

The regular meeting of the Lake Wales City Commission was held on April 9, 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 Fire Chief Jerry Brown.

PLEDGE OF ALLEGIANCE

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

COMMISSIONERS ABSENT: John Paul Rogers (absent due to illness)

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 Howell made a motion to approve the minutes of the February 17, 2009 regular meeting, the March 3, 2009 regular meeting, the March 10, 2009 workshop meeting, and the March 17, 2009 regular meeting. The motion was seconded by Commissioner Van Sickle.

All "AYE", None "NAY"
The motion carried 4-0.

MAYOR

Mayor Wheeler read the unofficial final results of the 2009 Municipal Election.

AGENDA ITEM 5. PROCLAMATION: Child Abuse & Neglect Prevention Month

Mayor Wheeler read a proclamation proclaiming the month of April as "Child Abuse & Neglect Prevention Month." The proclamation was accepted by Kyla Carswell, Prevention Education Specialist, Heartland for Children.

AGENDA ITEM 6. PROCLAMATION: National Volunteer Week

Mayor Wheeler read a proclamation proclaiming April 27, 2009 - May 1, 2009 as "National Volunteer Week." The proclamation was accepted by Eric Grenier, Volunteer Coordinator, Lake Wales Medical Center.

CITY MANAGER

AGENDA ITEM 7. Ordinance 2009-08, Amending Requirements for Roll Call Vote of City Commission – 2nd Reading & Public Hearing

Mayor Wheeler read the synopsis for Agenda Item 7. 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 adopt Ordinance 2009-08 after second reading and public hearing.

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 requires 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.

OPENED PUBLIC HEARING

There were no comments made by the public.

CLOSED PUBLIC HEARING

Commissioner Manry made a motion to adopt Ordinance 2009-08 after second reading and public hearing. The motion was seconded by Commissioner Howell.

ROLL CALL:

Commissioner Manry

"YES"

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

The motion carried 4-0.

AGENDA ITEM 8. Ordinance 2009-09, Budget Amendment #2, 1st Reading

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

[Begin agenda memo]

SYNOPSIS

Second amendment of the FY08'09 Budget adopted on September 16, 2008.

RECOMMENDATION

It is recommended that the City Commission approve Ordinance 2009-09 after first reading.

BACKGROUND

Ordinance 2008-34 estimating revenues and appropriating funds for Fiscal Year 2008-09 was adopted by the City Commission on September 16, 2008 and amended by Ordinance 2009-07. We are presenting for first reading a second amendment of Ordinance 2008-34 to modify the estimates of revenues and appropriations budgeted in various funds. Exhibits A and B and supporting attachments provide the detail for the proposed amendment. This budget amendment is based on financial reports for the accounting period ending on 2/28/09. The following is a summary of changes included in the proposed amendment:

Revenues & Balances Fwd	Increase(Reduction)
General Fund	(287,850)
Special Revenue Funds	27,737
Debt Service Fund	0
Capital Projects Fund	0
Airport Fund	0
Utility System Fund	61,431
Total Increase(Reduction) of Revenues & Balances Fwd	(198,682)
Appropriated Expenditures & Reserves	
General Fund	(443,635)
Special Revenue Funds	64,875
Debt Service Fund	0
Capital Projects Fund	0
Airport Fund	(1,961)
Utility System Fund	(33,283)
Reserves	215,322

Total Increase(Reduction) of Appropriated Expenditures & Reserves	(198,682)
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The proposed budget amendment reduces the City's total budgeted expenditures by \$414,004 and increases reserves by \$215,322, for a net reduction in appropriated expenditures and reserves of \$198,682 (from \$57,878,187 to \$57,679,505).

Reasons for this amendment include:

- revenue projections in the General Fund must be adjusted to reflect the drop-off in building and development permit fees:

General Fund	Budgeted	Revised	Change	% change
Building Permits	299,250	165,000	-134,250	-44.9%
Development & Inspection Fees	152,250	35,000	-117,250	-77.0%
P & Z Board Fees	26,250	7,000	-19,250	-73.3%
Comp Plan Amendment Fees	15,750	8,500	-7,250	-46.0%
Reimburse Bldg Dept Costs	9,450	2,000	-7,450	-78.8%
Reimburse Public Notice Costs	10,500	1,500	-9,000	-85.7%
Total Building & Development Fees	513,450	219,000	-294,450	-57.3%

These revenues will be watched carefully to determine if further amendments, up or down, are necessary.

- expenditures for property, liability and workers' compensation insurance will be \$611,880 less than budgeted because of two factors:
 - in the transition from an October 1 policy renewal date to an April 1 policy renewal date, an 18-month premium was inadvertently budgeted instead of a 12-month premium
 - the insurance provider is granting a 20% rate reduction for the period April 1, 2009 through March 31, 2010; half of that rate reduction will be experienced in FY08'09

	PROPERTY & LIABILITY			WORKERS' COMP			TOTAL CHANGE
	Budget Adopted	Budget Amended	change	Budget Adopted	Budget Amended	change	
General Fund	558,411	365,408	(193,003)	562,286	274,689	(287,597)	(480,600)
Special Revenue Funds	71,212	76,656	5,444	52,773	25,788	(26,985)	(21,541)
Utility System Fund	200,705	148,689	(52,016)	88,097	43,047	(45,050)	(97,066)
Airport Fund	33,829	21,156	(12,673)	-	-	-	(12,673)
TOTAL	864,157	611,909	(252,248)	703,156	343,524	(359,632)	(611,880)

- payroll expenditures in the Utility System Fund must be adjusted to cover the transfer of two positions between departments

- payroll expenditures are increased in the Parks Division (+3,736) and the Streets Division (+\$6,341) to adjust salaries of maintenance workers for parity with comparable positions in other local cities
- expenditures in the Police Department must be adjusted for the purchase of a MOTOMESH camera (\$3,800); revenues are adjusted to reflect the donation of funds by General Growth Properties (Eagle Ridge Mall) to purchase the camera
- the line item M&R Historic Structures must be increased in Recreation Facilities to cover termite protection for Hardman Hall (+\$3,525), in the Deport budget to cover termite protection for the Children's Museum and Stuart House (+\$869) and in Recreation Services to cover special bi-annual maintenance required on the Kirkland Gym floor (+\$3,650); these items were inadvertently omitted from the adopted budget
- the General Fund transfer to the Transportation Fund must be increased (+\$8,806) to cover the fence constructed as a buffer between the Grove Avenue extension and the adjacent private property; the fence was the result of negotiations with the property owner for the land swap that created sufficient right-of-way to construct the Grove Avenue extension
- expenditures are increased in the Police Forfeiture Fund for equipment funded by forfeiture fun revenues received in excess of budget (+18,931)
- the Airport Operations budget must be adjusted to include funds for M&R on the fuel tank (+\$7,000) and the AWOS (+\$4,000); these increases are covered by reduction in Airport Property & Liability insurance costs (-\$12,673)
- excess budgets for completed CRA bond-funded projects are reallocated to other bond projects needing additional funds: Transportation Fund, \$300,000 unused on the PCC/Old City Hall parking project is reallocated to drainage projects; Utilities Fund, excess budget for the elevated storage tank, lift station and line extension projects are reallocated to asbestos pipe removal (+\$265,853) and sliplining projects (+119,300); the amendment also adjusts the interfund transfer from the CRA (+\$61,431) to correspond to the total cost of bond projects budgeted in the Utilities Fund

OTHER OPTIONS

Most of the budget amendment is not optional.

We are required by Charter to reduce budgeted appropriations when it appears that revenues will be insufficient to meet the amount appropriated; this is the case with building permits and development fees. An amendment is necessary to reduce department insurance budgets; in the General Fund, this reduction in insurance expense offsets the building permit and development fee revenue loss. It is also necessary to adjust capital expenditures to true up budgets with bond proceeds remaining and appropriate funds that have been received since the first of the year.

FISCAL IMPACT

See Exhibit A and Exhibit B attached to Ordinance 2009-09.

[End agenda memo]

Ms. Delmar read Ordinance 2009-09 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING ORDINANCE 2008-34 AS AMENDED BY ORDINANCE 2009-07 TO FURTHER MODIFY THE ESTIMATES OF EXPENDITURES FOR THE OPERATION OF THE SEVERAL DEPARTMENTS OF

SAID CITY FOR THE 2008-2009 FISCAL YEAR AND TO FURTHER MODIFY THE APPROPRIATION OF FUNDS RAISED AND COLLECTED FROM ALL SOURCES SET FORTH IN THE ESTIMATE OF REVENUES FOR SAID FISCAL YEAR; REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Otte reviewed the highlights of Agenda Item 8.

Commissioner Manry made a motion to approve Ordinance 2009-09 after first reading. 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 9. Ordinance 2009-10, Facility Rental Fees – 2nd Reading & Public Hearing

Mayor Wheeler read the synopsis for Agenda Item 9. 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 adopt Ordinance 2009-10 after second reading and public hearing.

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.

OPENED PUBLIC HEARING

There were no comments made by the public.

CLOSED PUBLIC HEARING

Commissioner Howell asked that if she lived in Winter Haven and had her cousin, who lives in the City limits of Lake Wales, rent the building for her, would they be charged the outside City rates. Ms. Delmar said we can't control who signs the facility rental application. If that person lives inside the City limits they would be charged the inside City rates. She said we are in the process of working on our inside City fees to make them fair, but still not cost the general taxpayer as much. Commissioner Howell said we cannot raise the rent too much higher for anyone who rents the facilities because the buildings would just sit and not get rented.

Commissioner Howell made a motion to adopt Ordinance 2009-10 after second reading and public hearing. The motion was seconded by Commissioner Manry.

ROLL CALL:

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

The motion carried 4-0.

AGENDA ITEM 10. Resolution 2009-03, Urban and Community Forestry Grant Application

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

[Begin agenda memo]

SYNOPSIS

This grant application is for \$20,000 towards the cost of a bucket truck to help with our tree maintenance program.

RECOMMENDATION

It is recommended that City Commission approve Resolution 2009-03 authorizing the submittal of a Urban and Community Forestry grant application in the amount of \$20,000 to go towards the purchase of a bucket truck. The cost of a bucket truck is \$50,000, which requires a match of \$30,000. Grant Application deadline is April 17, 2009.

BACKGROUND

In 2001, a previous Urban and Community Forestry Grant funded a study, which conducted an inventory of trees around Lake Wales and recommended the purchase of a bucket truck. Since then, the bucket truck that the city has is old and not in working condition and cannot be repaired.

Many trees were lost during the 2004 hurricanes and many more were damaged. Through a recent grant from the Urban and Community Forestry Program, over 30 trees were planted around Lake Wailes replacing some that were lost. In order to maintain these trees and protect them from future hurricanes they need to be pruned on a regular basis. For this, a bucket truck is necessary. The amount of \$50,000 would cover the purchase of a used bucket truck of good quality. A professional arborist will be consulted on proper pruning techniques.

The maximum grant award is \$20,000 and requires at least a 50/50 match. A resolution by the City Commission is a requirement of the grant.

OTHER OPTIONS

Do not approve the grant application and resolution.

FISCAL IMPACT

The necessary match is \$30,000. The remainder of the funding would be provided from the General Fund. If the funding is required in this year's budget it could come from insurance savings. If next year, it would be a part of the budget for next year.

[End agenda memo]

Ms. Delmar read Resolution 2009-03 by title only.

A RESOLUTION BY THE CITY OF LAKE WALES, FLORIDA TO ENTER INTO AN URBAN AND COMMUNITY FORESTRY GRANT MEMORANDUM OF AGREEMENT WITH THE STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF FORESTRY.

Mr. Otte reviewed the highlights of Agenda Item 10.

Mayor Wheeler asked if this is state or federal money. Ms. Delmar said it is state money.

Commissioner Howell asked if a grant like this was available during the hurricanes when we were asking for the \$500,000. Mr. Otte said he didn't think we could get equipment from that grant. That particular grant provided funds to tear down buildings that were storm damaged or fix up buildings that were storm

damaged. There might have been some other FEMA money available for equipment, but that \$500,000 grant was from a CDBG special hurricane response program.

Commissioner Van Sickle asked if we have employees who are familiar enough to be in a bucket truck cutting trees, and if we could use the bucket truck for other purposes as well. Mr. Torrance said the bucket truck would also be used for other purposes such as for hanging banners etc. He said that those employees who have not already taken a class to learn to operate a bucket truck would be taking a class.

Commissioner Van Sickle said he is familiar with hydraulic equipment and asked if \$50,000 was even enough money to purchase a truck with a boom on it. Mr. Torrance said the bucket truck would be purchased from a company in Bartow that sells used equipment. We could purchase a new bucket truck for \$140,000 or so, but the truck would not get used that much.

Jean Scott, 306 Townsend Avenue, asked if the bucket truck could be used to pressure wash this building and to keep it clean. Mr. Torrance said we just used this truck to pressure wash this building last week.

Commissioner Manry made a motion to approve Resolution 2009-03. 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 11. Florida Arts Recovery Grant Program Application and Amendment to the Contract with the Historic Lake Wales Society regarding the Grant, if awarded.

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

[Begin agenda memo]

SYNOPSIS

This non-matching grant application is for \$25,000 for one year to fund a supplementary curator position at the Depot Museum. If awarded this grant would pass through to the City to the Historic Lake Wales Society. As a companion to this action there will be amendments to the contract between the City and the Historic Lake Wales Society.

RECOMMENDATION

It is recommended that the City Commission approve a grant application, due April 13, to the Florida Arts Recovery Grant Program under the Florida Division of Cultural Affairs. This application is for \$25,000 to fund a supplementary Curator position at the Depot Museum. In addition, if awarded, the grant will not be accepted until appropriate amendments to the contract between the City and the Historic Lake Wales Society are executed.

BACKGROUND

The Florida Arts Recovery Program is the grant being administered by the Florida Division of Cultural Affairs to distribute American Recovery and Reinvestment Act funds from the National Endowment for the Arts. The purpose of this program is to create or fund jobs in the arts that have been lost due to the recent economic downturn.

If awarded, this grant of \$25,000 will be passed on to the Historic Lake Wales Society to fund a supplementary Curator position that was lost last year when the operations of the museum were contracted out to the Historic Lake Wales Society. With the current funding from the City, the Historic Lake Wales Society has only been able to fund one position, down from two in previous years. This person has primarily been serving in an administrative capacity leaving many curatorial tasks incomplete such as exhibit changes. This grant is only funded for one year.

The City is under no obligation to continue to provide funding after this money is expended. The City will only pass the money through to the Historic Lake Wales Society to fund the position. This employee will be under the Historic Lake Wales Society and will not be a City employee. If the grant is awarded, an amendment to the contract between the City and the Historic Lake Wales Society will be brought forward and execution is recommended before acceptance. Items to be included in the amendment include the recognition that this position is to be funded only during the grant period unless additional funds are raised by the Historic Lake Wales Society, and the Society will not request funding for this position from the City after grant funding expires.

OTHER OPTIONS

Do not approve the application.

FISCAL IMPACT

None. No match is required.

[End agenda memo]

Mr. Otte said this is a non-matching grant. He said he suggested the amendment to the contract to ensure that it is very clear that when the money runs out that the Historic Lake Wales Society would not be coming back to the City asking for a continuation of funding for this person etc.

Commissioner Van Sickle asked why we are looking for grants when we contracted out the operation of the Depot Museum because we didn't have the people and the dollars to run it. Mr. Otte said it is his understanding that only the City can apply for the grant and not the Society.

Commissioner Howell made a motion to approve the grant application. The motion was seconded by Commissioner Manry.

All "AYE"; None "NAY"
The motion carried 4-0.

AGENDA ITEM 12. Modification of the Official Traffic Map for Second Street and Grove Avenue

Mayor Wheeler read the synopsis for Agenda Item 12. The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Designates this intersection a three way stop to avoid the potential for traffic accidents.

STAFF RECOMMENDATION

Staff recommends that the Mayor and the City Commission modify the official traffic map, making the intersection of Grove Avenue and Second Street a three-way stop intersection.

BACKGROUND

This designation is proposed in response to a citizen safety complaint regarding this intersection. City staff has received complaints from residents of this neighborhood in regards to the speed of vehicles traveling on this street. A three-way stop intersection is proposed as a traffic calming measure to address the citizen safety concerns.

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 IMPACTS

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]

Police Chief Herbert Gillis reviewed Agenda Item 12.

Commissioner Howell said she didn't see how the three-way stop sign would help once a driver proceeded through the first stop sign. She explained why she felt that there was a greater need for a three-way stop sign at the other end of George Town apartments. Mr. Torrance said the Streets Division received a complaint from the school that is located between Second Street and Third Street. He said that because of the location of that school maybe we should have stop signs at both intersections.

Commissioner Manry made a motion to modify the official traffic map to have three-way stop signs at both intersections. The motion was seconded by Commissioner Howell.

All "AYE"; None "NAY"
The motion carried 4-0.

AGENDA ITEM 13. Appointments – General Employees' Retirement Board

Mayor Wheeler read the synopsis for Agenda Item 13. The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Appointment will fill a vacant position on the General Employees' Pension Board.

RECOMMENDATION

It is recommended that the City Commission make the appointment 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 is deems appropriate.

General Employees' Retirement Board – Resident members are appointed by the City Commission. The board consists of five (5) members. Two (2) members must be employees who are members of the plan, two (2) members must be a resident of the City, own property in the city or have an occupational license issued from the City of Lake Wales, and one member is the Mayor and/or Commissioner. This appointment is for a resident member. (2-year term)

One (1) vacancy: term expires 04/01/11

Applying for re-appointment: Linda Kimbrough, resident

A regular vacancy is due to the expiring term of Linda Kimbrough.

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 re-appoint Linda Kimbrough to serve on the General Employees' Retirement Board for a term to expire on April 1, 2011. The motion was seconded by Commissioner Howell.

All "AYE"; None "NAY"
The motion carried 4-0.

AGENDA ITEM 14. Scheduling of Workshops

Mayor Wheeler read the synopsis for Agenda Item 14. The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Scheduling of workshop meetings needs discussion to ensure that they can be held in the City Commission Chambers and not interfere with previously scheduled meetings.

RECOMMENDATION

City staff will make a recommendation on this item at the meeting.

BACKGROUND

The City Commission has already scheduled its April workshop meeting for the fourth Tuesday in April. However, the Planning & Zoning Board has its regular monthly meetings in the Commission Chambers on the fourth Tuesday. Therefore, staff requests discussion on this item and will present a list of alternate dates.

FISCAL IMPACT

None.

OTHER OPTIONS

Continue to use the employee lunchroom for workshops. However, meetings held in the lunchroom cannot be televised.

[End agenda memo]

The City Commission scheduled its workshop meetings to be held at 6:00 p.m. on the second Thursday of each month beginning in May.

Mr. Otte said that during the campaign there was a lot of discussion on economic development. At the upcoming workshop he would like to discuss having an Economic Development Summit. We could invite speakers from CFDC to show how the City fits into their program and where the county is headed. We could also present our strategies of what we have been doing in economic development, and invite citizens to participate and ask for their input for the purpose of reformulating and taking a look at our strategy. Mr. Otte said he hopes to have an Economic Development Summit in May or June.

AGENDA ITEM 15. Schedule Canvassing Board Meeting to Certify the Results of the April 7, 2009 Municipal Election

Mayor Wheeler read the synopsis for Agenda Item 15. The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Scheduling Canvassing Board meeting to certify the results of the April 7, 2009 Municipal Election

RECOMMENDATION

It is recommended that the City Commission schedule a Canvassing Board meeting for Monday, April 13 or Tuesday, April 14 to certify the results of the April 7, 2009 Municipal Election. The Canvassing Board can meet at any time beginning 8:00 a.m.

BACKGROUND

Following the April 7, 2009 Municipal Election, it is necessary that the Canvassing Board certify the election results. The Canvassing Board must certify the results before it meets to conduct the manual audit of the voting systems used in the election on Thursday, April 16, at 1:30 p.m., which must be advertised at least 48 hours before the meeting. It is recommended that the City Commission schedule the Canvassing Board meeting to certify the election results on Monday, April 13 or Tuesday, April 14. This will allow time for such notice and for those casting a provisional ballot to prove their eligibility to vote in accordance with F.S. Chapter 101.048 (1), which states that a person casting a provisional ballot shall have the right to present written evidence supporting his or her eligibility to vote to the supervisor of elections by not later than 5 p.m. on the second day following the election. Because this is an advertised public meeting, Friday, April 10 may not be a good day to certify the election results because it is Good Friday, and is observed by some people as a religious holiday.

OPTIONS

None.

FISCAL IMPACT

None.

[End agenda memo]

The City Commission scheduled the Canvassing Board meeting for Monday, April 13, 2009, at 11:15 a.m.

City Clerk Clara VanBlargan said she just learned from the Supervisor of Elections office that at this same Canvassing Board meeting on Monday, April 13, the race would have to be selected for auditing at the Election Headquarters on Thursday, April 16 at 1:30 p.m.

AGENDA ITEM 16. Appointment of Auditing Teams to Assist in Post-Election Certification Manual Audit of the Voting Systems used in the April 7, 2009 Municipal Election

Mayor Wheeler read the synopsis for Agenda Item 16. The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Appointing auditing teams is necessary to assist the Canvassing Board in the manual audit of voting systems used in the April 7, 2009 Municipal Election.

RECOMMENDATION

It is recommended that the City Commission appoint auditing teams to assist in the Post-Election Certification Manual Audit of the voting systems used in the April 7, 2009 Municipal Election. The manual audit will take place at 1:30 p.m. on Thursday, April 16, 2009 at the Elections Headquarters in Bartow.

Each auditing team consists of two people.

BACKGROUND

A Post-Election Certification Voting System Manual Audit is a new requirement of the Florida Legislature (F.S. 101.591 and Rule 1S-ER08-04, F.A.C.) This means that immediately following the certification of the April 7, 2009 Municipal Election, the Canvassing Board must conduct a manual audit of the voting

systems used in that election. The audit shall consist of a public manual tally of the votes cast in one randomly selected race that appears on the ballot.

Although the cited statutory provision, §101.591, Florida Statutes, sets forth no such requirement, the Voluntary Guidelines provided by the Division of Elections states that no member of the Canvassing Board may participate in the audit if his or her race is the one randomly selected. That will require that all 5 Commissioners be present, at least initially until the election to be audited is randomly selected.

It is recommended that the City Commission appoint at least three auditing teams to assist in the Post-Election Certification manual audit of the voting systems used in the April 7, 2009 Municipal Election. Each auditing team consists of two members.

City staff will provide the names of persons who are interested in serving as a member to an auditing team at the meeting.

FISCAL IMPACT

None.

OTHER OPTIONS

The action recommended is in compliance with a new state law, so there is no other option.

[End agenda memo]

Mr. Otte said that the following VOICE volunteers are interested in serving on an auditing team:

Larry Lipps
Charlotte Lipps
Francis Stowell
Elston Kuhn
James Phillips
Helen Medlock

Mr. Otte said there would also be VOICE volunteers to serve as alternates if need be.

Commissioner Howell made a motion to approve the VOICE volunteers as stated and possible alternates to serve as a member to an auditing team. The motion was seconded by Commissioner Manry.

All "AYE"; None "NAY"
The motion carried 4-0.

AGENDA ITEM 17. Hillcrest Elementary School Walk-a-thon Special Event – Temporary Streets Closing

Mayor Wheeler read the synopsis for Agenda Item 17. The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Approving a temporary road-closing permit for the Hillcrest Elementary School Walk-A-Thon

RECOMMENDATION

It is recommended that the City Commission approve the temporary road closing of sections of Marietta Street, Lakeshore Boulevard, Eight Street, Ninth Street, and Carlton Avenue for the Hillcrest Elementary School Walk-A-Thon on April 16, 2009.

BACKGROUND

Metta O'Bryant submitted a Special Event Permit Application for the annual Hillcrest Elementary School Walk-A-Thon to take place on April 16, 2009 between the hours of 9:30 a.m. and 11:30 a.m. This event is to benefit the Parent Teacher Organization (PTO) with an endeavor to raise money for the school. The volume of students participating in this event requires that the streets are closed to ensure the safety of the children. The PTO will provide volunteers to assist with traffic control and redirection for the event. A school resource officer will provide coordination between the PTO, Police Department and the Street Department.

The route will be from Hillcrest Elementary School north on Marietta Street to Lakeshore Boulevard, west on Lakeshore Boulevard, south on Ninth Street, east on Carlton Avenue ending at the school. It has been recommended to close Eight Street at Lakeshore Boulevard as well to divert traffic away from the intersection of Ninth Street and Lakeshore Boulevard where the students will turn south on Ninth Street. Residents living between Eight Street and Ninth on Lakeshore will be able to leave when necessary.

RECOMMENDATION

Staff recommends approval.

OTHER OPTIONS

Do not approve the request for the road closings for the event.

FISCAL IMPACT

The School Resource Officer is budgeted as normal working hours.

[End agenda memo]

Commissioner Howell made a motion to approve the temporary road closing of sections of Marietta Street, Lakeshore Boulevard, Eight Street, Ninth Street, and Carlton Avenue for the Hillcrest Elementary School Walk-A-Thon on April 16, 2009. The motion was seconded by Commissioner Manry.

All "AYE"; None "NAY"
The motion carried 4-0.

AGENDA ITEM 18. Authorization to Negotiate Legal Billing with Feltrim Development on Mayfair Remediation

Mayor Wheeler read the synopsis for Agenda Item 18. The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Final release of Escrowed funds from Feltrim to City of Lake Wales on 6-Acre Tract Closed in Escrow

RECOMMENDATION

Staff recommends that City Commission authorize the City Manager to negotiate with Feltrim Development concerning a request for \$7,500.00 reimbursement for extraneous legal fees associated with the Remediation Project on a 6-acre tract and the release of the \$300,000.00 held in Escrow to be released to the City of Lake Wales.

BACKGROUND

There was a 6-acre parcel held out of the main tract of property known as the Cooperative Fruit Property now known as Mayfair Development. The six acres required some remediation to provide a clean environmental report for that limited area of the property. The parcel was closed in Escrow and \$300,000.00 was held back by the purchaser until environmental work was completed and a report was finalized to the satisfaction of the Mayfair attorney. The property was certified as being environmentally clean as per the specific requests of the Feltrim attorney in December 2008. The Feltrim attorney issued a Letter of Satisfactory Completion on the environmental remediation. We have since requested the release of the Escrowed Finds. Earlier in the 3rd Quarter of 2008 Feltrim had requested some relief on the extra legal costs they incurred on this specific item in a specific amount of \$7,500.00. An amendment to the existing agreement was sent by Feltrim but was not advanced for City Commission consideration due to issues still unresolved and deemed to be premature for consideration. There is presently interest money on the \$300,000 principal amount in the escrow account in excess of \$16,000. Of the \$300,000 principal amount, the City has already spent in order of \$115,000 on remediation activities.

Staff is requesting the authorization to work out a solution in this matter with the assistance of the City Attorney. City staff believes that we will be able to resolve the issue satisfactorily. However, failing to resolve the issue, we will then proceed to perfect the release through actions by the City Attorney.

Note: At the May 20, 2008 City Commission Meeting the issue of the entrance road to the Soccer Complex that was to be built by Mayfair Development had not been done as required in their Master Plan Approval granted by the City Commission. The City Commission was told at that time the Project and Feltrim were not in the position to fulfill the requirement, but would participate in the required "temporary entrance" to get the soccer complex open. The commitment was based on a contractor's preliminary estimate of \$10,000.00. The final cost for the entrance exceeded the original estimate for construction. The contractor, SEMCO Construction, has worked with the City on this issue to the full satisfaction of the City at a cost of \$10,000. The entrance has been completed, the complex opened and formal request for the payment made to Feltrim. The response has been they do not have the funding.

CURRENT FISCAL IMPACT

Residual \$300,000.00 from held back funding on the Mayfair Closing, plus interest money, minus any portion of the request from Feltrim if agreed to in the resolution by City staff, will be deposited to the City account.

[End agenda memo]

Mr. Otte reviewed Agenda Item 18. He said that there was a 6-acre parcel held out of the main tract of property known as the Cooperative Fruit Property, which is now known as the Mayfair Development. The six acres required some remediation to provide a clean environmental report for that limited area of the property. He said that work has now been completed, which was done to the satisfaction of Feltrim and their attorneys. In the mean time, the \$300,000 that was paid for this property has been sitting in an escrow account and accruing interest which is now in excess of \$16,000. Feltrim has asked that they be granted \$7,500 payment in recognition of the legal work that they had to do because the remediation took longer than expected. City staff is asking the Commission to authorize staff to negotiate the closing, the release of the funds, and a contract with Feltrim that would handle their request not to exceed \$7,500. Ms. Delmar added that the \$300,000 has been recorded as a receivable.

Commissioner Van Sickle said he is not sure that we should negotiate \$7,500 in their favor when they owe us \$10,000. Mr. Otte said that Feltrim is not saying that they are not going to pay the \$10,000 - they are claiming that when Greg Brown was here, he told us that they would pay the \$10,000 after they had some activity with the first phase of their development. Mr. Otte said that is not what he said to us, but that is what they are saying Mr. Brown said or meant to say. Commissioner Manry asked Mr. Otte if he had read the minutes from that meeting. Mr. Otte said he did not read the minutes because he thought his memory was accurate on that matter. He said that we are anxious to get the \$300,000 plus.

Harold Gallup, Economic Development Director, said the \$300,000 that is sitting in the Escrow account is our money. There have been claims of extra cost by their side and there are extra costs on our side. That is why we want the authorization to go to the table and negotiate what they owe us against what they feel we owe them. We will walk away with our \$300,000 plus interest and close the issue. We are not anticipating writing them a check in this whole process.

Commissioner Howell made a motion to authorize the City Manager to negotiate with Feltrim Development concerning a request for \$7,500.00 reimbursement for extraneous legal fees associated with the Remediation Project on a 6-acre tract and the release of the \$300,000.00 held in Escrow to be released to the City of Lake Wales. The motion was seconded by Commissioner Manry.

Three "AYE"; One "NAY"

The motion carried 3-1 (Commissioner Van Sickle voted no)

AGENDA ITEM 19. State Revolving Loan Funds for improvements at the Wastewater Treatment Plant; Declaration of an Emergency Purchase

Mayor Wheeler said Mr. Otte is asking for Agenda Item 19 to be pulled.

Mr. Otte said the hold up is that he has a proposal from one engineering firm and is seeking a proposal from a second engineering firm for the engineering work that is necessary in order to submit the application. We already have a permit from FDEP for the work and we may want to modify the permit a little bit. Mr. Otte said he and staff met with the second engineering firm this morning and we expect a proposal from them probably by Monday. He said that he would like to have this item pulled and possibly revisited at a special meeting next week.

CONSENT AGENDA

AGENDA ITEM 20. Willowbrook Square Final Plat: Commercial Development, North Highway 27 and Thompson Nursery Road

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

[Begin agenda memo]

SYNOPSIS

Final subdivision plat for 5-lot commercial subdivision at northwest corner of US Highway 27 and Thompson Nursery Rd.

RECOMMENDATION

Approval of plat as submitted.

No recommendation from Planning Board or public hearing is necessary for approval of a final plat. Provided the plat meets all of the requirements of state statutes and local ordinances, approval by the City Commission is a formality.

BACKGROUND

Approval of the final plat for Willowbrook Square, a 5-lot commercial subdivision, is requested by Ken Thiele, Chastain-Skillman, agent for CRF Panther XII, LLC. The property is 6.93 acres located at the northwest corner of Highway 27 and Thompson Nursery Road.

Four of the lots are approved as a planned development project (PDP) for commercial development. The fifth lot, at the northern end of the project, is a retention area. Walgreens and a retail building have been constructed on the site. Another lot is proposed for a 7-11 store with gas.

Land use designations on the property are RAC— Regional Activity Center (Future Land Use Map) and C-3 Highway Commercial district (Zoning Map). These designations allow a variety of commercial and professional uses.

The requirements for approval of the final subdivision plat are:

- Consistency with the approved preliminary plat (confirmed)
- Compliance with PDP approval for dimensional requirements (confirmed)
- Completion of infrastructure to city standards (completed)
- Approval of the plat and survey by the city's consulting surveyor (confirmed)
- Approval of the title opinion and associated documents by the city attorney (completed)

[End agenda memo]

AGENDA ITEM 21. Petition for pass through of Republic Services of Florida L.P. Florida Refuse fuel cost decrease relating to Solid Waste Service

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

[Begin agenda memo]

SYNOPSIS

Approve a petition for a thirty-cent pass through cost decrease per customer per month based on monthly gallons used and difference in fuel prices paid by Republic Services of Florida L.P. Florida Refuse relating to solid waste services.

STAFF RECOMMENDATION

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

1. Approve the petition for a thirty cent pass through cost decrease per customer per month based on monthly gallons used and difference in fuel prices paid by Florid Refuse relating to solid waste services.
2. Approve the pass through of solid waste pass through decreases to solid waste customers based on actual decreases received.

BACKGROUND

Ordinance 2008-25, amending the franchise granted to Republic Services of Florida L.P. Florida Refuse, Section 2-3, provides that should be price of diesel fuel paid by the contractor increase or decrease by an extraordinary rate of ten percent (10%) of the base rate of \$3.60 per gallon, the Contractor or the City may petition and shall be granted a pass through cost increase or decrease based on monthly gallons used and difference in price to be calculated and allocated per customer per month. City staff has calculated this pass through amount and recommends that it be requested of Florida Refuse per the contract.

FISCAL IMPACT

With the recommended changes, the city anticipates a thirty-cent pass through cost saving to customer per month.

[End agenda memo]

AGENDA ITEM 22. Acceptance of proposal for Collection Services relating to Delinquent Collections

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

[Begin agenda memo]

SYNOPSIS

Contract with Penn Credit Corporation for collection services relating to delinquent collection efforts.

RECOMMENDATION

It is recommended that the City Commission accept the proposal and award the contract for collection agency services to Penn Credit Corporation.

BACKGROUND

The City currently does not have a collection agency under contract. There are several types of delinquent accounts for which the services of a professional collection agency would be able to assist with the collection of these outstanding delinquent accounts while insuring compliance with collection regulations.

On February 11, 2009, staff advertised a request for proposals for Delinquent Collections. Proposals were opened on March 5, 2009. Proposals were received from the following firms.

- NRA Group LLC
- MAF Collection Services
- Penn Credit Corporation
- AMS American Municipal Services

A selection committee was formed consisting of Dorothy Pendergrass, Bridget Denihan and Tiffany Miller. Each proposal was reviewed and ranked by committee members based on the criteria listed in the advertised request for proposals.

Proposals were ranked by the selection committee as follows:

First	Penn Credit Corporation
Second	MAF Collection Services
Third	AMS American Municipal Services

FISCAL IMPACT

On a \$50 account, Penn Credit will charge a 17% add-on fee, in this case: \$8.50, totaling \$58.50 incurred by the debtor.

[End agenda memo]

AGENDA ITEM 23. Tree Replacement Fund Expenditure

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

[Begin agenda memo]

SYNOPSIS

Request for use of up to \$8,000 from the Tree Replacement Fund for planting trees at Kiwanis Park.

RECOMMENDATION

Authorization for use of up to \$8,000 from the Tree Replacement Fund for purchase and planting of trees in Kiwanis Park.

This project is recommended by the Parks and Community Appearance Advisory Board (discussed at March 23 meeting).

BACKGROUND

Proposed is the use of Tree Replacement Funds for trees to shade the skate park and small playground at Kiwanis Park. The funds will "match" an expenditure of \$7-8,000 by the Kiwanis Club for trees to shade the Barney's Dream playground.

The estimated price for purchase and planting of 40 palms is \$7,700. There may be a discount on delivery if two truck loads are purchased at the same time. Competitive prices will be obtained for the project as required. We are working toward the June 1 deadline for use of the remaining funds raised for Barney's Dream.

Per the zoning regulations, use of tree replacement funds requires City Commission approval. Currently, there is about \$66,000 available in the fund, established with payments by developers as compensation for trees removed for projects, notably Lowe's. The funds must be used for plantings on public property. These funds have been used in the past as a match for an Urban Forestry Grant to plant trees in Lake Wailes Park and more recently to plant street trees on Central Ave. between the Scenic Highway and Lakeshore Blvd.

Staff is working on a plan with Woody Dupuis, Kiwanis Club and Parks Board member, to plant clusters of cabbage palms of varying sizes to provide "instant" shade in key areas. Kiwanis funds will be used for several clusters around the Barney's Dream playground, while the City's will be used at the skate park and the playground east of the picnic shelters. The concept of planting palm clusters was recommended by David Price, President of Bok Tower Gardens. (See attached photos.)

FISCAL IMPACT

The Tree Replacement Fund was established specifically for the planting trees on public property. There is no impact on the general fund. The trees will be "watered in" until they are established. No long-term irrigation is planned.

OTHER OPTIONS

Not to participate with the Kiwanis Club. It is estimated that almost \$1,000 in shipping costs can be saved if two truck loads of trees are ordered at the same time. Parks Board has been planning to add trees to shade the skate park, and this is an opportunity to partner with the Kiwanis Club and save money on shipping.

[End agenda memo]

AGENDA ITEM 24. Award of Contract

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

[Begin agenda memo]

SYNOPSIS

Discussion and award of mowing services contract to CMJ Services, to be used for code enforcement purposes on private property.

RECOMMENDATION

City staff recommends that a contract be awarded to Gibbs Properties, LLC, dba GMJ Services. This contract awarded to cut and clean properties in violation of Chapter 12, Sections 12-36 and 12-37 of the City of Lake Wales Code of Ordinances.

BACKGROUND

On March 13, 2009, after solicitation by normal public means, bids were received from applicants for award of a contract to clean nuisance properties within the City of Lake Wales. Three companies responded to that solicitation with the following submissions:

Gibbs Properties, LLC, dba GMJ Services (Odessa, Florida) agreed to meet the terms of this contract and mow properties for reimbursement of \$.013 per square foot.

C&M Property Maintenance, Inc., (Haines City, Florida) agreed to meet the terms of this contract and mow properties for reimbursement of \$.03 per square foot.

Ray and Sons Lawn Services (Lake Wales, Florida) agreed to meet the terms of this contract and mow properties for reimbursement of \$.08 per square foot.

Using the contract proposals the Code Enforcement Department contacted a given personal representative for both GMJ Services and for C&M Property Maintenance. Both companies received outstanding ratings from the reference contacted. No reference check was made for Ray and Sons Lawn Services due to the fact that they are a local company and members of the Code Enforcement Department staff know their excellent reputation.

All contractors submitting bids have the credentials and equipment to meet the needs of this contract.

Staff recommends that this contract be awarded to Gibbs Properties, LLC, dba GMJ Services.

OTHER OPTIONS

The option offered to the Commission is to review offered bids and select a different provider.

STAFF COMMENTS

After review of all of the submissions this company was selected due to the low bid offered for the services. Considering the average city lot size of 50 X 100 foot GMJ is willing to provide services for \$65.00. C&M Properties would provide the service for \$150.00 while Ray and Sons it at a cost of \$400.00.

The contract will be awarded with the understanding that the Code Enforcement Department will comply with Chapter 12, Section 12-38 and provide due process notice to any and all property owners prior to contacting the contractor and requesting the use of this service.

Mr. Galloway reviewed this contract prior to this request for approval and has declared it to be lawful and in the best interest of the City of Lake Wales.

A representative from GMJ Services was contacted prior to this request to the city commission for approval and stated that they can and will abide by the conditions of the contract. Staff questioned the owner of this company in regards to the distance between Odessa and Lake Wales and their ability to respond to our needs. The explanation offered was that, in a time of few business opportunities, they were willing to meet our requirements and still realize a profit.

The city reserves the right to terminate this contract in September 2009 if the terms of the contract are not being met in a timely basis. Conversely, we also have the option to extend it if the terms of the agreement are being met and the contractor so desires.

FISCAL IMPACT

Cost alone was the deciding factor as all of the companies that submitted bidders have equal reputations and adequate equipment. One prime concern that the Code Enforcement Department has is the cost that will be incurred. Initially it will be contingent upon the city to make restitution to the contractor. With budget constraints in this, and upcoming years, it seems practical for the city to offer the contract to the lowest bidder. Through time the city will begin to recoup costs for providing this service and the program should become self-sufficient.

[End agenda memo]

AGENDA ITEM 25. Award of Bid to Florida Analytical for Laboratory Services

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

[Begin agenda memo]

SYNOPSIS

The City's Utilities Department made a request for bid for laboratory services for the testing and analysis of water and wastewater samples.

STAFF RECOMMENDATION

It is recommended that the City Commission:

1. Award the bid to Florida Analytical for laboratory services
2. Authorize the City Manager to execute the appropriate documents, on the City's behalf in regards to this service.

BACKGROUND

The City of Lake Wales' Water and Wastewater Divisions are required by the Environmental Protection Agency and the Florida Department of Environmental Regulation to routinely monitor and sample the water and wastewater solid residuals throughout the various stages of their respective treatment processes. The majority of these samples must be submitted to a laboratory certified by the State of Florida for analysis and reporting purposes to insure that proper treatment is taking place and that compliance parameters are being met.

Staff made a request for bid for these laboratory services with a bid open date of March 23, 2009. Florida Analytical was the only responsive bidder. Staff has done work with Florida Analytical in the past, and has been pleased with their performance. Therefore, staff requests City Commission approval to award the bid for laboratory services to Florida Analytical.

OPTIONS

None.

FISCAL IMPACT

\$5,000 and \$40,000 were placed in the FY '08-'09 Operating Budgets for Water and Wastewater Contract Services – Laboratory, respectively.

[End agenda memo]

AGENDA ITEM 26. LMR Construction Change Order

Mr. Otte reviewed Agenda Item 26. The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

LMR Construction is currently under contract to make repairs to the sanitary sewer system to aid in the process of eliminating the infiltration and intrusion that currently exists in the system. This change order represents additional area to be repaired during this budget year.

STAFF RECOMMENDATION

It is recommended that the City Commission:

1. Approve LMR Construction, Inc for sliplining rehabilitation of the sewer lines around Lake Altamaha and any additional CRA area as the remaining budget will allow.
2. Authorize the City Manager to execute the appropriate documents, on the City's behalf, in regards to this project.

BACKGROUND

The sliplining project has involved the lining of gravity sewer mains from manhole to manhole as needed within the CRA bond area. This work was done to eliminate ground water intrusion into the sanitary sewer system in various parts of the City. Areas that took priority were the streets included in the street repaving project. Staff recommends continuing the use of LMR for the remainder of this work. LMR has completed several projects under their current city contract, a contract that originally went out for bid for the 06-07 CDBG project. It was under this contract that LMR began to do the sliplining repairs. Because LMR has a

current contract with the city, this additional work is to be completed through the use of submitting a change order. It was felt that monies could be saved by the absence of mobilization charges, because the contractor is already mobilized in Lake Wales, plus the unit pricing has remained consistent with what was originally bid.

OPTIONS

Not performing these repairs at this time will allow for the infiltration to continue and further deterioration of these gravity sewer mains.

FISCAL IMPACT

\$570,000 over a period of two budget years were allocated from the CRA Bond to complete these repairs. LMR has already completed repairs to cover 77% of budget leaving a balance of \$129,730 in the CRA Bond for sliplining deteriorated sewer lines.

[End agenda memo]

AGENDA ITEM 27. Reuse Pump House VFD Purchase and Installation

Mr. Otte reviewed Agenda Item 27. The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Reuse pump house control station upgrades will provide for increased efficiency in the operation of the reuse distribution system.

STAFF RECOMMENDATION

It is recommended that the City Commission:

1. Accept the quote from Electro Mechanical South for design, building, and installation, and training operators on the operation of the Variable Speed Drive pumps for the reuse pump house.
2. Authorize the City Manager to execute the appropriate documents, on the City's behalf in regards to this installation.

BACKGROUND

Staff requested contractors to do an on-site inspection and quote on specific items in an effort to upgrade the reuse pump control station. Three contractors accompanied staff in an on-site inspection to discuss these enhancements. Upon inspection of the facility, it was determined that 2-50HP Variable Frequency Drives will be needed for increased efficiency and operation of the reuse distribution system.

The functionality of the new enhancements are to retain the existing functions of the control system to be a back up mode of operation and to provide new functionality of Variable Speed Drives to lower operational costs of wear and tear of equipment as well as energy conservation on the operation of the reuse system.

Of the three quotes received, Electro Mechanical South, Inc was the lowest. The scope of work to be covered under this quote will include the design, building, installation, programming, and staff operator training. Allowing Electro Mechanical South, Inc to perform these improvements would greatly enhance the efficiency of the reuse system.

OPTIONS

Not allow the upgrades and have continued wear and tear on the operational equipment of the reuse system.

FISCAL IMPACT

The recommended quote is for \$18,690 plus freight charges.
\$40,000 was placed in the FY '08-'09 Reuse Capital Improvements Budget for this expenditure.

[End agenda memo]

AGENDA ITEM 28. Peace Creek Drainage Canal Access License Agreement between the City of Lake Wales and SWFWMD

Mr. Otte reviewed Agenda Item 28. The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

The Southwest Florida Water Management District requests that the City of Lake Wales grant them access to the Peace Creek Drainage Canal by way of the Lake Wales Municipal Airport for cleaning and maintenance.

STAFF RECOMMENDATION

It is recommended that the City Commission:

1. Approve the agreement between the City of Lake Wales and the Southwest Florida Water Management District.
2. Authorize the Mayor to execute the agreement on the City's behalf.

BACKGROUND

The Southwest Florida Water Management District (SWFWMD) is requesting that the City of Lake Wales allow them access through the Municipal Airport property for the purpose of performing maintenance activities in the Peace Creek Drainage Canal and its channel. Uses may include ingress and egress for workers, machinery, vehicles, excavation and grading of the existing sediment or removal of other obstructions in the canal waterway.

OPTIONS

Not allow SWFWMD access to maintain and clean the Peace Creek Drainage Canal and create a potential flood hazard.

FISCAL IMPACT

The City incurs no cost by allowing SWFWMD to have access to perform maintenance of the canal.

[End agenda memo]

Commissioner Van Sickle said he would like to have Consent Agenda Item 26 pulled for separate discussion.

Commissioner Howell made a motion to approve the Consent Agenda excluding Item 26. The motion was seconded by Commissioner Manry.

All "AYE"; None "NAY"
The motion carried 4-0.

AGENDA ITEM 26. LMR Construction Change Order

Mr. Otte reviewed Agenda Item 26. The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

LMR Construction is currently under contract to make repairs to the sanitary sewer system to aid in the process of eliminating the infiltration and intrusion that currently exists in the system. This change order represents additional area to be repaired during this budget year.

STAFF RECOMMENDATION

It is recommended that the City Commission:

3. Approve LMR Construction, Inc for sliplining rehabilitation of the sewer lines around Lake Altamaha and any additional CRA area as the remaining budget will allow.
4. Authorize the City Manager to execute the appropriate documents, on the City's behalf, in regards to this project.

BACKGROUND

The sliplining project has involved the lining of gravity sewer mains from manhole to manhole as needed within the CRA bond area. This work was done to eliminate ground water intrusion into the sanitary sewer system in various parts of the City. Areas that took priority were the streets included in the street repaving project. Staff recommends continuing the use of LMR for the remainder of this work. LMR has completed several projects under their current city contract, a contract that originally went out for bid for the 06-07 CDBG project. It was under this contract that LMR began to do the sliplining repairs. Because LMR has a current contract with the city, this additional work is to be completed through the use of submitting a change order. It was felt that monies could be saved by the absence of mobilization charges, because the contractor is already mobilized in Lake Wales, plus the unit pricing has remained consistent with what was originally bid.

OPTIONS

Not performing these repairs at this time will allow for the infiltration to continue and further deterioration of these gravity sewer mains.

FISCAL IMPACT

\$570,000 over a period of two budget years were allocated from the CRA Bond to complete these repairs. LMR has already completed repairs to cover 77% of budget leaving a balance of \$129,730 in the CRA Bond for sliplining deteriorated sewer lines.

[End agenda memo]

Mr. Otte explained that using this current contractor rather than going through the bidding process could save us money.

Commissioner Van Sickle questioned the proposal presented by LMR Construction. He said that based on convenience for the City the contract was extended, we had change orders to this contract, and we have spent over \$300,000. Now, we want to do another change order, which will bring the contract value of our expenditure from the City to the contractor for \$570,000. Commissioner Van Sickle said we have to stop adding task orders to contracts and start bidding contracts. When modifying contracts we are not always getting the best price. Just continuing until we extend the contract is not smart business and we need to get away from doing that.

Sarah Kirkland, Utilities Projects Supervisor, said that in the beginning we did not know exactly how many feet of pipe needed to be sliplined. As we went into certain areas the contractor would give us a quote on that specific area. The specific area that we are talking about now is the area south of Lake Altamaha over by Lift Station 9. This repair will allow for infiltration to continue.

Mr. Otte asked Ms. Kirkland if other local governments have contracts with LMR, and, if so, is the unit price in this contract the same or different in those contracts. Ms. Kirkland explained that the unit prices in our contract are cheaper. LMR Construction currently has a contract with the county, which was after entering into a contract with us. Mr. Otte asked if our unit prices were lower because the contract is two years old. Ms. Kirkland said that is possible.

Mayor Wheeler asked if we would continue getting the same cheaper price as long as we make change orders. Ms. Kirkland said we would get the same price that was originally approved. Mayor Wheeler asked if we put this out to bid, would we still get the lower price. Ms. Kirkland said the price could possibly be higher. Commissioner Van Sickle said we would have more people bidding on this, which would keep the price down. Mayor Wheeler asked if there were other people looking to do this work. Ms. Kirkland said that she assumes so because when we first bid out this project we received quite a few bids. LMR Construction was the lowest bidder.

Commissioner Van Sickle said he understands that we don't always know what we need until the contractor tells us. But, there are ways that those contracts can be structured that would better serve the City than continuing to modify the contracts. We are giving our citizens the impression that we are using the same contractors and we are not giving other people a chance. We need to do a better job in the way we do our contracting.

Commissioner Howell asked if we are locked into the prices from two years ago. Mr. Otte said only if we use them. We could stop the contract at any time. Commissioner Howell asked if we bid this out could we turn it down if the price comes back higher and go back to the original contract price. Commissioner Manry said no because we put it out to bid.

Mr. Otte asked Ms. Kirkland if she knew if the county got a lot of bidders. Ms. Kirkland said she knows that the county awarded it to the three lowest bidders, which LMR Construction was the lower of the three.

Commissioner Van Sickle said the quote is a March 3 quote. He asked if the prices in that quote are today's prices. Ms. Kirkland said no. The prices are from their original bid. Commissioner Manry asked the date of the original bid. Ms. Kirkland said she does not know, but it was in the FY-06'07 budget year.

Mayor Wheeler said this is basically a gamble. If we stop this right now and put it out to bid, we might get something lower and we might get stuck with something higher. Right now, we know what it is but we don't know if it is the lowest it could be. Commissioner Van Sickle said the contractor seems happy with what the City is proposing to pay because he didn't have to accept the change order.

Mayor Wheeler asked if the Commission would like to gamble or go with what we have. Commissioner Howell said she is not above gambling, but right now we know the price and that price is budgeted. But, in the future we should make sure that all of our contracts are not just piggyback contracts etc. She said that because we know the price and that by bidding this out the price could be higher she would recommend going with what we have now.

Commissioner Van Sickle said we are asking for a change order of \$129,700. The quote sheet says that at completion of contract the City would pay the sum of \$98,703. Ms. Kirkland said the price of \$98,703 is just for the Lake Altamaha area. The additional money is to finish any other area that needs to be sliplined, which will finish out this contract. Commissioner Van Sickle said the other area is not in the quote. So, the Commission would be giving permission to spend \$129,000 although the quote is for \$98,000 and giving the option of spending those other dollars somewhere else because we don't know what we need done. He said that is not a smart way of doing business.

Mr. Otte asked Commissioner Van Sickle if he would like for staff to bring back a list of other areas and the footage that need sliplined. He said we don't lack areas that need sliplined. Commissioner Van Sickle said he is sure of that, but we need to know exactly what we are authorizing an expenditure of \$123,000 for. He said that the front of this it is showing that we are doing \$130,000 worth of work and the quote for that \$130,000 is \$98,000, which is a disconnect with what we are authorizing.

Mayor Wheeler asked Ms. Kirkland to contact the county and find out what the bids were that they received so we can compare them to what we are saying here. Commissioner Van Sickle said that regardless of what it would cost we are approving an expenditure of \$32,000 more than what it is actually going to cost. Mayor Wheeler asked Ms. Kirkland if that is what we are doing and she said yes. Commissioner Van Sickle said there is other work that needs to be done but we don't see it in this quote. Commissioner Manry said what we are trying to do is use the amount of money we have budgeted in the CRA Bond, which the deadline to do that is December 2010. We are under sort of a time constraint to use those dollars. If we are comfortable with keeping this contract for the Lake Altamaha, then we should redo it just to reflect that for the \$98,000.

Commissioner Van Sickle said he doesn't like extending contracts and he is not saying there is anything wrong in doing so, but if they were not making money they would not be accepting a change order. Apparently, they are ok with the prices we are asking. He said that if we approve this for \$98,000, he would like to see exactly what the change order is for. If we want to use up the rest of the money and there are other projects that need to be done, we need to get quotes for that and bring them back to the Commission. The Commission would then know exactly what service we are buying before approving it.

Commissioner Manry said the chances of us getting some kind of fabulous reduction in the quote for the difference is probably not that great. Commissioner Van Sickle said he doesn't disagree with that.

Mr. Otte said he would be happy to postpone this, bring it back to the next meeting, and provide a list of all the areas that can be done for the \$129,000. Commissioner Van Sickle said even if that list calls for more than what we have budgeted it will give the Commission an idea of how much more sliplining we need to do. Then, when we start preparing for the budget we could decide how to pay for it and put it in the budget.

Mr. Otte said that we will bring this item back to the Commission with a report on the county bidding and provide a list of all the areas that need sliplining. The list can be prioritized according to what we want to assign the \$129,000 to. He said he was not sure if he would be able to get all this by the next meeting, but maybe by the following meeting. Mayor Wheeler asked if there is an urgency. Mr. Otte said he is assuming LMR would hold the price for another month while we assemble the list. If we already have the list we could bring it back at the next meeting. Commissioner Van Sickle said the contractor said in the quote that the quote is good for 30 days and that this quote could be withdrawn if not accepted within 30 days. Mr. Otte said staff would check to see if that could be extended. Commissioner Howell said the quote is from March 3 and it is already past the 30 days. Mr. Otte said we would check with the contractor to see if the quote is still good.

The consensus of the Commissioner was to pull the item and have staff bring it back at another meeting.

COMMUNICATIONS & PETITIONS

CITY COMMISSION TRACKING REPORT

Moving of the Veteran's Monument: Mr. Otte reported that the monument has been moved.

Is there any local pipe bursting companies in area or within 300 miles of Lake Wales? Mr. Otte reported that he is planning to bring this item to the special meeting as well. He said staff has not been able to find a pipe bursting contractor within 300 miles.

Commissioner Van Sickle suggested contacting Murphy Pipeline in Jacksonville. He said that is the company that brought the fresh water pre-chlorinated system to this country from London. He does work in this area and he is the foremost expert in Florida.

Swimming Pool Project: Mr. Otte reported that the Unity and Community had surveys printed up and they were delivered to the City yesterday. He said that he had to take them back late today because they do not fit in our envelopes. After Ridge Printing cuts the bottom of them off we will send them to our utility billing company that is located in California to get them included in this months billing.

Commissioner Van Sickle said the Commission received an email from a gentleman that lives in Lake Wales who apparently runs a pool in Hillsborough County. Mr. Otte said that he asked him to come to the next Unity and Community meeting.

PUBLIC COMMENT

There were no comments made by the public.

CITY COMMISSION COMMENT

Commissioner Howell said there is a raggedy City of Lake Wales Adopt-a-Spot sign located across the road from Swango Animal Clinic that needs to be removed. The sign has been broken for a few years. They mow and weed-eat around it but it needs to be taken up. She suggested having the prisoners or someone else remove it when doing something in that area.

Commissioner Manry said we are sending these swimming pool questionnaires out in the water bills, they will be available here in the lobby, at the Chamber of Commerce, and at the Library. We are hoping to get thousands of responses so that Unity and Community will know what it is that people are wanting to see in a community pool. This is an effort for us to have a pool where the people in Lake Wales can enjoy swimming. We know that we have long since approved the CRA money to build the pool, but now we need to find out how far that money can go and find out what the people actually want. Commissioner Manry said the Director of the YMCA, Nate Siedle, has put a lot of work into this and he needs to be commended. She said that when Mr. Siedle did this in a town just our size they got 9,000 responses. So, we should know something after we get those questionnaires back. The next step of the study would be to talk about where a pool could go and to look at it as this is what people want. She said the survey could also be filled out on the Chamber of Commerce website.

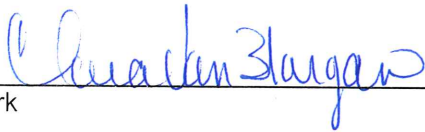
Commissioner Van Sickle asked what are we doing with the folks that don't get a water bill in the mail. Commissioner Manry said it would be in the newspaper and every place we can get the announcement in. She said that anyone could fill out a questionnaire, even if they don't live in Lake Wales.

Commissioner Howell commended Unity and Community for their effort on this matter.

There being no further business the meeting was adjourned.


Mayor/Commissioner

ATTEST:


City Clerk