

The regular meeting of the Lake Wales City Commission was held on July 7, 2009 at 6:00 p.m. in the Commission Chambers at the Municipal Administration Building. The meeting was called to order by Mayor L. Jack Van Sickle.

INVOCATION

The invocation was given by Dr. Jim Moyer, Warner University.

PLEDGE OF ALLEGIANCE

COMMISSIONERS PRESENT: Terrye Y. Howell; Lee A. Wheeler, III; Jonathan Thornhill; John Paul Rogers; Mayor L. Jack Van Sickle.

COMMISSIONERS ABSENT: None.

CITY REPRESENTATIVES PRESENT: Anthony G. Otte, City Manager; Albert C. Galloway, Jr., City Attorney; Judith Delmar, Asst. City Manager; Clara VanBlargan, City Clerk.

Ruth Dampier, vice president of Citizens for Good Government, announced a drawing to be held at the July 21, 2009 City Commission meeting. Three of the people who have already purchased paver bricks will receive another paver brick donated by the Good Government group. She said paver bricks are \$35.00 each, which is a wonderful way to remember our service men and women.

Agenda Item 4. APPROVAL OF MINUTES

Commissioner Howell made a motion to approve the minutes of the June 16, 2009 regular meeting and the June 25, 2009 workshop meeting. The motion was seconded by Commissioner Rogers.

By voice vote:

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| Commissioner Howell | "YES" |
| Commissioner Rogers | "YES" |
| Commissioner Wheeler | "YES" |
| Commissioner Thornhill | "YES" |
| Mayor Van Sickle | "YES" |

The motion carried 5-0

MAYOR

Agenda Item 6. Commendation: Deputy Steve Hearth

Agenda Item 6 was postponed to a future meeting. Deputy Steve Hearth was unable to attend the meeting.

The City Commission discussed Agenda Item 19 first.

Agenda Item 19. Resolution 2009-07, Termination of City Manager's Employment

The full memo prepared by Mayor L. Jack Van Sickle and directed to the City Clerk is incorporated into the minutes.

[Begin agenda memo]

Provided herewith is proposed Resolution 2009-07 regarding termination of the employment of the City Manager, Anthony G. Otte. You are directed to include this as an agenda item on the agenda for the regular City Commission meeting of July 7, 2009.

You may contact me to discuss scheduling of this matter within the agenda for the July 7, 2009, meeting.

[End agenda memo]

Mr. Galloway said the Mayor requested that he discuss the provision of law that governs the Mayor's suggestion to terminate the City Manager's employment. Such an action is primarily governed by Article IV, Section 4.02 of the Lake Wales Charter. It provides first for a preliminary resolution. A copy of Resolution 2009-07 that the Commission will be considering was published in the Lake Wales News on Saturday, July 4, 2009. If the Commission adopts this preliminary resolution, the Charter provides that the City Manager has a five-day period in which to file a written request for a public hearing. The Charter makes no provision for a public hearing concerning the preliminary resolution and there is no requirement under Chapter 166 of Florida Statutes for a public hearing concerning a municipality's adoption of any resolution. Sec. 2-9(a) of the Lake Wales Code of Ordinances provides that citizens may be permitted to address the City Commission at the discretion of the presiding officer on matters relevant to an agenda item that is not the subject of a public hearing. In this instance, the presiding officer is the Mayor. Mr. Galloway said that in consulting with the Mayor, it is his understanding that the Mayor has chosen to permit public comment concerning this preliminary resolution tonight. Sec. 2-9(c) of the Lake Wales Code provides that the period for citizen input on an agenda item may be limited by the Mayor. The section further provides that the period for citizen input may be extended by a majority vote of the City Commission. Sec. 2-17(i) of the Lake Wales Code provides that discussion on matters not requiring a public hearing may be closed by calling for a vote. This section further provides that a call for a vote does not close Commission discussion except that Sec. 2-17(j) provides that a majority of the Commission may require a vote at anytime.

Betty Wojcik, executive director and corporate secretary of the Lake Wales Area Chamber of Commerce, read a resolution adopted by the Chamber Board of Directors urging the withdrawal or defeat of the proposed resolution to terminate the employment of City Manager Tony Otte, and recommending that the City Commission develop a positive plan of action to identify and correct perceived weaknesses, and to establish a timeline for any future corrective action. A copy of the resolution was provided to the City Clerk before the meeting.

Commissioner Rogers said that in regards to the role of the elected leaders in a City Manager form of government, the City Charter gives the elected leaders a great deal of power. In exercising this power, citizens influence their decisions and their input is needed, desired, and welcomed. By far, the greatest responsibility of the Commission is the hiring and firing of a City Manager. This function, unlike any other they may have, is theirs and theirs alone. It does not, nor should it, require input from the citizens. It was designed this way to establish the relationship between the Commission and the City Manager. Otherwise, it would turn into a popularity contest. The decision that is made tonight would not be decided by the polls, petitions or by citizen input. It will be the Commissions decision alone. The decision would be made in what a majority of the Commissioners consider to be in the best interest of the City and the citizens they were elected to represent, which is the same as when hiring a City Manager. The job of the Commissioners tonight will be to share with everyone how individual Commissioners arrived at their decision either for or against. He said he hoped that everyone would keep this in mind when the City Commission makes its vote.

Cliff Tonjes, 1001 Campbell Avenue, said there have been a number of petitions circulating, which supported one side or the other. City employees approached him last Tuesday expressing concern about what would happen if they did or did not sign the petitions, if the petitions became part of the public realm. These employees did not want to be put in a bad position. Mr. Tonjes requested that when petitions are presented that only the total number of signers become part of the record and not the actual petitions themselves in order to eliminate any possibility up the road that these signatures would be used in an adverse fashion. Mr. Galloway explained that once a petition is submitted and accepted, it becomes a

public record. He said that he could not find any basis for the Commission to reject a petition submitted to the Mayor or to the Clerk. It becomes part of the record. Mr. Tonjes asked for clarification that if only the number of signatures is presented then the problem would be eliminated. Mr. Galloway said that is correct.

Jacquie Hawkins, City employee and resident of 1441 Thousand Roses Drive, spoke in support of the City Manager. She said there is no cause to fire the City Manager. He has done nothing wrong.

Ruth Dampier, 1154 S. Lakeshore Blvd., commented on the size of the turnout. She said the people voted for the Commissioners and the people should let them do their job.

Greg Massey, resident and owner of Massey's Meat and Fish Market at 344 Lincoln Avenue, spoke in support of the City Manager. He said that although we have new Commissioners, we are the same people, and Mr. Otte is the same City Manager. The people voted for the Commissioners and trusted that they would make the right decisions for the people and the citizens of Lake Wales.

Robbie Shields, 3570 Silver Oak Court, spoke in support of the City Manager. He said that Mr. Otte is known to be a workhorse, he cares about the community and especially the youth; he is critical to the City, and he does a good job.

Todd Hammond, 254 E. Stuart Avenue and vice president of It's Happening Downtown, Inc. and the Main Street Board, read a resolution adopted by the Board of Directors of It's Happening Downtown, Inc. urging withdrawal or defeat of the proposed resolution to terminate the employment of City Manager Tony Otte and recommending that the City Commission develop a positive plan of action to identify and correct perceived weaknesses, and to establish a timeline for any future corrective action. A copy of the resolution was provided to the City Clerk.

Rob Quam, citizen, spoke in support of the City Manager. He said Mr. Otte should be given the opportunity to respond and correct the issues. He said he appreciated the City Manager and the services of the Commission.

Robert Kirkner, business owner at 343 W. Central Avenue, spoke in support of the City Manager. He said he wanted to see democracy at work. Mr. Kirkner said that he is a soccer coach at the High School, that he has worked with Mr. Otte on the soccer field, and that Mr. Otte has too many balls in the air but you're better with the devil you know than the one you don't know. Mr. Otte's last evaluation gave him a B+ and now we want to kick him to the curb.

Narvel Peterson, 415 E. Street, said he has been involved with the City for the last 10 years, and that Mr. Otte is better than any other city manager we have had in a long time. He said the Commission has made mistakes and if Mr. Otte has made any mistakes then the Commission should be able to forgive him. Mr. Peterson said that if we get rid of Mr. Otte then he would campaign to get rid of some of the Commissioners.

Jake Rowe, resident, said he has been an activist since age 14 and he has been a resident of Lake Wales since 2000. He said that since coming to the Commission meetings he has noticed a division among some of the prominent people. It seems as though this division is out to replace certain people that have made very good contributions to the community. Mr. Rowe said that in the last election, special effort was made to elect certain persons to the Commission and it was not to bring about change for the better, but to destroy it. He said that if the Commission gets rid of Mr. Otte then there would be turmoil. Mr. Rowe guaranteed that he would be a part of the turmoil.

Cody Hawk said he has been a resident for four years and that two years ago, his brother had an accident at the soccer field in 2007 and was killed. He said that nobody wanted to take responsibility for what happened that night and that he was only here to address that.

Dixon Armstrong, 1068 Sunset Drive, said he has heard a lot tonight, but he has not heard anyone say why Mr. Otte is being asked to resign. He said that Mr. Otte has done a great job for this City and to ask him to resign would be a slap in the face to him and to the City of Lake Wales.

Carol Weisman, 1186 Yarnell Avenue and Youth Services Librarian at the Lake Wales Public Library, said she has been an employee of the City since 1999 and everything has been better since Mr. Otte's employment with the City. She said that the employee survey was not a good survey because it was not a reliable source, it was not the right type for this organization, and the questions were not applicable to our situations.

Pastor Smiley said no one is perfect and everyone has made mistakes. He said to learn from our mistakes and move on.

David Price, president of Bok Tower Gardens; a member of the Lake Wales Chamber of Commerce and the Board of Directors of the Green Horizon Land Trust, said he is a 25-year resident of Lake Wales. He said that that Mr. Otte is probably one of the best City Managers we ever had. City Managers last on the average of about three to five years and Mr. Otte has been here longer than that. It might be time for change. But, are we an average town? Do we throw our good employees away after five years? Mr. Price said that what is going on tonight is not good process and it is not very wise use of our money. Mr. Price urged the Commission not to bring the resolution up, and if brought up to vote no.

Clinton Horne, 507 E. Polk Avenue and vice-president of Unity and Community, said that the Unity and Community organization has been charged with bringing the community together. The group conducted a survey of all the department heads and some of the other employees, there was 100% participation, and 100% of them were in support of Mr. Otte. He said from some of the things he was told about the City's employee survey, we need to be very careful about trying to use it as a vehicle to get to something else.

Twana Davis, 410 Peal Street, spoke in support of the City Manager. She said she has been a citizen of Lake Wales for many years. This is a new age and we have people here that care about each other. Ms. Davis said she is not there to bash the Commission, but just to let them know that we love Lake Wales. She said that responsible Commissioners do not take a position to destroy it.

City Manager Otte, after getting permission to speak, thanked everyone for being present and said that by any measure the last years have been extremely productive. He said that this Commission was not the Commission that hired him, so it may be difficult for them to remember where the City was at that time. When he was first hired he helped to navigate the City through fiscal crises left here by a previous manager, and took positive actions working together. Mr. Otte said that recently put into the Commission boxes was a change in financial position sheet that lists positive growth in the General Fund, in the General Fund Balance, and in other funds. Our net assets have improved to the point where they have almost quadrupled during this eight-year period. He said every other area in this Strategic Plan has made great progress such as in the area of Public Safety. Our camera system should be operational within the next 60 days and the community policing unit is making a difference in the Lincoln Avenue area that is now starting at the Housing Authority. We have in-car video surveillance, laptops, and tasers for all of the patrol officers. The Fire Department has an amazingly good ISO (Insurance Service Office) rating, we have the best fleet in everyone's memory, and we have opened a second fire station in Lake Ashton. There is improved drainage in the streets. Mr. Otte said, as he had recommended, the City Commission approved leaving the County CDBG program and embarked on a competitive State program that is not guaranteed. Amazingly, every time we have applied the grant was awarded. We have received about \$2.75 million in those grants as compared to probably \$800,000 that we probably would have received if we had stayed with the county program. With these funds, we have corrected our worst street conditions, our worst lift station, and our worst drainage problem. We finished a wealth of stalled utility projects including the south side force main, lift station line repairs, and new water lines, hydrants downtown, and the south water tower. We resurfaced many streets in the historic area, and we are ready to apply for a low-interest State Revolving Loan to finance repairs needed on the wastewater plant. He said that perhaps the most historic thing we did is when the City Commission adopted a "Zoning in Progress" period and stopped the approval of subdivisions for eight months, although we were warned not to do it.

At the end of that period, the Commission adopted an over-hauled Land Development Code that was written by Margaret Swanson, Planning & Development Director, and Mrs. Delmar. City staff hired consultants do that in the past, but it was never brought to the Commission. The City has updated its impact fees, formulated a concurrency system, and made improvements in development standards. There have been many improvements in the area of recreation. He and Joe Miranda recruited the Kegel bowling training center in the Longleaf Business Park, and the Commission approved curbside recycling. There are so many other things pending such as with the Airport, Lincoln Avenue, and tonight on the agenda is the first step toward the hotel revitalization. Mr. Otte declared there has been progress in every area of the strategic plan.

Mayor Van Sickle asked Mr. Otte to wrap up his comments. He said this is the preliminary resolution and if this does pass, there is an option for a public hearing and all of the verbiage. Right now, we need to let the people understand where the concerns are coming from in that resolution and the procedures that Mr. Galloway explained.

Mr. Otte said every year he presents to the Chamber a State of the City Report, and this last year was probably our best year ever. He said there is an annual report on the City's website that lists all the accomplishments of the City. He said as he told the Chamber, this is the best place he has ever worked and the best place he has ever lived. Mr. Otte said Commissioner Wheeler told him a long time ago that one of the most important things he could do is become involved in the community. He said he believes he has fulfilled that request, and that he loves Lake Wales and he wants to continue to serve.

Ms. Delmar read Resolution 2009-07 by title only.

A PRELIMINARY RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LAKE WALES, FLORIDA, AUTHORIZING TERMINATION OF THE EMPLOYMENT OF THE CITY MANAGER, ANTHONY G. OTTE.

Mayor Van Sickle said that each commissioner would be able to speak without interruption, and the information would be used in the decision process. He said he would like to clear up some things that have been reported to the press. There have been statements made saying that he should have brought his concerns to the Commission. Mayor Van Sickle said that is exactly what he has done in accordance with our City Charter. His intent was not to try this issue in the paper, but to make a decision based on fact and not hearsay or emotions. He said he requested Mr. Galloway to take the resolution to Mr. Otte on June 29, so he would not find out publicly about it. The formal letter transmitting the resolution was not signed until June 30. Mr. Otte was not blindsided because he (the Mayor) made a statement in the newspapers that he had some concerns. Mr. Otte chose to send emails to everyone that have gotten this town in an uproar, many city employees fear for their jobs, and the Commissioners are threatened. Mr. Otte did this before the resolution was officially transmitted to the City Clerk. A petition was circulated by employees asking other employees to sign the petition that there are no morale problems. If employees refused to sign, another employee would intimidate that person until they signed. Mr. Otte was notified to have it stopped because City Hall was becoming a hostile work place.

Commissioner Wheeler asked Mayor Van Sickle if he had any proof of that allegation. Mayor Van Sickle responded that he would have his turn to speak.

Mayor Van Sickle said it has been published in the paper that he had meetings with Mr. Otte regarding the evaluation that he gave him in December 2008. That is true. Even before the evaluation meetings, meetings were held concerning areas that he felt the City needed to improve. It is also true that he missed one meeting and that they were not productive. That is where the truth stops. Mr. Otte was more concerned with him giving what he called a bad review than listening to what he had to say. Mayor Van Sickle said he told Mr. Otte that contract practices needed to be changed, more contracts needed to be competed, project management was not very good, and morale was not good. These meetings were scheduled for 3:00 p.m. the day after the second Commission meeting of the month. Mayor Van Sickle said he would show up for a meeting and Mr. Otte would have scheduled another meeting. Mr. Otte did not even have the courtesy to have someone call him so he would not have to drive in for the meeting.

Mr. Otte was quoted in the July 1, 2009 Lake Wales News as stating, "The Mayor did not show up for the last meeting." He said that is an outright lie because he was there for that meeting, which was on June 17. Mayor Van Sickle said he asked the person sitting at the front desk if Mr. Otte was in his office, and she said no and that he was either downtown or in the Commission Chambers interviewing engineering companies. She said that she was not sure of when he would be back. Mayor Van Sickle said he looked in the Chambers and Mr. Otte was there, and that he did wait around until after 3:00 p.m. before leaving. He said that with past issues of meetings being canceled without notice, he saw no need to wait any longer and asked the person to tell Mr. Otte that he was there. Mayor Van Sickle said he had with him a draft resolution he was working on that he was going to share with Mr. Otte.

Mayor Van Sickle said during a Commission meeting on December 16, 2008, he suggested to the Commission, when reviewing Mr. Otte's evaluation, that the evaluation form was not very good because it was hard to measure performance. The majority of the Commissioners did not want to change it. He said that one Commissioner does not have the authority to change the evaluation. Section 4 of Mr. Otte's contract states that "the City, and Employee will work together to mutually agree on such goals and performance objectives."

Mayor Van Sickle said after becoming Mayor, he suggested changing the structure of the agendas. These changes were based on what he had seen at other city's commission meetings and his experience on the TPO and MPO boards. After being told he could not use the format that he requested, he asked why. He got excuses, none of which were based on fact. He said the Commission liked his suggested format and it was adopted. Instead of working with the Commission to change the agenda format, Mr. Otte wanted his way.

Mayor Van Sickle said that the Commission approved the plan for the old hotel and set a date of March 30, 2009 for award. He said he asked Mr. Otte if we were going to have a special meeting to award the contract by the March 30 and he said yes. Mr. Otte now does not remember that. Mayor Van Sickle said he later learned during a Chamber campaign forum when one Commissioner stated to the Chamber lunch group that the issues were still being negotiated on the old hotel and that was the reason for the delay. Not all Commissioners are getting all the information.

Mayor Van Sickle said that he got a call from a woman in early June asking for help. The lady said she purchased lots from a group in town that the City gave to them to create low-income housing. She said that the time had elapsed for her to improve the lots, which caused the lots to revert back to the City, and she did not get her money or her lots returned. Mayor Van Sickle said he contacted Mr. Otte to see if he knew anything about the issue, and he said he remembered something and would check it out. Mayor Van Sickle said he started collecting data to understand the issue and found that Mr. Otte had been involved in this effort for the last four years. He said that Mr. Otte has not presented any information on the issue or gotten back to him.

Mayor Van Sickle said he received a call from the landscape developer for Waters Edge about the time it was opening. He said City staff had promised him that he would only be charged reuse water prices for potable water as the City does not have reuse in the area. Mayor Van Sickle said he told the developer that he would check with the City Manager, which he did, but has not been given an answer. He said he also learned from someone else that was in that meeting that the landscaper was in fact promised reuse prices. Mayor Van Sickle said three other contractors have contacted him expressing concern on how the City does business. Are these developers complaining because they are not getting their way? Some may be, but not all. If developers do not want to do business with the City, it will not grow. This is not in the best interest of the City.

Mayor Van Sickle said when he first became a Commissioner he tried to get a project time-line plan created, so he could understand what projects were planned and where we were on the schedule. This would allow whoever was managing the efforts to manage issues and allow Commissioners to know how the City was progressing on their efforts. He said he even offered to help show a City employee how to use the program that they currently have. It did not happen. An example of not having a means of scheduling projects is our most recent road-paving project. Road maintenance has been ignored for years

in Lake Wales. Recently, we borrowed money on a 20-year loan for the repairs that have a projected life of 12 years. This is not fiscally responsible. The real issue is that the Commission asked many times and was assured by City staff that all underground work would be completed prior to the paving. The Commission was told the streets that needed utility work would be done last. Have you been downtown? Take your Jeep. First Street was paved. Then the City came through and cut across Stuart and Park Avenues. Now rain is washing the fill out carrying the sand into the storm drains. Mayor Van Sickle said he questioned when this would be fixed and was told by City staff that he was going to get the contractor who paved the streets to do the work because he would do a better job than the company that did the utility work. Do we have money to re-do work? If managed correctly, we would not have to re-do things. We need to use our money wisely.

Mayor Van Sickle said that the 1919 school project has been managed and mismanaged for years. This is not an issue of whether you are for or against the project. The effort seems to have changed direction at will. Mayor Van Sickle said he would only discuss Grant 5 (SC621) and Grant 6 (SC801.) He said he pointed out in the May 14, 2009 Commission Workshop that the plan was to do the lobby to completion so that part of the building could be used to hold fund-raisers. That was not a Commission direction. No one on City staff said that they directed the contractor to propose this effort. Mayor Van Sickle said earlier in the day on May 14 he had a meeting with the contractor and staff to point out problems he found in the Grant 6 proposal: double bid estimates, incorrect bid cost numbers, etc. The Grant 6 proposal showed a cost of \$26,000 to place lexan on the windows. The contractor said that was a mistake because Grant 5 was supposed to do that work. Mayor Van Sickle said at this point his question was that why the work was never done. There is still \$63,000 on Grant 5, there is matching money that has not been expended, and no work has been done on that building in months. If the work had been done, we could have saved many windows from being broken. He said he found 10's of thousands dollars in errors in 40 minutes. Why hadn't City staff reviewed the proposal? He said he is not implying that anyone has done anything wrong. Mistakes were made because the proposal was thrown together and not proofed by the contractor or the City. The City requested an extension on Grant 6. Grant 5 still had funds, but no work was being done. There are a lot of City and State funds on the 1919 project that are not being managed.

Mayor Van Sickle said that City staff brought to the Commission a request to sole source a contract to a contractor to do pipe slipping. The City normally receives a better price if the effort is competitive. Staff indicated that there was no one within 300 miles that could do this work other than this contractor. The effort was postponed to look for another contractor. In the next meeting staff said there were no other contractors. He said that he gave them a name of a company in Jacksonville that developed the process. Mayor Van Sickle said that if he could locate another contractor in only a few minutes on the internet, then staff should be able to also. He said these are just a few examples of the lack of management, which causes a waste of limited funds.

Mayor Van Sickle said that in regards to declining morale of City employees, surveys speak for themselves. One employee said few people filled out the first survey and very few filled out the second survey, because they felt nothing was being done. Employees are afraid to speak to supervisors because they are afraid they will be set up and fired. Comments show how senior management really does not look out for employees. Mayor Van Sickle said he talked to a lot of City employees that called him. They will only come to him because they know that he would not reveal their name. Some of the employees would not even talk to him in the City of Lake Wales. They had to meet in other places to talk. All of the morale problems cannot be due to disgruntled employees.

Mayor Van Sickle said in summarizing the issues, eighteen months of getting misleading statements, half truths, and false statements has caused him to lose faith in the judgment of the City Manager and has caused him to look elsewhere for information. Without correct information, Commissioners cannot make the best decisions for the City as a whole. Mr. Otte's action on this issue shows little concerns for the City, employees, and its citizens. Poor management of projects is costing the City money that we do not have. Using debt for maintenance is wrong and will increase the City's debt. Mayor Van Sickle said he was a Certified Acquisition Professional for the Federal government. He understands contracting and project management. His concerns are based on more than 20 years of experience with multi-million dollar contracts. The last two years, the employee survey showed morale is very poor. Employees are calling,

fearing for their jobs, stories are similar, and all cannot be disgruntled employees. Many citizens are calling for Mr. Otte's termination, and one City leader has stated that publicly. Mayor Van Sickle said that the decision is solely the responsibility of this elected Commission. We must keep the best interest of the City in mind.

Mayor Van Sickle said termination of an employee is something that he does not take lightly. He has listened to all that have contacted him. He even had some of the citizens that spoke here tonight request a meeting with him and he told them he was available for the next two days. These citizens set up tentative dates to call so he could talk to them, but they did not call back. Apparently, it wasn't what he was trying to do or what information he was trying to pass was the issue. Maybe they felt he would not change his mind.

Mayor Van Sickle said citizens of this City elected the Commissioners as their voice. Like many cities, we are having difficult financial times. This is not something that just happened. It has taken him two years to understand what is happening in our City government separating fact from fiction. We have to look for the best interest of all of our citizens and not just the special interest groups. The decision must be based on facts, not emotions. What is in the best interest of the City and all its citizens? Going the way we are now or improve and move forward?

Commissioner Thornhill asked for recess. The meeting recessed at 7:23 p.m.

The meeting reconvened at 7:29 p.m.

Commissioner Rogers said he has lived in Lake Wales most of his life and he loves the community. He said he personally does not have anything against Mr. Otte and does not have a vendetta against him. He is concerned that this community is up in arms, and he is sorry that Commissioner Thornhill and his family have been threatened by some of the people. Commissioner Rogers said he got calls from employees saying they were being bullied into signing petitions. He said he immediately called and asked Mr. Galloway to check into it. Mr. Galloway called the Labor Attorney, who said that was not the measure to take in a workforce because it creates a hostile environment. Commissioner Rogers said it concerned him when people came into his place of business telling him that their City Manager was going to be fired and showing an email indicating so. He said he told them that it could not be true or the City Manager would have called him. Later that day, he learned they were right. Mr. Otte should have called the Commissioners asking them to come in to discuss the issue and not try to get the community stirred up. He said he is very sorry that Lake Wales is facing this issue during the budget process.

Commissioner Howell said she thinks the people who signed the petitions wanted their voice heard and wanted to let the City know how they felt, which is why she does not understand why the petitions cannot be submitted. She said she is standing up for what is right and she has not lost faith in the judgment of the City Manager, and if she does lose faith or respect for someone she has no problem with saying that. Commissioner Howell said the resolution does not represent her. In regards to employee morale, not everything is Mr. Otte's fault. Everyone is facing a decline in morale right now on their job because they do not know if they will even have a job. She said some City Managers do not need to be on the job longer than two years or even 30 days, but we should try keeping a person who is trying to focus on progress, growth, etc. Everyone needs to be evaluated including the Commission, the City Attorney, and the Asst. City Manager because their duties fall under the City Manager's umbrella. If they are not doing their job, it makes the City Manager look bad. Some criticize the City Manager for micro-managing, but maybe he is not doing that enough. Some of the concerns expressed by the Mayor seem to be personal issues rather than business issues. Commissioner Howell said she wished that the issue had never come up because it makes us look like we are regressing. The Commission has never given the City Manager a list of things to do according to the way it would like them done. The City Manager writes the things down that the Commission asks to be done and the City Manager gets them done. Street problems, wastewater problems etc. are not Mr. Otte's fault. It is the Commission's fault because it makes the vote. We need to give Mr. Otte direction on what we would like him to do instead of bringing forth this resolution.

Commissioner Wheeler said he has sat on the Commission for eight years, he has been a resident of the City all his life, and he has seen a lot of City Managers come and go. There have been good ones and bad ones. However, he has never seen one with the quality and dedication of Mr. Otte, who is by far the best City Manager we have ever been lucky enough to have. What is the role of the Commission? We have duties by Charter: adopt the budget, ordinances, and resolutions. The Commission does not micro-manage this City. That is the roll of the City Manager. By Charter, the Commission is not allowed to talk to City employees without the permission of the City Manager. Sometimes what is right to do is not always legal and what is legal is not always right. The people of this town deserve a clear and transparent process in an event that will affect their lives for years to come, and they have a right to speak. It seems like since the Mayor has come on the Commission, he and Mr. Otte have been crossing paths. It is never too late to reconcile and work together. The best thing for this Commission to do is back off. We need to set up a process in a workshop meeting to let the City Manager know what the Commission expects of him within a certain time. If he does not do it then we can think about alternative employment. This resolution is not a business-like way to accomplish change in administration, especially during a time of fiscal crisis. We need not change horses in mid-stream.

Mayor Van Sickle said he would like to respond to some of the allegations made by Commissioner Wheeler. He said a copy of the proposal was put in each Commissioner's box for review. Is talking to City employees a violation? He said the City staff he was referring to regarding the proposal was the City Manager and the Asst. City Manager. Commissioner Wheeler asked if those were the only employees he talked with. Mayor Van Sickle said he also spoke to the employees that called him.

Commissioner Rogers said he is sorry that this issue came up and he is glad to see the audience packed. He said what really upset him was the strong arm in getting people to sign petitions and using City time to do it. This issue could have been averted if the Commissioners had been asked to discuss the problem with the City Manager and to try working things out before getting to this point. Everyone said to do what is right, but he is not sure what to do in a situation like this. There is no way to please half the town, so it looks like no matter how he votes half the town will be mad. When it comes time to cast the vote, he will try to cast it in the best interest of Lake Wales and not based on any personal prejudice or animosity.

Commissioner Thornhill asked Mr. Galloway if it were permissible for Commissioners to speak with employees. Mr. Galloway said the Commissioners can speak to employees but cannot direct them.

Commissioner Thornhill asked Commissioner Howell if she would explain her comment about micro-managing in a City Manager review. Commissioner Howell said at that time some of the department heads were complaining that the City Manager was trying to micro-manage them. He was not putting trust in them. However, in some cases, she thought the City Manager should micro-manage his department heads to make sure they are doing what they are supposed to be doing.

Commissioner Thornhill asked the Mayor to comment on the land issue he brought up. Mayor Van Sickle said that he does not have a lot of detail, but he understands the issue is still outstanding because the lady said she would be contacting an attorney to pursue it. This may become a legal issue for the City, but without having all the details, he is not sure. Mr. Galloway said it is not an issue with the City. He explained that there were three lots that were given by the Commission or the CRA for the purpose of affordable housing. The lots were given to the Green & Gold Foundation who subsequently sold the lots to the lady. When the City Commission granted the lots, a reverter clause was included which said that "if you don't build or are given a Certificate of Occupancy within a two-year period then title to those properties reverts back to the City of Lake Wales." When the Green & Gold Foundation sold the lots to the lady they did include the reverter clause on the face of the instruments because it carried with the title. Those lots have reverted to the City of Lake Wales. Any claim that the lady who purchased the lots has is not against the City. The City does not have any contractual obligation with her at all. Whether or not the City would be dragged into the fray, he cannot say. If that does happen, he would think that the City would be subject to a Motion to Dismiss because it does not have any contractual relationship with the lady who is raising the issue.

Commissioner Thornhill said he was put at the forefront of this circumstance, and that he would like everyone to know he is speaking from the heart. He said he wanted to be the people's City Commissioner and he did it for all the right reasons. When people accuse him of lacking integrity and honor, he gets a little upset. Commissioner Thornhill said both sides had personally threatened him, and he did make the Police Chief aware of it. He said he hopes that these people do not do what they say they would do. Commissioner Thornhill said he is trying to do the best job that he can for the people who elected him. He will be a leader, but he will have to make tough choices. He said, unfortunately, he is being forced to make a tough decision tonight. The majority of the people he talked to during his campaign wanted the City Manager fired, but that was not his reason for running. He said he does not think anyone could say he has not given his best in finding out the information needed to make the right decision.

Commissioner Thornhill said during his campaign, he walked door to door. He had people supporting him, but not all of them voted. Before the election, he had a meeting with the City Manager, Asst. City Manager, and the Finance Director. In that meeting, he brought up the fact that perception is reality. A rumor was going around that the only reason he wanted to be on the Commission was to fire the City Manager. That is not so. His running for City Commissioner had nothing to do with the City Manager. He wanted to run when Ms. Manry ran, but stepped back. He also pursued a county position versus the City's position. He said he was the one who walked door to door, so if people think they have him in their back pocket they are wrong. He hopes that over time, people would understand and come to know that. Commissioner Thornhill said he has been up front and honest with everyone, he provided new information, and he listened to what they had to say. He said for those that know him, he is a Godly man and Jesus Christ is his personal savior, and he will not be insulted. He did his homework to make his best decision: he contacted the City Attorney; spoke with employees; responded to phone calls and emails; spoke to the 50 people who knocked on his front door; spoke to the people who stopped him in Wal-Mart, Publix, the movie theatre, and while walking around the lake; and met with the City Manager last night for just under two hours.

Commissioner Thornhill said he does not believe 100% of the things that are told to him. People tried to paint the City Manager as a Dr. Jekyll and Mr. Hyde, but he did not see it that way and he has told Mr. Otte that. He holds no ill will and no personal animosity, he has done his homework, and is trying to do what he thinks is best. He is responsible to the citizens of Lake Wales, and the Commissioners before him that are no longer here understand what that means. Commissioner Thornhill said he has been asked to be the peacemaker, and both he and the City Manager are in untenable positions. Whatever the result, the community needs to pull together. The vote that he will cast tonight will be in the best interest of the City. The right thing means different things to one side than it does to the other. Commissioner Thornhill said he prayed a lot, he asked many people to pray for him, and he would hope that after tonight people would respect him.

Mayor Van Sickle asked for a motion.

Commissioner Thornhill made a motion to approve Resolution 2009-07. The motion was seconded by Commissioner Rogers.

ROLL CALL:

| | |
|------------------------|-------|
| Commissioner Thornhill | "YES" |
| Commissioner Rogers | "YES" |
| Commissioner Wheeler | "NO" |
| Commissioner Howell | "NO" |
| Mayor Van Sickle | "YES" |

The motion carried 3-2.

Mr. Otte thanked everyone for coming and left the Chamber.

Mayor Van Sickle said Mr. Otte is suspended and asked that he surrender his credentials and all items which allow access to City properties to the City Clerk. He said Ms. Delmar is now acting City Manager.

The meeting recessed at 8:05 p.m. and reconvened at 8:23 p.m.

CONSENT AGENDA

Agenda Item 7. Contract for Banking Services

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Dorothy Pendergrass, Finance Director]

SYNOPSIS

Contract with CenterState Bank for Bank Services.

STAFF RECOMMENDATION

It is recommended that the City Commission approve the selection of CenterState Bank for the City's banking services and authorize the City Manager to execute the necessary agreement and documents. The initial term will be for one year and three months, with an option for extension for three (3) additional (1) one-year terms, provided both parties can annually negotiate mutually acceptable terms.

BACKGROUND

In 2004, the City Commission selected SunTrust for the City's banking services and authorized the City Manager to execute the necessary agreements and documents. The term was for three years, with the option to extend the contract for two additional one-year periods. The existing contract for banking services with available extensions expires on September 30, 2009.

A request for proposal for banking services was initiated February 11, 2009, with a due date of March 5, 2009. The bid documents were posted on the City website.

A copy of the bid documents were mailed to the following banks (listed in alphabetical order):

1. Bank of America
2. CenterState Bank
3. Citizens Bank & Trust
4. State Farm Bank
5. SunTrust
6. Wachovia
7. Washington Mutual

The City received proposals from four banks (listed in alphabetical order):

1. CenterState Bank
2. Riverside Bank
3. SunTrust
4. Wachovia

Existing banking services included:
Positive Pay/Control Pay
ACH Fraud Control
Online Banking Services

Products and Services desired included:
Checking Accounts

ACH Debits and Credits
Payroll Access Accounts/Cards
On-line Banking
Electronic Check Reconciliation, Payment Verifications
Interest/Overnight Investment

Analysis was completed on the fee schedules provided, interest rate offered and services provided. The following items were considered:

SunTrust:

Estimated annual fees \$12,820 and estimated annual interest income \$41,800 (Fed Funds – 25 basis points with a floor of 40 basis points).

Wachovia:

Estimated annual fees \$12,248 and estimated annual interest income \$14,087 (Average Ledger Balance – Average Float – Less Reserve Allowance x Fed Funds – 10 basis points)

Wachovia bid response was "The Interest Rate and Earning Credit Rate will be set at Target Federal Funds Rate minus 10 basis points, after adjusting for Federally-required reserves. In the event this contracted ECR is less than our standard rate for the City's account type, the Interest Rate and ECR will default to the standard rate. Currently, the Standard ECR is 75 basis points and the Interest Rate is 40 basis points"

Riverside Bank:

Estimated annual fees \$5,840 and estimated annual interest income \$17,000. (City balances up to \$2 million, Federal Funds Rate, balances greater than \$2 million but less than \$10 million Fed Funds Rate – 10 basis points, deposit balance of the account will be limited to \$10 million dollars, however, the bank will provide interest earnings for an additional ten business days until alternative investments or funds disbursement is completed.)

(Riverside Bank does not offer CD-ROM or ACH Fraud Control.)

CenterState Bank:

Estimated annual fees \$11,851 and estimated annual interest income \$104,000 (The rate the bank is willing to pay the City and honor for one year on all deposit accounts is 1%.)

Center State Bank is in the process of implementing "Positive Pay/ACH Fraud" protection and expects to have these products in place by August 2009. CenterState Bank has offered these services for free the first year. CenterState Bank has provided a written guarantee to reimburse the City any losses as a result of fraud on any of the City's accounts with CenterState Bank until such time as the accounts are protected by "Positive Pay/ACH Fraud".

The proposals were reviewed by the Finance Director on the following criteria:

- Special Requirements (Statutory and Location)
- Costs/Gains (Up front costs, recurring costs, interest income)
- Qualifications and Experience
- Asset Safety
- Reuse of Existing Investments
- Stability

FISCAL IMPACT

Estimated annual bank service fees are \$11,851. Interest income is projected relative to the other proposals received.

[End agenda memo]

Agenda Item 8. Request for Proposal - Professional Auditing Service

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Dorothy Pendergrass, Finance Director]

SYNOPSIS

Request for Proposal for Professional Auditing Services

RECOMMENDATION

It is recommended that City Commission approve the issuance of a request for proposal for professional auditing services.

BACKGROUND

For the past several years, the City has incurred five separate annual audits for various functions of the municipality. The finance department believes this practice of five separate annual audits has evolved over time. Costs relating to these audits for fiscal year 2007/2008 were:

| | |
|----------------------------------|---|
| 1. City of Lake Wales | \$ 67,100 |
| 2. General Employee Pension Plan | 4,450 (Original engagement letter was \$4,450, Actual charges as of 05/07/09 were \$2,225 due to combining this audit with the City audit – no separate report was issued.) |
| 3. Airport Authority | 12,100 |
| 4. Firefighters' Pension Plan | 4,700 |
| 5. Police Officers' Pension Plan | <u>4,700</u> |
| Total annual cost | <u>\$ 93,050</u> |

Florida State Statute does not require a separate audit for pension plans. Neither Florida State Statute nor the City's Ordinance 2005-48, Sec. 16, requires a separate audit for the Airport Authority.

Florida State Statute 218.39(3) states "A dependent special district may make provision for an annual financial audit by being included within the audit of another local governmental entity upon which it is dependent."

Ordinance 2005-48, Sec. 16 states " As a dependent special district, the Lake Wales Airport Authority will comply with the applicable financial reporting requirement of Chapter 189, Florida statute...An audit of the affairs of the Lake Wales Airport Authority shall be conducted annually by a certified public accountant....."

FISCAL IMPACT

If only one annual audit was prepared for the City of Lake Wales with the inclusion of the Airport Authority as a dependent component unit, staff expects a reduction in the cost of annual auditors' fees charged, while still providing compliance with Federal, State and Governmental Accounting Standards Board (GASB) requirements.

If only one audit was issued, including the City, the Airport Authority and the pension plans, staff expects a cost saving in labor hours spent on annual preparation of the audit, while still providing compliance with Federal, State and GASB requirements.

[End agenda memo]

Agenda Item 9. License Agreement for Hotel Grand Project

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Harold Gallup, Economic Development Director]

SYNOPSIS

Execute a six months License Agreement with Dixie-Walesbilt LLC., with no cost to the City for the Hotel Grand Project for work as outlined in the Agreement

RECOMMENDATION

The Staff recommends that the following Motion be made and adopted: "The City Commission authorizes the Mayor to execute the License Agreement, dated July 15, 2009, between the City and the Dixie Walesbilt LLC., for the purposes as defined in the Agreement for a period of six months commencing on July 15, 2009 and ending six months henceforth"

BACKGROUND

The City Commission approved a selected Developer for the City appointed staff to work with on developing a License Agreement and Developers Agreement for the Hotel Project in December 2008. The overall concept was for the development of the Hotel Site, as it exists at the time of the RFP. The Developer, in working with the City, has embarked on a more aggressive "Development Plan" that will incorporate additional properties and a larger and more financially intensive plan. The Developer has and is working with a number of professionals and with the surrounding property owners on the plan. The City is not participating in any of the third party negotiations for the expansion of the project but is directing the focus of the development for the entire block.

The License Agreement provides for the project to begin to move forward in a physical sense with the scope of work as outlined in the License Agreement. The market estimate of funds to be spent by the Developer is in the range of an additional Five Hundred Thousand Dollars (\$500,000.00). The most notable "Physical Feature" of work will be the preparing, sealing and painting of the building and the control of the site with fencing and debris removal. The documents and work product for planning, marketing, engineering, appraisals, etc... will be jointly owned as provided for in the License Agreement. The cost of the License Agreement is valued at and for the "mutual agreement and other good and valuable consideration" which is referenced above. The Developer has engaged engineers, architect(s), planners, a marketing firm, (both domestic and international) environmental and "Green" consultants, appraisers, and financing.

This time will provide for the final defined project and related project elements to be memorialized in the Development Agreement.

OTHER OPTIONS

Do not approve the License Agreement, but that will have a negative impact on the redevelopment of the project area.

FISCAL IMPACT

None. There are no City funds required in this project element.

[End agenda memo]

Agenda Item 10. Adoption of Governmental Accounting Standards Board (GASB) Statement No. 48 and Statement No. 50, effective for periods beginning October 1, 2007

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Dorothy Pendergrass, Finance Director]

SYNOPSIS

Commission adoption, effective for periods beginning October 1, 2007, for GASB Statement No. 48, Sales and Pledges of Receivables and Future Revenues and Intra-Entry Transfers of Assets and Future Revenues.

Commission adoption, effective for periods beginning October 1, 2007, for GASB Statement No. 50, Pension Disclosures – an amendment of GASB Statements No. 25, Financial Reporting for Defined Benefit Pension Plans and Note Disclosures for Defined Contributions Plans, and No. 27, Accounting for Pensions By State and Local Governmental Employers.

RECOMMENDATION

It is recommended that City Commission take the following action:

1. Adoption of Governmental Accounting Standards Board (GASB) Statement No. 48 and Statement No. 50, effective for periods beginning October 1, 2007.

BACKGROUND

Governmental Accounting Standards Board (GASB) Statement No. 48 is intended to clarify accounting by establishing clear criteria for determining whether proceeds received from a given transaction should be reported as revenue or a liability. The standard's enhanced disclosure requirements will improve the usefulness of financial reporting by enabling the public to become better informed about the status of future revenues that may have been pledged or sold. The requirements of this Statement are effective for financial statements beginning after December 15, 2006.

GASB Statement No. 50 is intended to more closely align the financial reporting requirements for pensions with those for other post employment benefits (OPEB) and, in doing so, enhances the information disclosure in notes to the financial statements or presented as required supplemental information (RSI) by pension plans and by employers that provide pension benefits. The provisions for Statement 50 generally are effective for periods beginning after June 15, 2007, with early implementation encouraged.

FISCAL IMPACT

N/A

[End agenda memo]

Mayor Van Sickle asked for discussion on Consent Agenda Item 9, License Agreement for Hotel Grand Project.

Mr. Gallup reviewed Consent Agenda Item 9. He said that the License Agreement would allow the project to move forward. He noted the various activities to take place over the next six months, which included sealing and painting of the building, control of the site with the fencing, debris removal, and site clean up. Mr. Gallup said we will finally begin to see a beginning of a structure process over the next six months that will go from external to internal.

Ms. Delmar pointed out that in Consent Agenda Item 8, Request for Proposal for Professional Auditing Services, staff is seeking approval of an RFP (Request for Proposal). She said staff wanted to be sure before going through the bid process that the Commission is happy with the RFP. This might be the routine from here on out to avoid any problems.

Commissioner Wheeler made a motion to approve the Consent Agenda. The motion was seconded by Commissioner Rogers.

By voice vote:

| | |
|------------------------|-------|
| Commissioner Wheeler | "YES" |
| Commissioner Rogers | "YES" |
| Commissioner Thornhill | "YES" |
| Commissioner Howell | "YES" |
| Mayor Van Sickle | "YES" |

The motion carried 5-0

OLD BUSINESS

Agenda Item 11. Ordinance 2009-17, Expanding Membership of CRA Board – 2nd Reading & Public Hearing

Ms. Delmar read the synopsis for Agenda Item 11. The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Judith H. Delmar, Asst. City Manager]

SYNOPSIS

In accordance with the wishes of the City Commission, Ordinance 2009-17 is proposed for the purpose of increasing the size of the CRA Board from five to seven members. The ordinance also establishes eligibility criteria for appointment.

RECOMMENDATION

It is recommended that the City Commission adopt Ordinance 2007-17 after second reading and public hearing.

BACKGROUND

The following summarizes the establishment of the CRA Board of Commissioners and its various modifications as the Community Redevelopment Agency has expanded over time:

- Ordinance 69-3 created the Downtown Development Commission comprised of the Mayor, the Chairman of the Planning Board and five citizens for the purpose of "improving the physical appearance, enhancing the economic activity, and increasing the tax base for downtown Lake Wales."
- Ordinance 85-10 created the Community Redevelopment Agency, and the Downtown Development Commission became the CRA Board of Commissioners vested with all the powers delineated in F.S. §163.370.
- Ordinance 90-03 authorized the City Commission to take back from the CRA Board and reserve to itself all powers delineated in F.S. §163.70 and established the CRA as an advisory board to the Commission.

- Ordinance 90-10 established eligibility and appointment criteria for the CRA Board and established two Area Advisory Committees to assist the CRA Board in implementing redevelopment activities within the specific CRA areas (i.e., the Downtown area and Lincoln Avenue/Northwest neighborhood area).
- Resolution 99-06 modified the Community Redevelopment Plan and expanded the CRA to its current geographical configuration. This expansion necessitated a reconfiguration of the CRA Board because the expanded CRA included approximately 50% of the City's area and 100% of the population (at the time), and it was considered important that the CRA Board be representative of the entire community.
- Ordinance 99-06, under the authority of F.S. §163.357(1)(a), designated the City Commission as the CRA Board of Commissioners.

The City Commission wishes to expand the membership to include two citizen members. Such an expansion is authorized by F.S. §163.357 (1)(c). Ordinance 2009-17 is proposed for the purpose of implementing the wishes of the Commission. This ordinance also establishes appointment eligibility criteria that are consistent with provisions of Florida Statutes. Pursuant to the CRA workshop on May 28, 2009, the ordinance also provides that the City Commission shall consider nominations from the Chamber of Commerce for the two additional appointments.

As required by Florida Statutes §163.346 regarding changes to the composition of the CRA Board, the City provided notice of this public hearing to the Board of County Commissioners, the Polk County School Board, and the Southwest Florida Water Management District.

OTHER OPTIONS

Make no change to the current composition of the CRA Board.

FISCAL IMPACT

None.

[End agenda memo]

Ms. Delmar read Ordinance 2009-17 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA AMENDING CHAPTER 2, ADMINISTRATION, LAKE WALES CODE OF ORDINANCES TO EXPAND THE COMMUNITY REDEVELOPMENT BOARD FROM FIVE MEMBERS TO SEVEN MEMBERS; ESTABLISHING ELIGIBILITY CRITERIA FOR SAID MEMBERS; PROVIDING AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

David Smith asked the selection process. Mayor Van Sickle said at the last Commission meeting the Commission asked the Chamber to make the recommendation. Mr. Smith asked who would make the next recommendation when these terms expire. Mayor Van Sickle said that would be determined by the Commission at that time.

CLOSED PUBLIC HEARING

Commissioner Rogers asked if the applicants had to live in the City limits of Lake Wales. Ms. Delmar said they have to be residents or property owners within the boundaries of the city. [correction: *they have to be residents or engaged in business within the boundaries of the city.*]

Commissioner Rogers made a motion to adopt Ordinance 2009-17 after second reading and public hearing. The motion was seconded by Commissioner Thornhill.

ROLL CALL:

| | |
|------------------------|-------|
| Commissioner Rogers | "YES" |
| Commissioner Thornhill | "YES" |
| Commissioner Wheeler | "YES" |
| Commissioner Howell | "YES" |
| Mayor Van Sickle | "YES" |

The motion carried 5-0.

Agenda Item 12. Ordinance 2009-18, Amendments to Capital Improvements Element, Comp Plan – 2nd Reading & Public Hearing

Ms. Delmar read the synopsis to Agenda Item 12. The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Margaret Swanson, Planning & Development Director]

SYNOPSIS

The ordinance incorporates the 5-Year Schedule of Capital Improvements into the Capital Improvements Element of the Comprehensive Plan as required by the Growth Management Act. Capital improvements projects that must be included in the plan are those necessary to maintain adopted level of service standards for potable water, sanitary sewer, drainage, recreation, transportation, and schools. The ordinance also updates policies related to concurrency management and developer dedications.

RECOMMENDATION

Adoption of Ordinance 2009-18 on second reading following a public hearing.

A public hearing is required for second reading. Public notice requirements have been met. Unlike other amendments to the plan, the update of the Capital Improvements Element (CIE) can be adopted without prior review by the Department of Community Affairs.

The Planning and Zoning Board reviewed the amendments to the CIE at their June 23, 2009 meeting. It was the consensus of the members that the amendments as presented are ready for adoption to be followed by submission to the Department of Community Affairs.

BACKGROUND

The state's 2005 amendments to the Growth Management Act require an annual update of the schedule of capital improvements in the Comprehensive Plan beginning in 2008. The proposed amendment to the Capital Improvements Element updates the lists of capital projects needed to maintain adopted level of service standards and incorporates them into a 5-Year Schedule of Capital Improvements as an appendix to the element.

Under the Growth Management Act amendments, the first annual update was due in December 2008. The City delayed adoption of the amendment so that adequate and updated information could be obtained on utility projects. Updates of the utilities and other sections of the Comprehensive Plan are also needed so that they support the capital improvements projects in the schedule.

Updating these sections is a major undertaking that is best done as part of the revision of the Comprehensive Plan due by March 2011. The City is now in the process of preparing an EAR – Evaluation and Appraisal Report required by the Department of Community Affairs to determine what

comprehensive plan revisions are needed. The EAR will be brought forward for City Commission approval this summer.

The Department of Community Affairs has advised us that we should submit the CIE as soon as possible and that deficiencies can be corrected with the next annual update. Until the CIE is adopted, no other comprehensive plan amendments, such as land use designation changes for annexed property will be processed.

The attached "Support Document – 2009 Update to Schedule of Capital Improvements" provides background on the projects in the schedule. Following is an explanation of the amendments included in the ordinance:

SECTION 1: AMENDMENTS TO GOALS, OBJECTIVES & POLICIES
CAPITAL IMPROVEMENTS ELEMENT

Objective 1 and Policy 1.01 – State that the required annual update of the schedule of capital improvements is adopted as an appendix to the element.

Policies 1.05 and 1.06 – Adopt (by reference) state and county capital improvement plans for transportation and schools, as required by the state.

Policy 2.01 – Changes in the level of service standards for utilities are recommended by the City's consultants. However, staff recommends that the changes be discussed as part of the process of updating the Comprehensive Plan. No changes are proposed to this policy at this time.

Policy 2.02 – Updates policy to show that City has adopted concurrency regulations.

Objective 3 – Corrects an error in Ord. 2008-03 (School Concurrency). The 2008 ordinance inserted a new "objective 3," but did not remove the old language.

Policy 3.02 – Updates the policy to show that City has adopted developer dedication provisions in the land development regulations.

Policy 3.06 – Corrects duplication of numbering.

SECTION 2: 5-YEAR SCHEDULE OF CAPITAL IMPROVEMENTS

This section incorporates a schedule of capital improvements into the element. See attached "Support Document – 2009 Update to Schedule of Capital Improvements" for background on projects.

FISCAL IMPACT

The amendment has no direct fiscal impact. It documents fiscal planning for capital projects.

OTHER OPTIONS

Delay adoption of the amendments to allow for updates of other elements of the Comprehensive Plan to fully document the need for the capital projects. No Comprehensive Plan amendments for land use changes will be processed by the state DCA until the Capital Improvements Element is updated to include the 5-Year Schedule.

[End agenda memo]

Ms. Delmar read Ordinance 2009-18 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING THE CAPITAL IMPROVEMENTS ELEMENT OF THE COMPREHENSIVE PLAN BY UPDATING POLICIES ON CONCURRENCY MANAGEMENT, ADOPTING BY REFERENCE THE POLK COUNTY AND FLORIDA DEPARTMENT OF TRANSPORTATION IMPROVEMENT PROGRAMS AND POLK SCHOOL FACILITIES WORK PROGRAM; UPDATING THE LAKE WALES SCHEDULE OF CAPITAL IMPROVEMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments made by the public.

CLOSED PUBLIC HEARING

Commissioner Thornhill made a motion to adopt Ordinance 2009-18 after second reading and public hearing. The motion was seconded by Commissioner Wheeler.

ROLL CALL:

| | |
|------------------------|-------|
| Commissioner Thornhill | "YES" |
| Commissioner Wheeler | "YES" |
| Commissioner Rogers | "YES" |
| Commissioner Howell | "YES" |
| Mayor Van Sickle | "YES" |

The motion carried 5-0.

NEW BUSINESS

Agenda Item 13. Ordinance 2009-19, Revision of Chapter 15, Miscellaneous Offenses, Lake Wales Code of Ordinances – 1st Reading

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Margaret Swanson, Director of Planning & Development]

SYNOPSIS

Amends Chapter 15, Miscellaneous Offenses, by adding Section 15-8 which requires retail sales establishments to provide fraud and retail theft training to their agents, attendants, employees or sales associates annually, Section 15-14 which prohibits aggressive panhandling and panhandling at specific locations and Section 15-15 which authorizes a city employee to issue a trespass warning to a person that violates a state law, city ordinance, lawful command, regulation or rule at a City-owned building, complex, facility or park.

RECOMMENDATION

Staff recommends the City Commission approve the revision of Chapter 15, Miscellaneous Offenses, Lake Wales Code of Ordinances, on first reading.

BACKGROUND

The economic recession has resulted in an unemployment rate of 10.8 percent in Polk County. As a result, crime in Lake Wales increased 38.3 percent in 2008. Retail theft (shoplifting) offenses increased 72.2 percent in 2008. It is theorized that as disposable incomes decrease the theft of non-essential property will increase. To remove the opportunity for crime within our community, the Police Department recommends additional crime prevention measures are enacted. Accordingly, Chapter 15, Miscellaneous

Offenses, Lake Wales Code of Ordinances, is proposed for amendment to add or improve crime prevention measures. The revisions are summarized in detail as follows:

Section 15-8 Fraud and retail theft prevention training required: This section requires retail sales establishments to provide fraud and retail theft training to their agents, attendants, employees or sales associates annually. The penalty for a violation of this section is a fine of \$250.

Section 15-14 Panhandling: This section prohibits aggressive panhandling and panhandling within a specific zone, within 50 feet of an automated teller machine or on private property unless authorized by an owner. The penalty for a violation of this section is arrest and a misdemeanor.

Section 15-15 Trespass warnings: This section authorizes a city employee to issue a trespass warning to a person that violates a state law, city ordinance, lawful command, regulation or rule at a City-owned building, complex, facility or park. Trespass warnings may be issued for a period of 1 to 2 years. The city manager or designee may authorize a person who has received a trespass warning to enter the City-owned building, complex, facility or park to exercise their First Amendment rights or to conduct necessary City business. The warning itself documents that the action took place and does not contain a penalty. Violation of the trespass warning may result in arrest and a misdemeanor.

OTHER OPTIONS

The Commission may choose not to approve the revision of Chapter 15, Miscellaneous Offenses, Lake Wales Code of Ordinances, on first reading.

FISCAL IMPACTS

This action will not require an expenditure of funds.

[End agenda memo]

Ms. Delmar read Ordinance 2009-19 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING CHAPTER 15, MISCELLANEOUS OFFENSES, ADDING SECTION 15-8, FRAUD AND RETAIL THEFT PREVENTION TRAINING REQUIRED; SECTION 15-14, PANHANDLING; SECTION 15-15 TRESPASS WARNINGS; ESTABLISHING PENALTIES; REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

Police Chief Herb Gillis reviewed Agenda Item 12.

Commissioner Rogers said panhandling is a problem in the downtown area.

Commissioner Thornhill asked if the business owners would be responsible for the cost of the fraud and retail theft prevention training. Chief Gillis said businesses would be required to develop a curriculum or they could use the one that the Police Department will have in place that has already been approved by the State. That service will be available at no charge or businesses could use their own curriculum as long as it complies with the ordinance.

Commissioner Thornhill made a motion to adopt Ordinance 2009-19 after first reading. The motion was seconded by Commissioner Wheeler.

ROLL CALL:

| | |
|------------------------|-------|
| Commissioner Thornhill | "YES" |
| Commissioner Wheeler | "YES" |
| Commissioner Rogers | "YES" |

Commissioner Howell
Mayor Van Sickle

"YES"
"YES"

The motion carried 5-0.

Agenda Item 14. Appointments: Boards, Commissions, & Committees

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Clara VanBlargan, City Clerk]

SYNOPSIS

The appointments will fill vacancies that occur annually on various city boards, commissions and committees.

RECOMMENDATION

It is recommended that the City Commission make appointments as it deems appropriate.

BACKGROUND

Vacancies exist on various Boards, Commissions, and Committees due to resignations, expirations of terms, newly established boards, etc. The City Commission is asked to make appointments to fill vacancies as it is deems appropriate.

Board of Zoning Adjustments and Appeals – Members are appointed by the City Commission. The board consists of five (5) members. Members must be residents. (3 year term)

Sylvia Rogers is recommended for appointment to the Board based upon an interview conducted on June 25, 2009 with the Board chairman, Harold Weigand, and the Asst. Planner, Kathy Bangley.

| | |
|----------------------------|--------------------------|
| Two (2) regular vacancies: | terms expire 07/01/12 |
| One (1) regular vacancy: | term expires on 07/01/10 |

| | |
|---------------------------|-------------------------|
| Applying for appointment: | Sylvia Rogers, resident |
|---------------------------|-------------------------|

| | |
|------------------------------|--|
| Applying for re-appointment: | Jeffrey P. Salvin, resident Roderick T. Parker, Sr. |
|------------------------------|--|

Vacancies are due to the expiring terms of Jeffery P. Salvin and Roderick T. Parker, and Jonathan Thornhill who was elected to serve as a Commissioner on the City Commission in May 2009.

Commissioner Rogers made a motion to appoint Sylvia Rogers to serve as a member on the Board of Zoning Adjustments and Appeals for a term to expire on 7/1/10, and to re-appoint Jeffery P. Salvin and Roderick T. Parker, Sr. to serve as members on the Board of Zoning Adjustments and Appeals for a term to expire on 7/1/12. The motion was seconded by Commissioner Wheeler.

By voice vote:

| | |
|------------------------|-------|
| Commissioner Rogers | "YES" |
| Commissioner Wheeler | "YES" |
| Commissioner Howell | "YES" |
| Commissioner Thornhill | "YES" |
| Mayor Van Sickle | "YES" |

The motion carried 5-0

Code Enforcement Board – Members are appointed by the City Commission. The board consists of seven (7) members. Whenever possible, membership shall include an architect, a businessperson, a realtor, an engineer, a general contractor, and a subcontractor. Members must be residents. (3-year term)

The City Manager recommends the appointment of all three applicants to serve an additional term on the Code Enforcement Board due to special circumstances that exist on the Board.

Three (3) regular vacancies: terms expire 07/01/12

Applying for appointment: None.

Applying for re-appointment: Martin S. Fried, resident
Theophilus M. Manley (Ted), resident
Cleon C. Chester, resident

Vacancies are due to the expiring terms of Martin S. Fried, Theophilus M. Manley (Ted), and Cleon C. Chester. All three applicants have served three consecutive three-year terms. However, Ordinance 2009-11, as set forth by Ordinance 2005-16, provides that the limit on consecutive terms may be waived for members of regulatory boards with the recommendation of the City Manager where special circumstances exist which warrant the appointment of a particular member to an additional term.

Commissioner Wheeler made a motion to re-appoint Martin S. Fried, Theophilus M. Manley (Ted), and Cleon C. Chester to serve as members on the Code Enforcement Board for an additional term to expire on 7/1/12. The motion was seconded by Commissioner Thornhill.

By voice vote:

| | |
|------------------------|-------|
| Commissioner Wheeler | "YES" |
| Commissioner Thornhill | "YES" |
| Commissioner Howell | "YES" |
| Commissioner Rogers | "YES" |
| Mayor Van Sickle | "YES" |

The motion carried 5-0

Historic District Regulatory Board – Members are appointed by the City Commission. The board consists of five (5) members, of which 50% of the members shall reside or own property within the City. Initial terms are staggered. Members shall be chosen to provide expertise in the following disciplines to the extent such professionals are available in the community: historic preservation, architecture, architectural history, curation, conservation, anthropology, building construction, landscape architecture, planning, urban design, and regulatory procedures. (3-year term)

An interview process is necessary for new applicants only.

Three (3) regular vacancies: terms expire 07/01/12

Applying for appointment: None.

Applying for re-appointment: Robert F. Delmar, non-resident
Shirley Curtis-Ference, resident
Curt Koch, resident

Vacancies are due to the expiring terms of Robert F. Delmar, Shirley Curtis-Ference, and Curt Koch.

Commissioner Wheeler made a motion to re-appoint Robert F. Delmar, Shirley Curtis-Ference, and Curt Koch to serve as members on the Code Enforcement Board for a term to expire on 7/1/12. The motion was seconded by Commissioner Thornhill.

By voice vote:

| | |
|------------------------|-------|
| Commissioner Wheeler | "YES" |
| Commissioner Thornhill | "YES" |
| Commissioner Howell | "YES" |
| Commissioner Rogers | "YES" |
| Mayor Van Sickle | "YES" |

The motion carried 5-0

FISCAL IMPACT

None. These are volunteer citizen boards.

OTHER OPTIONS

Do not appoint the applicants named above and seek other applicants; however, it may be difficult for some boards to obtain a quorum.

[End agenda memo]

Agenda Item 15. Appointments to the CRA Board: Two Additional Seats

Ms. Delmar reviewed Agenda Item 15. The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Tony Otte, City Manager]

SYNOPSIS

The Commission will appoint whomever it deems appropriate to the two new seats on the Community Redevelopment Agency Board.

RECOMMENDATION

The Lake Wales Area Chamber of Commerce has submitted two names for consideration: John Adkinson, who has spent three decades in the banking industry and is currently Vice President and Residential Loan Officer for Citizens Bank & Trust in Lake Wales; and Clinton Horne, Green & Gold Foundation, who has worked as business manager for Texas Southern University and New York University, as well as being a retired executive of Texaco.

BACKGROUND

This item assumes that Ordinance 2009-17, which creates the two new seats on the CRA Board, is approved earlier in the meeting. The Chamber's forwarding of a recommendation follows previous Commission discussion on this item.

OPTIONS

Do not make an appointment at this time.

FISCAL IMPACT

No material fiscal impact. Before each CRA meeting, staff will give the new members a flash drive with the CRA agenda and/or a paper copy of the agenda, at the new member's preference. During the meeting the new members will sit at the City Manager's and Assistant City Manager's place and utilize their laptop computers or their own paper agenda.

[End agenda memo]

Commissioner Rogers asked if both applicants live within the City limits or own property within the City limits.

Betty Wojcik, executive director and corporate secretary of the Lake Wales Area Chamber of Commerce, said she raised that question at the last CRA meeting and Ms. Delmar, at that time, had mentioned that they either had to live or work within the City. Ms. Delmar said such information is included in the ordinance just approved by the City Commission, which states that "Any person may be appointed as commissioner if he or she resides or is engaged in business, which means owning a business, practicing a profession, or performing a service for compensation, or serving as an officer or director of a corporation or other business entity so engaged, within the area of operation of the agency, which shall be coterminous with the area of operation of the city and is otherwise eligible for appointment under section 2-26 of the Lake Wales Code of Ordinances." Mr. Galloway said that performing a service for compensation would be sufficient.

Commissioner Thornhill said both applicants are fine with him, but he would not want them both coming from the same area. His goal is to open this up for more applications. Mr. Galloway said if the Commission would like to seek additional applicants the positions could be advertised. We would then have the recommendation from the Chamber and any body else that applies. Commissioner Thornhill asked if the City advertised the positions. Clara VanBlargan, City Clerk, said no, but she could advertise if that is the wish of the Commission. Commissioner Howell said that at the last meeting the Commission asked the Chamber to find the applicants, which they did. So, it is time for the Commission to vote on the two names that they submitted.

Commissioner Wheeler made a motion to appoint John Adkinson to serve as a member on the Community Redevelopment Agency for a term to expire on 7/1/11 and to appoint Clinton Horn to serve on the Community Redevelopment Agency for a term to expire on 7/1/13. The motion was seconded by Commissioner Howell.

By voice vote:

| | |
|------------------------|-------|
| Commissioner Wheeler | "YES" |
| Commissioner Howell | "YES" |
| Commissioner Rogers | "YES" |
| Commissioner Thornhill | "YES" |
| Mayor Van Sickle | "YES" |

The motion carried 5-0.

Ms. Delmar said it was omitted from the agenda memo that these appointments will be effective August 1.

Agenda Item 16. Modification of the Official Traffic Map: Dr. JA Wiltshire Boulevard between Scenic Highway and Dr. Martin Luther King Jr. Blvd

Police Chief Herb Gillis reviewed Agenda Item 16. The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Herbert Gillis, Police Chief]

SYNOPSIS

The City Commission will consider establishing the maximum speed limit on Dr. JA Wiltshire Boulevard between Scenic Highway and Dr. Martin Luther King Jr. Blvd at 25 miles per hour to improve pedestrian safety.

RECOMMENDATION

It is recommended the City Commission:

1. Establish the speed limit of 25 miles per hour on Dr. JA Wiltshire Boulevard between Scenic Highway and Dr. Martin Luther King Jr. Blvd and place traffic control devices as required.
2. Place SLOW CHILDREN warning signs along Dr. JA Wiltshire Boulevard between Scenic Highway and Dr. Martin Luther King Jr. Blvd as required.

BACKGROUND

The Chief of Police has received a complaint regarding pedestrian and vehicle traffic on Dr. JA Wiltshire Boulevard. The vehicles parked along Dr. JA Wiltshire Boulevard combined with a high traffic volume greatly increase the potential for pedestrian involved crashes. To decrease this potential, the speed limit on Dr. JA Wiltshire Boulevard should be lowered to allow for more effective braking should a child run into the roadway.

The speed limit posted on Dr. JA Wiltshire Boulevard is 30 miles per hour. Section 316.189, Florida Statutes, authorizes municipalities to establish a maximum speed limit of 20 miles per hour on public streets, highways and roads after an investigation determines such a limit is reasonable. Due to the high volume of pedestrian traffic on Dr. JA Wiltshire Boulevard, the Police Department recommends the City Commission establish the speed limit of 25 miles per hour in the section between Scenic Highway and Dr. Martin Luther King Blvd.

OPTIONS

The City Commission may choose not to modify the official traffic map as recommended.

FISCAL IMPACT

The costs for the procurement of official traffic control devices was generally included in the 2008/2009 Operating Budget by the Streets Department.

[End agenda memo]

Commissioner Rogers made a motion to establish the speed limit of 25 miles per hour on Dr. JA Wiltshire Boulevard between Scenic Highway and Dr. Martin Luther King Jr. Blvd., and place the required traffic control devices and place SLOW CHILDREN warning signs along Dr. JA Wiltshire Boulevard between Scenic Highway and Dr. Martin Luther King Jr. Blvd as required. The motion was seconded by Commissioner Howell.

By voice vote:

| | |
|------------------------|-------|
| Commissioner Rogers | "YES" |
| Commissioner Howell | "YES" |
| Commissioner Thornhill | "YES" |
| Commissioner Wheeler | "YES" |
| Mayor Van Sickle | "YES" |

The motion carried 5-0.

Agenda Item 17. Scheduling of July 2009 City Commission Workshop Meeting

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Clara VanBlargan, City Clerk]

SYNOPSIS

It is necessary that the City Commission schedule its July 2009 workshop meeting.

RECOMMENDATION

It is recommended that the City Commission schedule its July 2009 workshop meeting.

BACKGROUND

The City Commission chose to have monthly workshops. It is necessary that the City Commission schedule its workshop meeting for July 2009.

FISCAL IMPACT

None.

OTHER OPTIONS

Choose not to have a workshop meeting in July.

[End agenda memo]

The City Commission chose not to have a workshop meeting in the month of July, and asked that any items planned for a July workshop to be incorporated into the July 21, 2009 regular agenda.

Agenda Item 18. Direction on the 1919 building

Commissioner Rogers asked to postpone Agenda Item 18 to another meeting. He said he was led to believe the roof leaks on the building had been fixed, but he would like to verify that.

The item was postponed by consensus.

Mimi Hardman, 300 S. Lake Shore Blvd., said the roof leaks do need to be checked out, and that the City needed to maintain the things that the State has given money for.

Mr. Galloway said he responded to an email last week on the question whether or not the SEMCO contract with Polk County, which the City of Lake Wales had piggybacked, had expired. He said that he understood that it had expired and there is not any provision in the piggyback agreement that says our contract continues any longer than the underlined county contract. So, if there is a new county contract then the Commission should consider either piggybacking onto that contract or entering into a separate contract with SEMCO for continuing services. Ed Locke, SEMCO Construction, Inc., said that the county did renew his contract. Mr. Galloway said that at this stage, the City does not have a continuing contract with SEMCO. It needs to address that concern as well.

Mayor Van Sickle said he is concerned that the building has water leaks and he would like to know what is causing them. Mr. Locke said roof work was done in 2001 and some other work was done on the roof

after the 2004 hurricanes. He said that all the copper downspouts and scuppers had been stolen, which created problems for the roof. There are more roof leaks in need of repairing.

Mayor Van Sickle said that if we do not have a contract then we need to do an emergency contract or go out for competitive bidding.

Ms. Delmar asked the status of the termites. Mr. Locke said the building has been treated for termites once before. Ms. Hardman said the City's Purchasing Agent is supposed to be checking on the warrantee for when that termite work was done. Mayor Van Sickle said if there is evidence and it was tented then there might be some kind of warrantee, but that needs to be verified.

Commissioner Howell asked if we have to return any of the grant money for any of the work that has already been done. Ms. Delmar said we have been told that we do not. She said we have to protect the work that has already been done in accordance with the Historic Preservation Guidelines as per the covenants. We have to protect the dollars that have already been spent.

CITY MANAGER'S REPORT

CITY COMMISSION TRACKING REPORT

There were no updates the City Commission Tracking Report.

CITY COMMISSION COMMENT

Commissioner Rogers said tonight was not very pleasant, and he does not think any of the Commissioners enjoyed the meeting. He would hope that everyone would lay any difference aside, go to work, and pull for the City of Lake Wales.

COMMUNICATIONS AND PETITIONS

Jack Neal, 435 E. Central Avenue, asked that someone talk to Florida Refuse about keeping the garbage trucks from tearing up his road, which is the only way he can get in and out of his driveway. Ms. Delmar asked Mr. Neal to talk to Finance Director Dorothy Pendergrass, who will take care of it.

Becky Wynkoop-Seymour, 1301 Bryn-Mawr Avenue, commented on the termination of Mr. Otte. She said that it was uncalled for, it was not civil, and that is not what we should be about. She asked Mayor Van Sickle if he could have gone to Mr. Otte in another fashion. Mr. Galloway said he could have, but he chose to abide by the terms of the Charter, which sets forth the manner in which termination of the employment of the City Manager takes place.

Mayor Van Sickle said this has been a long harrowing hard night and hopefully we can move forward, heal ill will, and let the City grow.

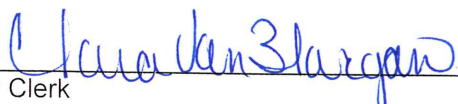
Mayor Van Sickle announced a CRA meeting following the regular meeting.

There being no further business, the meeting was adjourned.



Mayor/Commissioner

ATTEST:



City Clerk