



City Commission Regular Meeting Minutes

April 27, 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

Finance Director Wes Hamil provided the invocation followed by the Pledge of Allegiance.

3. Approval of Agenda

No changes were made to the agenda.

4. Mayor's Report

5. City Manager's Report

Mr. Knight gave an update on the closure of city facilities and parks and asked for the commission's position on reopening the golf course, tennis center, boat ramp, dog park and the Farmers Market relocating it to the West Meadow to provide more space between vendors.

Mayor Leary said he feels reopening should be phased and suggested reopening the golf course allowing two-somes for a short period.

Commissioner Sullivan provided input from a resident on restrictions when reopening the golf course including mandatory masks, removal of rakes in bunkers and online or debit payment only.

Commissioner Weaver supported reopening the golf course with social distancing for a trial period and would prefer that more people were wearing masks.

Commissioner Cooper said she feels the reopening of any public venues is premature.

Commissioner DeCiccio spoke in support of reopening the golf course with controls.

Mayor Leary said he would like for staff to develop restrictions. He opposed opening the Farmers Market.

Mayor Leary and Commissioners Weaver and DeCiccio supported reopening the golf course with restrictions for a trial period of two weeks. Commissioners Sullivan and Cooper opposed reopening any of the five venues.

Mr. Knight stated that staff is exploring the use of the community center and gym for public meetings to allow public participation depending on future regulations on social distancing.

Mr. Knight advised that the city has postponed the purchase of equipment to implement the approved charter provision that allows commissioners to participate remotely until it is determined how future meetings will be conducted during/after pandemic.

Mr. Knight stated that Fairbanks Avenue undergrounding is complete and poles will be removed beginning in mid-May.

Commissioner Cooper asked for department budget presentations to the commission, particularly capital improvement projects for each department and budget projection. Approved by consensus to have staff schedule presentations.

Commissioner Cooper asked for the status of fiber networking. Mr. Knight said installation of public Wi-Fi in some parks has been accelerated and is in the testing stage. A proposal to move forward will be presented to the Commission for approval.

Commissioner Cooper commented on the issues on the demucking portion at the Library and Event Center project and the increased cost that will come from contingency funds. Mr. Knight clarified that it would come from owner's contingency. Commissioner Cooper said given the cost and impact on contingency there should be an opportunity for cost sharing.

Commissioner Weaver agreed with Commissioner Cooper and suggested a work session to discuss this project in detail given the potential reduced availability of construction materials and use of contingency funds this early in construction.

Commissioner DeCiccio agreed with Commissioners Cooper and Weaver and supported a work session to review the budget.

Commissioner Sullivan expressed his concern that this issue may be an indicator of where the project is going. He recommended an oversight task force to provide periodic budget updates, cost of work performed and work scheduled.

Mr. Knight stated that demucking was an allowance in the Gross Maximum Price (GMP) and most of the project is covered by the GMP directly and will not be impacted by deviations to the budget. He believes this issue is not symptomatic of the rest of the project due to the fixed GMP.

Mayor Leary stated the city has an owner's representative who provides project updates and said he feels that an oversight task force is not needed.

Mr. Knight said the owner's representative can provide the information requested by Commissioner Sullivan. Commissioner Sullivan requested the information include the details of variances between the actual and budgeted costs. Mr. Knight pointed out that the price variations for construction materials and cost increases are not passed through to the city and will not affect overall budget.

After discussion, consensus was to schedule a work session.

Mr. Knight gave an update on the COVID19 programs and services offered. The Feed the Need program with food provided by area restaurants served approximately 325 participants last Saturday. The City has made the \$25,000 contribution to United Way's 211 program.

Responding to comments by Mayor Leary, Mr. Knight stated that the idea of shutting down streets to allow for restaurants to spread out for evening dining has not been brought to the city and has not been evaluated by staff.

Commissioner Cooper asked for the CARES Act restrictions. Mr. Knight stated that the funds must be used for costs related to COVID19. The City has spent \$50,000 so far from masks to decontamination devices for city facilities. Staff is following reports for other potential funds from the Federal government. He said he will get information on whether funds received by Orange County from the Federal government would be made available to the city.

Commissioner Sullivan asked about the availability of State resiliency grants. Mr. Knight said that the city is attempting to obtain those funds.

Commissioner DeCiccio said that she received an e-mail requesting COVID19 testing site in Winter Park. Commissioner Sullivan suggested a joint testing site with Maitland and Eatonville. Mr. Knight stated he will make the request.

6. City Attorney's Report

Attorney Ardaman advised that the litigation regarding the City of Pensacola case regarding arborist regulations is still pending.

Mr. Ardaman advised that the administrative challenge of the adoption of the OAO has been dismissed by the petitioners. He asked for direction on whether to bring back a contingent moratorium if the ordinance rescinding the OAO is challenged and overturned. He responded to questions stating that there is minimal risk of a moratorium and suggested it would be prudent to acknowledge and recognize the rescission ordinance's validity and also recognize receipt of statements of an intent to challenge the rescission ordinance. This would put all affected property owners on notice that even if the rescission ordinance was overturned, there would be a moratorium in place to allow time to consider and adopt a new OAO.

Commissioner Cooper supported a moratorium. Commissioner DeCiccio concurred with Mr. Ardaman.

Commissioner Sullivan stated he could support a moratorium that is triggered upon the overturning of the rescission ordinance. He said the length of the moratorium will need be determined and long enough to fix the OAO. He supported an ordinance to enact a moratorium under these conditions. Approved by consensus. Mr. Ardaman said he will develop the ordinance and follow the process required.

Commissioner Weaver commented on e-mails sent to members of the commission from a former commissioner which resulted in exchange of e-mails between commissioners that could lead to a violation of Sunshine Law. Attorney Ardaman opined that e-mail responses to everyone in an e-mail which can be shared with other members of the commission can potentially be violation of Sunshine Law. He said it is improper for anyone to send

communications received from a member of the commission to another commissioner. He urged caution when responding to e-mails and to avoid giving substantive position on matters.

Mayor Leary stated this is an opportune time, with new commissioners, to discuss protocol and commission interaction, and communications with the public and requested a work session.

Commissioner Cooper said she would like to expand the discussion to include resolutions and policies on bringing items back for reconsideration and to look at governance overall. She said she would like the commission to consider moving regular commission meetings to Wednesdays to allow time to contact staff on workdays and to start meetings later in the evening to allow for people who work to participate.

In response to a question by Commissioner Sullivan, Mayor Leary stated there have previous discussions regarding individual and separate communications to the public, actions and procedures during commission meetings including commissioner presentations, comments made in commission meetings, and communication to the public and amongst the commission. He suggested using use a moderator who can bring policies and procedures from other agencies to consider. Discussion followed on using a moderator or facilitator, past practices during meetings, communications with the public and topics for discussion. Consensus was to schedule work session without a moderator.

Bronce Stephenson, Director of Planning, said he compiled a list of data and analysis requests initiated by Commissioner Cooper and revised with Commissioners DeCiccio and Weavers comments. He reviewed the scope and preliminary costs for an economic analysis through the creation of modeling by GAI Consultants at an approximate cost of \$100,000. The city's transportation consultant, Kimley Horn, expressed concerns with doing an analysis of one-mile limit around each intersection in a .7-mile corridor, which would cost between \$150,000 to \$400,000. The scope and detail could be narrowed in order to reduce costs.

Commissioner Cooper said that she has not had an opportunity to study the data which she feels is necessary to calculate proportionate fair share. Discussion followed on scope, intersections and design and options to reduce cost. Mr. Stephenson said in order to develop a scope of work, staff needs to know what data and analysis is needed by the commission.

Mayor Leary said that he feels there is sufficient data to move forward and it is unnecessary to spend funds on additional studies.

Commissioner DeCiccio asked for a work session to discuss development of Progress Point.

Commissioner Sullivan said both traffic and Progress Point are important and need to be addressed but traffic is more urgent than the development of Progress Point, which is a policy decision.

Mayor Leary said he feels the Commission needs to establish intent and parameters for development of Progress Point before going out for proposals. Discussion followed on the components of the development, i.e. parkland, parking garage and stormwater, and the value of the property.

After discussion, consensus was to schedule a work session, including the city's transportation consultant, for Thursday, April 30th at 5:00 to discuss data and analysis and separate work session to discuss Progress Point next week.

7. Non-Action Items

8. Citizen Comments

Frank Anderson, 127 W. Fairbanks Avenue, commended staff on its efforts during COVID19. He encouraged the commission to work expeditiously to enact Charter Amendment 7.

9. Consent Agenda

- a. Approve the minutes of April 8, 2020
- b. Approve the minutes of April 13, 2020 (Pulled by Commissioner Cooper)
- c. 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
- d. 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
 - Sanders Co.: Installation of replacement lift station on Ranger Blvd; \$91,883

Commissioner Cooper pulled Item 9b.

Motion made by Commissioner Cooper to approve the Consent Agenda except 9b; seconded by Commissioner Weaver. There were no public comments. Motion carried unanimously.

Motion made by Commissioner Cooper to amend the minutes of April 13 by revising the first sentence in the fourth paragraph on Page 9 to read "Commissioner Cooper explained that Resolution 2129-13 established rules of conduct and when it was adopted it repealed all prior rules and that it does not include the requirement that no item/issue may be brought up for consideration by a commissioner that was on the minority side of the vote."; seconded by Commissioner Weaver.

Commissioner Cooper said she feels it is important that her comments are more definitive because that was the policy referenced to overrule the opportunity to review the OAO.

Mayor Leary said he can support the amendment but he understands that the policy still stands and was not removed by any revisions to the rest of the document; however, it did not specifically address new commissioners.

Commissioner Cooper said it also did not address the issue of only someone on the affirmative side bringing an item up for reconsideration. The resolution was passed five years after that policy was discussed and it repealed all prior policies but it did not include that policy.

Mr. Ardaman stated the referenced resolution is still in effect and referenced prior resolutions but did not deal with the policy that was at issue. Therefore, his belief is that policy still existed. There was nothing in the resolution that said the policy adopted by a prior commission had been expressly overruled or modified.

There were no public comments. **Motion carried unanimously.**

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

Mr. Knight explained the revised Letter of Intent which requires a \$75,000 payment, which is budgeted in FY 2020; \$25,000 is non-refundable and \$50,000 is intended to cover the post office costs to evaluate options. He reviewed the next steps which will result in a better estimate of the total cost to purchase the property. He explained that the city will be required to build a new facility elsewhere for the carrier and retail site which is actually the purchase of the post office property.

Commissioner Cooper thanked Mr. Knight for his efforts in his negotiations with the Post Office. She feels this is reasonable and supported moving forward.

Commissioners Weaver agreed with Commissioner Cooper. Commissioners Sullivan and DeCiccio spoke in favor of moving forward.

Mayor Leary said that the most recent appraisal was just under \$3 million and expressed his concern that the city could potentially pay up to three times the assessed value of the property and although he is supportive of acquiring the property as some point, he would like a more public process and use money to assist local businesses and residents. He expressed his appreciation for Commissioner Cooper's efforts.

Commissioner Cooper stated that funds have been allocated from the CRA and that this opportunity may not come up again.

Motion made by Commissioner Cooper to approve the terms of the Letter of Intent and authorize the City Manager and City Attorney to continue negotiations with USPS and to bring the term sheet back to the commission for approval once final costs are defined and prior to execution of the formal exchange agreement; seconded by Commissioner Weaver.

Commissioner DeCiccio advised that that the city wants to retain the retail portion in downtown area. Discussion followed on the maintaining the retail portion downtown.

Commissioner Cooper explained the Resolution read the USPS property would be used in perpetuity and the LOI states the property will be used for park space, parking or other amenities complimentary to Central Park. Mr. Knight stated the intent of language was to allow maximum flexibility for other amenities including parking to support the park. Discussion followed on park amenities retaining some flexibility to determine the type of parking.

The following spoke in favor of acquiring the post office property:

- Cathy Richey, 1048 S. Kentucky Avenue
- Leslie Claire Thomas, 700 Melrose Avenue
- Sally Flynn, 1731 Diana Drive
- Robert Bendick, 1211 Oxford Road

Motion made by Commissioner Cooper to amend main motion to revise the end of first paragraph of Exhibit A to the LOI to read "utilizing it for park space, subterranean parking or other park amenities complimentary to Central Park;" seconded by Commissioner

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

Upon a roll call vote on the main motion as amended, Commissioners Sullivan, DeCiccio, Cooper and Weaver voted no. Motion carried with a 4-1 vote. Mayor Leary voted no.

b. Backyard Chicken Program

Kris Stenger, Assistant Director of Building and Permitting Services, gave a presentation on the history of previous actions and reviewed ordinances and provisions of area cities that allow backyard chickens including maximum number of hens, size and height of coops and setbacks from property line and neighboring structures. He noted that none of the three cities have received complaints.

Commissioner Weaver gave a presentation on other Florida agencies that allow backyard hens and the successes and benefits of backyard hens. He commented on common misconceptions regarding smell, noise, waste, attraction of wild animals, disease and decline of property values. He reviewed the proposed regulations for backyard hens.

Commissioner Sullivan provided information on classes and training which is needed to obtain a permit. He suggested a maximum height of six feet.

Mayor Leary expressed his concern that this is not compatible with Winter Park's village atmosphere. He said he spoke a representative from Florida Fish and Wild Commission who advised that foul in yard create additional opportunities for attacks by coyotes, raptors and racoons.

Commissioner Weaver responded to questions regarding enclosed coops and predators.

Commissioner Cooper said that she feels chickens are farm animals, create an odor and are not conducive to urban environment. She recommended a pilot program with required training, zoning restrictions, fencing, size/height and monitoring for compliance.

Commissioner DeCiccio recommended a cap of 50 permits in a pilot program.

Commissioner Sullivan stated that criteria are needed to determine the success or failure of this program.

After discussion, consensus was to refer this to the KWPB and Sustainability Board for review with six-foot height limitation, a two-year pilot program with maximum of 50 permits and using the percentage of owners in compliance with their permit to determine whether to suspend or continue the program, allow in R-1A and R-1AA zoning districts only, lot must be code compliant size, allowed in backyard only, and define composting.

The following spoke in favor of allowing backyard hens.

- Kim Murphy, 1835 Bryan Avenue, Winter Park Backyard Chicken Initiative
- Samantha Goodowens, 1722 N. Park Avenue
- Jason Goodowens, 1722 N. Park Avenue
- Sandra Womble, 940 Old England Avenue

Mayor Leary declared a recess at 7:35 p.m. and reconvened the work session at 7:50 p.m.

11. Public Hearings

- a. Request of The City of Winter Park for - An Ordinance to amend the Official Zoning Map to change the zoning designation of Office (O-1) to Parks and Recreation (PR) on the City property at 1390 Orange Avenue. (First Reading)

Attorney Ardaman read the ordinance by title only.

Mr. Knight stated that this property was found to have the wrong zoning during the OAO process.

Motion made by Commissioner DeCiccio to approve the ordinance on first reading, seconded by Commissioner Cooper. There were no public comments. **Upon a roll call vote, Mayor Leary and Commissioners Sullivan, DeCiccio, Cooper and Weaver voted yes. Motion carried unanimously with a 5-0 vote.**

- b. Ordinance 3173-20 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. (Second Reading)

Attorney Ardaman read the ordinance by title.

Motion made by Commissioner Cooper to adopt the ordinance on second reading, seconded by Commissioner DeCiccio.

Commissioner Weaver asked for an update from the previous meeting as to whether rights-of-ways can be sold. Mr. Ardaman said an attorney general's interpretation states the abutting property owners to a platted roadway own to the center of that roadway and the city retains an easement. When vacation or abandonment occurs, the underlying fee simple owner has the ownership interest. Therefore, the attorney general has opined that the it would not be proper for the city to charge for the underlying fee simple interest of the owner. Although this is not binding law on cities and counties, most abide by this interpretation and opinion.

There were no public comments. **Upon a roll call vote, Mayor Leary and Commissioners Sullivan, DeCiccio, Cooper and Weaver voted yes. Motion carried unanimously with a 5-0 vote.**

- c. Ordinance - Revising subsidiary Advisory Board appointment process

Attorney Ardaman read the ordinance by title.

Mayor Leary said he feels the city is doing a disservice to current board members by dismissing them during their term and they should retain their term expiration dates. He expressed concern about commission interaction with boards outside the Sunshine Law and possibly influencing the way a board member will vote.

Mr. Ardaman recommended amending Exhibit A, Section 2-48 (d), Quorum, to read "...in favor of such motion; except that the provisions of this section do not apply to boards requiring a different minimum vote requirement as set fort in other portions of this article or as otherwise

provided by law.” This would resolve the conflict with the Board of Adjustments where four affirmative votes are required to approve a variance per City Code.

Motion made by Commissioner Cooper to approve the ordinance on first reading as revised by the City Attorney; seconded by Commissioner DeCiccio.

Amendment 1: Motion made by Commissioner Sullivan to amend the ordinance for consistency changing “boards” to “boards and ad hoc committees” throughout the ordinance; seconded by Commissioner Cooper.

Amendment 2: Motion made by Commissioner Cooper to delete reference to Tree Preservation Board in Section 2-47(3) and to re-establish and add the Tree Preservation Board as an independent board and include education as a responsibility of the board; seconded by Commissioner Weaver.

Amendment 3: Motion made by Commissioner Cooper to delete alternate members for all boards since all boards will have seven members; seconded by Commissioner Weaver.

Commissioner Cooper suggested deleting “tree preservation board as provided in Section 2-68 of the City Code” in Section 2-52(3). Staff was directed to make this revision if Amendment 2 passed.

Amendment 4: Motion made by Commissioner Cooper to revise in Section 2-54(2) to read “...give advice and recommendations to the City Commission concerning matters related to the Winter Park Community Redevelopment Area Plan as amended and community redevelopment”; seconded by Mayor Leary

Commissioner Cooper addressed the Economic Development Advisory Board stating that this board has authority to establish other areas of interest as it deems relevant to their responsibilities that is not provided to other city boards. She suggested that this language be deleted or that it be added to all board to provide for consistency in authority.

Mayor Leary asked that staff determine whether this authority is existent in other boards.

Amendment 5: Motion made by Commissioner Cooper to remove the sentence in Section 2056(2) “The economic development advisory board shall have the authority ... and the Charter thereof;” seconded by Commissioner Weaver.

Commissioner Cooper suggested that the Mayor be responsible for appointing members to the boards that have required skills or professional certification. Mr. Knight advised that the ordinance states the Mayor will make the appointments that require specific skills. Discussion ensued on mandatory skills and resulting challenges in filling board vacancies.

Commissioner Cooper said that Section 2-68(1) will have to be revised if Amendment 2 passes and suggested that the Tree Preservation Board consist of an arborist and professional landscaper.

Mayor Leary said he would like the board members’ terms to remain intact and coincide with the term of the member of the commission and make appointments for those terms that expire in 2020 at this time. He feels that institutional knowledge and staff’s relationship with current board members will be lost and it is insulting to board members to end their service mid-term.

Motion made by Mayor Leary to amend the implementation process to maintain the term expirations of current board members so their terms would be the same as the commission seat with the same term.

Commissioner Weaver said he has made decisions on his board appointments and is retaining a number of current members which will aid in retaining institutional knowledge. He said that the intent of the electors to change the process should be followed and put in place without delay.

Mayor Leary said he feels this will still comply with the amendment to create a new board appointment process.

Commissioner Cooper spoke in favor of the ordinance as presented and moving forward without delay. Commissioner DeCiccio agreed with Commissioners Cooper and Weaver.

Motion failed for lack of second.

Motion made by Mayor Leary to add language stating that discussions between commissioners and board members be treated as the same as other communications under the Sunshine Law.

Commissioner Cooper said she finds it helpful to communicate with board members without giving direction. She feels it is not a violation of the Sunshine Law and is opposed to prohibiting communications and from attending board meetings.

Mayor Leary said that he was made aware of other agencies policies that discourage commissioners from talking to board members prior to a vote and attending board meetings because of perceived influence on the board's independence.

Motion failed for lack of second.

Commissioner Weaver said that he feels communication with board members is necessary and can be done without influence.

Sally Flynn, 1400 Highland Road, spoke in favor of the proposed ordinance and amendments.

Upon a roll call vote on Amendment 1, 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 Amendment 2, Commissioners Sullivan, DeCiccio, Cooper and Weaver voted yes and Mayor Leary voted no. Motion carried with a 4-1 vote.

Upon a roll call vote on Amendment 3, 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 Amendment 4, 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 Amendment 5, 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 main motion as amended, Commissioners Sullivan, DeCiccio, Cooper and Weaver voted yes and Mayor Leary voted no. Motion carried with a 4-1 vote.

12. City Commission Reports:

Commissioner Sullivan

- Reiterated his request for an oversight committee on the Library and Event Center Task.
- Asked Mayor Leary to partner with Eatonville and Maitland for COVID19 testing site.
- Asked staff to work with EDAB and KWPB and Sustainability Board to look at ban of single use plastics by government contractors and for city sponsored events. Approved by consensus.

Commissioner DeCiccio

- Requested a separate work session to discuss Progress Point and for board appointments. Approved by consensus for Monday, May 4th.
- Asked staff to look at arcing wires at Orange and Denning.

Commissioner Cooper

- Questioned the success of the receiving phone calls during public comment. Mr. Knight said staff assumes the caller did not unmute. She suggested better direction on how public comments are taken.
- Apologized for appearing to be flippant about the backyard chicken program.

Commissioner Weaver

- Supported mandatory masks in public and asked whether the city had authority to mandate masks. Mr. Ardaman stated that he will research and will provide an update. Commissioners Sullivan and Cooper supported mandatory masks in public spaces. Commissioner DeCiccio said she would like more data before taking a position on mandatory masks. Mayor Leary opposed mandatory masks.

Mayor Leary

No report

The meeting adjourned at 9:07 p.m.

Mayor Steve Leary

ATTEST:

City Clerk Rene Cranis, CMC