

The regular meeting of the Lake Wales City Commission was held on November 3, 2010 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 Fire Chief Jerry Brown.

## **PLEDGE OF ALLEGIANCE**

**COMMISSIONERS PRESENT:** Terrye Y. Howell; Michael S. Carter; Jonathan Thornhill; John Paul Rogers; Mayor L. Jack Van Sickle.

**COMMISSIONERS ABSENT:** None.

**CITY REPRESENTATIVES PRESENT:** Judith H. Delmar, City Manager; Albert C. Galloway, Jr., City Attorney; Clara VanBlargan, City Clerk.

## **MAYOR**

## **CONSENT AGENDA**

Commissioner Carter asked for separate discussion and vote on Agenda Item 8, Lease Agreement – Christmas Decorations.

**Agenda Item 5.                    APPROVAL OF MINUTES:    October    12,    2010    Workshop    Meeting;  
October 19, 2010, Regular Meeting**

**Agenda Item 6.                    Special Event Permit Application: First Baptist Church “Christmas by the  
Lake”**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Katie Kinloch, Administrative Assistant]

## **SYNOPSIS**

Approval of this request will allow the First Baptist Church to present the “Christmas by the Lake” on Saturday, December 18 and Sunday, December 19 in Lake Wailes Park.

## **RECOMMENDATION**

It is recommended that the City Commission take the following action:

Approve the special event permit application from the First Baptist Church for “Christmas by the Lake” which will be held Saturday, December 18, 2010 and Sunday, December 19, 2010 in Lake Wailes Park

## **BACKGROUND**

Charles Little, Associate Pastor submitted a special event permit application on behalf of the First Baptist Church for their presentation of “Christmas by the Lake” which is to take place on Saturday, December 18, 2010 and on Sunday, December 19, 2010 in Lake Wailes Park. The performances will take place beginning at 5:00 p.m. and ending at 9:00 p.m. with set-up time starting at noon each day.

This event will entail the church choir on stage singing Christmas music with the church's orchestra (brass, woodwinds, strings and keyboards) providing the background music. The choir will be performing on portable risers with the orchestra being set up slightly off to the side. The event will also include a live Nativity Scene of the traditional re-enactment of the manger scene with the shepherds and wise men coming to the manger to present their gifts to Mary, Joseph and the baby. These characters will all be in period costume and will appear only during a portion of the overall presentation. Amplification will be needed, so a sound system will be used. They will be serving hot chocolate, cookies and cake. This event will be open to the public.

The First Baptist Church will be responsible for site preparation, stage set ups, sanitary facilities, parking and site cleanup. Liability insurance has been provided as required. Tent and electrical permits will be obtained from the Planning/Building department as required. City departments have reviewed the application and found no conflicts or issues which would prevent approval of this event. The Police Department will have officers available from the normal shifts if needed. The Streets Division will set out extra trash containers and provide barricades. The Parks Division will take care of the regular schedule of trash pickup on Friday and Monday.

## **OTHER OPTIONS**

Not to approve this event.

## **FISCAL IMPACT**

In-kind services provided by the City were budgeted for FY10/11 in the amount of \$37.00. The First Baptist Church is handling the majority of the cost of the event.

[End agenda memo]

## **Agenda Item 7. Special Event Permit Application: Temporary Street Closing/Annual Kiwanis Christmas Parade**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Katie Kinloch, Administrative Assistant]

## **SYNOPSIS**

Approval of the temporary street closing request will allow the Christmas parade to be held on Saturday, December 11, 2010.

## **RECOMMENDATION**

It is recommended that the City Commission take the following action:

1. Approve the temporary street closings for the Kiwanis Annual Christmas Parade to be held Saturday, December 11, 2010. Parade line up will begin at 4:00 p.m. with the parade starting at 6:00 p.m. and concluding around 9:00 p.m.

## **BACKGROUND**

The Lake Wales Kiwanis Foundation Inc. submitted a special event application for the Annual Christmas Parade to be held Saturday, December 11, 2010 from 6:00 p.m. to 9:00 p.m. Line up for the parade will begin at 4:00 pm. Starting point of the parade is Scenic Highway (SR 17) and Park Avenue.

The application also includes a request for the temporary closing of the following streets;

Scenic Highway (SR 17) and Park Avenue heading west to Wetmore Street, south on Wetmore Street to Stuart Avenue, east on Stuart Avenue to Scenic Highway (SR 17), south on Scenic Highway to Central Avenue, west on Central Avenue to First Street, parade ends at First Street and Central.

The crossing of Scenic Highway requires a permit from the Florida Department of Transportation. This permit request was submitted to the Bartow office and Mr. David Smith, District Permits Manager has advised us that he is in the review process. The signed permit is forthcoming.

All departments have reviewed the application and have approved the event. Lake Wales Police Department and VOICE will be available to provide escort for the parade and for traffic control. The Streets Department will be providing the barricades for the street closings.

#### **OTHER OPTIONS**

Do not approve this event and road closings.

#### **FISCAL IMPACT**

In-kind services provided by the City were budgeted for FY10/11 in the amount of \$1,337.00. The Sponsor's cost will be \$446.00 and they are aware of their 25% share of in-kind services.

[End agenda memo]

Commissioner Howell made a motion to approve the Consent Agenda excluding Agenda Item 8. The motion was seconded by Commissioner Rogers.

By voice vote:

Commissioner Howell	"YES"
Commissioner Rogers	"YES"
Commissioner Carter	"YES"
Commissioner Thornhill	"YES"
Mayor Van Sickle	"YES"

The motion carried 5-0.

#### **END CONSENT AGENDA**

#### **Agenda Item 8. Lease Agreement – Christmas Decorations**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Teresa Allen, Public Service Administrator]

#### **SNYOPSIS**

The City Commission will consider entering into a 3-year lease agreement with Clark Sales Display, Inc. for Christmas decorations in the amount of \$11,890.00.

#### **RECOMMENDATION**

Staff recommends that the City Commission approve the following action:

1. Approve a 3-year lease agreement with Clark Sales Display, Inc. for Christmas decorations in the amount of \$11,890.00.

## BACKGROUND

In 2007 the City entered into a 3-year lease agreement with Clark Sales Display, Inc. for Christmas decorations. Before the approval, staff contacted vendors to obtain prices for the purchase of wreaths and trees. During the process staff learned that other cities leased the Christmas decorations because it is often more cost effective than purchasing. Lease contracts typically include installation, removal, maintenance and storage of the decorations.

The City has been utilizing a continued lease option for Christmas decorations with Clark Sales Display, Inc. since 1999 and during this period, Clark Sales Display, Inc. was the only vendor that leased Christmas decorations. The current lease ended in December 2009.

Before bringing this proposal to the Commission, staff contacted companies to determine if Clark Sales Display, Inc. was still the only company that offered lease agreements for Christmas decorations. Staff located one additional company, C.D.I Enterprises that offers a 3-year agreement for Christmas decorations. The proposals are as follows and include installation, removal, maintenance and storage:

Clark Sales Display, Inc.	82 wreaths / 48"	\$145.00 per decoration	\$11,890.00 annually
C.D.I Enterprises	36 wreaths / 48"	\$330.00 per decoration	\$11,880.00 annually

C.D.I Enterprises offers other options as follows:

Lamp post glittered bell (small pole): 52 x \$230.00 = \$11,960.00  
Lamp post glittered bell (large pole): 35 x \$340.00 = \$11,900.00  
60" wreath : 31 x \$380.00 = \$11,780.00

All options for Clark Sales Display, Inc. are \$145.00 per decoration.

## OPTIONS

Do not approve the agreement

## FISCAL IMPACT

The current fiscal year 10'11 budget has \$12,000.00 for Christmas decorations

[End agenda memo]

Commissioner Carter expressed concern that the Lease Agreement for Clark Sales Display, Inc. was not included in the packet. City Manager Judith Delmar said the Lease Agreement for Clark Sales Display, Inc. had inadvertently been omitted in the packet. Public Works Administrator Teresa Allen apologized but said that all the needed information was included in the memorandum. Commissioner Carter asked if the item could be deferred until they received the lease agreement and Ms. Allen said deferring it would not allow sufficient time to get on their schedule.

Commissioner Carter said he could not make a decision on incorrect and incomplete information. Ms. Allen then gave a copy of the agreement to the City Clerk who made copies for the Commissioners.

Commissioner Carter said he did not think there would be sufficient time to study the material during the meeting to make a decision; that he realized things get misplaced or lost, but someone needed to pay closer attention so Commissioners are presented with the right information. City residents have asked the Commissioners to make decisions for them and they need the correct information in order to do that.

Mayor Van Sickle complemented him for catching that omission but added that the Commissioners received their packets on Thursday and if he had asked for that information then he would have received it before the meeting. Ms. Delmar reiterated that the information on that lease agreement was included in the memorandum that was in the packet.

Commissioner Howell made a motion to approve the 3-year lease agreement with Clark Sales Display, Inc. for Christmas decorations in the amount of \$11,890.00. The motion was seconded by Commissioner Rogers.

By voice vote:

Commissioner Howell	"YES"
Commissioner Rogers	"YES"
Commissioner Carter	"YES"
Commissioner Thornhill	"YES"
Mayor Van Sickle	"YES"

The motion carried 5-0.

## **OLD BUSINESS**

## **NEW BUSINESS**

### **Agenda Item 9. Ordinance 2010-25, FY2009/2010 Budget Amendment #4 – 1<sup>st</sup> Reading**

The full staff memo is incorporated into the minutes.

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

## **SYNOPSIS**

The Commission will consider adoption of the fourth and final amendment of the FY09'10 Budget that was adopted on September 15, 2009.

## **RECOMMENDATION**

It is recommended that the City Commission approve Ordinance 2010-28 after first reading.

## **BACKGROUND**

Ordinance 2009-21 estimating revenues and appropriating funds for Fiscal Year 2009-10 was adopted by the City Commission September 15, 2009 and amended by Ordinances 2009-30, 2010-03, and 2010-14. We are presenting for first reading the final amendment of Ordinance 2009-21 to modify the estimates of revenues and appropriations budgeted in various funds. Exhibits A and B and supporting attachments provide the detail for the proposed amendment. This budget amendment is based on preliminary unaudited financial reports for the fiscal year ending on 9/30/10. As can be seen in the following chart, with the exception of an adjustment in the Special Revenue Funds, there is neither an increase nor decrease in the total revenues and expenditures budgeted. This is because all amendments outside the Transportation Fund are accomplished by reallocating surplus appropriations in some departments to cover shortfalls elsewhere.

Revenues & Balances Fwd	Increase(Reduction)
General Fund	0
Special Revenue Funds	16,211
Debt Service Fund	0
Capital Projects Fund	0
Airport Fund	0
Utility System Fund	0
Total Increase(Reduction) of Revenues & Balances Fwd	16,211
Appropriated Expenditures & Reserves	
General Fund	0
Special Revenue Funds	16,211
Debt Service Fund	0
Capital Projects Fund	0
Airport Fund	0
Utility System Fund	0
Reserves	0
Total Increase(Reduction) of Appropriated Expenditures & Reserves	16,211

The proposed budget amendment increases the City's total budgeted expenditures by \$16,211. Because there is an offsetting increase in revenue of \$16,211, reserves are not affected. Thus, there is a net increase appropriated expenditures and reserves of \$16,211 (from \$44,348,752 to \$44,364,963).

Items adjusted in this amendment include:

Fleet Maintenance - reducing surplus appropriations for M&R Fuel Tanks	(2,072)
Fleet Maintenance - adding appropriation for C/O Air Compressor	2,072
Fleet Maintenance - reducing appropriation for Contract Services related to software support	(1,250)
Facilities Maintenance - adding appropriation for Contract Services related to software support	1,250
Various General Fund Departments - reducing surplus appropriations (reappropriating to departments with excess expenditures)	(111,300)
Various General Fund Departments - increasing appropriations to cover excess expenditures	111,300
Special Rev Fund - Streets Division - increasing appropriations to cover excess expenditures (primarily in allocation of labor from Field Operations which indicates greater than anticipated emphasis on roads, alleys and sidewalks in FY09'10)	16,211

Special Rev Fund - Various - reducing surplus appropriations (reappropriating to departments with excess expenditures)	(12,000)
Special Rev Funds -Various - increasing appropriations to cover excess expenditures	12,000
Various Utilities Fund Departments - reducing surplus appropriations (reappropriating to departments with excess expenditures)	(47,000)
Various Utilities Fund Departments - increasing appropriations to cover excess expenditures	47,000
Total Expenditure Amendment	16,211

## OTHER OPTIONS

None. This is a required housekeeping amendment,

## FISCAL IMPACT

See Exhibit A and Exhibit B attached to Ordinance 2010-28.

[End agenda memo]

Ms. VanBlargan read Ordinance 2010-28 by title only.

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING ORDINANCE 2009-21 AS AMENDED BY ORDINANCES 2009-30, 2010-03, AND 2010-14 TO FURTHER MODIFY THE ESTIMATES OF EXPENDITURES FOR THE OPERATION OF THE SEVERAL DEPARTMENTS OF SAID CITY FOR THE 2009-2010 FISCAL YEAR AND TO MODIFY THE APPROPRIATION OF FUNDS RAISED AND COLLECTED FROM ALL SOURCES SET FORTH IN THE ESTIMATE OF REVENUES FOR SAID FISCAL YEAR; REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.**

Ms. Delmar reviewed Agenda Item 9.

Commissioner Howell asked for an explanation for the increase in the transportation line item and Ms. Delmar said it was basically due to unanticipated street resurfacing and sidewalk repairs.

Commissioner Howell made a motion to approve Ordinance 2010-28 after first reading. The motion was seconded by Commissioner Rogers.

By Roll Call Vote:

Commissioner Howell	"YES"
Commissioner Rogers	"YES"
Commissioner Carter	"YES"
Commissioner Thornhill	"YES"
Mayor Van Sickle	"YES"

The motion carried 5-0.

## Agenda Item 10. Ordinance 2010-29, Airport FBO Hours of Operation – 1<sup>st</sup> Reading

The full staff memo is incorporated into the minutes.

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

## **SNYPSIS**

The Commission will consider adopting an ordinance to allow the airport fixed base operator to reduce the hours of the fixed base operation when economic conditions warrant.

## **RECOMMENDATION**

It is recommended that the City Commission approve Ordinance 2010-29 after first reading.

## **BACKGROUND**

Betty Hill, the fixed base operator (FBO) at the Lake Wales Airport, recently requested the city's permission to reduce the hours of operation because business at the airport has declined sharply due to current economic conditions.

City Code section 3-27 regarding Fixed Base Operators includes the following paragraph:

(h) *Personnel.* All fixed base operators shall have personnel on full-time duty during normal business hours of 9:00 a.m. to 5:00 p.m. every day of the week. These are minimum hours of operation, and, if economically justified, these hours may be expanded at the option of the fixed base operator. Any holidays or other deviations from this requirement must be approved by the City Manager. No personnel shall consume alcoholic beverages while on duty.

While the current code provides for expansion of regular operating hours and modifications for holidays, no authority has been granted to reduce the regular hours of operation. Thus, authority to reduce the hours of airport operation is a policy matter that must be decided by the City Commission. Ordinance 2010-29 is proposed for this purpose.

City Code section 3-27 will be modified as follows:

(h) *Personnel.* All fixed base operators shall have personnel on full-time duty during normal business hours of 9:00 a.m. to 5:00 p.m. every day of the week. These are ~~minimum~~ normal hours of operation, and, if economically justified, these hours may be expanded at the option of the fixed base operator or reduced with the approval of the City Manager. Any holidays or other deviations from this requirement must be approved by the City Manager. No personnel shall consume alcoholic beverages while on duty.

Ordinance 2101-29 was presented to the Airport Authority for review at their meeting on Monday, October 4. Members of the Airport Authority voted unanimously to recommend approval by the City Commission.

## **OTHER OPTIONS**

Do not adopt Ordinance 2010-29 or modify the proposed language.

## **FISCAL IMPACT**

None.

[End agenda memo]

Ms. VanBlargan read Ordinance 2010-29 by title only.



**AN ORDINANCE AMENDING CHAPTER 3, AIRPORT, LAKE WALES CODE OF ORDINANCES; MODIFYING HOURS OF OPERATION REQUIRED FOR FBO PERSONNEL; PROVIDING FOR AN EFFECTIVE DATE.**

Ms. Delmar reviewed Agenda Item 10.

Commissioner Carter was concerned because the reduction of hours in Ms. Hill's letter was not reflected in the ordinance change. Ms. Delmar explained that specific hours were not specified in the ordinance, only that the hours can be reduced with the approval of the City Manager and recommendation of the Airport Authority.

Commissioner Rogers said he spoke with both the Airport Authority and Ms. Hill and they saw nothing wrong with the change.

Commissioner Rogers made a motion to approve Ordinance 2010-29, after first reading, including the amendment recommended by the City Manager. The motion was seconded by Commissioner Thornhill.

By Roll Call Vote:

Commissioner Rogers	"YES"
Commissioner Thornhill	"YES"
Commissioner Carter	"YES"
Commissioner Howell	"YES"
Mayor Van Sickle	"YES"

The motion carried 5-0.

**Agenda Item 11. Mayfair Utility Agreement**

The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

Approval is requested for a Utility Agreement with Mayfair Development of Lake Wales, LLLP, for the Mayfair Project, a mixed-use development located on US Highway 27 South at Hunt Brothers Rd. The agreement sets forth the requirements for construction of water, wastewater, and reclaimed water facilities in accordance with the approved "Master Utility Plans" and establishes special conditions and reimbursement of impact fees for construction of certain utility facilities in excess of those required to serve the development.

**RECOMMENDATION**

Staff recommends approval of the Utility Agreement with Mayfair Development of Lake Wales and authorization for Mayor Van Sickle to execute the agreement.

**BACKGROUND**

The proposed agreement concerns the construction of water, wastewater, and reclaimed water systems for Mayfair. The document was prepared with the participation of the developer and has been approved by their attorney, Martha Anderson Hartley of Greenberg Traurig, Orlando, and by the City Attorney, Albert C. Galloway, Jr. Execution of the agreement by the developer is anticipated prior to the November 3 City Commission meeting.

Located on US Highway 27 South, Mayfair is a 350-acre mixed-use development. The approved master plan shows approximately 1022 dwelling units, a village center, central park, and several commercial out-parcels. The property on which Mayfair will be built was City property (Cooperative Fruit property) purchased by Feltrim Development, NA, Inc. in 2005.

The Utility Agreement sets forth specific requirements for construction of utilities based upon the Master Utility Plans for the project approved by the City's Public Works Director, Tom Moran.

It also specifies the bases and formulas for granting the developer impact fee credits for "over-sizing" certain facilities for the benefit of the municipal systems. Credit will be given only for the excess capacity in the facilities (e.g. water mains) that is not anticipated to be needed by the Mayfair development, but will serve future City utility customers.

Section 5 – Special Conditions and Reimbursements lists the facilities for which the developer will be reimbursed. The bases for determining the amounts to be reimbursed are set forth. The exact dollar amounts to be reimbursed will be determined by the City based per the requirements of sec. 23-770 of the Lake Wales Code of Ordinances. In compliance with the Code, the percentage of reimbursement must be proportionate to the system-wide benefit of each improvement, and all of the improvements to be credited have been determined to be eligible for impact fee expenditures.

#### Summary of Impact Fee Credits

Utility/Project	Reimbursement of Project Cost	
	Percentage /basis	Maximum dollar amount
Water system	50%	\$ 35,000
Directional bore to Longleaf		
Reclaimed water system	Cost of increase in pipe size	NA

The agreement builds upon prior agreements for development of the property, including the "Purchase Agreement" (August 22, 2005) and "Development Agreement" (October 31, 2006).

Preliminary plans have been approved by the City Commission for nine of the fourteen phases proposed, and construction plans for several phases are under review. As residential phases of the development are approved for site development permits, Utility Service Agreements will be brought to the City Commission for approval of capacity reservations in the water and wastewater systems and a schedule for payment of utility impact fees.

#### OTHER OPTIONS

Revisions to the proposed agreement may be suggested by the City Commission, but will necessitate further negotiations with the developer.

#### FISCAL IMPACT

The fiscal impact of the agreement is neutral in that the City will be reimbursing the developer for only those utility improvements that benefit the City's utility systems.

[End agenda memo]

Ms. Swanson reviewed Agenda Item 11 and then said they do not have the signed agreement ready for the Mayor's signature if approved, but she received evidence for Mayfair's approval through an emailed scan of the signature page. She expected to receive the signed document the following day.

Mayor Van Sickle was concerned that, though the project was originally established as a CDD, the fees had not yet been paid. He said the company handling the CDD for Mayfair was in the process of sending a letter to the State stating that it was no longer a CDD program. Ms. Swanson said she imagined that this was still a corporation and it would not make a difference or have any effect until they got to the street lights and road adaptations etc.

Mayor Van Sickle's concern was that the streets either had to be dedicated to the city, or were CDD roads that do not impact the City, like in Lake Ashton. Ms. Swanson said that usually happens in the platting stage. City Attorney Chuck Galloway said the agreement only dealt with public utilities at this point. If they should decide that they do not want to use the vehicle of the CDD for financing, they would probably have to come before the Commission to have the ordinance that created them reversed, though he, nor, he thought, Ms. Swanson had been exposed to such a request.

Commissioner Rogers asked Ms. Delmar if the City received the \$10,000 for the entranceway yet and she said they had not. Commissioner Rogers said he thought we should get that before moving forward. Economic Development Director Harold Gallup said that the check for the \$10,000 plus all other fees would be paid when they pulled the first permit. He said the debt was recognized by the LLC and he knew they would fulfill that obligation. They were presently at the financing stage, which will bring the City one step closer to being able to collect.

Commissioner Thornhill made a motion to approve the Utility Agreement with Mayfair Development of Lake Wales and authorize Mayor Van Sickle to execute the agreement. The motion was seconded by Commissioner Rogers.

By voice vote:

Commissioner Thornhill	"YES"
Commissioner Rogers	"YES"
Commissioner Carter	"YES"
Commissioner Howell	"YES"
Mayor Van Sickle	"YES"

The motion carried 5-0.

#### **Agenda Item 12. Purchase of Wetland Mitigation Bank Credits**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Teresa Allen, Public Services Administrator]

#### **SNYOPSIS**

The City Commission will consider approving the purchase of 3.5 units of wetland mitigation bank credits from the Boran Ranch Mitigation Bank for the Lake Wales Municipal Airport runway extension project in the amount of \$540,600.

#### **RECOMMENDATIONS**

Staff recommends that the City Commission take the following action:

1. Approve the purchase of 3.5 units of wetland mitigation bank credits from the Boran Ranch Mitigation Bank in the amount of \$540,600.00.

#### **BACKGROUND**

In August 2002, the City of Lake Wales and Hoyle, Tanner & Associates entered into a Master Consulting Agreement for the purpose of implementing the Airport Master Plan.

In 2006 Senator J.D. Alexander obtained a 3 million-dollar OTTED (Office of Tourism, Trade and Economic Development) legislative appropriation for Economic Development at the City of Lake Wales Municipal Airport to be used exclusively on the project for the extension of Runway 06-24.

At the regular City Commission meeting on February 13, 2007 the City Commission authorized the Mayor to accept and execute the 3 million-dollar OTTED appropriation grant.

The extension of Runway 06/24 and Taxiway Alpha will have impact on jurisdictional wetlands that are on-site. Mitigation is required to offset the adverse impact to the wetland functions caused by these activities. The potential wetland functions that may be impacted include fish and wildlife habitat, flood storage, nutrient recycling, detrital production, recreation and water quality and quantity. A method of mitigating the impacts is through the purchase of functional loss credits at an approved mitigation bank such as the Boran Ranch by setting aside land that is similar in environmental profile and removing it from development in perpetuity. The purchase of these credits will compensate for the wetland impacts that the project will cause. The wetland mitigation that is proposed has been coordinated and approved through SWFWMD (Southwest Florida Water Management District) Tampa, Florida office and is currently being coordinated with the US Corps of Engineers office in Tampa, Florida.

#### **FISCAL IMPACT**

The cost of the 3.5 units of wetland mitigation bank credits at Boran Ranch is \$540,600.00. Funding for this purchase is included in the current fiscal year 10/11 airport runway extension project budget.

#### **OTHER OPTIONS**

None. The City has already accepted the OTTED appropriation grant for the runway extension project and the purchase of the wetland mitigation bank credits is a required component of this project.

[End agenda memo]

Ms. Allen reviewed Agenda Item 12.

Commissioner Thornhill made a motion to approve the purchase of 3.5 units of wetland mitigation bank credits from the Boran Ranch Mitigation Bank in the amount of \$540,600.00. The motion was seconded by Commissioner Rogers.

By voice vote:

Commissioner Thornhill	"YES"
Commissioner Rogers	"YES"
Commissioner Carter	"YES"
Commissioner Howell	"YES"
Mayor Van Sickle	"YES"

The motion carried 5-0.

#### **Agenda Item 13. Appointments – Boards, Committees & Commissions**

The full staff memo is incorporated into the minutes.

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

## SYNOPSIS

The appointments will fill vacancies on various city boards.

## RECOMMENDATION

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

**Airport Authority Board** – Members are appointed by the City Commission. The Board consists of seven (7) members. At least four (4) members must be qualified electors of the City, and one member is a City Commissioner, who is a non-voting member. (3-year term)

There is no interview process required for applicants applying for appointment to this board.

1 vacancy: term expires 07/01/13

Applying for appointment: Charles Loomis, resident & owns property in City  
Homer P. Rip Walser, resident & owns property in City

A vacancy is due to the expiring term of Ken Allen.

Commissioner Howell made a motion to appoint Charles Loomis to serve as a member on the Airport Authority Board with a term to expire on 7/1/13. The motion was seconded by Commissioner Carter.

By voice vote:

Commissioner Howell	"YES"
Commissioner Carter	"YES"
Commissioner Rogers	"YES"
Commissioner Thornhill	"YES"
Mayor Van Sickle	"YES"

The motion carried 5-0.

**Firefighters' Retirement Board** – Resident Members & 5<sup>th</sup> Seat Member are appointed by the City Commission. The board consists of five members. Two members must be legal residents of the City and two members must be full-time firefighters employed by the Lake Wales Fire Department. Resident members are appointed by the City Commission; firefighter members are selected by a majority of the firefighters who are members of the plan. The fifth member is chosen by a majority of the other four members and appointed by the City Commission. Ordinance 2010-08; May 4, 2010, extended the term limit for all Board members from two years to four years. There is no limit to consecutive terms served by an elected or appointed trustee on a board established for the purpose of administering an employee retirement plan.

There is no interview process required.

Appointment is for the 5<sup>th</sup> Seat member and a resident member.

1 5<sup>th</sup> Seat vacancy term expires 09/30/11



Commissioner Rogers	"YES"
Commissioner Thornhill	"YES"
Commissioner Carter	"YES"
Commissioner Howell	"YES"
Mayor Van Sickle	"YES"

The motion carried 5-0.

**Parks and Community Appearance Advisory Board** - Members are appointed by the Mayor and confirmed by the City Commission. The Board consists of seven (7) members. A majority of the members shall reside or own property within the city limits. The Director of Planning or designee and Public Services Director or designee shall serve as ex-officio members. Members are appointed for terms of three (3) years, except that the initial terms of the members shall be staggered so as to provide two (2) vacancies at the end of each year. The board shall elect a chairman at its first meeting after the first day of July in each year. (3-year term)

There is no interview process required for applicants applying for appointment to this board.

2 vacancies:	1 term expires 07/01/11
	1 term expires 07/01/13

Applying for appointment:	Jose' Fco. Joglar-Gaya', resident
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Vacancies are due to the expiring term of Todd Ullum and the resignation of Elwood J. Dupuis, Jr.

Commissioner Rogers made a motion to appoint Jose Joglar-Gaya to serve as a member on the Parks and Community Appearance Advisory Board for a term to expire on 7/1/13. The motion was seconded by Commissioner Howell.

By Voice Vote:

Commissioner Rogers	"YES"
Commissioner Howell	"YES"
Commissioner Carter	"YES"
Commissioner Thornhill	"YES"
Mayor Van Sickle	"YES"

The motion carried 5-0.

**Recreation Commission** - Members are appointed by the Mayor and confirmed by the City Commission. The Recreation Commission consists of seven (7) members and five (5) alternates. At least five (5) regular members and three (3) alternate members must reside within the City limits of Lake Wales. (3-year term)

There is no interview process requirement for applicants applying for appointment to this board.

2 regular vacancies:	1 term expires 10/01/12, non-resident
	1 term expires 10/01/13, resident

5 alternate vacancies:	terms expire 10/01/13
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Applying for re-appointment:	Norman A. Rainey, non-resident
	Jake Rowe, resident

Regular vacancies are due to the third expiring terms of Richard L. DeLoach and Robert Shields. Current alternate vacancy is due to the expiring term of Norman A. Rainey who has applied for a regular seat.

[End agenda memo]

Commissioner Rogers made a motion to reappoint Norman Rainey to serve as a non-resident member on the Recreation Commission for a term to expire on 10/1/12 and to reappoint Jake Rowe to serve as a resident member on the Recreation Commission for a term to expire on 10/1/13. The motion was seconded by Commissioner Thornhill.

By voice vote:

Commissioner Rogers	"YES"
Commissioner Thornhill	"YES"
Commissioner Carter	"YES"
Commissioner Howell	"YES"
Mayor Van Sickle	"YES"

The motion carried 5-0.

**Agenda Item 14.      Discussion of Preliminary Financial Statements for Fiscal Year Ending September 30, 2010**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Dorothy Pendergrass, Finance Director; and Bridget Denihan, Accounting Manager]

The preliminary financial statements report revenues received and expenditures made during fiscal year 2009-2010. General Fund revenues were over budget in both the General Fund and the Utility Fund. Expenditures in both these major funds were under budget.

The unaudited preliminary financial statements for the Year Ending September 30, 2010 are presented to the City Commission for review. Revenue and expenditure budgets have been adjusted to reflect Budget Amendments #1, #2 and #3.

**SUMMARY**

At the end of September, the City completed 100% of the fiscal year. While most revenues and expenditures have been recorded, these numbers are still subject to change as the Finance Department makes adjustments in preparation of the YE 9/30/10 audit. The following chart gives a brief summary of overall revenue and expenditure performance for the year ending September 30, 2010; capital expense funded by CRA bond or loan proceeds is excluded from the analysis:



Fund	Budgeted	Actual at 9/30	Actual at 9/30 Over (Under) Budget	Over (Under) as percentage of Budget
General				
Revenues	\$10,977,235	\$11,403,355	\$426,120	+3.9%
Expenditures	\$11,355,631	\$10,901,182	(\$454,449)	-4.0%
Special Revenue <sup>1</sup>				
Revenues	\$3,706,370	\$4,046,286	\$339,916	+9.2%
Expenditures	\$5,628,527	\$4,523,717	(\$1,104,810)	-19.6%
Debt Service				
Revenues	\$2,363,120	\$2,371,289	\$8,169	+0.3%
Expenditures	\$2,363,650	\$1,951,303	(\$412,347)	-17.4%
Utilities <sup>2</sup>				
Revenues	\$6,591,016	\$6,723,939	\$132,923	+2.0%
Expenditures	\$6,228,100	\$5,605,512	(\$622,588)	-10.0%
Airport <sup>3</sup>				
Revenues	\$107,193	\$99,133	(\$8,060)	-7.5%
Expenditures	\$107,193	\$95,031	(\$12,162)	-11.3%

<sup>1</sup> Capital projects funded by grants and CRA bond are excluded from these numbers

<sup>2</sup> Capital projects funded by SRF Loan Proceeds and CRA bond are excluded from these numbers

<sup>3</sup> Capital projects funded by grants are excluded from these numbers

## GENERAL FUND

Total General Fund revenues exceeded the amended budget of \$10,977,235 by \$426,120 (+3.9%). In comparison to the originally adopted budget of \$10,839,848, however, this surplus amounts to \$563,707 (+5.2%). Compared to the original budget, significant surpluses occurred in the following revenues:

Building Permits/Development Fees	+152,881
Utility Taxes – Electric	+231,789
Franchise Fees - Electric	+150,187
Sale of Surplus Equipment	+36,750
Rebates/County Landfill & Fla Refuse	+38,697

On the other hand, significant shortfalls compared to the original revenue budget occurred as follows:

Communications Services Tax	-39,665
Court Fines	-65,574
Garbage Collection Fees	-44,655

The General Fund finished the year with expenditures that were \$454,449 or 4.0% below the amended budget. This can be attributed primarily to the spending freeze that was implemented in June in order to carry forward FY09'10 savings to supplement declining revenues in FY10'11.

## OTHER FUNDS

Overall revenues in the Special Revenue Funds were received at 83.2% of the amended budget:

The Library Fund received 101.5% of its budgeted revenues (+\$14,778), with most of the excess occurring in impact fee collections (+\$17,452). Library Fund expenditures were \$28,004 under budget (-2.9%).

The Transportation Fund received \$871,144 in operating revenues; this is 102.2% of budget (+\$17,903) excluding grants and interfund transfers. Expenditures excluding bond-funded capital projects totaled \$834,573, making it unnecessary for the General Fund to subsidize the Transportation Fund in FY09'10.

The CRA fund recorded \$2,124,667 or 98.9% of budgeted revenues (-\$23,429); the shortfall can be explained by \$27,480 less interest income than was anticipated. CRA operating expenditures excluding transfer of CRA bond proceeds and the match for the 1919 School restoration project totaled \$2,044,298.

The Historic Preservation Phase 5 and Phase 6 grants were completed and closed out with a total of \$541,519 in state and city funds expended in FY09'10.

There was very little activity in the CDBG grant fund in FY09'10, and this project budget was carried forward into FY10'11.

The Debt Service Fund was \$411,817 under budget for the following reason:

During FY09'10, the Finance Department implemented "Direct Debt Agreements" for all outstanding long term debt, except for SRF loans which does not offer this service. These agreements insure prompt payment of debt service. In the past, several debt service issues (Series 1997, Series 2006A, Series 2006B and Series 2007) would be paid by check in late September to insure that payments were received by October 1<sup>st</sup>.

With the current agreements, these payments are promptly made on October 1<sup>st</sup>. This conversion has resulted in FY09'10 Debt Service Fund expense being under budget because nearly \$412,000 in debt service payments were paid in October of the new fiscal year instead of in September. The FY10'11 budget for the Debt Service Fund reflects this change in payment procedure.

Water and sewer revenues at the end of September 2010 were \$308,652 under budget (water, - \$291,268; sewer, -\$17,384). Water and sewer charges for service in FY09'10 were \$21,536 more than the amount received in FY08'09. Impact fees were also higher than expected with receipts exceeding budget by \$126,567 (+50.2%); moreover, impact fees received in FY09'10 exceeded FY08'09 receipts by \$249,827 (+196.3%). Excluding project costs funded by CRA bond proceeds and SRF loan proceeds, Utility Fund expenditures were 10% or \$622,588 below budget at the end of the fiscal year.

The City has not borrowed any money from the Pool/Tax Anticipation Investment Account. The balance at the end of the 2007-2008 fiscal year and the current balance are as follows:

	9/30/08	9/30/10	Difference
Pool/Tax Anticipation Investment Account	\$1,037,822	\$1,056,957	\$19,135

On the face of it, the City's overall cash position at the end of September 2010 declined slightly compared to the cash position at the end of September 2009 (-3,735). In order to make a valid comparison, however, the following adjustments must be made:

	9/30/09	9/30/10	Difference
Total Cash & Investments	5,133,901	5,130,166	(3,735)
Due to Other Governments	(55,344)	(4,788)	
Deferred Revenues*	(460,590)	(453,020)	
Cash & Investments Net of Adjustments	4,617,967	4,672,358	54,391

\* reflected in cash but restricted to a specific future expenditure (grant project, tree replacement fund, etc), at which time revenue will be recognized

After excluding cash that was collected on behalf of other governments and deferred revenues, the City's overall cash position at the end of September 2010 was \$54,391 higher than its September 2009 level.

In comparison to total cash and investments at August 31 of \$5,147,997, the September cash and investments position declined by \$475,639.

### **GENERAL FUND BALANCE**

The preliminary unaudited financial statements for the General Fund indicate that fund balance has increased because revenues exceeded expenditures in FY09'10 by \$502,173.

Revenues	11,403,355
Expenditures	10,901,182
Revenues Over(Under) Expenditures	502,173

This is \$202,173 better than the originally anticipated \$300,000, and fund balance has increased from \$2,983,009 at 9/30/09 to \$3,485,182 at 9/30/10. Fund balance in the amount of \$3,485,182 is 32.8% of FY10'11 operating expenditures (\$10,620,325). Excluding the \$1,056,957 pool/tax anticipation investment account, fund balance at 9/30/10 is 22.9% of FY10'11 operating expenditures.

When the FY10'11 budget was adopted, \$300,000 of the anticipated excess revenues over expenditures at 9/30/10 was carried forward to fund the General Fund budget. As shown above, the excess of revenues was \$202,173 more than expected. In addition to better than expected revenue performance in some categories, this is largely due to the fact that some of the improvements planned for the cemetery were halted by the spending freeze, with the result that about \$150,000 of the \$300,000 designated for cemetery improvements with FY09'10 Budget Amendment #1 was not expended.

### **Cemetery Improvements**

We recommend that the Commission approve an additional carry forward to FY10'11 of \$150,000 for cemetery improvements that were not completed in FY09'10; i.e., \$10,000 for the installation of additional security lighting that was begun in July but not completed until this week and \$140,000 for upgrade of the irrigation system utilizing reuse water at the Lake Wales Cemetery.

The irrigation project has been bid already, but the bids significantly exceeded the \$65,000 budgeted in FY09'10, and the project was delayed until we could determine whether funds would be available to proceed. If the Commission agrees to appropriate \$140,000 for the irrigation project, we will be able to irrigate about 2/3 of the cemetery, with the remainder to be completed as additional funds become available. There is now a source of funding for future cemetery improvements because, with the 12/15/09 adoption of Ordinance 2009-32, the Cemetery Trust Fund was established requiring that 25% of all

proceeds from the sale of burial spaces will be set aside for capital improvements. Between January 1 and September 30, the Cemetery Trust accumulated \$18,030.

#### **Budget Amendment #1 for FY10'11**

If it is the consensus of the Commission to allocate \$150,000 of excess FY09'10 revenues for the cemetery lighting and irrigation projects as discussed, staff will prepare the necessary budget amendment and present it at the next Commission meeting. We would also suggest that \$50,000 be designated as a "reserve" to cover unexpected problems as we proceed with the gymnasium renovation project.

[End agenda memo]

Ms. Pendergrass reviewed Agenda Item 14.

Ms. Delmar said that part of the reason they were able to accumulate \$200,000 over the expenditures estimated in the July's budget was because of the spending freeze. The City Commission had authorized the expenditure of up to \$300,000 for improvements, fencing and signage at the cemetery because there had not been any improvement to either cemetery in fifty or sixty years. But, when they realized in June that the 2011 revenues would be greatly reduced over what was received in 2010, they initiated a spending freeze for anything not critical to department operations. The cemetery improvements were not considered critical at that time so work was suspended until they could see if there was money left over at the end of the year that could be put back into the cemetery, if the Commission wished to carry that appropriation forward. After the bids were received they found that the estimated \$60,000 irrigation improvements would be more like \$165,000 to \$231,000. Not enough money had been budgeted for that, but she said, if the Commission would like to carry forward \$150,000 of the \$200,000, they would be able to get two-thirds of that irrigation project accomplished. She recommended putting the remaining \$50,000 towards the gymnasium because, if we do not get insurance proceeds to offset some of those costs, we will need that additional \$50,000. We are expecting the report from the insurance company in about two weeks and if we do get insurance proceeds, we may not need to use that money. Another option for the money would be to keep it for next year in case we have the same revenue restraints. Ms. Delmar asked for some kind of consensus from the Commission because she would need to bring back a budget amendment if the \$200,000 was to be appropriated.

Mayor Van Sickle said that, because the Commission had already authorized the expenditure for the cemetery, and because it was part of the SWFWMD reuse program planned years ago, he thought the project should be taken as far as it could. He added that, because the gym costs are still unknown, he thought it would be smart to put the remaining money there.

Mayor Van Sickle voiced his concern that the engineers gave them an estimated number for the cemetery, the city budgeted for that number, only to find out it is higher. Ms. Delmar said that the \$65,000 they initially anticipated for the engineering was just a ballpark, staff estimated number. Later, staff realized it was a more extensive project because there was so much to work around at the cemetery. Mayor Van Sickle said that Cemetery Superintendent Pam Mosher had the cemetery looking better but it would help to have irrigation there especially with the dry weather we have been having.

The Commissioners agreed to use the money as the Mayor recommended and Ms. Delmar received consensus to go forward.

Mayor Van Sickle explained that after the Tracking Report and Communications and Petitions portions of the meeting, the Commission would recess to a private meeting with the City Attorney on a legal issue not subject to the Sunshine Law. At the end of the meeting, the Commission would reconvene, open up the public meeting, and adjourn.

#### **CITY MANAGER'S REPORT**

### **CITY COMMISSION TRACKING REPORT**

Ms. Delmar explained that back in October the Commission expressed an interest in conveying two city owned properties on D Street to Habitat for Humanity. Staff was working with the City Attorney in preparing those conveyances and would bring something before the Commission at the next meeting or the one following.

Commissioner Rogers asked if a time-limit would be attached to the conveyance. Ms. Delmar said the last time they conveyed property to Habitat for Humanity no reverter clause had been included in the agreement. The issue had been discussed at a Commission meeting but Habitat for Humanity specifically requested that a reverter clause not be included because it made it more difficult for them to convey the property to the new owner. Habitat for Humanity representatives orally committed to doing something with the property in a certain amount of time and they had honored that commitment.

### **COMMUNICATIONS AND PETITIONS**

David Smith, President of the Lake Wales branch of the NAACP, referred to an article in the Lake Wales News accusing him of causing a racial divide in Lake Wales. He explained that it had nothing to do with race because the past City Manager, Tony Otte, was a paid member of the NAACP.

Mayor Van Sickle responded by saying he had negative feelings about comments Mr. Smith made to the State Attorney accusing members of the City Commission of Sunshine violation issues that were based on an article in the Lake Wales News, when everyone knows that facts in that newspaper are not as correct as they should be.

Mr. Smith said he sent the Commissioners and City Manager an emailed copy of the letter he sent to the State Attorney. The Mayor said he never received the email and the first time he saw it was in the newspaper. Ms. Delmar said, for the record, that she did not receive the email from Mr. Smith or anything from the NAACP. Apparently, the letter was sent to the wrong email address. She then provided the correct email address for future use.

### **CITY COMMISSION COMMENT**

Commissioner Thornhill thanked the Fire and Police Departments for the Haunted House that took place at the Fire Department because everyone he spoke with who went said they had a great time.

Commissioner Carter asked for an update on the Wastewater Treatment Plant and C Street project. Ms. Delmar said they were still working on the engineering and there would be a status report at the next workshop.

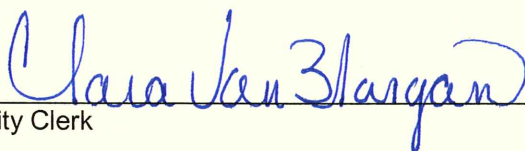
Commissioner Carter asked for an update on the Employee Recognition Program that had been included in the budget. Ms. Delmar said they were working on the Employee of the Year. Commissioner Carter said he thought what was approved was an employee of the month. Human Resource Director Sandra Davis said there was no employee of the month program. Commissioner Carter said they had approved \$50 a month for an employee of the month program. Ms. Delmar said that they always recognize an employee when merited throughout the year, but not the employee of the month. She said she left that up to the Core Committee to decide on how the employee recognition program would be handled. But, if that was the consensus of the commission, they could do that.

The Commission recessed at 6:48 p.m. for the meeting and reconvened at 7:13.

There being no further business, the meeting was adjourned.

  
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Mayor/Commissioner

ATTEST:

  
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City Clerk