

The regular meeting of the Lake Wales City Commission was held on March 17, 2009 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 Dr. Jim Moyer, Warner University.

PLEDGE OF ALLEGIANCE

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

Commissioner Van Sickle was present via telephone for Agenda Item 10 only.

COMMISSIONERS ABSENT: Jack Van Sickle.

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

Approval of minutes was discussed in Agenda Item 9.

MAYOR

AGENDA ITEM 5. COMMENDATION FOR BILL BAIR

Mayor Wheeler presented a commendation and a Key to the City to Bill Bair, thanking him for many years of reporting on matters of the City of Lake Wales for two newspapers. He wished him a happy retirement.

AGENDA ITEM 6. Ordinance 2009-08, Amending Requirements for Roll Call Vote of City Commission – 1st Reading

Mayor Wheeler read the synopsis for Agenda Item 6. The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

The current ordinance governing City Commission meeting procedures requires that all votes be cast verbally by roll call except a vote to approve minutes. The proposed ordinance implements the wishes of the City Commission by authorizing voice votes on all matters except the adoption of ordinances and resolutions.

RECOMMENDATION

It is recommended take the City Commission take the following actions:

1. Approve Ordinance 2009-08 after first reading.
2. Ratify the matters approved by voice vote of the City Commission during the meetings held on February 17, 2009 and March 3, 2009.

BACKGROUND

Section 2-8 of the Lake Wales Code of Ordinances establishes procedures for City Commission meetings and includes procedures for the recording of motions and voting. Section 2-8, paragraph (k) requires that all votes be cast verbally by roll call, except that the mayor may waive a roll call vote for approval of minutes.

It is the consensus of the City Commission that meeting procedures be modified to allow votes by acclamation (voice vote). Section 3.09 of the City Charter require a roll call vote only for the enactment of ordinances and adoption of resolutions. Ordinance 2009-08 is proposed to authorize the desired change.

Florida Statutes §286.012 establishes voting requirements at meetings of governmental bodies and requires that a vote be recorded for each member present in regard to any official decision, ruling or act. For compliance with §286.012 F.S., Ordinance 2009-08 adds a procedure that requires the mayor or vice-mayor to state the result of the vote and the name of each commissioner casting a dissenting vote.

OTHER OPTIONS

Retain the requirement for a roll call vote on all matters that require a vote.

FISCAL IMPACT

None.

[End agenda memo]

Ms. Delmar read Ordinance 2009-08 by title only.

AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, LAKE WALES CODE OF ORDINANCES, AMENDING REQUIREMENTS FOR A ROLL CALL VOTE OF THE CITY COMMISSION; PROVIDING AN EFFECTIVE DATE.

Mayor Wheeler said this ordinance addresses the problem from the last four meetings regarding voice votes.

Commissioner Manry made a motion to approve Ordinance 2009-08 after first reading. The motion was seconded by Commissioner Howell.

ROLL CALL:

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

The motion carried 4-0.

AGENDA ITEM 7. Ordinance 2009-10, Facility Rental Fees – 1st Reading

Mayor Wheeler read the synopsis for Agenda Item 7. The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Fees charged and deposits required by the City for rental of the Austin Center and other community facilities are significantly lower than those charged by other cities in the area. Ordinance 2009-10 proposes to increase the fees for non-residents who are not city water customers.

RECOMMENDATION

It is recommended that the City Commission approve Ordinance 2009-10 after first reading.

BACKGROUND

On December 19, 2006 the City Commission adopted Ordinance 2006-48 establishing rules and regulations for the use and rental of city parks and recreation facilities. Rental fees for reserved use of city facilities were also established.

Fees charged and deposits required by the City for rental of the Austin Center and other community facilities are significantly lower than those charged by other cities in the area. Because we are the "cheapest," individuals from all over the county use our facilities instead of facilities in the cities in which they reside. We are particularly popular with residents of Frostproof, Haines City and Winter Haven.

The fees charged by the City for all outside-city residents are currently the same as for inside-city residents. These fees are low and do not cover all of the City's costs for utilities, staffing, clean-up, etc. City staffing and clean-up costs and the effects of "wear and tear" on the facility are frequently high for social events such as weddings and "sweet sixteen" parties, especially if alcoholic beverages have been served.

At various times in the past, staff has attempted to increase rental fees; however, there has been community opposition, and the fees have remained low. Ordinance 2009-10 proposes to increase the fees only for non-residents who are not city water customers. Fees will be set high enough to make rental of city facilities a less attractive option for persons outside our immediate area. For the purpose of assessing rental fees, customers of the city's water utility will be treated the same as residents.

OTHER OPTIONS

Do not adopt Ordinance 2009-10. Persons outside our area will continue to pay the same fees as city taxpayers and water customers.

FISCAL IMPACT

Adoption of this ordinance will raise fees to offset some of the staffing, clean-up, and other costs associated with rental of city facilities. If the fee increase discourages rental of the facilities by persons outside our immediate area, city operating costs for these buildings will be reduced accordingly.

[End agenda memo]

Ms. Delmar read Ordinance 2009-10 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING LAKE WALES CODE OF ORDINANCES CHAPTER 18, STREETS, SIDEWALKS AND OTHER PUBLIC PLACES BY INCREASING FACILITY RENTAL FEES FOR NON-RESIDENTS WHO ARE NOT WATER CUSTOMERS; PROVIDING FOR AN EFFECTIVE DATE.

Mayor Wheeler said he understands that because of our low fees we have become very popular with everybody in Haines City, Winter Haven, and Frostproof.

Commissioner Howell asked if this only affected the people who reside in other areas such as Babson Park, Highland Manor, Highland Park, and Mammoth Grove. Mr. Otte said that is correct. Everyone that has City water will be charged the inside City rates for facility rental.

Ms. Delmar explained that communities that do not have City water are not contributing financially to the operation of these facilities.

Mayor Wheeler asked if Lake Pierce Ranchettes receives water from the City. Ms. Delmar said no. She explained that last year Katie Kinloch, City Manager's Administrative Assistant, conducted a survey which showed that a great number of the people who rent our facilities are from Haines City, Frostproof, and Winter Haven.

Commissioner Howell asked if she would have to pay outside City rates if she lived in the Ranchettes, but owned a home and or a business inside of Lake Wales that has water City water service. Ms. Delmar said yes. Mr. Otte said that applies to residents and property owners.

Commissioner Manry made a motion to approve Ordinance 2009-10 after first reading. The motion was seconded by Commissioner Howell.

ROLL CALL:

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

The motion carried 4-0.

AGENDA ITEM 8. Appointments – Bicycle/Pedestrian Advisory Commission

Mayor Wheeler read the synopsis for Agenda Item 8. The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Appointments will fill a regular vacant position and an alternate vacant position on the Bicycle/Pedestrian Advisory Commission.

RECOMMENDATION

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

BACKGROUND

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

Bicycle/Pedestrian Advisory Commission – Members are appointed by the City Commission. The Bicycle/Pedestrian Advisory Commission consists of seven (7) regular members and three (3) alternate members. At least five (5) regular members and two (2) alternate members must reside within the City

limits. Members who are not City residents, must reside within the City's utilities service area in a residence served by the City's utilities system, receiving either water or sewer service. (3-year term)

One (1) regular vacancy: Term expires 07/01/09; partial term

One (1) alternate vacancy: Term expires 07/01/10; partial term

Applying for Appointment: J. Davis Connor, resident
John A. Craig, resident

A regular vacancy is due to the expiring term of Reid Hardman who did not wish to be re-appointed in July 2007, and an alternate position that was never filled.

FISCAL IMPACT

None. These are volunteer citizen boards.

OTHER OPTIONS

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

[End agenda memo]

Commissioner Manry made a motion to appoint J. Davis Connor to serve as a regular member on the Bicycle/Pedestrian Advisory Commission for a partial term to expire on 07/01/09, and to appoint John A. Craig to serve as an alternate member on the Bicycle/Pedestrian Commission for a partial term to expire on 07/01/10. The motion was seconded by Commissioner Howell.

ROLL CALL:

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

The motion carried 4-0.

AGENDA ITEM 9. Minutes for the February 17 and March 3, 2009 Regular Minutes

Mayor Wheeler read the synopsis for Agenda Item 9. The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

It is proposed that the minutes for the February 17 and March 3 regular City Commission meetings be brought to the April 9 City Commission meeting for amendment and approval, respectively. Staff wishes to add the agenda memo to each item along with the synopsis to enable readers to have additional information immediately available. It is further proposed that this be the routine practice in the future.

RECOMMENDATION

Staff recommends that the minutes for the February 17 and March 3 regular City Commission meetings be brought to the April 9 City Commission meeting for amendment and approval, respectively, for the purpose of adding the agenda memos.

BACKGROUND

For a number of years City staff has prepared the minutes of regular City Commission meetings with the inclusion of the "agenda memos" that appear in the agenda packet. Those memos are invaluable to readers of the minutes in providing additional information about the agenda item being considered by the City Commission.

At the February 10 City Commission workshop it was decided to add a synopsis to the format for Commission memos. The minutes for that meeting and the March 3 regular meetings were then prepared using only the synopsis. Upon further reflection, City staff wishes to continue to practice of including the agenda memos in the minutes, as these memos provide invaluable information and make it readily available for any reader of the minutes. Therefore, City staff recommends that the approval of the March 3 minutes be scheduled for the April 9 regular City Commission to allow time for the inclusion of the agenda memos in those minutes. Similarly, at that meeting City staff will bring back the February 17 minutes to the April 9 meeting for approval of those amended minutes for the same purpose.

OPTIONS

Direct staff to simply put the synopsis in the minutes without the agenda memo.

FISCAL IMPACT

None.

[End agenda memo]

Mr. Otte explained that this was a routine practice in the past. We just quit doing it after we added the synopsis. The memo is very helpful when researching the minutes because it provides background information.

Commissioner Many made a motion for the minutes of the February 17 and March 3 regular City Commission meetings be brought to the April 9 City Commission meeting for amendment and approval, respectively, for the purpose of adding the agenda memos. The motion was seconded by Commissioner Howell.

ROLL CALL:

Commissioner Many	"YES"
Commissioner Howell	"YES"
Commissioner Rogers	"YES"
Mayor Wheeler	"YES"

The motion carried 4-0.

AGENDA ITEM 10. Asbestos Pipe Removal in the CRA Area

Mayor Wheeler read the synopsis for Agenda Item 10. The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Consideration of a proposed for the engineering, permitting, removal, and replacement of sections of asbestos cement water distribution pipes.

RECOMMENDATION

It is recommended that the City Commission:

1. Accept the proposal for a not to exceed amount of \$549,945 from Killebrew, Inc. for the engineering, permitting, removal, and replacement of sections of asbestos cement water distribution pipes.
2. Authorize the City Manager to execute the appropriate documents, on the City's behalf, in regards to these much needed water system improvements

BACKGROUND

The City of Lake Wales Utilities Department is proposing to replace asbestos cement water distribution lines in various locations in the city. Due to improved construction materials, the Department of Environmental Protection Drinking Water Division has mandated that all asbestos cement pipes be taken out of service and replaced with the current approved construction material. There is not a deadline from regulatory agencies for this activity, but those agencies expect to see diligent and consistent progress in this endeavor. City staff estimates that this contract will remove about half of the asbestos cement pipe, and plans to include the removal of the remainder in next year's budget. Staff will identify the areas of priority and coordinate construction to remove as much asbestos pipe as the project budget allows.

Staff has decided that it would be more cost effective to utilize the construction services of Killebrew, Inc. by "piggybacking" on their contract with Polk County, which has been extended for another year, with a 5% decrease from the original bid of 2008. The original contract with the county was the result of a bid process.

OPTIONS

Go out for competitive bidding, delay the project by months, and possibly not make the dead line for project completion of September 2009 (CRA Bond project deadline).

FISCAL IMPACT

\$549,945.00 has been allocated from the CRA bond for the removal and replacement of these lines.

[End agenda memo]

Mr. Otte reported that Commissioner Van Sickle is in Ft. Lauderdale on City business.

Commissioner Van Sickle, via telephone, said staff really needs to go out to bid, especially on contracts that are this large. There may not be any other companies in the area that can do it, but we won't know that unless go out to bid. Right now, this company is offering a lower percentage off of what is stated in their piggyback contract. If they are willing to come down on the cost then there may be other contractors that could even do it for less. We need to start doing competitive bidding on large contracts so we can see what the market is doing now instead of just relying on piggyback contracts that have been around for a period of time. Ray Creel, Utilities Director, said he would bid the contract out if the Commission wishes.

Mayor Wheeler asked Mr. Creel if he was aware of other contractors that do this kind of work. Mr. Creel said he is not aware of any contractor within 300 miles that can do the pipe bursting part of the project. Mayor Wheeler said it still would not hurt to put out a Request for Proposal to find out. Mr. Otte said the

City's Code of Ordinances allows the City to accept piggyback contracts, and that the county went through the bid process for this piggyback. He said that Killebrew had the lowest bid out of the two bids received. Sarah Kirkland, Utilities Project Supervisor, said the county bid it out last year and renewed the contract this year. Mayor Wheeler asked if there was anything urgent about this that would prevent us from bidding it out. Mr. Otte said we could bid it out but it would delay the project three or four months, if not longer.

Mr. Otte said that this piggybacking is in our code and if we are not going to use it then we need to modify the code. He said he would like to bring that to the next workshop to get some direction on when and we can't use a piggyback contract. Mr. Otte said that Commissioner Van Sickle had suggested, when discussing this with him before the meeting, that we should have a list of extenuating circumstances of when we could piggyback and every other time we go to bid. Mr. Otte said that staff needs direction on what to do because we followed our code when doing this.

Mayor Wheeler asked how much it would cost to go out to bid. Clara VanBlargan, City Clerk, said the advertisement could cost a little over a hundred dollars.

Commissioner Manry said it would be good to explain what this is because we are talking about a huge amount of money. She said there is a group of people in attendance that would be interested in knowing. Mr. Otte explained that when he first came to Florida in 1985 there was a direction from DEP for all cities to be rid of asbestos concrete pipe. Commissioner Manry asked if DEP had given us a deadline of that. Mr. Otte said not to his knowledge. He said it is a program we need to work towards to eliminate all the asbestos concrete pipes that we have.

Mr. Creel said about 60% of our call-outs in the middle of the night are due to asbestos pipe. It is very hard to repair and it is very brittle. Mayor Wheeler asked if this is a risk to the public right now. Mr. Creel said no. Mr. Otte said DEP has not said that we have to remove it immediately or has given us a deadline. But, we do have to diligently work toward eliminating it.

Commissioner Howell asked if the bursting of the pipes imposed a danger. Mr. Creel said no because there is actually another sealed pipe inside there.

Mayor Wheeler said in order to satisfy the curiosity of everyone here, staff needs to spend the next week or two trying to identify other contractors within range of the City that can do this. If we can find a number of them that can, then we will ask them to bid. If we don't find other contractors then we will utilize the piggyback contract. Mr. Otte said staff could bring back a report at the next meeting.

Commissioner Manry asked if the only deadline we are facing is the deadline for the expiration of our own CRA bond. Mr. Otte said that is the only deadline he is aware of. He said the memo said that the deadline is September 2009, but that has been extended to September 2010. Commissioner Howell asked if the extension allows us more time to complete the project. Mr. Otte said it only allows us more time to utilize the CRA bond money. There is no deadline on the project.

Commissioner Howell asked if any asbestos pipe had been removed since 1985. Mr. Creel said he found some records from the middle 1990s where we could have done the work for \$5.00 per foot, which did not happen. Now, the cost is about \$18.00 per foot. The longer we wait, the more it is going to cost.

Mayor Wheeler asked the Commission if they would feel more comfortable in asking staff to see if there are other contractors that can do the work so we would know it would be worth while to bid this out.

Commissioner Rogers made a motion to give staff two weeks to try identifying other contractors in the area that could do the work, so we would know whether it is worthwhile to take this out to bid. The motion was seconded by Commissioner Manry.

ROLL CALL:

Commissioner Rogers "YES"

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

The motion carried 5-0.

Mr. Otte said staff will bring this item back at the April 9 Commission meeting.

Mayor Wheeler asked Commissioner Van Sickle if he would like to stay on the phone for the remainder of the agenda. Commissioner Van Sickle said no because he was having difficulty hearing.

Mr. Galloway pointed out that the piggybacking section of the City's purchasing ordinance is almost verbatim to that of State Statute. The purpose of it is to allow for situations where you can avoid having to go out to bid on all these types of projects. Mayor Wheeler said we are just being sure.

AGENDA ITEM 11. Discussion of Financial Statements for February 28, 2009, Fiscal Year to Date

Mayor Wheeler read the synopsis for Agenda Item 11. The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

The financial statements report revenues received and expenditures made since 10/1/2009. At the end of February we have completed 41.7% of the fiscal year; revenues are running slightly ahead of target in most cases, and expenditures are running behind.

The unaudited financial statements for the City of Lake Wales for the Period Ending February 28, 2009 are presented to the City Commission for review. At the end of February, the City is 41.7% into the fiscal year. Eleven of twenty-six payrolls (42.3%) have been expensed through February 28. Revenue and expenditure budgets have been adjusted to reflect Ordinance 2009-07, Budget Amendment #1.

SUMMARY

The following chart gives a brief summary of overall operating revenue and expenditure performance as of February 28, 2009. Capital expense funded by CRA bond or loan proceeds is excluded from the analysis:

Fund	Budgeted	Actual at 2/28	Target at 2/28	Actual at 2/28 Over (Under) Target	Over (Under) as percentage of target
General					
Revenues ¹	\$11,247,343	\$6,048,372	\$6,011,728	\$36,644	+0.3%
Expenditures ³	\$11,207,404	\$4,487,797	\$4,669,752	(\$181,955)	-1.6%
Special Revenue					
Revenues ¹	\$4,844,175	\$3,502,723	\$3,460,004	\$42,719	+0.9%
Expenditures ³	\$4,344,063	\$1,529,907	\$1,810,026	(\$280,119)	-6.4%
Debt Service					
Revenues ³	\$2,392,495	\$985,385	\$996,873	(\$11,488)	-0.5%
Expenditures ²	\$2,436,478	\$1,407,090	\$1,407,090	\$0	+0.0%
Utilities					
Revenues ¹	\$6,850,140	\$2,722,478	\$2,759,843	(\$37,365)	-0.5%
Expenditures ³	\$6,950,282	\$2,310,338	\$2,895,951	(\$585,613)	-8.4%
Airport					
Revenues ³	\$101,403	\$32,901	\$42,251	(\$9,350)	-9.2%
Expenditures ³	\$101,403	\$42,839	\$42,251	\$588	+0.6%

¹ Revenue target = prior year performance at same point in fiscal year

² Expenditure target for Debt Service Fund = actual YTD expenditure because we are paying off debt in accordance with set schedules

³ Target = 1/12 of budgeted amount multiplied by the number of months since the start of the fiscal year (October 1); i.e. at the end of February we are 5/12 into the fiscal year. This method assumes a relatively even distribution of expense or revenue from month to month.

[End agenda memo]

Mayor Wheeler said while looking over the cash that was on hand for the pool, he noticed that in the last half of the year that amount has only increased about \$1,600, which he said reflected a really small interest rate. He said we could get a CD for 2.5% right now. Dorothy Pendergrass, Finance Director, said she recently went out to bid for banking services. We will be investing in a CD once a banking service is selected. This should be brought to the Commission within the next 30 days. She said that we would be looking at doing more investments. Ms. Delmar said we had good interest income the fiscal year before last, but not in the last 24 months.

COMMUNICATIONS & PETITIONS

CITY COMMISSION TRACKING REPORT

Adult Day Care: Mr. Otte reported that the planning part of the project is moving forward although there is no commitment of funds yet.

SR60 Medians: Mr. Otte reported that staff has not heard back from FDOT on their February 19 meeting regarding State Road 60 medians.

Rental Inspection Ordinance: Mr. Otte reported that we are still looking at the rental inspection ordinance. He said that he and Margaret Swanson, Planning Director, would be talking with the realtors.

Moving of the Veteran's Monument: Mr. Otte reported that we now have a more definite project schedule. Staff will be cutting out grass and the tree will be removed in mid March. The slab will then be poured. The monument is scheduled to be moved later this month.

PUBLIC COMMENT

Ruth Dampier, 1154 S. Lake Shore Blvd., asked if anyone volunteered to do a fundraising program for the monument. Mr. Torrance said that we currently have donors in place to cover the cost. Ms. Dampier asked if anyone could buy a brick. Mr. Torrance said something would be put in place after the project is completed for that to happen.

CITY COMMISSION COMMENT

Commissioner Howell thanked Mr. Torrance for looking into the Lincoln Park task. She asked if Mr. Torrance if the prisoners could clean up the wooded area in the location of Crescent Circle. Mr. Torrance said the prisoners could only do the areas that are not private property including the areas that are owned by Florida Midland Railroad. He said there are areas the prisoners can do like the right-of-ways. Commissioner Howell asked Mr. Torrance to contact the Railroad about the holes that are in the concrete around the tracks. Mr. Torrance said they would do all that they can.

Mayor Wheeler encouraged everyone to attend the many candidate forums that are scheduled for this month before the City election. He said the next forum would be held this Thursday at the Library.

There being no further business the meeting was adjourned.



Mayor/Commissioner

ATTEST:



City Clerk