There is established within the City of Winter Park pursuant to the provisions hereof, a community redevelopment agency, subject to the following provisions:

- (1) *Membership.* Pursuant to F.S. § 163.356, the term of office of the members of the community redevelopment agency shall be for four years, and the members are referred to as commissioners in said statute. The city commission shall serve as five commissioners on the community redevelopment agency, and the county shall have the right to appoint the sixth commissioner to the agency. The city commission may remove a commissioner of the community redevelopment agency for inefficiency, neglect of duty, or misconduct in office only after a hearing, and only if he or she has been given a copy of the charges at least ten days prior to such hearing and has had an opportunity to be heard in person or by counsel, as provided in F.S. § 163.356(4). Otherwise, the provisions in divisions 1 and 2 of this article shall govern the community redevelopment agency.
- (2) *Scope of authority.* The community redevelopment agency shall constitute a separate and distinct entity to the extent provided under Florida law, and shall have such powers as are provided to community redevelopment agencies as set out in F.S. ch. 163, pt. III, § 163.330 et seq., relating to community redevelopment.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

Sec. 2-54. - Community redevelopment advisory board.

There is established within the City of Winter Park, pursuant to the provisions hereof, a community redevelopment advisory board, subject to the following provisions:

- (1) *Membership.* The number of members and the procedures for appointment thereof shall be in accordance with the provisions in divisions 1 and 2 of this article. Notwithstanding the general requirements stated in divisions 1 and 2 of this article, the membership of the community

redevelopment advisory board shall include ~~a minimum of 50 percent~~ at least four members that are either residents and or business owners within the community redevelopment area subject to the jurisdiction of this board. Each of the four city commissioners shall appoint a resident or business owner within the community redevelopment area and the mayor shall appoint three members at large, which may or may not be residents or business owners within the community redevelopment area.

- (2) *Advisory board.* The community redevelopment advisory board is an advisory body and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the city commission concerning matters related to community redevelopment. The community redevelopment advisory board shall have no adjudicatory or enforcement authority.
- (3) *Procedures.* The procedures and rules for operation of the community redevelopment advisory board shall be in accordance with the general requirements stated in division 2 hereof.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

Sec. 2-55. - Construction board of adjustments and appeals.

- (a) *Membership.* The number of members and the procedures for appointment thereof shall be in accordance with the provisions in divisions 1 and 2 hereof. The construction board of adjustments and appeals is a "local construction regulation board" as defined in F.S. § 489.104~~5~~(12), which means a board composed of not fewer than three residents of the city, appointed to maintain the proper standard of construction within the City of Winter Park. To the extent reasonably possible, the construction board of adjustments and appeals shall include as members a practicing architect, a structural engineer, two licensed construction contractors, a master electrician, a master plumber, or a mechanical contractor or mechanical engineer. By state statute, this board is required to have at least one member who is either a fire protection contractor, a fire protection design professional, a fire department operations professional, or a fire code enforcement professional, which shall be one of the mayor's appointments to the board. The alternate member of this board shall also be licensed and employed or practicing in one of these trades. A member of the board may be a nonresident when no qualified resident applies for the membership on the board.
- (b) *Quasi-judicial proceedings.* The construction board of adjustments and appeals shall comply with the requirements of Florida law in the conduct of quasi-judicial proceedings in all matters deemed quasi-judicial, including appeals from the enforcement of any provision of an applicable building code, and a request for a modification of an order of the building official. Upon request, the city attorney or city manager will provide technical support and advice to the construction board of adjustments and appeals for purposes of conducting quasi-judicial proceedings in accordance with the requirements of Florida law.
- (c) *Authority.* The construction board of adjustments and appeals shall have the power to hear appeals of decisions and interpretations of the building official of the Florida Building Code as modified by the City of Winter Park and interpretations of the fire code official (fire marshal) of the Florida Fire Prevention Code, and shall also have the authority to suspend or revoke the certificate of competency or certification to provide services within the City of Winter Park of any contractor, including any specialty contractor doing work in the city who is found by the construction board of adjustments and appeals to be guilty of one or more of the following acts or omissions:
 - (1) Fraud or deceit in obtaining a certificate of competency.
 - (2) Negligence, incompetence, or misconduct in the practice of contracting within the meaning of the City's Code, including its land development code.
 - (3) Willful and deliberate disregard of, or violation of the City's Code, including its building code, or of any state statute concerning contractor licenses.

- (d) *Incorporation into building code.* The requirements and procedures set out in the city's building code (chapter 22 of the City Code) shall apply to the conduct of the business of the construction board of adjustments and appeals. All activity of this board shall be as set out in the city's building code, subject to the requirements of this article. By this reference this section is incorporated into the city's building code.
- (e) *Building official and procedures for appealing decisions of the building official.* The position of the building official of the City of Winter Park, the scope of his authority on behalf of the city, and the procedures for filing an appeal from a decision of the building official are established in the city's building code, chapter 22 of the City Code.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A); Ord. No. [3035-16](#), § 2, 5-9-16)

Sec. 2-56. - Economic development advisory board.

Pursuant to the authority of the city commission, there is established within the City of Winter Park, an economic development advisory board, subject to the following provisions:

- (1) *Membership.* The number of members and the procedures for appointment thereof shall be in accordance with the provisions in divisions 1 and 2 of this article. The Winter Park Chamber of Commerce President shall be requested to serve as one of the mayor's appointed a members of the economic development advisory board.
- (2) *Advisory board.* The economic development advisory board is an advisory board and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the city commission concerning economic development. The economic development advisory board shall have the authority to establish other areas of interest that it deems relevant in the interest of the City of Winter Park and its residents with respect to quality and sustainable economic development consistent with the goals and objectives of the City of Winter Park and the Charter thereof. The economic development advisory board shall have no adjudicatory or enforcement authority.
- (3) *Procedures.* The procedures and rules for operation of the economic development advisory board shall be in accordance with the general requirements stated in divisions 1 and 2 of this article.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

Sec. 2-57. - Reserved.

Editor's note— Ord. No. 2880-12, § 3, adopted Aug. 13, 2012, repealed § 2-57 in its entirety, which pertained to environmental review advisory board and derived from Ord. No. 2843-11, § 2, adopted June 13, 2011; Memo of Feb. 22, 2012(Att. A).

Sec. 2-58. - Reserved.

Editor's note— Ord. No. [3035-16](#), § 2, adopted May 9, 2016, repealed § 2-58 in its entirety. Former § 2-58 pertained to ethics advisory board and derived from Ord. No. 2843-11, § 2, adopted June 13, 2011; and Memo of Feb. 22, 2012(Att. A).

Sec. 2-59. - Historic preservation board.

There is established within the City of Winter Park, pursuant to the provisions hereof, a historic preservation board, subject to the following provisions:

- (1) *Membership.* The number of members and the procedures for appointment thereof shall be in accordance with the provisions in divisions 1 and 2 of this article and section 58-446 of the City Code.
- (2) *With exception this is an advisory board.* The historic preservation board is generally an advisory board with exceptions. With respect to its advisory role, after receiving information it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, the board shall give advice and recommendations to the city commission related to historic preservation. As an exception to the general rule that this is an advisory board, the city commission may, by ordinance or resolution, assign a quasi-judicial function to this board with respect to the approval of variances that are appropriate to the preservation of historic resources in conjunction with applications for certificates of review, and for other matters as determined by the city commission in ordinance or resolution.
- (3) *Quasi-judicial proceedings.* To the extent the city commission by ordinance or resolution shall provide, the board sits as a quasi-judicial body, then in such cases the board shall conduct the quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the board is in accordance with the requirements of Florida law. In such proceedings, the board shall be governed by the substantive and procedural requirements set out in the City Code, including those provisions set out in the land development code (chapter 58) if applicable. The provisions hereof are deemed to be incorporated by reference into chapter 58 of the City Code relating to historic preservation.
- (4) *Functions, powers and duties of the historic preservation board.* The functions, powers and duties of the board shall be as set out in chapter 58, article VIII of the City Code.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A); Ord. No. [3035-16](#), § 2, 5-9-16)

Sec. 2-60. - Housing authority board.

There is established within the City of Winter Park pursuant to the provisions hereof, a housing authority board subject to the following provisions:

- (1) *Membership.* The provisions of division 1 of this chapter and article shall apply to the membership and means of appointment thereof, subject to the provisions in F.S. ch. 421, including § 421.05.
- (2) *Independent authority.* The housing authority board is an independent housing authority established pursuant to F.S. ch. 421.
- (3) *Declaration of need.* Pursuant to F.S. § 421.04, the city declares that there is a need for the establishment of the housing authority board pursuant to the requirements and provisions of F.S. ch. 421.
- (4) *Authority and scope of responsibility.* The housing authority board shall perform such duties and have such functions as are provided under Florida law for housing authorities, including those requirements specified in F.S. ch. 421 and rules promulgated by administrative agencies of the State of Florida pursuant to chapter 421.
- (5) *Incorporation of divisions 1 and 2 of this article.* The provisions of divisions 1 and 2 of this article are incorporated herein, and shall apply except to the extent of any conflict with state law, in which event any conflicting provision of state law shall control.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

Sec. 2-61. - Independent personnel review board.

There is established within the City of Winter Park, pursuant to the provisions hereof, an independent personnel review board pursuant to the requirements in section 4.05 of the City Charter and chapter 74, article II, section 74-26 et seq., of the City Code, subject to the following provisions:

- (1) *Membership.* The independent personnel review board shall consist of the five non-city employee members of the civil service board.
- (2) *Quasi-judicial proceedings.* The independent personnel review board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law and chapter 74, article II, section 74-26 et seq., of the City Code. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the independent personnel review board is in accordance with the requirements of Florida law.
- (3) *Authority and responsibility.* The duties and responsibility of the independent personnel review board are set out in chapter 74, article II, section 74-26 et seq., of the City Code and section 4.05 of the City Charter. These provisions in the Code and Charter are incorporated herein and shall control the operation of this independent personnel review board.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

Sec. 2-62. - Keep Winter Park Beautiful and Sustainable Advisory Board.

Pursuant to the authority of the city commission, there is established within the City of Winter Park, a Keep Winter Park Beautiful and Sustainable Advisory Board, subject to the following provisions:

- (1) *Membership.* The number of members and the procedures for appointment thereof shall be in accordance with the provision in divisions 1 and 2 of this article, ~~except that the number of members shall be no greater than 15 and no less than seven. It is intent of the city commission for this board to eventually have seven members, and for such reduction to be achieved from attrition over time by not filling vacancies on the board until membership falls below seven members.~~
- (2) *Advisory board.* The Keep Winter Park Beautiful and Sustainable Advisory Board is an advisory board, and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the city commission concerning matters related to the environmental, economic and social sustainable of the City of Winter Park. The Keep Winter Park Beautiful and Sustainable Advisory Board shall have no adjudicatory or enforcement authority.
- (3) *Procedures.* The procedures and rules for operation of the Keep Winter Park Beautiful and Sustainable Advisory Board shall be in accordance with the general requirements stated in divisions 1 and 2 of this article.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A); Ord. No. 2880-12, § 4, 8-13-12; Ord. No. [3035-16](#), § 2, 5-9-16)

Editor's note— Ord. No. 2880-12, § 4, adopted Aug. 13, 2012, changed the title of § 2-62 from "Keep Winter Park Beautiful Advisory Board" to "Keep Winter Park Beautiful and Sustainable Advisory Board". This historical notation has been preserved for reference purposes.

Sec. 2-63. - Lakes and waterways advisory board.

Pursuant to the authority of the city commission, there is established within the City of Winter Park a lakes and waterways advisory board subject to the following provisions:

- (1) *Membership.* The number of members and the procedures for appointment thereof shall be in accordance with the provisions of divisions 1 and 2 of this article.
- (2) *With exception this is an advisory board.* The lakes and waterways advisory board is an advisory board with one exception, and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the city commission related to the protection and improvement of the city's lakes and waterways, with the goal of fostering, maintaining and improving the public stewardship, protection, long-range planning and careful oversight of the implementation of improvement projects for lake and stormwater management. The city acknowledges that the lakes and waterways within the city are a natural resource of great significance. As an exception to the general rule that this is an advisory board, the city commission may, by ordinance or resolution, assign a quasi-judicial function to this board with respect to appeals of decisions related to stormwater fees and concerning review and approval of proposed docks and boathouses under section 58-87.
- (3) *Quasi-judicial proceedings with respect to stormwater fees and appeals thereof.* To the extent the city commission by ordinance shall provide that this board will sit as a quasi-judicial body and consider appeals from decisions related to stormwater fees, then in such cases the board shall conduct the quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the board is in accordance with the requirements of Florida law. In such proceedings, the board shall be governed by the substantive and procedural requirements set out in the City Code, including those provisions set out in chapter 102, sections 102-156 through 102-164, as these provisions may be amended by the city commission. The provisions hereof are deemed to be incorporated by reference into chapter 102 of the City Code, relating to stormwater fees and appeals from decisions related to stormwater fees.
- (4) *Quasi-judicial proceedings with respect to docks and boathouses.* To the extent the city commission by ordinance shall provide that the lakes and waterways advisory board will sit as a quasi-judicial body and consider approval of proposed docks and boathouses, then in such cases the board shall conduct the quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the lakes and waterways advisory board is in accordance with the requirements of Florida law. In such proceedings, the board shall be governed by the substantive and procedural requirements set out in the City Code, including those provisions set out in chapter 58, section 58-87, as these provisions may be amended by the city commission. Any substantially affected person or persons aggrieved by any decision of the lakes and waterways advisory board (including, without limitation, the city) concerning a dock or boathouse, may apply to the circuit court for Orange County, Florida, for judicial relief within 30 days after rendition of the decision by the lakes and waterways advisory board. Review in the circuit court shall be by petition for writ of certiorari.
- (5) *Procedures.* The procedures and rules for operation of the lakes and waterways advisory board shall be in accordance with the general requirements stated in divisions 1 and 2 of this article, and in accordance with the requirements under Florida law for quasi-judicial proceedings when the board hears appeals from stormwater fee decisions if such appeals are referred to the board pursuant to city ordinance or resolution.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A); Ord. No. [3035-16](#), § 2, 5-9-16)

Sec. 2-64. - Parks and recreation advisory board.

There is established within the City of Winter Park, pursuant to the provisions hereof, a parks and recreation board, subject to the following provisions:

- (1) *Membership.* The parks and recreation advisory board shall be established in accordance with the requirements in divisions 1 and 2 of this article.
- (2) *Advisory board.* The parks and recreation advisory board is strictly an advisory board and shall have no adjudicatory or enforcement authority. If any provision of the Code requires processing of any matter through the parks and recreation advisory board, then the purpose of such requirement is for the parks and recreation advisory board to consider the request and to give advice to the city manager and the city commission (if the matter will reach the city commission). The purpose of such proceeding will not be quasi-judicial in nature.
- (3) *Purpose and duties.* The parks and recreation advisory board shall promote the parks and recreation programs of the city and will guide, advise and recommend to the city commission policies and actions regarding the promotion, planning, design, construction and utilization of city parks and recreation programs. The duties of the parks and recreation board will generally be to:
 - a. Advise and assist the city commission, the city manager and the various boards of the city in all matters involving or affecting parks and recreation.
 - b. The parks and recreation advisory board shall recommend policies for the improvement, creation, use and maintenance of city parks and recreation programs.
 - c. The parks and recreation advisory board shall recommend budgetary or special appropriations for parks and recreation programs.
 - d. The parks and recreation advisory board shall recommend plans for the future growth, development, use and beautification of city parks.
 - e. The parks and recreation advisory board shall periodically provide the city commission the public regarding the programs and facilities related to parks and recreation.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

Sec. 2-65. - Transportation advisory board.

There is established within the City of Winter Park, pursuant to the provisions hereof, a transportation advisory board, subject to the following provisions:

- (1) *Membership.* The transportation advisory board shall be established pursuant to the provisions in divisions 1 and 2 of this article. To the extent reasonably possible, the membership shall include a transportation professional engineer with experience in developing construction plans and a professional planner with experience with projects involving transportation.
- (2) *Advisory board.* The transportation advisory board is an advisory board and shall have no enforcement or adjudicatory power or responsibility. The provisions of division 1 of this chapter and article shall apply with respect to the operations of the transportation advisory board.
- (3) *Function and responsibilities.* The transportation advisory board shall meet and provide for its internal governance procedures as provided in divisions 1 and 2 of this article. The responsibility of the transportation advisory board shall be the following:
 - a. To receive information and following deliberation, make recommendations and give advice to the city commission concerning opportunities for improvement, maintenance, construction and facilitation of transportation (pedestrian, bicycle, public transportation, automobiles, freight, etc.) methods, infrastructure and issues in the City of Winter Park.
 - b. The transportation advisory board, following receipt of information and deliberation, shall determine ways in which transportation methods may be improved, enhanced and made safer within the City of Winter Park.

- c. Following the receipt of information and deliberation, the transportation advisory board shall recommend to the city commission ideas for promoting safe multi-modal transportation and complete streets in the City of Winter Park.
- d. The transportation advisory board shall provide education to the public and the city commission concerning the current infrastructure for multi-modal transport and complete streets in the City of Winter Park and the ways in which that infrastructure may be used safely for the enjoyment and benefit of the citizenry.
- e. The transportation advisory board shall serve the functions of the pedestrian and bicycle advisory board as set forth in policy 2-1.5 of the comprehensive plan and any implementing land development codes or regulations thereto.

(Ord. No. [3035-16](#), § 2, 5-9-16)

Editor's note— Ord. No. [3035-16](#), § 2, adopted May 9, 2016, amended § 2-65 in its entirety to read as set out herein. Former § 2-65 pertained to pedestrian and bicycle advisory board and derived from Ord. No. 2843-11, § 2, adopted June 13, 2011; and Memo of Feb. 22, 2012(Att. A).

Sec. 2-66. - Planning and zoning board.

There is established within the City of Winter Park, pursuant to F.S. § 163.3174 and section 58-3 of the City Code, a planning and zoning board, subject to the following provisions:

- (1) *Membership.* The membership of the planning and zoning board shall be appointed pursuant to the provisions in divisions 1 and 2 of this article. Notwithstanding the general requirements in divisions 1 and 2 of this article, consideration in the appointment process will be given such that if reasonably possible, the membership of the planning and zoning board shall include a Florida licensed architect, a Florida licensed landscape architect, or a Florida licensed civil engineer.
- (2) *Quasi-judicial proceedings.* The planning and zoning board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the planning and zoning board is in accordance with the requirements of Florida law.
- (3) *Authority and responsibilities.* The planning and zoning board shall have such authority and responsibilities as are set out in the land development code, including the provisions in chapter 58 of the City Code, and section 58-88 et seq., of the Code. The procedures that the planning and zoning board shall abide by are those set out in the city's land development code, subject to the requirements of Florida law with respect to quasi-judicial proceedings involving land use decisions. By this reference, this section is incorporated into the city's land development code.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

Sec. 2-67. - Public art advisory board.

There is established within the City of Winter Park, pursuant to the provisions hereof, a public art advisory board, subject to the following provisions:

- (1) *Membership.* The public art advisory board shall be established in accordance with the requirements of divisions 1 and 2 of this article. The procedures set out in divisions 1 and 2 of this article shall control the operation of the public art advisory board, subject to the specific provisions hereinafter provided. If reasonably available, consideration shall be given to include in the membership of the public art advisory board an architect, including a landscape architect,

an artist, a representative from a museum or art gallery, an experienced business person and a resident representative of the residential community.

- (2) *Advisory board.* The public art advisory board is an advisory board and shall have no adjudicatory or enforcement responsibilities or authority.
- (3) *Responsibilities and function of the public art advisory board.* The public art advisory board shall set out its rules for conducting business in accordance with the requirements of divisions 1 and 2 of this article, and following the receipt of information and deliberation, the public art advisory board shall have the following responsibilities and scope of service:
 - a. Following the receipt of data from various sources and deliberation, the public art advisory board shall provide advice and recommendations to the city commission for the siting of public art, and in making these recommendations, the public art advisory board shall endeavor to perform visual inspections of sites to ascertain the physical, cultural and historical aspects of sites being recommended to the city commission.
 - b. The public art advisory board shall develop and facilitate a composite map identifying signature opportunities within the city for public art.
 - c. The public art advisory board shall interview and recommend public art projects and assist in the selection of artists for possible public art projects, but in such respect, the action shall be strictly as an advisory board for the purpose of making recommendations to the city commission.
 - d. The public art advisory board shall develop a public arts action plan and recommend the same to the city manager and city commission for the implementation of educational and organizational opportunities related to and concerning public art.
 - e. The public art advisory board shall establish and maintain liaison with other public and private agencies involved with public art.
 - f. The public art advisory board shall advise the city commission and city manager in all matters involving or affecting public art.
 - g. The public art advisory board shall periodically inform the city commission and the general public regarding programs involving public art within the City of Winter Park.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

Sec. 2-68. - Tree preservation board.

Pursuant to the authority of the city commission, there is established within the City of Winter Park, a tree preservation board, subject to the following provisions:

- (1) *Membership.* The members of the code compliance board shall serve as the tree preservation board.
- (2) *With exception, this is an advisory board.* The tree preservation board is generally an advisory board with exceptions, and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the city commission related to the protection and improvement of the city's trees, with the goal of fostering, maintaining and improving the public stewardship, protection, long range planning and careful oversight of the implementation of improvement projects for the maintenance, preservation, growth and enhancement of trees within the City of Winter Park. The city acknowledges that its trees and tree canopy are a natural resource of great significance.

As an exception to the general rule that this is an advisory board, the city commission may, by ordinance or resolution, assign a quasi-judicial function to the tree preservation board. The provisions of this article concerning general procedures applicable to city boards and this

section concerning the tree preservation board are incorporated by reference into section 58-283. These quasi-judicial functions include the assignment, in section 58-283 of the authority to hear and decide appeals from tree removal applications, appeals from conditions of approval for approved tree removal permits, appeals concerning a request for a waiver of parking spaces in multi-family residential and nonresidential parking lots, and cases involving the modification of building plans or variances relating to the preservation of trees.

- (3) *Quasi-judicial proceedings.* To the extent the city commission by ordinance provides that this board has quasi-judicial authority, the board shall conduct such quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that this quasi-judicial activity of the board is in accordance with the requirements of Florida law. In such proceedings, the board shall be governed by the substantive and procedural requirements set out in the City Code, including those provisions set out in chapter 58, as these provisions may be amended by the city commission.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A); Ord. No. [3035-16](#), § 2, 5-9-16)

Sec. 2-69. - Utilities advisory board.

There is established within the City of Winter Park pursuant to the provisions hereof a utilities advisory board, subject to the following provisions:

- (1) *Membership.* The utilities advisory board shall be established pursuant to the procedures in divisions 1 and 2 of this article, ~~except that the board shall have no more than nine members and no less than seven members. It is the intent of the city commission for this board to eventually have seven members, and for such reduction to be achieved from attrition over time by not filling vacancies on the board until membership falls below seven members.~~ To the extent reasonably possible, the membership shall consist of licensed professionals without conflict of interest who have expertise in the utilities and infrastructure for provision of utility services, or the legal and business aspects of providing the subject utility services to the customers of the municipal utility systems within the City of Winter Park. One member shall be a nonresident customer of the water and sewer utility, which will be one of the mayor's appointments.
- (2) *Advisory board.* The utility advisory board is an advisory board and shall have no enforcement or adjudicatory authority or responsibility.
- (3) *Functions and responsibility.* The utility advisory board shall organize itself and develop rules for procedure in accordance with the requirements of divisions 1 and 2 of this article. Following the receipt of information and deliberation, the utility advisory board shall advise the city commission, city manager and the management of the various utility service departments and authorities servicing the City of Winter Park regarding the following matters:
 - a. The utilities advisory board shall make recommendations concerning opportunities for enhancement, expansion, maintenance, improvement and development of utility services within the City of Winter Park.
 - b. The utilities advisory board shall make recommendations regarding improvements to safety and procedures in the provision of utility services within the City of Winter Park.
 - c. The utilities advisory board shall make recommendations concerning the improvement of fiscal responsibility in connection with the provision of utility services, and will explore opportunities to make utility services available at a reasonable rate to the customers and residents of the City of Winter Park.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A); Ord. No. [3035-16](#), § 2, 5-9-16)

Sec. 2-70. - Winter Park Firefighters' pension board.

There is established within the City of Winter Park a firefighters' pension board established pursuant to the requirements of section 74-153 et seq., of the City Code, subject to the following provisions:

- (1) *Membership.* The board of trustees of the firefighters' pension board shall consist of that number of members required by and be appointed pursuant to the provisions in section 74-153, City Code and section 175.041, Florida Statutes. Members appointed by the city commission shall be approved by a majority vote of the city commission.
- (2) *Responsibilities and function.* The firefighters' pension board shall operate in accordance with the requirements of Florida law and section 74-153 et seq., of the City Code as the code relates to the firefighters' pension board and the duties and responsibilities of that board.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

Sec. 2-71. - Winter Park Police Officers' pension board.

There is established within the City of Winter Park a police officers' pension board established pursuant to the requirements of section 74-203 et seq., of the City Code, subject to the following provisions:

- (1) *Membership.* The board of trustees of the police officers' pension board shall consist of that number of members required by and be appointed pursuant to the provisions in section 74-203, City Code and section 185.05, Florida Statutes. Members appointed by the city commission shall be approved by a majority vote of the city commission.
- (2) *Responsibilities and function.* The police officers' pension board shall operate in accordance with the requirements of Florida law and section 74-203 et seq., of the City Code as the code relates to the police officers' pension board and the duties and responsibilities of that board.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

Sec. 2-72. - Golf course advisory board.

Pursuant to the authority of the city commission, there is established within the City of Winter Park, a golf course advisory board, subject to the following provisions:

- (1) *Membership.* There shall be five members and one alternate member and the procedures for appointment thereof shall be in accordance with the provisions in divisions 1 and 2 of this article.
- (2) *Advisory board—functions and responsibility.* The golf course advisory board is an advisory board and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the city commission concerning the Winter Park Golf Course. The board will provide advice on course and golf shop operations; program and events. Additionally, the board will promote the golf course and facilities to the Winter Park community. The golf course advisory board shall have no adjudicatory or enforcement authority.
- (3) *Procedures.* The procedures and rules for operation of the golf course advisory board shall be in accordance with the general requirements stated in divisions 1 and 2 of this article.

(Ord. No. [3067-17](#), § 2, 2-27-17)

Secs. 2-72~~3~~—2-80. - Reserved.

DIVISION 4. - NUISANCE ABATEMENT BOARD^[4]

Footnotes:

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Editor's note— At the direction of the city attorney, Usher L. Brown, per memo (Att. B) dated Feb. 22, 2012, Div. 3 was renumbered as Div. 4 and amended in its entirety to read as set out herein. Former Div. 3, §§ 2-81—2-93, pertained to similar subject matter. See the Code Comparative Table for a complete derivation.

Sec. 2-81. - Nuisance abatement board created; composition.

- (a) There is hereby created and established a subsidiary board of the City of Winter Park known and designated as the nuisance abatement board.
- (b) The members of the code compliance board established pursuant to section 2-47 and section 2-52 of the Municipal Code shall constitute the members of the nuisance abatement board and shall perform the duties and functions of the nuisance abatement board.
- (c) The nuisance abatement board shall perform such functions as required by law, including applicable provisions of this Code.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. B); Ord. No. [3035-16](#), § 2, 5-9-16)

Sec. 2-82. - Complaint procedures.

- (a) The nuisance abatement board shall hear complaints alleging that any place or premises within the city constitutes a public nuisance, having been used:
 - (1) On more than two occasions within a six-month period, as the site of a violation of F.S. § 796.07;
 - (2) On more than two occasions within a six-month period, as the site of the unlawful sale, delivery, manufacture or cultivation of any controlled substance;
 - (3) On one occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one occasion as the site of the unlawful sale, delivery, manufacture or cultivation of any controlled substance;
 - (4) By a criminal street gang for the purpose of conducting a pattern of criminal street gang activity as defined by F.S. § 874.03; or
 - (5) On more than two occasions within a six-month period, as the site of a violation of F.S. § 812.019 relating to dealing in stolen property.
- (b) Any employee, officer or resident of the city may bring a complaint before the board. Written notice of such complaint must be furnished to the owner of the place or premises, at his last known address, not less than three days prior to a scheduled hearing before the board.
- (c) The board shall conduct a hearing on the complaint, receiving evidence pertaining to the allegations of the complaint. The board may also consider evidence of the general reputation of the place or premises. The owner of the place or premises shall have an opportunity to present evidence in his defense.

- (d) At the conclusion of the hearing and based on the evidence received, the board may find and declare that the place or premises has been used as alleged in the complaint and that such place or premises thereby constitutes a public nuisance.
- (e) If the board declares a place or premises to be a public nuisance, the board may enter an order requiring the owner of such place or premises to adopt such procedures as may be appropriate under the circumstances to abate any such nuisance or it may enter an order immediately prohibiting:
 - (1) The maintaining of the nuisance;
 - (2) The operating or maintaining of the place or premises including the closure of the place or premises or any part thereof; or
 - (3) The conduct, operation or maintenance of any business or activity on the premises which is conducive to such nuisance.
- (f) An order entered under subsection (e), above, shall expire after one year or at such earlier time as is stated in the order.
- (g) An order entered under subsection (e), above, may be enforced pursuant to the procedures contained in F.S. § 120.69. This subsection does not subject the city, or the nuisance abatement board, to any other provision of F.S. ch. 120.
- (h) The board may bring a complaint, under F.S. § 60.05, seeking temporary and permanent injunctive relief against any nuisance described in subsection (a), above.
- (i) As used in this section, the term "controlled substance" includes any substance sold in lieu of a controlled substance in violation of F.S. § 817.563 or any imitation controlled substance defined in F.S. § 817.564.

(Memo of 2-22-12(Att. B))

Sec. 2-83. - Powers of board.

The nuisance abatement board shall have the power to:

- (1) Adopt rules for the conduct of its hearings;
- (2) Subpoena alleged violators and witnesses to its hearing, which subpoenas shall be served by the police department or any person authorized by rules of procedure;
- (3) Subpoena records, surveys, plats and other documentary evidence, which subpoenas shall be served by the police department or any person authorized by rules of procedure;
- (4) Take testimony under oath;
- (5) Issue orders having the force and effect of law declaring that any place or premises constitutes a public nuisance, prohibiting any such nuisance, and commanding necessary steps to abate any such nuisance;
- (6) Establish and levy fines pursuant to section 2-92; and
- (7) Provide for continuing jurisdiction for a period of up to one year over any place or premises that has been or is declared to be a public nuisance.

(Memo of 2-22-12(Att. B))

Sec. 2-84. - Administrative fines; liens.

- (a) If the nuisance abatement board declares a place or premises to be a public nuisance, it may impose a fine not to exceed \$250.00 per day for each and every day the public nuisance occurred or continues. In addition, the nuisance abatement board may impose a fine not to exceed \$500.00 per day for recurring public nuisances. The total fines imposed by the nuisance abatement board pursuant to this section shall not exceed \$15,000.00.
- (b) In determining the amount of the fine, if any, the nuisance abatement board shall consider the following factors:
 - (1) The gravity of the public nuisance;
 - (2) The actions taken by the owner to correct or abate the public nuisance;
 - (3) Any previous public nuisances created, committed or permitted by the owner.
- (c) The nuisance abatement board may reduce a fine imposed pursuant to this section.
- (d) If the nuisance abatement board declares a place or premises to be a public nuisance, it may charge the owner with the reasonable costs, including reasonable attorneys' fees, associated with the investigation of and the hearing on the public nuisance, along with any fine imposed pursuant to this section.
- (e) A certified copy of any order imposing a fine, providing for the payment of reasonable costs, or both, may be recorded in the public records of Orange County, Florida, and thereafter shall constitute a lien against the real property that is the subject of the order. A fine imposed pursuant to this section shall continue to accrue each day until the owner comes into compliance with the order or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first. A lien arising from a fine or order imposing costs, or both, entered pursuant to this section runs in favor of the city and the city may execute a satisfaction or release of lien entered pursuant to this section. The nuisance abatement board or the city commission may authorize the city attorney to foreclose on any lien created pursuant to this section. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under Florida Constitution Art. X, § 4. The city shall be entitled to collect and recover all costs, including reasonable attorneys' fees, associated with the recording of orders and foreclosure on a lien.
- (f) In any nuisance abatement action, based on a stolen property nuisance, against a property owner operating an establishment where multiple tenants, on one site, conduct their own retail business, the property owner shall not be subject to a lien against his property or the prohibition of operation provision if the property owner evicts the business declared to be a nuisance within 90 days after notification by registered mail to the property owner of a second stolen property conviction of the tenant.

(Memo of 2-22-12(Att. B))

Sec. 2-85. - Service of notices.

- (a) All notices required by this division shall be provided to the owner of the place or premises by certified mail, return receipt requested; by hand delivery by the sheriff or other law enforcement officer, or other person designated by the city commission; or by leaving the notice at the owner's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice.
- (b) In addition to providing notice as set forth in subsection (a), above, at the option of the nuisance abatement board, notice may also be served by publication, as follows:
 - (1) Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county. The newspaper shall meet such requirements as are prescribed under F.S. ch. 50 for legal and official advertisements.

- (2) Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.
- (c) In lieu of publication as described in subsection (b), above, such notice may be posted for at least ten days in at least two locations, one of which shall be the property upon which the public nuisance is alleged to exist and the other of which shall be at city hall in Winter Park, Florida. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.
- (d) Notice by publication may run concurrently with or may follow an attempt to provide notice by hand delivery or by mail as required under subsection (a), above.
- (e) Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (a), above, together with proof of publication as provided in subsection (b), above, shall be sufficient to show that the notice requirements of this division have been met, without regard to whether or not the owner actually receives such notice.

(Memo of 2-22-12(Att. B))

Secs. 2-86—2-100. - Reserved.

DIVISION 5. - CODE COMPLIANCE BOARD^[5]

Footnotes:

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Editor's note— At the direction of the city attorney, Usher L. Brown, per memo (Att. C) dated Feb. 22, 2012, Div. 4 was renumbered as Div. 5 and amended in its entirety to read as set out herein. Former Div. 4, §§ 2-101—2-110, pertained to similar subject matter. See the Code Comparative Table for a complete derivation. Subsequently, Ord. No. [3035-16](#), § 2, adopted May 9, 2016, changed the title of Div. 5 from "Code enforcement board" to "Code compliance board".

Sec. 2-101. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Code inspector means any authorized agent or employee of the city whose duty it is to ensure compliance with the codes and ordinances of the city.

Repeat violation means a violation of a provision of a code or ordinance by a person who has been previously found through a code compliance board or any other quasi-judicial or judicial process, to have violated or who has admitted violating the same provisions within five years prior to the violation, notwithstanding the violations occur at different locations.

Violation of an itinerant or transient nature means a violation of a provision of a code or ordinance which occurs at one location and then moves to another location, or occurs temporarily or which is transitory or passes away with time.

(Memo of 2-22-12(Att. C); Ord. No. [3035-16](#), § 2, 5-9-16)

Cross reference— Definitions and rules of construction generally, § 1-2.

State Law reference— Similar provisions, F.S. § 162.04.

Sec. 2-102. - Board created; composition; terms; removal; organization.

There is created a subsidiary board of the City of Winter Park known as the code compliance board, established pursuant to sections 2-47 and 2-52 of this Code. The provisions of divisions 1 and 2, sections 2-46 through 2-49 shall apply except as expressly required otherwise by a specific provision in this division 5.

(Memo of 2-22-12(Att. C); Ord. No. [3035-16](#), § 2, 5-9-16)

State Law reference— Authority to create code compliance board, F.S. § 162.03(3); composition, removal and organization of board, F.S. § 162.05.

Sec. 2-103. - Jurisdiction.

- (a) In its efforts to promote, protect and improve the health, safety and welfare of the citizens of the city, the code compliance board shall have the jurisdiction to hear and decide alleged violations of any codes and ordinances of the city.
- (b) It is the legislative intent of the city commission to provide for the establishment of the code compliance board as an additional or supplemental means of obtaining compliance with such codes and ordinances. Nothing shall prohibit the city commission from enforcing its codes and ordinances by any other means.
- (c) It is the further intent of the city commission that the code compliance board shall be established pursuant to the provisions of F.S. ch. 162 with authority to impose administrative fines and other noncriminal penalties to provide an equitable, expeditious, effective and inexpensive method of enforcing any codes and ordinances in force in the city where a pending or repeated violation continues to exist. The code compliance board shall have all of the powers and authority of a code enforcement board pursuant to F.S. ch. 162.

(Memo of 2-22-12(Att. C); Ord. No. [3035-16](#), § 2, 5-9-16)

State Law reference— Code enforcement board to be supplemental procedure, F.S. § 162.13.

Sec. 2-104. - Enforcement procedures.

- (a) It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes and ordinances. No member of the code compliance board shall have the power to initiate such enforcement proceedings.
- (b) Except as provided in subsections (c) and (d) of this section, if a violation of the codes or ordinances is found, the code inspector shall first notify the violator and give him a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code inspector shall notify the code compliance board and request a hearing. The code compliance board, through its clerical staff, shall schedule a hearing, and written notice of such hearing shall be mailed or hand delivered to the violator as provided in this division. At the option of the code compliance board, notice may additionally be served by publication as provided in this division. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the code inspector, the case may be presented to the code compliance board even if the violation has been corrected prior to the board hearing, and the notice shall so state.

- (c) If the code inspector has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety and welfare or if the violation is irreparable or irreversible in nature, the code inspector shall make a reasonable effort to notify the violator and may immediately notify the board and request a hearing.
- (d) If a repeat violation is found, the code inspector shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation, shall notify the code compliance board and request a hearing. The code compliance board, through its clerical staff, shall schedule a hearing and shall provide notice as provided in this division. The case may be presented to the code compliance board even if the repeat violation has been corrected prior to the board hearing, and the notice shall so state. If the repeat violation has been corrected, the code compliance board retains the right to schedule a hearing to determine costs and impose the payment of reasonable enforcement fees upon the repeat violator. The repeat violator may choose to waive his or her rights to this hearing and pay said costs as determined by the code compliance board.
- (e) If the owner of property which is subject to an enforcement proceeding before the code compliance board transfers ownership of such property between the time of service of the notice of hearing before the code compliance board and the time of the hearing, such owner shall:
 - (1) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.
 - (2) Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the transferor.
 - (3) Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding.
 - (4) File a notice with the code enforcement official of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within five days after the date of the transfer.

A failure to make the disclosures described in subparagraphs (1), (2) and (3) before the transfer creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the proceeding shall not be dismissed, but the new owner shall be provided a reasonable period of time to correct the violation before the hearing is held.

(Memo of 2-22-12(Att. C); Ord. No. [3035-16](#), § 2, 5-9-16)

State Law reference— Similar provisions, F.S. § 162.06.

Sec. 2-105. - Conduct of hearing.

- (a) Upon request of the code inspector or at such other times as may be necessary, the chairperson of the code compliance board may call hearings of the board, and hearings may also be called by written notice signed by at least three members of the board. The board at any hearing may set a future hearing date.
- (b) Upon scheduling a hearing, the board shall cause notice thereof to be furnished to the alleged violator as provided in this division. The notice of hearing shall contain the date, time and place of the hearing and shall state the nature of the violation and refer to the appropriate code or ordinance.
- (c) At the hearing, the burden of proof shall be upon the code inspector to show, by a preponderance of the evidence, that a violation does exist.
- (d) Assuming proper notice of the hearing has been provided to the alleged violator as provided in subsection (b) of this section, a hearing may proceed in the absence of the alleged violator.

- (e) All testimony shall be under oath and shall be recorded. The board shall take testimony from the code inspector and alleged violator and from such other witnesses as may be called by the respective sides.
- (f) Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern the proceedings.
- (g) Irrelevant, immaterial or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonable, prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of the state.
- (h) Any member of the board or an attorney appointed to represent the board may inquire of any witness before the board. The alleged violator or his attorney and the attorney or staff person representing the city shall be permitted to inquire of any witness before the board and shall be permitted to present brief opening and closing statements.
- (i) If the city prevails in prosecuting a case before the code compliance board, the city shall be entitled to recover all costs incurred in prosecuting the case before the board, and such costs may be included in the lien authorized under subsection 2-108(e).
- (j) At the conclusion of the hearing, the code compliance board shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with the powers granted by state law and by this division. The finding shall be by motion approved by a majority of those members present and voting; provided, however, that at least four members of the board must vote in order for the action to be official. The order shall be stated orally at the meeting and shall be reduced to writing and mailed or hand delivered to the alleged violator either at or within a reasonable time after the hearing. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed and, under the conditions specified in section 2-108(a), the cost of repairs may be included along with the fine if the order is not complied with by such date. A certified copy of such order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the code compliance board shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

(Memo of 2-22-12(Att. C); Ord. No. [3035-16](#), § 2, 5-9-16)

State Law reference— Similar provisions, F.S. § 162.07.

Sec. 2-106. - Powers of board.

The code compliance board shall have the power to:

- (1) Adopt rules for the conduct of its hearings.
- (2) Subpoena alleged violators and witnesses to its hearings, which subpoenas shall be served by the police department.
- (3) Subpoena records, surveys, plats and other documentary evidence, which subpoenas shall be served by the police department.
- (4) Take testimony under oath.
- (5) Issue orders having the force and effect of law commanding whatever steps are necessary to bring a violation into compliance.
- (6) Establish and levy fines pursuant to section 2-108.

(Memo of 2-22-12(Att. C); Ord. No. [3035-16](#), § 2, 5-9-16)

State Law reference— Similar provisions, F.S. § 162.08.

Sec. 2-107. - Administrative fines; costs of repair; liens.

- (a) The code compliance board, upon notification by the code inspector that a previous order of the board has not been complied with by the set time or upon finding that a repeat violation has been committed, may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by the code compliance board for compliance or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code inspector. In addition, if the violation is a violation described in subsection 2-105(c), the code compliance board shall notify the city, which may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the city to make further repairs or to maintain the property and does not create any liability against the city for any damages to the property if such repairs were completed in good faith. If a finding of a violation or a repeat violation has been made as provided in this part, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, the code compliance board finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in subsection (b).
- (b) A fine imposed pursuant to this section shall not exceed \$250.00 per day for a first violation and shall not exceed \$500.00 per day for a repeat violation, and, in addition, may include all costs of repairs pursuant to subsection (a). However, if the code compliance board finds the violation to be irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000.00 per violation.
- (c) In determining the amount of the fine, if any, the code compliance board shall consider the following factors:
 - (1) The gravity of the violation;
 - (2) Any actions taken by the violator to correct the violation; and
 - (3) Any previous violations committed by the violator.
- (d) The code compliance board may reduce a fine imposed pursuant to this section.
- (e) A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of the state, including execution and levy against the personal property of the violator, but such order shall not be deemed otherwise to be a court judgment except for enforcement purposes. A fine imposed pursuant to this section shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the city, and the city may execute a satisfaction or release of lien entered pursuant to this section. After three months from the filing of any such lien which remains unpaid, the code compliance board may authorize the city attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest. Actions for money judgments may be pursued only on fines levied after October 1, 2000. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under Fla. Const. art. X, § 4. The money judgment provisions of this section shall not apply to real property or personal property which is covered under Fla. Const. art. X, § 4.
- (f) No lien provided by this chapter shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action is commenced pursuant to F.S. § 162.09(3) in a court of competent jurisdiction. In an action to foreclose on a lien or

for a money judgment, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that the party incurs in the action. The city shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

(Memo of 2-22-12(Att. C); Ord. No. 2933-13, § 1, 8-12-13; Ord. No. [3035-16](#), § 2, 5-9-16)

State Law reference— Similar provisions, F.S. §§ 162.09, 162.10.

Sec. 2-108. - Appeals.

- (a) An aggrieved party, including the city commission, may appeal a final administrative order of the code compliance board to the circuit court. Any such appeal shall be filed within 30 days of the execution of the order to be appealed.
- (b) The scope of review shall be limited to the record made before the code compliance board and shall not be a trial de novo.
- (c) The city commission shall, by rule, establish reasonable charges for the preparation of the record to be paid by the appealing party.

(Memo of 2-22-12(Att. C); Ord. No. [3035-16](#), § 2, 5-9-16)

State Law reference— Appeals, F.S. § 162.11.

Sec. 2-109. - Notices.

- (a) All notices required by this division shall be provided to the alleged violator by:
 - (1) Certified mail, return receipt requested, provided if such notice is sent under this paragraph to the owner of the property in question at the address listed in the tax collector's office for tax notices, and at any other address provided to the city by such owner and is returned as unclaimed or refused, notice may be provided by posting as described in subparagraphs (b)(1) and (2) and by first-class mail directed to the addresses furnished to the local government with a properly executed proof of mailing or affidavit confirming the first-class mailing;
 - (2) Hand delivery by the sheriff or other law enforcement officer, code inspector or other person designated by the city commission;
 - (3) Leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice; or
 - (4) In the case of commercial premises, leaving the notice with the manager or other person in charge.
- (b) In addition to providing notice as set forth in subsection (a) of this section, at the option of the code compliance board, notice may also be served by publication, as follows:
 - (1) Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county. The newspaper shall meet such requirements as are prescribed under F.S. ch. 50 for legal and official advertisements.
 - (2) Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.
- (c) In lieu of publication as described in subsection (b), such notice may be posted at least ten days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two

locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be at city hall in Winter Park, Florida. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

- (d) Notice by publication may run concurrently with or may follow an attempt to provide notice by hand delivery or by mail as required under subsection (a) of this section.
- (e) Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (a) of this section, together with proof of publication as provided in subsection (b) of this section, shall be sufficient to show that the notice requirements of this division have been met, without regard to whether or not the alleged violator actually received such notice.

(Memo of 2-22-12(Att. C); Ord. No. [3035-16](#), § 2, 5-9-16)

State Law reference— Similar provisions, F.S. § 162.12.

Secs. 2-110—2-120. - Reserved.

DIVISION 6. - RESERVED^[6]

Footnotes:

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Editor's note— Ord. No. 2843-11, § 3.b.D., adopted Feb. 22, 2012, repealed Div. 6 in its entirety. Former Div. 6, §§ 2-121—2-124 pertained to public advisory board. See the Code Comparative Table for a complete derivation.

Secs. 2-121—2-130. - Reserved.



401 South Park Avenue • Winter Park, Florida 32789

407-599-3277 • 407-691-6755 fax
cityofwinterpark.org

**Office of the
City Clerk**

April 28, 2020

Dear [insert board member name]:

On behalf of the City of Winter Park, we hope this letter finds you healthy, well and safe. First and foremost, we would like to thank you for your service as a volunteer board member. We understand and appreciate the time you have carved out of your busy lives to help advise our City Commission on important decisions that impact our city's quality of life.

While we are unable to safely convene advisory board meetings at this time due to the COVID-19 pandemic, we do want to share important information with you about upcoming changes to the board member application and appointment process. In March, voters approved Charter Amendment 7 which removed the Mayor's sole board appointment authority and established the size of city boards at seven members. It also provided for the Mayor to have three appointments per board and each of the four City Commissioners to have one appointment per board. As a result, the following board application and appointment process will be implemented:

- All current board member terms of service will expire Tuesday, June 30, 2020, regardless of the number of years remaining in the board member's current term.
- Each newly appointed board member starts their service with a "clean-slate" and no previous terms served will apply to term limits.
- If you are interested in serving on a city board, you must reapply for consideration at cityofwinterpark.org/board-app.
- Applications must be submitted by Monday, June 1, 2020.
- Individuals may be interested in applying for more than one board and are able to request consideration for a maximum of three boards. However, applicants will only be appointed to serve on one board at a time.
- A board member's term will run concurrently with the term of the member of the Commission who made their appointment and will expire at the same time as the Commission member's current term of office.
- Board appointments will be confirmed at the Monday, June 22, 2020 City Commission meeting.
- All board members will be invited to attend a staff-led Board Orientation to inform members of their requirements, rules and expectations.

If you have any questions or need more information, please contact me at 407-599-3277 or email rcranis@cityofwinterpark.org. Thank you for your service and continued interest in helping enhance our city's quality of life.

Sincerely,

Rene Cranis
City Clerk



401 South Park Avenue • Winter Park, Florida 32789

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**Office of the
City Manager**

Proposed Board Appointment Transition Process

Proposed dates	Action items
April 27	First reading of ordinance and presentation of transition plan to City Commission
April 28	Send letter to all current board members explaining the transition process & requirement to reapply
April 28	Begin promotion of board application process
May 11	Second reading of ordinance
June 1	Deadline for interested applicants to submit applications
June 1 thru June 22	Commissioners review applications, meet with potential candidates
June 22	City Commission meeting agenda item re: board member appointments • Each Commissioner prepared with a first choice and back up selections • Suggested method of appointment: ○ Mayor first (the Mayor may have more restrictive responsibilities related to appointment) ○ Commissioners by seniority (alternate Commissioners with equal time served)
June 24 or 25	Advisory Board Orientation - citywide
June 24 thru 30	Advisory Board Orientation – board specific by staff liaison
Week of June 29	Letter of appreciation to outgoing board members
June 30	All current board members' terms expire
Month of July	First meeting of new advisory board members