

The regular meeting of the Lake Wales City Commission was held on July 15, 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 Rob Quam, Lake Wales Care Center Director.

#### **PLEDGE OF ALLEGIANCE**

**COMMISSIONERS PRESENT:** Terrye Y. Howell; Jack Van Sickle, via telephone; John Paul Rogers; Kathy Manry; Lee A. Wheeler, III, Mayor.

**COMMISSIONERS ABSENT:** Jack Van Sickle.

Commissioner Van Sickle attended the meeting via telephone from 7:26 p.m. to 8:05 p.m.

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

#### **Agenda Item 4. APPROVAL OF MINUTES**

Commissioner Manry made a motion to approve the minutes of the June 26, 2008 special/workshop meeting and the July 1, 2008 regular meeting. The motion was seconded by Commissioner Howell.

#### **ROLL CALL:**

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

The motion carried 4-0.

#### **AGENDA ITEM 5. PROCLAMATION: Every Day Hero Award, 2008**

Mayor Wheeler commented that Lake Wales is blessed by all the volunteers who contribute to our quality of life. They often labor in silence without any of the recognition that they deserve. Sadly, due to the number of brain injured soldiers who return from our wars, the public is beginning to recognize the extent of the problem of brain injury in our society. Therefore, it is fitting that we recognize those who contribute their valuable time helping those with brain injuries regain a quality of life that they would otherwise not have. He then read a proclamation proclaiming Gene and Jane Saks as "Every Day Heroes" for 2008. Gene and Jane Saks are active participants in the Brain Injury Association of Florida, Rotary Club of Lake Wales, Humane Society of Polk County, and the High Point Church in Lake Wales, providing support and assistance to many in our area and dedicating themselves to "giving back" to the community. Gene and Jane Saks accepted the proclamation.

#### **AGENDA ITEM 6. Ordinance 2008-03, CPA/School Concurrency, Public School Facilities Element & Related Amendments to the Comprehensive Plan – 2<sup>nd</sup> Reading & Public Hearing**

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

[begin agenda memo]

## RECOMMENDATION

Staff recommended adoption after second reading and public hearing.

Staff received comments from the Department of Community Affairs (DCA) on June 11, 2008. The Department raised two objections to Ordinance 2008-03. Both of these have been addressed and are specifically described below:

1. Objection - Interlocal Agreement: At the time of transmittal the City was not in possession of a fully executed Interlocal Agreement (ILA) between the County, the School Board and the participating municipalities. We have since received this signed agreement and will forward a copy to DCA.
2. Objection - Long-Term Concurrency Management Policies: Policy 2.2.03 and 2.2.04 were not in harmony with the corresponding County policies. These have been modified to reflect the long-term concurrency management system reflected in the ILA.

Public notice requirements have been met to hold a public hearing.

## BACKGROUND

DCA also commented that there is a more recent version of the Polk County Schools Facility Element Data and Analysis than the August 22, 2007 version we had referenced. Staff is aware of the revised version and has secured a copy for our use.

The proposed amendments are required under the 2005 amendments to the Growth Management Act (Chapter 163) of Florida Statutes. In order to require coordination between the School Boards and the local governments on school facilities planning. An Interlocal Agreement between Lake Wales and the School Board, approved by the City Commission January 2, 2008, requires cooperation among all of the Polk County jurisdictions on school planning. Most importantly, the amendments require "concurrency," the assurance that developments are not approved unless school facilities are in place or will be in place when needed to serve the development.

All jurisdictions in Polk County are required to have school concurrency regulations in place by March 1, 2008. Polk County has adopted its comprehensive plan amendments, and all of the incorporated areas are in the process of adopting theirs. Upon approval of a first reading of the ordinance, the amendments will be transmitted to the state's Department of Community Affairs for review. The amendments will be brought back to Commission for adoption upon receipt of State comments.

City Commission adopted amendments to the *Zoning, Land Use and Development Regulations* on February 19, 2008. The amendment included the addition of the level of service standards for public school facilities and the addition of school facilities as one of the services requiring concurrency review prior to the approval of residential developments.

Specifically, the new legislation requires that each local government adopt a Public School Facilities Element (PSFE) as part of its Comprehensive Plan and adopt related policies in its Capital Improvements and Intergovernmental Coordination Elements. The PSFE must address school level service; school utilization; school proximity and compatibility with residential development; availability of public infrastructure; co-location opportunities; and financial feasibility. The intent of the legislation is to encourage counties, municipalities, and school boards throughout the state to work together to achieve concurrency.

The City of Lake Wales worked with the Polk County School Board, Polk County Government, and the other non-exempt cities in the Polk County School District to prepare the draft amendments to ensure all local government comprehensive plan elements within the county are consistent with each other.

While the City will retain the authority to make land use decisions, the School Board will determine if schools have adequate capacity for proposed residential projects that must meet school standards in order to be eligible to proceed to final development approval. At the time of residential development plan review the City will need to coordinate with the School Board to ensure adequate school capacity exists at the elementary, middle, and high school levels. The State has delayed implementation of this requirement until December 2008

School concurrency and mitigation must be financially feasible to proceed with development. Where residential growth outstrips the School Board's ability to construct sufficient school facilities for new students, school facility mitigation agreements will begin to play a greater role in the City's concurrency review process. Mitigation may entail donation of school sites or other means of fast-forwarding the expansion or construction of facilities. "Proportionate share" provisions have been incorporated into the zoning regulations to regulate the mitigation process.

A site selection process was established in the Interlocal Agreement for School Facilities Planning outlining criteria for the selection of a school site. All applicable cities in the Polk county School District have the opportunity to submit a candidate site for selection when the need for a new school sites occurs.

#### **OTHER OPTIONS**

School concurrency amendments are mandated by state law. Although minor changes could be made to the text, the documents must remain consistent with the adopted Polk County amendments.

#### **FISCAL IMPACT**

Additional staff time will be expended to implement the provisions of the amendments.

[end agenda memo]

Ms. Delmar read Ordinance 2008-03 by title only.

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING THE COMPREHENSIVE PLAN TO ADD A PUBLIC SCHOOL FACILITIES ELEMENT AND TO AMEND THE INTERGOVERNMENTAL COORDINATION AND CAPITAL IMPROVEMENTS ELEMENTS TO ADDRESS SCHOOL FACILITIES PLANNING; REQUIRING COORDINATION WITH POLK COUNTY, THE POLK COUNTY SCHOOL BOARD, LAKE WALES CHARTER SCHOOL BOARD, AND ALL OTHER MUNICIPALITIES IN THE COUNTY ON SCHOOL FACILITY PLANNING AND CAPITAL PROGRAMMING; ENCOURAGING PUBLIC/PRIVATE PARTNERSHIPS TO ENHANCE EDUCATIONAL AND ECONOMIC GROWTH OPPORTUNITIES; ADOPTING LEVEL OF SERVICE STANDARDS FOR SCHOOL FACILITIES; REQUIRING SCHOOL FACILITIES CONCURRENCY REVIEW FOR RESIDENTIAL DEVELOPMENTS AND ADHERENCE TO ADOPTED LEVEL OF SERVICE STANDARDS; ALLOWING MITIGATION AS A METHOD FOR MEETING CONCURRENCY REQUIREMENTS; ENCOURAGING CO-LOCATION OF SCHOOLS AND OTHER PUBLIC FACILITIES; REQUIRING THE IMPLEMENTATION OF THE "INTERLOCAL AGREEMENT FOR PUBLIC SCHOOL FACILITY PLANNING"; AND 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 adopt Ordinance 2008-03 after second reading and public hearing. The motion was seconded by Commissioner Manry.

ROLL CALL:

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

The motion carried 4-0.

**AGENDA ITEM 7. Ordinance 2008-19, Correcting Ordinance 2007-09, Vacation of Osceola Avenue Adjacent to Taylor Industries – 2<sup>nd</sup> Reading & Public Hearing**

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

[begin agenda memo]

**RECOMMENDATION**

Staff recommended approval of Ordinance 2008-19 following a second reading and public hearing. City Commission approved the ordinance on first reading at the July 1, 2008 regular meeting.

Public notice requirements have been met.

**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.**

**OPENED PUBLIC HEARING**

David Smith, Babson Park, said that he was concerned about the three wooden houses located at the end of Osceola Avenue due to a large propane gas tank near there that sits behind Blessed Child Day Care Center at the intersection of Scenic Highway and Dr. J. A. Wiltshire Avenue. He asked if there was a fire hydrant in the area because he was not sure of how the vacationing of a portion of the right-of-way of Osceola Avenue would affect those houses and if the Fire Department would have access to them in the event of a fire.



Mr. Otte said that a fence had already been put up across the area that was vacated and the street in front of the houses is still open.

Fire Chief Jerry Brown said that there are fire hydrants in the area, but he was not sure of the locations regarding the area that is being vacated. He said that he was not aware of any safety issues.

Jerry Torrance, Assistant to the City Manager, stated that the vacated area had already been fenced in, the section of Osceola Avenue in front of the three houses was recently paved, and there is good access to the three wooden houses.

#### CLOSED PUBLIC HEARING

Commissioner Manry made a motion to adopt Ordinance 2008-19 after second reading and public hearing. The motion was seconded by Commissioner Howell.

#### ROLL CALL:

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

The motion carried 4-0.

#### **AGENDA ITEM 8. Ordinance 2008-21, Amending Chapter 13, Housing, Adding Article IV, Rental Housing - 1<sup>st</sup> Reading**

Mr. Otte asked the Commission to defer consideration of Agenda Item 8 and bring it back for a first reading on October 21 to allow staff time to check on the fiscal impact and some other details of the ordinance.

Commissioner Howell made a motion to move first reading of Ordinance 2008-21 to October 21, 2008. The motion was seconded by Commissioner Manry.

#### ROLL CALL:

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

The motion carried 4-0.

#### **AGENDA ITEM 9. Ordinance 2008-22, Amendment to Personal Administration Policies – 2<sup>nd</sup> Reading & Public Hearing**

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

[begin agenda memo]

#### **RECOMMENDATION**

It was recommended that the City Commission approve Ordinance 2008-22 upon Second Reading and Public Hearing.

#### **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 service member 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 service member. 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.

#### **OTHER OPTIONS**

None.

[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 SEVERABILITY; 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 2008-22 after second reading and public hearing. The motion was seconded by Commissioner Howell.

#### **ROLL CALL:**

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

The motion carried 4-0.

#### **AGENDA ITEM 10. Ordinance 2008-23, Annexation: Hernandez Property, East Side of U.S. 27 N - 2<sup>nd</sup> Reading & Public Hearing**

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

[begin agenda memo]

#### **RECOMMENDATION**

Staff recommends approval after second reading and public hearing 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.

Public notice requirements have been met.

## **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 land valued at \$599,732.00 to the City's tax roll.

[end agenda 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.**

## **OPENED PUBLIC HEARING**

There were no comments made by the public.

## **CLOSED PUBLIC HEARING**

Commissioner Howell made a motion to adopt Ordinance 2008-23 after second reading and public hearing. The motion was seconded by Commissioner Manry.

ROLL CALL:

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

The motion carried 4-0.

**AGENDA ITEM 11. Ordinance D2008-02, CPA/Zoning: Hernandez Property, East Side of U. S. Highway 27 N - 1st Reading & Public Hearing**

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

[begin agenda memo]

**RECOMMENDATION**

Staff recommended approval of Ordinance D2008-02 on first reading and transmittal of the ordinance to the Florida Department of Community Affairs for review.

Notice requirements for a public hearing have been met.

The Planning and Zoning Board held a public hearing on June 24, 2008 and recommends changes in the land use designation on approximately 12 acres of property from Polk County CE-Commercial Enclave and RS-Residential Suburban to City of Lake Wales LCI-Limited Commercial Industrial and Wetlands Overlay District.

**BACKGROUND**

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 land use and land use designations:

North: City LCI-Limited Commercial Industrial - mini-warehouse, medical office and light manufacturing  
South: City LCI-Limited Commercial Industrial - vacant  
East: County RS-Residential Suburban - mobile home park  
West: City RR-Rural Residential across US Highway 27

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.

Per the Comprehensive Plan RAC is limited to one or two areas of the City and has been established in the area of the Eagle Ridge Mall. The primary function of the Limited Commercial-Industrial classification is to allow low traffic generating commercial and industrial uses fronting on major roadways that will not result in commercial strip development.

The Wetlands Overlay will be subject to the following Comprehensive Plan policies:

**Policy 3.12:**

The Wetland Overlay District is created to recognize those areas identified on the National Wetlands Inventory and by other applicable authorities as wetlands, the boundary of which may be more accurately defined as set forth in this Plan.

**Policy 3.13:**

The Wetland Overlay District shall designate and map wetlands areas. This overlay area is generally shown on the Future Land Use Map. The specific boundaries of the wetlands may be verified by site specific studies which delineate specific wetland boundaries. It is the responsibility of the owner and/or developer to submit documentation, exhibits, studies, etc., for the purpose of establishing that properties should not be included in the Wetland-Overlay District when the adopted land-use map indicates that the property is within such an area. All studies to verify the boundaries of wetlands are required to be signed and sealed by an appropriate professional consultant and have their boundaries verified and approved by the City's Engineer and by the agencies having jurisdiction.

**Policy 3.14:**

The designation and mapping of the Wetland Overlay District shall be based on areas delineated as wetlands by the National Wetlands Inventory and/or as determined to be jurisdictional by appropriate regulatory agencies having the authority to designate areas as wetlands and exercise jurisdiction over the wetlands so designated (such as Southwest Florida Water Management District, the Department of Environmental Protection, and the Army Corps of Engineers).

**Policy 3.15:**

Development within the Wetland Overlay District shall conform to the following criteria: All permits from and agency with jurisdiction shall be approved prior to, or concurrently with, the City issuing the final development order. Wetland impacts shall first be avoided. Secondly, where they cannot be avoided, impacts shall be minimized and shall be mitigated by wetland compensation or wetland enhancement. Wetland impacts, where unavoidable and where properly mitigated, as determined by agencies having jurisdiction, shall be permitted for the beneficial viable use of the property.

Site Access:

Access is from US Highway 27.

**OTHER OPTIONS**

Other land use designations may be proposed for the property, but must be consistent with the City's comprehensive plan policies.

[end agenda memo]

Ms. Delmar read Ordinance D2008-02 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 12 ACRES OF LAND, LOCATED ON EAST SIDE OF US 27 SOUTH OF TOWER BLVD, FROM POLK COUNTY FUTURE LAND USE DESIGNATION CE - COMMERCIAL ENCLAVE AND RS - RESIDENTIAL SUBURBAN TO LAKE WALES FUTURE LAND USE DESIGNATIONS LCI - LIMITED COMMERCIAL-INDUSTRIAL AND WETLANDS OVERLAY DISTRICT AND ZONING DESIGNATION LCI - LIMITED COMMERCIAL-INDUSTRIAL; AND PROVIDING FOR AN EFFECTIVE DATE.**

OPENED PUBLIC HEARING

There were no comments made by the public.

CLOSED PUBLIC HEARING

Commissioner Manry asked Assistant Planner Kathy Bangley to explain the meaning of a C-3 Highway Commercial land use designation. Ms. Bangley explained that C-3 Highway Commercial is the City's heaviest commercial area, and that it is usually partnered with a land use designation of RAC, Regional Activity Center. She said that through the City's Comprehensive Plan and the action of the Commission, RAC has been designated for the area around the Eagle Ridge Mall and for a small portion of SR60. She said that the applicants feel that they can live with the uses that are allowed in the LCI, Limited Commercial-Industrial zoning. Ms. Bangley noted that the zoning district couples with the land use.

Commissioner Manry made a motion to approve Ordinance D2008-02 after first reading and public hearing. The motion was seconded by Commissioner Howell.

**ROLL CALL:**

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

The motion carried 4-0.

**AGENDA ITEM 12. Ordinance 2008-24, Annexation: Coldwell Properties, LLC – East of U.S. 27 N – 2<sup>nd</sup> Reading & Public Hearing**

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

[begin agenda memo]

**RECOMMENDATION**

Staff recommends approval on second reading and public hearing 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.

Public notice requirements have been met.

**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 land valued at \$239,791.00 to the City's tax roll.

[end agenda memo]

Ms. Delmar read Ordinance 2008-24 by title only.

**AN ORDINANCE PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 42 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

Edwin Estes, Scenic Highway, asked what the current zoning designation is for the property being proposed for annexation. Ms. Bangley said that it is Polk County zoning of RS-Residential Suburban. Mr. Estes asked if after annexation it would remain as that designation. Ms. Bangley said that the current zoning designation would remain on the property and that the City is not seeking a land use and zoning designation at this time.

## CLOSED PUBLIC HEARING

Commissioner Howell made a motion to adopt Ordinance 2008-24 after second reading and public hearing. The motion was seconded by Commissioner Manry.

## ROLL CALL:

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

The motion carried 4-0.

## **AGENDA ITEM 13. Ordinance 2008-25, Amending Franchise Agreement for Provision of Solid Waste Services: Florida Refuse, Inc. – 1<sup>st</sup> Reading**

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

[begin agenda memo]

## RECOMMENDATION

Approve Ordinance 2008-25 amending and renewing Florida Refuse's solid waste collection and disposal services franchise agreement for a three-year renewal period after first reading.

## BACKGROUND



The solid waste franchise agreement in effect with Florida Refuse is due to expire September 30, 2008. The agreement provides for three (3) additional three-year term extensions. In accordance with Florida Refuse's franchise agreement with the City, they notified the City in writing of their intention to renew the agreement if they and the City mutually agree to such renewal and to any modification of the terms of the agreement. In accordance with the agreement, the City Commission granted a sixty-day period for the negotiation of mutually acceptable terms for extension of the agreement.

### 1. Florida Refuse Renewal Proposal

The following renewal rates are proposed for one (1) time per week automated or semi-automated pick-up:

Service	Current Rate	Proposed Rate	*Annual Increase Beginning October 1, 2009
Residential	\$13.32	\$13.99	June's annual CPI or 2.5%, whichever is greater
Recycling	\$0.90	\$0.95	June's annual CPI or 2.5%, whichever is greater

The proposed rates represent a 5% increase. The cost to provide two times per week service is \$21.95 representing a 64.8% increase.

\*Contractor may also petition for a fuel cost adjustment in addition to CPI adjustment. The current rates have been in place since January 2006 when diesel was \$2.23 per gallon. Based on today's average price of \$4.75 per gallon for diesel, fuel costs have increased 113%.

The following terms and services are proposed:

**Annual Adjustment** - The rates shall be adjusted annually on each anniversary date beginning October 1, 2009 to reflect an increase based on June's annual CPI or two and one-half percent (2.5%), whichever is greater, without further need for Commission action.

**Fuel Cost Adjustment** - In addition, should the price of diesel fuel increase or decrease by an extraordinary rate of ten percent (10%) of the base rate of \$3.60 per gallon, the Contractor or the City may petition and shall be granted a pass through cost increase or decrease based on monthly gallons used and difference in price to be calculated and allocated per customer per month. Should the fuel cost not exceed the ten percent (10%) threshold, the rate would be adjusted via the CPI. Should the fuel cost have to be adjusted upward, that portion will be removed from the CPI calculation. Should the fuel cost fall below \$3.60 per gallon, the CPI calculation will be lowered for the fuel cost portion. Example: If a fuel cost adjustment is required and fuel cost represents ten percent (10%) of the Contractor's operating budget then the CPI will be reduced ten percent (10%) before the fuel cost adjustment is added or if the fuel cost falls below \$3.60 per gallon the CPI will be reduced the ten percent (10%). The same formula will apply to the commercial customers. The fuel will be calculated and allocated per cubic yard.

**Two (2) Times per Week By Special Request** - Florida Refuse will provide two (2) times per week collection of solid waste in the totes when requested for a rate of \$21.95 per resident per month. This service will be available sixty (60) days after the initial conversion from two (2) times per week hand pick up service to one (1) time per week automated or semi-automated tote service.

**Totes** - Florida Refuse will provide, maintain and replace 95, 65 and 35-gallon totes as necessary for the residents. Additional totes will be provided when requested by residents at no additional charge. Florida Refuse will own the totes.

**Frequency** - Florida Refuse will provide an automated or semi-automated service as necessary to collect solid waste in the totes one (1) time per week.

**Recycling Service and Containers** - Florida Refuse will provide recycling containers as per the current agreement and collect recycle items one (1) time per week. Additional recycling containers will be provided upon request at no additional charge.

**Roll-off Franchise Fee** - Florida Refuse will pay a franchise fee of 12.5% to the City on roll-off collection services within the City as provided by Section 1-5 (Exclusive Rights) of the current agreement. Florida Refuse will continue to pay a franchise fee of 12.5% on commercial accounts as provided in the current agreement. Florida Refuse will continue billing and collecting commercial and roll-off customer accounts.

**Two (2) Annual Clean-ups** - Florida Refuse will provide two annual "clean-ups" each year, one in the Spring and one in the Fall, when all residential waste, without limit as to size, deposited on the curbside shall be collected, except for debris or waste products generated by land clearing, building construction or alteration, and waste or materials that may not be deposited at the Polk County Landfill.

**Landfill Facility** - The City of Lake Wales will decide which landfill facility to utilize for the City's solid waste disposal.

**Unlimited Routine Yard Trimmings Collection** - Florida Refuse will collect unlimited amount of routine yard trimmings. Professional tree service companies are responsible for disposing of the resident's debris.

**Expand Collection Services** - Recycling collection services for residential will be expanded to include office paper, magazines and telephone books.

**Big Bin Caught You!! Promotion**- Florida Refuse will provide this promotion at no additional charge. Once per year, signs will be randomly posted, "Big Bin Caught You Recycling," and \$20.00 gift cards will be given to residents in low participation areas. Five Hundred (\$500) Dollars worth of gift cards will be handed out. This program will encourage residents to talk amongst neighbors to get everyone involved in recycling.

**Recycling Incentive:** An annual rebate payment will be provided to the City for increasing recycling tonnage. The City may receive a rebate of \$25 per ton on the annual average tonnage increase year-over-year. For example if the City's average tonnage increased 10 tons in 2009 over 2008's tonnage, the City would receive a \$3,000 recycling rebate (10 tons x 12 months x \$25 per ton = \$3,000).

**Commercial Recycling:** Commercial Recycling will be offered to commercial businesses in Lake Wales effective October 1, 2008. The City's commercial customers will be offered a preferred discounted rate for the commercial recycling services. Each commercial customer's recycling needs are unique. As available, the recycling service will be tailored to meet each customer's needs.

## 2. COST COMPARISON TO OTHER FLORIDA REFUSE CUSTOMERS

City	Rate	Provider	Recycling				
Davenport	16.75	Fla Refuse	Yes	Hand - Twice-a-week			
Dundee	19.75	Fla Refuse	No	Hand - Twice-a-week	Collection	Disposal	Total
*Eagle lake	16.27	Fla Refuse/PC	Yes	Automated - Once-a-week	11.77	4.50	16.27
*Frostproof	18.14	Fla Refuse/PC	No	Automated - Once-a-week	13.64	4.50	18.14
Haines City	17.13	Fla Refuse	Yes	Automated - Once-a-week			
<b>Lake Wales</b>	<b>14.94</b>	<b>Fla Refuse</b>	<b>Yes</b>	<b>Automated - Once-a-week</b>	<b>Proposed Rate &amp; Service</b>		
Mulberry	16.73	Fla Refuse	Yes	Hand - Twice-a-week			

\*Eagle Lake and Frostproof contract with Florida Refuse for collection of solid waste. Disposal costs are paid directly to the county. Residents are billed on their ad valorem tax bill (same as county residents). The City's customers are billed monthly for the collection charges.

## OTHER OPTIONS

Reject Florida Refuse's proposal and direct staff to implement the competitive bid process for selection of a contractor for solid waste collection and disposal services.

Approve proposal contingent upon requested modifications.

[end agenda memo]

Ms. Delmar read Ordinance 2008-25 by title only.

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING THE FRANCHISE GRANTED BY ORDINANCE 2002-21 ON OCTOBER 1, 2002 AS AMENDED BY ORDINANCE 2004-23 ON AUGUST 3, 2004 AND ORDINANCE 2006-01 ON FEBRUARY 7, 2006 FOR THE PROVISION OF SOLID WASTE COLLECTION, RECYCLING AND DISPOSAL SERVICES TO FLORIDA REFUSE, INCORPORATED, ITS LEGAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS; IMPOSING CERTAIN CONDITIONS RELATING THERETO; AND PROVIDING FOR AN EFFECTIVE DATE.**

OPENED TO PUBLIC COMMENT

Mark Talbott, Florida Refuse General Manager, said that he and Jean Wilson, Florida Refuse Marketing Director, were available to answer any questions.

There were no comments made by the public.

CLOSED TO PUBLIC COMMENT

Commissioner Howell said that when Florida Refuse first introduced the idea of the once-a-week automated services program, she was not happy because she liked having her garbage picked up twice per week. She said that she is still not happy because the cost for the twice-a-week service was increasing. Commissioner Howell asked if back door service would still be provided. Mr. Talbott said that the placement of garbage collection would not change unless the resident requests the change. Commissioner Howell said that she read the performance agreement section of the contract, but it did not reference anything about service performance. In addition, she said that the City has had a lot of problems in the past with garbage collection and asked if a service performance agreement was somewhere in the contract that would provide a credit to a resident or whole street of residents whose garbage is missed on any particular scheduled pickup day and not picked up until the next scheduled pickup day. Commissioner Howell asked if garbage collection changed to a once-a-week service would someone come back the same day or within 24 hours to pick up missed garbage. Mr. Talbott said that in the event there was a missed collection they would send someone out to pick it up. He said that the contract does allow the City to claim liquidated damages for each month the number of legitimate complaints exceed a certain amount that are not satisfactorily resolved, whether for garbage, trash, or any other cause. Florida Refuse provides a monthly report to the City on all complaints received.

Mr. Otte asked if somewhere in the contract it said that missed garbage would be picked up within 24 hours and if not, could it be added. Mr. Talbott said that he was not sure, but he would check on it. He explained that all of their trucks are equipped with a GPS tracking system that provides vehicle location information that lets them know within a two-minute span at any time of the day where the truck has been on any specific part of the route. There should be no problem with picking up missed garbage within 24 hours. Mr. Talbott said he would include that in the contract if it is not already in there. Mr. Otte asked if the garbage would be picked up within 24 hours even if it was missed due to a truck breaking down or involved in an accident. Mr. Talbott said yes.

Commissioner Howell asked how she would dispose of branches and leaves. Mr. Talbott said to pile it up at the curb and someone would pick it up using a claw truck. He said that in the past branches and limbs had to be cut to a certain size before it could be picked up, but not under the new contract. This is considered routine yard waste so volume does not matter, and it will be picked up once a week.

Commissioner Howell asked about the two-annual clean-ups. Mr. Talbott explained that this service was for people disposing of bulk items such as a lot of furniture or who are cleaning out their garage. Large

items such as a couch will be picked up one time a week with the household garbage and during the Holidays, someone will drive around picking up the excess garbage.

Commissioner Manry asked about non-disposable items. Mr. Talbott said that they ask everyone to take all their non-disposable items such as paint and tires to the Polk County Landfill where they have a hazardous waste collection program. Mr. Otte said that Polk County collects non-disposable items once a year at the James P. Austin Community Center. Commissioner Manry asked if Polk County could do it more than once a year. Mr. Otte said no because he had already asked them.

Mr. Otte asked how many other cities in Polk County that Florida Refuse serves and how many of them changed their collection service to once a week. Mr. Talbott said they serve nine other cities, of which three of them changed to once a week: Haines City; Eagle Lake; and Frostproof. Mr. Otte asked if there were any concerns expressed by them. Mr. Talbott said that there were a lot of concerns expressed at the meeting like at the one tonight. He said they put more effort into educating everybody, which takes about 4 to 6 weeks for the transition to take place. There was only one person they had to deal with who had a problem properly bagging the garbage. He said that the City of Eagle Lake mailed flyers to all their residents asking if they wanted to pay more for twice-a-week service, and they would not.

Commissioner Howell asked if the cost of fuel continued to rise who would be responsible for paying the increase, the City or the homeowners. Mr. Otte said that if the cost of fuel increased more than 10% then that portion would be removed from the CPI calculation. He said that at the second reading of the ordinance, he would provide an example of how the fuel adjustment chart would work.

Commissioner Howell asked if we would still be paying as much for garbage collection if the landfill in Golfview Park was still open. Mr. Talbott said the cost would be lower. Mr. Otte asked the status of Florida Refuse trying to open a landfill. Mr. Talbott said they were given a "Notice of Intent" to permit for the landfill in Bartow, but after they did the permitting, obeyed all the laws, and spent over \$2 million in engineering and legal fees, the Legislature passed a new law that basically said the landfill could not be permitted. The case is now going through Federal Court.

Mayor Wheeler said a lot of people asked if the City could provide its own garbage disposal service. The Finance Department did an exhaustive analysis and concluded that the City could in no way touch the rate offered by Florida Refuse.

Commissioner Manary made a motion to approve Ordinance 2008-25 after first reading. The motion was seconded by Commissioner Howell.

ROLL CALL:

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

The motion carried 4-0.

**AGENDA ITEM 14. Resolution 2008-11, Rules for Administration & Use of Funds Deposited in Tax Anticipation Account**

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

[begin agenda memo]

**RECOMMENDATION**

It was recommended that the City Commission pass Resolution 2008-11, establishing rules for administration and use of funds deposited in the General Fund's Tax Anticipation Account.

## **BACKGROUND**

Through the budgetary process, the City Commission approved the construction of a municipal swimming pool funded by \$1,000,000 of the gains from the sale of the land formally known as the Cooperative Fruit Property. However, the possibility of operating a municipal swimming pool is not feasible in the near future due to the severity of property tax reform and the decline of the national economy, both of which adversely affect the City's ability to fund critical public services.

At the same time, the City's auditors have strongly recommended that the General Fund balance be increased to an amount equal to 15%-20% of the total operating budget for the purpose of 1) providing adequate financial resources for responding to emergencies; 2) covering non-discretionary expenses such as payroll and insurance premiums that must be paid during the early part of the fiscal year before ad valorem revenues are received; and 3) advancing the costs for construction of grant-funded projects prior to reimbursement from grant sources.

On September 30, 2007, the total fund balance of the General Fund was \$876,741 or 7.7% of the total operating budget for fiscal year 2007-2008. Based on the City's projected financial position for fiscal year ending September 30, 2008, it will be necessary to obtain a Tax Anticipation Note for fiscal year 2008-2009 to provide funding for operating expenses from October 1, 2008 through December 31, 2008 thereby incurring issuance costs in excess of \$25,000 in addition to interest expense.

To eliminate the need for obtaining a Tax Anticipation Note, the City Commission and CRA Board of Commissioners on July 1, 2008 approved the transfer of the above described investment account from the CRA Fund to the General Fund to be set aside in a Tax Anticipation Account for the purpose of providing the funds necessary to cover the City's cash needs during the first quarter of each fiscal year. The transfer was approved with the stipulation that the account may be used only for the purposes stated above and must be made whole by September 30 of every fiscal year so that it may in the future be used to fund a municipal swimming pool.

Resolution 2008-11 is proposed for the purpose of formally adopting these stipulations to ensure the proper administration and use of the Tax Anticipation Account. This resolution provides the following:

1. The General Fund Tax Anticipation Account may be used only for the following purposes:
  - (a) To advance the funds necessary to pay for non-discretionary expenses such as payroll and insurance premiums that must be paid during the first quarter of the fiscal year and that will be reimbursed when ad valorem revenues are received; and
  - (b) To advance the funds necessary to pay for construction of grant-funded projects that will be reimbursed by federal or state agencies; and
  - (c) To advance financial resources necessary for responding to emergencies that will be reimbursed by insurance proceeds or grants from FEMA or other federal or state agencies.
2. Funds withdrawn from the General Fund Tax Anticipation Account for the purpose stated in paragraph 1(a) shall be replaced as soon as ad valorem tax revenues are received by the City.
3. Funds shall not be withdrawn from the General Fund Tax Anticipation Account for the purpose stated in paragraph 1(b) unless no other advance funding source exists. Funds withdrawn for this purpose shall be replaced as soon as grant funds are received by the City,

and funds may not be withdrawn for this purpose unless sufficient time remains for receipt of grant funds prior to September 30.

4. Funds shall not be withdrawn from the General Fund Tax Anticipation Account for the purpose stated in paragraph 1(c) unless no other funds exist for responding to emergencies. Funds withdrawn for this purpose shall be replaced as soon as insurance proceeds or grant funds are received by the City. In the event that insufficient insurance proceeds or grant funds are received to repay all the funds spent for emergency purposes, the difference shall be repaid by ad valorem tax revenues.
5. The General Fund Tax Anticipation Account shall contain a principal balance of \$1,000,000 at September 30 of every year except as provided in paragraphs 6 and 7 herein.
6. In the event that funds have been withdrawn for the purpose stated in paragraph 1(c), the balance may be less than \$1,000,000 at September 30 provided that funds shall be replaced as soon as insurance proceeds or grant funds are received by the City.
7. When the City Commission approves the construction of a municipal swimming pool, the Tax Anticipation Account shall be closed and the balance used for such construction.
8. The \$1,000,000 balance in the General Fund Tax Anticipation Account shall be characterized as a designated unreserved fund balance that requires maintenance of the principal balance.
9. Interest earned by the General Fund Tax Anticipation Account may be used to fund the purchase of capital equipment and vehicles with the approval of the City Commission.

#### **OPTIONS**

Do not adopt Resolution 2008-11; however, adoption is recommended to ensure use and administration of these funds in accordance with the wishes of the City Commission. Any use of these funds that is not permitted by Resolution 2008-11 will require adoption of another resolution.

#### **FISCAL IMPACT**

There is no fiscal impact associated with adoption of Resolution 2008-11.

[end agenda memo]

Ms. Delmar read Resolution 2008-11 by title only.

#### **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LAKE WALES ESTABLISHING RULES FOR ADMINISTRATION AND USE OF THE FUNDS DEPOSITED IN THE GENERAL FUND'S TAX ANTICIPATION ACCOUNT.**

Commissioner Manry asked if the funds would be set up in a separate bank account. Ms. Delmar said yes, the General Fund's Tax Anticipation Account. The funds will be withdrawn down if necessary and then put back once the City receives the ad valorem tax revenues. Commissioner Manry said a separate account would allow the City to keep a recognizable report on what is happening. Ms. Delmar said that was correct.

Mayor Wheeler asked if that account would accumulate interest. Ms. Delmar said yes.

Commissioner Howell said she was skeptical at first about taking money from the swimming pool account because once you start putting your hand into the cookie jar, you cannot stop. She said that a separate account sounds great, but when reading the nine ways of taking money from the account, it is just too much. Ms. Delmar responded that there are only three ways the money can be taken out: (1) to advance

the funds necessary to pay for non-discretionary expenses such as payroll and insurance premiums that must be paid during the first quarter of the fiscal year; (2) to advance financial resources necessary for responding to emergencies such as a hurricane or a terrorist attack; and (3) to advance the funds on a reimbursement grant.

Commissioner Howell said that #9, Interest earned by the General Fund Tax Anticipation Account may be used to fund the purchase of capital equipment and vehicles with the approval of the City Commission, should be changed or taken out because the City might need the interest for something else. Commissioner Manry said the interest should stay in the fund to allow it to grow. Commissioner Howell suggested striking #9. Ms. Delmar said the City must address the interest proceeds somehow. Commissioner Manry said that it would cost more than \$1 million to build a municipal swimming pool. Ms. Delmar said we could change #9 to say, "Interest earned by the General Fund Tax Anticipation Account shall be retained in the account and used to fund expenses related to the construction and/or operation of a municipal swimming pool."

Commissioner Howell made a motion to change #9 to say, "Interest earned by the General Fund Tax Anticipation Account shall be retained in the account and used to fund expenses related to the construction and/or operation of a municipal swimming pool." The motion was seconded by Commissioner Manry.

ROLL CALL:

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

The motion carried 4-0.

Commissioner Manry made a motion to adopt Resolution 2008-11 with the corrected language. The motion was seconded by Commissioner Howell.

ROLL CALL:

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

The motion carried 3-1.

**AGENDA ITEM 15. Ordinance 2008-26, Fire Assessment Fee Program – 1<sup>st</sup> Reading**

Commissioner Van Sickle attended the meeting via telephone at approximately 7:26 p.m.

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

[begin agenda memo]

**RECOMMENDATION**

Staff recommended that the City commission take the following action:

After first reading, approve Ordinance 2008-26 establishing Chapter 10.5, Fire Protection Assessment Program.

## BACKGROUND

Adoption of Resolution 2007-22 on December 18, 2007 by the City Commission provided for the option of using the "uniform assessment collection method" for the billing and collection of a non-ad valorem special assessment for the cost of providing fire services. This would apply to property within the incorporated area of the City as authorized by section 197.3632, Florida Statutes, as amended. This method will allow such special assessments to be collected annually commencing in November 2008 in the same manner as provided for ad valorem taxes.

After adoption of Resolution 2007-22, staff provided, by registered mail, the required notification to the Polk County Property Appraiser, the Polk County Tax Collector, and the Florida Department of Revenue that the City is contemplating developing a fire assessment and that the City elects to use the "uniform method" for billing and collecting such an assessment in the event that the City Commission adopts and approves a special assessment for the cost of providing fire services.

The City Commission hired a consultant, Willdan Financial Services (formerly MuniFinancial) to provide researched and documented answers to the following questions:

- 1) Which expenditures of the Fire Division of the Public Safety Department can be assessed as a non-ad valorem assessment against real property?
- 2) How should the City apportion the fire assessment costs to each type of property?

The proposed assessment apportionment and rates have been determined and are presented in the following chart:

Property Category	Proposed Assessment	Unit/EBU/Acreage	Max Fire Fee	Max Number of Units
Residential & Duplexes	\$ 68.68	per unit	No Max	No Max
Multi-Units & Mobile Homes	\$ 52.72	per unit	No Max	No Max
Commercial	\$ 88.13	per 1,000 square feet	\$ 3,877.72	(44,000 sq ft)
Industrial/Warehouse	\$ 108.08	per 1,000 square feet	\$ 4,755.52	(44,000 sq ft)
Institutional	\$ 13.68	per acre	\$ 273.60	(20 acres)
Vacant/Agricultural	\$ 87.56	per acre	\$ 1,751.20	(20 acres)

Unlike ad valorem taxes based on the "taxable value" of real property, a non-ad valorem assessment is based on land use type (i.e. residential, commercial etc.) and on the special benefits that will be received by each property. This revenue mechanism is intended to create a positive and dedicated revenue stream to assist in the long range funding of the City's Fire Service operations and capital needs.

## PROPOSED MILLAGE RATE REDUCTION

If the fire assessment program is adopted, the City Commission will be able to adopt a lower millage rate. The current proposed statutory allowed maximum millage rate of 7.3277 could be lowered to 5.7451 if institutional properties are exempted or 5.7157 if institutional properties are included in the assessment. This represents a 21.6% millage rate reduction. As a whole the City would assess \$1.27 less in Ad Valorem Tax for every \$1.00 assessed for the Fire Protection Assessment Program.

In order to make the assessment revenue neutral in the General Fund, the City had to take a deeper cut in property tax revenue. The General Fund receives seventy-nine (79%) percent of Ad Valorem property tax proceeds with twenty-one (21%) percent of the proceeds going to the Community Redevelopment Agency (CRA).

After careful evaluation staff determined that the millage rate reduction would not affect the CRA's programs, covenants or commitments.



### ASSESSMENT ADOPTION PROCESS (WILL INCLUDE LIFELINE PROGRAM)

In order to proceed with consideration of the proposed Fire Protection Assessment Program, City Commission consideration and adoption of the following items is needed: 1) Fire Protection Assessment Ordinance; 2) Initial Fire Protection Assessment Resolution; and, 3) Final Fire Protection Assessment Resolution.

A lifeline program for the fire assessment, similar to the lifeline program currently used in the City's utility system, will be included in the 2008-09 proposed budget. The program is not included in this ordinance but will be presented for adoption in the Initial Assessment Resolution that approves the initial or tentative assessment rates that are used in advertising by mail and by publication. The Initial Assessment Resolution will be ready for consideration and adoption at the special City Commission meeting on July 29, 2008 pending the adoption of the Fire Assessment Program Ordinance after the second reading and public hearing. The final assessment rates that would determine the assessment placed on each tax bill are established by adoption of a Final Assessment Resolution after a public hearing scheduled for August 26, 2008.

### ORDINANCE 2008-26, FIRE PROTECTION ASSESSMENT PROGRAM

Ordinance 2008-26 establishes a new Chapter 10.5, Fire Protection Assessments, in the Lake Wales Code of Ordinances. Information provided in the ordinance includes:

**Sec. 10.5-1.** Definitions – Defining terms relating to the Fire Protection Assessment Program.

**Sec. 10.5-2.** Interpretation – e.g., words importing singular number includes the plural number, words of any gender include the correlative words of the other genders, unless sense or context indicates otherwise.

**Sec. 10.5-3.** General Findings. – Declaring the City's power of local self-government.

**Sec. 10.5-4.** Legislative Determination of Special Benefit to Property. – Declares that fire protection services provide a special benefit to property.

**Sec. 10.5-5.** General Authority. – Authorizes the City Commission to impose an annual Fire Protection Assessment to fund all or any portion of the Fire Assessed Cost upon benefited properties. States that nothing contained in Chapter 10.5 shall be construed to require the imposition of Fire Protection Assessments against Government Property. This statement does not prevent the assessment against Government Property, only that it is not required.

**Sec. 10.5-6.** Initial Proceedings. – The procedure and content requirements for adopting the Initial Assessment Resolution.

**Sec. 10.5-7.** Initial Assessment Roll. – Directions for preparing and information required in the Initial Assessment Roll.

**Sec. 10.5-8.** Notice by Publication – Notification requirements for Public Hearing and adoption of Final Assessment Resolution.

**Sec. 10.5-9.** Notice by Mail. – Description and instructions for notice that must be mailed by first class mail to the Owner of each parcel of property (except Government Property) subject to the Fire Protection Assessment.

**Sec. 10.5-10.** Adoption of Final Assessment Resolution. – Procedures for public hearing and adoption of Final Assessment Resolution and approving Initial Assessment Roll.

**Sec. 10.5-11.** Effect of Final Assessment Resolution. – The adoption of the Final Assessment Resolution shall be the final adjudication of the issues presented unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the City Commission action on the Final Assessment Resolution. The Assessment Roll as approved shall be delivered to the Tax Collector.

**Sec. 10.5-12.** Adoption of Annual Assessment Resolution. – Instructions for establishment, adoption, and notification of the annual assessment in subsequent years.

**Sec. 10.5-13.** Lien of Fire Protection Assessments. – Establishing that the Fire Protection Assessment constitutes a lien against assessed property equal in rank and dignity with the liens of all state county, district, or municipal taxes and special assessments.

**Sec. 10.5-14.** Revisions to Fire Protection Assessments. – Right of City Commission to impose another Fire Protection Assessment if for any reason the assessment established is either in whole or in part annulled, vacated, or set aside by the judgment of any court, or the City Commission.

**Sec. 10.5-15.** Immateriality of Procedural Irregularities. – Immaterial procedural irregularities in connection with the levy shall not affect its validity.

**Sec. 10.5-16.** Correction of Errors and Omissions. – Directions and procedures for addressing corrections of errors and omissions imposed or missed against a parcel of property.

**Sec. 10.5-17.** Interim Assessments. – Provides for imposing the Fire Protection Assessment against property upon issuance of a building permit to be calculated upon a monthly rate which shall be one-twelfth of the annual rate for such property.

**Sec. 10.5-18.** Method of Collection – Identifies the Uniform Method provided in the Uniform Assessment Collection Act as the collection method of the Fire Protection Assessment.

**Sec. 10.5-19.** Alternative Method of Collection. – Other methods that the City Commission may elect to utilize for collection of the Fire Protection Assessment.

**Sec. 10.5-20.** Government Property. – Provisions for billing and collecting the assessment if the assessment is imposed against Government Property.

**Sec. 10.5-21.** Applicability. – Authority to impose throughout the City.

**Sec. 10.5-22.** Alternative and Additional Method. – Chapter 10.5 does not prevent the City Commission from using alternative or additional methods provided for or required by other laws.

## **FORUMS**

At the four forums held on this topic, it was explained by both City staff and the consultant that the amount of the assessment charged to property owners is the actual cost of our fire department providing fire related services to that type of property. Because it is an assessment and not a tax, it can be charged to every property owner, which includes many property owners who do not currently pay property taxes. This is the most equitable way to pay for the fire related services provided by our fire department.

At present, funding for fire-related services provided by our fire department comes from the general fund, whose revenues include property taxes. The concern expressed repeatedly at the public forums on this topic was that the imposition of this assessment needs to be revenue neutral for the City – that whatever dollar amount the assessment would raise, that amount needs to be reflected in a reduction in the millage rate. While it was often stated that this was the City staff's goal in formulating this program, it was not until the tax base figure from the county property appraiser's office arrived on July 1 could the City staff calculate whether or not such a reduction was actually feasible. At the last forum on this topic held on July

8, staff distributed a preliminary schedule indicating that the tax rate could be reduced with the adoption of the assessment.

It was also pointed out at the July 8 forum that while the goal is to make this assessment imposition revenue neutral for the City, the charging of the assessment and a reduction in millage would affect property owners in different ways, depending on the taxable value of the property. For example, a property owner living in his own home that is valued by the county property appraiser at less than \$25,000 does not pay property taxes as that value falls within the first exemption. (It is estimated that there are approximately 130 properties in this category.) Under the fire assessment program, that property owner would now pay the fire assessment. City staff understands that an argument could be made that this property owner is least likely to be able to pay this new assessment, regardless of the argument that it is more equitable. For this reason, City staff will recommend a Lifeline rate, similar in format to the Lifeline rate in our present utility billing rate schedule.

While the assessment requires property owners who do not pay property taxes now to start paying for fire related services, it conversely gives a break to some customers – those whose property is appraised high enough by the county property appraiser that the value of the millage reduction is worth more than the fire assessment charged.

The chart below provides the revenue break-even analyzes for each of the proposed millage rate reductions based on taxable value per fire assessment unit:

<b>Property Category</b>	<b>Millage Rate</b>	<b>Millage Rate</b>	<b>Unit/EBU/Acreage</b>
	<b>5.7451</b>	<b>5.7157</b>	
	<b>Minimum</b>	<b>Minimum</b>	
	<b>Breakeven</b>	<b>Breakeven</b>	
	<b>Taxable Value</b>	<b>Taxable Value</b>	
Residential & Duplexes	43,400	42,605	per unit
Multi-Units & Mobile Homes	33,315	32,700	per unit
Commercial	55,690	54,675	per 1,000 sq ft
Industrial/Warehouse	68,290	67,050	per 1,000 sq ft
Vacant/Agricultural	55,325	54,320	per acre

The fire assessment is charged with property taxes and appears on the same bill. A 2% charge is allowed for the property appraiser and tax collector for their efforts.

Another question that was asked at the forums was simply, why go to all this trouble to raise the same amount of money? City staff believes that the fire assessment is a good thing for our town because:

- 1) We have a critical need to build our tax base. In comparison to two other cities in our county that are about our size (in population), Auburndale and Haines City, we have the lowest tax base and the highest millage rate. We cannot sustain the level of services that have been provided in the past without a significant improvement to our tax base. The City Commission has long recognized this, and included an element in the City's first strategic plan for economic development. Generally speaking, when businesses consider expanding or re-locating to our town, one of the main cost factors considered is the millage rate. A few years ago our millage rate was the highest in the county; it is now second highest. The reduction in the millage rate will help encourage business expansion and re-location to our town.
- 2) We have an opportunity to secure a funding source for one of the City's fundamental services, the fire fighting service. There have been two waves of tax reform, and there is talk of more tax reductions. The second wave, when coupled with the poor condition of the economy, has shrunk our tax base 2%. In the face of rising prices for the supplies that the fire department needs to operate, a secure revenue stream is needed.

- 3) Many people feel that user fees are preferable to taxes. A user fee is directly related to the cost of providing the specific service, and the income from the assessment goes only to pay that cost. Taxes are not so designated. The receipts can be used for a wide variety of expenditures and they are charged with no relation whatsoever to the cost of providing services. They are charged on an estimated value of the property owned, which is viewed as the owner's ability to pay. A user fee is equitable. The fire assessment charges what it costs our fire department to provide fire-related services to the type of property being charged.

## **OTHER OPTIONS**

Continue to rely on ad valorem taxes and other economically and politically sensitive revenue streams.

## **FISCAL IMPACT**

The millage rate reduction will reduce property tax revenues by approximately \$1.3 million. The Fire Protection Assessment will generate approximately \$1.05 million in revenue.

[end agenda memo]

Ms. Delmar read Ordinance 2008-26 by title only.

**AN ORDINANCE OF THE CITY OF LAKE WALES, FLORIDA, AMENDING LAKE WALES CODE OF ORDINANCES BY ESTABLISHING A NEW CHAPTER 10.5, FIRE PROTECTION ASSESSMENTS; DEFINING TERMS RELATING TO THE FIRE PROTECTION ASSESSMENT PROGRAM; PROVIDING FOR INTERPRETATION; PROVIDING GENERAL FINDINGS; PROVIDING LEGISLATIVE DETERMINATION OF SPECIAL BENEFIT TO PROPERTY; PROVIDING GENERAL AUTHORITY FOR IMPOSITION OF FIRE PROTECTION ASSESSMENTS; ESTABLISHING INITIAL PROCEEDINGS FOR IMPOSITION OF FIRE PROTECTION ASSESSMENTS; PROVIDING FOR THE INITIAL ASSESSMENT ROLL; PROVIDING FOR NOTICE BY PUBLICATION AND NOTICE BY MAIL; PROVIDING FOR ADOPTION OF THE FINAL ASSESSMENT RESOLUTION; PROVIDING FOR EFFECT OF FINAL ASSESSMENT RESOLUTION; PROVIDING A PROCESS FOR ADOPTION OF ANNUAL ASSESSMENT RESOLUTION; PROVIDING FOR A LIEN ON ASSESSED PROPERTY; PROVIDING FOR REVISIONS TO FIRE PROTECTION ASSESSMENTS; PROVIDING FOR IMMATERIALITY OF PROCEDURAL IRREGULARITIES; PROVIDING FOR CORRECTION OF ERRORS AND OMISSIONS; PROVIDING FOR INTERIM ASSESSMENTS; PROVIDING FOR A METHOD OF COLLECTION; PROVIDING FOR ALTERNATIVE METHODS OF COLLECTION; PROVIDING FOR COLLECTION FROM GOVERNMENT PROPERTY; PROVIDING FOR APPLICABILITY; PROVIDING THAT METHODS IN CHAPTER 10.5 ARE ALTERNATIVE AND ADDITIONAL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mr. Otte noted that funding for the Lifeline rate would come from a cut in the millage rate that was less deep so it would be paid back.

## **OPENED TO PUBLIC COMMENT**

David Smith, Babson Park, said that because the west part of Lake Ashton is in the City of Winter Haven and the east part is in Lake Wales, the east part will be paying the fire assessment and the west part will not. He said that there is an Elementary School located west of Lake Ashton that is in the county or the City of Winter Haven, and the City has a fire station east of that area. If there is a fire at the Elementary School, the City's fire station will respond and for that reason, he opposes the fire assessment.

Mr. Otte said that Fire Station #2 could not respond in another City unless it is done by a Mutual Aid Agreement. He asked if the Elementary School is in the City's OPA, Outside Protection Area. Fire Chief Jerry Brown said that the Elementary School is not scheduled to be in our OPA area. The school is either in the unincorporated area of the county or in the City of Winter Haven. Winter Haven has a Fire Station located off Cypress Gardens Blvd. in the area of Carlton Arms that serves that community in the same

way the City serves Lake Ashton. The Fire Department operates under a countywide mutual aid agreement, so the City does respond when called. However, when this happens, a fire engine from our main station is sent up to a median area, a standby point, to cover for both stations.

Jack Neal, 435 E. Central Avenue, spoke in opposition of the proposed ordinance. He said that a tax is still a tax no matter what you call it and right now, we do not need any more taxes. The City needs to learn to live off what it has like everyone else.

Mr. Otte said our intent is to make this revenue neutral for the City. Mr. Neal said that it might work on personal property but not on commercial property. Mr. Otte said that it would work the same on commercial property. He explained that if you have a very expensive piece of commercial property it is possible that the millage rate reduction could be greater than the fire assessment. The owner of that property would see a reduction in their fees paid to the City over what they were previously paying in taxes. If a homeowner has a very expensive, highly valued house, they are likely to see a reduction in taxes because the millage rate reduction would be more than what they would pay in a fire assessment.

Wes Rogers, 500 W. Bullard Avenue, asked Mr. Otte to explain the optional millage rate that depended on churches and non-profit organizations paying the fee. Mr. Rogers said that it was not mentioned in any other meeting or in any of the documents that were distributed. Mr. Otte explained that if all the properties in the City limits including non-taxing properties such as churches and other non-profit organizations were assessed the fee, then that would cause a greater reduction in the millage rate because more people would be paying the fee. Ms. Delmar said that as shown on the agenda memo for this item, which is posted on the Internet, two columns are shown: a millage rate of 5.7451 that exempts institutional properties such as churches and government buildings from paying the fee; and a millage rate of 5.7157 that requires them to pay the fire assessment. Mr. Rogers said that if churches and government buildings are assessed the fee then the millage rate of 5.7451 would go down. Ms. Delmar said that was correct. Mr. Rogers said that he just wanted to make sure that the figures given to him by the City were figures he could count on. Ms. Delmar said that the figures were only preliminary because the City is still working through the budget process. Therefore, the millage rate could go down.

Sharon Becker, 403 E. Central Avenue, asked if someone has a large lot that is actually two lots but is shown on the City's tax roll and at the County as being one parcel, would they be charged a double fire fee because it is a packaged lot. Ms. Delmar said that the fee would be charged per parcel.

Charles Fairchild, 719 Hillside Avenue, asked if it was the City's intent to charge not-for-profit organizations the fire assessment. Mr. Otte said that was his recommendation. Mr. Fairchild asked who would make that determination. Mr. Otte said that the City Commission would make the decision.

Wynette Kimbrel, 1026 Highview Drive, asked that before the Commission votes should not the exact figures be presented. Mr. Otte said the Commission is being asked to vote now because the tax collector needs this information.

Lee Evett, the City's consultant from Willdan Financial Services, formerly MuniFinancial, explained that the purpose of the ordinance tonight is to establish the authority for the City to levy an assessment, and it sets the procedure the City must follow to levy an assessment. Tonight's action does not include any numbers in respect to the assessment, exemptions etc. It simply says that when the Commission finally adopts this ordinance, the City can levy an assessment for fire and this is the procedure that must be followed. The actual assessment numbers will be on a final resolution to be discussed at a public hearing in August. Mr. Otte asked where the schedule came from that requires the City to have second reading on July 29. Mr. Evett said it came from State law and case law. Mr. Otte said that the City just got the tax base information two weeks ago, so we are now working on the budget. Mr. Evett said that the City depends on the tax collector and the property appraiser to find basic information so the consultant can analyze it and tell the City what the rates would be. He said that everything happens with the adoption of this ordinance, the initial resolution, and the final resolution.

Ms. Kimbrel said that she is not comfortable with not knowing whether churches and other non-profit organizations would be required to pay the fire assessment before the Commission votes on it. Mr. Evett said that the only thing the City is doing tonight is establishing the ordinance that gives the authority to have an assessment and the procedure that must be followed in order to do that. He added that if the City adopts this ordinance on July 29, it would not be obligated to adopt a fire assessment. The City can have this ordinance on the books and never have a fire assessment. It would take an entirely separate action to actually adopt a fire assessment.

Ms. Kimbrel said that there are different phases of development going on in the City. She wanted to know if the City would still need to collect a fire assessment after it receives the impact fees from those developments. Mr. Otte said yes. He explained that the fire assessment would be for the cost of operating the fire department and the impact fee collected from new residential and commercial properties is for the expansion of the utility capital system such as the cost of equipment and the cost of the facility, but not the ongoing operational cost. For example, every time someone hooks onto the sewer system, the City has to expand its sewer plant to serve them. Ms. Kimbrel said that she could see no end to this. Mr. Otte said that was correct because service continues. He said the City is working to make this revenue neutral and not trying to add on another layer of fees.

Rip Walser, 504 Edgewater Drive, asked if the fire assessment passes would the fee increase as operating cost of the Fire Department increases. Mr. Otte said yes. The Fire Department provides a service that requires very expensive equipment, but this particular fee calculation does not include any big capital expenditures like a brand new fire truck etc. The trucks do wear out and will need replacing. At some point in time, the fee would need to reflect some cost for capital equipment. Mr. Walser asked if the City would have another fund in place to replace equipment other than the fire assessment fund. Mr. Otte said no. Mr. Walser said the citizens would then be stuck with that cost too. Mr. Otte said that is correct because equipment is a key component of providing the service. The only thing the City might be able to do is smooth out those costs so that they do not all hit at one time. Mr. Walser said the service fee should only cover the service itself and not the equipment that is used. Mr. Otte said no, because in this case the equipment is the key component of providing the service and the Fire Department cannot operate without fire trucks.

Fire Chief Brown said that fire trucks are very expensive and one is on order now that is being fully paid for by the City's impact fees. It is one of the first trucks that the City has purchased using cash without going into debt in over 30 years. He said that there are other means in place to pay for those things. Mr. Otte said that when the City can use impact fees for those purchases it will.

Robert Kelly, 1149 Cephia Street, said that other states are trying very hard to solve the same tax problems we are in Florida. The State of New York is encouraging each of its communities to look to its neighbors to see if it is possible to combine some of their services. In 2004, the City of Lake Wales met with the County Fire Chief about the possibility of combining fire services, which he believed to be a savings of \$880,000 a year. If the City was really interested in reducing its millage rate, it would consider combining its fire services with the county.

Mr. Kelly asked if the present bonded indebtedness of the City would be calculated in the fire assessment. Mr. Evett said no. Mr. Kelly asked if the capital expenditure program was included in the City's projections in the fire assessment. Mr. Evett said it was included but the City eliminated it so the assessment could be lowered as much as possible. There is no capital cost involved in this assessment this year. Mr. Otte said that is because it was not in the budget this year.

Mr. Otte said the county had planned to build a fire station in Waverly, but that never happened. Fire Chief Brown said the county is not going to build in Waverly now. Mr. Otte commented that the City will not get better service than it receives today from the Fire Department, which is reflected in the reduced ISO rate.

Mayor Wheeler asked for comments from the Commission.

Commissioner Rogers said he ran for Commissioner on the promise that he would not vote for a fire assessment, and if he gives his word on something, he lives up to it. He said that the plan does have some merit and he is in favor of lowering the millage rate to bring businesses into the City, but he still has many reservations about it. Commissioner Rogers said because he gave his word that he would not vote for it, he will not.

Commissioner Howell asked if it was possible to get businesses to come into the City with a lower rate without lowering everyone's taxes, so there would not have to be a fire assessment. Mr. Galloway explained that the City could not make a separate tax rate for someone it wants to lure into the community. It has to be an even rate across the board.

Commissioner Manry said that this is not about having a fire fee or what the fire fee would be. It is about seeing whether we are able to make the decision going forward. She said that she feels very strongly about seeing a lower millage rate in this community, and she believes that if most of the residents do the math on the worksheet they will see a real revenue neutral if not a real revenue benefit. The benefit of a reduced millage rate out-weighs the detriment of a fire fee. She said for the sake of economic development, she would much rather say to a perspective business that our tax rate was 5.745 and be much less embarrassed when she looks at all the other tax rates. So, this is something that should be considered, and if we don't vote for this proposal, then we can't vote going forward.

Commissioner Van Sickle said that he has actually done the math on his part and using last year's market value on the county's website his fee with the millage rate change would be about \$256.00 a year and then after adding in the proposed \$68.68 fire fee, he still comes out about \$190.00 to the good. We are showing that we are trying to get the millage rate down by being a little more equitable the way we are doing the fire assessment. Commissioner Van Sickle commented that he was originally against the fire assessment, but it makes sense. It is going to lower the millage rate, and hopefully it will attract more businesses to the area and if not, it is a savings for the majority of the people.

Commissioner Manry said to Commissioner Rogers that she was very impressed with his reaction to this because he is taking a universal look at this to see that the millage rate reduction has to have some merit, which is definitely what she is voting on.

Mayor Wheeler said that a lower millage rate could attract businesses in this town. Our problem is that we have not had enough commercial development in the City. We have been a bedroom community and bedroom communities always have higher taxes. Commercial development means lower taxes. We have to remember that this is not the fire assessment itself, but the enabling legislation. We have to vote on it to have the option to do it later. Therefore, on that basis he would urge its passage.

#### CLOSED TO PUBLIC COMMENT

Commissioner Manry made a motion to approve Ordinance 2008-26, establishing Chapter 10.5, Fire Protection Assessment Program, after first reading. The motion was seconded by Commissioner Van Sickle.

#### ROLL CALL:

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

The motion carried 3-2.

Commissioner Van Sickle ended his attendance at the meeting via telephone at approximately 8:05 p.m.

**AGENDA ITEM 16. Purchase of +/- 60 Acres from David Crews for Extension of Main Runway 6-24 City of Lake Wales Airport**

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

[begin agenda memo]

**RECOMMENDATION**

Staff recommended that the City Commission make and authorize the following two actions:

1. Authorize the expenditure of One Million Five Hundred Seventy Five Thousand Dollars (\$1,575,000.00) from the Economic Development Trust Fund Grant – EDTF 07-MP017 for the purchase of 60+/- acres from David Crews for the purpose of extending Runway 6-24 as described in the Master Plan for Lake Wales Municipal Airport by Hoyle Tanner and Associates; and
2. Authorize the Mayor to execute all required documentation to effect the purchase of the property with the funding from the Economic Development Trust Fund Grant for this project.

**BACKGROUND**

Senator J.D. Alexander has been working with City representatives for many years to improve our municipal airport. Three years ago he led the efforts to acquire \$1.5 million which was used to construct a water system with fire fighting capability to the airport for the first time. Two years ago he again led the efforts to acquire \$3 million to initiate a program for the extension of the east/west runway (runway 06-24). This is a complex undertaking, involving many separate tasks and coordinating efforts with both state and federal agencies. The final product will capitalize on the airport's strategic location on SR 60 W, which is quickly being recognized as a key area for industrial development in the future.

Our municipal airport has two runways: Runway 06-24 lies in an east/west configuration and has the most aircraft operations. The north/south runway, 17-35, is used less often.

The extension of runway 06-24 is included as a project in the Airport Master Plan update completed by Hoyle Tanner and Associates in December, 2004. At present, this runway is approximately 4,000 feet in length, and the plan is to extend it up to an additional 1,400 feet. The extended runway will be able to accommodate corporate jets that must now be turned away. Because of its strategic location on SR 60, near the proposed CSX rail center and spin off industries to be built, and the Longleaf Business Park, our municipal airport has a very bright future for general aviation.

On March 10, 2007, through the Senator's efforts, the funding for the acquisition and design phase of the project was secured; more specifically, this includes survey work, environmental analysis and assessment, appraisal, contract preparation, property acquisition, engineering and design, and permitting. The City Commission has previously approved contracts for most of these items, and the results are as follows:

- The survey work has been completed;
- The environmental assessment work has been completed, and there is nothing to indicate that a runway could not be located on the property;
- The appraisal was completed according to the Federal Aviation Authority (FAA) guidelines for property acquisitions. It was conducted by an MAI designated firm on the state's pre-approved list of appraisers;
- Harold Gallup, the City's Economic Development Director, negotiated the contract on behalf of the City for acquisition of the property over many months with owner David Crews and his attorney.



These negotiations were successful, as the contract reflects the appraised price and acquires the property without the need for eminent domain. The purchase contract was initially prepared and received final review by the City Attorney.

- The state grant of \$3 million is technically a reimbursement type grant; however, Mr. Gallup has worked out a favorable arrangement as to the timing of the release of funds.

The request for the funding of the construction of the runway extension will be submitted this calendar year based upon the completion of this phase of the project.

The property owner has been very supportive of the "Economic Revitalization" of the Municipal Airport and realizes that this is a major "Milestone" in the process. The overall project will take several more years to complete with the construction Phase(s). The Airport's role and mission will grow to be an integral part of the overall economic development efforts for the City.

### **CURRENT FISCAL IMPACT**

The acquisition of the property is being paid for with grant funds.

### **OTHER ALTERNATIVES**

Do not authorize the purchase of the property.

[end agenda memo]

Mr. Otte recognized Economic Development Director Harold Gallup for his great work in bringing this purchase contract into fruition. He said that the Addendum to the Contract would allow the City of Lake Wales to provide to Luther David Crews a revocable license for ingress and egress across a 30-foot wide north-south strip of the uplands portion of the subject property. The license will be for ingress and egress in connection with the utilization of an area of Seller's land consisting of approximately 200 acres located northerly and westerly of the subject parcel. The use of the license shall be limited to crossings related to the cattle ranching and agricultural use of the Seller's land.

Mr. Otte asked Mr. Galloway and Mr. Gallup if they had any additional information or comments that they would like to provide.

Mr. Galloway said that there is not any additional information. The document was provided to the Commission in draft form in the agenda packet. The change to the ingress and egress is to widen the access. However, it is a revocable license, which means that if for some reason the FAA requires the City to limit the access, all we would have to do is provide notice and the license would be terminated.

Commissioner Rogers thanked Mr. Gallup for his hard work on the airport project. He said that Mr. Gallup and the City Manager have been very good at giving him instructions on the airport. Commissioner Rogers commented that this is a worthwhile project, which can bring some tax relief to our community, and he knows he will enjoy working on the Airport Authority Board. He thanked the Commission for appointing him to serve on that Board.

Commissioner Howell made a motion to authorize the expenditure of \$1,575,000.00 from the Economic Development Trust Fund Grant - EDTF 07-MP017 for the purchase of 60+/- acres from David Crews for the purpose of extending Runway 6-24 as described in the Master Plan for Lake Wales Municipal Airport by Hoyle Tanner and Associates, and to authorize the Mayor to execute all required documentation to effect the purchase of the property with the funding from the Economic Development Trust Fund Grant for this project. The motion was seconded by Commissioner Manry.

ROLL CALL:

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

The motion carried 4-0.

#### **AGENDA ITEM 17. Political Rally – Temporary Street Closing**

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

[begin agenda memo]

#### **RECOMMENDATION**

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

Approve the temporary closing of Lincoln Ave. from D Street to A Street with the following condition, that the sponsor pays for two police officers for six hours from 11 a.m. to 5 p.m.

#### **BACKGROUND**

Booker Young has submitted a Special Event application for Saturday, July 19, 2008 for a political rally from 11 a.m. until 5 p.m. They are requesting that Lincoln Avenue be closed to traffic from D Street to A Street for the event.

The Police Department noted, as this event is on a Saturday, additional police resources would have to be in place as support personnel will not be on duty should there be a problem. They recommended coverage for the entire length of the event to ensure safe crowd control and the peaceful disbursement after the event. As this is an unbudgeted event, the cost should be the responsibility of the sponsor.

Sanitary facilities, parking, site preparation and site clean-up are the responsibility of the Sponsor.

#### **OTHER OPTIONS**

- Not to approve this event.
- Decrease the hours of the event.
- Decrease the length of the street closure on Lincoln Ave. to from C Street to B Street and hire only one officer.

#### **FISCAL IMPACT**

The fiscal impact will depend on the number of officers and the length of the street closure.

- 2 officers for 6 hours (11 a.m. to 5 p.m.) from D St. to A St. @ \$35.00 X 2 X 6 hrs. = \$420.00;
- 2 officer for 3 hours (11 a.m. to 2 p.m.) from D St. to A St @ \$35.00 X 2 X 3 hrs. = \$210.00;
- 1 officer for 6 hours (11 a.m. to 5 p.m.) from C St. to B St. @ \$35.00 X 1 X 6 hrs. = \$210.00;
- 1 officer for 3 hours (11 a.m. to 2 p.m.) from C St. to B St. @ \$35.00 X 1 X 3 hrs. = \$105.00

[end agenda memo]

Commissioner Rogers said that he hopes the Commission will attend and meet the candidates who are either running for re-election or who are running for the first time.

Commissioner Manry said there was no information included in the agenda packet to explain what the event was about.

Booker Young, sponsor of the event, explained that the purpose of the event is to enhance the voting in the election for the county and state candidates who are running for office.

Commissioner Manry asked if the candidates are scheduled to attend the rally the entire day. Mr. Young said yes, from 11:00 a.m. to 5:00 p.m.

Commissioner Manry made a motion to approve the temporary closing of Lincoln Avenue from D Street to A Street with the following condition, that the sponsor pays for two police officers for six hours from 11 a.m. to 5 p.m. The motion was seconded by Commissioner Howell.

**ROLL CALL:**

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

The motion carried 4-0.

**AGENDA ITEM 18. Discussion of Financial Statements for June 30, 2008, Fiscal Year to Date**

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

[begin agenda memo]

**RECOMMENDATION**

The unaudited financial statements for the City of Lake Wales for the Period Ending June 30, 2008 are presented to the City Commission for review. At the end of June, the City is 75.0% into the fiscal year. Nineteen of twenty-six payrolls (73.1%) have been expensed through June 30. Budget comparisons are based on the FY07'08 budget as amended by Ordinances 2008-02 and 2008-16.

**SUMMARY**

The following chart gives a brief summary of revenue and expenditure performance as of June 30, 2008:

Fund	Revenues & Sources		Expenditures & Other Uses	
	Percent of Budget	Comparison to Target	Percent of Budget	Comparison to Target
General Fund	85.5%	+10.5%	74.9%	-0.1%
Special Revenue Funds	88.1%	+13.1%	36.8%	-38.2%
Debt Service Fund	74.0%	-1.0%	92.1%	+17.1%
Capital Projects Fund	64.5%	-10.5%	77.6%	+2.6%
Airport Fund	12.9%	-62.1%	23.5%	-51.5%
Utility System Fund	33.4%	-41.6%	31.1%	-43.9%

General Fund revenues are currently 85.5% of budget due primarily to the fact that the General Fund received 98.2% of budgeted ad valorem tax revenues through June 30 with \$299,810 received since May 31. Through the end of June, the City received 69.9% of budgeted franchise fees, 67.6% of utility taxes, 79.4% of communications services taxes, 75.5% of state-shared revenues, and 76.1% of sales tax revenues. All of these comparisons are in relation to the amended budget. General Fund expenditures were at 74.9% or 0.1% (\$7,938) below the 75% target level.

Overall revenues in the Special Revenue Funds were at 88.1% 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 97.3% of its budgeted revenues, and the Transportation Fund received 72.1% of gas tax revenues. Library Fund expenditures were at 67.4% of budget and Transportation Fund expenditures were at 35.7%. The CDBG grant fund recorded 108.0% of budgeted expenditures including some remaining expenditures related to the CDBG Disaster Recovery Grant budgeted in FY06'07 but not expended before 9/30/07; these expenditures will be included in the next budget amendment. There was minimal activity in the other Special Revenue Funds through the end of June.

Debt Service Fund expenditures are significantly higher than budget (+17.1%) 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 and \$197,258 in interest for these two loans was paid on April 1. The 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. An additional \$30,291 principal payment for the Suntrust 99 CIP Bond was budgeted and funded in FY06'07 but was not actually paid until October 2007.

The Capital Projects Fund reflects receipt of 64.5% of budgeted revenue and 77.6% of budgeted expenditures. Most of the expense incurred in this fund through June 30 is related to construction of the Soccer/Multi-purpose field (\$310,633) and the expenditure of police and recreation impact fees.

Airport Fund revenues were at 12.9% of budget and expenditures were at 23.5%. 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 June although \$1,256,100 has been spent on improvements since October 1, 2007.

The Utility Fund received 83.6% of budgeted revenues through June 30. This number includes impact fees, the Oakley settlement, and miscellaneous revenues as well as charges for services. Revenues from water charges were at 81.2% of the amended budget (+\$200,227), and revenues from sewer charges were at 77.4% (+\$67,681). Overall revenues and other financing sources in the Utilities Fund were at 33.4%. Loan proceeds related to the wastewater treatment plant expansion and southside force main projects are recorded as actual expense is incurred. Expenditures in the operating departments were at 67.6% or 7.4% (\$317,169) below target level. Total Utilities Fund expenditures and other uses were at 31.1% of budget.

The City's overall cash position at the end of June 2008 improved in comparison to the cash position at the end of June 2007 (+\$2,051,013). In order to make a valid comparison, however, adjustments must be made to both years as follows:

	6/30/07	6/30/08	Difference
Total Cash & Investments	7,385,845	9,436,858	+ 2,051,013
Due to Other Governments	(91,869)	(596,582)	
Insurance Proceeds & Other Airport Cash	(1,649,313)	(774,946)	
Deferred Revenues*	(504,909)	(463,224)	

Sale of Coop Fruit Prop (Net of Expenditures)	(1,091,488)	(1,091,488)	
Cash & Investments Net of Adjustments	4,048,266	6,510,618	+ 2,462,352
**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 June 2008 reflects an increase of \$2,462,352 over the end of June 2007. In relation to the cash position at May 31, 2008 (\$5,371,432), the June position shows an increase of \$1,139,186. This increase was the result of receiving \$260,495 in grant funds and the draw-down of \$1,484,358 in CRA bond funds to reimburse operating cash advanced for capital projects.

The City's accounts payable at 6/30 declined by \$418,736 from \$1,595,510 at 6/30/07 to \$1,176,774 at 6/30/08. Accounts receivable at 6/30 declined by \$596,890 from \$2,003,757 at 6/30/07 to \$1,406,867 at 6/30/08.

### Items of Current Concern

The revenue trend analysis begun in February has been updated for revenues received through 6/30/08. In relation to budget amendment Ordinance 2008-16, it is estimated that General Fund revenues will be approximately \$38,542 over budget at 9/30/08 (Chart 2). A similar analysis of expenditures through 6/30/08 projects that payroll and operating expenditures will be \$67,141 over budget (Chart 3) after adjusting for anticipated increases in the cost of fuel.

If the current trend in water and sewer revenue collections continue, there will be an approximate overage of \$357,209 in water and sewer revenues when compared to the amended budget. Utility Fund operating expenses are projected to be about \$179,121 under budget at the end of the fiscal year.

Current revenue trends in the Transportation Fund indicate a shortfall of \$38,572 at 9/30/08. On the other hand, operating expenditures in the Streets Division are projected to be \$6,105 over budget after adjusting for anticipated increases in the cost of fuel. These factors will necessitate an increase of \$43,846 in the General Fund transfer to the Transportation Fund.

A summary of the information in Chart 2 and Chart 3 indicates that General Fund expenditures will exceed revenues by \$2,552. While it is currently indicated that a small draw-down of fund balance will be necessary to cover the shortfall, please note that at 4/30/08 an excess of revenues over expenditures was projected in the amount of \$191,474. The projected surplus of revenues has been steadily eroded with each month's financials due in large part to fuel cost increases at the same time that consumption is increasing (Chart 1).

	at 4/30	at 5/31	at 6/30
General Fund Revenue Budget	11,511,001	11,511,001	11,511,001
Projected General Fund revenue excess (shortfall)	35,481	87,861	38,542
Projected shortfall in Utility contribution to Gen Fund	0	0	0
Projected General Fund revenues at 9/30/08	11,546,482	11,598,862	11,549,543
% of budgeted revenue	100.3%	100.8%	100.3%

General Fund Expenditure Budget	11,441,108	11,441,108	11,441,108
Projected General Fund expenditures over(under) budget	(86,100)	43,254	67,141
Projected increase in General Fund subsidy of Transp Fund		24,727	43,846
Projected General Fund expenditures at 9/30/08	11,355,008	11,509,089	11,552,095
% of budgeted expenditures	99.2%	100.6%	101.0%
Projected Revenues over(under) Expenditures @ 9/30/08	<u>191,474</u>	<u>89,773</u>	<u>(2,552)</u>

It must be stressed that this estimate assumes that current revenue and expenditure trends continue and that the price of regular unleaded fuel does not exceed \$4.26 per gallon before September 30. Projected General Fund expenditures have increased from \$11,355,008 at the end of April to \$11,552,095 at the end of June – up by \$197,087 and currently exceeding the amended expenditure budget by \$110,987. Another budget amendment will be necessary to increase the appropriation of fund balance to cover this overage.

Staff continues to recommend that both a hiring freeze and a discretionary spending freeze be maintained to prevent further draw-down of fund balance. The hiring and spending freeze may be waived by the City Manager when, in his opinion, critical services are impaired.

[end agenda memo]

Mayor Wheeler said the fuel usage chart included in the agenda packet shows a dramatic increase in gallon usage, particularly in the Police Department. The City's population has not increased very much, but the fuel usage has increased in most of the departments except for the smaller departments like the Depot, Library, and the Cemetery, who are saving fuel. He asked why the larger departments were using so much fuel. Mr. Otte said that he and the Police Chief would be meeting tomorrow on that very topic. Staff is carefully studying fuel usage and looking at ways to save. He said that Mr. Torrance suggested using golf carts in town for meter readers or in some communities like Lake Ashton to save fuel. Mr. Otte said that he is focusing on fuel usage and will bring a report to the Commission.

Police Chief Herbert Gillis said that in no doubt the Police Department has the largest volume of fuel usage in the City because they do preventative patrol and respond to calls. Overall, if you look at the fuel usage the Department is at 21% over what it was last year. He said that one of the primary reasons is because a period of last year the Police Department had several officers who were either out due to medical leave, disciplinary reasons or in training. Those officers have now returned to the road and are working patrol, which causes the fuel cost to increase. However, the Police Department has put measures in place to reduce fuel usage such as increasing foot patrol and using golf carts. He said that he had a voluntary meeting today with his department to brainstorm ways of reducing fuel costs, and he will be meeting with the City Manager tomorrow.

Mayor Wheeler said he is not only concerned about the Police Department. The problem exists almost across the board, which needs addressing in some way citywide. Mr. Otte said staff would look into that and bring back a report.

## **CONSENT AGENDA**

### **AGENDA ITEM 19.      Audit Engagement Letter, Fiscal Year Ending September 30, 2008**

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

[begin agenda memo]

#### **RECOMMENDATION**

It was recommended that the City Commission authorize the City Manager to execute the Audit Engagement Letter submitted by Purvis, Gray & Company for the audit of the City's financial statements for Fiscal Year Ending September 30, 2008.

#### **BACKGROUND**

Mr. Joseph Welch of Purvis, Gray & Company has provided an Audit Engagement Letter for the fiscal year ending September 30, 2008. The letter provides a detailed description of the services that will be provided through the audit process. The audit will cover the City's financial statements presented in accordance with the financial reporting model in effect under GASB Statement No. 34 and will be conducted in accordance with generally accepted auditing standards.

This is year three of the five-year Auditing Services Agreement, with two optional one-year renewal terms. The agreement may be terminated at will by the City at any time by giving thirty (30) days written notice thereof or at the end of any year by refusing to sign the succeeding years' annual engagement letter. The Auditors may terminate the Agreement at the end of any year by simply refusing to sign the succeeding year's annual engagement letter.

#### **FISCAL IMPACT**

In accordance with the Auditing Services Agreement's fee schedule, the 2008 audit fee for the City is \$56,000. Also in accordance with the agreement, if required, the federal and/or Single Audit fee is \$7,100. A \$4,000 fee (in accordance with the agreement) will be charged to provide assistance in the preparation of a Comprehensive Annual Financial Report that will qualify for the Government Finance Officer Association's Certificate for Excellence in Financial Reporting program.

[end agenda memo]

#### **AGENDA ITEM 20.      Audit Engagement Letter for the Airport Authority, Fiscal Year Ending September 30, 2008**

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

[begin agenda memo]

#### **RECOMMENDATION**

Staff recommended that the City Commission authorize the City Manager to execute the Audit Engagement letter submitted by Purvis, Gray & Company for the audit of the Airport Authority's financial statements for Fiscal Year Ending September 30, 2008, in the amount of \$12,100.00.

#### **BACKGROUND**

Mr. Joseph Welch of Purvis, Gray & Company has provided the Audit Engagement Letter for the Airport Authority. The letter provides a detailed description of the services that will be provided through the audit process. The audit will cover the Airport Authority's financial statements presented in accordance with the financial reporting model in effect under GASB Statement No. 34 and will be conducted in accordance with generally accepted auditing standards.

This is year three of the five-year Auditing Services Agreement, with two optional one-year renewal terms. The agreement may be terminated at will by the City at any time by giving thirty (30) days written notice thereof or at the end of any year by refusing to sign the succeeding year's annual engagement letter. The Auditors may terminate the Agreement at the end of any year by simply refusing to sign the succeeding year's annual engagement letter.

At the July 07, 2008 regular Airport Authority meeting, board members voted to accept the audit engagement letter.

#### **FISCAL IMPACT**

The audit fee is \$12,100.00 and this amount will have to be included in the in the FY 08/09 budget for this purpose.

[end agenda memo]

#### **AGENDA ITEM 21. Pipeline Television Inspection System**

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

[begin agenda memo]

#### **RECOMMENDATION**

Staff recommended that the City Commission take the following action:

1. Approve the sole source purchase of a Pipeline Television Inspection Camera System through ARIES Pipeline Inspection Camera Systems.
2. Authorize the City Manager to execute the appropriate documents on the city's behalf.

#### **BACKGROUND**

In the adopted FY 07/08 budget, funds were provided for the purchase of a pipeline inspection TV camera in the amount of \$40,000.00. In 2007, the city went out to bid for pipeline inspection services in preparation of the upcoming streets resurfacing project. During this inspection not only did we spend \$291,273.00 in services, we also identified many deficiencies in our sewer and storm water systems and we were able to mitigate problems in the making. This camera will be replacing an antiquated, problematic, inefficient push camera system currently in use at our Waste Water Department. Over the years staff has had to trouble shoot areas where problems exist by physically trying to locate the problem by shovel and with the push camera. In an effort to move our operations into a more time and cost efficient operation, we must provide our staff with the proper equipment to do the job. Over the past several years with contract services and with much experience and research with many different cameras/camera systems, staff feels that the ARIES camera system (Model Saturn III) is best suited for our specific application, thus creating a sole source purchase.

#### **OTHER OPTIONS**

Continue to operate with substandard, inefficient equipment and contract an outside vendor for services.

#### **FISCAL IMPACT**

\$40,000.00 as provided for in the adopted FY-07/08 Capital Improvements Budget.

[end agenda memo]



**AGENDA ITEM 22. Grove Avenue & High School Ground Storage Tank Rehabilitation**

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

[begin agenda memo]

**RECOMMENDATION**

It was recommended that the City Commission:

1. Accept the proposal of \$40,250.00 by Crom Engineering and Construction Services, Inc. for the rehabilitation needed on the ground storage tank at the Grove Avenue Water Plant and the ground storage tank at the High School Water Plant.
2. Authorize the City Manager to execute the appropriate documents, on the City's behalf.

**BACKGROUND**

In 1982, the City constructed a 400,000 gallon pre-stressed concrete ground storage tank at the High School water plant site in order to provide water storage treatment capacity and greater quantities of storage for fire protection. The contractor for this work was Crom Engineering and Construction Services, Inc (CECS). During the 26 years of this tank being in service, nothing other than routine cleaning of the aerators and replacement of screens has occurred.

The City recently hired CECS to conduct a thorough inspection of this tank. CECS has determined that rehabilitation work on the tank needs to be done now due to the effects of corrosive sulfide gasses found naturally in the ground water and other problems due to aging. This work will avoid any further deterioration of the tank's dome and walls.

CECS also constructed a 260,000 gallon pre-stressed concrete ground storage tank at the Grove Avenue site in 1962. This tank also provides water storage treatment capacity and greater quantities of storage for fire protection. Similar to the High School plant, during the 46 years of being in service, nothing other than routine cleaning of the aerators and screen replacement has occurred. The City also hired CECS to investigate this tank and It was also discovered to be in need of rehabilitation work.

The repairs to the two tanks will include the following:

- a. Draining and cleaning the interior of the tanks, including pumping any sediment from the tanks.
- b. Inject epoxy into four hollows in the exterior tank wall as identified in the inspection report produced by CECS
- c. Sandblast and apply two coats of potable water epoxy paint to the underside of the dome, the top three feet of the tank wall, the top three feet of the baffle wall, and interior pipes.
- d. Replace the existing aluminum alloy cover with a stainless steel cover, and prepare and re-coat the manhole frame with a two part protective epoxy coating suitable for use in potable water tanks.
- e. Seal the dome penetration for the existing indicator float cable.
- f. Fabricate and install new stainless steel manhole covers, bolts, and gaskets.
- g. Restraining the fiberglass liquid level indicator, replace float, and replace pulley boxes as needed.

CECS is considered a sole source contractor in this situation in that they are the original manufacturer of the tank. CECS is also utilized as a sub-contractor by Utility Service Co. Inc., the City's tank management contractor, whenever concrete tanks are to be inspected and/or repaired.

**OPTIONS**

None. Chapter 62-555.350 of the Florida Administrative Code dictates that all water storage tanks be thoroughly inspected every five years with subsequent corrective measures taken to place the tanks in

good operating condition and insure water quality. Additionally, postponing the repairs would only subject the City to higher costs as the price of materials and labor rise on a regular basis and cause further damage to the tank.

#### **FISCAL IMPACT**

The Water Division's M&R Storage Tank operating budget has \$58,219 left from its original budget amount of \$70,000. Funds have already been spent for miscellaneous repairs at the Market Street water plant including painting.

[end agenda memo]

#### **AGENDA ITEM 23. Public Risk Management of Florida Property Appraisal Program**

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

[begin agenda memo]

#### **RECOMMENDATION**

Staff recommended that the City Commission take the following action:

1. Authorize the City Manager to sign the agreement with CBIZ Valuation Group, LLC and execute the Agreement.

#### **BACKGROUND**

In accordance with the Intergovernmental Cooperative Agreement (A Contract and By-Laws for Public Risk Management), we are required to have City property appraised every five (5) years. The last appraisal was conducted in 2003. Accordingly, PRM (Public Risk Management) has contracted with CBIZ Valuation Group, LLC to provide the property inspection and valuation services.

The scope of services to be provided by CBIZ will include the inspection and insurance valuation of all City owned buildings, contents, EDP (Electronic Data Processing) and insurable site improvements. This property appraisal will assure that we will be paid a fair property value if a loss occurs.

#### **FISCAL IMPACT**

The estimated cost of the property appraisal is 12,714.00. This will be paid from a credit of 12,632.73 due to the City from Anchor Benefit Consulting, Inc. The remaining 81.27 will be paid out of the Human Resources Department's current budget.

#### **OTHER OPTIONS**

None. This is required in the Intergovernmental Cooperative Agreement with Public Risk Management.

[end agenda memo]

#### **AGENDA ITEM 24. Disposal of Surplus Property: 1950 Ford Fire Truck to be Donated to Mountain Lake Corporation**

Mr. Otte reported on Agenda Item 24. The full staff memo is incorporated into the minutes.

[begin agenda memo]

## RECOMMENDATION

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

1. Authorize staff to donate to Mountain Lake Corporation the 1950 Ford Fire Truck donated to the City several years ago by Mountain Lake Corporation.

## BACKGROUND

In accordance with Sec. 2-476 of the City Code, the City Commission may classify as surplus any of its property that is obsolete or the continued use of which is uneconomical or inefficient, or which serves no useful function or purpose.

Authority for the disposal of surplus property for which the initial purchase price equals or exceeds \$750.00 shall be recorded in the official minutes of the City Commission. Such authority shall include approval of the method of disposal and the estimated value of the property. Authority for the disposal of surplus property for which the initial purchase price does not equal or exceed \$750.00 shall be granted to the City Manager.

Property, the value of which the City estimates to be under five thousand dollars may be disposed of in the most efficient and cost-effective means as determined by the City Commission.

In January of 2006 Mountain Lake Corporation donated a 1950 Fire Truck to the City. The City's Fire Chief at that time planned on refurbishing this truck and using it as an educational aid and in parades.

More recently it has been determined that the cost of repairs and continued maintenance of this truck would be costly. Mountain Lake Corporation has decided that they would like to have this fire truck returned to them.

## FISCAL IMPACT

None.

[end agenda memo]

## END CONSENT AGENDA

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

### ROLL CALL:

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

The motion carried 4-0.

## ADDENDUM

### **AGENDA ITEM 25. Approval of Railroad Lease: Florida Midland Tracks at Intersection of Polk Avenue and Scenic Highway**

Mr. Otte reported on Agenda Item 25. The full staff memo is incorporated into the minutes.

[begin agenda memo]

## **RECOMMENDATION**

It was recommended that the City Commission:

1. Waive the indemnification provision included in the lease agreement between the City of Lake Wales and the Florida Midland Railroad Company.
2. Authorize the City Manager to execute the agreement on the City's behalf.

## **BACKGROUND**

The Utilities staff recommends that the City Commission waive the indemnification provision included in the lease agreement between the City of Lake Wales and the Florida Midland Railroad Company. In order for the City of Lake Wales to complete the final phase of the forcemain extension installation for lift station no 2, a 10-inch forcemain will need to be installed heading west under Polk Avenue from Lakeshore Blvd to Second Street ending at Townsend Avenue. As part of this installation, the forcemain will cross under the Florida Midland Railroad at the intersection of Polk Avenue and Scenic Highway. Ordinance 2008-18 Prohibits contracts providing indemnification, which this lease agreement has. Section two offers provisions for the City Commission to waive this prohibition if it is deemed to be in the best interest of the public. This lease is necessary for the completion of this project.

The contractor is on site and has started to prepare for the forcemain installation; to ensure all work is completed before school begins in August.

## **OPTIONS**

None. This is the most reasonable path for the force main to take in an effort to connect to Phase 2 of this project.

## **FISCAL IMPACT**

The cost of the lease is \$800.00 paid annually, which is funded through the wastewater operating budget. There is currently \$5000 remaining in 07'-08' budget.

[end agenda memo]

Commissioner Manry made a motion to waive the indemnification provision included in the lease agreement between the City of Lake Wales and the Florida Midland Railroad Company and to authorize the City Manager to execute the agreement on the City's behalf. The motion was seconded by Commissioner Howell.

## **ROLL CALL:**

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

The motion carried 4-0.

## **COMMUNICATIONS & PETITIONS**

## **CITY COMMISSION TRACKING REPORT**

Adult Day Care Facility: Mr. Otte reported that the survey work for the adult day care facility is about 80% complete.

Police Department Generator: Mr. Galloway reported that he is awaiting a report from Leedy, and he should know something by the next Commission meeting.

Traffic Light at Mountain Lake Cut-off Road and Scenic Highway: Mr. Otte reported that there is no new information on the traffic signal at Mountain Lake Cut-off road and Scenic Highway.

Interconnect with Winter Haven at Lake Ashton: Mr. Otte reported that the City is seeking an easement from the Lake Ashton Community Development District for crossing the road where the interconnect will take place.

Development of a Park in the Northern Area: Mr. Otte reported that staff is searching for available property to develop a park in the northern area of the City.

Grants for Operating a Municipal Swimming Pool: Mr. Otte reported that the City recently started seeking a grant to operate a municipal swimming pool.

City Property that could be Sold or Leased: Mr. Otte reported that a report would be brought to the Commission on City properties that could be sold or leased.

#### PUBLIC COMMENT

There were no comments made by the public.

#### COMMISSION COMMENT

Commissioner Rogers said that we have been trying to get surplus equipment for the City. He thanked Mr. Torrance for his help on that.

Mayor Wheeler said that an item he would like to have added to the tracking report is that he has heard several residents commenting that as the quality of television programming deteriorates, the value of radio goes up. There are two public stations: one in Tampa, and one in Orlando. We have talked about the possibility of putting a repeater on the City's water tower. He asked Mr. Otte to look into that and to report back to the Commission on how feasible that would be. Mr. Otte said he spoke with his brother Jim, a very experienced media person, who suggested sending a letter to USF asking them if the City could put up a repeater. Mr. Otte said he sent the letter, but has not received a response. He said that he would send another letter perhaps with the Mayor's signature on it in hopes of getting a response. That would be, not only for us, but a very attractive thing for USF because it would show their target listing area to be larger. Ms. Delmar said that WUSF is in the process of expanding its antenna and coverage area within the next 30 days. The City received notice that listeners should expect some interruptions. Therefore, USF may be interested in hearing from us at this point because they are working on that anyway. Commissioner Manry said they are also working with Bok Tower and that their afternoon announcer was the guest speaker at the last Bok Tower concert.

There being no further business the meeting was adjourned.

  
\_\_\_\_\_  
Mayor/Commissioner

ATTEST:

  
\_\_\_\_\_  
City Clerk