

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

INVOCATION

The invocation was given by Fire Chief Jerry Brown.

PLEDGE OF ALLEGIANCE

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

COMMISSIONERS ABSENT: None.

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

Agenda Item 4. APPROVAL OF MINUTES

Commissioner Howell made a motion to approve the minutes of the August 27, 2008 special meeting and the September 2, 2008 regular meeting. The motion was seconded by Commissioner Rogers.

ROLL CALL:

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

The motion carried 5-0.

AGENDA ITEM 5. PROCLAMATION: Community Planning Month, October 2008

Mayor Wheeler read a proclamation proclaiming October 2008 as "Community Planning Month." Merle Bishop, a representative of the American Planning Association, gave a brief presentation. He thanked the Commission for recognizing the importance of planning.

AGENDA ITEM 6. Ordinance 2008-33, Adopting a Millage Rate for FY08'09 – 2nd Reading & Public Hearing; Ordinance 2008-34, Adopting a Budget for FY08'09 – 2nd Reading & Public Hearing

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

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

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

1. Adopt, after second reading and public hearing, Ordinance 2008-33 setting the millage rate for FY08'09 at 7.3277.

2. Adopt, after second reading and public hearing, Ordinance 2008-34 adopting the proposed FY08'09 budget with expenditures in the total amount of \$40,756,414.

BACKGROUND

In accordance with Florida Statutes and the City Charter, Ordinances 2008-33 and 2008-34 are presented for second and public hearing. Ordinance 2008-33 establishes the millage rate for FY08'09, and Ordinance 2008-34 adopts the proposed FY08'09 budget.

The proposed FY08'09 budget document includes the revenue and expenditure details for the General Fund, Special Revenue Funds, Debt Service Fund, Capital Projects Fund, Utility System Fund and Airport Fund. This document was previously forwarded to the City Commission for review and was discussed at workshops held on August 20 and August 27. Ordinances 2008-33 and 2008-34 were approved after first reading and public hearing on September 3, 2008.

This budget has been prepared in accordance with Article VI, Section 6.04 of the City Charter, which requires that the budget provide a complete financial plan of municipal funds and activities. Estimated current year ending fund balances have been considered and are included in the budget.

PROPERTY TAX

The millage rate of 7.3277 is 5.40% below the rolled-back rate of 7.7459 and represents a reduction of .0244 mills (-0.33%) from the current the rate of 7.3521 mills.

The following chart illustrates the difference between the current rate of 7.3521 mills and the rate of 7.3277 mills upon which the proposed budget is balanced:

Assessed Value	Taxable Value		Tax Rate per \$1,000		Reduction in taxes paid
	with 1 st \$25,000 homestead exemption	with 1 st & 2 nd \$25,000 homestead exemption	7.3521 mills (current)	7.3277 mills (adj proposed)	
\$60,000	\$35,000	-	\$257.32	\$256.47	\$0.85
\$75,000	\$50,000	-	\$367.61	\$366.39	\$1.22
\$100,000	-	\$50,000	\$367.61	\$366.39	\$1.22
\$150,000	-	\$100,000	\$735.21	\$732.77	\$2.44
\$200,000	-	\$150,000	\$1,102.82	\$1,099.16	\$3.66

The millage rate of 7.3277 is the maximum millage rate that may be approved by a simple majority (3-2) vote of the City Commission and will generate \$347,135 less in ad valorem proceeds than was received in FY07'08.

USER FEES

A series of ordinances adopted by the City Commission in September 2007 authorized annual increases in city user fees based on June's annual CPI or 2.5%, whichever is greater. The increase in the CPI

measured from June 2007 to June 2008 was 5%, and all user fees (i.e, water and sewer, solid waste collection, facility rental, development fees, etc.) will be increased by 5% on October 1.

Although a 5% increase in user fees will generate an additional \$60,000 for the General Fund, ad valorem proceeds are declining and revenues from state and other intergovernmental sources are expected to show little or no growth and, in some cases, are expected to decline significantly. In combination with increasing non-discretionary expenses, which include rapidly increasing fuel costs, it has been necessary to make budget cuts in order to keep expenditures below revenues.

EXPENDITURE CHANGES SINCE PRESENTATION OF BUDGET

The budget that was originally presented on August 15 and discussed during budget workshops has been revised to include increases and reductions of expenditures as follows:

Budget Adjustments	
-148,127	Reduction of health insurance costs
-71,283	Reduction of Property, Liability and Workers Comp insurance costs
2,068	Increase in payroll budget due to one employee pay increase after 8/15
-2,670	Reduction of General Fund admin charge to Utilities Fund
30,000	Addition of \$30,000 for Fire Dept safety gear, training & call-back overtime
3,287	Addition of other General Fund training
76,380	Addition of 1% payroll across the board Cost-of-Living adjustment (COLA)
12,000	Addition of grant to Historic Lake Wales Society for part-time employee
-85,000	Deletion of grant-funded motorcycles
-8,221	Net effect of changes to allocated expenses
-8,700	Deletion of Professional Services cost for update of assessment rates
-21,845	Deletion of Tax Collector administration fee
-16,974	Deletion of assessments on City-owned property
-37,685	Deletion of payment of assessments for lifeline program
33,251	Add back Building Dept Admin Assistant
23,927	Add back 2 P/T Custodians
18,000	Increase grant to Historic Lake Wales Society for full-time employee
1,386	Increase grant to HLWS to make a total grant of \$70,000 (including employee, utilities, phone, Pioneer Day, and property insurance)
6,000	Add grant to Senior Center
-43,808	Reduce General Fund payroll due to transfer of 2 PD employees to CRA Community Policing and replacing in General Fund at lower salaries
140,094	Add 2 police officers to CRA payroll for Community Policing

Budget Adjustments	
34,816	Add operating costs for Community Policing program
64,000	Add MOTOMESH cameras and routers for Community Policing program
100,000	Add CDBG project for unsewered areas
1,053,354	Increase to Year 1 of 5-Year CIP for Utility Fund capital improvements (contingent upon bond issue)
1,154,250	Total change in expenditure budget (All Funds Combined)

The changes shown in the table above affect expenditures in the General Fund, Fire Assessment Fund, Transportation Fund, CRA Fund, Library Fund, Utilities Fund, and Airport Fund.

The proposed General Fund operating budget totals \$11,168,820, a reduction of 2.4% below the current year budget. The budget includes the expenditure of \$45,000 in General Fund operating revenues and \$75,000 in impact fees for the purchase of police vehicles.

FUND BALANCE

As strongly recommended by the City's auditors, it has been our goal to increase the General Fund balance to 15-20% of the total operating budget. In terms of the proposed FY08'09 budget, this would require a General Fund balance of \$1.5 to \$1.9 million.

On September 30, 2007, the total fund balance of the General Fund was \$876,741 or 7.7% of the total operating budget for FY07'08. To eliminate the need for obtaining a Tax Anticipation Note to provide funding for operating expenses from October 1, 2008 through December 31, 2008, the City Commission and CRA Board of Commissioners on July 1, 2008 approved the transfer of \$1,000,000 in proceeds from the sale of the former Cooperative Fruit Property 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, which will ultimately fund construction of a municipal pool, must be made whole by September 30 of every fiscal year.

If expenditure levels reported at July 31 are maintained through the end of the year, it is estimated that revenues will exceed expenditures by approximately \$17,750 at 9/30/08. The fund balance now projected at July 31 plus the \$1,000,000 Pool/Tax Anticipation Reserve Account combine to make a fund balance forward of \$1,894,495 –the equivalent of 19.1% of the proposed FY08'09 General Fund budget.

SUMMARY OF ALL FUNDS

General Fund	\$10,777,462
Special Revenue Funds	\$5,279,399
Debt Service Fund	\$2,436,478
Capital Projects Fund	\$690,000
Utility System Fund	\$20,107,776
Airport Fund	\$1,465,298

TOTAL \$40,756,414

The expenditure total of \$40,756,414 is comprised of operating costs in the amount of \$22,362,681 and capital outlay in the amount of \$18,393,733. Transfers in the amount of \$7,357,037 bring total expenditures plus transfers to \$48,113,451. The proposed operating budget expenditures for FY08'09 are 39.6% less than the actual total operating expenditures for FY06'07.

Capital expenditures include utility system improvements such as the rehab and expansion of the wastewater treatment plant, lift station rehabilitation, reuse transmission lines and downtown water system improvements, parking improvements at old city hall, Kiwanis Park improvements, completion of airport building reconstruction, purchase of police vehicles and miscellaneous equipment purchases budgeted as follows:

General Fund	\$53,500
Special Revenue Funds	\$1,972,000
Capital Projects Fund	\$690,000
Utility System Fund	\$14,314,338
Airport Fund	\$1,363,895
TOTAL	\$18,393,733

REVIEW OF DEBT SERVICE

As required by Charter, a summary of the City's outstanding debt at September 30, 2008 is presented as follows:

Wachovia Utility System Improvement Refunding Revenue Note, Series 2006A; issued to refund existing bonds and fund Water and Sewer system improvements. Balance: \$6,055,107; last payment October 2016.

Public Improvement Bonds, Series 1997; issued to refund Public Improvement Bond Series, 1991 which refinanced Public Improvement Bond Series, 1989 funding capital projects. Balance: \$2,270,000; last payment October, 2014.

CRA Redevelopment Revenue Note, Series 2007; issued to finance redevelopment capital improvement projects. Balance: \$9,499,999; last payment October 2007.

Total bonded indebtedness: \$17,825,106

Florida Department of Environmental Protection Revolving Loan Program assistance for funding of costs associated with Wastewater Reuse Project, Phase I. Annual interest rate, 2.56%. Balance: \$953,842; last payment February 2019.

Florida Department of Environmental Protection Revolving Loan Program assistance for funding of costs associated with Wastewater Reuse Project, Phase II. Annual interest rate, 3.05%. Balance: \$576,555; last payment August 2016.

Florida Department of Environmental Protection Revolving Loan Program assistance for funding of costs associated with sludge dewatering Improvements to the Wastewater Treatment Plant. Annual interest rate, 2.14%. Balance: \$1,144,442; last payment October 2022.

Florida Department of Environmental Protection Revolving Loan Program assistance for funding of pre-construction costs associated with the Wastewater Treatment Plant Expansion Project. Annual interest rate, 1.88%. Balance: \$1,004,111; last payment October 2028.

SunTrust 2003 Note; issued to accomplish advance refunding of Capital Improvement Revenue Bonds, Series 1996 (\$4,666,859), to refinance Non-Ad Valorem Revenue Bonds, Series 1999 (\$4,757,115) and to finance interest and issuance costs (\$125,716). Annual interest rate, 3.84%. Balance: \$7,720,498.; last payment 2016.

SunTrust 2005 Note; issued finance construction of chlorine contact chamber at Wastewater Treatment Plant and city's cost portion of reuse transmission lines. Annual interest rate, 4.2%. Balance: \$778,216.; last payment 2015.

Florida League of Cities Master Lease Program for lease-purchase of Fire Truck. Annual interest rate: 2.37%. Balance: \$124,428 last payment 2010.

Florida League of Cities Master Lease Program for lease-purchase of Fire Truck. Annual interest rate: 4.28%. Balance: \$349,216; last payment 2012.

Motorola Capital Lease Program for lease-purchase of Public Safety communications equipment and other equipment. Annual interest rate: 6.263%. Balance: \$189,198; last payment 2012.

Utility System Revenue Note, Series 2006B, is an authorized credit line in the principal amount of not to exceed \$3,100,000 to finance the cost of constructing and acquiring certain additions, extensions and improvements to the utility system. Current variable interest rate as of August 8, 2008 based on 74% of 1-Month LIBOR: 5.74%. Balance: \$2,550,000; last payment 2026.

Total non-bonded indebtedness: \$15,390,506

The City's total bonded and non-bonded indebtedness at 9/30/08 is \$33,215,612, which is equal to 4.0% of the 2008 taxable valuation. Debt payments due during FY08'09 total \$3,865,664 and represent 9.65% of the City's operating budget (excluding interfund transfers and capital outlay). A schedule showing the City's outstanding debt at September 30, 2008 is included in the Charts & Graphics portion of the proposed budget (page C-2).

BUDGET HIGHLIGHTS

A summary of the important aspects of the proposed FY08'09 budget document is provided as follows:

1. A 1.0% increase is proposed for all employees. For police officers and firefighters, this is contingent upon negotiations with the police and firefighter bargaining units.
2. A 10% increase for workers' compensation, liability, property and casualty insurance premiums is budgeted in accordance with information received from our property, casualty and workers' compensation providers. This increase is less than was originally anticipated and allowed us to reduce the budget by a total of \$71,000 in various funds (General Fund, CRA, Transportation, Utilities).

3. The City went out to bid on health insurance, and two bids were submitted with comparable or better benefits at a 13% reduction in cost to the City and to employees with dependent coverage. The total savings to the City is \$148,127.
4. Pension contribution rates have been budgeted for FY08'09 to yield the actuarially determined funding requirements calculated by the actuaries retained by the City's pension boards as follows:

	General Employees	Police Officers	Firefighters
FY 07'08	7.1%	15.6%	26.5%
FY 08'09	6.0%	17.3%	28.2%
Change	-1.1%	+1.7%	+1.7%

5. Changes in departmental staffing in FY08'09 as compared to the FY07'08 amended budget are:

Police Department	- 3.00	Positions transferred to CRA for Community Policing program.
Police Department	+ 2.00	Officer positions added to replace 2 transferred to CRA
Building Department	- 1.00	Permit clerk position deleted.
Building Department	- 0.25	Bldg Inspector position vacant after June 2009
Finance Department	- 0.25	Accounting Clerk position transferred to Utilities Customer Svc
Depot Museum	- 1.00	Admin Assistant position deleted; position transferred to Support Services/Streets Admin
Depot Museum	- 0.50	Curator position deleted.
Support Services	+ 0.75	Grant Administrator position added.
Streets Admin	+ 0.25	Admin Information Specialist position added.
Recreation Services	- 1.00	Two year-round P/T positions at Gym deleted.
Library Books-by-Mail	+ 1.00	Librarian Assistant position added
Community Redevelopment	+ 3.00	Lieutenant and 2 Officer positions transferred from Police Department for Community Policing program.
Utilities Customer Service	+ 0.25	Accounting Clerk position transferred from Finance Dept
	+ 0.25	Net Change in positions since amended FY07'08 Budget

6. Capital expenditures proposed for FY08'09 are as follows:

Item	Cost	Funding Source
IMPROVEMENTS		
Airport - Runway Extension (Engineering)	450,000	Airport Grants, Airport Revenues
Airport - Medium Intensity Taxiway Lights	97,680	Airport Grants, Airport Revenues
Airport - Parking	157,500	Airport Grants, Airport Revenues
Airport - FBO Building Reconstruction	596,665	Insurance Proceeds
Drainage Improvements - Twin Lakes	300,000	CRA Bond, SWFWMD Grant

Item	Cost	Funding Source
Landscaping & Signage – LLBP	50,000	Proceeds from sale of lots
Parking Improvements - Old City Hall	750,000	CRA Bond
Streetscape Lighting - Lincoln Avenue	145,000	CRA Bond
Streetscape Improvements - Dr ML King Jr Blvd	200,000	CRA Bond
Parks & Recreation - Hardman Hall	650,000	State grant, CRA Tax Increment
Parks & Recreation - Kiwanis Park Improvements	200,000	FRDAP Grant
Parks & Recreation - Lake Beautification	70,000	CRA Bond
Reuse System – Booster Stations	45,000	Impact Fees, Utility System Revenues
Reuse System - Transmission Lines	800,000	Bond Proceeds, SWFWMD Grant
Reuse System – Monitoring Wells	50,000	Bond Proceeds, Impact Fees
Reuse System – Ground Storage	200,000	Bond Proceeds, Impact Fees
Reuse System - Upgrades	40,000	Bond Proceeds, Impact Fees
Sewer System - Lift Station Pumps	75,000	CRA Bond
Sewer System – Treatment Plant Rehab	4,500,000	Bond Proceeds, Operating Revenues
Sewer System – Treatment Plant Expansion	4,000,000	Bond Proceeds, Impact Fees
Sewer System - Lift Station Rehabilitation	196,331	CRA Bond
Sewer System - Sliplining Sewer lines	260,000	CRA Bond
Sewer System - Unsewered Areas	200,000	Bond Proceeds, CDBG Grant
Sewer System - C St & Vicinity Improvements	250,000	Bond Proceeds
Water System - Asbestos Pipe Removal	300,000	CRA Bond
Water System - Winter Haven Interconnect	50,000	Impact Fees, Utility System Operating Revenues
Water System – Booster Stations	85,000	Loan Proceeds, Impact Fees, Utility System Operating Revenues
Water System – Downtown Improvements Ph 2	959,862	CRA Bond, CRA Tax Increment
Water System - Misc. New Services	25,000	Utility System Operating Revenues
Water System - Elevated Storage Tank SW Area	1,237,145	Water Impact Fees, LLBP lot sales, CRA Bond
Water System - Northwest Water Line Extensions	250,000	CRA Bond
Water System - Airport Plant Upgrades	200,000	CRA Bond

Water System - PRV Hunt Bros & Scenic	60,000	Utility System Operating Revenues, Impact Fees
Water System – SCADA Interconnect	450,000	Bond Proceeds
Water & Wastewater Systems - S.R. 60 W	156,000	Bond Proceeds, Impact Fees
LAND		
Airport - Avigation Easements	22,050	Airport Grants
VEHICLES & EQUIPMENT		
Airport - Fuel Truck	40,000	Airport Operating Revenues
Facilities Maint - Cap for Truck	1,500	General Fund Revenues
Information Services - Server Upgrade	5,000	General Fund Revenue
Library – Equipment	10,000	Library Fund Revenue
Parks Division – Trailer	2,000	General Fund Revenue
Police Dept - Night Vision Devices	8,000	Byrne Grant
Police Dept –Vehicles	120,000	General Fund Revenue, Impact Fees
Police Dept – MOTOMESH Cameras & Routers	64,000	CRA Tax Increment Revenues
Reuse - Master Reuse Meters	25,000	Utility System Operating Revenues
OTHER CAPITAL OUTLAY		
Library - Books & Subscriptions	40,000	Library Fund Revenue
TOTAL CAPITAL EXPENDITURES	18,393,733	

7. In accordance with Ordinance 2007-07 adopted by the City Commission on September 18, 2007, the schedule of water and sewer rates and charges will be adjusted to reflect a 5% increase based on June's annual CPI. The increase will be applied to service provided on or after October 1, 2008.

	WATER CHARGES					SEWER CHARGES		
	base charge	rate per 1,000 gallons				base charge	rate per 1,000 gallons	
		0-5,000	5,001 - 10,000	10,001 - 25,000	over 25,000		0 -5,000	5,001 - 15,000
Current	4.95	1.96	2.65	4.11	6.77	17.59	2.31	4.05
10/01/08	5.20	2.06	2.78	4.32	7.11	18.47	2.43	4.25

For inside-city residential customers using an average of 8,000 gallons per month, water charges will increase from \$22.70 to \$23.84, and sewer charges will increase from \$41.29 to \$43.37; the combined bill for water and sewer will increase from \$63.99 to \$67.21.

8. The FY08'09 Budget includes a 5% increase in all General Fund user fees and charges. For residential solid waste collection and recycling, fees will increase from \$19.20 per month to \$20.16 per month.
9. Cost reduction measures recommended in the proposed FY08'09 budget include the following:

Depot Museum. It is recommended that the Depot Museum be turned over to the Historic Lake Wales Society (HLWS) for operation on the same basis as the B St. Center; i.e. the City will provide a \$70,000 grant to HLWS to cover the cost of a full-time administrator, utilities, telephone, security system monitoring, Pioneer Day, and property and liability insurance. Although included in the total \$70,000 grant, the cost of insurance (\$15,839) will be paid by the City directly to the insurance provider. In addition to the monetary grant, in-kind services by Police Department, Streets Division and Parks Division in the amount of \$7,654 are budgeted for Pioneer Day.

Albert Kirkland Sr. Gymnasium. It is recommended that the Kirkland Gymnasium be turned over to the Boys & Girls Club for operation utilizing their staff. The budget includes funds for a contract with the Boys & Girls Club in the amount of \$32,000 to cover admin, utilities, and m&r expense for the gym floor. The City will pay \$10,662 in property and liability insurance costs for the Gym.

CONCLUSION

With the second wave of tax reform taking effect in the new budget, City staff is reviewing our overall fiscal position and planning for the future. There are three cities in Polk County that are close in size for comparison purposes: Lake Wales, Auburndale, and Haines City. Of the three, we have the lowest tax base and the highest tax rate coming into the new fiscal year. City staff is working to address this situation, which will require the implementation of fees to replace tax revenue. The fire assessment is an effort in that direction. The City Commission has also directed that economic development be aggressively pursued to build the City's tax base.

Long term, the City's revenue picture appears to be promising. Several projects that will enhance our tax base, including the Hampton Inn and Suites, and the Lowe's store, have been completed. Other projects around the Eagle Ridge Mall are either underway or in the plan review and approval stages. City staff is also looking to SR 60 West as the City's future industrial base, anticipating the effect of the CSX development on the former City of Winter Haven sprayfield, just beyond the western edge of our utility service area. A key asset that will be a contributing factor is the City's airport: the new fire suppression system and water well and tank have been completed, and the purchase of 60 acres for the runway extension to the west has now closed. The final building to be re-constructed will be complete within the next 6 months. In addition to these improvements, the continued development in the Longleaf Business Park will increase the value of the CRA tax increment, as will commercial and residential construction in the Mayfair development on the former Cooperative Fruit Property. Construction completed during the twelve-month period beginning January 1, 2008 will be reflected in the City's taxable value established on January 1, 2009 with property taxes to be collected starting in November 2009.

In the near term, our financial resources will be severely constrained as we deal with the fiscal impact of tax reform and the slow-down of the housing market and the economy in general. In order to ensure sufficient financial resources for the future, sustaining the progress of economic development will be our highest priority. Strengthening an organization that is reduced in size and improving the ability of our

employees to provide high levels of service with limited resources will also be an important focal point during FY08'09. By continuing to implement strong budget controls, requiring strict adherence to purchasing procedures, and maintaining the timeliness of financial reporting, it is our goal to complete FY 08'09 with improved cash surpluses in both the General Fund and the Utility Fund.

Expenditures must continue to grow conservatively for the next few years in order to increase the City's cash reserves to appropriate levels. Maintaining an adequate General Fund balance is an indicator of the financial health of the City, and a \$2 million cash surplus in the General Fund is the minimum acceptable amount for responding to emergencies, covering expenditures during the early part of the fiscal year before ad valorem revenues are received, and paying costs of grant-funded projects prior to reimbursement from grant sources. The same is true of the Utility Fund. Steady gains in General Fund Balance and Utilities Fund Retained Earnings have been made since FY01'02, but some of the gain was diminished by cost overruns in health insurance for several years. That situation was addressed when the City Commission approved a conventional health insurance program through a provider and eliminated the City's self-insurance program last year. Fund Balance in the General Fund also improved dramatically with the deposit of the escrow account for the swimming pool construction into Fund Balance, with restrictions on use of the funds. It is essential that the cash position of both the General Fund and the Utility Fund continue to be improved above their current levels.

By necessity, the proposed FY08'09 Budget responds to reductions of ad valorem proceeds and other General Fund revenues with significant cut-backs in spending on culture, recreation and other "quality of life" services, as well as employee training and education, in order to ensure sufficient resources for the delivery of basic municipal services. In addition, the proposed FY08'09 Budget addresses several areas identified by the City Commission as problems:

1. *Street and alley conditions.* In FY05'06, city staff completed an inventory of street conditions. Many streets and alleys are in poor condition or have failed due to long-standing problems involving either improper construction or lack of appropriate drainage structures. The improvement of substandard street conditions was a major initiative in FY07'08 upon issuance of the CRA bond. Resurfacing work is scheduled for completion in the next 90 days, and the spreading of millings in alleys and some drainage work will be done in the new fiscal year.
2. *Utility improvements.* In the new fiscal year the Utility staff will continue an aggressive program of repairs and planning for system improvements. Several projects that have been on the drawing boards for many years are now coming to a close, including the southside force main and the first phase of the re-use transmission line. Other long-term projects are underway, including the southside water tower. Planning for the first phase of improvements at the wastewater treatment plant and new facilities in the northeast section of our utility service area will be priorities in the new fiscal year, along with the start-up of the re-use system for residential customers.
3. *Community Development.* The Lincoln Avenue Commercial Revitalization program is planning to produce tangible results this year, as funding is being sought from two grant sources. One new business has opened in the past year and a replacement business has made improvements on a building in compliance with program guidelines. Community interest and expectations in the program continue to grow, and an important step forward is planned in this budget with the opening of the police sub-station in the area.
4. *Downtown Redevelopment.* It is anticipated that FY08'09 will be a year of progress for downtown as the Chamber's management of the Main street program goes into full swing. The Chamber's CRA Steering Committee is also following-up on the downtown plan

delivered by Martin Vargas. The FY08'09 budget includes \$397,800 for Economic Redevelopment Assistance to provide incentives to attract new businesses to the historic Downtown area.

[end agenda memo]

Ms. Delmar read Ordinance 2008-33 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, ADOPTING THE FINAL LEVYING OF AD VALOREM TAXES FOR THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA FOR FISCAL YEAR 2008-2009; 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 2008-33 after second reading and public hearing. The motion was seconded by Commissioner Van Sickle.

ROLL CALL:

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

The motion carried 5-0; 6:23 p.m.

Ms. Delmar read Ordinance 2008-34 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, RATIFYING, APPROVING, ACCEPTING AND ADOPTING THE ESTIMATES OF EXPENDITURES FOR THE OPERATION OF THE SEVERAL DEPARTMENTS OF SAID CITY, AND ALL NECESSARY AND ORDINARY EXPENSES OF SAID CITY FOR THE 2008-2009 FISCAL YEAR, APPROPRIATING ALL FUNDS TO BE RAISED AND COLLECTED FROM ALL SOURCES SET FORTH IN THE ESTIMATE OF REVENUES & BALANCES FOR SAID FISCAL YEAR, AND THE REPEALING OF ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; 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 2008-34 after second reading and public hearing. The motion was seconded by Commissioner Van Sickle.

ROLL CALL:

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

The motion carried 5-0; 6:27 p.m.

AGENDA ITEM 7. Ordinance 2008-35, Five-Year Capital Improvement Plan – 2nd Reading & Public Hearing

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

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

RECOMMENDATION

It is recommended that the City Commission adopt after second reading Ordinance 2008-35 adopting the Five-Year Capital Improvement Plan for fiscal years 2008-2009 through 2012-2013.

BACKGROUND

In accordance with section 6.05 of the City Charter, Ordinance 2008-35 approves and adopts the proposed 5-year Capital Improvement Plan (CIP) for the period FY08'09 through FY12'13. The 5-Year CIP document was presented to the City Commission for review with the FY08'09 Operating Budget. Capital improvements and capital acquisitions proposed for Year 1 of the 5-Year plan were incorporated into the FY08'09 budget, as was appropriation of funding sources necessary to implement Year 1 of the plan.

The 5-Year CIP document includes a list of all capital facility and infrastructure improvements, which are proposed to be undertaken during the next five years and supporting information to explain the necessity for the improvements. In addition, the CIP includes all capital equipment proposed for acquisition during this period. Cost estimates, method of funding and time schedule for the proposed improvements and equipment acquisitions are identified in the document.

The proposed 5-Year CIP totals \$51,829,308 and includes \$747,050 in land acquisition, \$2,454,310 in equipment acquisition, \$4,360,057 in building improvements, \$43,824,891 in infrastructure and recreation improvements and \$443,000 in other capital outlay.

Improvements and equipment needs for the next 5 years were submitted by department heads with a justification of necessity and a recommended time schedule for completion or acquisition. These requests were prioritized by the City Manager in view of the available funding resources and urgency of need and either retained in the proposed 5-Year Plan or deferred until future 5-Year plans are developed.

Items included in the proposed 5-Year CIP can be classified in three categories as follows:

- 1 - Corrects existing or impending deficiency
- 2 - Improves productivity/efficiency or permits reallocation of existing resources
- 3 - Enhances quality of life

Items in Category 1 comprise 58.8% of the cost of the CIP (\$30,476,868). These are improvements and equipment acquisitions which are urgently needed to correct or prevent system or infrastructure failures, threats to the public safety or welfare, and decline of service levels. Some of our currently utilized

equipment is 10-20 years old or older with high maintenance costs and low operational reliability, making replacement a high priority. Also included in this category is the \$4.5 million wastewater treatment plant rehabilitation.

Items in Category 2 are equipment acquisitions, which will improve productivity and efficiency or otherwise enhance current service levels. These items represent 34.9% of the cost of the CIP (\$18,112,234).

Items in Category 3 are improvements in the area of Culture/Recreation which are viewed as important to the community in terms of enhancing the quality of life but which might receive a lower priority in view of the urgent needs, which must be addressed. These items represent 6.3% of the cost of the CIP (\$3,240,206), however 32.4% of this cost (\$1,050,000) is funded by state, county or federal grants or donations from private sources.

FISCAL IMPACT

Funding of the CIP requires no new taxes or fee increases for our citizens but will be accomplished through utilization of existing cash surpluses and current year operating revenues, future grants, private contributions, and impact fees. Some of the improvements proposed for the utility system will be financed by a bond issue, however it is anticipated that operating revenues and impact fees will be sufficient to fund the debt service required by the bonds:

Among the capital improvements included in Year 1 of the CIP are the following items for which funding is included in the CRA bond:

Item	Cost	Department
Lift Station Pump Replacement	75,000	Wastewater Division
Lift Station Rehab	196,331	Wastewater Division
Sliplining of Sewer Lines	260,000	Wastewater Division
Asbestos/Cement Pipe Removal	300,000	Water Division
Elevated Storage Tank - Southwest Area	1,237,145	Water Division
Northwest Water Line Extensions	250,000	Water Division
Downtown Utility System Improvements	714,250	Water Division
Drainage Improvements - Twin Lakes	150,000	Streets Division
Lake Beautification Projects	70,000	CRA
Lighting - Dr Martin Luther King Jr Blvd	200,000	CRA
Lighting - Lincoln Avenue	145,000	CRA
Parking Improvements - Old City Hall	750,000	CRA
TOTAL CRA BOND PROJECTS	4,347,726	

Costs of all capital improvements and equipment acquisitions are distributed over 5 years as follows:

Year 1 - FY2008'09	18,393,733
Year 2 - FY2009'10	8,369,911

Year 3 - FY2010'11	17,113,772
Year 4 - FY2011'12	6,330,892
Year 5 - FY2012'13	1,621,000
5 Year Total	<hr/> 51,829,308

All items scheduled for Year 1 are included in the proposed FY08'09 operating budget presented to the City Commission for consideration. Changes since the 5-Year CIP was originally presented to the City Commission on August 15 are as follows:

-85,000	Deletion of purchase of grant-funded motorcycles
64,000	Addition of MOTOMESH cameras & routers for Community Policing program (CRA)
200,000	Addition of Reuse storage tank, design phase (moved from CIP year 4) *
-340,224	Reduction of cost for Reuse transmission lines
450,000	Addition of SCADA interconnect of water plants (moved from CIP year 4) *
250,000	Addition of Sewer improvements C St & vicinity (moved from CIP year 3) *
200,000	Addition of Sewer improvements to unsewered areas (moved from CIP year 2) *
156,000	Addition of Utilities transmission systems SR60 W (moved from CIP year 2) *
9,655	Increase in budget for Wastewater Plant expansion
27,923	Increase in budget for Wastewater Plant rehab
200,000	Addition of Airport water plant upgrades (moved from CIP year 5) *
<hr/> 1,132,354	Total change in 5-Year CIP from original document

* contingent upon issuance of bonds to fund Wastewater Plant improvements and other utility system improvements

OTHER OPTIONS

Items may be reprioritized or deleted from the 5-Year Plan, and items not currently included may be added. The City Commissioners may choose to defer adoption of the Plan until a later date, however, adoption of a 5-year capital program is required by City Charter.

[end agenda memo]

Ms. Delmar read Ordinance 2008-35 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, RATIFYING, APPROVING, ACCEPTING AND ADOPTING A 5-YEAR CAPITAL IMPROVEMENT PLAN FOR FISCAL YEARS 2008-2009 THROUGH 2012-2013; REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE 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 2008-35 after second reading and public hearing. The motion was seconded by Commissioner Van Sickle.

ROLL CALL:

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

The motion carried 5-0.

AGENDA ITEM 8. Ordinance 2008-31, Correction – Ordinance 2008-11 Historic District Regulatory Board - 1st Reading

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

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

RECOMMENDATION

Staff recommends approval on first reading of Ordinance 2008-31, correcting Ordinance 2008-11, Historic District Regulatory Board.

BACKGROUND

Ordinance 2008-11 was approved by the City Commission on May 20, 2008 to establish a Historic District Regulatory Board and related regulations. Unfortunately, the wrong version of the ordinance was included in the Commission's packet and subsequently signed by the Mayor. As a result, the approved ordinance did not reflect changes requested by the Commission following workshops on the draft ordinance or additional provisions proposed by staff to streamline the review process.

Ordinance 2008-31 shows the corrections in an underline/strike-out format. The minutes of the May 6 City Commission meeting when the first reading of Ordinance 2008-11 was approved are attached to document that the changes were presented to the Commission and intended for adoption.

The corrections pertain to Sections 4 and 5 of the ordinance. Again, all corrections were explained in the staff report for the first reading, but were not enacted because the incorrect ordinance was attached.

The corrections are:

- Murals – The corrected ordinance eliminates the requirement for review of murals and other works of art by the Historic District Regulatory Board. This change was requested by the Commission in workshops on the draft. (See Section 4 of the ordinance.)
- Fees – The fee for application to the Board is corrected from a flat fee to a sliding scale. The fee was originally proposed at \$200 with \$75 for public notice. Commissioners felt that the fee was too high for small projects and asked staff to reassess it. A sliding scale was devised requiring a \$25 fee for work with an estimated value of \$2500 or less, and 1% of the estimated value for work over \$2500, with a cap of \$200. No review fee will be charged for signs. (See Section 5 of the ordinance.)
- Review process – The requirement for review by the Development Review Committee is eliminated in order to streamline the review process. This change was staff-initiated. (See Section 4 of the ordinance.)
- Other streamlining changes – The requirement for review of incidental signs (such as small directional signs in parking areas) is eliminated with the corrections.
- Clarifications – Several other changes were made in the wording of the workshop draft in order to improve clarity of the regulations.

FISCAL IMPACT

The sliding scale for fees reduces the revenue that will be collected by the City.

[end agenda memo]

Ms. Delmar read Ordinance 2008-31 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING ORDINANCE 2008-11 TO CORRECT SCRIVENER'S ERRORS IN SECTIONS 4 AND 5 OF SAID ORDINANCE AS PREVIOUSLY ADOPTED; PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Howell made a motion to approve Ordinance 2008-31 after first reading. The motion was seconded by Commissioner Van Sickle.

ROLL CALL:

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

The motion carried 5-0.

AGENDA ITEM 9. Ordinance 2008-32, Donation of Surplus Vehicles – 2nd Reading & Public Hearing

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

[begin agenda memo, prepared by Bonnie Hodge, Purchasing Department]

RECOMMENDATION

Staff recommends that the City Commission approve Ordinance 2008-32 authorizing the City of Lake Wales to donate surplus vehicles to social agencies.

BACKGROUND

At the August 26, 2008 City Commission meeting the Commission approved on 1st reading Ordinance 2008-32 allowing vehicles that no longer have a useful function to the City to be donated to social agencies. The agency would donate the vehicles to City residents who qualify and live within the City limits.

OTHER OPTIONS

Not to approve 2nd reading.

FISCAL IMPACT

Surplus vehicles normally are sold for \$300.00 to \$600.00 depending on the condition.

[end agenda memo]

Ms. Delmar read Ordinance 2008-32 by title only.

AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, LAKE WALES CODE OF ORDINANCES, BY PROVIDING ADDITIONAL PROCEDURES FOR DISPOSAL OF SURPLUS PROPERTY; 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 2008-32 after second reading and public hearing. The motion was seconded by Commissioner Van Sickle.

ROLL CALL:

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

The motion carried 5-0.

AGENDA ITEM 10. Ordinance 2008-36, FY-07'08 Budget Amendment #3 – 1st Reading

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

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

RECOMMENDATION

It is recommended that the City Commission approve Ordinance 2008-36 after first reading.

BACKGROUND

Ordinance 2007-40 estimating revenues and appropriating funds for Fiscal-Year 2007-08 was adopted by the City Commission on September 18, 2007 and amended by Ordinance 2008-02 in January 2008 and Ordinance 2008-16 in May 2008. We are presenting for first reading a third amendment of Ordinance 2007-40 to modify the estimates of revenues and appropriations budgeted in various funds. Exhibits A and B and supporting attachments provide the detail for the proposed amendment. This budget amendment is based on financial reports for the accounting period ending on 7/31/08. The following is a summary of changes to the budgets previously adopted for each fund. A number in parentheses indicates that the budget has been reduced, while a number without parentheses indicates that the budget has been increased.

Revenues & Balances Fwd	Increase (Reduction)
General Fund	1,308,030
Special Revenue Funds	257,886
Debt Service Fund	115,826
Capital Projects Fund	43,151

Airport Fund	0
Utility System Fund	0
Total Increase(Reduction) of Revenues & Balances Fwd	1,724,893
Appropriated Expenditures & Reserves	
General Fund	382,977
Special Revenue Funds	806,442
Debt Service Fund	0
Capital Projects Fund	254,905
Airport Fund	0
Utility System Fund	0
Reserves	280,569
Total Increase (Reduction) of Appropriated Expenditures & Reserves	1,724,893

The proposed budget amendment increases the City's total budgeted expenditures by \$1,444,324 and increases reserves at 9/30/08 by \$280,569 for a net increase in appropriated expenditures and reserves of \$1,724,893 (from \$72,349,791 to \$74,074,684). In addition, the amendment conforms budgeted balances forward to balances forward reported in the audited financial statements for year ending 9/30/2007.

A detailed chart showing all of the changes in expenditure budgets for each fund with revenue offsets, if any is provided on the pages immediately following this memo. Briefly, however, the proposed budget amendment is necessary for several reasons:

- 1) To appropriate \$51,470 in donations for spring and summer camps and July 4th fireworks
- 2) To appropriate \$4,905 in grant funds and \$5,295 in tree removal fees collected from developers to fund tree replacement in the Lake Wailes park area
- 3) To appropriate \$254,905 in police and fire impact fees for transfer from the Capital Projects Fund to the General Fund to pay for the purchase of a fire truck (\$235,402) and weapons for the Police SWAT team (\$19,503)
- 4) To incorporate into the budget the transfer \$1,033,414 in fund balance from the CRA to the General Fund and designation of a pool/tax anticipation account in the General Fund as approved by the City Commission
- 5) To authorize transfer of \$44,688 in budgeted surplus revenues over expenditures from the General Fund to the Transportation Fund to pay for the SWFWMD Watershed Management Study as per contract with that agency (\$44,688)
- 6) To authorize transfer of \$9,000 in budgeted surplus revenues over expenditures from the General Fund to the Transportation Fund to pay for construction of a fence along the Grove Ave. right-of-way at Wales Landing as per agreement with Wales Landing for their dedication of right-of-way for the extension of Grove Ave to 11th St

- 7) To authorize the expenditure of \$12,714 for an insurance appraisal of city-owned property to be paid by monies refunded by our previous health insurance provider after all outstanding claims were paid
- 8) To transfer appropriations from line items where surpluses are projected to line items where shortfalls are projected (these are typically transfers between a department's payroll, operating or capital budgets, for example, or between departments within a fund); a total of \$63,701 in appropriations are transferred in this amendment, resulting in no change to the bottom line

OTHER OPTIONS

None. This is a required housekeeping amendment to incorporate previously unbudgeted donations, grants, and expenditures approved by the City Commission after October 1.

FISCAL IMPACT

See Exhibit A and Exhibit B attached to Ordinance 2008-36.

[end agenda memo]

Ms. Delmar read Ordinance 2008-36 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING ORDINANCE 2007-40 AS AMENDED BY ORDINANCES 2008-02 AND 2008-16 TO FURTHER MODIFY THE ESTIMATES OF EXPENDITURES FOR THE OPERATION OF THE SEVERAL DEPARTMENTS OF SAID CITY FOR THE 2007-2008 FISCAL YEAR AND TO FURTHER MODIFY THE APPROPRIATION OF FUNDS RAISED AND COLLECTED FROM ALL SOURCES SET FORTH IN THE ESTIMATE OF REVENUES FOR SAID FISCAL YEAR; REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Howell made a motion to approve Ordinance 2008-36 after first reading. The motion was seconded by Commissioner Van Sickle.

ROLL CALL:

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

The motion carried 5-0.

AGENDA ITEM 11. Resolution 2008-17, Adopting Application Procedures & Design Guidelines for City of Lake Wales Commercial Building Façade Rehabilitation Program

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

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

RECOMMENDATION

It is recommended that the City Commission approve Resolution 2008-17 adopting application procedures and design guidelines for the City of Lake Wales Commercial Building Façade Rehabilitation Program for use with the 2008 CDBG grant program. The grant application will be in the Commercial Revitalization Category and will fund parking, landscaping, lighting and storefront façade improvements on Lincoln Avenue and other areas of the CRA.

BACKGROUND

In 2001-2002 the City implemented a commercial building façade rehabilitation program that was funded in part by the Polk County CDBG program. Then on April 16, 2002, the City Commission approved withdrawal from participation in Polk County CDBG program in order to make individual application to the Small Cities CDBG program. Since then the City has applied for and received funding for two CDBG grants, each for \$750,000.

A third CDBG grant application is proposed in the same amount that will fund improvements to the Lincoln Avenue area and to other downtown areas.

The 2008 CDBG grant that is being applied for encourages the City to use standard implementation procedures and design guidelines for commercial building facades that are rehabilitated with grant. It is therefore recommended that the City reaffirm that guidelines and application procedures that were used in the past are acceptable for use with the 2008 CDBG grant program.

At this time, it is necessary that the City Commission approve Resolution 2008-17, which adopts application procedures and design guidelines for the City of Lake Wales Commercial Building Façade Rehabilitation Program for use with the 2008 CDBG grant program.

FISCAL IMPACT

The total proposed project cost is \$750,000, to be paid for by the CDBG grant. Of this amount, \$150,000 will be allocated for commercial building façade improvements. No City funds are allocated for the building façade improvements.

OTHER OPTIONS

Modify the scope of the project described in the grant application or do not apply for a grant at this time.

[end agenda memo]

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

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LAKE WALES, FLORIDA, TO UPDATE THE COMMERCIAL BUILDING FAÇADE PROGRAM APPLICATION PROCEDURES AND ARCHITECTURAL GUIDELINES TO BE USED IN CONJUNCTION WITH ANTICIPATED FUNDING FROM THE 2008 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Commissioner Howell made a motion to adopt Resolution 2008-17. The motion was seconded by Commissioner Van Sickle.

ROLL CALL:

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

Mayor Wheeler

"YES"

The motion carried 5-0.

AGENDA ITEM 12. Resolution 2008-18, Authorizing Previously Committed City Funds for Fire Protection Improvements to be used as a Local Match for a CDBG Grant Application

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

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

RECOMMENDATION

It is recommended that the City Commission approve Resolution 2008-18 authorizing the City to use previously committed City funds for fire protection improvements as local match for a CDBG Grant application. The grant application will be in the Commercial Revitalization Category and will fund parking, landscaping, lighting and storefront façade improvements on Lincoln Avenue and other areas of the CRA.

BACKGROUND

On April 16, 2002, the City Commission approved withdrawal from participation in Polk County's CDBG program in order to make individual application to the Small Cities CDBG program. Since then the City has applied for and received funding for two CDBG grants, each for \$750,000. A third CDBG grant application is proposed in the same amount that will fund improvements to the Lincoln Avenue area and to other downtown areas.

The CDBG grant application process is competitive. The City can improve the competitiveness of the CDBG grant application by organizing a project that will be funded by both the CDBG grant and local funds. The City has already approved \$959,862 to be used for water lines needed for improved fire protection in the downtown area. By declaring these funds as local match in the CDBG grant application, the City will have a more competitive grant application.

At this time, it is necessary that the City Commission approve Resolution 2008-18 authorizing the use of previously committed City funds for fire protection improvements to be used as local match for the CDBG grant application. The grant application will be submitted to the Florida Department of Community Affairs for funds from the CDBG program. The deadline for submitting the application is September 29, 2008.

FISCAL IMPACT

The total proposed project cost is \$750,000, to be paid for by the CDBG grant. The City's local match is the previously committed funds for fire protection in the downtown area. It should be noted that the grant rules allow up to \$250,000 as the maximum amount that can be claimed for grant application scouring purposes. The balance of the funds that are required to complete the fire protection improvements are not being claimed for match.

OTHER OPTIONS

Modify the scope of the project described in the grant application or do not apply for a grant at this time.

[end agenda memo]

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

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LAKE WALES, FLORIDA
AUTHORIZING PREVIOUSLY COMMITTED CITY FUNDS FOR FIRE PROTECTION IMPROVEMENTS**

TO THE DOWNTOWN BUSINESS DISTRICT TO BE USED AS LOCAL MATCH FOR A CDBG GRANT APPLICATION.

Commissioner Howell made a motion to adopt Resolution 2008-18. The motion was seconded by Commissioner Van Sickle.

ROLL CALL:

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

The motion failed 5-0.

AGENDA ITEM 13. Resolution 2008-19, Authorizing the Mayor to Sign and Submit the 2008 CDBG Grant Application

Mr. Otte asked to postpone Agenda Item 13 to a date certain of Thursday, September 25, 2008 because he would like to add another building to the façade grant program.

AGENDA ITEM 14. Fixed Based Operator Building/Formalizing the Name of the Building

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

[begin agenda memo, prepared by Teresa Allen, Public Services Director]

RECOMMENDATION

The Airport Authority recommends that the City Commission names the fixed based operator building at the Lake Wales Municipal Airport as follows: the Lake Wales Municipal Airport, Curtis D. Ammons, Jr. Center for Aviation.

BACKGROUND

At its regular scheduled September 2, 2008 Commission meeting a proclamation was presented in recognition of Curtis D. Ammons, Jr.

As a junior at Lake Wales High School, Mr. Ammons worked daily at the Lake Wales Airport and received instruction from airport manager Harvey Thornton on piloting a Piper Cub airplane.

Mr. Ammons served as a member of the Airport Advisory Board for nine years (1996-2005) and continues to attend monthly Airport Authority Board meetings.

In recognition of Mr. Ammon's dedicated service to aviation and the Lake Wales Municipal Airport, the Airport Authority Board unanimously recommended that the new Fixed Based Operator Building be named, the Lake Wales Municipal Airport, Curtis D. Ammons, Jr. Center for Aviation.

A dedication ceremony will be scheduled at a later date.

FISCAL IMPACT

There will be a cost for signage, which is yet to be determined.

OTHER OPTIONS

Historic Preservation Board – Members are appointed by the Mayor and confirmed by the City Commission. The Board consists of nine regular members. At least four (4) members must be residents of the City. Up to four (4) members may be non-residents but must own property within the City limits or hold an occupational license issued by the City. One member shall be a member of the City Commission. Up to four ex-officio members who are not residents and do not meet the other requirements of section 2-26 of the Code of Ordinances may also be appointed to serve on the Board provided they meet the professional qualifications requirement of paragraph (c) of Ordinance 2003-06. Appointments shall be for three years or until their successors are qualified and appointed. The Commissioner member shall be appointed for the duration of his or her term on the City Commission. Ex-officio members shall be appointed for three years. (3-year term)

One (1) vacancy: term expires 07/01/11

Applying for re-appointment: Sherry Phetteplace, resident

A vacancy is due to the expiring term of Sherry Phetteplace.

Mayor Wheeler re-appointed Sherry Phetteplace to serve as a member on the Historic Preservation Board for a term to expire on 07/01/11. The City Commission confirmed the appointment made by the Mayor.

All "AYE"; None "NAY."

Library Board – Members are appointed by the City Commission. The Board consists of five (5) members. Four members must reside in the City, own property in the City or hold a valid occupational license issued by the City. One member shall be a resident of the unincorporated Greater Lake Wales area having a Lake Wales address or a resident of the City of Lake Wales if the Lake Wales Public Library is a member of the Polk County Cooperative and receives operating funds from Polk County Board of County Commissioners (Ordinance 2008-07; 02/19/08). (5-year term)

Two (2) vacancies terms expire 07/01/11

Applying for Re-appointment: Virginia G. Lassiter, resident

Applying for Appointment: Todd Ullum, resident
Thomas E. Baynes, non-resident

Vacancies are due to the expiring term of Virginia G. Lassiter and the resignation of Carolyn Shaw.

Commissioner Manry made a motion to re-appoint Virginia G. Lassiter to serve as a member on the Library Board for a term to expire on 07/01/11, and to appoint Thomas E. Baynes to serve as a member on the Library Board for a term to expire on 07/01/11.

All "AYE"; None "NAY."

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

Two (2) vacancies: One term expires 07/01/09; partial term
One term expires 07/01/11

Applying for Appointment: Jean Kincaid Scott, resident

Vacancies are due to two positions that were never filled.

Mayor Wheeler appointed Jean Kincaid Scott to serve as a member on the Parks and Community Appearance Advisory Board for a term to expire on 07/01/11. The City Commission confirmed the appointment made by the Mayor.

All "AYE"; None "NAY."

Police Officers' Retirement Board – Resident Members & 5th Seat Member are appointed by the City Commission. The board consists of five (5) members. Two (2) members must be legal residents of the City and two (2) members must be full time police officers employed by the Lake Wales Police Department. Resident members are appointed by the City Commission; police officers are selected by a majority of the police officers that are members of the plan. The fifth member is chosen by a majority of the other four members and appointed by the City Commission. Members may serve a two (2) year term, which expires on October 1 of the second year following the appointment. There shall be no limit to consecutive terms served by an elected or appointed trustee on a board established for the purpose of administering an employee retirement plan (Ordinance 2008-09; 03/18/08).

Two (2) vacancies, residents: terms expire 09/30/10.

One (1) vacancy, 5th Member: term expires 09/30/09

Applying for re-appointment: Joseph F. Ruggiero, resident
Donald Raymond, resident

Vacancies are due to the expiring terms of Joseph F. Goggiero, Donald Raymond, and Richard R. Williamson. The term of 5th member, Richard R. Williamson, expired on 09/30/07. Mr. Williamson is still waiting to be chosen by the other four members on the Police Officers' Retirement Board. However, a 5th seat member may succeed himself in office (Ordinance 98-19; 10/20/98, City of Lake Wales Police Officer's Pension Plan and Trust).

The City Commission re-appointed Joseph F. Ruggiero and Donald Raymond to serve as members on the Police Officers' Retirement Board for terms to expire on 09/30/10.

All "AYE"; None "NAY."

Firefighters' Retirement Board – Members are appointed by the City Commission. The board consists of five (5) members. Two (2) members must be legal residents of the City and two (2) members must be full-time firefighters employed by the Lake Wales Fire Department. Resident members are appointed by the City Commission; firefighters are selected by a majority of the firefighters who are members of the plan. The fifth member is chosen by a majority of the other four members and appointed by the City Commission.

Two (2) vacancies, resident terms expire 09/30/10

Applying for Re-appointment: Glenn Gest, resident
Langston A. Spell

Vacancies are due to the expiring terms of Glenn Gest and Langston A. Spell.

The City Commission re-appointed Glenn Gest and Langston Spell to serve as members on the Firefighters' Retirement Board for terms to expire on 09/30/10.

All "AYE"; None "NAY."

[end agenda memo]

CONSENT AGENDA

Mr. Otte asked that Agenda Item 20 be pulled for separate discussion. He said that late today staff received a list of contract changes from the Historic Lake Wales Society that require discussion.

AGENDA ITEM 16. Interlocal Agreement with Polk County for 9-1-1/Dispatch Services

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

[begin agenda memo, prepared by Fire Chief Jerry Brown]

RECOMMENDATION

Staff recommends approval of the Interlocal Agreement with Polk County for fire and rescue dispatch services for October 01, 2008 through September 30, 2009. The amount to be paid to Polk County for the performance of services outlined in the agreement is to be \$17,000.

BACKGROUND

All 911 calls are received at the 911 Call Center on Brice Blvd. in Bartow, regardless of whether they originate inside or outside of the city limits of Lake Wales. Emergency calls are then transferred to the Fire/EMS dispatch center on Clower Lane in Bartow. Dispatchers notify the fire department by radio pager and continue communications with responding personnel and equipment for the duration of the emergency call.

This agreement is similar to the agreements approved by the cities of Winter Haven, Haines City, Auburndale, Frostproof, Fort Meade and Mulberry.

OTHER OPTIONS

Do not approve the agreement and hire full time dispatch personnel.

FISCAL IMPACT

The \$17,000 is included in the proposed FY 08-09 Budget as presented to the Commission.

[end agenda memo]

AGENDA ITEM 17. Fire Protection Agreement with Polk County

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

[begin agenda memo, prepared by Fire Chief Jerry Brown]

RECOMMENDATION

It is recommended that the City Commission authorize the City Manager to execute the attached Fire Protection Agreement with Polk County for the 2008-2009 fiscal year.

BACKGROUND

The Lake Wales Fire Department has been providing fire protection to property owners in areas outside of the City since 1976. The attached agreement is for service from October 01, 2008 through September 30, 2009 and is similar to the approved agreements of previous years.

As part of the agreement, the City receives 50% of the fire assessment fees collected for all residential and commercial property within the contract area. For 2008-2009 this amount totals \$244,275.00 as identified in the agreement, \$3,706 above the amount received for 2007-2008.

OTHER OPTIONS

Do not approve the agreement requiring Polk County to seek other options for protection.

FISCAL IMPACT

Approval of the agreement allows for a revenue amount of \$244,275.00 to the general fund, which has already been included in the proposed budget.

[end agenda memo]

AGENDA ITEM 18. Landscaping Design for US27 - Extension of Design Phase

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

[begin agenda memo, prepared by Teresa Allen, Public Services Director]

RECOMMENDATION

Staff recommends that the period for the design phase for the US27 Landscaping project be extended to December 31, 2008.

BACKGROUND

The City and the Florida Department of Transportation have a Joint Participation Reimbursement Agreement for highway landscaping installation and maintenance for US27 from Towerview Boulevard to north of SR540.

At its regular March 18, 2008 City Commission Meeting the Commission selected Whidden Design Studios as the landscape architect and authorized the City Manager to enter into a contract to design the plans and oversee the project for the US27 highway landscape installation in the amount of \$25,000.00.

Section 3B (services and design development) of the contract states that the consultant shall deliver the completed technical landscape design to the City no later than 90 days after the signing of this contract. The contract was signed by Whidden Design Studios on April 15, 2008.

Due to delays in obtaining necessary information from FDOT (digital base files of the roadway segment), the technical landscape design is only 30% complete. City staff and Whidden Design Studio recommend that the contract be revised to require the completed plans be submitted to the City no later than December 31, 2008. The project schedule will be as follows:

- The plans will be put out to bid in January, 2009
- The bids will be opened and brought to the Commission for approval in February
- The successful contractor will have until the end of April to complete the project
- Project closeout is May 31

OTHER OPTIONS

None, the design phase has to be completed before we can move forward with contracting for the construction phase of the project.

FISCAL IMPACT

No additional fiscal impact, the fee of \$25,000.00 remains the same.

[end agenda memo]

AGENDA ITEM 19. Approval of Railroad Lease: Crossing Florida Midland Track at the Intersection of Sessoms Avenue & Scenic Highway/Orange Avenue & Scenic Highway

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

[begin agenda memo, prepared by Sarah Kirkland, Utilities Project Supervisor]

RECOMMENDATION

Approval of Railroad Lease: Crossing Florida Midland Track at the intersection of Sessoms Avenue & Scenic Highway/Orange Avenue & Scenic Highway

RECOMMENDATION

Staff recommends that the City Commission take the following action:

1. Approve railroad leases for the crossing of the Florida Midland Track at the intersection of Sessoms Avenue & Scenic Highway and at the intersection of Orange Avenue & Scenic Highway.
2. Waive the indemnification provision included in lease agreements between the City of Lake Wales and the Florida Midland Railroad Company.
3. Authorize the Mayor to execute the agreements 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. This is necessary in order for the City of Lake Wales to complete the installation expansion of the water lines associated with the construction of the Downtown Water main Phase 1 & 2 projects. Ordinance 2008-18 prohibits contracts providing indemnification, which this lease agreement has. Section two of the ordinance 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.

OPTIONS

None. This is the most cost-effective path for the construction of this much-needed larger water transmission line.

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 the appropriate line item in the 07'-08' budget.

[end agenda memo]

AGENDA ITEM 21. Contract for Accounting Services: Bunting, Tripp & Ingley, LLP

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

[begin agenda memo, prepared Anthony G. Otte, City Manager]

RECOMMENDATION

Staff recommends that the City contract with Bunting, Tripp, and Ingley for financial accounting services.

BACKGROUND

At the present time, the City has an interim finance director who does not have extensive experience in municipal bonds. City staff is planning on asking the City Commission for authorization to issue municipal bonds for several critical utility improvement projects, including the rehabilitation of the wastewater treatment plant, and the first phase of the expansion of the plant. It has been anticipated for several years that this project would utilize funding from the state revolving loan fund; however, in July the fund did not have enough money to loan to honor all of the requests for funding, and the City's application was forwarded to the next meeting, to be held in January.

In the meantime, staff is exploring alternate funding sources, including the issuance of municipal revenue bonds. The process involves the preparation of an extensive and specialized financial analysis. With the vacancy in the position of Finance Director, there is currently no one on staff with this expertise. A former City Finance Director, Mr. Glenn Cline, works here in town for the firm of Bunting, Tripp, and Ingley. The firm already has a contract with the City of Frostproof for a variety of accounting work. City staff wishes to contract with this firm for Mr. Cline's services for assistance in the bond project as well as any other project in which the expertise is not presently available on aff.

City staff has asked the City Attorney if there would be a legal problem in contracting with this firm as it is the firm that the Mayor works for. Mr. Galloway said that he did not believe that it presented a problem since the Mayor is not a partner in the firm, and the contract would not result in a personal gain for the Mayor.

OPTIONS

Contract with another accounting firm for this service. The auditor may be available with an hourly fee. The auditor's office is located in Sarasota, making it inconvenient to meet with staff.

FISCAL IMPACT

Bunting, Tripp & Ingley has an existing contract with the City of Frostproof for accounting services.

[end agenda memo]

Mr. Otte said that staff is utilizing a similar contract that Bunting, Tripp, and Ingley has with the City of Frostproof for \$125 per hour.

Mr. Galloway pointed out that the railroad lease requires a waiver of the indemnification provision in the lease that the Commission adopted some time ago.

Commissioner Howell asked if the City could make the railroad company clean up and mow around their tracks. Ms. Delmar said that the City has taken Code Enforcement action against the railroad company in the past, although it was very difficult and time consuming. So, it is easier for the City to maintain it. In some areas the City is responsible for the maintenance. Commissioner Howell asked that if the City cleans up those areas could it not charge the railroad and keep the \$800.00. Mr. Galloway said that the City has a separate contractual agreement for utilization of railroad right-of-way that doesn't deal with this at all. If at some point in time, the Commission was to merge those two documents in some fashion it could then be addressed.

Commissioner Howell made a motion to approve the Consent Agenda excluding Agenda Item 20. The motion was seconded by Commissioner Van Sickle.

ROLL CALL:

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

The motion carried 5-0.

AGENDA ITEM 20. Contract for the operation of the Depot Museum and other buildings: The Historic Lake Wales Society

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

[begin agenda memo, prepared Anthony G. Otte, City Manager]

RECOMMENDATION

Approval of the attached contract.

BACKGROUND

As discussed in recent City Commission meetings, City staff believes it would be prudent to operate the Depot Museum through a contract with the Historic Lake Wales Society rather than operate the Museum with city employees has had been done in the past. This format follows the arrangements that the city has for the operation of several other services that the city provides where there is another organization involved utilizing a city facility. Examples of such an arrangement include the operation of the B St Center and the little league fields. In both cases the City is either responsible for the operation and maintenance of the City facility (B St) or pays the entity involved to carry out these tasks (little league). Somewhat similar arrangements also are in place with the Little Theatre and the Boys and Girls Club, in that they have a contract to occupy city owned buildings and provide an important community service; however, in those cases the organization occupying the building put substantial amounts of their own money into the remodeling of the building, and they also pay all of the repair and maintenance costs.

In addition to having the museum operate in a manner that makes more sense from an administrative point of view, City staff believes that this will be a more cost effective option.

In reality, there is not much difference in the day-to-day operation of the museum. In the past the Director of the Historic Lake Wales Society selected the personnel to work at the museum, who were city employees; and the city was responsible for the operation and maintenance of the building, which is owned by the city. In the new arrangement, the city continues to be responsible for the operation and maintenance of the museum and other buildings named in the contract, and funding is provided for the Historic Lake Wales Society to select and hire a curator to operate the museum and keep it open at least 20 hours per week.

The contract was prepared by the City Attorney with a copy provided to the President of the Historic Lake Wales Society. City staff and the City Attorney met with representatives of the Historic Lake Wales Society and reviewed revisions that they recommended for the contract. Following a review of the revisions, a tentative agreement was reached.

OPTIONS

Reject or modify the contract; or continue to operate the museum as it has been.

FISCAL IMPACT

The cost of this contract is \$70,000, which is included in the budget document that is presented for second reading.

The current year budget for operation of the museum with city employees totals \$149,657. To compare costs appropriately, to the contracted cost of \$70,000 we must add in support for Pioneer Day and an estimated cost for maintenance and repairs on the buildings listed in the contract, and subtract the half-time position that was removed. The total cost is estimated at \$87,654 for next year, a savings of \$62,003.

[end agenda memo]

[begin contract requested for approval by the City Commission]

Depot Museum Complex Lease Agreement

This Agreement made and entered into this _____ day of September, 2008, by and between the Historic Lake Wales Society, Inc., a Florida not-for-profit corporation, hereinafter referred to as the Managing Tenant, and the City of Lake Wales, a Florida municipal corporation, hereinafter referred to as the Owner.

1. **PURPOSE:**

The purpose of this Agreement is to provide a private/public partnership for the administration of the Lake Wales Museum and Cultural facility housed at the Depot Museum (Museum), 325 South Scenic Highway, Lake Wales, Florida, the Children's Museum at 323 S. Scenic Hwy; the SAL Freight Depot at the corner of Scenic HWY & Johnson Ave.; the Stuart Dunn Oliver House located at 300 E Central Ave.; and the three train cars: the Caboose, Pullman, and Engine (hereinafter collectively referred to as the "Depot Museum Complex") for the benefit of the public.

2. **TERM:**

That for and in consideration of sum of ten dollars (\$10.00), and the covenants and Agreements set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Owner leases to the Managing Tenant and the Managing Tenant leases from the Owner on a yearly basis, the Museum located in Lake Wales, Florida, together with the fixtures situated therein, for a term commencing on October 1, 2008 and ending September 30, 2009 with the option for renewal for up to ten (10) additional one-year terms. Either party shall reserve the right to terminate the lease by giving the other party a sixty (60) day written notice prior to the end of any term.

3. **USE:**

(a) The Managing Tenant agrees to manage and administer the property as a museum and cultural facility. The museum shall be open to the public not less than twenty (20) hours per week.

(b) All parties agree to comply with the provisions of Title VI and VII of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973. Specifically, in carrying out the intent of this Lease Agreement, neither party shall discriminate in any way as to race, creed, or color, nor in any other respect in carrying out the terms of this Lease Agreement which would violate the aforesaid acts.

(c) The Managing Tenant acknowledges that its managerial and administrative activities and any other activities it undertakes that results in raised funds, such as gift shop sales, donations, membership drives and other fundraisers shall be used for the benefit of the Managing Tenant and its preservation efforts as has been done previously. The Owner shall at all times have access to the records of the Managing Tenant concerning use of grant funds for audit purposes.

(d) The Managing Tenant acknowledges that due to the nature of the services to be provided hereunder, its records are public records and are specifically subject to the provisions of Chapter 119, Florida Statutes.

4. **ORDINANCES AND STATUTES:**
The Managing Tenant shall comply with all applicable statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the premises, occasioned by or affecting the use thereof by the Managing Tenant.
5. **RENT:**
No monthly rent shall be paid by the Managing Tenant to the Owner for use of the Depot Museum Complex. However, the Managing Tenant shall be responsible for all costs associated with operations and of the Museum.
- The usage of the Freight Depot currently managed the Lake Wales Model Railroad Club shall be overseen by the Managing Tenant. No rents shall be collected by the Owner. All donations collected and sales made shall belong to the Lake Wales Model Railroad Club unless otherwise determined by the Managing Tenant.
- The usage of the Children's Museum and Stuart House shall be governed by the Managing Tenant.
- Any rent/fees charged to a third party by the Managing Tenant for activities held or conducted at the Museum Complex shall be paid to the Managing Tenant.
6. **SOVEREIGN IMMUNITY:**
The Managing Tenant, in accordance with Section 768.28, Florida Statutes, agrees to be fully responsible for its negligent acts or omissions or intentional tortious acts which result in claims or suits against the owner, and agrees, only to the extent of its immunity to be liable for any damages proximately caused by said acts or omissions. Nothing herein is intended to serve as a waiver of sovereign immunity by the Owner. Nothing herein shall be construed as consent by a state agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract. The Managing Tenant agrees that it is an independent contractor of the Owner and not an agent or employee.
7. **GRANT FUNDS AND MONITORING:**
Payments of grant funds shall be made quarterly by the Owner to the Managing Tenant, with the first payment to be made within 2 weeks of the start of the fiscal year.
- The Managing Tenant understands that the facility is financed by Grant funds allocated in the Owner's yearly budget and further understands that any such grant(s) may only be made on a yearly basis and that this lease does not constitute a covenant to budget for yearly grants in the event that funds are unavailable. The Grant for the initial term of this Agreement is in the amount of \$54,161.00.
8. **PROJECT MONITORING/REPORTS:**
(a) Project Monitoring Reports. The Managing Tenant shall provide the Owner with quarterly reports that briefly describe the overall operation of the facility. Reports shall include, but are not limited to, a brief description of each program offered, a schedule of upcoming exhibits, attendance figures, updated inventory, and physical condition of the facility.
- (b) Financial Reports. In each calendar or fiscal year, the Managing Tenant shall provide the Owner with one (1) year-end financial report detailing usage of Owner's Grant funds.
- (c) Upon entering into this Agreement, Managing Tenant shall make and maintain a complete inventory report of all exhibits, artifacts, art work, and display items of any nature, which are in the possession or come into the possession of the Managing Tenant (the "Inventory"). This inventory shall be provided to the Owner not later than 180 days from the date of this Agreement. The Owner will then, by Resolution duly adopted by the

Lake Wales City Commission, transfer any ownership rights it may have in the Inventory to the Managing Tenant. Insurance coverage for the Inventory will be provided by the Owner in accordance with Paragraph 12(a), below. As consideration for this insurance coverage for the Inventory, Managing Tenant agrees that upon any termination of this Agreement, all right, title and interest to any and all of the Inventory shall vest in the Owner.

(d) Failure to provide any of the foregoing reports as required shall constitute a default pursuant to the terms of this Agreement.

9. EXTERMINATION:

The Managing Tenant is responsible for necessary extermination services for the facility.

10. REPAIRS:

(a) The Owner is responsible for all repairs.

(b) The Managing Tenant agrees to promptly report to the Owner any damages or needed repairs.

(c) The Owner shall be responsible for Florida Refuse trash removal from the facility. The Managing Tenant shall provide janitorial services for the complex on a regular basis.

(d) Upon termination of this Agreement, the Managing Tenant shall return the premises to the Owner in the same condition as when received, normal wear and tear excepted.

(e) The Owner shall maintain, service and repair electronic equipment currently owned by the City including computers, printers, copier, and fax machine.

11. MAINTENANCE:

(a) The Managing Tenant accepts the premises in the condition they are in at the beginning of this lease, and agrees to maintain said premises in the same condition, excepting only reasonable wear and tear arising from the use thereof under this Agreement, and to make good to the Owner immediately upon demand, any damage to water apparatus, or electric lights or any other fixtures, appliances, or appurtenances of said premises, or of the building caused by any act or neglect of any person or persons in the employment of, or under the control or supervision of the Managing Tenant.

(b) Other than for the purpose of changing exhibits, the Managing Tenant shall not make internal or external renovations, alterations, additions, or install any fixtures, equipment, fencing, etc., without the written consent of the Owner. All permanent fixtures are to remain with the building.

(c) The Managing Tenant shall be responsible for reimbursement to the Owner for any and all losses or damages to property and/or equipment resulting from the programs of the Managing Tenant. The Managing Tenant shall be charged for time and material by the Owner for any and all maintenance and repairs performed by the Owner or by third parties at the request of the Managing Tenant. This payment will be due and payable on the first day of the calendar month following the completion of the subject work.

(d) The Owner will be responsible for regular scheduled lawn and landscape maintenance for the lawn and embankment.

12. INSURANCE:

(a) The Owner shall maintain Comprehensive General Liability coverage as is maintained by Owner for its other properties.

(b) The Managing Tenant shall maintain, at all times, the following minimum levels of Insurance and; shall, without in any way altering its liability, obtain, pay for and maintain insurance for the coverages and amounts of coverage not less than those set forth below:

1. Worker's Compensation – in compliance with State and Federal laws.

(c) The Managing Tenant shall provide to the Owner original Certificates of Insurance satisfactory to the Owner to evidence such coverage before occupancy of the building commences.

(d) All insurance coverage shall be written with a company having an A.M. Best Rating of at least the "A" category and size category of VIII.

(e) The Managing Tenant self-insured retention or deductible per line of coverage shall not exceed \$25,000 without the permission of the Owner. Such certificates of insurance shall provide that there shall be no termination, non-renewal, modification or expiration of such coverage without forty-five (45) calendar days prior written notice to the Owner. In the event of any failure by the Managing Tenant to comply with these provisions; the Owner may, at its option, purchase such insurance at the Managing Tenant's expense, provided that the Owner shall have no obligation to do so and if the Owner shall do so, the managing Tenant shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverages.

13. UTILITIES:

The Managing Tenant understands that it will be responsible for all utilities of the Depot Museum Complex, including telephone, water, sewer, electricity, and security systems. Internet access shall continue to be provided by the Owner.

14. DAMAGE BY FIRE OR OTHER CASUALTY:

(a) If the property is damaged by fire or other casualty to such an extent that it is rendered untenantable in whole or in part, the Owner shall have the option to cancel the lease, or repair the property to substantially its former condition.

(b) The Owner shall give notice of its election to the Managing Tenant within thirty (30) days after the occurrence of such damage, and if the Owner shall elect to repair the property, the Owner shall include in the notice a good faith estimate of the date upon which such repairs shall be completed.

15. NOTICE:

All notices, which are required or permitted under this Agreement, shall be given to the parties by certified mail, return receipt requested, hand delivery, or express courier, and shall be effective upon receipt. Notices shall be sent to the parties at the addresses set forth below or such other address as provided to the parties by written notice delivered in accordance with this section.

Notice to Managing Tenant:
Historic Lake Wales Society, Inc.
325 South Scenic Highway
Lake Wales, FL 33853

Attn: _____, its President

Notice to Owner:

City of Lake Wales

City Manager
PO Box 1320
201 Central Ave., W.
Lake Wales, FL 33859-1320

With a copy to:

Albert C. Galloway, Jr., City Attorney
Albert C. Galloway, Jr., P.A.
202 E. Stuart Ave.
PO Box 3339
Lake Wales, FL 33859-3339

16. **BANKRUPTCY:**
If the Managing Tenant shall become insolvent or if bankruptcy proceedings shall begin by or against the Managing Tenant, before the end of the lease term, the Owner is hereby irrevocably authorized at its option, to forthwith cancel this lease, as for default. No receiver, trustees, or other judicial officer shall ever have any right, title or interest in or to the above described property by virtue of this Agreement.
17. **DEFAULT:**
It is expressly understood between the Owner and the Managing Tenant that at any time in the event the Managing Tenant is declared in default of any provision(s) contained herein that the Owner shall be entitled, at its option, to terminate the parties interest hereunder, whether during the initial lease term or during any extension thereof.
18. **WAIVER:**
No failure of Owner to enforce any term hereof shall be deemed to be a waiver.
19. **ASSIGNMENT:**
Neither party hereto shall attempt to assign any part of this Lease Agreement nor any responsibility or liability provided in this Agreement to a third party without the mutual written consent of both parties.
20. **ENTIRE AGREEMENT:**
This lease contains the entire Agreement between the parties and may be modified only by an addendum to this Agreement or by a new Agreement in writing signed by the Owner and the Managing Tenant.
21. **AUTHORITY:**
The parties hereto acknowledge and affirm that all steps required to provide authority for entry into this Agreement have been accomplished and the individuals who execute this Agreement are duly authorized to bind the respective parties.

In witness whereof, the parties have hereunto set their hands and seals this _____ day of September, 2008.

ATTEST:

CITY OF LAKE WALES
CITY COMMISSION

City Clerk

By: _____
Lee A. Wheeler, III, Mayor

Signed Sealed and delivered in
the presence of:

HISTORIC LAKE WALES
SOCIETY, INC.

By:

2008-595

(Witness)

Its President

(Witness)

[end contract requested for approval by the City Commission]

Mr. Otte asked Mr. Galloway to explain the changes that were requested by the Historic Lake Wales Society. Mr. Galloway explained that the agreement, which was reached between the City and the Historic Lake Wales Society, was reviewed by Tom Baynes, who is the attorney who originally incorporated this entity several years ago. Mr. Baynes was concerned about the impact of what the City was doing on tax issues related to a 501(c) Corporation. Mr. Galloway said that although he does not see where these issues would be problematic he did discuss them with Mr. Baynes. He said that Mr. Baynes, who is available for questioning tonight, has the ability to discuss the 501(c) issues because of his familiarity with them.

Mr. Baynes said that he and Mr. Galloway had an opportunity to go over the agreement. He said that one of his concerns is with the possible effect on compliance with Internal Revenue Service requirements. We have to be very careful when considering a contract for a non-for-profit corporation. That is why there are certain particular terms included in the agreement along with other specific changes to allow them to operate swiftly, easily, and efficiently. There is nothing in the agreement that would affect the articles of the incorporation or the bylaws of the Historic Lake Wales Society, nor the authority of the Board of Directors. Mr. Baynes explained other changes that were made to the agreement. He said that if the City Manager and the City Commission agree to these changes he would seek the approval of the Board of the Historic Lake Wales Society.

Mayor Wheeler asked Mr. Otte if City staff was happy with the changes. Mr. Otte said that staff had an agreement last week until these changes came in today. So, he is now relying on Mr. Galloway's approval.

Commissioner Howell made a motion to approve the amended contract with the Historic Lake Wales Society for the operation of the Depot Museum. The motion was seconded by Commissioner Manry.

ROLL CALL:

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

The motion carried 5-0.

COMMUNICATIONS & PETITIONS

CITY COMMISSION TRACKING REPORT

Adult Day Care Facility: Mr. Otte reported that there is a scheduled meeting on the day care facility coming up soon so staff will be providing a report on that.

Police Department Generator: Mr. Galloway reported on the status of the generator. He said that the generator in question is \$35,500. He checked into getting an expert to examine the evidence of why the generator broke down and whether it is the responsibility of Leedy to replace it. The cost for the expert would be \$13,000. Mr. Galloway said that he spoke with another attorney in Lakeland who recently spent \$20,000 on a similar expert for a marine diesel engine. He said that the fees for trying a case of this nature even at his municipal rate would run about \$15,000. Therefore, it could cost \$30,000 to recover \$35,500. There is a possibility that Leedy did not cause the engine to break. Mr. Galloway said that if the Commission would like him to pursue the case he would. He said that he had questioned whether there were insurance proceeds related to this case because if there were it would be fraudulent to pursue it against Leedy. It appears that there are no proceeds, and he does not know if there is an impediment to amending the insurance claim to see whether the City could get coverage for this. But, from a standpoint of pursuing it legally, he does not think it would be prudent to spend almost \$30,000 to recover \$35,500. Mr. Otte said that he and staff believe that the City has an excellent case against Leedy. But, on the other hand, he does understand what the City Attorney is saying. Staff has begun the process of looking into filing an insurance claim.

Commissioner Van Sickle said that he would love to make Leedy pay for the generator but with the possibility of losing \$30,000 to gain \$5,500 would not be worth it. Mayor Wheeler said that he is in favor of whatever leads to the greatest recovery.

Grants for Operating a Municipal Swimming Pool: Mr. Otte reported that staff needed more time to research grant opportunities for the pool.

City Property that could be Sold or Leased: Mr. Otte reported that a staff report was provided and a copy was put in each of the Commissioner's mailbox.

Mr. Otte announced that the grand opening of the Multi-Purpose Sports Complex was held on Saturday, September 20. He said that there were a number of speakers at the event and Vice-Mayor Van Sickle did a great job opening the celebration. There was a lot of work going on even when the celebration started. A lot of City staff members worked very hard to make that place just as beautiful as possible, which turned out to be an incredible project. Mr. Otte thanked the Parks Department personnel Shawn Mosley, Jimmy Arthur, Larry Kennedy, Murtis Smith, Victor Bridges, Pat Donaldson, Helen Britt, and Juan Rojas, and the Streets Department personnel Beverly Pennington, Marshal Williams, Brandon Greisman, and Michael Jackson for all their hard work in making the event very successful. Mr. Otte said the project was funded through grants and donations, by recognizing opportunities when they came along, and with the dedicated work of Robbie Shields, Tony Mathewson, and the people involved in the Ridge Soccer League. The project cost about a million dollars with no City money involved in the capital construction. The Multi-Purpose Sports Complex is something for all of us to be proud of and there is going to be a lot of thankful kids playing there.

Mr. Otte announced that construction is underway for the new Polk County Health Department on Central Avenue. He said that he is hoping that the property where the Health Department is located now would come back to the City and be used for the new adult day care.

PUBLIC COMMENTS

Ruth Dampier, 1154 S. Lake Shore Blvd., asked why the City could not make a trade with the railroad company. She said that nothing has been done about the maintenance at the railroad track on Central Avenue. The City is not supposed to maintain that property. Ms. Dampier asked if there is any way that the City could enforce the railroad to maintain their property. Mr. Galloway explained that the City has no code governing how the railroad is to maintain its property. He could guess that there is no way for the City to even enact such a code. The railroad as an entity and as a property owner has been around for a long time and they have significant rights. Mimi Hardman, 300 S. Lake Shore Blvd., said that the railroad has been around since 1911. Ms. Delmar said that the City could enforce the maintenance of high grass and weeds. But, in terms of actual cost, the City does not have anything in its code to address that. Ms. Dampier suggested that the City send a letter to the railroad telling them that they need to maintain their property.

Commissioner Howell said someone has been putting asphalt there. Mr. Otte said the City has been doing that.

Jean Scott, 306 Townsend Avenue, said she remembers when the railroad repaved that intersection and it looked very nice until the construction started at the Presbyterian Church. The heavy equipment that was used there tore it up.

Jack Neal, 435 E. Central Avenue, thanked the City for all its hard work.

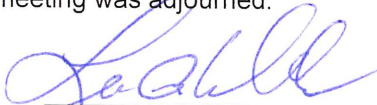
COMMISSION COMMENT

Commissioner Manry thanked the Commission for allowing her to participate in the meeting by telephone. Mayor Wheeler wished Commissioner Manry a speedy recovery.

Commissioner Howell said that most of the time our Comcast cameras in the Chamber do not work. People who watch the program from home have complained that sometimes there is no sound or nothing at all. She said that she could not tape the last meeting because the system was not working. Commissioner Howell said that citizens have been asking if there was something else the City could do other than rely on the Comcast system. Someone had told her about a system that would allow the City to put its meetings on the Internet so that anyone from anywhere could watch them at any time, and that the system would even record everything and do the minutes. Commissioner Howell said she asked the City Clerk and the City Manager about it. Ms. Delmar said that type of system is called Web Casting. Commissioner Howell said she would like staff to look into it, get a cost, and provide a report to the Commission. She said she believed that this is something good for the City and its citizens.


Mayor Wheeler thanked everyone who attended the meetings and provided comments to the Commission throughout the budget process and on the fire assessment. This type of feedback is needed and is always appreciated.

There being no further business the meeting was adjourned.



Mayor/Commissioner

ATTEST:



City Clerk