

**ORDINANCE 2016-10**

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA AMENDING ORDINANCE 2005-44 KNOWN AS THE "LAKE WALES AIRPORT AUTHORITY" ORDINANCE AS AMENDED BY ORDINANCE 2005-48, ORDINANCE 2006-10 AND ORDINANCE 2007-07; EXPANDING MEMBERSHIP REQUIREMENTS; ALLOWING FOR AN AIRPORT MANAGER DESIGNEE; ALLOWING FOR FILLING AUTHORITY VACANCIES IN COMPLIANCE WITH THE CITY CHARTER; PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT ENACTED** by the City Commission of the City of Lake Wales, Polk County, Florida:

**SECTION 1.** Ordinance 2005-44 known as the "LAKE WALES AIRPORT AUTHORITY" Ordinance, as amended by Ordinance 2005-48, Ordinance 2006-10 and Ordinance 2007-07 is hereby amended to read as follows:

**Section 1.** Pursuant to section 189.4041, Florida Statutes, this Ordinance serves to create a dependent special district as set forth therein and constitutes the codification of all Ordinances relating to the Lake Wales Airport Authority. It is the intent of the City Commission in enacting this Ordinance to provide a comprehensive Ordinance for the authority, including prior authority granted to the authority by the City's prior enactments and any additional authority granted by this Ordinance, the dependent special district presenting the best alternative to any of the City's prior enactments concerning the Lake Wales Airport. It is further the intent to preserve all authority powers and authority.

**Section 2.** Ordinances 82-9, 84-13, 86-1, 96-02, and 2004-19, Lake Wales Code of Ordinances, are codified, reenacted, amended, and repealed as herein provided.

**Section 3.** The Lake Wales Airport Authority is re-created and the charter for the authority is re-created and reenacted to read:

**Section 1.** This Ordinance shall be known and may be cited as the "Lake Wales Airport Authority Ordinance."

**Section 2.** There is hereby created an authority to be known as the Lake Wales Airport Authority which shall be a body politic and corporate. The Lake Wales Airport Authority is hereby constituted a public instrumentality and the exercise of said authority of the powers conferred by this Ordinance shall be deemed and held to be the performance of essential governmental functions.

**Section 3.** (1)(a) The Lake Wales Airport Authority shall exercise its powers and jurisdiction over the property now known as the "Lake Wales Airport," as follows:

The Northeast 1/4 and the East 1/2 of the Northwest 1/4 of Section 9, Township 30 South, Range 27 East, Polk County, Florida.

AND

The South 1/2 of the Northwest 1/4 of the Southwest 1/4, West of the Peace Creek Drainage Canal, and the Southwest 1/4 of the Southwest 1/4 lying West of the Peace Creek Drainage Canal, in Section 3, Township 30 South, Range 27 East, Polk County, Florida.

AND

The East 3/4 of the South 1/2, lying South of the railroad, less begin 2001.38 feet South of the Northwest corner of the Northeast 1/4 of the Southwest 1/4 run east 830 feet, Northwesterly 786.49 feet, North 30° 17' East 415 feet, North 24° 9' 6" West 736.21 feet, South 60° 57' 14" West 834.25 feet, South 1435.28 feet to the Point of Beginning, and less the West 3 feet thereof, and less the West 30 feet of the Northeast 1/4 of the Southwest 1/4, North of railroad and West of the Airport Road in Section 4, Township 30 South, Range 27 East, Polk County, Florida.

(b) All of that property now owned by the City of Lake Wales and known as the Lake Wales Airport shall be under the jurisdiction of the Lake Wales Airport Authority, subject to any reservations or restrictions of record or existing leases, including but not limited to the Fixed Base Operator's Franchise Agreement approved by the Lake Wales City Commission on October 31, 1995, and subject to the restriction that none of said property may be sold or in any way encumbered at any time without the consent of the City of Lake Wales by and through its City Commission.

(2) The Lake Wales Airport Authority is authorized to exercise its powers over properties in addition to the Lake Wales Airport so long as they are exercised pursuant to contract with other governmental entities for the operation and supervision of other airports, airfields, and related facilities.

**Section 4. (a)** The Lake Wales Airport Authority shall be governed by a board of seven (7) members known as the Lake Wales Airport Authority Board. At the expiration of each term, a successor shall be appointed to fill such vacancies for terms of three (3) years each, except the initial terms of the members shall be staggered so as to provide three (3) vacancies at the end of the initial first year, two vacancies at the end of the initial second year, and two (2) vacancies at the end of the initial third year. A City Commission member shall serve as a non-voting member of the said Board. The non-voting City Commission member may serve for the duration of his or her term as City Commissioner to serve in the same manner. Vacancies in office shall be filled by appointment of the Mayor with the advice and consent of the city commission ~~said city commission~~ for the remainder of the unexpired term. All such appointments after the initial ones provided for in this Ordinance shall be selected by the City Commission from a list of applicants for any such vacancy or vacancies. At least four voting members of the board shall be qualified electors of the City of Lake Wales. The remaining members chosen may be persons owning property located within the City of Lake Wales or persons having a business tax receipt issued by the City of Lake Wales, or are airport tenants, with general aviation experience. Should the said City Commission be unable by a majority vote to select a successor from the original list submitted to it by said board, the board shall submit to said City Commission an additional list containing additional applicants for the vacancy or vacancies. Upon the reconsideration, the City Commission may select from the initial or replacement list. The original list shall be submitted to said City Commission within 10 days from the expiration of the term of any member of said authority, and within 20 days from the resignation, death, or removal for cause of any member of said authority. During any vacancy or vacancies for any reason or reasons, the remaining members of said board shall constitute said board with full power and authority to act as though there were no vacancy in the membership of said board. Members shall receive reimbursement for verified travel and other expenses as shall be provided for by general policy of the City of Lake Wales governing service on its voluntary boards. Four members shall constitute a quorum for meetings and an affirmative vote of a majority of the members present shall be necessary for any action taken by the authority.

(b) The seven (7) longest tenured members of the Airport Advisory Committee created by Ordinance 96-02 are hereby designated to serve as the Board for a period of up to ninety (90) days to allow appointment of a successor Board in accordance with the provisions of this ordinance.

**Section 5.** The Lake Wales Airport Authority shall select one of its members as chair of the authority and another of its members to act as secretary of the authority, both of whom shall serve as such at the pleasure of the authority, and the authority may select such other members for such offices as it deems necessary.

**Section 6.** The Lake Wales Airport Authority, subject to approval by the Lake Wales City Commission, is hereby authorized and empowered:

- (1) To adopt bylaws for the regulation of its affairs and the conduct of its business.
- (2) To adopt an official seal and alter the same at pleasure.
- (3) To maintain an office at such place or places as may be designated by the City of Lake Wales.
- (4) To sue and be sued in its own name, plead, and be impleaded.
- (5) To provide oversight of airport operations for the purpose of input and advice to the City Manager in his or her capacity as Airport Manager.
- (6) To acquire, lease as lessee or lessor, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain, and operate any airport which may be located on the property of the authority. Nothing in this Ordinance shall exempt the Lake Wales Airport Authority from the provisions of chapter 333, Florida Statutes.
- (7) To issue bonds of the authority, as hereinafter provided, to pay the cost of such acquisition, construction, reconstruction, improvement, extension, enlargement, or equipment.
- (8) To issue refunding bonds of the authority as hereinafter provided.
- (9) To fix and revise from time to time and to collect rates, fees, and other charges for the use of or for the services and facilities furnished by any airport facilities or tenant.
- (10) To acquire in the name of the authority by gift, purchase, or the exercise of the right of eminent domain, in accordance with the laws of the state which may be applicable to the exercise of such powers by municipalities, any lands or rights in land, and to acquire such personal property as it may deem necessary in connection with the acquisition, construction, reconstruction, improvement, extension, enlargement, or operation of any airport facilities, and to hold and dispose of all real and personal property under its control.
- (11) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Ordinance, including a trust agreement or trust agreements securing any bonds issued hereunder, and to employ such consulting and other engineers, superintendents, managers, construction and financial experts, accountants, and attorneys, and such employees and agents as may, in the judgment of the authority, be deemed necessary, and to fix their compensation; provided, however, that all such expenses shall be payable solely from funds made available under the provisions of this Ordinance.

(12) To accept grants or money or materials or property of any kind for any airport or other facilities from any federal or state agency, political subdivision, or other public body or from any private agency or individual, upon such terms and conditions as may be imposed.

(13) To issue revenue certificates of the authority as hereinafter provided.

(14) To do all acts and things necessary or convenient to carry out the powers granted by this Ordinance.

(15) To contract with other governmental entities to operate airports, airfields, and other related facilities and services, including providing all personnel, tools, equipment, supervision, and other materials and services required therefor.

**Section 7.** The City of Lake Wales, a Florida municipal corporation, acting through its duly elected City commission, is hereby authorized to make grants of money to the Lake Wales Airport Authority and to lease, lend, grant, or convey to the Lake Wales Airport Authority, with or without consideration, real and personal property, or such sums of money for operating expenses as may be deemed necessary by the said City for the use by the authority for any of its corporate purposes; provided, however, that if the approval at an election by the freeholders, who are qualified electors of the City of Lake Wales, shall be required by the State Constitution, such election shall be called, noticed, and conducted and the results thereof determined and declared, in the manner required by general law.

**Section 8.** No contracts for the construction, repair, or alteration of any facility or part of the same, or the purchase of equipment, services, or supplies involving an expenditure of more than \$10,000, shall be awarded by the authority unless the authority advertises for sealed bids at least once a week for 2 consecutive weeks and such contract is awarded to the lowest responsible bidder. However, the authority may reject all bids.

**Section 9.** The Lake Wales Airport Authority, as hereby created, is authorized and empowered to enter into contracts with any individual, corporation, political subdivision, or agency of the state, and the United States of America, and to enter into operating contracts and/or leases for facilities owned by said airport authority and any and all other contracts for furthering the business, operation, and maintenance of said facilities as hereinbefore provided, including the right to lease any or all of such facilities and appurtenances to individuals, corporations, or government entities. The authority is further authorized to fix and revise from time to time rate, fees, and other charges for the use of and for the services furnished or to be furnished by any facilities owned or operated by the authority. Such rates, fees, and charges shall be fixed and revised so that the revenues of the authority, together with any other available funds, will be sufficient at all times to pay the cost, including salaries, for maintaining, operating, and repairing the airport facilities owned or operated by the authority, including reserves for such purposes, and to pay the principal or interest on all bonds or revenue certificates issued by the authority under the provisions of this Ordinance as the same shall become due and payable and to provide reserves therefor. Notwithstanding any of the foregoing provisions of this section, the authority may enter into contracts relating to the use of or for the services furnished or to be furnished by any such facilities which shall not be subject to revision except in accordance with their terms.

**Section 10.** (1) The authority is hereby authorized to issue, at one time or from time to time, bonds or revenue certificates of the authority for the purpose of paying the cost of acquiring, constructing, reconstructing, improving, extending, enlarging, or equipping any of its facilities. The bonds of each issue shall be dated, shall mature at such time or times not exceeding 40 years from their date or

dates, and shall bear interest at such rate or rates as may be determined by the authority, not exceeding the maximum rate of interest on bonds allowed by the state, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form and the manner of execution of the bonds, including any interest to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he or she had remained in office until such delivery. Notwithstanding any of the other provisions of this Ordinance or any recitals in any bonds issued under the provisions of this Ordinance, all such bonds shall be deemed to be negotiable instruments under the laws of the State of Florida. The bonds may be issued in coupon or registered form, or both, as the authority may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The authority may sell such bonds in such manner, either at public or private sale, and for such price as it may determine to be for the best interests of the authority, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than the maximum rate of interest on bonds allowed by the state, computed with relation to the absolute maturity or maturities of the bonds in accordance with standard tables of bond values, excluding, however, from such computation the amount of any premium to be paid on redemption of any bonds at more than the maximum rate of interest on bonds allowed by the state, computed with relation to the absolute maturity or maturities of the bonds in accordance with standard tables of bond values, excluding, however, from such computation the amount of any premium to be paid on redemption of any bonds prior to maturity.

(2) The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. Unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, if the proceeds of such bonds, by error of estimates or otherwise, shall be less than such costs, additional bonds may in like manner be issued to provide the amount of such deficit and shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

(3) The resolution providing for the issuance of bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional bonds as the authority may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

(4) Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

(5) Bonds may not be issued under the provisions of this Ordinance without obtaining the prior consent of the City Commission.

(6) Bonds issued by the authority under the provisions of this Ordinance shall not be deemed to

constitute a debt of the City of Lake Wales or a pledge of the faith and credit of the City, but such bonds shall be obligations of the authority payable solely from the funds herein provided therefor, and a statement to that effect shall be recited on the face of the bonds.

(7) The maximum rate of interest on bonds allowed by the state is determined pursuant to the provisions of section 215.84, Florida Statutes.

Section 11. (1) In the discretion of the authority, each or any issue of bonds may be secured by a trust agreement by and between the authority and a corporate trustee, which may be made by a trust company or bank having the powers of a trust company within or without the state. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received from any airport facilities of the authority but shall not convey or mortgage any such facilities, and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition, construction, reconstruction, improvement, maintenance, repair, operation, and insurance of any such facilities, the fixing and revising of rates, fees, and charges, and the custody, safeguarding, and application of all moneys, and for the employment of consulting engineers in connection with such acquisition, construction, reconstruction, or operation. It shall be lawful for any bank or trust company incorporated under the laws of the state which may Ordinance as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds, or to pledge such securities as may be required by the authority. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders. Such resolution or trust agreement may contain such other provisions in addition to the foregoing as the authority may deem reasonable and proper for the security of the bondholders. The authority may provide for the payment of the proceeds of the sale of the bonds and the revenues of any airport facilities to such officer, board, or depository as it may designate for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as a part of the cost of operation.

(2) All pledges of revenues under the provisions of this Ordinance shall be valid and binding from time to time when such pledges are made. All such revenues so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledges without any physical delivery thereof or further action, and the lien of such pledges shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise, against the authority, irrespective of whether such parties have notice thereof.

**Section 12.** All moneys received pursuant to the authority of this Ordinance shall be deemed to be trust funds, to be held and applied solely as provided in this Ordinance. The resolution authorizing the issuance of bonds or the trust agreement securing such bonds shall provide that any officer to whom, or bank, trust company, or fiscal agent to which, such moneys shall be paid shall Ordinance as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulation as the resolution or trust agreement may provide.

**Section 13.** Any holder of bonds issued under the provisions of this Ordinance or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to extend the rights herein given as may be restricted by the resolution authorizing the issuance of such bonds or such trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such resolution or trust agreement, and may enforce and compel the

performance of all duties required by this Ordinance or by such resolution or trust agreement to be performed by the authority or by any officer thereof, including the fixing, charging, and collecting of rates, fees, and charges for the use of or for the services and facilities furnished by any airport facilities.

**Section 14.** The authority is hereby authorized to issue from time to time refunding bonds for the purpose of refunding any bonds of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The authority is further authorized to issue from time to time bonds of the authority for the combined purpose of refunding any bonds of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and paying all or any part of the cost of acquiring or constructing any additional facilities or of any improvements. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties, and obligations of the authority with respect to the same, shall be governed by the foregoing provisions of this Ordinance insofar as the same may be applicable.

**Section 15.** The Lake Wales Airport Authority, as hereby created, shall have no power or authority to bind or commit the City of Lake Wales, a Florida municipal corporation, in any manner directly or indirectly and the City of Lake Wales shall not be liable or responsible in any manner for any of the debts, liabilities, obligations, Ordinances, or omissions of the Lake Wales Airport Authority, or any of its officers or employees. All persons dealing with the said authority are hereby charged with full notice of this limitation of its powers.

**Section 16.** As a dependent special district, the Lake Wales Airport Authority will comply with the applicable financial reporting requirements of Chap.189, Fla.Stat. and shall maintain acceptable books of account reflecting all income and expenditures and said books shall be open to reasonable public inspection. In addition, the Lake Wales Airport Authority Board shall prepare on or before the first of each year a budget and no money shall be spent or obligations incurred by the board or authority except in accordance with the terms of said budget. An audit of the affairs of the Lake Wales Airport Authority shall be conducted annually by a certified public accountant and shall, at the option of the authority or the City of Lake Wales, be submitted to the Finance Director for his or her review by March of each year. Within 2 weeks after completion of said audit, the authority shall cause to be published once in a newspaper published and circulated in the City of Lake Wales a notice that the audit is available for public inspection at the Lake Wales Airport Authority's office.

**Section 17.** The Lake Wales Airport Authority shall, with the consent of the City Commission of Lake Wales, evidenced by resolution of said Commission, exercise any powers relating to aviation conferred upon municipalities by general law, including the provisions of chapter 332, Florida Statutes, or the Federal Aviation Administration.

**Section 18.** The Lake Wales Airport Authority shall hold regular meetings at least once every month and at such other times as the authority shall determine to be reasonably necessary from time to time.

**Section 19.** This Ordinance shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or as repealing any powers now existing under any other law, whether general, special, or local. The issuance of bonds or refunding bonds under the provisions of this Ordinance shall comply with the requirements of any other law applicable to the issuance of bonds.

**Section 20.** The Lake Wales Airport Authority is authorized from time to time to issue revenue certificates of the authority to fund its operations, acquisitions, construction, or reconstruction, or the improving, enlarging, or equipping of its functions and facilities, under this Ordinance. Revenue certificates shall pay no more than the maximum interest payable upon bonds issued by the state. The interest rate paid may vary provided that it does not exceed the maximum paid by the state. Revenue certificates may pledge only the revenues generated by one or more of the authority's facilities or improvements and shall not be an obligation of the state or the City of Lake Wales.

**Section 21. (1)** The Lake Wales Airport Authority is authorized to budget and use the funds accruing to it from auxiliary enterprises, gifts, and concessions for promotion and public relations, including expenditures for hospitality of business guests, and industry recruitment (including funds for travel, meals, and lodging at the actual expense, rather than the otherwise legally established per diem rates).

(2) The accrual and expenditures of said funds shall be considered part of the authority's budget and shall be answerable to the provisions as stated in section 16 of this Ordinance.

**SECTION 2.** Chapter 3, AIRPORT, Lake Wales Code of Ordinances is hereby amended to read:

**Sec. 3-26. Definitions.**

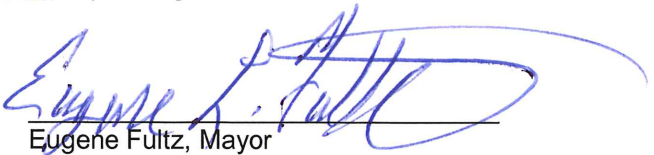
Airport Authority. The board created pursuant to Section 4. (a) of Ordinance 2005-44 as amended by Ordinance 2005-48 with duties and responsibilities of oversight of airport operations for the purpose of providing input and advice to the city manager in his or her capacity as airport manager.

Airport Manager. In accordance with the authority granted by Sec. 4.04 of the City Charter, the City Manager shall be the airport manager with the input and advice of the Airport Authority. However, for purposes of administration of the day to day operation of the airport and the enforcement of FAA rules and regulations, ~~a fixed base operator may be designated~~ the City Manger may appoint a designee to serve in the capacity of airport manager.

**SECTION 3.** If any clause, section or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

**SECTION 4.** This Ordinance shall become effective immediately upon adoption.

**CERTIFIED AS TO PASSAGE AND ADOPTION** this 16<sup>th</sup> day of August 2016.

  
Eugene Fultz, Mayor  
City of Lake Wales, Polk County, Florida

ATTEST:

  
City Clerk Clara VanBlargan, MMC