



**CITY OF WINTER PARK
CITY COMMISSION MEETING
AGENDA
MONDAY, FEBRUARY 11, 2008
COMMISSION CHAMBER
3:30 p.m.**

Welcome to the City of Winter Park City Commission meeting. The agenda for regularly scheduled Commission meetings is posted in City Hall the Friday before the meeting. Agendas and all backup material supporting each agenda item are available in the City Clerk's office or on the City's website at www.cityofwinterpark.org. **Persons desiring to address the Commission MUST fill out and provide to the City Clerk a yellow "Request to Speak" form located on the door.** After being recognized by the Mayor, persons are asked to come forward and speak from the podium, state their name and address and direct all remarks to the Commission as a body, and not to individual members of the Commission, staff or audience.

Comments are limited to four (4) minutes. The yellow light indicator will remind you that you have one (1) minute left to sum up. Large groups are asked to name a spokesperson. This period of time is for comments and not for questions directed to the Commission or staff for immediate answer. Questions directed to the Commission will be referred to staff and should be answered by staff within a reasonable period of time following the date of the meeting. Order and decorum will be preserved at all meetings. Personal, impertinent or slanderous remarks are not permitted. Thank you for participating in your City government.

1. **Meeting Called to Order**
2. **Invocation:** Finance Director Wes Hamil
Pledge of Allegiance
3. **Mayor's Report:**
 - a) Presentation by the Chamber of Commerce to Winter Park schools from the funds raised by the Leadership Winter Park annual pancake breakfast.
 - b) Board Appointments:
 - Hannibal Square Community Land Trust (2) – Joe Terranova/Margie Bridges
4. **Action Items:**
 - a) Approve the minutes of 1/28/08.
 - b) Approve Emergency Relief Program Supplemental Amendment Number 1 with the Federal Highway Administration (FHWA).
5. **Public Hearings:**
 - a) Ordinance-De-annex properties at 983 and 1001 North Orlando Avenue and at 911, 915 and 919 Benjamin Avenue. (2)
 - b) Ordinance-Adopting a new "Proportionate fair-share option to mitigate deficit transportation facilities". (2)
 - c) Ordinance-Allowing an increase in taxicab rates. (1)

6. **City Attorney's Report:**
7. **Non-Action Items:**
 - a) [Canin/Placemakers Overview of Form Based Code Project .](#)
8. **New Business (Public):** THIS TIME IS INTENDED FOR COMMENTS THAT ARE NEW BUSINESS. COMMENTS ON ISSUES COMING BEFORE THE COMMISSION AT A LATER MEETING SHOULD BE MADE AT THE TIME OF THE SCHEDULED AGENDA ITEM.
9. **New Business (City Commission):**

"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 OF WINTER PARK
REGULAR MEETING OF THE CITY COMMISSION
January 28, 2008**

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

The invocation was given by Pastor Stan Reinemund – Redeemer Lutheran Church, followed by the Pledge of Allegiance.

Members present:

Mayor David Strong
Commissioner Margie Bridges
Commissioner Douglas Metcalf
Commissioner Karen Diebel (arrived at 3:45)

Also present:

City Attorney Trippe Cheek
City Manager Randy Knight
City Clerk Cynthia Bonham

Member absent:

Commissioner John Eckbert

Mayor's Report:

- a) Florida Municipal Electric Association (FMEA) Community Service Award presentation by Barry Moline, Executive Director FMEA.

Barry Moline, Executive Director of the Florida Municipal Electric Association presented the award. He explained that the Community Service Award recognizes FMEA members that go beyond providing the basic services and the City of Winter Park has delivered on a number of these community services.

- b) Non Agenda Item

Mayor Strong summarized the issues addressed and voted on at the Orange County Council of Mayor's meeting today. 1) A Commissioner from Orange County requested restructuring of the Orange County Expressway Authority and the Council of Mayor's made the recommendation that the OCEWA be expanded to 7 members to give greater accountability and transparency to that authority. 2) OCCM asked Orange County to make a presentation to the municipalities as to the services they provide. 3) OCCM recommended No on Amendment one. 4) Home Town Democracy will not appear on this year's ballot and there is an initiative from Secretary Pelham of the Florida Department of Community Affairs (DCA) that when changes are requested for the Comprehensive Plan in the future they must be approved by a super majority. 5) The City of Ocoee will be exploring Charter Schools for their City. Mayor Strong commented that other cities are considering ways for the School Board to better listen to the municipalities.

Commissioner Diebel arrived at 3:45 p.m.

Action Items:

- a) Approve the minutes of 1/14/08.
b) Approve the following bids and purchases:
1) PR 136178 to Playmore Recreational Products & Services for the purchase and installation of playground equipment, benches and picnic

- tables at the Howell Branch Preserve Park, piggy-backing off City of Jacksonville contract SC-0511-06; \$109,796.45 (Budget: Parks & Recreation Projects – Howell Branch Nature Preserve)
- 2) Award of IFB-3-2008 Purchase/Lease Mini Digger-Derrick to S.D.P. Manufacturing, Inc.; \$95,000.00 (Budget: FY08 Vehicle Replacement Fund)
 - 3) Award of RFQ-36-2007 Winter Park Civic Venues to ZHA, Inc.; \$249,605.00 (Budget: CRA/General Fund) **PULLED FOR DISCUSSION. SEE BELOW.**
- c) Approve the expenditure of \$1,500 to be paid to the Winter Park Public Library to organize, preserve and archive the historical paper records of the Winter Park Police Department.
 - d) Allow the City Manager to grant a film permit fee waiver for certain productions that are of obvious public relations/promotional benefit to the City.
 - e) Request for funding from United Arts. **PULLED FOR DISCUSSION. SEE BELOW.**
 - f) Sale of the University Boulevard water plant site to Full Sail. **PULLED FOR DISCUSSION. SEE BELOW.**
 - g) Approve the park design and allocation of funds (\$45,000) to begin the park construction at the corner of Oak Boulevard and North Park Avenue. **PULLED FOR DISCUSSION. SEE BELOW.**

The following items were pulled from Action Items for discussion: b-3, e, f and g.

Motion made by Commissioner Metcalf to approve Action items a, b-1, b-2, c, and d; seconded by Commissioner Diebel and carried unanimously. Commissioner Eckbert was absent.

Action Item 'b-3': Award of RFQ-36-2007 Winter Park Civic Venues to ZHA, Inc.; \$249,605.00 (Budget: CRA/General Fund)

Patty Heidrich, 1112 Schultz Avenue, commented that the Architectural Standards Task Force is presently working with the planning consultant on the formed based code project. She asked that ZHA's studies, work sessions or surveys be postponed until theirs are completed.

ZHA representative Myra Monreal explained the two part process. She explained that the first is visioning which involves stakeholder meetings and meetings with the Commissioners. The public forum will not occur until there is consensus from the stakeholders and the leadership. She commented that phase I would occur in February or March and Phase II would begin thereafter. City Manager Randy Knight explained that visioning would be towards the end of February and he would like to schedule the Strategic Planning session around that time. He addressed issues hanging in the balance from this process, including how they proceed with the post office and the need to resolve these issues expeditiously. He also addressed meetings that will need to be scheduled and coordinated so there are no conflicts.

Commissioner Metcalf commented that he would like Mr. Knight to resolve issues like this and it is important to begin the strategic planning and move forward. Commissioner Bridges agreed with Commissioner Metcalf. She stated they should have someone coordinate the meetings so there is no overlap and get the appropriate results in conjunction with their Strategic Plan.

Architectural Task Force Chairman David Lamm spoke about the form based code project and creating unity among prior or ongoing planning processes so as to achieve a unified result from this effort. He stated that presently they have two visioning processes that are under the same concept which is master planning. He explained that they are collecting the studies from 8-10 years on all of the task force's studies and work that consultants have done for reference. He addressed this master planning thought process where they tried to have everyone focus on moving in the same direction so the venues fall into the master planning in the commercial corridor. He commented that with the Strategic Plan they are planning policy and planning the possibilities and the concept is that they need to have structure where planning ends up with a common gathering. Mr. Lamm hoped this would be a holistic master plan that engages everyone to have a unified approach; then they can create a coherent implementation plan. He addressed the possibility for confusion by having competing visioning processes. He announced a key issue survey to be sent out soon to 1,200 citizens randomly; February 20 there is a key advisory staff task force meeting; March 6 a one day mini Charrette and April 11-15 a five day Charrette.

Mayor Strong commented that he viewed these two efforts separately; the Architectural Task Force assignment is to show what things are to look like in Winter Park and the ZHA assignment is where things should go and that they are two distinct projects that could be done at the same time without impacting the other. He supported both parties proceeding while coordinating under Mr. Knight's direction to accomplish what he perceived as two separate and distinct recommendations and tasks. He also commented that post office alternatives have a limited time frame and they need to address this issue relatively soon and come to a conclusion on this probably within the next year. He did not want to see the Plan the Possibilities delayed beyond that time. Commissioner Bridges agreed with Mayor Strong regarding the Plan the Possibilities and the urgency to determine a post office.

Motion made by Commissioner Bridges to approve item b-3; seconded by Commissioner Metcalf. Upon a roll call vote, Mayor Strong and Commissioners Bridges, Metcalf and Diebel voted yes. The motion carried unanimously with a 4-0 vote. Commissioner Eckbert was absent.

Action Item 'e': Request for funding from United Arts.

City Manager Knight explained that during the FY 08 budget process, the City Commission did not allocate any funding for the United Arts. Mr. Knight stated that Winter Park contributed \$1 per capita to United Arts in the previous year and any funding would come from the contingency balance.

Margot Knight, President and CEO of United Arts of Central Florida stated they would be pleased with \$1 per capita as in years past.

Debbie Kaminski, Executive Director of the Albin Polasek Museum, asked for funding for United Arts.

Peter Schreyer, Crealde School of Art, supported funding for United Arts.

Russell Allen, 1120 Schultz Avenue, supported funding for United Arts.

Marc Hagle, 1220 N. Park Avenue, asked that United Arts be included in the annual budget.

Commissioner Metcalf spoke about being in favor of this program and that he would support the \$1.50 per capita but because they already allocated the money this year he suggested \$1.00 now and .50 cents from the residual if there is sales tax money at the end of the year. He believed United Arts deserves the funding and our City organizations benefit from this.

Mayor Strong thought the City receives great benefit from United Arts however but was hesitant to commit funds from our taxes, particularly in this tight budget year. He believed that he personally owed it to United Arts to make a significant contribution and issued a challenge to the City that he will donate up to \$15,000 to match any funds raised in the next 30 days from the City of Winter Park. He commented that he would not vote for the City to use tax monies for that purpose.

Motion made by Commissioner Metcalf to approve \$1.00 per resident and as a part of this approve \$1.50; \$1.00 to come from the currently available funds and .50 cents to come in the form they have previously used which was the increase in sales taxes they have had in any given year. If there are such, an additional .50 cents would come at the end of the year when they are closing out the budget; seconded by Commissioner Bridges. Upon a roll call vote, Commissioners Bridges, Metcalf and Diebel voted yes. Mayor Strong voted no. The motion carried with a 3-1 vote. Commissioner Eckbert was absent.

Action Item 'f': Sale of the University Boulevard water plant site to Full Sail.

City Manager Knight explained that the proposal was to sell the former University water plant property to Full Sail for \$1,000,000 and would be coupled with the granting of an easement to a billboard company that would allow them to have a billboard on that property in exchange for taking one down on Fairbanks or \$200,000. He stated Full Sail was not willing to pay the \$1,000,000 if that easement is granted on the property they would be acquiring. Planning Director Jeff Briggs explained that they did not want to negotiate in public and they would like to discuss things further with Full Sail. He stated that from the staff perspective if there is a billboard component it would be helpful to know whether the Commission is more interested in the Fairbanks beautification or the dollars. Mr. Briggs answered questions.

Jeff Rogers, Full Sail, 913 Versaille Circle, Maitland, commented that they agreed with most of staff's recommendation but that the billboard would create clutter rather than beatify the space; they would not have control over the content on the billboards if they owned the property; and it would interfere with their signage plan they are putting in place. He stated they control the property at the corner of University and 436 and Butler East on University. He addressed the \$1,000,000 offer they stated in August of 2007 being without the billboard.

Mr. Briggs stated that if they want to move forward knowing there is \$200,000 on the table and a future board may decide that the aesthetics are not as important 1-2 years from now then the offer to proceed should carry some form of deed restriction. He explained if the revenue becomes available later on (because Full Sail changed their mind) there should be an agreeable split of those proceeds.

Commissioner Metcalf expressed the benefit by getting rid of the billboard first and maximizing the value of any property that the City can sell. Commissioner Diebel supported the sale of the property and finding another solution for the Fairbanks billboard. She also supported Mr. Briggs suggestion regarding a deed restriction on the property so they could not have a future billboard. Commissioner Bridges agreed with Commissioner Diebel.

Mayor Strong asked that Mr. Briggs and/or Mr. Knight get with Full Sail to explore the alternatives of a sale at \$1,000,000 with either a deed restriction prohibiting a billboard or revenue sharing if Full Sail decides to place a billboard on that site. Another alternative is that we get more money and they could have unrestricted use of the University site. He proposed tabling this until the next meeting and suggested staff return with a recommendation they feel good about.

Mr. Rogers stated the two alternatives were reasonable and he would like to meet to discuss them further.

Motion made by Commissioner Diebel to table this for two weeks based on the discussion; seconded by Commissioner Metcalf. The motion carried with a 4-0 vote. Commissioner Eckbert was absent.

Action Item 'g': Approve the park design and allocation of funds (\$45,000) to begin the park construction at the corner of Oak Boulevard and North Park Avenue.

Mayor Strong and Commissioner Metcalf were comfortable with the Parks Board recommendation to proceed with the park and if there were no changes in what Parks approved, to move forward.

Shay Silver, 735 Pansy Avenue, stated there were no changes but the schematics will need to be reworked. Michelle Rodriguez was also present.

Director of Parks and Recreation Holland further explained the allocation of the funds.

Mayor Strong reiterated that he was comfortable proceeding with the entire park using funds borrowed from another fund knowing that they will ultimately recover that from Knowles Place.

Motion made by Mayor Strong to proceed with total build out of the park in a logical and efficient manner, with the funds not available to be loaned from an appropriate fund (as determined by the Director of Finance Wes Hamil) to be repaid upon receipt of the balance of funds from the Knowles Place sales; seconded by Commissioner Bridges. Motion carried unanimously.

Mayor Strong asked Mr. Holland to proceed as expeditiously as possible under the direction of Mr. Knight. Mr. Holland agreed to do so.

Public Hearings:

- a) ORDINANCE NO 2731-08.: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE", ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO ADOPT AND ADD TO THE COMPREHENSIVE PLAN, PUBLIC FACILITIES ELEMENT NEW GOALS, OBJECTIVES AND POLICIES DOCUMENT RELATED TO THE "WATER SUPPLY PLAN", ADDITIONALLY AMENDING THE CONSERVATION, AND INTERGOVERNMENTAL COORDINATION ELEMENTS PROVIDING AN EFFECTIVE DATE. Second Reading

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

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

- b) ORDINANCE NO 2730-08.: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING WITHIN THE CHARTER LAWS OF THE CITY OF WINTER PARK, SECTION 1.02, "CORPORATE LIMITS DESCRIBED," SO AS TO DE-ANNEX PROPERTIES AT 983 AND 1001 NORTH ORLANDO AVENUE AND AT 911, 915 AND 919 BENJAMIN AVENUE, SUBJECT TO A DE-ANNEXATION AGREEMENT, MORE PARTICULARLY DESCRIBED HEREIN. Second Reading

Attorney Cheek read the ordinance by title. He explained that it was passed on first reading and the County Attorney asked him to delay this so they could work on effective date language. Attorney Cheek stated that everyone was satisfied with the modified language.

Planning Director Briggs explained their interpretation that they have a de-annexation agreement that defines the property and the project which is the development within the boundaries of Bennett Avenue, Monroe, 17/92 and Lee Road, an entire quadrant. He stated the previous developed de-annexation agreement and this agreement agrees to the subsequent annexation of both the property and the project by the City and they interpret that this agreement gives them the consent to move forward.

April Kirsheman, on behalf of Benjamin Partners, Ltd., stated that Benjamin Partners owns the 13 parcels in the first agreement and the 5 parcels in this agreement. She addressed the boundaries outlined in the agreement but could not say if every parcel within those boundaries are owned by Benjamin Partners as an entity. She believed that this speaks to the properties that are listed within the agreement. She stated they have begun a 24 month process where they will work with Orange County to get everything in place and this includes an analysis of the transportation, school, water, electric issues and other infrastructure items. She explained that they have been dealing with various cities and they have asked City Manager Knight to give them a group to work with on the project who would be their contact on these issues. She believed that at the end of that process there will be some natural boundary that will separate Winter Park from Maitland but did not know what that boundary would be. Ms. Kirsheman stated they have done everything possible to have everyone in the same discussions and will continue to do that as they work through this with the County. She addressed their plan that Orange County does the zoning and land use designations and hopefully Maitland will also let them be governed by Orange County.

Attorney Cheek asked if there was property that is not currently owned by Benjamin Partners and if one of those properties is acquired (by Benjamin Partners) after the execution of this agreement if that property is subject to this agreement. Ms. Kirsheman stated it is not subject to this agreement but they would ask for a subsequent agreement. He also asked if that property was acquired in the name of another entity or individual if that property (within the project boundaries) is subject to this agreement. She stated not this agreement but it would be subject to a future agreement. He asked if the developer was bound by this agreement to bring properties back into the City of Winter Park. She stated yes, they were bound to bring back everything outlined into the City of Winter Park. He asked what about property that is not currently within the City but within the project boundaries as used in the agreement. She stated no.

Mayor Strong asked Attorney Cheek if there was a way to bind the developer to annexing if they acquire those properties. Attorney Cheek thought it would be possible but his concern was that the developer's position is that this agreement does not do that. He stated that the Commission should not assume that the developer is committed to doing that except the property that has already been in the City.

Commissioner Metcalf commented that the understanding they had when they annexed the first 13 was when they re-annexed they would be re-annexing the complete property, surrounded by Bennett Avenue, Monroe, 17/92 and Lee Road and if 30% was currently County and 70% was the City or vice versa then notwithstanding that 100% would come back into the City of Winter Park when it was built out into the development they were planning. He stated if that was not the developer's understanding then he would deny this agreement.

Commissioner Metcalf asked if it was their commitment to annex all of the property (the 18 after this) plus the 30 or so that he already owns in that quadrant. Ms. Kirsheman responded that this agreement does not say that and she does not think it can. Mayor Strong asked if she would like to discuss this with her client and see if it would be agreeable to her client before the Commission takes action on this. Ms. Kirsheman agreed to do so.

Mayor Strong suggested they table this item and see if they could put language in an agreement that satisfy's Commissioner Metcalf's and Attorney Cheek's concern.

Dan Bellows, 533 N. England Avenue, commented that at no time was there any discussion or intent to deal with anything other than the legal description of the properties of the exhibits of the two de-annexation/re-annexation agreements. He explained there are 30 plus acres of unincorporated Orange County that has never been in the City or Maitland and they are not making any promises to bring it for the first time into the City of Winter Park. He explained that he had three public hearings on this property and multiple meetings with the County, Eatonville and Maitland and it amazed him that they were having this discussion. He stated that he plans on doing a master plan and bringing those properties back into the City that they currently have today at a much higher tax base and will be more aesthetically pleasing than what is there today. He stated he has been working with various departments as it relates to utilities both sanitary, water and electric and there are benefits to this entire project being served by the City. He commented that they have already been taking the steps necessary to assist the City of Winter Park's Electric Department. He asked that they approve the document and let the process continue to move forward. He stated that through the DRI process, Winter Park will

have plenty of opportunity to weigh in but he could not commit to bringing 30 plus acres of land and giving it to the City verses Maitland/Eatonville or leaving it in the County. He stated he needs to move through with the process of de-annexing the property so everything is within one governmental jurisdiction.

Commissioner Metcalf again reiterated his understanding that the properties would be re-annexed back into Winter Park and he supported this 2-3 years ago. He expressed concerns that this was what they were getting however, now he was hearing something else.

Mr. Bellows commented that they should not be getting into the details with the Comprehensive Plan but rather the zoning map. He did not think the de-annexation agreement is where they should be getting into the detail of ultimately who brings in all of the land. He explained that when they talk about who pays for what and what the master plan ultimately is, that they should set up the boundaries and the perimeters of the incorporated City limits. He believed that the City is protected and stated that Mr. Briggs has said to him that just because they are going through the County process of entitlement it does not mean that Winter Park is not going to have something to say about it. He stated with the DRI process he must have multiple public meetings with every political jurisdiction surrounding it and then everything happens from those inputs.

Mr. Bellows asked the Commission not to table the de-annexation of where they are and stated they have spent a lot of time with the County's Attorney, the City's Attorney and staff and the language is appropriate. He stated he would be working with this Commission throughout this entire process and he could not imagine the land not being in Winter Park but he needs to know what Progress Energy and Winter Park Electric is serving and who will pay for the infrastructure. He stated that Maitland's Real-Estate Research Consultants are his consultants and they have been involved in this from the beginning and they were laying out how they were paying all of this right now. He stated that he imagined this will be a Winter Park property but it was not tonight that they should decide that. He stated that he needs to move forward with the process and asked the Commission to approve this. He asked Mr. Briggs or Attorney Cheek to give the City reassurance that they would have another opportunity to say they want this land that has never been in the City to come our way. He stated that this would be more than allowing a little bit of de-annexation and for it to come back, the City is going to have to get involved and financially become a partner.

Mr. Bellows addressed that the infrastructure is \$30,000,000 and he is hoping that money will come from the County, Maitland and Winter Park and there will be many meetings over the next 24 months. Commissioner Metcalf commented that he has been extremely happy with the development that Mr. Bellows has done within the City. He stated it was his understanding for the last five years that Winter Park would eventually own the dirt that was encompassed by those four roads of Bennett Avenue, Monroe, 17/92 and Lee Road and now he's hearing that is not true. Mr. Bellows stated he believed it will only come into those jurisdictions that participate in the infrastructure and he will not know that until they get to the end of the deal.

Commissioner Bridges had concerns with the 17/92 and Lee Road perimeter of this property and what those boundaries look like because the perimeter is important as to how it directly impacts the rest of Winter Park. Her other concern was that there were other municipalities that have seen this master plan and part of their issue was the lack of communication. She agreed with Commissioner Metcalf that it was her understanding that this was being de-annexed at his

request, then built out at the County's regulation, then re-annexed into Winter Park. Mr. Bellows said that was not the case, it was entitled under the County and Mr. Briggs and he had always discussed that as soon as he or the City wanted, but no later than the last certificate of occupancy, it would come back into Winter Park. He commented that he had a conversation with Building Director George Wiggins and apparently the impact fees are cheaper in Winter Park than the County. He stated that he went before this Commission in a public meeting with this proposed master plan three times, there is no master plan that is set in stone and nobody has seen anything more than this Commission has anywhere else in the community.

He stated that he could not answer his questions about what things costs and who is going to pay for it until he is dealing with one jurisdiction and he could not do that unless the Commission approves the agreement tonight. Commissioner Metcalf commented that he was not sure that in the interest of total disclosure they understood because what he is saying tonight is different than what they thought they were agreeing to. Mr. Bellows asked the Commission to agree that they would cover whatever the cost of the infrastructure is. He reminded the Commission as to the benefits of whatever revenue is generated and the benefits from the tax increase and if they could agree to that, he could agree to move on. City Manager Knight explained that he met with Mr. Bellows last week and staff is beginning to look at the infrastructure cost however, they are still far away from determining what those costs will be.

Attorney Cheek commented that the City should address the language in the agreement now that they know what Mr. Bellow's thinks and it could be a right of first refusal concept but it is something that needs to be figured out.

Mayor Strong stated that in his experience he has never heard any City say they were going to pay for the infrastructure. Mr. Bellows stated that he would not put a shovel in the ground if he does not hear Maitland, Winter Park or Orange County saying they will pay for the infrastructure.

Marc Hagle, 1220 N. Park Avenue, suggested that if they consider right of first refusal then they could also consider right of last look. He also spoke about the need for a good agreement to clarify the issues and making sure there are no misunderstandings.

Mayor Strong commented that he had the same understanding as Commissioner Metcalf that this project would be annexed into Winter Park whether formally in the City or in the County and he thought they should find a way to let Mr. Bellows move forward and proceed with a plan. He believed Mr. Hagle had a good suggestion to have a right of first refusal and have a right to match the last offer. He stated that they want to have exactly what Mr. Bellows wants which is the opportunity and the absolute right to annex everything that is in the County and was in the City, into Winter Park within that quadrant. He asked Attorney Cheek if there was language they could incorporate that commits Mr. Bellows to that and gives the City the right to demand that. Attorney Cheek agreed it was possible. Mayor Strong suggested that the lawyers get together to find language they could agree upon, there is no ambiguity and try to address this in clear and concise language and do it in a timely manner. Attorney Cheek stated now that they know what Mr. Bellow's plan is they can address that aspect in an agreement.

Motion made by Commissioner Metcalf to table for two weeks; seconded by Commissioner Bridges. Upon a roll call vote, Mayor Strong and Commissioners Bridges,

Metcalf and Diebel voted yes. The motion carried unanimously with a 4-0 vote. Commissioner Eckbert was absent.

Attorney Cheek commented that he was given instruction to either modify the agreement or come up with a new agreement that addresses the right of first refusal concept. Commissioner Metcalf stated that they should be able to come up with a good agreement that they know will stand the test of time and provide an opportunity for future Commissions to make a decision about the annexation of that property back in our City.

There was a recess taken from 6:10 – 6:15 p.m.

- c) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE BY ADOPTING A NEW SUBSECTION 58-36.1 "PROPORTIONATE FAIR-SHARE OPTION TO MITIGATE DEFICIT TRANSPORTATION FACILITIES" IN CHAPTER 58, CONCURRENCY MANAGEMENT REGULATIONS, COMPLYING WITH CURRENT FLORIDA STATUTES INCLUDING, BUT NOT LIMITED TO, SECTION 163.3180 (16), BY ESTABLISHING PURPOSE AND INTENT, FINDINGS, APPLICABILITY, GENERAL REQUIREMENTS, APPLICATION PROCESS, DETERMINING PROPORTIONATE FAIR-SHARE OBLIGATION, IMPACT FEE FOR PROPORTIONATE FAIR-SHARE MITIGATION, PROPORTIONATE FAIR-SHARE AGREEMENTS, AND APPROPRIATION OF FAIR-SHARE REVENUES; AND PROVIDING FOR CODIFICATION, SEVERABILITY; AND AN EFFECTIVE DATE. First Reading

Attorney Cheek read the ordinance by title. Planning Director Briggs explained the intent of the ordinance. No public comments were made.

Motion made by Commissioner Metcalf to accept the ordinance on first reading; seconded by Commissioner Diebel. Upon a roll call vote, Mayor Strong and Commissioners Bridges, Metcalf and Diebel voted yes. The motion carried unanimously with a 4-0 vote. Commissioner Eckbert was absent.

- d) RESOLUTION NO. 1986-08: A RESOLUTION OF THE CITY OF WINTER PARK, FLORIDA PROVIDING FOR THE ESTABLISHMENT OF AN ETHICS BOARD TO PROVIDE RECOMMENDATIONS PERTAINING TO ETHICAL CONDUCT IN MUNICIPAL MATTERS.

Attorney Cheek read the resolution by title. Mayor Strong stated they need to change the dates in the resolution (expiration of members). No public comments were made. Commissioner Diebel expressed concerns with the Mayor appointing all the members and asked if there was another way this could be handled. There was further discussion on the matter.

Motion made by Commissioner Bridges to adopt the resolution with changes in the dates as reflected by Mayor Strong; seconded by Commissioner Metcalf. Upon a roll call vote, Mayor Strong and Commissioners Bridges and Metcalf voted yes. The motion carried with a 3-1 vote. Commissioner Diebel voted no and Commissioner Eckbert was absent.

- e) RESOLUTION NO. 1985-08: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA REGARDING THE RESURFACING OF US 17/92 FROM SR50 TO LEE ROAD; SUPPORTING THE INCLUSION OF BICYCLE LANES.

Attorney Cheek read the resolution by title. Public Works Director Attaway spoke about the agreement with FDOT that bike lanes can be marked except in areas that would cause a reduction in vehicular capacity. He explained the locations of where the bike lanes would be striped. Mr. Attaway recommended adoption of the resolution provided there is no loss in vehicular capacity. Mr. Attaway answered questions posed by the Commission.

Mr. Attaway suggested three lanes on Denning Drive with one thru lane in each direction and turn lanes at every intersection. He stated by doing that there would be nice on-street bike lanes and there will also be parking on some portions of that. He expressed that he was willing to try this and they could have schemes and sketches available. Mayor Strong stated that it was worthy of consideration and Commissioner Bridges agreed. She commented that if they were going to create alternative transportation methods they need to be as safe as possible and she thought Denning would be safer for a bicyclist than 17/92.

Art Creighton, 2761 Will O The Green, explained that a few years ago there was study being done on 17/92 and he was on the Advisory Committee. He stated that in the process the question came up about bicycle lanes being on 17/92 but the citizens who were working with this committee were unanimous in their recommendation that this not be done.

Jamie Krzeminski, 942 Camellia Avenue, spoke in favor of the bicycle lanes.

Marty Sullivan, 901 Georgia Avenue, spoke in favor of the resolution and bicycles lanes on 17/92.

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

Non Agenda Item

Mayor Strong asked Attorney Cheek if it would be possible to schedule a shade meeting regarding the two lawsuits with the existing Commissioners and the new Commissioners. Attorney Cheek stated he had no problem doing that but it could only be with existing Commissioners.

City Attorney's Report:

1. The Commission will meet as a Canvassing Board on February 11 at 2:30 p.m. There was a consensus among the Commissioners for the date and time.

Non-Action Items:

1. David Lamm from the Architectural Task Force already discussed his item earlier and did not discuss anything further.

New Business (Public):

1. Marc Hagle, 1220 N. Park Avenue, asked about undergrounding cable, telephone and what would happen with the street lights. He commented that these items need to be reviewed. He also stated there may or may not be a valid legal agreement by Brighthouse and the same situation may exist with the phone company and they need to look into what their legal status is with the cable and phone companies.

Attorney Cheek addressed the City's legal position and City Manager Knight gave an update regarding the undergrounding.

New Business (City Commission):

1. Commissioner Diebel asked about the joint work session with the Planning and Zoning Commission (P&Z) tomorrow. Mayor Strong commented that this meeting was for an update on where staff and P&Z stand; identify the differences between their perspectives and to see if they can provide a schedule going forward as to when they can expect to resolve this issue.

Commissioner Bridges asked that Mr. Briggs email the powerpoint document which would be presented at tomorrow's meeting. Mr. Briggs agreed to do so.

2. Mayor Strong asked the City Manager about Strategic Planning and Planning the Possibilities scheduling. Mr. Knight explained that he was meeting with John Lewis who he hoped to have as the facilitator for the Strategic Planning Session. He stated he would work with staff on the other meetings to ensure there were no conflicts.

3. Mayor Strong stated he would attend the Comprehensive Plan public proceeding on February 21. Attorney Cheek explained that it was a public proceeding and people could listen but they could not participate.

4. Commissioner Bridges asked if the Commission would be supportive of working with the appropriate board to give them direction on aggressive citizen participation and conservation actions. Utilities Director Dave Zusi addressed being involved in doing a lot of these things and they were going to place a three-part informational flyer in the utility bills regarding water conservation, irrigation conservation and in-home types of water conservation. He stated that they were working with the Building Department related to their new landscape irrigation codes and they were looking at the educational components, incentive programs and the meter reading which will allow them to gather more information to target the highest users and notify them of the situation in the hopes they begin water conservation. He addressed that they are working hard on a proactive approach and they will be bringing the Commission a new program that includes several new policies related to irrigation.

Commissioner Bridges expressed that she would also like to see us implementing more native landscaping when replanting. Mr. Zusi explained that they were looking to do that on new projects by trying to use plant species that are more ground tolerant and also alternative irrigation.

Public Works Director Troy Attaway added that the City website will soon have a green page for public information on what citizens or businesses can do to conserve all resources, including

water. City Manager Knight also commented on looking into taking out irrigation meters to discourage excess use of irrigation.

The meeting adjourned at 7:03 p.m.

Mayor David C. Strong

ATTEST:

City Clerk Cynthia Bonham

ACTION ITEM

DATE: February 11, 2008

SUBJECT: Amendment to Federal Highway Administration (FHWA)
Emergency Relief Program Agreement

ACTION REQUESTED:

Approve Emergency Relief Program Supplemental Amendment Number 1.

KEY ELEMENTS/FACTS IMPACTING DECISION:

The FHWA has been providing reimbursement of cleanup costs from the 2004 hurricanes that are related to federal aid roads (debris removal, sidewalk repairs, traffic signals, etc.). When the City entered into the original agreement with FHWA, staff used estimates of total costs by area for each storm. City staff has requested, and FHWA staff has agreed, to reallocate some of the cost estimates from work to be performed in-house by staff to work to be completed by a contractor. This reallocation will improve the City's recoverable cost by \$87,605.

ALTERNATIVES CONSIDERED:

Without the amendment to the agreement, the City's total recovery will be \$87,605 less than it would with the amendment.

BUDGET IMPLICATIONS:

This amendment will allow the City to increase its recoverable cost by \$87,605.

STAFF RECOMMENDATION:

Approve Emergency Relief Program Supplemental Amendment Number 1.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

**EMERGENCY RELIEF PROGRAM
SUPPLEMENTAL AMENDMENT NUMBER 1**

Agency: City of Winter Park

Contract No.: AO258

Vendor No: F596000454017

CFDA No: 20.205

DUNS No.: 80-939-7102

Date of Execution: _____

The terms of the original Emergency Relief Program Agreement, executed on **June 7, 2005**, are hereby amended as follows:

The Federal Highway Administration has authorized additional funding to DDIR Number CR75-36 and reduced the funding for DDIR Number CR75-35 as follows:

DDIR # CR75-36, FM #418899-1-78-02 is hereby changed from \$887,000.00 to \$974,605.00

DDIR # CR75-35, FM #418899-1-78-01 is hereby changed from \$229,200.00 to \$141,595.00

This executed Supplemental Amendment will serve as notice that the Total Lump Sum Amount for this agreement remains at \$3,730,702.00.

Except as hereby modified, amended or changed, all of the terms and conditions of said original Agreement thereto will remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused these presents be executed, the day and year first above written.

CITY OF WINTER PARK**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION**

By: _____

By: _____

Name: _____

Name: George S. Lovett

Title: _____

Title: Director of Transportation Development

Attest:

Attest:

Executive Secretary

Legal Review:

TO: CITY COMMISSION MEMBERS

FROM: JEFF BRIGGS, PLANNING DIRECTOR

RE: DE-ANNEXATION ORDINANCE 2702-07

On February 26, 2007 the City Commission approved the first de-annexation ordinance for Benjamin Partners involving 13 properties subject to a de-annexation agreement. We have reviewed the minutes, the transcripts of the two public hearings and the agreement.

THERE IS NO QUESTION THAT THE DE-ANNEXATION AGREEMENT COMMITS BENJAMIN PARTNERS TO THE RE-ANNEXATION OF BOTH THE 13 "PROPERTIES" AND THE "PROJECT" AS DEFINED WITHIN THE BOUNDARIES OF LEE ROAD, BENNETT AVENUE, MONROE AVENUE AND ORLANDO AVENUE.

The de-annexation agreement defines the "property" as the 13 parcels and the "project" as the area within the four street quadrant above.

The de-annexation agreement says "the owner hereby irrevocably petitions the City for voluntary annexation of the "Property" and the "project" into the City..." It could not be more clear what the intent was at that time.

PUBLIC NOTICE

CITY OF WINTER PARK

NOTICE is hereby given that a public hearing will be held by the **Winter Park City Commission** on **Monday, January 14, 2008 at 3:30 p.m.** and on **Monday, January 28, 2008 at 3:30 p.m.** in the Commission Chambers of City Hall, 401 Park Avenue South, Winter Park, Florida, to consider the following:

ORDINANCE NO. 2729-08

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING WITHIN THE CHARTER LAWS OF THE CITY OF WINTER PARK, SECTION 1.02 "CORPORATE LIMITS DESCRIBED" SO AS TO DE-ANNEX THE PROPERTIES AT 983 AND 1001 NORTH ORLANDO AVENUE AND AT 911, 915 AND 919 BENJAMIN AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING AN EFFECTIVE DATE AND PURSUANT TO A DE-ANNEXATION AGREEMENT.

The complete legal description by metes and bounds as well as a complete copy of this proposed Ordinance No. 2729-08 may be obtained from the office of the City Clerk at 401 Park Avenue, South, Winter Park, Florida.

All interested parties are invited to attend and be heard. Additional information is available in the City Clerk's office so that citizens may acquaint themselves with each issue and receive answers to any questions they may have prior to the meeting.

NOTE: If a person decides to appeal any decision made by the Commission with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings, and that, for such purpose, he 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.

/s/ Cynthia S. Bonham, CMC
City Clerk



Home Acres - Benjamin Partners Properties for De-annexation



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING WITHIN THE CHARTER LAWS OF THE CITY OF WINTER PARK, SECTION 1.02, "CORPORATE LIMITS DESCRIBED," SO AS TO DE-ANNEX PROPERTIES AT 983 AND 1001 NORTH ORLANDO AVENUE AND AT 911, 915 AND 919 BENJAMIN AVENUE, SUBJECT TO A DEANNEXATION AGREEMENT, MORE PARTICULARLY DESCRIBED HEREIN.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER PARK:

SECTION 1. That Section 1.02 "Corporate Limits Described," of the Charter Laws of the City of Winter Park be hereby amended and modified so as to de-annex certain properties, more particularly described as follows and as depicted on the map attached as Exhibit "A":

983 N. Orlando Avenue	01-22-29-3712-01100
1001 N. Orlando Avenue	01-22-29-3712-01190
919 Benjamin Avenue	01-22-29-3712-02100
915 Benjamin Avenue	01-22-29-3712-02080
911 Benjamin Avenue	01-22-29-3712-02070

And to include that portion of the right-of way of Benjamin Avenue within the city limits lying north of Lee Road. Cumulatively these five properties encompass Lots 10-29, Block A and Lots 7-10, Block B of Home Acres as recorded in Plat Book "M", Page 97 of the Public records of Orange County, Florida.

SECTION 2. This ordinance shall take effect upon occurrence of the following: "This Ordinance shall take effect upon occurrence of the following: (1) execution of the Agreement for De-Annexation and Annexation of Property dated January 24, 2008, and (2) adoption of a County comprehensive plan amendment and County zoning designation for the property described herein in Exhibit A in accordance with the procedures of Florida law; provided, however, that should these actions not be accomplished by January 28, 2010, then this Ordinance shall lapse and not be of any further force or effect.

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 _____, 2008.

Mayor

Attest:

City Clerk

This instrument prepared by
and return to:
April Sloane Kirsheman, Esquire
Sydgan Corporation
P.O. Box 350
Winter Park, FL 32790-0350

AGREEMENT FOR DE-ANNEXATION AND ANNEXATION OF PROPERTY

THIS AGREEMENT ("Agreement") is made and entered into this ____ day of October, 2007, by and between the **CITY OF WINTER PARK** ("City"), a Florida municipal corporation organized and existing under the laws of the State of Florida and **BENJAMIN PARTNERS, LTD.** a Florida Limited Partnership ("Owner").

PREAMBLE

WHEREAS, the Owner is the owner of real property located in the City of Winter Park, Orange County, Florida and more particularly described in the legal descriptions in as Exhibit "A" attached hereto and incorporated herein by this reference ("Property"); and

WHEREAS, the Property is located within the city by virtue of being voluntarily annexed; and

WHEREAS, the Owner desires to de-annex the Property from the City so that the new development with the general boundaries of Lee Road, Bennett Avenue, Monroe Avenue, and U.S. 17-92 (the "Project") is located in one jurisdiction, and the City has agreed to de-annex the Property subject to the certain conditions contained herein; and

WHEREAS, the Owner hereby petitions the City to de-annex the Property as provided in this Agreement; and

WHEREAS, Owner hereby petitions for voluntary annexation of the Project into the City at a future time when the Project is completed;

NOW THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Owner agree as follows:

1. **INCORPORATION OF RECITALS.** The Whereas clauses of this Agreement are incorporated herein as if fully set out below.

2. OWNERSHIP OF PROPERTY. Owner hereby covenants and warrants to the City that it is the Owner of the Property and that it has full right, authority, and capacity to enter in to this Agreement and as evidence thereof have executed the affidavit attached hereto and incorporated herein by this reference as Exhibit "B," (hereinafter referred to as the "Affidavit"). The City represents to the Owner and the Owner acknowledges that the City has relied on the Affidavit in connection with its decision to enter into this Agreement.

3. DE-ANNEXATION OF PROPERTY. The Owner hereby petitions the City to de-annex the Property from the incorporated territory of the City.

4. CONDITIONS TO DE-ANNEXATION. The City de-annexing the Property is subject to satisfaction of the following conditions precedent:

(a) The Owner agrees that subsequent to commencement of construction on the Project, but in no event later than substantial completion of the Project as evidenced by issuance of one or more certificates of occupancy for the Project, the Owner will petition the City to annex the Property into the City and will consent to such annexation.

(b) Should any enclaves be created as a result of the de-annexation of the Property and the Owner is the owner of such enclaves, then at the time of annexation of the Property into the City, the Owner will consent to the annexation of such enclaves into the City.

(c) The Owner agrees to indemnify the City against any claims arising from the de-annexation of the Property.

5. ANNEXATION OF PROPERTY. The Owner hereby irrevocably petitions the City for voluntary annexation of the "Property" and the "Project" into the City at such time that either construction has commenced on the Property or the Project and has been substantially completed as evidenced by the issuance of a certificate of occupancy for each building or for each incremental phase of the Project as determined by the City.

As a condition of the agreement to annex the Property and Project, the City agrees to provide municipal water and sanitary sewer pursuant to normal code requirements based upon the fees charged for in-City property.

6. TIMING OF ANNEXATION. The City hereby accepts such petition and retains the authority to annex the Property at a future date at the option of the City.

7. FORCE MAJEURE. The parties shall use reasonable diligence to ultimately fulfill the intent of the Agreement, but shall not be liable to each other, or their successors or assigns, for damages, costs, attorney's fees (including costs or attorney's fees for appeal) for breach of contract, or otherwise for failure, suspension, diminution, or other variations of services occasioned by any cause beyond the control and with the fault of the parties. Such causes may include but shall not be limited to, Acts of God, or of the public enemy, acts of other governments including regulatory entities or court) in its sovereign or prior contractual capacity, fires, floods, epidemics, quarantines, restriction, strikes, or failure or breakdown of transmission or other facilities.

8. INDEMNIFICATION. To the extent permitted by law, the Owner shall Indemnify and hold harmless the City, its agents, employees, and elected and appointed officials from and against all claims, damages, losses and expenses (including all attorney's costs and fees, and all attorney's costs and fees on appeal) arising out of or resulting from the deannexation of the Property as provided herein, and which are caused in whole or in part by the Owner or any of its subcontractors, any one directly or indirectly employed by any of them, or anyone for whose acts any of them any be liable, regardless of whether they are caused in whole or in part by a party indemnified hereunder.

9. THIRD-PARTY BENEFICIARY. This Agreement is solely for the benefit of the parties signing hereto and their successors and assigns, and no right, nor any cause of action, shall accrue to or for the benefit of any third party.

10. BINDING NATURE OF AGREEMENT. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties, and shall run with the Property and be binding upon and inure to the benefit of any person, firm or corporation that may become the successor in interest, directly or indirectly, to the Property, or any portion thereof.

11. CONTROLLING LAWS.

A. This Agreement and provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida, and all duly adopted ordinances, regulations and policies of the City now in effect and those hereinafter adopted.

B. The location for settlement of any and all claims, controversies, or disputes arising out of or relating to any part of this Agreement, or any breach hereof, shall be Orange County, Florida.

12. MISCELLANEOUS.

A. This Agreement constitutes the entire agreement between the parties with respect to the specific matters contained herein and supersedes all previous discussions, understandings, and agreements. Amendment to or waivers of the provisions herein shall be made by the parties in writing.

B. If any sentence, phrase, paragraph, provision, or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed an independent provision and such holding shall not affect the validity of the remaining portion hereto.

C. The Owner, upon the execution of this Agreement, shall pay to the City the cost of recording this Agreement in the Public Records of Orange County, Florida.

D. Any notice required or allowed to be delivered to the person hereinafter shall be in writing and be deemed to be delivered when (i) hand delivered to the person hereinafter designated, or (ii) upon receipt of such notice when deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, addressed to a party at the address set forth opposite the party's name below, or at such other address as the applicable party shall have specified, from time to time, by written notice to the other party delivered in accordance herewith:

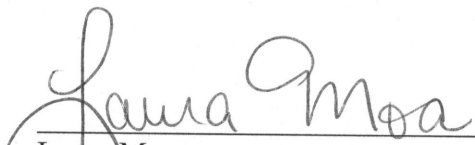
City: 401 Park Avenue South, Winter Park, FL 32789

Owner: P.O. Box 350, Winter Park, FL 32790-0350

IN WITNESS WHEREOF, the parties have set their hands and seals hereto on the day and year first above written.

OWNER: Benjamin Partners, Ltd, a Florida limited partnership

By: Bennett Ave Company, Inc., as its General Partner

By: 

Laura Moa
Vice-President

[Signatures continued on page 5]

WITNESSES:

Tanya Mora
Print Name Tanya Mora

David
Print Name David

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 4th day of October, 2007 by Laura Moa who is personally known to me.

April Kirshe
NOTARY PUBLIC
MY Commission Expires:

APRIL KIRSEMAN
NOTARY PUBLIC - STATE OF FLORIDA
COMMISSION # DD705194
EXPIRES 08/14/2011
BONDED THRU 1-888-NOTARY1

CITY OF WINTER PARK, FLORIDA

BY _____
Mayor, David Strong

Attest: _____
City Clerk

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this ____ day of _____, 2007, by Mayor David Strong, well known to me and known by me as the Mayor and Cindy Bonham, City Clerk, respectively, of the City of Winter Park, who acknowledged before me that they have executed the foregoing instrument for the purposes therein expressed, and that they were duly authorized to do so and they did not take an oath.

WITNESS my hand and official seal this ____ day of _____, 2007.

Notary Public
My commission expires:

APPROVED AS TO FORM AND
LEGALITY

City Attorney

Exhibit "A"

983 N. Orlando Avenue, Winter Park, Orange County, Florida

Parcel ID# 01-22-29-3712-01-100

Home Acres M/97 Lots 10 to 13 (Less E 46 feet in right of way) and the South 13 feet of Lot 26 and Lot 27 to 29 in Block A

1001 N. Orlando Avenue, Winter Park, Orange County, Florida

Parcel ID# 01-22-29-3712-01-190

Home Acres M/97 Lots 14 through 19 (less the East 46 feet right of way) and Lots 20 through 25 and North 12 feet of Lot 2x all in Block A

919 Benjamin Avenue, Winter Park, Orange County, Florida

Parcel ID# 01-22-29-3712-02-100

Home Acres M/97 Lot 10 Block B

915 Benjamin Avenue, Winter Park, Orange County, Florida

Parcel ID# 01-22-29-3712-02-080

Homes Acres M/97 Lots 8&9 Block B

911 Benjamin Avenue, Winter Park, Orange County, Florida

Parcel ID# 01-22-29-3712-02-070

Home Acres M/97 Lot 7 Block B

Exhibit "B"

AFFIDAVIT OF OWNERSHIP

BEFORE ME, the undersigned authority, authorized to administer oaths and take acknowledgments, personally appeared Laura Moa, who after being first duly sworn, upon oath deposes and says that he is the Vice-President of Bennett Ave Company, Inc., the general partner of Benjamin Partners, Ltd. (hereinafter "Owner"), and as such hereby covenants and warrants to the City that on behalf of the Owner of the Property he has full right, authority, and capacity to enter into the Deannexation Agreement with the City of Winter Park.

WITNESSES:

Laura Moa
[Signature]

By:

Laura Moa
Laura Moa, Vice-President

SWORN TO AND SUBSCRIBED before me this 4 day of October, 2007.

April Kirshman
NOTARY PUBLIC
My Commission Expires:

APRIL KIRSHEMAN
NOTARY PUBLIC - STATE OF FLORIDA
COMMISSION # DD705194
EXPIRES 08/14/2011
BONDED THRU 1-888-NOTARY1

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE BY ADOPTING A NEW SUBSECTION 58-36.1 "PROPORTIONATE FAIR-SHARE OPTION TO MITIGATE DEFICIT TRANSPORTATION FACILITIES" IN CHAPTER 58, CONCURRENCY MANAGEMENT REGULATIONS, COMPLYING WITH CURRENT FLORIDA STATUTES INCLUDING, BUT NOT LIMITED TO, SECTION 163.3180 (16), BY ESTABLISHING PURPOSE AND INTENT, FINDINGS, APPLICABILITY, GENERAL REQUIREMENTS, APPLICATION PROCESS, DETERMINING PROPORTIONATE FAIR-SHARE OBLIGATION, IMPACT FEE FOR PROPORTIONATE FAIR-SHARE MITIGATION, PROPORTIONATE FAIR-SHARE AGREEMENTS, AND APPROPRIATION OF FAIR-SHARE REVENUES; AND PROVIDING FOR CODIFICATION, SEVERABILITY; AND AN EFFECTIVE DATE.

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER PARK:

SECTION 1. That Chapter 58 "Land Development Code", Article II "Concurrency Management Regulations" of the Code of Ordinances is hereby amended and modified by adding new text to Section 58-41 to now be titled "Proportionate Fair-Share Option" but preserving and renumbering the current sections 58-41 through 58-43 accordingly to provide for inclusion of this new Section 58-41 to read as follows:

58-41: PROPORTIONATE FAIR-SHARE OPTION TO MITIGATE DEFICIT TRANSPORTATION FACILITIES

- A. Purpose and Intent:** The purpose of this section is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, to be known as the Proportionate Fair-Share Program, as required by and in a manner consistent with §163.3180(16), F.S.
- B. Findings:** The City Commission finds and determines that transportation capacity is a commodity that has a value to both the public and private sectors and that the City's Proportionate Fair-Share Program:
1. Provide a method by which the impacts of development on transportation facilities can be mitigated by the cooperative and creative efforts of the public and private sectors;
 2. Allows developers to proceed under certain conditions, notwithstanding the failure of transportation concurrency, by contributing their proportionate fair-share of the cost of expanding or improving a transportation facility;

3. Contributes to the provision of adequate public facilities for future growth and promotes a strong commitment to comprehensive facilities planning, thereby reducing the potential for moratoria or unacceptable levels of traffic and transportation congestion;
4. Maximizes the use of public funds for adequate transportation facilities to serve future growth, and may, in certain circumstances, allow the City to expedite transportation improvements by supplementing funds currently allocated for transportation improvements in the Capital Improvements Element; and
5. Is consistent with §163.3180(16), F.S. and the City's Comprehensive Plan.

C. Applicability: The Proportionate Fair-Share Program shall apply to any development project in The City of Winter Park where the project's traffic impact study or the City engineer determines that there is insufficient capacity on one or more segments to satisfy the development project's transportation concurrency requirements. The Proportionate Fair-Share Program does not apply to Developments of Regional Impact (DRIs) using proportionate fair-share under §163.3180(12), F.S., or to developments exempted from concurrency as provided in this concurrency chapter.

D. General Requirements.

1. An applicant whose project meets the criteria of Section 168.03 may choose to satisfy transportation concurrency requirements by making a proportionate fair-share contribution, pursuant to the following requirements:
 - a. The proposed development is consistent with the comprehensive plan and applicable land development regulations, and
 - b. The five-year schedule of capital improvements in the City's Capital Improvements Element (CIE), which includes Federal, State, County and other local governments capital improvements, includes one or more transportation improvements that, upon completion, will provide sufficient capacity for the deficient segments to accommodate the traffic generated by the proposed development.
2. The City may choose to allow an applicant to satisfy transportation concurrency for a deficient segment, through the Proportionate Fair-Share Program, by the developer contributing to an improvement that, upon completion, will create additional capacity on the deficient segment sufficient to accommodate the additional traffic generated by the applicant's proposed development even if the improvement project for the deficient segment is not contained in the 5-year schedule of capital improvements in the CIE where:
 - a. The City Commission holds an advertised public hearing to consider the proportionate share agreement and corresponding future changes to the 5-year CIE, and
 - b. The City adopts, by ordinance, an amendment adding the improvement to the 5-year schedule of capital improvements in the CIE. To qualify for consideration under this section, the proposed improvement must be reviewed by the City Commission, and determined to be financially feasible pursuant to §163.3180(16)(b)1, F.S., consistent with the comprehensive plan, and in compliance with the provisions of this ordinance. Financial feasibility for this section means that additional contributions, payments or

revenue sources to fund the improvement project are reasonably anticipated during a period not to exceed 10 years.

3. If the funds allocated for the five year schedule of Capital Improvements in the CIE are insufficient to fully fund construction of a transportation modification required by concurrency, the City may still enter into a binding proportionate fair-share agreement with the applicant authorizing construction of that amount of development on which the proportionate fair share is calculated if the proportionate fair share amount in such agreement is sufficient to pay for one or more projects which will, in the opinion of the governmental entity or entities maintaining the transportation facilities, sufficiently benefit the impacted transportation system.
4. Transportation projects shall include, but not be limited to: highway related improvements such as roadway modification, roadway widening, intersection improvements; and system related improvements such as traffic management systems, transportation systems management, intelligent transportation systems, expansion of the transit fleet to increase service frequency, bus rapid transit and other fixed guideway corridors, transit service expansion to new areas, or other mobility projects improving the pedestrian and/or bicycle level of service.
5. Any improvement project proposed to meet a developer's fair-share obligation must meet design standards of the City for locally maintained roadways, Orange County for county maintained roads and of the Florida Department of Transportation (FDOT) for the state highway system.

E. Application Process.

1. Upon identification of a lack of capacity to satisfy transportation concurrency, the applicant may choose to satisfy transportation concurrency through the proportionate fair-share program pursuant to the requirements of Section 168.02.9.
2. Prior to submitting an application for a proportionate fair-share agreement, the applicant shall attend a pre-application meeting with the City Manager or designee to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. The pre-application meeting may be held in conjunction with a traffic study meeting.
3. Eligible applicants shall submit an application to the City that includes an application fee as established by resolution and the following:
 - a. Name, address, and phone number of owner(s), developer and agent;
 - b. Property location, including parcel identification numbers;
 - c. Legal description and survey of property;
 - d. Project description, including type, intensity, and amount of development;
 - e. Phasing schedule, if applicable;
 - f. Description of requested proportionate fair-share mitigation method(s);
 - g. Copy of concurrency application;

- h. Copy of the project's Traffic Impact Statement (TIS) or Traffic Impact Analysis (TIA); and
- i. Location map depicting the site and affected road network.

The application shall be submitted at the time of application for development plan review, Special Use Permit approval, subdivision or minor subdivision approval, or rezoning.

- 4. The City Manager or designee shall review the application and certify that the application is sufficient and complete. Should the application require the City to use the professional services of a consultant, the applicant shall bear all expenses incurred by the City for use of such consultant services. If an application is determined to be insufficient, incomplete, or inconsistent with the general requirements of the proportionate fair-share program as indicated in Section 168.02.9, then the applicant shall be notified in writing of the reasons for such deficiencies. If such deficiencies are not remedied by the applicant within 30 days of receipt of the written notification, then the application shall be deemed abandoned. The City Commission may, in its discretion, grant an extension of time not to exceed 60 days to cure such deficiencies, provided that the applicant has shown good cause for the extension and has taken reasonable steps to affect a cure.
- 5. When an application is deemed sufficient, complete, and eligible, a proposed proportionate fair-share obligation and binding agreement will be prepared by the City or the applicant with direction from the City and delivered to the appropriate parties for review.
- 6. The City shall notify the applicant regarding the date of the City Commission meeting at which the agreement will be considered for final approval. No proportionate fair-share agreement will be effective until approved by the City Commission.

F. Determining Proportionate Fair-Share Obligation.

- 1. Proportionate fair-share mitigation for concurrency impacts may include, separately or collectively, private funds, contributions of land, and construction and contribution of facilities as provided in §163.3180 (16)(c), F.S. Construction and contribution of facilities shall be subject to final inspection and approval by the appropriate governmental agency.
- 2. A development shall not be required to pay more than its proportionate fair-share. The fair market value of the proportionate fair-share mitigation for the impacted facilities shall not differ based on the form of mitigation as provided in §163.3180 (16)(c), F.S.
- 3. The methodology used to calculate an applicant's proportionate fair-share obligation shall be as provided for in Section 163.3180 (12), F. S., as follows: The cumulative number of peak hour, peak direction trips from the complete build-out of the proposed development, or build-out of the stage or phase being approved, that are assigned to the proportionate share program segment divided by the change in the peak hour directional maximum service volume (MSV) of the proportionate share program segment resulting from construction of the proportionate share program improvement, multiplied by the anticipated construction cost of the proportionate share project in the year that construction will occur. This methodology is expressed by the following formula:

$$\text{Proportionate Fair-Share} = \Sigma [\text{Development Trips}_i] \div (\text{SV Increase}_i) \times \text{Cost}_i]$$

(Note: In the context of the formula, the term “cumulative” does not include a previously approved stage or phase of a development.)

Where: Σ = Sum of all deficient links proposed for proportionate fair-share mitigation for a project.

Development Trips_i = Those trips from the stage or phase of development under review that are assigned to roadway segment “**I**” and have triggered a deficiency per the concurrency management system;

SV Increase_i = Service volume increase provided by the eligible improvement to roadway segment “**I**”;

Cost_i = Adjusted cost of the improvement to segment “**I**”. Cost shall consist of all improvements and associated costs, including design, right-of-way acquisition, planning, engineering, inspection, and physical development costs, directly associated with construction at the anticipated cost in the year that construction will occur.

4. For purposes of determining proportionate fair-share obligations, the City shall determine improvement costs based upon the actual and/or anticipated costs of the improvement in the year that construction will occur. These costs will be determined or approved by the City’s public works department.
5. If the City has accepted an improvement project proposed by the applicant, then the value of the improvement shall be based on an engineer’s certified cost estimate provided by the applicant and approved by the City’s public works director or other method approved by the City’s public works director.
6. If the City has accepted right-of-way dedication for the proportionate fair-share payment, credit for the dedication of the non-site related right-of-way shall be valued on the date of the dedication at 100 percent of the most recent assessed value by the County Property Appraiser or, at the option of the applicant, by fair market value established by an independent appraisal approved by the City and at no expense to the City. Said appraisal shall assume no approved development plan for the site. The applicant shall supply a drawing and legal description of the land and a certificate of title or title search of the land to the City at no expense to the City. If the estimated value of the right-of-way dedication proposed by the applicant (based on a City-approved appraisal) is less than the City estimated total proportionate fair-share obligation for that development, then the applicant must also pay the difference. If the estimated value of the right-of-way dedication proposed by the applicant (based on a City-approved appraisal) is more than the City estimated total proportionate fair-share obligation for the development, then the City will give the applicant traffic impact fee credit for the difference, if available.
7. The City, at its discretion, may allow developments to contribute proportionate fair-share to system wide projects, either solely or in conjunction with highway related improvements. For the purposes of determining proportionate fair-share obligations for system wide transportation improvements such as transit service, the City shall determine improvement/modification cost based upon the actual cost of the improvement/modification as obtained from the City’s public works department. The transit costs shall be calculated as follows:

Development’s net, new peak hour trip generation **X** (Transit Service Cost/Transit Service New Peak Trips) / CF, where:

Transit Service Cost = actual cost of the service improvements within City (first 3 years)

Transit Service New Peak Trips = the new transit trips available in the peak hour based on the transit service or transit service enhancements

CF = the conversion factor of person trips to vehicle trips (the current vehicle occupancy rate per the local transportation model is 1.20, and should be confirmed before use).

G. Impact Fee Credit for Proportionate Fair-Share Mitigation. If the City adopts transportation impact fees, the following provisions shall apply.

1. Proportionate fair-share mitigation payments for a development project shall be applied as a credit toward the traffic impact fees assessed to that development project.
2. Impact fee credits for a proportionate fair-share contribution will be determined when the traffic impact fee obligation is calculated for the proposed development. If the applicant's proportionate fair-share obligation is less than the development's anticipated road impact fee for the specific stage or phase of development under review, then the applicant must pay the remaining impact fee amount.
3. A proportionate fair-share contribution is intended to mitigate the transportation impacts of a proposed development at a specific location. As a result, any traffic impact fee credit based upon proportionate fair-share contributions for a proposed development may not be transferred to any other location.
4. The amount of traffic impact fee (TIF) credit for a proportionate fair-share contribution may be up to but shall not exceed the project's proportionate fair-share amount and will be determined based on the following formula:

TIF Credit = [(Proportionate fair-share impacted roadways' VMT) ÷ (Total Project VMT)] X (Total Project Traffic Impact Fee Liability)

Where:

VMT (Vehicle miles of travel on a link) = (length of link) X (number of trips assigned to that link)

Total Project VMT = Total vehicle miles of travel on all links impacted by proportionate fair-share project

5. A proportionate fair-share impact fee credit shall be applied consistent with the following formula:

Applicant payment = [(Total project traffic impact fees assessed) + (Proportionate Share Payment)] – (TIF CREDIT)

H. Proportionate Fair-Share Agreements.

1. Upon executing a proportionate fair-share agreement (Agreement) and satisfying other concurrency requirements, an applicant shall receive concurrency approval for subject trips. Should the applicant fail to apply for building permits within the timeframe provided for in the City concurrency approval, then the project's concurrency vesting shall expire, and the applicant shall be required to reapply. Once a proportionate share payment for a project is

made and other impact fees for the project are paid, no refunds shall be given. All payments, however, shall run with the land.

2. Payment of the proportionate fair-share contribution for a project and payment of other impact fees assessed to that project shall be due and must be paid prior to the effective date of the proportionate fair-share agreement. The effective date shall be specified in the agreement and shall be the date the agreement is approved by the City Commission.
3. All developer improvements accepted as proportionate fair-share contributions must be completed within 3 (three) years of the issuance of the first building permit for the project which is the subject of the proportionate fair-share agreement and be accompanied by a security instrument that is sufficient to ensure the completion of all required improvements. The security instrument shall conform to specifications set by the City Commission and approved by the City attorney. It is the intent of this section that any required improvements be completed within 3 (three) years of the issuance of the first building permit for the project which is the subject of the proportionate fair-share agreement.
4. Dedication of necessary right-of-way for facility improvements pursuant to a proportionate fair-share agreement must occur prior to the effective date of the proportionate fair-share agreement.
5. Any requested change to a development project subsequent to issuance of a development order shall be subject to additional proportionate fair-share contributions to the extent the change would increase project costs or generate additional traffic that would require mitigation.
6. Applicants may withdraw from a proportionate fair-share agreement at any time prior to the execution of the agreement. The application fee and any associated advertising costs to the City are nonrefundable.
7. The City may enter into proportionate fair-share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.

I. Appropriation of Fair-Share Revenues.

1. Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the City Capital Improvements Element, or as otherwise established in the terms of the proportionate fair-share agreement. Proportionate fair-share revenues may also be used as the 50% local match for funding under the FDOT Transportation Regional Incentive Program (TRIP).
2. In the event a scheduled facility improvement is removed from the CIP or CIE, then the proportionate fair-share revenues collected for its construction may be applied toward the construction of alternative improvements within that same corridor or sector where the alternative improvement will mitigate the impacts of the development project on the congested roadway(s) for which the original proportionate fair-share contribution was made.

SECTION 2: This ordinance shall be incorporated into the City of Winter Park Land Development Code and any paragraph, number or letter, and any header may be changed or modified to implement the ordinance. Grammatical, typographical or other scrivener errors may be corrected and alterations and omissions not affecting the construction or meaning of this ordinance and the City Land Development Code may be made.

SECTION 3: 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 4: This Ordinance shall become effective immediately upon adoption by the City Commission of the City of Winter Park, Florida.

ADOPTED this ____ day of _____, 2008.

CITY OF WINTER PARK

DAVID C. STRONG, Mayor

ATTEST:

CINDY BONHAM, City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, RELATING TO TAXICABS; AMENDING SECTION 110-107 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER PARK TO ALLOW AN INCREASE IN TAXICAB RATES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the rates charged by taxicabs operating within the City of Winter Park are regulated pursuant to Chapter 110, Article III of the code of Ordinances, and the rates are prescribed in Section 110-107 of the Code of Ordinances; and

WHEREAS, the City of Winter Park, Florida has been requested by its taxicab operations to allow for an increase in taxicab rates, to help defray additional operational and insurance costs

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER PARK:

SECTION 1. Section 110-107(1)a of the Code of Ordinances of the City of Winter Park is hereby amended to read as follows:

Sec. 110-107. Rates

Taxicab rates shall be as follows:

- (1) All rate charges or fees for the use of taxicabs using meters shall be determined by a meter rate, hourly rate or special trip rate, as follows and by no other method :
 - a. *Meter rate* shall be \$2.~~2000~~ for the first one-quarter of a mile or fraction thereof and \$0.25 for each additional one-eighth of a mile or fraction thereof and \$0.~~5525~~ for each additional one-quarter ~~eighth~~ of a mile or fraction thereof.
 - b. *Waiting time* for the first 80 seconds will be \$2.~~0020~~, and \$.~~5525~~ for each additional ~~40~~80 seconds or fraction thereof.

SECTION 2. Specific authority is hereby granted to codify and incorporate this ordinance in the existing Code of Ordinances of the City of Winter, Florida.

SECTION 3. All ordinances or portions or ordinances in conflict herewith are hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, or phrase of this ordinance or the particular application thereof shall be held invalid by any court, administrative agency, or other subsection, sentences, clauses or phrases under application shall not be affected thereby.

SECTION 5. This ordinance shall become effective immediately 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 _____, 2008.

Mayor David C. Strong

ATTEST:

City Clerk Cynthia Bonham

January 9, 2008

Analysis of Meter Rates and Comparison to Other Cities

Current Rate Comparison

Location	Drop Cost	Drop Increment (Mile)	Additional Increment	Cost Per Increment	Wait Time Increment	Wait Time Cost Per Increment	Wait Time Cost Per Hour	Cost for 1 Mile of Service	Cost Per Additional Miles
Orlando - Current	\$2.00	2/8 mile	1/8 mile	\$0.25	40 sec	\$0.25	\$22.50	\$3.50	\$2.00
Tampa	\$2.00	1/5 mile	1/5 mile	\$0.45	1 minute	\$0.30	\$18.00	\$3.80	\$2.25
Ft. Lauderdale	\$2.50	1/6 mile	1/6 mile	\$0.40	1 minute	\$0.30	\$18.00	\$4.50	\$2.40
Miami	\$2.50	1/6 mile	1/6 mile	\$0.40	1 minute	\$0.40	\$24.00	\$4.50	\$2.40
Las Vegas	\$3.20	1/11 mile	1/11 mile	\$0.20	32.72 sec	\$0.20	\$22.00	\$5.40	\$2.20
Proposed Orlando Rates	\$2.20	1/4 mile	1/4 mile	\$0.55	80 sec	\$0.55	\$24.75	\$3.85	\$2.20

Wait Time Per Hour Calculation:

	Current	Proposed	Increase
Seconds Per Hour	3600	3600	
Seconds Per Increment	40	80	
Increments Per Hour	90	45	
Rate Per Increment	\$0.25	\$0.55	
Cost Per Hour	\$22.50	\$24.75	10.00%

Estimated Fares

	5 Miles	10 Miles	15 Miles	20 Miles
Orlando - Current	\$11.50	\$21.50	\$31.50	\$41.50
Tampa	\$12.80	\$24.05	\$35.30	\$46.55
Ft. Lauderdale	\$14.10	\$26.10	\$38.10	\$50.10
Miami	\$14.10	\$26.10	\$38.10	\$50.10
Las Vegas	\$14.20	\$25.20	\$36.20	\$47.20
Proposed Orlando Rates	\$12.65	\$23.65	\$34.65	\$45.65
Proposed % Increase in Orlando Rates	10.00%	10.00%	10.00%	10.00%

Note: The Proposed Orlando Meter Rates Result in a Lower Fare Than All Compared Markets and for All Compared Trip Lengths

NON - ACTION ITEM

DATE: February 11, 2008

SUBJECT: Canin/Placemakers Overview of Form Based Code Project

ACTION REQUESTED: Representative(s) of Canin and/or Placemakers will brief Commission on the form based code project.

KEY ELEMENTS/FACT IMPACTING DECISION: Canin and Associates is under contract to conduct this project with the assistance of Placemakers, a professional planning firm that has worked with several communities around the country to produce a form based code to guide future development.

PROCESS TO DATE: Project is underway and a "Key Issues Survey" has been prepared as one of the initial methods to receive public input along with several public meetings and an additional "Community Values Survey" that will be administered in person to various citizen groups.

ALTERNATIVES CONSIDERED: None.

BUDGET IMPLICATIONS: Project in FY07 budget.

STAFF RECOMMENDATION: Receive overview from Consultant and bring up any questions that need clarification.