

The regular meeting of the Lake Wales City Commission was held on July 1, 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 Johnny Harris from the Church of God by Faith.

PLEDGE OF ALLEGIANCE

COMMISSIONERS PRESENT: Terrye Y. Howell; Jack Van Sickle; John Paul Rogers; 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 Manry made a motion to approve the minutes of the June 17, 2008 regular meeting. The motion was seconded by Commissioner Van Sickle

ROLL CALL:

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

The motion carried 5-0.

AGENDA ITEM 5. Certificates of Appreciation: Boards, Committees & Commissions

Mayor Wheeler presented certificates of appreciation to nine members of Boards whose terms expired, who resigned, who did not wish to be re-appointed or were not re-appointed.

AGENDA ITEM 6. Ordinance 2008-14, Annexation: Tedder Property, U.S. Highway 27 N – 2nd Reading & Public Hearing

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

[begin agenda memo]

RECOMMENDATION

Staff recommends approval following a 2nd reading and public hearing. The public hearing was opened on June 17, 2008 and continued to a date certain of July 1, 2008. Action on this ordinance was postponed at the request of the applicant.

Notice requirements for a public hearing have been met.

A recommendation from the Planning and Zoning Board is not required for an annexation ordinance.

BACKGROUND

Bryan Potts, P.E., Tannath Design, Inc., authorized agent of the owner Allen Tedder, has requested annexation of the property. Commercial development is proposed.

An ordinance assigning Zoning and Future Land Use Map designations for the property is being brought concurrently to City Commission.

"Attachment A" to the ordinance shows the property's location. It is contiguous to the City limits on the east across US 27.

Surrounding uses:

North: County A/RR Agricultural/Rural Residential - unimproved

South: County HIC High Impact Commercial - Flea Market Property

East: City RAC Regional Activity Center - Wendy's, Denny's, and Home Depot

West: County A/RR Agricultural/Rural Residential

OTHER OPTIONS

Decline to annex the property.

FISCAL IMPACT

The annexation will add to the City's tax roll.

(end agenda memo)

Ms. Delmar read Ordinance 2008-14 by title only.

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 2 ACRES OF TERRITORY, CONTIGUOUS TO THE INCORPORATED TERRITORY OF THE CITY OF LAKE WALES, SHOWN ON "ATTACHMENT A" AND SPECIFICALLY DESCRIBED HEREIN; GIVING THE CITY OF LAKE WALES JURISDICTION OVER THE LAND ANNEXED; PROVIDING FOR TAXATION OF THE TERRITORY ANNEXED; AND PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

Mr. Tom Sullivan came forward to answer any questions the Commission had on this annexation, but there were none. He reported that there would be diesel fuel available at the RaceTrac Gas Station to be constructed on this property.

There were no comments made by the public.

CLOSED PUBLIC HEARING

Commissioner Howell made a motion to approve Ordinance 2008-14 after second reading and public hearing. The motion was seconded by Commissioner Van Sickle.

ROLL CALL:

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

The motion carried 5-0.

**AGENDA ITEM 7. Ordinance D2008-01, CPA/Zoning: Tedder Property, West Side of U.S. 27 N
- 2nd Reading & Public Hearing**

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

[begin agenda memo]

RECOMMENDATION

Staff recommends approval following a 2nd reading and public hearing. The public hearing was opened on June 17, 2008 and continued to a date certain of July 1, 2008. Action on this ordinance was postponed at the request of the applicant.

Notice requirements for a public hearing have been met.

The Planning and Zoning Board held a public hearing on April 22, 2008 and voted unanimously to recommend a change in the land use designations on the subject property from Polk County Future Land Use designations HIC - High Impact Commercial to City of Lake Wales Future Land Use designation RAC- Regional Activity Center and Zoning Map designation C-3 Commercial.

Notice requirements for a public hearing have been met.

BACKGROUND

The ordinance proposes land use designation changes for approximately 2 acres of property located on the west side of US 27 across from Wendy's and Home Depot. Ordinance 2008-14, being processed concurrently, provides for annexation of the property.

See Attachment A to the ordinance for location and land use designations.

Since the property is under 10 acres in size, the amendment for a Future Land Use Map designation can be approved by the City as a "small scale" comprehensive plan amendment without review by the state's Department of Community Development.

Small-scale amendments are not counted as one of the two comprehensive plan amendments allowed per year.

Proposed development: A Racetrac gas station and convenience store are proposed for the site.

The property is currently designated as HIC-High Impact Commercial on the Polk County Future Land Use Map. The HIC classification allows a wide range of commercial uses, including convenience stores, restaurants, and large retail establishments. The site is located adjacent to the City's RAC – Regional Activity Center, the most intense commercial designation of the Future Land Use Map. The zoning designation on adjacent property within the City is C-3. These designations allow a full range of commercial uses and are appropriate designations for commercial uses such as the gas/convenience store proposed.

Surrounding land use and land use designations:

Surrounding uses:

North: County A/RR Agricultural/Rural Residential - unimproved

South: County HIC High Impact Commercial - Flea Market Property

East: City RAC Regional Activity Center/C-3 zoning - Wendy's, Denny's, Home Depot

West: County A/RR Agricultural/Rural Residential - agricultural

Site access:

Access to the site is from US 27 at the traffic signal at Starr Lake Boulevard.

Potable/Wasterwater Flow:

The gas station will use approximately 600 gpd based on historical data from similar size stores.

OTHER OPTIONS

A C-2 zoning designation would allow a convenience/gas station by special permit.

FISCAL IMPACT

The land use change would allow commercial development on the property, thereby increasing the tax base of the City.

[end agenda memo]

Ms. Delmar read Ordinance D2008-01 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, FLORIDA, AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN AND THE ZONING MAP TO CHANGE LAND USE DESIGNATIONS ON 2.08 ACRES OF LAND, LOCATED ON WEST SIDE OF US 27 NORTH OF THOMPSON NURSERY ROAD, FROM POLK COUNTY FUTURE LAND USE DESIGNATION HIC - HIGH IMPACT COMMERCIAL TO LAKE WALES FUTURE LAND USE DESIGNATION RAC - REGIONAL ACTIVITY CENTER AND ZONING DESIGNATION C-3 HIGHWAY COMMERCIAL; PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments made by the public.

CLOSED PUBLIC HEARING

Commissioner Howell made a motion to approve Ordinance D2008-01 after second reading and public hearing. The motion was seconded by Commissioner Howell.

ROLL CALL:

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

The motion carried 5-0.

AGENDA ITEM 8. Ordinance 2008-17, Agricultural District - Zoning, Land Use and Development Regulations - 2nd Reading & Public Hearing

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

[begin agenda memo]

RECOMMENDATION

Staff recommends approval on second reading following a public hearing, of Ordinance 2008-17, amending the Zoning, Land Use and Development Regulations (Chapter 23 of the Code) to create an agricultural zoning district. Two modifications to the ordinance are suggested to address concerns raised at the first reading public hearing.

At its regular meeting on April 27th, the Planning and Zoning Board voted unanimously to recommend approval of the proposed amendments.

A public hearing was held at the June 17th City Commission meeting, and the ordinance was approved on first reading. Notice requirements for a public hearing for the second reading have been met.

BACKGROUND

The addition of an agricultural district to the zoning code will allow the grazing and raising of livestock on land so designated.

The ordinance does not designate any property as agricultural; it is intended to give the option of applying for the designation to property owners. Only one owner has inquired about an agricultural designation to allow the keeping of horses. The property is off Masterpiece Gardens Road, more than a mile from developed residential subdivisions in the City.

At the public hearing for the first reading, there were concerns raised about potential problems if agricultural districts are designated adjacent to residential areas. As noted by staff, there are more than adequate safeguards. First, all applications are reviewed by staff prior to the planning board hearing, and the staff report would flag any issues relating to conflicts with surrounding land use.

In addition, there is ample opportunity for the public to raise objections if the zoning change is inappropriate. A change in a zoning designation on a piece of property requires three public hearings, one before the Planning and Zoning Board and two before the City Commission.

If the Commission feels that additional safeguards are necessary, staff recommends two modifications to the ordinance. These changes are highlighted in the attached ordinance:

Section 1 of Ordinance

(Code sec. 23-401 **District classifications**, subsec. c.)

Add to definition of district: The district is intended for use in outlying areas, not adjacent to existing residential developments.

Section 4 of Ordinance

(Code TABLE 23- 422A **DIMENSIONAL AND AREA STANDARDS – RESIDENTIAL DISTRICTS**)

Add footnote #9 referencing "Minimum Setbacks" in the A-Agricultural District to read as follows:

⁹ Pasture lands and other areas or buildings where livestock are raised or kept must be fenced or otherwise secured to maintain a minimum 50-foot buffer from existing residential developments.

The addition of the agricultural district will resolve a conflict between the zoning and general codes. Chapter 6 of the Code, which regulates animals, prohibits farm animals except in agricultural zoning districts. Since there is no agricultural zoning district, grazing and raising of livestock are not allowed in the City except as a continuation of the use when grazing land is annexed. The proposed ordinance includes a footnote to the table of uses to emphasize this point. However, a non-conforming use cannot be expanded onto adjacent property.

There are several properties in the City where grazing has been legally continued on annexed land. These include the Angus Self-Storage property (just north of Lee's Furniture), the Bice property behind

Shoppes on the Ridge, the Winter Haven Corporation property south of Thompson Nursery Road, and the property proposed for Leoma's Landing next to Dinner Lake Shores on Chalet Suzanne Rd.

Although the 2005 zoning revisions did not include an agricultural zoning district, the agricultural Future Land Use Map (FLUM) classification was retained as a "holding" category to be used where development is not immediately proposed.

The proposed agricultural district will also allow single-family residential development at 1 unit per acre. Other permitted uses will include religious establishments, and farms and nurseries without retail sales. Special permit uses proposed are: caretaker units, accessory dwellings, bed and breakfast establishments, kennels, landscaping services, plant nurseries with retail sales, airports, heliports and related aviation facilities, and public facilities and offices.

OTHER OPTIONS

1. Adopt the ordinance as presented at first reading without the changes proposed by staff in this report.
2. Decline to approve the ordinance. Grazing will continue to be limited to lands where it is a pre-existing, legally non-conforming use.

FISCAL IMPACT

No fiscal impact has been identified.

[end agenda memo]

Ms. Delmar read Ordinance 2008-17 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING THE ZONING, LAND USE AND DEVELOPMENT REGULATIONS, CHAPTER 23 OF THE CODE OF ORDINANCES; ADDING A ZONING DISTRICT ENTITLED A-AGRICULTURAL; PROVIDING A DEFINITION FOR THE DISTRICT; PROVIDING FOR PERMITTED AND SPECIAL PERMIT USES IN THE DISTRICT; PROVIDING DIMENSIONAL REGULATIONS FOR BUILDINGS IN THE DISTRICT; AND PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

Cliff Tonjes, 1001 Campbell Ave, said that Code Enforcement could not be everywhere. He gave several examples of problems that have arisen in the past involving animals. He said that even if an ordinance is intended for one purpose and understood by all involved, years later, with a new Commission and new staff, it may not be interpreted in the same way. He did not think that a barrier 50-feet away would solve the noise and smell issue, and that pollution of lakes should be prohibited.

CLOSED PUBLIC HEARING

Mayor Wheeler said it would be wise to further define the perimeters. City Attorney Chuck Galloway agreed and said it would be better to add restrictions and bring this item back to the Commission than to have problems later on. He clarified that they would not need to start over, just add restrictions for bodies of water, and to increase the barrier to 100-feet. Commissioner Van Sickle said we should not allow pollution in our lakes and that cattle should only be allowed in ponds that are designated for that sole use.

Mayor Wheeler suggested the item be tabled. The Commission agreed.

Commissioner Manry made a motion to table Ordinance 2008-17 until staff could further define the restrictions. The motion was seconded by Commissioner Howell.

ROLL CALL:

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

The motion carried 5-0.

AGENDA ITEM 9. Ordinance 2008-18, Prohibition of Indemnification Sought from the City in Contractual Matters – 2nd Reading & Public Hearing

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

(begin agenda memo)

STAFF RECOMMENDATION

That the City Commission adopt the proposed Ordinance which prohibits indemnification provisions in City contracts except in limited circumstances due to necessity.

BACKGROUND

The Florida Supreme Court has ruled that the limits of sovereign immunity are in some instances waived by contractual provisions, thus increasing the potential liability of governmental entities, which enter into contracts containing such provisions. This Ordinance codifies the existing policy against entering into such contracts except in situations dictated by necessity. Historically, agreement concerning the removal of indemnification provisions has been achieved during the negotiation of the contracts to which the City is a party. However, some vendors, such as those which provide copiers or software, refuse or are unable to delete such provisions from the boilerplate language of their contracts. The proposed Ordinance provides that in such instances, the City Commission may waive this provision in order that the public be supplied with the needed product or service.

OTHER OPTIONS

Decline to adopt the ordinance and continue with the unwritten policy to avoid indemnification provisions in City contracts.

FISCAL IMPACT

None.

[end agenda memo]

Ms. Delmar read Ordinance 2008-18 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, FLORIDA, CREATING SECTION 1-17, LAKE WALES CODE OF ORDINANCES, PROHIBITING THE USE OF PROVISIONS IN CONTRACTS WHEREBY THE CITY AGREES TO INDEMNIFY ANY OTHER PARTY TO THE CONTRACT; PROVIDING FOR WAIVER OF THE PROHIBITION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments made by the public.

CLOSED PUBLIC HEARING

Commissioner Manry made a motion to adopt Ordinance 2008-18 after second reading and public hearing. The motion was seconded by Commissioner Howell.

ROLL CALL:

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

The motion carried 5-0.

AGENDA ITEM 10. Ordinance 2008-19, Correcting Ordinance 2007-09, Vacation of Osceola Avenue Adjacent to Taylor Industries – 1st Reading

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

[begin agenda memo]

RECOMMENDATION

Staff recommends approval of Ordinance 2008-19 on first reading. No public hearing is required for the first reading of an ordinance.

Upon approval, the ordinance will be advertised for a 2nd reading and public hearing at the July 15, 2008 City Commission meeting.

BACKGROUND

City Commission approved vacation of a portion of the right-of-way for Osceola Avenue in April 2007. There was an error in the legal description for the right-of-way. The north and south references were transposed. Ordinance 2008-19 corrects this error. No other changes are proposed to the original ordinance.

Greg Taylor of Taylor Industries requested vacation of an unimproved portion of Osceola Avenue in order to expand his business and prevent unauthorized access to his properties to the north and south of the right-of-way. The segment is approximately 132 feet in length and 60 feet in width. It lies west of the paved portion of Osceola on the west side of the Scenic Highway and between two rail line properties owned by CSX Corporation.

[end agenda memo]

Ms. Delmar read Ordinance 2008-19 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, CLOSING, VACATING, RENOUNCING, AND DISCLAIMING ANY RIGHTS OF THE CITY AND THE PUBLIC, EXCEPT FOR PUBLIC UTILITY PURPOSES AS SET FORTH HEREIN, IN AND TO AN UNIMPROVED PORTION OF OSCEOLA AVENUE AS SHOWN ON "ATTACHMENT A" AND SPECIFICALLY DESCRIBED HEREIN; AND PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Manry made a motion to approve Ordinance 2008-19 after first reading. The motion was seconded by Commissioner Howell.

ROLL CALL:

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

The motion carried 5-0.

AGENDA ITEM 11. Ordinance 2008-20, Annexation of Public Highways, Roads & Streets Contiguous to the City of Lake Wales – 1st Reading

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

[begin agenda memo]

RECOMMENDATION

It is recommended the City Commission approve on first reading Ordinance 2008 - 20, providing for the annexation of the following public highways, roads and streets contiguous to the City of Lake Wales:

1. U.S. Highway 27 from the intersection of County Road 540 to the intersection of Meyers Road.
2. Scenic Highway from the intersection of Waverly Road to the intersection of Chalet Suzanne Road.
3. Scenic Highway from the intersection of Mountain Lake Cut-Off Road to the intersection of Hunt Brothers Road.
4. Chalet Suzanne Road from the intersection of U.S. Highway 27 to the intersection of Scenic Highway.
5. Thompson Nursery Road from the intersection of Olsen Road to the intersection of U.S. Highway 27.
6. State Road 60 from the intersection of Lewis Griffin Road to the intersection of West Lake Wales Road.
7. Hunt Brothers Road from the intersection of Scenic Highway to the intersection of U.S. Highway 27.
8. Burns Avenue from the intersection of Mammoth Grove Road to the intersection of Buck Moore Road.
9. Buck Moore Road from the intersection of Burns Avenue to State Road 60.

BACKGROUND

Annexations have created a number of enclaves on the public highways, roads and streets contiguous to the City of Lake Wales. The fragmented city limits create confusion for emergency service agencies responding to calls for service. Most often, law enforcement officers from the Lake Wales Police Department arrive at an incident or offense only to determine it occurred outside the city limits. Once on scene, our law enforcement officers must remain until the Polk County Sheriff's Office or Florida Highway Patrol arrive. Response times for the respective agencies can be lengthy due to call volume. All the while, the incident or offense could be completed promptly by the Lake Wales Police Department.

The annexation of public highways, roads and streets contiguous to the City of Lake Wales will allow the Lake Wales Police Department to improve productivity. Additionally, the Police Department can effectively respond to traffic complaints on Chalet Suzanne Road, Thompson Nursery Road and Buck Moore Road. Traditionally, traffic complaints received from Carlsberg Estates, Lake Ashton and Sunset Pointe were directed to the Polk County Sheriff's Office as the public highways, roads and streets were located outside the City of Lake Wales. If these public highways, roads and streets were inside the City of Lake Wales, the Police Department could respond immediately to community concerns.

OPTIONS

The City Commission may decline to annex the public roads, streets and highways.

FISCAL IMPACTS

The annexation of public roads, streets and highways will not increase the taxable value of the City of Lake Wales. As these are state and county highways, roads and streets, the city will not assume responsibility for maintenance or repair costs. As the Lake Wales Police Department currently responds to incidents and offenses on the public highways, roads and streets, no additional costs will be incurred.

[end agenda memo]

Mr. Otte said that he would like this item to be considered a discussion item rather than as an ordinance at this time. There may be problems with a few of the listed roads. He explained that the basic problem the police face is that they are not able to work the crashes because the intersections are County roads. City police respond to an accident, take preliminary insurance information and direct traffic but cannot investigate the crash. Police officers that could be assigned to other tasks are tied up waiting, sometimes up to an hour, for the Sheriff's Department to respond. It would be better to annex the intersections so the police can take control. However, some of the intersections proposed for annexation call for further review. For example, the intersection of Hunt Brother's Rd. and Scenic Hwy is proposed for annexation but none of the property contiguous to the intersection is in the City limits. He suggested pulling that intersection to bringing this ordinance back for consideration at the July 15th meeting.

Commissioner Manry asked Police Chief Herb Gillis if the Sheriff's Department had been asked to sign a inter-local agreement. Chief Gillis said he had, but the Sheriff's Department did not wish to make an agreement because the liability would be theirs. Commissioner Manry asked why the City would want to take on that liability. Police Chief Gillis said that liability is with the driver or with FDOT for road maintenance but not on the Police Department. He added that from Cyprus Garden's Blvd. south to Lake Wales, a driver would be driving in and out of Lake Wales' city limits three times and it makes it very confusing to the officers. When a crash occurs, the police would have to determine whose responsibility it is. Some intersections are in both the County and City and therefore it has to be determined if the crash is all the way or partially in one or the other. He added that annexing these intersections would improve productivity.

Commissioner Manry suggested that staff should find out if it works with other cities first. Mayor Wheeler said this wouldn't change the liability or maintenance for the roads.

Mayor Wheeler asked that this item be brought back at the July 15th City Commission meeting. Chief Gillis asked that 11th street be added to the list.

AGENDA ITEM 12. Ordinance 2008-21, Amending Chapter 13, Housing, Adding Article IV, Rental Housing - 1st Reading

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

[begin agenda memo]

RECOMMENDATION

It is recommended the City Commission approve on first reading Ordinance 2008 - 21, Amending Chapter 13, Housing, adding Article IV, Rental Housing.

BACKGROUND

Perhaps the greatest threat to the health, safety and welfare of our community is rental housing operated by unscrupulous property owners. Intended to generate maximum profit with no maintenance or repair, rental housing often fails to meet the established minimum housing standards. As a result, tenants are exposed to unsanitary and potentially deadly conditions.

The traditional code enforcement model is reactive in nature. To protect the health, safety and welfare of our community, code enforcement must adopt a proactive approach. Article IV, Rental Housing, is a proactive measure that will protect the community from unscrupulous rental property owners by establishing an annual inspection and permitting system.

OPTIONS

The City Commission may decline to approve Ordinance 2008 - 21, Amending Chapter 13, Housing, adding Article IV, Rental Housing.

FISCAL IMPACTS

An accurate accounting for the quantity of rental housing located in Lake Wales is not known. If approved, the Code Enforcement Section will establish a rental housing database. All costs incurred will be reimbursed by fees collected for the inspection of apartments, duplexes, single family homes, rooms and units.

[end agenda memo]

Mr. Otte said that he would like this agenda item to be a discussion item as well, rather than be considered as an ordinance at this time. This item, if approved, presents significant changes from what is now being done. He said there was a need for rental inspections and gave the problems the City was having with 143 D Street as an example. However, we must ensure that the revenues generated by this program would cover the expense of the program. He would like staff to identify and determine the cost of the program and the revenues needed to cover the cost before going forward.

Commissioner Manry asked if we could have an ordinance saying that if a housing unit had no utility service, no one would be allowed to live in it. Mr. Otte said that an ordinance already existed about unsanitary conditions.

This item will be brought back to the Commission at a later date.

AGENDA ITEM 13. Ordinance 2008-22, Amendment to Personal Administration Policies – 1st Reading

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

[begin agenda memo]

It is recommended that the City Commission approve Ordinance 2008-22 upon first reading.

BACKGROUND

FMLA LEAVE

The Family and Medical Leave Act (FMLA), is an act that states covered employers must grant an eligible employee up to a total of 12 workweeks of unpaid leave during any 12-month period for one or more of the following reasons:

- For the birth and care of a newborn child of the employee;
- For placement with the employee of a son or daughter for adoption or foster care;
- To care for an immediate family member (spouse, child, or parent) with a serious health condition; or
- To take medical leave when the employee is unable to work because of a serious health condition.

In July 2007, the FMLA was amended and required all Florida employers with more than fifty (50) employees to grant eligible employees up to three (3) days of unpaid leave to deal with issues of domestic violence.

Recent amendments to the FMLA (Family Medical Leave Act) were enacted that provide eligible employees working for covered employers two new leave entitlements related to military service:

- (1) **New Qualifying Reason for Leave.** Up to 12 weeks of leave for qualifying exigencies arising out of a covered family member's active military duty, i.e. spouse, son, daughter, or parent, and
- (2) **New Leave Entitlement.** An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the servicemember. This provision became effective immediately upon enactment. This military caregiver leave is available during "a single 12-month period" during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave.

NEW GUN LAW

Governor Charlie Crist has signed a new bill that takes effective July 1, 2008, which makes it, illegal for public and private employers to have policies prohibiting firearms on their private property. Specifically, the law permits employees who have concealed weapon permits to keep firearms locked in their vehicles on company property. Additionally, the law permits customers or other "invitees" of a business to have firearms locked in their vehicles in the business' parking lot, regardless of whether they have a concealed weapons permit.

Under the law, employers may not:

- Prohibit employees, customer, or invitees from keeping a firearm locked in their vehicle on company property;
- Ask an employee, customer, or invitee about the presence of a firearm in the person's vehicle on company property;
- Search a vehicle on company property to ascertain the presence of a firearm in the vehicle (the law provides that a search of a vehicle to ascertain the presence of a firearm may only be conducted by on-duty law enforcement personnel; based upon due process and must comply with constitutional protections);
- Take any action against an employee, customer or invitee based on statements concerning the presence of a firearm in a vehicle on company property;

- Condition employment on an agreement that prohibits the employee from keeping a firearm locked in a vehicle on company property;

This law makes it necessary that any language in the Personnel Administration Policies prohibiting employees from engaging in any of the activities listed above is now illegal.

FISCAL IMPACT

There is no cost to make the proposed changes.

[end agenda memo]

Ms. Delmar read Ordinance 2008-22 by title only.

AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, LAKE WALES CODE OF ORDINANCES; PROVIDING FOR MILITARY RELATED LEAVE; PROVIDING FOR NEW QUALIFYING REASON FOR LEAVE; PROVIDING FOR NEW LEAVE ENTITLEMENT; PROVIDING FOR EXHAUSTION OF PAID LEAVE; PROVIDING FOR CERTIFICATION FOR ACTIVE DUTY; PROVIDING FOR DISCIPLINARY TYPES OF OFFENSES; PROVIDING FOR SEVERALBILITY; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Otte said that this was a housekeeping item to include the provisions of new laws into our personnel policy. Commissioner Manry asked if it was affirming the new gun law and Mr. Otte said it was just adding it to our policy. Commissioner Manry asked if our old policy restricted guns. Sandra Davis, Human Resource Director, said that the current policy restricted guns from city property. The addition would read, "unless it is permitted by law".

Commissioner Manary made a motion to approve Ordinance 2008-22 after first reading. The motion was seconded by Commissioner Van Sickle.

ROLL CALL:

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

The motion carried 5-0.

AGENDA ITEM 14. Ordinance 2008-23, Annexation: Hernandez Property, East Side of U.S. 27 N – 1st Reading

Mr. Otte reported on Agenda Item 14. The full staff memo is incorporated into the minutes.

[begin memo]

RECOMMENDATION

Staff recommends approval on first reading of Ordinance 2008-23 providing for the annexation of 12.2 acres on the east side of U. S. Highway 27 North.

A recommendation from the Planning and Zoning Board is not required for an annexation ordinance.

BACKGROUND

Luis Hernandez has requested annexation of 12.2 acres of property on the east side of U. S. Highway 27 North for the purpose of obtaining City utilities. "Attachment A" to the ordinance shows the property's location, just south of Towerview Boulevard. It is contiguous to the City limits on the south and east across US 27.

The property is in two parcels with a total of 400 feet of frontage along the highway and 1337 feet of depth. The majority of the property is in the FEMA Flood Plain, Zone AE (regulatory flood plain) and the central portion of the site is a National Wetlands Inventory Wetland, according to the Polk County Geographic Information System (GIS).

Surrounding properties:

North: Towerview Boulevard and entrance to mobile home park. (in Polk County)

South: Vacant property (in City of Lake Wales)

East: Mobile home park (in Polk County)

West: U. S. Highway 27 and Winter Have Corp. pasture land (in City of Lake Wales)

An ordinance assigning land use designations to the property will be brought forth for first reading and transmittal to the state's Department of Community Affairs with the second reading of the annexation ordinance. A Future Land Use Map classification of RAC – Regional Activity Center and Zoning Map designation of C-3 Highway Commercial have been requested by the owner. However, the Planning Board voted to recommend LCI – Limited Commercial-Industrial and Wetlands Overlay as recommended by staff. The LCI designation is consistent with land use classifications in the area.

OTHER OPTIONS

Decline to annex the property.

FISCAL IMPACT

The annexation will add to the City's tax roll.

[end memo]

Ms. Delmar read Ordinance 2008-23 by title only.

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 12 ACRES OF TERRITORY, CONTIGUOUS TO THE INCORPORATED TERRITORY OF THE CITY OF LAKE WALES, SHOWN ON "ATTACHMENT A" AND SPECIFICALLY DESCRIBED HEREIN; GIVING THE CITY OF LAKE WALES JURISDICTION OVER THE LAND ANNEXED; PROVIDING FOR TAXATION OF THE TERRITORY ANNEXED; AND PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Howell made a motion to approve Ordinance 2008-23 after first reading. The motion was seconded by Commissioner Manry.

ROLL CALL:

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

The motion carried 5-0.

AGENDA ITEM 15. Ordinance 2008-24, Annexation: Coldwell Properties, LLC – East of U.S. 27 N – 1st Reading

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

[begin agenda memo]

RECOMMENDATION

Staff recommends approval on first reading of Ordinance 2008-24 providing for the annexation of approximately 42 acres east of U. S. Highway 27 North.

A recommendation from the Planning and Zoning Board is not required for an annexation ordinance.

BACKGROUND

Joseph P. Griffith, Jr. of Coldwell Properties, LLC has requested annexation of approximately 42 acres of property for multi-family development. Steve Shealey, P.E. represents the applicant.

The property's location is shown on "Attachment A" to the ordinance. It is about a quarter mile east of U. S. Highway 27 North. Towerview Boulevard is to the south and Hickory Hammock Rd. is to the north. It is contiguous to the City along its west boundary.

Surrounding properties:

North: vacant/agricultural and Hickory Hammock Rd. (in Polk County)

South: mobile home park (in Polk County)

East: vacant, former RR right-of-way, and Scenic Highway (in Polk County)

West: parcels along US 27 (Lee's Furniture, proposed Angus Self-storage) (in City of Lake Wales)

A land use designation of MDR – Medium Density Residential has been requested. However, after consultation with staff, the applicant has requested annexation only at this time. A land use recommendation will be made after problems with roadway access are resolved. The property has no public road access. A land use designation must be made within a year of annexation per the zoning regulations.

OTHER OPTIONS

Decline to annex the property.

FISCAL IMPACT

The annexation will add to the City's tax roll.

[end agenda memo]

Commissioner Van Sickle asked about access roads to the property and several possibilities were discussed. Planning Director Margaret Swanson said the property owner has a year to apply for land use and density, and that city staff would not recommend high density unless the access road could support it.

Commissioner Manry made a motion to approve Ordinance 2008-24 after first reading. The motion was seconded by Commissioner Howell.

ROLL CALL:

Commissioner Manry	"YES"
Commissioner Howell	"YES"
Commissioner Rogers	"YES"

Commissioner Van Sickle "YES"
Mayor Wheeler "YES"

The motion carried 5-0.

AGENDA ITEM 16. Resolution 2008-10, Lake Wales Municipal Airport Extension of Runway 06-24 (design only), Master Agreement Task Order #9

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

[begin agenda memo]

RECOMMENDATION

Staff recommends that the City Commission approve Resolution 2008-10, Master Agreement Task Order #9 with Hoyle, Tanner & Associates, Inc.

BACKGROUND

In August 2002, the City of Lake Wales and Hoyle, Tanner & Associates, Inc. entered into a Master Consulting Agreement for the purpose of defining the general terms and conditions applicable to the initial and continuing contractual relationship between the parties for professional services.

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 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 environmental assessment portion of this project that had to be conducted before any work commences on the actual runway extension is nearing completion. The design phase is the next step in this project.

FISCAL IMPACT

The cost of the professional services pertaining to the engineering design of the extension is \$397,000.00. Funding for the design phase is included in the current fiscal year 07/08 airport runway extension project budget of \$3 million dollars.

OTHER OPTIONS

The City has already accepted the OTTED appropriation grant for the runway extension project and the environmental assessment is a required component of this project.

[end agenda memo]

Mayor Wheeler asked if there was an anticipated start and completion date for this project. Mr. Otte said there wasn't at this point due to the uncertainty of purchasing property, but that city staff was making good progress.

Ms. Delmar read Resolution 2008-10 by title only.

A RESOLUTION OF THE CITY OF LAKE WALES, POLK COUNTY FLORIDA, AUTHORIZING THE EXECUTION OF MASTER AGREEMENT TASK ORDER #9 FOR PROFESSIONAL SERVICES

PERTAINING TO THE ENGINEERING DESIGN EXTENSION OF RUNWAY 06-24 FOR THE LAKE WALES MUNICIPAL AIRPORT.

Commissioner Manry made a motion to approve Resolution 2008-10, Master Agreement Task Order #9 with Hoyle, Tanner & Associates, Inc. for the design of the Lake Wales Municipal Airport Extension of Runway 06-24. The motion was seconded by Commissioner Howell.

ROLL CALL:

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

The motion carried 5-0.

AGENDA ITEM 17. Tax Anticipation Account (Contingent upon approval by the CRA Board)

Mr. Otte reported on Agenda Item 17. The full staff memo is incorporated into the minutes.

[begin agenda memo]

STAFF RECOMMENDATION

Staff recommends that the City Commission approve transferring the CRA Fund's Investment Account (\$1,031,934.74 plus interest earnings through date of transfer) from the CRA Fund to the General Fund designating that \$1,000,000 be set aside in a Tax Anticipation Investment Account that will be made whole by September 30 of each fiscal year by the General Fund and designating that the interest earnings on the account be budgeted and appropriated for capital outlay.

BACKGROUND

During fiscal year ended September 30, 2007, land owned by the City and held within the Community Redevelopment Fund was sold to a developer. The sales proceeds were \$3,500,000 and realized gains were \$1,963,070. The gains are not restricted revenues of the CRA Fund and may be used for any city purpose.

One million dollars (\$1,000,000) was deposited into an investment account in anticipation of building a municipal swimming pool. Due to the severity of property tax reform, the possibility of constructing and operating a municipal swimming pool in the near future is not feasible.

At September 30, 2007, the unreserved fund balance of the General Fund was \$575,237 while the total fund balance was \$876,741. The remaining fund balance portion, \$301,304, is reserved for prepaid expenses and inventory making it unavailable to fund expenditures. The projected ending General Fund balance for September 30, 2008 will be comparable to the 2007 ending balance notwithstanding any natural disasters or emergencies.

Based on the City's projected financial position for fiscal year ending September 30, 2008, Staff will need to arrange for a Tax Anticipation Note for fiscal year 2008-09 in order to provide funding for operating expenses from October 1, 2008 through December 31, 2008. Required draws and accrued interest expense on the Note will be repaid when ad valorem revenues are received. The note's issuance costs will range between \$25,000 and \$35,000.

Establishing a \$1,000,000 tax anticipation investment account in the General Fund will provide the funding necessary to cover the City's cash needs during the first quarter of each fiscal year and save the City over

\$25,000 in issuance costs in addition to interest expense. This will increase the City's unreserved fund balance by \$1,000,000. The \$1,000,000 will be a designated unreserved fund balance requiring the maintenance of the principal balance. The interest earnings will provide funding for capital outlay such as vehicles and equipment.

Also, the City is facing shortfalls in interest revenue due to interest rate cuts by the Federal Reserve. In October 2007 our interest earning rates were 4.76%; at May 31, 2008 our interest earning rates are 2.01%. This is creating a \$30,000 shortage in the Debt Service Fund. Staff will include a request to transfer \$30,000 from the General Fund to the Debt Service Fund in the next budget amendment to cover the interest revenue shortfall in addition to transferring the balance in the CRA investment account from the CRA Fund to the General Fund.

OPTIONS

Do not transfer the investment to the General Fund. Prepare to issue a tax anticipation note to cover first quarter cash shortages in fiscal year 2008-09.

FISCAL IMPACT

Establishing the tax anticipation investment account will provide over \$25,000 in annual savings (issuance costs and interest expense). This will require a budget amendment.

[end agenda memo]

Commissioner Van Sickle said the pool could be built with the million dollars allotted for that purpose, but there was no budget for the \$104,000 a year it will take for chemicals and staff etc. to operate it. This money would have to be generated.

Mr. Otte explained that this ordinance will allow the City to borrow the money from the pool account for three or four months of the year to cover payroll until tax revenues are received. He explained that the new budget starts October 1st, but the revenues don't come in until as late as January. Once the tax revenue is received, the pool money would be put back into the pool account. This would save the City from having to borrow the money and pay about \$25,000 in fees.

Commissioner Howell said that we were the only City in Polk County without a pool. We have gotten so close to getting a pool, and yet still don't have one. She said she was concerned that once the money was "borrowed", it would never be put back.

Commissioner Van Sickle commented on the 15% that the auditors said we needed on reserve. If we had that reserve we would not have to borrow the money to get through the first three months. But, as we don't have that reserve it makes sense to borrow the pool money instead of borrowing from a bank, having to go further in debt to pay that off.

Sylvia Edwards, Financial Director, agreed and said that last year we did not have to borrow because we had the money in reserve. If we do not use the pool money for reserve money and have to borrow it, we would have to pay to apply for a loan, pay legal costs, and the cost of setting it up. It would cost the equivalent of two employees' salaries. She assured the Commission that once the taxes came in, the money would be replaced. It will be used as a line of credit for expenditures and not as revenue. Mr. Otte said there needs to be a safeguard in place that identifies it as pool money. Ms. Edwards said that once the economy turns around and we can afford the upkeep on a pool, the money would be transferred to the capital project fund. Commissioner Rogers asked if we were getting interest on that money and he was told we were.

Commissioner Manry made a motion to approve the transferring of the CRA Fund's Investment Account (\$1,031,934.74 plus interest earnings through date of transfer) from the CRA Fund to the General Fund designating that \$1,000,000 be set aside in a Tax Anticipation Investment Account that will be made whole

by September 30 of each fiscal year by the General Fund and designating that the interest earnings on the account be budgeted and appropriated for capital outlay. The motion was seconded by Commissioner Van Sickle

ROLL CALL:

Commissioner Manry	"YES"
Commissioner Van Sickle	"YES"
Commissioner Rogers	"YES"
Commissioner Howell	"NO"
Mayor Wheeler	"YES"

The motion carried 4-1.

AGENDA ITEM 18. Appointment: Housing Authority Board & Lakes Advisory Commission

Mr. Otte reported on Agenda Item 18. The full staff memo is incorporated into the minutes.

[begin agenda memo]

RECOMMENDATION

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

BACKGROUND

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

Housing Authority – Members are appointed by the Mayor and confirmed by the City Commission. The Housing Authority consists of five (5) members. Members must reside in the City, own property in the City, or hold a valid occupational license issued by the City. One (1) member must be a resident of the housing project who is current in rent payment or a person of low income who is receiving a rent subsidy through a program administered by the Authority. No member may be an officer or employee of the City. (4-year term)

This member appointed does not need to be a resident of the housing project who is current in rent payment or a person of low income who is receiving a rent subsidy through a program administered by the Authority.

One (1) vacancy: term expires 07/01/12

Applying for appointment: Helen Walters, resident
Durinda D. Wells, resident
Veronica Richards Minton, resident
Eddie Jean Rivers, resident

A vacancy is due to the expiring term of Helen Walters.

Lakes Advisory Commission - Members are appointed by the Mayor and confirmed by the City Commission. The Lakes Advisory Commission consists of seven (7) members. At least six (6) members must reside in the City, and no more than one (1) member may reside outside the City. (3-year term)

One (1) vacancy: term expires 07/01/10

Applying for appointment: Reid Hardman, resident

Vacancy is due to the expiring term of Reid Hardman.

FISCAL IMPACT

None. These are volunteer citizen boards.

OTHER OPTIONS

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

(end agenda memo)

Regarding the appointment to the Housing Authority Board, Mayor Wheeler said that this was a difficult decision for him to make because all the candidates were qualified, but he felt that Eddy Jean Rivers was the most qualified. Commissioner Rogers said that the cut-off date had not been honored and he felt that only those candidates who submitted their applications before the deadline should be considered. Mayor Wheeler explained that this was a very important appointment and he felt that his choice was the best one and he was sticking to it.

Mayor Wheeler appointed Eddy Jean Rivers to serve as a member to the Housing Authority Board for a term to expire on 7/1/12. Commissioner Manry made a motion to confirm the appointment made by the Mayor. The motion was seconded by Commissioner Howell.

ROLL CALL:

Commissioner Manry	"YES"
Commissioner Howell	"YES"
Commissioner Rogers	"NO"
Commissioner Van Sickle	"YES"
Mayor Wheeler	"YES"

The motion carried 4-1.

Mayor Wheeler appointed Reid Hardman to serve as a member to the Lakes Advisory Commission for a term to expire on 7/1/10. Commissioner Manry made a motion to confirm the appointment made by the Mayor. The motion was seconded by Commissioner Howell.

ROLL CALL:

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

The motion carried 5-0.

AGENDA ITEM 19. Appointment of a Representative to the Ridge League of Cities' meetings

Mr. Otte reported on Agenda Item 19. The full staff memo is incorporated into the minutes.

[begin agenda memo]

STAFF RECOMMENDATION

Staff recommends that the City Commission appoint a Representative to attend meetings of the Ridge League of Cities.

BACKGROUND

The Ridge League of Cities consists of 26 cities located in Polk and surrounding counties whose representatives meet four to five times per year. The purpose of the league is to assist its members in promoting efficiency in local government, to educate members, and to discuss items of common interest. The league is affiliated with the Florida League of Cities.

The meetings consist of a dinner, a business meeting, and a speaker. The presentations are often beneficial, with past programs featuring Sen. JD Alexander on the upcoming legislative session, Lori Edwards, on changes in election law, and Joe Tedder on the operation of the Tax Collector's office. Typically, the member cities have at least one and often several members of their city commission attend each meeting along with their city manager.

OPTION

Options include:

- The appointment of a member of the City Commission to serve as the representative of the City for the duration of their term as City Commissioner; or until they no longer wish to serve
- Do not participate

FISCAL IMPACT

City of Lake Wales attendees pay for their own meals and travel.

ATTACHMENTS

None.

[end agenda memo]

Commissioner Manry volunteered to serve on the Ridge League of Cities Board.

CONSENT AGENDA

AGENDA ITEM 20. Award of contract for construction of Rails to Trails extension to Buck Moore Road

Mr. Otte reported on Agenda Item 20. The full staff memo is incorporated into the minutes.

[begin agenda memo]

RECOMMENDATION

Staff recommends that the City Commission take the following action:

1. Approve the use of the city's current APAC Southeast Inc. road construction pricing contract in the amount of \$253,115.00 to extend the Rails to Trails project from Kiwanis Park east to Buck Moore Road. The use of our current contract with APAC Southeast has been approved by the State of Florida Department of Environmental Protection, Office of Greenways and Trails Recreational Trails Program Director. This contract in the amount of \$253,115.00 will build the trail to FDOT specifications to include site work and path construction. The contract will specify

that the use of a vibratory compaction roller is prohibited. Staff will use the remaining project funds (\$79,885.00) to construct the fencing along the northern boundary as well as the sod along both north and south shoulders of the trail.

2. Authorize the City Manager to execute the appropriate documents on the city's behalf.

BACKGROUND

On March 4, 2008 the City Commission entered into an agreement with the FDEP Office of Greenways and Trails to complete the construction of the Rails to Trails project from Kiwanis Park eastward to Buck Moore Road. The funding for this project is derived from a 60/40 grant with the State of Florida and the City of Lake Wales.

OTHER OPTIONS

Other options include putting the project out to bid, which will delay project construction.

FISCAL IMPACT

THE FUNDING AVAILABLE FOR THIS PROJECT IS AS FOLLOWS

State of Florida (rails to trails)	60% - 200,000.00
City Match (impact fees)	40% - <u>133,000.00</u>
	333,000.00

The contract with APAC is for the construction of the trail, which will leave \$79,885 in project funds for fencing and siding.

[end agenda memo]

AGENDA ITEM 21. Engineering Services for the Market Street Plant Water System Improvements – Phase 2

Mr. Otte reported on Agenda Item 21. The full staff memo is incorporated into the minutes.

[begin agenda memo]

STAFF RECOMMENDATION

It is recommended that the City Commission:

1. Accept the proposal of \$101,520.00 and award the contract to GAI Consultants for engineering services in regard to the Market Street Plant Water System Improvements – Phase 2
2. Authorize the City Manager to execute the appropriate documents, on the City's behalf, in regards to these much needed water system improvements

BACKGROUND

The City of Lake Wales Utilities Department is proposing to upgrade the Market Street Water Plant's distribution system from the downtown site to the southerly and westerly regions of the City's water service areas. This is to be done in phases, with phase 1 having already received approval from the City Commission on 2/18/2008. Phase 1 includes provisions for fire flow to the Grand Hotel, Bank of America and the Downtown business district.

Phase 2 will entail installing 3,220 LF of 8-inch watermain along portions of Third Street N, Central Avenue E, and First Street N to end at Tillman Avenue. Phase 2 will also consist of installing 2,600 LF of 12-inch watermain strategically placed along portions of First Street, North and South to close the gaps that currently exist in the distribution system.

The construction of both phases will expand watermains from the downtown area of the City. This project is intended to improve public health and safety, stimulate the business climate in downtown; and spur economic development to the city. The project is estimated to have a total cost of \$1.08 million for Phase 1 and \$990,000 for Phase 2. In order to be qualified for CDBG funds, 40% of Phase 1 construction will be used as the matching fund for the Phase 2 grant. By having the design engineering in place upon the time the grant application is filed, the chance of receiving funding for the City's application is enhanced.

GAI Consultants are currently under contract with the City for general engineering service.

OPTIONS

None. These larger mains are needed to fulfill the current fire flow requirements of the multi-storied buildings downtown and increase system capacity to eventually improve flow in the southern and western areas of the City thus allowing for future development.

FISCAL IMPACT

\$1,203,639 was set aside for the 06-07 CRA Debt Service. Because of the CRA Bond Issue being delayed until the 07-08-budget year, monies were thereby freed up to be used for the various phases of construction of the downtown water main extension project. \$856,507.00 has been previously allocated for the engineering and construction of the phase one, leaving \$347,132 available for the engineering of phase 2.

[end agenda memo]

AGENDA ITEM 22. Downtown Water Main Extension – Phase 1

Mr. Otte reported on Agenda Item 22. The full staff memo is incorporated into the minutes.

[begin agenda memo]

STAFF RECOMMENDATION

It is recommended that the City Commission:

1. Accept the proposal of \$758,292.27 from Killebrew, Inc for the construction of the Downtown Water Main Phase I construction.
2. Authorize the City Manager to execute the appropriate documents, on the City's behalf, in regards to these much needed water system improvements

BACKGROUND

The City of Lake Wales Utilities Department is proposing to upgrade the Market Street Water Plant's distribution system from the downtown site to the southerly and westerly regions of the City's water service areas. This is to be done in phases. Phase I will entail upsizing the water main to a 24" line from the Market Street Water Plant running west to Wetmore Street than south to Stuart Avenue.

From there a 16' main will run easterly to First St. This initial phase is being done to enhance less than desirable fire flows in the downtown areas with additional upgrades to be scheduled in future phases.

Staff has decided that it would be more cost effective to utilize the construction services of Killebrew, Inc. by "piggybacking" on their contract with Polk County. This contractor has recently been awarded, through competitive bidding, the contract for construction services relating to the Southside Force Main Project, which is nearly complete. This contractor has also been awarded the contract for The Reuse Phase III Project, which is currently under construction. It was felt that monies could be saved by the absence of the delay that would be caused by having to go back through the bid process and cost associated with having the contractor to remobilize, being that the contractor is already in Lake Wales.

OPTIONS

Go out for competitive bidding, delay the project by months, and possibly add more cost to the project.

FISCAL IMPACT

\$1,203,639 was set aside for the 06-07 CRA Debt Service. Because of the CRA Bond Issue being delayed until the 07-08-budget year, monies were thereby freed up to be used for the construction of this project. \$98,215 has been previously allocated for the engineering of the phase one, leaving \$1,105,424 available for the construction installation.

(end agenda memo)

AGENDA ITEM 23. Lift Station 1, 5, & 7 pump Replacement

Mr. Otte reported on Agenda Item 23. The full staff memo is incorporated into the minutes.

RECOMMENDATION

Staff recommends that the City Commission take the following action:

1. Approve the purchase of the pumps and controls from Florida Bearings for \$63,065.00.
2. Authorize the City Manager to execute the appropriate documents on the City's behalf, in regards to these pump replacements.

BACKGROUND

The City of Lake Wales has 45 lift stations. Because of the corrosive environment in the wet wells, the protective coatings of the stations' components have an average life span of five to eight years depending on the sewage flow and the amount of gas present. With this in mind, the Utilities Department is continuing its program to rehabilitate all older lift stations that are structurally threatened and are in need of rehabilitation.

Sewer lift stations one, five and seven are in various stages of disrepair and deterioration. The coatings on piping, pump rails and other metallic components of the stations have been degraded to a point where corrosion is allowing leakage of wastewater back into the wet well. The integrity of the pump supports and access structures is jeopardized to the degree that if corrections are not made in the very near future, issues of personnel safety and equipment security will become a major concern. The liners of the wet wells have failed to where ground water is seeping in creating longer pump run times and allowing for the unnecessary processing of these waters at the wastewater treatment plant thus increasing plant load at a time when sewer capacity is at a premium.

OTHER OPTIONS

None. The purchase of these pumps is necessary to ensure lift stations one, five, and seven continue to function at the appropriate levels

FISCAL IMPACT

\$63,065.00 for the purchase and installation of these new pumps are included in FY 07-08 budget and funded by the CRA bond.

ATTACHMENT

The Florida Bearing quote is available for review at the City Clerk's office.

END CONSENT AGENDA

Agenda Item 20 was pulled for separate discussion by Commissioner Rogers.

Commissioner Manry made a motion to approve Consent Agenda Items 21 through 23. The motion was seconded by Commissioner Van Sickle.

ROLL CALL:

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

The motion carried 5-0.

Commissioner Rogers said that people are concerned that nothing is being done for them. He suggested taking the impact fees being used for the trail to build a park in the northern section of town. City Attorney Chuck Galloway said the money was already committed and cannot be redirected. Mr. Otte asked if the trail referendum affected the use of this money, and Mr. Galloway said that we are required to finish the trail. The impact fees were pledged as the match for the grant and we are bound to use it as such.

Commissioner Manry asked if there was any stipulation that impact fees have to be used in the area in which is was collected. Mr. Otte responded that fire impact fees are the only ones that have to be used in that way.

Commissioner Van Sickle asked if the trail would be complete once the section to Buck Moore Rd. was completed. Mr. Galloway said that the section from 5th Street to Scenic Highway was not constructed yet. Commissioner Van Sickle said there were environmental issues with that piece of land and asked how that came about. Mr. Galloway explained that, years ago when the Commission voted on the purchase of the rail-bed, they understood it to include the whole section, but the deed did not include the last section. At that time, the Commission was not concerned with environmental issues as we are today. The error occurred with the transfer of the property.

Mayor Wheeler said that if this was not approved, we would have to go back to bid, which would cost us more money. Mr. Galloway said that this item is for approval of a contract.

Commissioner Manry made a motion to approve Consent Agenda Item 20, award of contract for construction of Rails to Trail extension to Buck Moore Road to APAC Southeast Inc. The motion was seconded by Commissioner Howell.

ROLL CALL:

Commissioner Manry	"YES"
Commissioner Howell	"YES"

Commissioner Rogers	"YES"
Commissioner Van Sickle	"NO"
Mayor Wheeler	"YES"

The motion carried 4-1.

COMMUNICATIONS & PETITIONS

TRACKING REPORT

Adult Day Care Center: Mr. Otte said there was no change in the status of the Adult Day Care Center.

Police Department generator: Mr. Galloway said that he would be sending a letter to Leedy asking them for the results of their findings after checking out the generator.

143 D Street: Mr. Otte reported that the building has been boarded up and he congratulated Police Chief Gillis for his work on this project. Following the last City Commission meeting Chief Gillis contacted the Attorney who handles forfeiture cases for the City, who suggested researching the City's adopted Housing standards code for direction in this matter. There is a provision in that code that the City Building Official then used to bring a resolution to this matter. Mayor Wheeler asked what would prevent people from tearing down the boards and moving in. Chief Gillis said the area would be patrolled.

Boat Ramp: Mr. Otte reported that the boat ramp was open to the public and the dock was almost complete. He added that he had recently used the new ramp and that everything was in good order.

Skate Park: Mr. Otte reported that the skate park was open and in use. He suggested having a ribbon cutting ceremony on July 5th at 9:30 and the Mayor concurred.

Commissioner Van Sickle asked that the Lake Ashton and Winter Haven interconnect be added to the tracking report. Mr. Otte said it would be and added that he would have a report at the next City Commission meeting.

PUBLIC COMMENT

David Smith, NAACP, said that as a child he went swimming in Lake Wailes near the Pavilion and the next day the Pavilion was torn down. He has been waiting for a city pool to be built for 44 years. His children and grandchildren are grown and the City is still talking about a pool. He said that the City seeks grants for all kinds of things, and one should be sought for the maintenance of the pool. He said the pool would only be open five months of the year and would not be as costly as the City says it will be. It was time to do something to spend some money for the northwest section of town.

Mr. Otte stated that he was not aware of any grant that paid for the ongoing maintenance of a facility. Grants are for capital expenditures. He said the city could try to seek a FRDAP Grant for building part of the pool, but there were no grants for operating expenses.

David Clemons, resident, said that he had been promised a pool when he was a teenager and that the City should have been putting money aside for the pool. He talked about the Housing Authority having been corrupt when he was on the Board years ago.

Phillis Johnson, D Street resident, thanked the City for boarding up the house on D Street and for Mr. Otte taking the time to talk with her on many occasions to solve problems there. But, she said she is still waiting for her water bill to be adjusted, and she is concerned that fireworks will be shot off over the weekend in her neighborhood that could set her house on fire.

Wes Rogers, 500 E. Bullard, said the Commission and Staff had mishandled City funds. He said that the City went into debt to pave roads that should have been kept up with over the years, and the fire assessment tax was just another way to squeeze out money from already overburdened residents.

Helen Walters, Carillon Place, said she appreciated the 8 years she served on the Housing Authority Board. She hopes that Sunrise Apartments will be replaced because there are many people who need low-cost housing in Lake Wales. People who were displaced after the hurricanes would like to return to the City but there is no affordable housing for them.

Manuel Crespo, resident, said that it had been publicized that Housing Board applications had a deadline and he felt that the City should stand by its word. Mayor Wheeler responded that he acted under Florida Law and that it was his call. Mr. Otte said that at the last City Commission meeting it had been announced that the deadline was extended.

Sharon Becker, resident, asked what was being done at Crystal Lake Park. Mr. Otte said that wood-chips were being placed on the old Monk Griffin trail around the lake.

COMMISSION COMMENT

Commissioner Rogers asked that the City announce to the public that the money for the pool would be replaced. Commissioner Manry said that it should be included in the Financial Report each month.

Mayor Wheeler asked that revenue possibilities be added to the tracking report for the northwest area of the City. Mr. Otte added that the Parks Board would be addressing that. City Planning Director Margaret Swanson said that the City had a lot of park acreage for a city our size. She added that it would be on the Parks and Community Appearance Board's agenda.

There being no further business the meeting was adjourned.



Mayor/Commissioner

ATTEST:



City Clerk