

The regular meeting of the Lake Wales City Commission was held on December 2, 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 Rev. Palmer Wood, Church of the Good Shepherd.

PLEDGE OF ALLEGIANCE

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

Commissioner Rogers left the meeting at approximately 6:42 p.m.

COMMISSIONERS ABSENT: None.

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

AGENDA ITEM 4. Approval of Minutes

Commissioner Manry made a motion to approve the minutes of the November 18, 2008 regular meeting. The motion was seconded by Commissioner Howell.

ROLL CALL:

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

The motion carried 5-0.

ADDENDUM Purchasing & Reimbursement of Barney's Dream Playground Equipment

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

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

RECOMMENDATION

Approval of an agreement to the purchase of playground equipment for Barney's Dream, with the full amount to be reimbursed by the Lake Wales Kiwanis Foundation and the Polk County Board of County Commissioners.

BACKGROUND

"Barney's Dream" is a specialized playground that will be constructed in Kiwanis Park. It is a project of the Lake Wales Kiwanis Foundation and is named for one of the Kiwanis Club members, former Citizen of the Year Barney Moore.

The playground is designed to accommodate children of all physical abilities, including children using mobility devices. The Lake Wales Kiwanis Club has been planning and raising money for the Barney's Dream project for over two years. In the new plan for the layout of Kiwanis Park prepared by the City Parks Board, the playground is located on the west side of the restrooms, and is scheduled for construction to begin this month.

The Lake Wales Kiwanis Club approached the City Commission in June 2007 to partner in an application for County MSTU grant funds for the Barney's Dream project. The City has no commitment for funds in the construction of the playground, but has agreed to maintain it once it is built.

Last week the Project Director for the Kiwanis Club called to report a snag in their plans: The County will fund 50% of the project, but it was learned that the County funds will be provided on a reimbursement basis. Therefore, a cancelled check must be submitted for the entire project and the County will reimburse 50% of that amount.

The Kiwanis Club is requesting that the City write a check to Gametime equipment company in an amount not to exceed \$165,500, and they will in turn provide us a check for half of that amount. The County will reimburse the City within three weeks for the other half.

Timing is critical here since the purchase order needs to be received by Wednesday at noon in order to receive a substantial discount from Gametime.

OPTIONS

If the City does not write the check, the County will make two reimbursements for the amount of a Kiwanis Club check. This will result in the project losing funding an amount equal to about one-eighth of the proposed check amount, or nearly \$20,000.

FISCAL IMPACT

If approved, this action will have no fiscal impact in that half of the City money advanced will be reimbursed by the Kiwanis Foundation immediately, with the other half being reimbursed by the County within three weeks.

Cash is always a concern at this time of year, as staff is awaiting the receipt of tax monies and we are thankful for the prompt service received from the County Tax Collector's Office. City staff believes that this action will not present a problem, as we have the \$1,000,000 set aside if needed to carry us through this period.

[end agenda memo]

Mr. Otte said that he spoke with the City Attorney just before the meeting about the possibility of needing a promissory note from the Kiwanis Club. Mr. Otte said Woody Dupuis, Project Manager, said that the Kiwanis Foundation would give the City a check before the purchase order is processed, so there is no need for a promissory note. The City has an agreement with the county in place, as we are a partner with the Kiwanis Foundation for the MSTU grant. The grant lays out the requirements for getting the reimbursement. We spoke with county staff this week and they said if we give them the paper work on Wednesday that they would reimburse the City by next Tuesday. We are not writing the check right now. We are only submitting the purchase order and the check will come later.

Commissioner Van Sickle commented that he is in favor of the park and the playground equipment. But, residents of the City have already accused the Commission of mismanaging funds. Within the last month, we told our residents that at this time of year we are short of money because the year is ending and the tax money has not started coming in yet. In the past, we had to borrow money and pay interest on that money until the tax money came in. Fortunately, we have reserves that can be used for this purpose so we don't have to borrow any money. Commissioner Van Sickle said he wanted everyone to know that the City will be getting the money back, it will not be costing the City anything to do this, and we do not have to borrow any money. It will, however, cost us to maintain the park. Somewhere down the road we have to be a little more cautious at taking on the maintenance of more parks and expecting our existing staff to do it. We are only overloading them. Eventually, they will get to the point where they cannot do everything we are signing them up to do. The same is with our police officers because we are growing in acres and we are not adding additional police officers to service those areas. Eventually, they will get to the point where they can't cover those additional areas.

Woody Dupuis, 2578 S. Scenic Hwy and project manager, commented that in the end this will be a quarter of a million dollar playground and unlike anything in Polk County. It will be a tremendous boost to the 30,000 plus special needs children that will make use of it in Polk County. He said that the groundbreaking ceremony is on Saturday at 10:00 a.m.

Commissioner Manry commented that because Kiwanis is so wonderful at participating in things like this they wouldn't mind participating in the maintenance of the park. She asked Mr. Dupuis to encourage the organization to continue their work at the park. Mr. Dupuis said the organization has a commitment. Within the last two years they painted the park, added new signage, put up a chain link fence, built one of the pavilions etc. He said it would be a continued partnership. Commissioner Manry said that it is not necessary to encourage the organization to help out.

Commissioner Manry made a motion to approve the purchase of playground equipment for Barney's Dream, with the full amount to be reimbursed by the Lake Wales Kiwanis Foundation and the Polk County Board of County Commissioners. The motion was seconded by Commissioner Howell.

ROLL CALL:

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

The motion carried 5-0.

Mr. Otte recognized Mr. Dupuis and Kiwanis Club for doing a great job.

Commissioner Manry asked Mr. Dupuis if the organization is still accepting checks for the project. Mr. Dupuis said yes. He said there will be an article with an address in the paper tomorrow for anyone who would like to send a check. Mayor Wheeler said if people make their donations by December 31, they could get a tax deduction.

AGENDA ITEM 5. Ordinance 2008-43, Chapter 21, Article I - Utility Service upon FL DEP Request – 2nd Reading & Public Hearing

Mr. Otte reported on Agenda Item 5. The full staff memo is incorporated into the minutes.

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

RECOMMENDATION

Staff recommends adoption of Ordinance 2008-43 amending provisions relating to provision of utility service outside city limits and correcting surcharge rates for outside-city utility users.

A public hearing is required. Requirements for public notice have been met.

BACKGROUND

The ordinance was approved on first reading on November 18, 2008.

The primary purpose of the amendment is to allow utility service to properties outside of the city limits (utility service area) if requested by the Florida Department of Environmental Protection to address an environmental issue. This change is prompted by discussions with DEP concerning servicing several properties that lie outside of the city limits and cannot be annexed because they are not contiguous to the city boundary.

For clarity, the amendment specifies that service can also be provided to properties outside of the city where there is an agreement to provide service pre-dating the advanced reservation systems initiated in 2005.

The surcharge rate to outside-city customers is corrected to comply with state statutes. Although the city complies with state statutes in regard to such charges, the ordinance apparently was never corrected.

This ordinance will enable the City to assist FDEP in resolving environmental issues at private utility plants in areas where city utility service is available. The conditions for provision of city utility services will be covered in service agreements that will be presented to the City Commission for approval.

Note: our existing city code (21-3) requires an annexation agreement with an application for utility service outside the city limits.

OPTIONS

Do not approve the ordinance, or modify its provisions.

FISCAL IMPACT

There is no immediate fiscal impact from this action. There will be a fiscal impact for each of the individual service agreements brought forward for approval.

[end agenda memo]

Ms. Delmar read Ordinance 2008-43 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, TO AMEND CHAPTER 21, UTILITIES, LAKE WALES CODE OF ORDINANCES, BY ALLOWING UTILITY SERVICE TO BE EXTENDED TO PROPERTIES OUTSIDE OF CITY LIMITS UPON REQUEST BY FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION; CORRECTING THE SURCHARGE ON SERVICE CHARGES AND IMPACT FEES FOR OUTSIDE-CITY UTILITY USERS; AND PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

Jack Neal, 435 E. Central Avenue, asked who would pay for the extension of the lines etc. Mr. Otte said we look for the area being served to pay for that. He said the only thing this ordinance does is enable staff to negotiate this type of agreement to bring back to the Commission for approval. Mr. Neal said when people come in and develop something it always cost us a bunch of money just to get them hooked on. Mr. Otte said we have done studies over time to keep our impact fees updated. The financial analysts told us that our impact fees are accurate at this time.

CLOSED PUBLIC HEARING

Commissioner Howell made a motion to adopt Ordinance 2008-43 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 6. Ordinance 2008-44, Solid Waste/Backdoor Pickup – 2nd Reading & Public Hearing

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

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

RECOMMENDATION

It is recommended that the City Commission adopt Ordinance 2008-44 after second reading and public hearing.

BACKGROUND

The implementation of once-per week automated pickup of solid waste and the use of standardized large containers provided by Florida Refuse has increased the number of customers requiring backdoor pickup service from approximately 20 to 62. Florida Refuse limits eligibility for backdoor pickup service to customers with a medical necessity documented by a doctor's note. Florida Refuse charges the City the same fee for backdoor pickup as it does for curbside.

Prior to 1989, the City had an in-house solid waste collection department. Backdoor pickup was available to anyone who wanted to pay a surcharge for the service. In 1989, the surcharge was \$35 payable annually.

After privatizing solid waste collection, the option for backdoor pickup remained available. A monthly charge for backdoor service rate was added to the rate table as a separate rate category and increased over time as rate adjustments occurred. Effective 10/1/08, the monthly rate for curbside service was set at \$19.12, and the monthly rate for backdoor service was set at \$25.64. This amounts to a monthly surcharge of \$6.52 over the curbside rate or an annual surcharge of \$78.24.

As stated above, Florida Refuse does not charge the City any more for backdoor service than it does for curbside service. For this reason, we are recommending elimination of the surcharge to our customers.

Proposed Ordinance 2008-44 makes this change to our rate table and establishes the eligibility criteria of medical necessity stipulated by Florida Refuse for backdoor service. We are also recommending a provision to allow backdoor service for extenuating circumstances that are non-medical in nature if both the City Manager and Florida Refuse approve the service.

In the event that there are a few customers who began receiving backdoor service prior to the time when Florida Refuse implemented the requirement for documentation of a medical necessity, this ordinance provides that those customers will not be affected by the new eligibility requirements; i.e.. they will be "grandfathered in."

FISCAL IMPACT

With the 62 customers currently receiving backdoor pickup service, the City will give up \$4,851 in FY08'09 revenue.

OTHER OPTIONS

Continue to charge a surcharge for backdoor pickup service.

[end agenda memo]

Ms. Delmar read Ordinance 2008-44 by title only.

AN ORDINANCE AMENDING CHAPTER 17, SOLID WASTE, LAKE WALES CODE OF ORDINANCES TO ESTABLISH CHARGE FOR BACKDOOR PICKUP; TO SPECIFY ELIGIBILITY CRITERIA FOR BACKDOOR PICKUP SERVICE; PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments made by the public.

CLOSED PUBLIC HEARING

Commissioner Van Sickle made a motion to adopt Ordinance 2008-44 after second reading and public hearing. The motion was seconded by Commissioner Howell.

ROLL CALL:

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

The motion carried 5-0.

AGENDA ITEM 7. Ordinance 2008-45, Chapter 23, Amendments to Zoning, Land Use and Development Regulations – 1st Reading & Public Hearing

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

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

RECOMMENDATION

Staff recommends approval of Ordinance 2008-45 on first reading.

A public hearing is required on first and second readings for the ordinance because it changes permitted uses in zoning districts. Public notice requirements have been met.

BACKGROUND

The Planning and Zoning Board held public hearings on February 26 and October 28, 2008 and recommended amendments to the *Zoning, Land Use and Development Regulations* as set forth in the ordinance.

Following are explanations of the proposed changes. Section numbers correspond to ordinance sections.

SECTION 1 Cross reference – reclaimed water system requirement

Sec. 23-217.3 Application package (for site development permit)

Plans for reclaimed water systems are required for development of property located in a reclaimed water service area. This change directs the applicant to the utilities section of the code (sec. 21-124) which designates those service areas.

SECTION 2 Public notice reimbursement – administrative schedule

Table 23-242 LAND USE APPLICATIONS – REQUIRED FEES

This amendment removes public notice reimbursement charges from the table of land use application fees and adds a note that these costs will be kept on an administrative schedule. The change will allow staff to adjust advertising and other notice expenses without an ordinance amendment. A recent analysis of department advertising costs showed that the actual costs in the past year exceeded reimbursement charges.

SECTION 3 Add fees for waivers and special permits for single-family expansions

Table 23-242. LAND USE APPLICATIONS – REQUIRED FEES

Two fees are added to the table. A fee for "waiver of strict compliance" of \$50 will allow a low-cost application for planning board review of waivers of requirements such as landscape buffer widths and parking lot layouts. Under the current schedule, a site plan fee, running \$170 and up, is charged for these requests, regardless of how minor. A fee for "special permit for expansion of a dwelling unit" of \$50 is proposed for the same reason. Both changes are designed to reduce costs to the applicant for minor requests.

SECTION 4 Reorganization of procedure for appeals

Sec. 23-244 Appeals and variances

No substantive changes are proposed in this section. Reorganization of the section will improve clarity. *Rec. P&Z 2-26-08.*

SECTION 5 Allow temporary living quarters in emergency declared by city manager

Sec. 23-301.2. General regulations for structures, b. Temporary structures

The code allows the use of temporary structures for housing in a city emergency declared by the city commission. This amendment allows quicker response by authorizing the city manager to declare an emergency upon the recommendation of the building official. Please note that the Post-Disaster Plan being prepared by Polk County and all of the cities within the county may prompt other changes to emergency management regulations. One topic under discussion is a time limit for the use of temporary housing after an emergency.

SECTION 6 Reconciliation of chapters 21 and 23 – utility requirements

Sec. 23-301.2 General regulations for structures, d. Water and sewer facilities

This amendment removes requirements for mandatory connection to sewer, water, and reclaimed water systems because Chapter 21 - Utilities governs these systems. In the zoning regulations, the requirement that no building shall be occupied unless it is connected to utilities is revised to state that no dwelling or principal building will be permitted without plans for connections to utilities. A certificate of occupancy cannot be issued without these utilities in place. This change has been endorsed by the Building Official, Cliff Smith.

SECTION 7 Exemption from tree replacement requirements under approved park plan

Sec. 23-302. "Land preparation" subsec. 302.2.b. "Tree replacement" and

Sec. 23-310. "Recreation area" subsec. a. "Design criteria"

Trees removed for land development must be replaced or payment must be made to the tree replacement fund. These amendments will allow selective removal of trees in parks without replacement if the work is done in accordance with an approved plan. Dense stands of trees in the central park in Mayfair, for example, can be thinned selectively to create a more attractive and usable park. However, trees removed for buildings and facilities, including retention areas are not exempt from the replacement requirement. The provisions encourage the location of structures in areas where there are no or few trees. *Rec. P&Z 2-26-08*

SECTION 8 Correction – required right-of-way dedication for minor collector

Table 23-303C. RIGHT-OF-WAY DEDICATION REQUIREMENTS

This amendment corrects a typographical error in one of the tables dealing with required right-of-way widths. The width for a minor collector roadway is corrected from 60 feet to 66 feet to correspond to the street classification system in sec. 23-303.6.

SECTION 9 Curbing of landscaped islands

Sec. 23-306.2. Layout of off-street parking areas, subsec. b. Paving and marking and

Sec. 23-307.1 Landscaping requirements, Vehicular use areas

The code requires curbing, wheel stops or other method for protecting landscaping at the head of parking spaces. These amendments add the same protection to landscaped islands, located at the ends of rows of parking or between parking spaces. Please note that requirements for parking lots can be waived by the planning board for infrequently used parking lots or other special circumstances.

SECTION 10 Modification of landscaping requirements in parking areas

Sec. 23-307. Landscaping requirements. Subsec. 1.c. parking lot requirements, 2. Interior

The code requires that lines of parking spaces be broken up with landscaped areas, or islands. This amendment clarifies that these additional landscaped areas are not required for parking spaces that are located along a landscaped buffer.

SECTION 11 Prohibit use of required landscape buffers for storm water retention

Sec. 23-308. Drainage

The code requires landscaped areas along roadways to buffer parking areas and the back yards of residential developments. It is tempting for developers to use these landscaped buffers for storm water retention, particularly on a small site. The two uses are incompatible in most cases, because very little landscaping is permitted in a typical retention area by the water management district (SWFWMD). This amendment will prohibit required landscaped buffers to double as retention areas. However, the amendment does not prohibit landscaping in retention areas. Note also that the code requires landscaping along the edge of a retention area where it abuts a roadway or access way.

SECTION 12 Updating of utility easement requirements

Article 11l. General Devel. Stds., Division 1. Land Development, Sec. 23-309. Easements

Specific requirements for easements are removed from this section to eliminate conflicts with code Chapter 21, Utilities. The new language requires that easements must be in place (recorded) prior to the issuance of a building permit for development of a lot. The prohibition on landscaping within easements is removed in favor of allowing landscaping only with an approved plan. Landscaping can be allowed in an easement, provided plantings are not too close to sewer and water mains. The amendment also clarifies that structures are not allowed in easements unless approved by the director of public works.

SECTION 13 Correction – approval of special sales on private property

Sec. 23-343. Auctions, sales, and events, temporary

This amendment corrects a contradiction within the ordinance. Sec. 23-343 states that temporary sales and events are permitted with site plan approval, provided they run for 3 days or less, while the table of uses (Table 23-421) requires a special exception use permit. Subsection b is amended to state that a special permit is required. This requirement is meant to control special events in commercial parking lots. (Note that churches, schools, and government properties are exempted from this requirement under sec. 23-343.c.) The special permit review of the layout ensures that the event does not conflict with commercial use of the parking area or compromise the safety of vehicles and pedestrians. References to “garage sale” are changed to “yard sale” to correspond with the referenced section title. A cross-reference is also added to Table 23-541.

SECTION 14 Corrections – Home occupation regulations

Sec. 23-348. Home occupations

An incorrect cross-reference is removed from the regulations and wording improved for clarity.

SECTION 15 Prohibited uses – clarification

Sec. 23-421. “Permitted and special exception uses allowed in zoning districts”

Language is added to emphasize that land uses that are not allowed by right, by special exception use permit, or PDP are prohibited.

SECTION 16 Table of Uses - Modifications

Table 23-421 “Permitted Uses and Special Exception Uses in Standard Zoning Districts”

Prohibit dormitories in single-family and duplex zones This amendment will strengthen protections for single-family neighborhoods by prohibiting dormitories in residential districts except in R-3 -Multi-family districts. Currently, the code allows dormitories by special permit in all residential districts and in several commercial districts. Specifically, the amendment will prohibit dormitories in single-family (R-1) and duplex (R-2) districts. The definition of dormitory is also amended to stipulate that any residence for more than 5 unrelated adults is a dormitory. (See Section 24 for definition changes.)

Require special permit for “heavy” construction service businesses in LCI zone The change corrects an oversight. Currently, such businesses are a permitted use. “Heavy” businesses are those which are hazardous or that entail outdoor storage, operations, or sales. Such businesses may not be compatible in the LCI-Limited Commercial Industrial district and should be reviewed through the special permit process. This amendment is supported by the Economic Development Director.

Show “public facilities and offices” as permitted uses in CN (Conservation) and R (Recreation) districts This corrects a discrepancy between the table and a footnote. The table does not show public facilities and offices as permitted in the CN and R districts. An existing footnote states that “public facilities and offices” are permitted in all zoning districts with “approval by the city commission and a courtesy review and recommendation from the planning board.”

SECTION 17 Correction - setback from right-of-way – nonresidential districts

Table 23-422B footnote #1

The amendment changes the front setback requirement in nonresidential districts from ½ of the “dedicated” right-of-way width of the street on which the lot fronts to ½ of the “required” right-of-way width. (The corresponding requirement for residential districts was amended by Ordinance 2007-33.) The current language has presented problems where the dedicated (existing) right-of-way width differs from the required width. For instance, some portions of US 27 have dedicated right-of-way widths of 250 feet, far in

excess of the 120 feet required under our ordinance for an arterial highway. Strictly construed, this footnote would require a 125-ft. setback for a building in this case. Half of the required right-of-way would allow the building to have a setback of 60 feet.

SECTION 18 Building setbacks in C-5 Village Center District

Table 23-422B DIMENSIONAL AND AREA STANDARDS – NONRESIDENTIAL DISTRICTS, footnote #3
This amendment addresses an omission in the table: building setback requirements for C-5 districts not developed as Planned Development Projects (PDPS). The C-5 district was primarily intended for new village centers, such as the one proposed in Mayfair. The table states that the building setbacks will be determined through the PDP review to allow flexibility in design. However, there is one area that was designated C-5, but was not developed as a PDP. That is the commercial area on the southeast corner of First Street and SR 60. This amendment provides that the building setbacks in a C-5 district not determined by a PDP will be the same as those in the C-2 district.

SECTION 19 Setbacks for carports – correction

Table 23-522 ACCESSORY STRUCTURES RESIDENTIAL PROPERTIES restrictions for "Detached carports or garages"

The code requires that detached garages meet the setbacks for principal buildings (10' side, 20' rear) rather than the 5-foot setback allowed for small sheds. Inadvertently, the same restriction was not applied to detached carports. This amendment corrects the discrepancy. The amendment also allows such structures to be built with the same front setback as the dwelling in cases where the dwelling does not meet the required front setback.

SECTION 20 Exemption on height restriction for required retention pond fences

Sec. 23-524. Fences and hedges (residential uses), **subsec. b. Dimensional requirements**, and

Sec. 23-543.c. Dimensional requirements (for fences, non-residential uses)

This amendment will allow fences to exceed the height restriction if required by the water management district (SFWFMD) for a retention area. Currently, a waiver from the planning board is required. A provision is also added to allow the planning board to allow fences to exceed height restrictions for security at industrial sites located outside of industrial zoning districts.

SECTION 21 Regulations for swimming pools – accessory to residential use

Sec. 23-527. Swimming pools and

SECTION 22 Regulations for swimming pools – accessory to non-residential use

Sec. 23-546. Swimming pools

Modifications are necessary in this section to correspond with updates to the building code. A cross-reference error is also corrected. The updates to sec. 23-527 apply to swimming pools that are accessory to both residential and non-residential uses. Rather than duplicate the regulations, a cross-reference to sec. 23-527 is added and the existing regulations are removed from sec. 23-546.

SECTION 23 Residential lots in areas of special flood hazard

Article VI. RESOURCE PROTECTION STANDARDS,
DIVISION 1. DEVELOPMENT IN FLOOD PRONE AREAS

This amendment implements a comprehensive plan policy (Future Land Use policy 3.11) stating that "no new residential lots shall be created that are entirely within the 100-year flood zone." Specifically, the flood protection regulations (Sec. 23-604) are amended to prohibit the construction of a single-family house or duplex building on a lot created after October 1, 2008 if the lot is entirely in an area of special flood hazard. Other amendments provide cross-references. The prohibition will allow houses to be built on lots on the edge of a floodplain, but not in the center. Although there is very little residential development in flood plains in Lake Wales, there are several large, undeveloped parcels that have significant wetland and flood plain areas. Staff is working on additional amendments to strengthen regulations for these areas.

SECTION 24 Definitions

Sec. 23-802

Three definitions are amended. "Dormitory" and "Household" are redefined to strengthen regulation of group housing. Language stating that a dormitory provides housing for students affiliated with a school is eliminated. The definitions will now specify that any dwelling that houses more than 5 unrelated people is a considered a dormitory. (A related amendment removes dormitory as a use allowed in single-family and duplex zoning districts. See Section 14 of ordinance. Dormitories will be allowed only in multi-family districts.) These changes are in line with Polk County regulations. The definition of "Waiver" is amended to eliminate regulatory language and state simply that a waiver is permission to deviate from a requirement of the chapter.

OTHER OPTIONS

The City Commission may choose to defer, eliminate or modify recommended amendments.

FISCAL IMPACT

Changes to the schedule of fees will allow public notice reimbursement charges to keep pace with city costs.

[end agenda memo]

Ms. Delmar read Ordinance 2008-45 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 23, ZONING, LAND USE AND DEVELOPMENT REGULATIONS BY REMOVING PUBLIC NOTICE FEES AND AUTHORIZING AN ADMINISTRATIVE SCHEDULE FOR SUCH FEES; MODIFYING THE SCHEDULE OF ZONING FEES; ALLOWING THE USE OF TEMPORARY LIVING QUARTERS IN AN EMERGENCY DECLARED BY THE CITY MANAGER; REQUIRING A TREE PLAN FOR PARKS WITHIN DEVELOPMENTS; AMENDING LANDSCAPING REQUIREMENTS IN PARKING AREAS; PROHIBITING THE USE OF LANDSCAPED BUFFERS FOR STORMWATER RETENTION; UPDATING REQUIREMENTS FOR UTILITY EASEMENTS; AMENDING THE TABLE OF USES TO PROHIBIT DORMITORIES IN RESIDENTIAL DISTRICTS AND REQUIRE A SPECIAL PERMIT FOR HEAVY CONSTRUCTION SERVICE BUSINESSES IN LCI LIMITED COMMERCIAL INDUSTRIAL DISTRICT; ADDING SPECIFIC BUILDING SETBACK REQUIREMENTS FOR C-5 VILLAGE CENTER DISTRICT; UPDATING REGULATIONS FOR SWIMMING POOLS; PROHIBITING SINGLE-FAMILY HOUSES AND DUPLEXES ON A NEW LOT ENTIRELY WITHIN A FLOOD PLAIN; MAKING MINOR CHANGES AND CORRECTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Otte said that years ago when he first started working for the City staff had already been through two consultants recommending changes in the Land Development Code. He said it was recommended to him when beginning his employment with the City that we hire a consultant for the third time. The Commission adopted neither of the previous consultant's reports. Mr. Otte said that when Margaret Swanson, Planning and Development Director, came on board with the City he asked her about changing the code, which we did. Ms. Swanson is now in a very good position to see as time goes on what things need to be tweaked because she knows the code so well.

OPENED PUBLIC HEARING

There were no comments made by the public.

CLOSED PUBLIC HEARING

Commissioner Manry questioned the change being made to Section 13, approval of special sales on private property. She said she was not sure of why we are making the change. Ms. Swanson explained that there were some contradictions between this section and another section. This section said that you can have a special sale for three days and then in another section it said that you have to have a special permit. So, this change is correcting a discrepancy between the two sections. We try to control special sales like the ones that take place in the parking lot of Wal-Mart, K-Mart etc. because we want to make sure there is adequate parking available and that it doesn't impose a parking and traffic hazard. Commissioner Manry asked if the change had been generated by any problems that we are having now. Ms. Swanson said no. Mr. Otte said nothing other than the contradiction that's in the code today.

Commissioner Howell questioned the dormitory definition in Section 24, definitions. She said according to the definition there can be up to five unrelated people in one house in a multi-family district, and no more than five related people in one house. She said she would not want that kind of district near her neighborhood because there could be more than 15 related people living in one house. Ms. Swanson said this is to protect single-family neighborhoods. The Planning & Zoning Board discussed this some time ago because we had a situation where people were using a single-family house as a dormitory. Our ordinance was a little weak on what the difference is between a single-family house and a dormitory. A dormitory would not be appropriate in a single-family district. So, we are making it a prohibited use in that district. Mr. Otte asked if this would apply to situations like the guest worker program. Ms. Swanson said yes, we were able to restrict the guest worker housing to 5 people per house because we had other sections of the ordinance that sent us in that direction. She said that because it wasn't strong she wanted to spell it out. This is in line with the way the county regulates these uses as well. She said we cannot regulate the number of people if they are a family.

Mr. Otte said about 15 years ago there was a court case that changed the definitions of group homes etc. because there were group homes that were being zoned out of single-family neighborhoods. So, they came to some resolution to that, which is in line with what we are doing with this ordinance.

Commissioner Manry asked if there was something in addition to this in our code somewhere. She said that someone had asked her to check on a three-bedroom house that a landlord had rented to a family of five people, two adults and three children. The neighbors informed the landlord that there were about 15 people living in the house. Commissioner Manry asked if somewhere in the code it addressed a number of square feet per person. Ms. Swanson said not in the zoning code. She said those things are very difficult to deal with because it is hard to prove how many people are living in a house. But, hopefully the landlord will take care of it so we wouldn't have to get involved. Mr. Otte said about six or seven years ago we had a complaint about there being more than five unrelated adults living in a house at certain times of the year. At that time, our Code Enforcement officers were using something either from the housing code or some other code that the City adopted, but it wasn't in the zoning code.

CLOSED PUBLIC HEARING

Commissioner Manry made a motion to approve Ordinance 2008-45 after first reading & public hearing. The motion was seconded by Commissioner Van Sickle.

ROLL CALL:

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

The motion carried 5-0.

AGENDA ITEM 8. Ordinance 2008-46, Wastewater Treatment & Pre-Treatment – 1st Reading

Mayor Wheeler said that Agenda Item 8 had been pulled from the agenda. Mr. Otte said that staff found a typo in the body of the ordinance so the ordinance would have to be corrected and brought back to the Commission for approval.

AGENDA ITEM 9. Modification of Official Traffic Map: 3-way Stop on Sunset Drive and 11th Street

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

[begin agenda memo, prepared by Captain Patrick Quinn, Lake Wales Police Department]

RECOMMENDATION

Staff recommends that the Mayor and the City Commission modify the official traffic map, making the intersection of Sunset Drive and 11th Street a three-way stop intersection.

BACKGROUND

This ordinance is proposed in response to a citizen safety complaint regarding this intersection. On November 7, 2008 we received an email from a citizen who was concerned about the safety of the intersection at 11th and Sunset. Currently traffic on Sunset Drive is not controlled at this intersection, that is they have a through way. Traffic traveling north on 11th Street is controlled by a yield sign at the intersection of Sunset and 11th. However the intersection is not a ninety-degree intersection, it has a reverse angle as you look to the left when at the intersection of Sunset Drive. This poses a visibility problem at the intersection. The recommended course of action to make the intersection as safe as possible is to install a three way stop at the intersection.

The location contained in this proposal is within the Corporate Limits of the City of Lake Wales. Section 316.006 (2) (a) Florida Statutes, provides that "Chartered municipalities shall have original jurisdiction over all streets and highways located within their boundaries, except state roads." Attorney General Robert Butterworth confirmed this provision in Advisory Legal Opinion 2001-06 issued on February 12, 2001. As such the City Commission is empowered by Charter to make changes as necessary to the Official Traffic Map of the City.

Staff Recommends approval.

OTHER OPTIONS

The Commission may choose not to make any changes to the Official Traffic Map.

FISCAL IMPACT

If approved, various expenditures to purchase signage, and paint roadway markings would be incurred. Funds are included in the Streets Division operating budget for this purpose.

[end agenda memo]

Commissioner Howell made a motion to modify the official traffic map to make the intersection of Sunset Drive and 11th Street a three-way stop intersection. The motion was seconded by Commissioner Van Sickle.

ROLL CALL:

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

The motion carried 4-0.

Ms. Delmar noted for the record that Commissioner Rogers had to leave the meeting.

AGENDA ITEM 10. East 27 Coalition Interlocal Agreement

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

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

RECOMMENDATION

Approval

BACKGROUND

Earlier this year the Mayor of Haines City initiated an effort to have the six cities on the east side of US 27 meet on a regular basis to discuss topics of mutual interest. There have since been several meetings, and at the October 30 meeting it was decided that steps would be taken to formalize the group. The group asked staff member of the respective cities and the Mayor of Lake Hamilton to have a separate meeting to explore this topic.

At a meeting of the cities' representatives on November 10, the proper instrument needed to formalize the group was discussed. The two specific options identified were as follows: to incorporate the group; or to ask each city to approve an interlocal agreement. The latter suggestion was the recommendation of Tom Cloud, the Haines City attorney. Chuck Galloway also was consulted prior to the meeting and the interlocal agreement was his recommendation as well. Subsequently, Mr. Cloud prepared an interlocal agreement for this purpose, a copy of which is attached.

The proposed agreement's provisions include the following:

- The agreement is entered into by and between the cities of Davenport, Dundee, Frostproof, Haines City, Lake Hamilton, and Lake Wales;
- These cities share a number of mutual interests, including water supply, transportation, health care, solid waste, joint purchasing, surface water management, emergency response, and other issues
- The parties have decided to voluntarily come together and enter into this agreement to facilitate cooperation amongst the parties regarding the issues set forth above, and to form the "East 27 Coalition".
- Funding: "The Parties shall agree to funding as they may mutually agree among themselves."
- Party Termination: "Once the Agreement is effective, as provided herein, a Party can terminate its participation in the Agreement but shall remain responsible for whatever project or projects in which it has agreed to participate financially."

OPTIONS

Do not participate in the agreement.

FISCAL IMPACT

Section 4 of the agreement regarding "funding" is noted above. It is City staff's understanding that the adoption of the agreement does not, in and of itself, commit the City to any funding. Funding would only be required as a part of any project that is taken on by the group and agreed to by the participating cities, such as the review of the county alternate water plan.

Regarding funding, City Attorney Chuck Galloway wrote the following after reviewing the interlocal agreement: "It would be prudent to come to an understanding as to financial contributions prior to entering into the Agreement. Without a clear roadmap for the work of this coalition, it may not be possible to determine the matter at this time." City staff concurs with the latter part of this statement, that funding will depend on what projects the City agrees to participate in and the level of funding agreed to at that time. However, staff does not believe this can be determined before entering into the agreement. If the City wished to terminate its participation, the City can terminate at any time as noted above, provided that the City "... shall remain responsible for whatever project or projects in which it has agreed to participate financially."

[end agenda memo]

Mayor Wheeler asked if this new coalition was a separate legal body. Mr. Galloway said no. The purpose of this Interlocal Agreement is to statutorily allow municipalities or other governmental entities to work cooperatively together. It just creates a framework in which to do that.

Commissioner Howell asked if we could all get together and say that we don't want Comcast, Florida Refuse etc. anymore because they are not doing us right. Mr. Otte said this agreement gives us the vehicle to come together to take on any project that all of the six cities can do. He said that the next item on this agenda is the first project under this agreement. If we had the authority to have agreements for cable TV in the future then we could develop such a project under this agreement. Ms. Delmar said the U.S. Congress took that away from us when adopting a federal act called the Telecommunication Act, which prohibits us from negotiating for cable service anymore. This Act passed because the cable companies had a much stronger lobby than we did.

Mr. Otte said any project that all six cities wants to take on together could fall under this agreement. Mr. Galloway said it was discussed before with Florida Refuse that you could get all six communities on the same contract so they would be supplying the same service for the same rate. But, it would have to occur at the end of the existing agreements.

Commissioner Howell made a motion to approve the East 27 Coalition Interlocal Agreement. The motion was seconded by Commissioner Van Sickle.

ROLL CALL:

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

The motion carried 4-0.

AGENDA ITEM 11. Review of County Alternative Water Plan

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

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

RECOMMENDATION

Approval

BACKGROUND

The Southwest Florida Water Management District has mandated that there will be no additional groundwater permitted to be pumped after 2013. After 2013 as growth occurs and there is a need for additional water, groundwater will not be a permitted source for the additional water. Instead, water utilities including cities and the county will have to find alternate sources of water.

Cities and the County entered into an agreement to address regional water supply issues in 2006. The county has hired a consultant to identify additional sources of water, and a countywide plan has been issued for all the cities to review. County staff would like to take the plan to the County Commission in December for adoption.

This plan has major implications for the ability of each city to grow, since growth depends on each city's capability to provide water. The plan is based on a complex and technical analysis of options that have been identified, including the assumption of the water pumping capacity that is assigned to agricultural wells. Many of these wells are located on the east side of the county. A number of them are located within the Lake Wales utility service area.

The County plan calls for county control of the ag well capacity of all such wells in the county, regardless of location. Again, this has far-reaching implications for the ability of our city (and any other city in the county) to grow in the future.

Because of the technical nature of the document and its far reaching implications, it would be prudent to hire an engineer to review the plan from the standpoint of the effect on our town in particular. Such a review would be expensive, and since the plan has implications for our neighboring cities as well, it would be cost effective to share the cost of the review.

City staff initiated a discussion of this plan at the October 30 meeting of the 27 east coalition. The coalition asked that city representatives meet on this topic, and it was agreed at that meeting to take this proposal to the respective city commissions to ask for funding for such an engineering review. This review would cover the mutual concerns of the coalition cities. Since Gerry Hartman is well qualified for this task, and since he serves as the city engineer for both Lake Wales and Haines City, it was agreed that he would be the engineer to conduct the review. A proposal was then formulated to be brought to each of the cities for approval: The cost of the review, not to exceed \$20,000, would be shared by the six cities involved (Davenport, Haines City, Lake Hamilton, Dundee, Lake Wales, and Frostproof) with the larger cities paying a larger share. Lake Wales and Haines City would each pay an amount not to exceed \$5,000. The results of the study would then be presented to each city commission with a recommendation for moving forward.

OPTIONS

Accept the plan and hope that it will be in the best interest of the City and not inappropriately limit the City's ability to grow in the future; or refuse to participate in the plan; or make suggestions for changing the plan.

FISCAL IMPACT

The not to exceed fee of \$5,000 would be funded by water impact fees, which had a balance of \$191,246 on September 30.

[end agenda memo]

Mr. Otte said that staff proposes to pay for this study with Water Impact Fees.

Commissioner Howell said if we are using the same engineer as Haines City and he is already doing a study why can't the engineer just check to make sure we are being treated right and not charge us anything for the study. Commissioner Manry said that our engineer is being paid on a per job basis. Mr. Otte said the engineer is not on salary and that we are charged for every minute he works. For him to give a report just to us would not be fair because a lot of the information in it would apply to all the other five cities as well. So, why not let everyone share the cost.

Mayor Wheeler asked if the other five cities agreed to this. Mr. Otte said the representatives of those cities agreed to it, but he does not know if their City Commission has agreed to it yet.

Mayor Wheeler said that the East 27 Coalition should have a separate treasury because he can see one or more of these cities saying that they aren't going to do this. Mr. Otte said we want go forward in this manner if all six cities don't approve it. He said at the initial meeting following the presentation of the county's report there was a lot of discussion on this item because the reports said that it is taking the capacity of the wells in our area and using them countywide. Commissioner Van Sickle said the county is basically taking the water from the east and moving it to the west. Commissioner Howell said they are trying to control what is over here. She asked if we could do anything about it without paying something. Mr. Otte said the county wants us to pay because it will be under county control and it will cost you to get the capacity. He said that is his understanding of what the report said. Mayor Wheeler said this has been going on for the last sixty years with school funding. Commissioner Van Sickle said at least with the coalition you have multiple cities that have a big group of people saying, "Hey, were over here, we are not going to put up with this, and we are getting together to protect our interest."

Commissioner Manry asked what Gerry Hartman would be looking at. She said she is trying to see why we should pay more than the other cities because it seems like the results of it would be the same value to everyone. Mr. Otte said that wasn't discussed in the separate meeting of the city representatives who were mostly staff and the Mayor of Lake Hamilton. He said he believed the suggestion was made purely on the size of the utilities. Haines City and Lake Wales have the two biggest utilities and the utility operations of the other cities are much smaller. Commissioner Manry said the percentage of importance doesn't really relate to the size of the utility. We should just divide the cost by six. Mr. Otte said if that is the recommendation, that's fine... but he would like to go with this because he is so happy that there are five other cities willing to join with us. This is our first project right out of the box. Maybe we can try that gambit on the next project. Commissioner Manry asked Mr. Otte to think about it on the next project because she sees a distinction unless you are being specific to the community. If they are looking at the ag wells in the Lake Wales area then yes. But, if they are saying that the overall plan is good because of this or it is bad because of this and it represents every city, then no. Mr. Otte said the higher figure relates only to our perceived ability to pay because we are so much larger than the other cities. Commissioner Manry asked if Frostproof is taking part of this. Mr. Otte said yes.

Commissioner Manry made a motion to accept the plan of hiring the consultant to do the study in combination with the other cities. The motion was seconded by Commissioner Howell.

ROLL CALL:

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

The motion carried 4-0.

AGENDA ITEM 12. 1940 Cafeteria Grant Application

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

[begin agenda memo, prepared by Jennifer Nanek, Grant Administrator]

RECOMMENDATION

Staff recommends that the City Commission approve the Small Matching Grant Application for \$50,000 to repair and replace the doors and windows in the 1940 Cafeteria Building at the Hardman Recreation Complex. This application is being made to the Division of Historic Resources, Department of State, State of Florida.

BACKGROUND

In December 2007, the City of Lake Wales approved this application to be submitted and considered for funding. It ranked high at #15 on the list, however only the first 6 grants were funded due to state budget shortfalls. Therefore City staff proposed to resubmit this application to attempt to gain a higher rank or if the legislature approves additional funding.

The 1940 Cafeteria building will serve as an annex to the 1919 Hardman Hall building. This facility will serve as additional needed space for performers, as a reception hall and as additional classroom space.

These grant funds, if awarded, will go towards securing the building by repairing and replacing the doors and windows. This will help protect the building and the interior from the elements that are currently contributing to the building's deterioration.

If this grant is awarded, staff will bring back a scope of work (if needed) from the architect to prepare biddable plans and specifications for the work. The work will then be bid out. Cost overruns would be borne by the General Fund; however, the contract with the successful bidder will have safeguards that will, to the greatest extent possible, prevent such overruns.

OTHER OPTIONS

Do not approve grant application.

FISCAL IMPACT

As Lake Wales is currently a designated REDI (Rural Economic Development Initiative) community, no match is required.

[end agenda memo]

Mr. Otte said that when proposing this he had questions about whether we should go forward with this application for another building. He said the reason he brought this forward is because our previous consultant, Gabe Statom, convinced him that this building is an integral part of the Hardman Hall project. So, on that advice he brought it forward for Commission consideration. Staff recommends approval.

Mayor Wheeler asked if it would be considered inconsistent use if the building was used as storage for the Lake Wales Little Theatre. They are in need of extra space because they are often jammed up for places to put their props etc. Mr. Otte said it would probably not be an inconsistent use.

Commissioner Van Sickle said he was concerned because the General Fund would have to pay for cost overruns. He said his real concern is that we are constantly replacing the windows in the 1919 building. So, now we are saying we are putting new windows and new doors in the old cafeteria building and we are not going to do anything to rehab it. It makes no sense to do it. We should just put plywood on the windows and doors. By doing so, we would save a lot of money and at the same time the state would be saving a lot of money. If we get money to do the inside it would make sense to do the windows and doors versus doing it three or four times over the next ten years.

Mayor Wheeler said he had a lot of questions with the way that the construction for the cafeteria and the 1919 building have been done. Putting glass there makes no sense. He asked if the contract could be written so there would be no cost overruns. In other words, why does it always have to be for a flexible price? Why can't they just say, "Here's the money, you do this job, and if there are any problems then you bear the cost." Ms. Delmar said she believed that would be the intent in the way of construction and that is just a statement for fiscal impact. She said she wanted everyone to be aware if there are any cost overruns that it would represent a fiscal impact for the City. Mayor Wheeler said that when we write a contract with the builder we should be saying that we are giving him x-dollars, that is all we are going to give you, you are going to do the job you agreed to do, and we are not giving you any more money. That is the kind of contract we need to be considering.

Commissioner Van Sickle said if we get the grant the City would be required to execute a Restrictive Covenant for the building, which says it must be operational within ten years and we must maintain the property to historic preservation standards. Mr. Otte said the City has operated under that same covenant for the old City Hall, and he understood it to mean that you couldn't change the character of the renovation during that ten year period. Ms. Delmar said we also had to maintain it in accordance with the Historic Preservation Guidance for that period.

Mr. Galloway said in regards to what Commissioner Van Sickle said we can't plywood the windows and doors. We have code provisions against plywood except for short periods of time so we cannot just put up plywood. It would make more sense to contract for lexan if we are going to do it so we will know it is not going to get broken out.

Commissioner Van Sickle said that putting windows and doors in at this point is putting the cart before the horse. He said the building has a nice roof on it but the exterior is in poor shape. Mr. Otte said that roof was paid for with a different grant. Mayor Wheeler asked what the grant would do next. Mr. Otte said it would be another step towards the renovation of the building. Mayor Wheeler said \$50,000 for windows and doors in that building does not sound right. Commissioner Howell asked if we could get the good windows for the \$50,000. Commissioner Van Sickle said he was not sure because when it comes to historical stuff he is not very smart.

Kathy Bangle, Asst. Planner, said the amount we are asking for in the grant application is up to \$50,000. It doesn't really mean that we hired a contractor to look at the windows and the doors on this building and the cost to replace the windows and doors added up to \$50,000. She said you only get back from the state what you spend. Based on the size of that building the cost might only be \$25,000 to replace the windows and doors. The grant amount that you can apply for is \$50,000. Commissioner Van Sickle said we have no plans for real use of that building and just because the money is there we are going to spend it. Frankly, we are telling the citizens of this community the same thing. Mr. Otte said he is following the plan that our former consultant laid out, and that the cafeteria building will be used in conjunction with Hardman Hall.

Mayor Wheeler asked who would oversee the project. Mr. Otte said J.T. and the Building Inspector. Commissioner Manry said as far as the use of the building it is not J.T.'s job. Without the future of the 1919 building being clearer we are putting ourselves into the future without knowing what the future might hold. Mayor Wheeler said there might not be any funds for this grant. Commissioner Manry said the amounts of the grants that have already been awarded to Bok Tower have been cut about 60% from two

years ago. Mayor Wheeler said he would rather spend the money on his solar panel grants. Commissioner Van Sickle said that is encouraging.

Mr. Torrance said that you can't use lexan in the window. He said on the CSX building we put glass in the window and then put an outer covering of lexan over the window and the frame because of vandalism. So, there are procedures in place for that. But, we cannot use lexan in place of glass.

Commissioner Van Sickle asked if there is a plan for the work that needs to be done to the cafeteria building and an estimated cost for doing that work. Mr. Torrance said not other than a plan to facilitate the use of the 1919 building. Mayor Wheeler said he doesn't think there is grant money available anyway.

Commissioner Howell said she thought the Commission already approved this grant application. Mr. Otte said this is to resubmit the application because we were not approved the first time. Commissioner Manry said you could continue to submit and sometimes tweaking it to make it one of the first six on the list. She said she is assuming that Jennifer Nanek checked to see if this grant opportunity is still out there. Mr. Otte said it depends on the state budget to be approved at their upcoming session.

Mayor Wheeler asked for the grant deadline date. Mr. Otte said he thinks it is due this week or next, but he is not sure. Mayor Wheeler suggested tabling the item. He said not just because of the uncertainty surrounding it, but that the whole project needs a clearer vision. We also need someone to take the lead on this thing. Mr. Otte said he is open for suggestions because the person he brought in to oversee the project was perfect for the job, but could not continue. Ms. Delmar pointed out for the record that there were instances in the past when the money ran out and the work was stopped. There was one instance where there was a cost overrun and the contractor had to absorb it. Mr. Otte said unfortunately that is the nature of that particular project because it is grant driven. So, being grant driven, there is going to be a lot of starts and stops.

Commissioner Howell said if we are awarded up to \$50,000 and use it to put in the windows and doors on the building we would not be sure of what we are doing because the other part of the whole project is not done. Mr. Otte said if the grant is awarded we have to use it for the windows and doors because that is why we are applying for the grant. But, the vision for this building was solidified just like the vision for the Hardman Hall was solidified: it will be a performance hall. The cafeteria building is a necessary part of the 1919 building's operation. Commissioner Manry said that Mr. Statom's belief was that we have to have that to help with the staging area for the performance hall. He wanted to do it in combination with the other building so it will be ready when the performance hall was ready. Commissioner Howell said she doesn't think the 1919 building will be ready anytime soon. Mr. Otte said he put in the Commission boxes tonight a recap of projects that are ongoing and one of them is the 1919 building. He said he wanted to have the meeting last month but now it is scheduled for Friday to move forward with the remaining funds for the 1919 building. After that meeting, which will include the architect, we will have a better idea of how far along we will be. Commissioner Howell said we might be closer to finishing that building. Mr. Otte said we will certainly be closer.

Mayor Wheeler asked what would be the consequence of not replacing the windows and doors and would the building deteriorate further by not doing so. Mr. Otte said he does not know. With this grant it would be fair to say that we will be \$50,000 closer to the renovation of the building.

Commissioner Van Sickle asked if we have a plan and an estimate on what the building inside is going to cost to rehab so it is usable. Mr. Torrance said we have nothing current. Commissioner Van Sickle said we are about to throw \$50,000 into something and we really don't know how much of that \$50,000 will take off the bill to fix that building, which could be in the millions. Mr. Torrance said in this case it would be just windows and doors. Mayor Wheeler asked how much City money has been put into that building so far. Commissioner Manry said the roof. Ms. Delmar said the money that has been put into that building has been insurance proceeds on the roof repair. Mr. Otte said the building had a new roof, but Charlie

blew if off. Then the insurance proceed repaired it. Ms. Delmar said if that was the case, then a grant had to have paid for the first roof because the City didn't.

Mayor Wheeler said he would like for this to be tabled for the December 16 meeting. But, before bringing it back he wants to know a plan because he is tired of this thing having an open ended nature and us never knowing where it's going to go from here. He said that when he first came on this Commission he was told that the plan would be finished in three years. Well, eight years later, it's not close to being finished. Ms. Delmar said it could have been finished in three years if it weren't grant driven and we had the money to spend. Commissioner Van Sickle said that is the problem, we don't.

Mr. Otte asked if tomorrow we discover that the grant is due Thursday, which is before December 16, would that mean we would reapply next year. Mayor Wheeler said yes. But before we bring it back we need a plan and a scope for the whole thing. Money is tight, so we need to think about what we are doing. Ms. Delmar said there is probably not a chance to bring it back December 16, so we are probably tabling it until next year.

Commissioner Van Sickle said he remembers some of the financials on the 1919 building with this current grant that we have with the school. He said Mr. Otte should know by the end of this week if that may be enough to do the downstairs. It may cost close to a million dollars to finish the 1919 building. That is not the parking lot, landscaping etc. It is starting to add up to be real money.

Mayor Wheeler said lets table it and bring it back to the second meeting if possible.

AGENDA ITEM 13. Firefighters' Union Contract for Fiscal Year 2008-2009

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

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

RECOMMENDATION

Approval

BACKGROUND

Negotiations between the City representative (Sandra Davis, Human Resources Director) and the Firefighters Union have been completed. The Firefighters' union has approved the contract and it is now being brought to the City Commission for approval.

The contract is the same as the fiscal year 2007-2008 contract except for the following changes:

1. The salaries are increased by 1%, the increase included in the current budget.
2. The term of the agreement has been changed to fiscal year 2008-2009.
3. Language in the contract has been modified as indicated below at the request of the fire chief.

ARTICLE 31(A)
PROMOTIONAL PROCEDURE

31.(a) Paragraph Three

The Fire Chief and/or his designee(s) shall provide the contents of the written test and the oral interview/exam. The oral board shall be made up of the Fire Chief, Deputy Chiefs, Lieutenants and the Human Resources Director.

2008-726

Removed

Chief Brown asked for this change to reflect industry standard. Fire Chiefs today typically make decisions regarding administrative staff and chief officers, but not engine company officers such as lieutenants.

In the upcoming months a committee will be appointed to review the entire promotional procedure as it has had the same wording for many years.

OPTIONS

Do not accept the contract and send the City's representative back to the negotiation table with the firefighters' union representatives.

FISCAL IMPACT

The fiscal impact of this contract has already been included in the budget and it is in line with other departments' budgets in this line item.

[end agenda memo]

Commissioner Manry made a motion to approve the Firefighters' Union Contract for Fiscal Year 2008-2009. The motion was seconded by Commissioner Howell.

ROLL CALL:

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

The motion carried 4-0.

AGENDA ITEM 14. Purchase of Police Vehicles from Multiple Vendors

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

[begin agenda memo, prepared by Jerry Torrance, Asst. to the City Manager]

RECOMMENDATION

Due to the early submission of the agenda packet and the recent receipt of the bids, staff will not have a recommendation on this item until the meeting, or just prior to the meeting.

BACKGROUND

The Police Department is committed to the maintenance of its vehicle fleet. A careful and detailed analysis of our vehicle fleet has disclosed the need for continued improvements during the 08/09 fiscal year. City staff is putting together a replacement plan with a target that would replace aging police vehicles with new / like new police vehicles at a rate of five to six per year. The life expectancy of a vehicle in the patrol division is five to six years taking in multiple factors such as driver habits, area of patrol and type of patrol only to mention a few. Three options for purchase are presented:

- Purchase all new vehicles utilizing bids / existing contracts

- Purchase a combination of new and used vehicles utilizing bids / existing contracts / City of Longwood.
- Purchase all used vehicles through the City of Longwood.

City staff is prepared at this time to answer question one: Regarding the purchase of new cars, it was further questioned if the bid prices that have already been received through bids by other agencies could be further reduced due to the more difficult economic conditions that car dealers are experiencing since the established bid prices were submitted. In response to this discussion, City staff went to bid and the results were as follows:

Four bids were received for the Ford Crown Vic of the four received the lowest bidder was \$1392.00 over the current Fla. Sheriffs Assoc. Contract for the Ford Crown Vic model.

One Bid was received for the Dodge Charger and it was \$767.00 over the current Fla. Sheriffs Assoc. contract for the Dodge Charger model.

Five Bids were received for the Chevrolet Impala, of the five the lowest bidder was \$333.00 over the current Fla. Sheriffs Assoc. contract for the Chevrolet Impala.

One quote for the Ford Crown Vic was received from Weikert Ford utilizing the Polk County contract and it was \$965.00 over the Fla. Sheriffs contract for the Ford Crown Vic.

OTHER OPTIONS

Recommend one of the proposed options being presented.

FISCAL IMPACT

\$ 45,000.00 General fund (Budgeted)
\$ 70,000.00 from the Police Services Impact Fee Trust Fund.
\$115,000.00

[end agenda memo]

[begin purchase of Police Vehicles / Replacement plan, distributed before the meeting]

Staff recommends that the City Commission take the following actions:

1. Approve staff's plan that a systematic approach be made across the next several years for the replacement of Police Department vehicles.
2. Purchase 3 new vehicles utilizing current State/County contract and purchase 2 vehicles from the City of Longwood with less than 7,000 miles for an amount not to exceed \$117,000.00.

BACKGROUND

Staff was directed by the City Commission to go out to bid for Police Department vehicles and bring back to the commission several options for consideration. This memorandum provides three options.

The Police Department and the Fleet Maintenance Department are committed to the maintenance of the police department vehicle fleet. A careful and detailed analysis of police vehicles has disclosed the need for continued improvements during the 08/09 fiscal year. City staff has put together a replacement plan with a target that would replace aging police vehicles with new / like new police vehicles at a rate of five to six per year. The life expectancy of a vehicle in the patrol division is five to six years taking in multiple factors such as driver habits, area of patrol and type of patrol only to mention a few.

Utilizing the adopted General Fund budget of \$45,000, currently available impact fees of \$70,000 and unbudgeted insurance proceeds from a wrecked vehicle in the amount of \$9,000.00, we have \$124,000.00 available to fund the purchase of police vehicles.

The Plan

The plan would set a target to replace five to six vehicles every year (budget permitting) utilizing a combination purchase plan, which in turn would leave us with a patrol vehicle no older than five to six years old and with no more than 75,000 to 90,000 miles.

This plan would be laid out to purchase new vehicles supplemented by used vehicles from the City of Longwood. No vehicle purchased from the City of Longwood or other used vehicle would have mileage exceeding 15,000 miles. Staff has determined that a police vehicle averages 15,000 miles per year, both in the Patrol Division and the Detective/Admin Division. Given the number of vehicles, coupled with the average of 15,000 miles per year, a target of five to six vehicles per year would need to be purchased to meet this goal.

The Patrol Division currently needs to keep 31 patrol cruisers of which 26 are assigned to officers, 4 are spare vehicles and 1 is a K-9 spare. These vehicles would be classified as Tier I vehicles. Once the Tier I vehicle has reached its expected life within the Patrol Division it will be transferred into the Detective/Admin divisions and would be classified as a Tier II vehicle.

With the proposed replacement plan, coupled with the need to keep 16 assigned vehicles and 1 spare vehicle, the Detective/Admin Divisions would receive a vehicle about five to six years old and with 75,000 to 90,000 miles on it. The Detective/Admin Division would keep this vehicle for no more than three years resulting in a vehicle no older than eight to nine years old and with 120,000 to 135,000 miles on it.

With the current replacement schedule we have vehicles in the Patrol Division ten years old and with as much as 145,000 miles on them.

Options for Purchase

Three options for purchase are presented:

- Option 1: Purchase all new vehicles utilizing bids / existing contracts:

Purchase 5 new vehicles utilizing current State/County contracts for an amount not to exceed \$124,000.00
- Option 2: Purchase a combination of new and used vehicles utilizing bids / existing contracts / City of Longwood:

Purchase 3 new vehicles utilizing current State/County contract and purchase 2 vehicles from the City of Longwood with less than 7,000 miles for an amount not to exceed \$117,000.00. Utilizing this plan would allow for \$7,000.00 to be placed in the CIP for future vehicle purchases within the 08/09 budget year.
- Option 3: Purchase all used vehicles through the City of Longwood.

Purchase 9 vehicles from the City of Longwood with years ranging from 2005 to 2008 and mileage ranging from 5,000 to 59,000 miles for an amount not to exceed \$120,000.00. Utilizing this plan would allow for \$4,000.00 to be placed in the CIP for future vehicle purchases within the 08/09 budget year.

On the original Agenda Memo it showed Weikert Ford / Polk County contract as being \$965.00 over the Fla. Sheriffs Assoc. contract, when in fact it is only \$362.00 over the FSA Contract.

OTHER OPTIONS

None. Approve one of the proposed options presented.

FISCAL IMPACT

\$ 45,000.00 General fund (Budgeted)
\$ 70,000.00 from the Police Services Impact Fee Trust Fund.
\$ 9,000.00 Insurance proceeds from wrecked vehicle
\$124,000.00

Utilizing the recommended Option 2 would allow for \$7,000.00 to be placed in the CIP for future vehicle purchases within the 08/09 budget year.

[end purchase of Police Vehicles / Replacement plan]

Commissioner Howell said it was said that we needed to order about five or six police vehicles a year to keep the rotation of newer cars going. She asked if this is voted on does it mean we are obligated every year to do the same. Mr. Torrance said no. This is just a plan laying out what we could do over the next five or six years. Every year we will have to come back and seek approval to purchase more vehicles. It is all about funding. It is really a moving target.

Commissioner Howell asked if the City gets any money for the vehicles that are no longer needed. Mr. Torrance said the vehicles are auctioned off. Mr. Otte said that because we do not get that much for them we agreed to give a couple of them to either the Green & Gold Foundation or the Lake Wales Care Center. He said he had a meeting with Rob Quam of the Lake Wales Care Center and he said to give them to the Green & Gold Foundation this year, so we did.

Commissioner Van Sickle said that he is glad that we worked out a plan where we are rotating out vehicles over a six-year period. He said that realistically we should be planning for ten cars a year to get a lot of these vehicles off the road. Mr. Otte said this is the most cost-effective thing we can do. It is not a commitment but it is a target based on funds available.

Commissioner Van Sickle made a motion to approve Option 2. The motion was seconded by Commissioner Manry.

ROLL CALL:

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

The motion carried 4-0.

ADDENDUM

Edward Byrne Memorial Justice Assistance Grant

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

[begin agenda memo, prepared by Christopher Velasquez, Assistant Police Chief]

RECOMMENDATION

Staff recommends that the Mayor and City Commission approve and execute application for the Edward Byrne Memorial Justice Assistance Grant.

BACKGROUND

Since 1999, the Police Department has received funding from the Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program (Byrne Formula) and the Local Law Enforcement Block Grant Program (LLEBG). In 2005, the Office of Justice Programs (OJP) proposed to streamline justice funding and grant administration. The result of this proposal is the Justice Assistance Grant (JAG). The JAG allows local governments to support a broad range of activities to prevent and control crime based on their own local needs and conditions. JAG blends the previous Byrne Formula and LLEBG Programs to provide agencies with the flexibility to prioritize and place justice funds where they are needed most. JAG funds can be used for local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for law enforcement programs.

The estimated JAG award amount is \$2,111.00 and if approved would be included in the FY 2008/2009 budget. Match is not required with the JAG Program.

The Police Department proposes to use JAG funds to purchase advanced and specialized law enforcement equipment to improve the effectiveness and efficiency of law enforcement services. Specifically, the Police Department will purchase equipment and gear to be used for critical incident response and training.

OTHER OPTIONS

The Commission may choose not to accept the Edward Byrne Justice Assistance Grant.

FISCAL IMPACTS

The Interim Finance Director has reviewed this grant and found no associated fiscal impacts as matching funds are not required.

[end agenda memo]

Commissioner Howell made a motion to approve submittal of the Edward Byrne Memorial Justice Assistance Grant Application. The motion was seconded by Commissioner Van Sickle.

ROLL CALL:

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

The motion carried 4-0.

COMMUNICATIONS & PETITIONS

CITY COMMISSION TRACKING REPORT

Adult Day Care Facility: Mr. Otte said the county is moving forward. We hope there will be county funds available. The new Polk County Health Department is under construction, which is expected to be completed in the third quarter of 2009. If funds are available the adult day care center can start on the site of the old health department.

Traffic Light at Mountain Lake Cut-off Road & Scenic Hwy. The estimated cost is \$1.6 million. FDOT has committed \$1.5 million in highway safety funds in 2011 and 2012. The TPO has committed to fund the balance. Property will be needed for the project and the Mt. Lake General Manager will approach his board for a land donation on the NW corner of the intersection.

Interconnect with Winter Haven at Lake Ashton: Mr. Otte reported that staff is anticipating that there will be an agenda time for approval at the next meeting on the underground vault.

PUBLIC COMMENTS

Sharon Becker, 403 E. Central Avenue, thanked the City for repairing her driveway and for the sidewalk improvements around the Library.

Jacque Williams, 2054 Bel Ombre Circle, thanked the City for the sidewalk improvements around the Library. She said that a few months ago, Noel Phetteplace came before the Commission and provided them with a list of cross walks on Lake Shore Blvd. that BPAC wanted to be painted. She asked that it be placed on the tracking report so that the work will get done. Mr. Otte said he will add that to the tracking report.

CITY COMMISSION COMMENTS

Commissioner Howell asked if we are going to pave the alleys. She asked if we already have a list of alleys to be paved or if we need to have a drive around to come up with a list. Mr. Otte said we already have a list. He said he wanted to get started this week, but our smaller front-end loader that we need to use is in the process of being repaired. So, we are hoping to get started next week.

Commissioner Howell asked if it is ok to use millings to repair the trail around Lake Wailes. Mr. Otte said he wouldn't recommend it because it is not be good for bicycle riders and skateboarders who use that trail. We need to use regular hot asphalt for something like that.

Commissioner Howell said some citizens had told her that they wanted to thank the City for putting lights on Spook Hill. The lights have made it much safer for school kids and other pedestrians who walk that path.

Commissioner Van Sickle asked if we have a law regarding dogs on the trails. He said recently while riding his bike, he was chased by a pit bull. Mr. Otte said he spoke with staff about putting a farm fence on the split rail fence on the north side of the path, but as we discussed there aren't any houses on the north side of the trail, and there is no fence on the south side where the houses are... so it's not likely we can keep any dogs out around there. The dogs could be coming from the south side.

Commissioner Manry said we have discussed putting sidewalks on Tower Blvd. because of it being such a dangerous street. She asked that it be looked into. Ms. Swanson said that the sidewalk on the eastside of Tower Blvd. is planned as part of the Kiwanis grant that was recently submitted. That sidewalk will connect the Lake Wales Trail to the new trail way. She said we don't have that funding yet, and we don't have a grant for sidewalks further up. Commissioner Manry said that it is the further up sidewalks that she is concerned about because there are a number of people that walk that path.

Commissioner Manry said that she was asked about what happened to the banner poles downtown. Mr. Torrance said a lot of them are missing and some of them are in the process of being replaced. Mr. Otte asked if FEMA reimbursed us for that. Mr. Torrance said he did not know if it was storm related. Ms. Delmar said she believes they are missing due to vandalism.

Mayor Wheeler asked for an update on the possibly of using the Verizon building in conjunction with PCC. Mr. Otte said that he and Mr. Gallup talked about it but he doesn't know if there are any updates at this time. He was told that there is a phone switch in that building that doesn't take up a whole lot of room, so the rest of the building is vacant. Mr. Gallup said there is switchboard equipment in the rear of the building. He said that space needs and funding issues have been discussed, but nothing has been pursued yet. Mayor Wheeler asked if we have any special plans for the PCC grand opening. Mr. Gallup said they are planning something, but he does not have the details. Their main focus right now is getting everything in the building and getting it set up to make sure it is operational by January 7, 2009. He said he would follow up on that.

Commissioner Manry asked the status of Kohl's. Mr. Gallup said there has been a lot of activity going on at the site. There is a heavy and extensive dialog between lawyers, corporate entities etc. in regards to the Kohl's project. Mr. Otte said that they have pulled site development permits but not any building permits.

Mr. Otte said that a part of the City's contribution to the PCC project is the parking area. The parking lots are almost complete and the landscaping around the parking lot will probably be the very last thing to be done because we want to wait until all the heavy equipment is out of there. Mr. Gallup provided further comment on the parking lots.

Commissioner Van Sickle asked for a status on the Gate Gas Station. Ms. Banglely said they are hoping to open by the end of this week, but she will check on that.

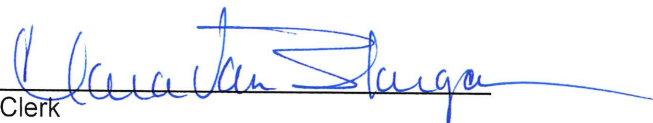
Mayor Wheeler reminded everyone to remember our troops.

There being no further business the meeting was adjourned.



Mayor/Commissioner

ATTEST:



City Clerk