

The regular meeting of the Lake Wales City Commission was held on April 16, 2008 at 6:00 p.m. in the Commission Chambers at the Municipal Administration Building. The meeting was called to order by Mayor Lee A. Wheeler, III.

INVOCATION

The invocation was given by Rev. Jack Hilligoss from Highpoint Church

PLEDGE OF ALLEGIANCE

COMMISSIONERS PRESENT: Terrye Y. Howell; Jack Van Sickle; Jean K. Scott; Kathy Manry; Lee A. Wheeler, III, Mayor.

COMMISSIONERS ABSENT: None.

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

Agenda Item 4. APPROVAL OF MINUTES

Commissioner Howell made a motion to approve the minutes of the April 2, 2008 regular meeting. The motion was seconded by Commissioner Manry.

ROLL CALL:

Commissioner Howell	"YES"
Commissioner Manry	"YES"
Commissioner Scott	"YES"
Commissioner Van Sickle	"YES"
Mayor Wheeler	"YES"

The motion carried 5-0.

MAYOR

Agenda Item 5. Introduction of PCC Staff

Cheryl Garnett, Enrollment Services and Outreach Coordinator for PCC, introduced other PCC staff members: Provost Dr. Sharon Miller, and Dean of Student Services Charles Lyle. Ms. Garnett announced that the PCC Lake Wales office, located across the street from PCC at 219 Central Avenue, will be open on Tuesdays and Thursdays from 5:30 p.m. to 8:30 p.m. for admissions, financial aid, registration, advising and general information services.

In the best interest of the public, as most attendees were present for Agenda Item 12, Mayor Wheeler moved this agenda item to the front of the meeting. The rest of the agenda items would follow as scheduled.

CITY MANAGER

Agenda Item 12. Depot Curator Position

Mr. Otte reported on Agenda Item 12. The full staff memo is incorporated into the minutes.

[begin memo]

RECOMMENDATION

City staff recommended moving forward with the plan, incorporated into the City budget last September, to close this position.

BACKGROUND

Last August City staff recommended that one-half of the salary requirement for the Curator position be budgeted, as part of the plan to reduce expenditures in the City budget. Staff had suggested that this be a half-time Museum position, and the other half of the time the Curator would fill a half time position that was open at the library. Museum staff requested that the Curator position be funded as a full-time position for six months, and at the end of six months it was hoped that additional funding could be identified. The Commission approved that request.

The six-month period of funding ended March 30, and City staff requested that the Curator position be funded for another few weeks while the financials for the period ending March 31 were being analyzed. That analysis is now complete, and as noted in the cover memo to the financial statements, there are no excess funds to draw from for the Curator position; In fact, the projections to year end indicate that serious budgetary steps including freezing open positions need to be implemented.

In anticipation of the position being cut, the Curator was asked if she was interested in an open position, that of permit specialist in the Utility Department. She said she was not interested. This is the only administrative position currently open.

It is important to note that in recommending the closing of this position, the City staff fully recognizes that the Museum must stay open, and the core duties of the Curator position must continue. These core duties involve the setting up of exhibits, and the accessioning of materials. City staff believes that the Administrative Assistant position at the Museum can carry out these duties with occasional assistance several times each year in the set-up of the exhibits by other City staff members from the Parks Department.

OPTIONS

Funds could be taken from General Fund - Fund Balance to fund the position for the remaining six months of the year. As this will pull the balance down and further away from our goal set by the auditor, it could lead to further, more serious financial concerns, and a Management Letter comment by the Auditor.

FISCAL IMPACT

The Fiscal Impact of this action will be to avoid having to fund this position for an additional 5 months at a cost to General Fund - Fund Balance of \$17,987 in salary and fringe benefits.

[end memo]

Michael Williams, 1127 Lake Shore Blvd., read a statement, a copy of which was provided to the City Commission. He said it was imperative that the museum remain open, and without a curator, this would be impossible. He said that 10,000 visitors a year visit the museum and it, along with events like Pioneer Days, promotes the City. He presented a check from the Historic Society for \$9,500. He suggested that the museum cut its budget and have fundraisers such as an "art on loan program" and charging a fee for admission to the Depot Museum, to everyone except school children, to raise the remainder of the funds.

Mr. Otte thanked the Historic Society for the generous donation and promised that staff would study the proposal and report again at the May 20 City Commission meeting. He said the check would allow the

curator position to continue for another 3 months or until the money is exhausted. At that time, they would see if the new fundraisers were enough to keep it going.

Commissioner Van Sickle said that, after looking at the current Depot Museum budget, he noticed that 70% of the Depot budget had already been spent, though we were halfway through the year, so he did not see that cutting their budget would provide much revenue. He said he wanted to remind the Commissioners that with the impending hiring freeze and other cutbacks the City was facing, they needed to consider what they are doing.

Commissioner Scott said they needed to keep track of the admission fees for a month, starting the following day, to see how much the Depot could raise during that time.

Jeri Williams, 1127 S. Lake Shore Blvd, said that she would be helping while the Depot Director was absent. She said she would need time to set up the procedure and to train staff. She would not be ready to implement the fees until the following Monday. Commissioner Scott said that would be fine. Ms. Williams said she would like to be in the group that looks at the budget.

Commissioner Manry said a constituent suggested having other events on a regular basis such as a chili cook-off and a spaghetti dinner. She said that Pioneer Days was a lot of work but was not a fundraiser. Mayor Wheeler suggested having a pancake breakfast.

Rene Taylor, community volunteer, said she heard a comment on the radio that Governor Crist was considering cutting his salary and the salaries of other state officials. She said the City did need to tighten programs, but did not need to lay off employees. She then listed the qualifications of the present curator and asked that this position not be terminated.

Jake Rowe, 213 B Street, and youth group leader, said that he has 40 children in his group from low-income families. Three of them were present. He said that when he was young, 'colored people' were not allowed to go to museums and he wanted to make sure that these children did not miss the opportunity to see their heritage presented at the museum. He said his group was planning some fundraisers to help with the cost of keeping the curator.

Gerald Smith, Vice President of the Railroad Club, spoke in support of the curator's position.

Rev. James Cleare, 310 C Street, said that the Depot Museum was one of the things that made Lake Wales unique. He told of his experience of sharing history with his children at the museum, things that he remembered as a youth. He said the City needed to keep its past identity.

Linda Johnson, 322 N. Scenic Hwy. said that through the Depot Museum art classes, she developed her talent and has become an artist today.

Mayor Wheeler said that with the shortfalls in the budget, he was sure that recreational programs would need to be self-funding in the future. He encouraged the fundraising efforts for this cause and for others to come.

Commissioner Howell said that the City did not want to get away from its uniqueness and she was sure that Lake Wales' residents would keep it going.

Commissioner Manry said she was happy to see the interest the community has shown in the running of the City. She requested that a budget workshop be set up so citizens could see clearly how the City stands financially. The trickle-down effect, now just showing up, is devastating and citizens need to know how that will affect the City so they can pull together as a community. She thought the energy shown at the meeting needed to be the motivation for our future.

Mayor Wheeler said that new businesses coming to Lake Wales would be looking at our tax rates, educational opportunities, medical facilities, and the cultural environment before making their decision. He

recommended that the curator position be continued until the funds provided run out and to make these positions at least partially self-funding.

Commissioner Van Sickle said that we were near a recession and the revenue was dropping significantly. The City could not afford to contribute to this non-budgeted position. He would approve keeping the position as long as the funds from outside sources are donated to fund it, but not add money from the General Fund. He said that if we were not careful, we would be laying off police officers and other safety employees, which we do not want to do.

Commissioner Scott reminded everyone that even with the cutbacks, sewer, water, and a long list of other services and essential City needs would still need to be paid for.

Commissioner Manry made a motion to keep the curator position in place in view of funds received and to look at this item again at the end of the month. The motion was seconded by Commissioner Howell.

ROLL CALL:

Commissioner Manry	"YES"
Commissioner Howell	"YES"
Commissioner Scott	"YES"
Commissioner Van Sickle	"YES"
Mayor Wheeler	"YES"

The motion carried 5-0.

**Agenda Item 6. Ordinance 2008-13, Amendment to Ordinance 2007-14, Queue Ordinance
1st Reading**

Mr. Otte reported on Agenda Item 6. The full staff memo is incorporated into the minutes.

[begin memo]

RECOMMENDATION

Staff recommended approval of Ordinance 2008-13 on first reading.

BACKGROUND

The Utility Capacity Queue Ordinance (2007-14) was enacted last year to provide a system for developers to make reservations of capacity in the City's wastewater and potable water systems.

The ordinance requires a queue agreement with a payment equivalent to 10% of the utility impact fees for a development to be eligible for reservations of capacity. Upon the offer of capacity by the City, those in the queue must sign a utility service agreement and pre-pay utility impact fees to obtain a reservation.

Ordinance 2008-13 amends provisions regarding the queue in cases where developers do not reserve upon an offer of capacity by the City. The changes are geared to simplifying the process and putting all developments on the same footing following the first offer of capacity.

The changes have been reviewed and approved by the City's consultants for utilities, Jerry Buhr and Gerry Hartman.

The changes allow a developer to "pass" on a capacity offer and remain in the queue. However, those developers whose projects are in the queue without the 10% fee (those that were already queued by virtue of a prior agreement or plan approval) will be required to sign a queue agreement and make the payment to re-enter the queue.

Specifically the changes are:

1. *New provisions:* Developer can remain in queue if no utility services agreement is signed. If developer chooses, the development is dropped from the queue and the 10% fee is returned, less City costs.

Existing provisions: Developer loses his place in the queue if a utility services agreement is not executed; the 10% queue agreement fee is returned less City costs. In actuality, developers are likely to immediately sign a new agreement to re-enter the queue.

Explanation: The change will eliminate the paperwork in those cases where the developer wants to pass on the capacity reservation offer, but wishes to remain in the queue. It also gives the developer the option of leaving the queue.

2. *New provisions:* Adds language specifically addressing "grandfathered" developments that do not sign utility service agreements. They are dropped from the queue if the developer does not sign an agreement upon an offer of capacity. To re-enter the queue, the developer will be required to sign a queue agreement and pay the 10% utility impact fee. (Developments were placed in the queue or "grandfathered" if they had preliminary plan approval or an agreement with the City prior to the Queue ordinance in 2007. No 10% fee was required in these cases. Essentially, they were "queued" under the old system.)

Existing provisions: Developments, including "grandfathered" developments are dropped from the queue if they pass on an offer of capacity.

Explanation: The developer can return to the queue by signing a queue agreement and paying the 10% fee.

OTHER OPTIONS

Make no changes to the ordinance.

FISCAL IMPACT

The change will reduce the cost of paperwork by the City by eliminating the requirement for developers "passing" on a capacity offer to receive a refund, then sign a new queue agreement and re-pay the fee.

[end memo]

Ms. Delmar read Ordinance 2008-13 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 23, ZONING, LAND USE AND DEVELOPMENT REGULATIONS, SECTION 731. UTILITY CAPACITY QUEUE AGREEMENT, SUBSECTION C. ABANDONMENT OF CAPACITY BY FAILURE TO EXECUTE UTILITY SERVICES AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

Commissioner Howell made a motion to approve Ordinance 2008-13 after first reading. The motion was seconded by Commissioner Scott.

ROLL CALL:

Commissioner Howell	"YES"
Commissioner Scott	"YES"
Commissioner Manry	"YES"
Commissioner Van Sickle	"YES"

2008-225

Mayor Wheeler

"YES"

The motion carried 5-0.

Agenda Item 7. Resolution 2008-07, Supporting CSX Intermodal Terminal

Mr. Otte reported on Agenda Item 7. The full staff memo is incorporated into the minutes.

[begin memo]

RECOMMENDATION

Staff recommended that the City Commission authorize the Mayor to execute a "Resolution in support of the development of the CSX Intermodal Terminal to be located in Winter Haven, Florida; Providing for positive economic growth for the region while maintaining the high quality of the natural environment and assets identified with and around Lake Wales and Central Florida". The full Resolution to be read with this authorization.

BACKGROUND

The CSX project is similar to many economic development projects in that:

1. It has the potential to help the City "right-size" our tax base. In comparisons with Haines City and Auburndale, two cities within our County that are close to us in the size of their populations, the Lake Wales tax base comes in last for the amount of value in commercial and industrial properties. The City's Strategic Plan includes economic development has a foundation statement, to attract high quality companies offering career jobs to City residents.
2. At the same time, the CSX project is the subject of concern for City residents living in that area. Air, noise, light, and other forms of pollution, as well as fears for transportation difficulties, are the principal concerns.

The recommended resolution addresses both items. CSX officials have said they would welcome a statement of support such as the attached statement, which carries certain conditions to address the concerns noted.

OPTIONS

Modify, or do not approve the resolution as presented.

CURRENT FISCAL IMPACT

While there is no direct discernable fiscal impact by this particular action, it is expected that the CSX project will bring industry to SR 60 West, east of the railroad track at Peterson Industries, which is in the City's utility service area. City staff expects to serve this area with City utilities and annex properties in this area in the future, thus adding and helping to "right-sizing" the City's tax-base.

[end memo]

Ms. Delmar read Resolution 2008-07 by title only.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY LAKE WALES, POLK COUNTY, FLORIDA, RELATING TO CSX RAILROAD AND THE PROPOSED INTERMODAL TERMINAL TO BE LOCATED IN WINTER HAVEN, FLORIDA; PROVIDING FOR POSITIVE ECONOMIC GROWTH FOR

THE REGION WHILE MAINTAINING THE HIGH QUALITY OF THE NATURAL ENVIRONMENT AND ASSETS IDENTIFIED WITH AND AROUND LAKE WALES AND CENTRAL FLORIDA.

Mr. Otte reported on several meetings that had been held at Lake Ashton. He said that residents do not want traffic from the CSX development on Thompson Nursery Road.

Commissioner Van Sickle, a resident of Lake Ashton, said that people there were angry, some of it justified and some not. He said that the City was trying to work with CSX, but that it was going in whether we liked it or not. He said he was an advocate of commercial business growth in Lake Wales and this would eventually amount to commercial growth along the City's SR 60 corridor. He added that he realized that CSX did not have to abide by anything we put into a resolution, at least not that they would put in writing.

Mr. Otte explained that he had taken local concerns to a DRI and was told that the DRI addressed regional, not local, concerns. He then took the concerns to the County, who said they would do a study that would include Lake Wales and Winter Haven. Winter Haven said they would not pay any part of the study so the study was put on hold. Recently, he got an email from County Commissioner Jean Reed that said the study was underway, but he had not gotten anything official indicating that.

Commissioner Howell asked if there was a way the City could put a "weight limit sign" up to keep the heavy trucks from driving on Thompson Nursery Road. Mr. Otte said we could if the road was ours, but it is not a City road.

Commissioner Van Sickle said there was a Winter Haven road that drew the same concerns and the City of Winter Haven plans on putting a sign on it stating just that. He said that there would be approximately 1,000 tractor trailers a day on SR 60, which will be a nightmare where they will be turning onto the newly constructed road to be built to handle the extra traffic.

Harold Gallup, Director of Economic Development, said that he had a number of meetings with CSX representatives. He explained that major traffic would come off SR 60. The secondary roads would not allow maneuvering of large trucks. That restriction on their physical environment would discourage truckers from using roads except SR 60. He explained that CSX would be using the best technology, which would greatly reduce the lighting and noise problems people are expecting.

Mr. Gallup said that the City's choice was to work with CSX and try to influence things to our benefit by advancing our interests, or go against it to no avail, as it will go in anyway. With this resolution, the City Manager would be able to go to the meetings, but without it, he will not be involved. He added that this would improve our tax-base and provide jobs for our community. He said that millions of dollars would be collected by the County for road impact fees and they wanted the money to be spent to upgrade our road systems. He added that the road impact fees that had been collected from all the construction on US 27 was NOT spent anywhere near us.

Commissioner Van Sickle said that the TPO awarded a study to build a road from Bartow for an alternate route, but that would not be much help as it would not be built for about 5 years.

Commissioner Manry said that she was 100% in favor of this resolution. She said that communities around us were better off than we are because they had a strong commercial base. She wanted CSX to look favorably on development along the SR 60 corridor.

Mayor Wheeler said he was in favor of the resolution. He said that railroads all across the country are upgrading because of the high cost of fuel. He said we would be seeing a change in the way goods were transported, changing from trucks to rails.

Commissioner Manry made a motion to approve Resolution 2008-07. The motion was seconded by Commissioner Howell.

ROLL CALL:

Commissioner Manry	"YES"
Commissioner Howell	"YES"
Commissioner Scott	"YES"
Commissioner Van Sickle	"YES"
Mayor Wheeler	"YES"

The motion carried 5-0.

Agenda Item 8. Oakley Settlement Agreement

Mr. Otte reported on Agenda Item 8. The full staff memo is incorporated into the minutes.

[begin memo]

RECOMMENDATION

Approval of the Settlement Agreement.

BACKGROUND

Oakley Transport is located at the SW corner of US 27 and ABC Road, catty-corner from Fat Boys restaurant. Oakley is a trucking company that hauls various liquids in tank trailers and then washes out and cleans the trailers at their facility. The disposal of the wastewater from this cleaning operation apparently prompted them to seek an agreement with the City. In May of 2000 the City entered into an agreement with Oakley that required Oakley to build a sewer force main from their business location to Lift Station #9 on Miami Street, running past the Longleaf Business Park. Oakley became a sewer customer for the City, providing the wastewater for treatment, subject to the requirements of any other city wastewater customer. The agreement also contained a "pioneer" provision, in that Oakley 'pioneered' the building of the sewer line and as other customers used it, they would pay their sewer impact fees to Oakley until Oakley's cost to build the line was paid off.

Oakley installed a private lift station on their property to pump their wastewater through the line. At this station City wastewater division staff would periodically take samples to ensure that the wastewater being provided for treatment at the City's wastewater treatment plant met the requirements in City code and in the agreement with Oakley for the 'strength' of the wastewater. This is a typical procedure in the wastewater industry when dealing with wastewater provided by industrial customers.

From the beginning of the provision of wastewater service to Oakley, there were questions about the strength of the wastewater. City staff suspected that this was the cause of operational problems at the plant. However, the questions and problems were not properly addressed until City Utility staff identified this as a serious issue that needed to be reviewed with the help of specialized legal expertise. At that time City staff requested and the City Commission approved the hiring of Jerry Buhr, an attorney who has specialized knowledge in this field and who is a licensed wastewater treatment plant operator himself. Over time there were numerous meetings between the City and Oakley representatives. When the initial negotiations failed, the parties filed lawsuits against each other.

Before the matter went to trial, both parties realized the legal costs involved and held a settlement conference. This time, a complex settlement agreement and permit was prepared for Oakley and City Commission approval. This agreement and permit terminates the old agreement and re-structures it. In summary, the settlement agreement provides for the following:

1. The termination of the May 2000 agreement and any claims arising from that agreement;
2. The payment by Oakley of \$521,316 to the City. This fee is broken out as follows:

• Retroactive Surcharges	\$141,900
• Penalties for all Past Exceedances	73,000
• Impact fee for additional 20,000 Gallons of capacity	341,416
• \$47,000 in impact fees for the pioneering of the sewer force main owed to Oakley, discounted for present value	<u>(35,000)</u>
• Net to City	\$521,316

The schedule of payments is as follows:

▪ At signing of settlement	\$358,488.00
▪ October 1, 2008	32,565.60
▪ October 1, 2009	32,565.60
▪ October 1, 2010	32,565.60
▪ October 1, 2011	32,565.60
▪ October 1, 2012	32,565.60

3. The agreement very specifically describes the limits for the strength of the wastewater provided to the City system by Oakley, and the procedures that will take effect if the wastewater strength exceeds the limits in the City Code.
4. Oakley will convey a 60x60-foot parcel of their property for the future construction of a lift station by the City.
5. The agreement provides that City service is subject to a 5-year permit, which Oakley must apply to have renewed by the City. The City has the discretion to deny the renewal under certain circumstances, such as the non-payment by Oakley to the City for fines, surcharges, and delinquent debts. The permit also specifies the sources of the wastewater, the procedure for taking samples including equipment that Oakley will have to purchase to carry out the procedure, and other details related to service provision.

Analysis

This agreement is being recommended for approval by City staff because:

1. The previous agreement relied heavily on City code for monitoring and enforcement procedures. However, the agreement and the City code were not as specific in certain areas as was needed to reasonably monitor the wastewater service in the agreement. For example, Oakley uses hot water to wash out the tank trailer, and the agreement does not address water temperature. The City code does not specify water temperature limits at the source of entry to the system. The specifications that were found to be missing in the initial agreement and existing code have been corrected in this agreement and permit. This will now set the requirements for a workable arrangement – in both the added specificity and the re-structuring of the agreement to an agreement and a permit - and allow us to keep a valued customer.
2. City staff believes that the payments to be made by Oakley listed above cover the City's past costs for legal and engineering services, and extraordinary operational costs which could be attributable to services provided through this contract.
3. A portion of the funds (about 75%) owned to Oakley for the "pioneering" of the sewer force main, in the amount of \$35,000, will be paid off by the City giving a reduction in the amount owed by Oakley. In the absence of this provision, the City would reimburse Oakley the sewer impact fees in the amount of \$47,000 from new customers using this line. As a result of this provision, the City

impact fee fund will keep 100% - \$47,000 - of the sewer impact funds paid when future customers hook up to that line.

4. The provision of land for a regional lift station that will service future customers to the south and allow for the further expansion of our wastewater system.
5. The settlement avoids going to court, which is costly and uncertain.

OPTIONS

Do not approve the agreement: direct staff to modify the agreement, or reject agreement and go to court.

FISCAL IMPACT

There are two items here:

1. As mentioned above, City staff believes that the surcharge and penalty amounts will cover the City's past costs for legal and engineering services, and additional operational costs. These costs, which have already been paid, are estimated to be less than \$350,000; and
2. If the Commission approves the settlement agreement, the receipt of these funds will be timely due to projected shortfalls in utility revenues.

[end memo]

Jerry Buhr, Utility Consultant, explained that this was a good settlement and that he always prefers settlements over going to court as you never know which way it will go. You might be awarded more in a court, but you might get nothing at all.

Commissioner Van Sickle said that Oakley sludge had been toxic and asked if that had been resolved, as the City had to pay a higher price because of Oakley. Mr. Buhr said they would pay a surcharge and get a fine if they exceed the code or we could always take them to court.

Commissioner Scott said that Oakley had been using extremely hot water, which was raising the temperature of the wastewater and asked if that was being taken care of. Mr. Buhr explained why Oakley was using the hot water and how the temperature had now been lowered to 110 degrees by use of a cooling tower.

Commissioner Scott made a motion to approve the Oakley Settlement Agreement. The motion was seconded by Commissioner Howell.

ROLL CALL:

Commissioner Scott	"YES"
Commissioner Howell	"YES"
Commissioner Manry	"YES"
Commissioner Van Sickle	"YES"
Mayor Wheeler	"YES"

The motion carried 5-0.

Agenda Item 9. Polk County Property Appraiser's Contract Agreement & Polk County Tax Collector's Uniform Collection Agreement

Mr. Otte reported on Agenda Item 9. The full staff memo is incorporated into the minutes.

[begin memo]

STAFF RECOMMENDATION

Approve the Polk County Property Appraiser's Contract Agreement.
Approve the Polk County Tax Collector's Uniform Collection Agreement.

BACKGROUND

On December 18th, 2007, the City Commission adopted Resolution 2007-22 providing the commission with the option to use the "uniform method" of collecting non-ad valorem special assessments for the cost of providing fire services as authorized by section 197.3632, Florida Statutes, as amended. The "uniform method" will allow such special assessments to be collected annually commencing in November 2008 in the same manner as provided for ad valorem taxes.

Adoption of Resolution 2007-22 did not establish a fire assessment fee. The election provided the method for billing and collecting such a fee in the event that the City Commission adopts and approves a special assessment for the cost of providing fire services.

After adopting Resolution 2007-22, Staff provided written notification to the Polk County Tax Collector and the Polk County Property Appraiser. In order to utilize the "uniform method" for billing and collecting of the contemplated fees, the City will need to enter into an agreement with each of these agencies. The agreements need to be returned to the agencies by May 1, 2008.

The agreements identify the City's responsibility to each agency and the each agency's responsibility to the City. The agreements shall continue from year to year unless canceled by the City by giving written notice to each agency prior to January 1 of the year that the agreement shall stand terminated.

FISCAL IMPACT

The Property Appraiser shall be compensated at the rate of 2% of the amount levied on the TRIM Notice. The payment is required on or before September 15th. If the levied amount is \$1,000,000, the fee will be \$20,000. If the actual costs of performing the services under the agreement exceed the 2% rate, the amount of the compensation shall be the actual costs of performing the services under the agreement.

The Tax Collector shall be reimbursed for actual collection costs, for necessary administrative costs for collection and enforcement, any separate tax notice that may be necessitated and any necessary advertising relating to the special assessment. Reimbursement shall include, but not be limited to, those costs associated with personnel, forms, supplies, data processing, computer equipment, postage and programming.

All costs associated with the billing, collection and enforcement of the fire assessment fee will be included in the amount levied. If a fire assessment fee is levied, the City will have to advance the Property Appraiser's 2% compensation rate of the amount levied by September 15th.

[end memo]

Mr. Otte said staff was still studying this option.

Commissioner Van Sickle said that this would be like applying for a grant and then not accepting it after it was awarded. He said we should not make arrangements until we were sure we needed them. He wanted to be sure we would not pay for this if we do not approve the fire tax. Mr. Otte explained that it was necessary to set up the collection fee now because the deadline for the agreement is May 1, which is before the next regular City Commission meeting. This agreement would let the tax collector and appraiser collect the fire assessment fees for the City, if the City Commission approves that fee. If the City Commission does not approve it, the agreement would be void.

Commissioner Scott asked when the \$47,000 study would be presented to the Commission. Mr. Otte said it would be a couple of weeks before the results would be ready. Commission Scott said she wanted to make sure that if the fire fee was not approved, they could cancel the agreement.

Sylvia Edwards, Finance Director, explained that the agreement would set up an arrangement for the fire assessment fees to go out with the TRIM notice in the fall if the fire fee was approved. It did not bind the City to anything.

Mr. Otte added that the contract was meaningless if the fire assessment fee is not approved. But, the system will be in place if we need it. There would be no charge to us if there is no assessment fee to collect.

Kathy Bangle, Assistant Planning Director, said that if we did not pass this agreement, and the fire fee is approved, we would have to do our own collecting as it would be too late to meet the deadline.

Commissioner Van Sickle made a motion to approve the Polk County Property Appraiser's Contract Agreement and the Polk County Tax Collector's Uniform Collection Agreement. The motion was seconded by Commissioner Howell.

ROLL CALL:

Commissioner Van Sickle	"YES"
Commissioner Howell	"YES"
Commissioner Manry	"YES"
Commissioner Scott	"YES"
Mayor Wheeler	"YES"

The motion carried 5-0.

Agenda Item 10. East US 27 Coalition

Mr. Otte reported on Agenda Item 10. The full staff memo is incorporated into the minutes.

[begin memo]

RECOMMENDATION

City staff recommended that Commissioners attend and participate in this effort.

BACKGROUND

The Mayor-elect of Haines City wishes to have the full City Commissions and the City Managers of the Cities of Haines City, Davenport, Lake Hamilton, and Lake Wales meet periodically to discuss matters of mutual concern. I met today with the City Managers of Haines City, Dundee, and Davenport, and the Mayor of Lake Hamilton, regarding this matter. All expressed agreement that such meetings would be worthwhile, and it was suggested that since all four cities are on US 27 to the east side, a title of the group could be the East US 27 Coalition.

It is suggested that the agenda be open at the initial meeting for any topic that a city representative wishes to discuss. The City Managers made a list of several topics that they thought may be of interest:

- *The possibility in the future of forming a refuse collection coalition among the member cities. All four cities are currently in contracts or are negotiating renewal contracts with Florida Refuse. The coalition could start some form of cooperative service, or could arrange their contracts with*

Florida Refuse to end at the same time and then negotiate one contract with a garbage hauler as a group and reap economies of scale.

- *The current permitted use of County Road impact fees.* The County can use these fees in areas other than where they were collected. For example, if the current rule stays in place and the 5,000 home development near Lake Hatchineha is approved, it would be possible for the county road impact fees paid in each of the four East US 27 cities for local developments to be used to improve Lake Hatchineha Rd for the benefit of that development.
- *The county practice of approving developments that are located in the unincorporated area but within city utility service areas, and allowing the construction of on-site utilities.* This has happened several times in the Lake Wales utility service area in the past four plus years, and County staff members say that those developments will be held up in the utility permitting process, which is separate from the development plan approval process at the County.
- *The effect of the County Firefighter salary survey.* Salary surveys typically provide an inventory of the salaries of the subject positions in other similar local governments within the labor market area. This study surveyed salaries in several jurisdictions including the county fire departments in Orange and Hillsborough Counties, whose departments have higher salaries than departments in rural areas. (Note: I doubt that Polk County has a majority of its firefighters coming from those two counties; hence, it is not in our labor market area.) As a result of this study, the County is now significantly increasing their fire department salaries, which will severely impact our ability to retain and attract new firefighters, and set salary rates in the future.
- *At the same time the county is studying a report on the feasibility of consolidating all fire services county-wide.* (Note: a strong response recommending rejection of the consolidation study, due to a number of flaws, has already been formulated and sent by the fire chiefs in a number of city and small volunteer departments.)

The suggested date, time, and place for the meeting is as follows:

Thursday, May 22

6:30 p.m.

Haines City City Hall

OPTIONS

Do not participate.

FISCAL IMPACT

Participation in the meetings has no discernable hard cash fiscal impact.

[end memo]

Mr. Otte said he asked that Frostproof be added to the coalition. He said that this coalition would require the five Commissioners and himself to attend. The proposed date is Thursday, May 22 at 6:30 p.m. at the Haines City, City Hall.

Commissioner Manry said that we should make the inclusion of Frostproof a condition before we would join the coalition as they are also on the US 27 corridor. Mr. Otte said he would convey that thought in a letter to Mayor-Elect Tyler of Haines City and go from there.

Mayor Wheeler said that Highland Park and Hillcrest Heights needed to be included also. Mr. Otte said he would convey that to Haines City.

Mr. Galloway said that the condition could be included in the motion.

Commissioner Manry made a motion to accept the invitation to join the East US 27 Coalition on the condition that Haines City invites Frostproof, Hillcrest Heights, and Highland Park. The motion was seconded by Commissioner Van Sickle.

ROLL CALL:

Commissioner Manry	“YES”
Commissioner Van Sickle	“YES”
Commissioner Scott	“YES”
Commissioner Howell	“YES”
Mayor Wheeler	“YES”

The motion carried 5-0.

Agenda Item 11. Discussion of Financial Statements for March 31, 2008, Fiscal Year to Date

Mr. Otte reported on Agenda Item 11. The full staff memo is incorporated into the minutes.

[begin memo]

The unaudited financial statements for the City of Lake Wales for the Period Ending March 31, 2008 are presented to the City Commission for review. At the end of March, the City is 50.0% into the fiscal year. Thirteen of twenty-six payrolls (50.0%) have been expensed through March 31. Budget comparisons are based on the FY07'08 budget as amended by Ordinance 2008-02.

SUMMARY

The following chart gives a brief summary of revenue and expenditure performance as of March 31, 2008:

Fund	Revenues and Sources		Expenditures and Other uses	
	Percent of Budget	Comparison to Target	Percent of Budget	Comparison to Target
General Fund	61.7%	+11.7%	49.4%	-0.6%
Special Revenue Funds	77.0%	+27.0%	14.4%	-35.6%
Debt Service Fund	49.1%	-0.9%	78.0%	+28.0%
Capital Projects Fund	48.0%	-2.0%	167.2%	+117.2%
Airport Fund	3.4%	-46.6%	19.8%	-30.2%
Utility System Fund	18.3%	-31.7%	22.0%	-28.0%

General Fund revenues are currently 61.7% of budget due primarily to the fact that the General Fund received 78.6% of budgeted ad valorem tax revenues through March 31. Although \$161,963 was received during March, receipt of ad valorem revenues has slowed down as expected. Through the end of March, the City received 47.0% of franchise fees, 46.8% of utility taxes, 52.4% of communications services taxes, 49.1% of state-shared revenues, and 44.7% of sales tax revenues. General Fund expenditures were at 49.4% or 0.6% below the 50% target level.

Revenues in the Special Revenue Funds were 77.0% of budget, reflecting the receipt of \$9.5 million in CRA Bond proceeds. In addition, both city and county tax increment revenues have been fully recorded. The Library Fund received 84.8% of its budgeted revenues, and the Transportation Fund received 48.8% of gas tax revenues. Library Fund expenditures were at 43.9% of budget and Transportation Fund expenditures were at 8.4%. The CDBG grant fund recorded 91.2% of budgeted expenditures. There was minimal activity in the other Special Revenue Funds through the end of March..

Debt Service Fund expenditures are significantly higher than budget (+28.0%) as a result of the fact that \$852,975 in principal and interest payments for the Series 97 Bond and the SunTrust 2003 note were paid on October 1. These October 1 payments were made from the bond sinking fund accounts that were funded during FY06'07 and represent 55.2% of the total expenditures budgeted for the Debt Service Fund in FY07'08.

The Capital Projects Fund reflects receipt of 48.0% of budgeted revenue and 167.2% of budgeted expenditures. Two projects funded by FRDAP grants and one project funded by impact fees are budgeted in the Capital Projects Fund this year, and little expense was recorded for these projects through March 31. Most of the expense incurred in this fund is related to construction of the Soccer/Multi-purpose field (\$238,632). Budget amendment #2 will revise the budget for the Capital Projects Fund to reflect the carry-forward of the Soccer Field project from FY06'07.

Airport Fund revenues were at 3.4% of budget and expenditures were at 19.8%. Most of the revenues budgeted in this fund for FY07'08 are grant-related and fund major capital projects which have not been completed at the end of March.

The Utility Fund received 49.0% of budgeted revenues through March 31, this number includes impact fees and miscellaneous revenues as well as charges for services. Revenues from water charges were at 47.5% of budget (-83,792), and revenues from sewer charges were at 48.9% (-30,630) at 3/31/08. Overall revenues and other financing sources in the Utilities Fund were at 18.3%. Revenues and SRF loan proceeds related to the wastewater treatment plant expansion and southside force main projects will not be recorded until actual expense is incurred. Expenditures in the operating departments were at 47.9% of budget. Total Utilities Fund expenditures and other uses were at 22.0%

The City's overall cash position at the end of March 2008 declined in comparison to the cash position at the end of March 2007 (-\$3,186,318). In order to make a valid comparison, however, adjustments must be made to both years as follows:

	3/31/07	3/31/08	Difference
Total Cash & Investments	9,487,549	6,301,231	(3,186,318)
Due to Other Governments	(1,780,387)	(140,668)	
Insurance Proceeds & Other Airport Cash	(2,198,223)	(629,641)	
Deferred Revenues*	(678,685)	(543,450)	
Sale of Coop Fruit Prop (Net of Expenditures)	(1,104,437)	(1,091,488)	
Cash & Investments Net of Adjustments	3,725,817	3,895,984	+ 170,167

**reflected in cash but restricted to a specific future expenditure (grant project, tree replacement fund, etc)

After excluding cash that has been collected on behalf of other governments, unexpended Airport insurance proceeds, deferred revenues and sale of the Cooperative Fruit Property, the City's overall cash position at the end of March 2008 was only slightly better than at the end of March 2007. In relation to the cash position at February 29, 2008, the March position shows a reduction of \$1,903,985. This position will improve once CRA bond proceeds are drawn down to reimburse expenditures made in anticipation of the bond issuance.

The City's accounts payable at 3/31 increased by \$119,916 from \$1,056,353 at 3/31/07 to \$1,176,269 at 3/31/08. The City's accounts receivable at 3/31 declined by \$290,255 from \$1,564,107 at 3/31/07 to \$1,273,852 at 3/31/08.

Items of Current Concern

Sylvia Edwards, Finance Director, completed a trend analysis of receipts through 2/29/08 for the Finance Committee meeting on March 11, 2008 that projected shortfalls in relation to budget for several major

General Fund revenues at the end of the fiscal year. This analysis was updated for receipts through 3/31/08 (Chart 1), and it appears that General Fund revenues will be approximately \$168,876 under budget at 9/30/08. If the current trend in water and sewer revenues continue, there will be an approximate shortage of \$228,844 in the Utility System Fund which will necessitate reducing the enterprise fund contribution to the General Fund. In combination, these revenue problems will result in a \$397,720 General Fund shortfall in relation to budget.

A similar analysis of expenditures through 3/31/08 indicates that spending on payroll and operating expense will be less than budgeted (Chart 2). If current trends continue, General Fund expenditures are projected to be approximately \$225,999 under budget at 9/30/08.

A summary of the information in Chart 1 and Chart 2 indicates that expenditures will exceed revenues by \$91,550 at the end of the fiscal year:

	at 2/29	at 3/31
General Fund Revenue Budget	11,528,664	11,528,664
Projected General Fund revenue shortfall	(118,588)	(168,876)
Projected shortfall in Utility Fund contribution to General Fund	(175,034)	(228,844)
Projected General Fund revenues at 9/30/08	11,235,042	11,130,944
% of budgeted revenue	97.5%	96.6%
General Fund Expenditure Budget	11,448,493	11,448,493
Projected General Fund expenditures under budget	(246,111)	(225,999)
Projected General Fund expenditures at 9/30/08	11,202,382	11,222,494
% of budgeted expenditures	97.9%	98.0%
Projected Revenues over (under) Expenditures @ 9/30/08	<u>32,660</u>	<u>(91,550)</u>

After analyzing our financial position on March 31, we are projecting a \$91,550 draw-down of General Fund reserve balances during this fiscal year. If the revenue shortfall worsens or expenditures accelerate (either or both), the draw-down of fund balance will increase. The audit of FYE 9/30/07 is still in progress, but financial records indicate a beginning fund balance on 10/1/07 of \$876,741. A reduction of \$91,550 during this fiscal year will result in an ending fund balance of \$785,191 –a figure that is significantly below the 9/30/03 fund balance of \$923,572.

As strongly recommended by the City's auditors, it has been our goal to increase the General Fund balance to 15-20% of the total operating budget for the purpose of responding to emergencies, covering payroll and other expenditures during the early part of the fiscal year before ad valorem revenues are received, and paying costs of grant-funded projects prior to reimbursement from grant sources. In terms of the adopted FY07'08 budget, this would require a minimum General Fund balance of \$1.7 million. An ending fund balance below \$800,000 at the end of FY07'08 will necessitate obtaining a line of credit to cover payroll and other expenses during the first fiscal quarter of FY08'09. The issuance cost to obtain a line of credit for this purpose in FY01'02 was \$27,457.

Staff Recommendation

On March 12, the Finance Committee considered whether or not to recommend reinstatement of a position at the Depot Museum that was funded through March 31. It was the consensus of the committee to defer a recommendation on this matter until after completion of the March financial statements with continued funding of the position in the meantime. Concerned by the projected revenue shortfalls, however, it was the Finance Committee's recommendation to delay capital equipment purchases and to impose a hiring freeze that may be waived at the discretion of the City Manager where public safety staffing levels are below required minimum staffing levels.

In view of the fact that major General Fund revenues are continuing to fall short of budgeted expectations, it is likely that fund balance will decline to an insufficient level if departments are permitted to spend at or

above the level currently budgeted. Accordingly, staff cannot recommend reinstatement of the position at the Depot Museum or the funding of various community grant requests. It is staff's recommendation, however, that both a hiring freeze and a discretionary spending freeze be implemented to ensure that expenditures do not exceed revenues. The hiring and spending freeze may be waived by the City Manager when, in his opinion, critical services are impaired.

[end memo]

Mr. Otte said he would schedule a Finance Committee meeting and a Commission workshop meeting to be held before the May 6 regular Commission meeting.

Ms. Delmar said the revenues are under budget, but the expenditures are also under budget, so it is not as bad as it could have been if staff had spent what was approved in the budget.

Commissioner Van Sickle asked what items were approved in the budget that the City did not purchase. Mr. Otte said he would make a list of those items for the Finance Committee meeting.

CONSENT AGENDA

Agenda Item 13. Boat Ramp Rehab Project (FRDAP)

Mr. Otte reported on Agenda Item 13. The full staff memo is incorporated into the minutes.

[begin memo]

RECOMMENDATION

Staff recommended that the City Commission take the following action:

1. Approve the expenditure of \$48,000.00 to rehab the boat ramp utilizing the pricing contract already in place with Roger McCoy Development, Inc.
2. Authorize the City Manager to execute the appropriate documents on the city's behalf.

BACKGROUND

On March 06, 2008, the City Commission approved the pricing contract with Roger McCoy Development, Inc. for the construction of the boat ramp & dock. Staff has secured the appropriate documents from the State to move forward with the rehabilitation of our boat ramp and to install a dock. In an effort to maximize this project, the city will purchase all materials at the direction of the contractor for the tax savings and the contractor will provide the labor.

OTHER OPTIONS

Seek other contractors for a new bid.

FISCAL IMPACT

\$48,000.00 (Non matching FRDAP Grant)

[end memo]

Agenda Item 14. Agreement with Winter Haven: Provision of Temporary Building Official

Mr. Otte reported that Agenda Item 14 had been pulled from the agenda.

Agenda Item 15. Acceptance of Award: Police Department TacSight Thermal Imager

Mr. Otte reported on Agenda Item 15. The full staff memo is incorporated into the minutes.

[begin memo]

RECOMMENDATION

Staff recommended that the City Commission:

1. Accept an award from the Department of Homeland Security of a Bullard TacSight Thermal Imager.
2. Establish the value of the Bullard TacSight as \$18,800.00.
3. Recognize revenues totaling \$18,800.00 and authorize expenditures on the accounting record.

BACKGROUND

On June 26, 2007, the Police Department applied for assistance through the Commercial Equipment Direct Assistance Program (CEDAP). This program is administered by the Department of Homeland Security (DHS) and designed to strengthen the Nations overall preparedness. The FY 2007 CEDAP complements the Department's other major grants programs to enhance regional response capabilities, mutual aid, and interoperable communications by providing technology and equipment, together with training and technical assistance required to operate that equipment, to public safety agencies in smaller jurisdictions and certain metropolitan areas.

On February 1, 2008, The Lake Wales Police Department was notified the agency had been selected to receive a TacSight SE35 Advanced Thermal Imager for Law Enforcement. This device provides an identifiable and reliable heat picture through the display of relative differences in surface temperatures. The equipment is especially useful with vehicle pursuits and fugitive searches, perimeter surveillance, search and rescue, locating hidden compartments in vehicles, marine and ground surveillance, environmental law enforcement, officer safety, and training.

On March 25 and 26, 2008, staff attended training in Chicago, Illinois along with 250 other state and local law enforcement officers and firefighters. The training consisted on classroom and practical exercises on the operation of the TacSight SE35, in addition to case law requirements associated with its use. DHS provided this training, as well as travel and lodging at no cost to the City. On March 28, 2008, the Police Department received the Bullard TacSight SE35 (serial # 10080) via Federal Express.

OTHER OPTIONS

The Commission may choose not to accept the award.

FISCAL IMPACT

None.

[end memo]

ADDENDUM

Agenda Item 16. Temporary Street Closing and Special Event Permit

Mr. Otte reported on Agenda Item 16. The full staff memo is incorporated into the minutes.

[begin memo]

RECOMMENDATION

Staff recommended that the Mayor and the City Commission approve the Hillcrest Elementary School PTO sponsored Walk-a-Thon scheduled for May 2, 2008.

BACKGROUND

The Police Department has received a request to assist with a Walk-a-Thon to benefit the Hillcrest Elementary School Parent Teacher Organization, with an endeavor to raise money to purchase a sound system for the school. The PTO is requesting to close portions of Marietta Street, Lakeshore Boulevard, Ninth Street, and Carlton Ave. The PTO has proposed to provide necessary volunteers to provide traffic control and redirection for the event.

The volume of students involved in the event requires that the streets be closed during the event to ensure the safety of the children. The event is tentatively scheduled to run from 8:30 a.m. until 12:00 p.m. A school resource officer will be provided to liaison with the PTO to coordinate any services required by the Police Department.

The route for the event will be, from Hillcrest Elementary School north on Marietta Avenue, west on Lakeshore Boulevard, South on Ninth Street, East on Carlton Avenue ending at Hillcrest Elementary School.

Staff recommends approval.

OTHER OPTIONS

Not to approve the requested street closings.

FISCAL IMPACTS

The cost of the School Resource Officer is budgeted as normal working hour

[end memo]

END CONSENT AGENDA

Commissioner Manry made a motion to approve the Consent Agenda including the Addendum. The motion was seconded by Commissioner Howell.

ROLL CALL:

Commissioner Manry	"YES"
Commissioner Howell	"YES"
Commissioner Scott	"YES"
Commissioner Van Sickle	"YES"
Mayor Wheeler	"YES"

The motion carried 5-0.

COMMUNICATIONS AND PETITION

CITY COMMISSION TRACKING REPORT

Mr. Otte reported on the City Commission Tracking Report.

Adult Daycare Facility: Mr. Otte reported that the County was moving ahead with the building. They are seeking a new architect for the design.

Police Dept. Generator: Mr. Otte reported that the generator is installed and fully operational. The City Attorney is heading up the effort to meet with Leedy's insurance company.

Stop Light at Mountain Lake Cut-off Road and Scenic Highway: Mr. Otte reported that staff is continuing its work on this.

Lots West of the Fleet Maintenance garage on Crystal Avenue: Mr. Otte reported that the church was not interested in selling the property. The other parcel owner's offer was rejected by the City.

Three-way Stop at Polk and 4th Street: Mr. Otte reported that signage had been ordered.

Copyright or Trade Mark for "Crown Jewel of the Ridge": Mr. Otte reported that staff is following up on this.

PUBLIC COMMENT

Frank Josha, a resident, suggested that approving Agenda Item 9, Tax Collector's Uniform Collection Agreement, might give the impression to residents that the Commission was in favor of the fire tax. Mr. Otte asked that newspaper representatives let the public know that the passing of the Collection Agreement was in no way an approval of the fire fee. The resident said that the \$47,000 that was spent for the fire fee study could have been used to keep the curator's position, or to hire another police officer when needed. He said the City needed to look at things in a different way in view of the shortfall before the City has to borrow money to make ends meet. Mr. Otte explained that in the past a bond had been taken out for that purpose, though we did not have to use it. The existing problem was being addressed now so we would not have to borrow money later. That is why there is a hiring freeze and freeze on non-essential expenditures.

Christopher Lutton, 437 S. 9th Street, gave his concerns for the poor voter turnout at the City's election and gave some suggestions for future elections. They included sending fliers to churches and newspapers; having the newspapers include in each issue a question with the answers from each candidate to keep the public informed and interested; young adult education through the school system with a mock election, especially for seniors who would soon be voting; having more forums with much more variety in the formats and finding groups to host them; placing a finance limit of \$4,000; and providing free transportation to the polling place.

Mr. Otte said that they were all great suggestions and added that they should have an election section of the yearly Citizen's Academy.

Commissioner Scott said that many people did not even register to vote and that education was the key.

COMMISSION COMMENT

Commissioner Howell asked when the Commission would be voting on the garbage collection. Mr. Otte said they were in the 60-day negotiation period and that in June the Commission would decide whether to renew the contract, bid it out to other collection agencies, or start a City garbage pickup service. Mr. Otte noted that many cities had just renewed their contracts.

Mr. Otte announced that the following evening at 5:00 p.m. in the James P. Austin Center, complete information about garbage collection and in-house garbage collection would be discussed. He invited all interested viewers to attend the forum.

Commissioner Howell asked for a skateboard update. Mr. Torrance said they had scheduled another meeting with skateboarders to finalize the plans and discuss the high maintenance fees.

Commissioner Howell asked if the newly paved streets would be inspected this time to make sure they were done right. Mr. Otte said they would spot check by measuring the thickness of the asphalt. Commissioner Howell said that they needed to do it after the street had time to settle and said that the street she lived on looked great when first done, but now she could see the old pavement in spots. Mr. Otte said he welcomed comments like that and assured her that the final payment would not be given to the company until they were totally satisfied with the work. Mr. Torrance said that they would not get any payment until after the final inspection.

Commissioner Scott announced the opening of the Rustic Grill on Stuart Avenue where the Stuart Avenue Café used to be located.

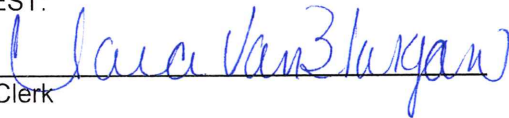
Mayor Wheeler commended Commissioner Scott for her four years of service on the City Commission. He said it was a privilege to serve with her and that she was kind to everyone.

There being no further business, the meeting was adjourned.



Mayor/Commissioner

ATTEST:



City Clerk