

The regular meeting of the Lake Wales City Commission was held on May 5, 2009 at 6:00 p.m. in the Commission Chambers at the Municipal Administration Building. The meeting was called to order by Mayor Lee A. Wheeler, III.

#### **INVOCATION**

The invocation was given by Dr. Jim Moyer, Warner University.

#### **PLEDGE OF ALLEGIANCE**

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

**COMMISSIONERS ABSENT:** None.

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

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

Commissioner Manry made a motion to approve the minutes of the April 7, 2009 and April 13, 2009 Canvassing Board meetings, the April 16, 2009 Post Election Audit, and the April 21, 2009 regular meeting. The motion was seconded by Commissioner Howell.

All "AYE"; None "NAY"  
The motion carried 5-0

#### **MAYOR**

#### **Agenda Item 5. PROCLAMATIONS: Voice Appreciation Day Police Memorial Day, Police Memorial Week**

Mayor Wheeler read a proclamation proclaiming May 19, 2009 as "Voice Appreciation Day." The proclamation was accepted by Voice volunteers.

Mayor Wheeler read a proclamation proclaiming May 15, 2009 as "Police Memorial Day" and May 10 through May 16, 2009 as "Police Memorial Week." The Lake Wales Police Department Honor Guard accepted the proclamation.

#### **CITY MANAGER – OLD BUSINESS**

#### **Agenda Item 6. Ordinance 2009-11, Correcting a Scriveners Error in Chapter 2, Waiver of Term Limit Requirements for Regulatory Boards - 2<sup>nd</sup> Reading & Public Hearing**

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

[begin agenda memo, prepared by Clara VanBlargan, City Clerk]

#### **SYNOPSIS**

Correcting scrivener's error in Ordinance 2008-09 restores the waiver of term limit requirements for members of regulatory boards when special circumstances exist as set forth by Ordinance 2005-16.

## **RECOMMENDATION**

It is recommended that the City Commission approve Ordinance 2009-11 after second reading and public hearing.

## **BACKGROUND**

The City Commission approved Ordinance 2009-11 after first reading on April 21, 2009.

At its meeting on May 3, 2005, the City Commission adopted Ordinance 2005-16, waiving the term limit requirements for regulatory boards when special circumstances exist. However, when the City Commission adopted Ordinance 2008-09 this waiver of term limit requirement was eliminated due to an error in the ordinance prepared by city staff.

Members of regulatory boards such as the Planning & Zoning Board and Zoning Board of Appeals are required to make critical and objective development decisions based on knowledge of the city's land development regulations and an understanding of the goals and objectives contained in the city's comprehensive plan; in addition, a certain amount of technical skill is required to read and analyze development site plans effectively. Members of the Code Enforcement Board are required to make difficult decisions affecting property owners who have failed to comply with city codes.

The knowledge required of members appointed to regulatory boards can, in some cases, take years of experience on the board to acquire and the investment of a considerable amount of personal time in preparation for board meetings and workshops. Members are often required to make difficult and controversial decisions, which affect the property of their friends and neighbors. As a result, it is sometimes difficult to recruit citizens to serve on these particular boards. Adhering to the term limit requirement can, in some cases, be dysfunctional in that the board's effectiveness may be impaired by the lack of sufficiently experienced members or by vacant positions which cause delays in the conduct of official business due to inability to obtain a quorum. This can be a particular problem where special circumstances exist.

Proposed Ordinance 2009-11 corrects the scrivener's error made by Ordinance 2008-09 and restores the waiver of term limit requirements for members of regulatory boards when special circumstances exist as set forth in Ordinance 2005-16.

## **FISCAL IMPACT**

None.

## **OTHER OPTIONS**

Do not approve Ordinance 2009-11.

[end agenda memo]

Ms. Delmar read Ordinance 2009-11 by title only.

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING SECTION 2-26 (3)(a) OF THE LAKE WALES CODE OF ORDINANCES BY CORRECTING A SCRIVENER'S ERROR IN ORDINANCE 2008-09 TO RESTORE THE WAIVER OF TERM LIMIT REQUIREMENTS FOR MEMBERS OF REGULATORY BOARDS WHEN SPECIAL CIRCUMSTANCES EXIST AS SET FORTH BY ORDINANCE 2005-16; AND PROVIDING FOR AN EFFECTIVE DATE.**

## **OPENED PUBLIC HEARING**

There were no comments made by the public.

## CLOSED PUBLIC HEARING

Commissioner Manry made a motion to adopt Ordinance 2009-11 after second reading and public hearing. The motion was seconded by Commissioner Howell.

### ROLL CALL:

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

The motion carried 5-0.

### **Agenda Item 7. Ordinance 2009-12, Amending Certain Threshold Requirements for Procurement of Services – 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, prepared by Judith Delmar, Asst. City Manager]

### **SYNOPSIS**

This housekeeping ordinance is proposed for the purpose of adjusting thresholds (project cost limits) that trigger certain advertising requirements for public works projects. The ordinance also adjusts thresholds in the definition of "continuing contract" as the term relates to professional services. Adjusting these thresholds keeps the City's purchasing ordinance current with changes in Florida law relating to procurement of property and services.

### **RECOMMENDATION**

It is recommended that the City Commission approve Ordinance 2009-12 after second reading and public hearing.

### **BACKGROUND**

On February 21, 1995, the City Commission adopted Ordinance 95-01 establishing rules and procedures for the procurement of property and services, bringing the City into compliance with statutory requirements governing municipal procurement. This ordinance was subsequently amended by Ordinance 2000-16 to incorporate revisions in Florida Statutes primarily relating to threshold amounts for the various purchasing categories.

Proposed Ordinance 2009-12 is a housekeeping ordinance that further amends Ordinance 95-01 as follows:

- increases the threshold amounts in the definition of "continuing contract" as it relates to procurement of professional services (engineering, architectural, surveying and mapping, or landscape architectural services).

The City's current ordinance allows entering into a continuing contract for projects in which construction costs do not exceed \$500,000 or for study activity when the fee for such service does not exceed \$25,000. Ordinance 2009-12 conforms the definition in the City's ordinance with Florida Statute §287.055 which allows a continuing contract for projects in which construction costs do not exceed \$1,000,000 or for study activity when the fee for such service does not exceed \$50,000.

- reduces the threshold amount that triggers the requirement for notice in the legal section of a newspaper for the purchase, lease or renting of materials or equipment relating to a municipal public works project.

The current City ordinance sets the threshold at \$25,000. Ordinance 2009-12 conforms the threshold with Florida Statute §180.24 which requires a 10 day notice or advertisement of bids for the purchase, lease or renting of materials or equipment to be used in the accomplishment of any public works project municipal works projects valued at \$10,000 or greater.

- adds the provisions of Florida Statute §255.025 relating to advertising requirements for solicitation of competitive bids for municipal public works construction projects costing more than \$200,000 (21 days) and more than \$500,000 (30 days).

This provision is currently absent from the City's ordinance, however, staff complies with statutory requirements when advertising bids for public works projects.

### **OTHER OPTIONS**

The City is subject to all the requirements of Florida Statutes whether or not Ordinance 2009-12 is adopted.

Although it is not required that a local government adopt its own purchasing ordinance, it does simplify compliance with Florida purchasing laws by incorporating all of the relevant rules governing municipal procurement of property and services into a single document that is included in the local code of ordinances. Nearly 15 years ago, Lake Wales adopted a local purchasing ordinance that incorporates provisions of Florida Statutes as minimum requirements. Proposed Ordinance 2009-12 is a housekeeping ordinance that is necessary to keep our ordinance in sync with changes in Florida law.

### **FISCAL IMPACT**

There is no cost involved in implementing this ordinance.

[end agenda memo]

Ms. Delmar read Ordinance 2009-12 by title only.

**AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, LAKE WALES CODE OF ORDINANCES, AMENDING RULES AND PROCEDURES FOR THE PROCUREMENT OF PROFESSIONAL SERVICES TO CONFORM TO THRESHOLD AMOUNTS ESTABLISHED BY FLORIDA STATUTES §287.055 FOR CONTINUING CONTRACTS FOR PROFESSIONAL SERVICES; TO CONFORM TO ADVERTISING REQUIREMENTS ESTABLISHED BY FLORIDA STATUTE §255.0525 FOR MUNICIPAL PUBLIC WORKS; PROVIDING FOR AN EFFECTIVE DATE.**

### **OPENED PUBLIC HEARING**

There were no comments made by the public.

### **CLOSED PUBLIC HEARING**

Commissioner Van Sickle made a motion to adopt Ordinance 2009-12 after second reading and public hearing. The motion was seconded by Commissioner Rogers.

### **ROLL CALL:**

Commissioner Van Sickle "YES"

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

The motion carried 5-0.

**Agenda Item 8. Ordinance 2009-13, Amending Ordinance 2001-08 Personnel Administration Policies – 2nd Reading & Public Hearing**

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

[begin agenda memo, prepared by Sandra Davis, Human Resources Director]

**SYNOPSIS**

Ordinance 2009-13 will resolve the conflict that exist with Sec. 2-223.03 of Ordinance 2001-08 Personnel Administration Policies and Chapter 112 of Florida Statutes which requires that any government agency providing group insurance for active employees also make it available to retirees and their dependents.

**RECOMMENDATION**

It is recommended that the City Commission approve Ordinance 2009-13 upon second reading and public hearing.

**BACKGROUND**

Ordinance 2001-08 was adopted in July 2001 establishing personnel administration policies and procedures. Section 2-223.03 of that Ordinance states that any employees who are hired on or after July 1, 2001 will not be entitled to participate in any city insurance plan upon retirement. Any employees hired prior to July 1, 2001 are entitled to participate in the group medical insurance plan up to age sixty-five (65) and after age sixty-five (65) in the city-approved Medicare supplement, if the city has approved one, at their own expense.

It has come to our attention that Sec. 2-223.03 is in conflict with Chapter 112 of Florida Statutes, which requires that any government agency providing group insurance for active employees also make it available to retirees and their dependents. Florida Law does not require government agencies to pay premiums on behalf of retirees; it only requires that retirees be given the option of coverage at their own expense.

Ordinance 2009-13 is presented to resolve any conflicts with Chapter 112 of Florida Statutes.

**FISCAL IMPACT**

There is no direct cost to the City to make the proposed change. Section 2-223.03 of Ordinance 2001-08 has affected no current employee.

**OTHER OPTIONS**

None.

[end agenda memo]

Ms. Delmar read Ordinance 2009-13 by title only.

**AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, LAKE WALES CODE OF ORDINANCES; REPEALING SECTION 2-223.03 OF ORDINANCE 2001-08 AND REINSTATING**

**RETIREE MEDICAL INSURANCE IN COMPLIANCE WITH CHAPTER 112, FLORIDA STATUTES;  
PROVIDING FOR SEVERALBILITY; PROVIDING FOR AN EFFECTIVE DATE.**

OPENED PUBLIC HEARING

There were no comments made by the public.

CLOSED PUBLIC HEARING

Commissioner Van Sickle made a motion to adopt Ordinance 2009-13 after second reading and public hearing. The motion was seconded by Commissioner Howell.

ROLL CALL:

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

The motion carried 5-0.

Mayor Wheeler commented that it has been a pleasure to serve the City of Lake Wales as Mayor this past year. He said he sincerely hopes that Commissioner Van Sickle's term, as Mayor, will be as rewarding for everyone as it has been for him. Mayor Wheeler said that since he won't have the opportunity to say this at the end of the meeting, he will say it now, "Be sure to say "hi" to your neighbors and lend them a hand whenever it's needed!"

**CITY CLERK**

**Agenda Item 9. OATH OF OFFICE**

**Commissioner Jonathan Thornhill, Seat 1**

City Clerk Clara VanBlargan administered the Oath of Office to Commissioner Jonathan Thornhill.

**Commissioner Terrye Y. Howell, Seat 2**

City Clerk Clara VanBlargan administered the Oath of Office to Commissioner Terrye Y. Howell.

**Mayor L. Jack Van Sickle**

City Clerk Clara VanBlargan administered the Oath of Office to Mayor L. Jack Van Sickle.

**MAYOR**

**Agenda Item 10. ROLL CALL**

**COMMISSIONERS PRESENT:** Terrye Y. Howell; John Paul Rogers; Jonathan Thornhill; Lee A. Wheeler, III; L. Jack Van Sickle, Mayor.

**COMMISSIONERS ABSENT:** None.

**Agenda Item 11. APPOINTMENT OF VICE MAYOR**

Commissioner Thornhill made a motion to appoint Commissioner Rogers as Vice Mayor. The motion was seconded by Commissioner Rogers.

Commissioner Wheeler made a motion to appoint Commissioner Howell as Vice Mayor. The motion died for lack of a second.

Mayor Van Sickle said that motion was not seconded. He then announced that Commissioner Rogers is the new Vice-Mayor.

Commissioner Howell asked if the Mayor was able to appoint Commissioner Rogers as Vice-Mayor because no one seconded the motion to appoint her as being Vice-Mayor. Mr. Galloway said there was a second to the motion to appoint Commissioner Rogers as Vice-Mayor. He said the Commission could go on and vote although it is not necessary.

Four "AYE"; One "Nay" by Commissioner Howell  
The motion carried 4-1

**Agenda Item 12. AWARDING OF PLAQUE: Kathy Manry**

Mayor Van Sickle presented Kathy Manry with a plaque on behalf of the City of Lake Wales and its citizens thanking her for dedicated service in making this a better community while she served as City Commissioner from 2005 – 2009, and during that time for serving as Mayor from 2006 through 2007 and as Vice Mayor from 2005 through 2006 and from 2007 through 2008.

Mayor Van Sickle also presented Ms. Manry with a framed poem that was written by Jacquie Hawkins, Human Resources Coordinator.

Mr. Otte presented Ms. Manry with a bouquet of red roses from City staff.

**CITY MANAGER – NEW BUSINESS**

**Agenda Item 13. Resolution 2009-04, Actions Necessary for Authorization & Acceptance of SRF Pre-construction**

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

[begin agenda memo, prepared by Tony Otte, City Manager]

**SYNOPSIS**

The Commission will consider approval of Resolution 2009-04 and other authorizations needed for the acceptance of SRF Pre-Construction loan funding.

**RECOMMENDATION**

City staff recommends that the City Commission take the following actions to authorize the acceptance of SRF Pre-Construction Loan funds:

1. Approve Resolution 2009-04; and
2. Authorize the Mayor to execute the forms necessary to accept the SRF loan funds for the work already completed for the design of the renovation of the wastewater treatment plant and the design of utility lines to serve the Crooked Lake subdivision, and in addition to design utility lines to serve industrial and commercial areas that are not served or are under-served, including the State Road 60 West area, the proposed Hunt Brothers Road Industrial Park, and any other industrial/commercial areas that are not specifically named herein but are approved at a later date for inclusion in this project by the City Commission. It is anticipated that the pre-construction loan funds will be in a not to exceed amount of approximately \$350,000.

## **BACKGROUND**

The City has been awarded an amount not to exceed \$482,000 in Pre-Construction loan funds. The City's contract grant writer Andy Easton indicates that the not to exceed amount has been changed, as the estimate of the construction cost has been lowered following the completion of the final engineering plans. The final engineering design for the project made some cost-effective modifications (see below) to what was originally discussed while still providing the needed plant renovations. The new construction amount is estimated at \$3,937,500 with the loan amount estimated to be at \$4,115,785 including the addition of capitalized interest (interest cost normally paid during the construction period but rather than being paid is added into the loan amount), and loan fees.

In order to prepare the application for SRF construction loan funds as approved by the City Commission at the April 21 meeting, The City has already spent an estimated \$60,000 for engineering and survey work (far less than the original estimates). This leaves an estimated \$290,000 for the engineering of other utility projects. The City is not required to use the entire amount and will pay back only the funding it uses.

As noted above, the estimated cost of construction changed considerably during the preparation of the plans. The initial cost estimate was \$8.5 million, and following the completion of the plans, the cost of construction is now estimated at \$3,937,500. There are a number of reasons for the reduced construction cost: the \$8.5 million plan included the construction of a surge tank, facilities to obtain an AA sludge processing rating, and a relatively high level of engineering contingency fees – all items that the application design engineer believed to be unnecessary – and they were thus eliminated in the final engineering design and cost estimate. The design of the digester and the method of providing more air to plant components was also changed to a much more cost-effective design. These changes resulted in a substantial reduction in the estimate of the construction cost while at the same time maintaining the facilities needed for renovation, as well as sludge and effluent quality improvement.

SRF Pre-Construction funding can be used for the engineering for other utility projects. Since the City has been focused on "right-sizing" our tax base by attracting new industrial and commercial development, City staff proposes to use the funding available beyond what has been spent already for the design of utility lines to serve such future developments. The exact cost for these designs will not be known until the City chooses a new engineering firm and receives "scopes of work" for those design projects. Having the lines designed now will accelerate the process for getting the lines built once companies have bought these properties for development and are planning to receive utility service.

Andy Easton has agreed to assist City staff with this loan paperwork at no charge.

## **OPTIONS**

Do not accept the Pre-Construction funds, which will require the payment of the \$60,000 in engineering fees from current funds and forego the opportunity to have utility lines that will be needed in the future to be designed now.

## **FISCAL IMPACT**

The exact fiscal impact for this action, regarding the Pre-Construction Loan, will depend upon how much money is borrowed (please see the attached worksheet). If only the first \$60,000 is borrowed, there will be an annual payment of \$3,776.49 for the 20 year term. If \$200,000 is borrowed, the payment will be \$12,588.30 over the 20 year term. These amounts would have to be budgeted.

Note that the substantial reduction in the estimate of construction costs will also substantially reduce the amount of debt service if the construction loan is funded. Since the construction loan amount is being reduced by more than half, the debt service will have a roughly proportionate cut. Therefore, the sewer rate increase required will be half of what had been originally anticipated.



[end agenda memo]

Ms. Delmar read Resolution 2009-04 by title only.

**A RESOLUTION OF THE CITY OF LAKE WALES, FLORIDA, RELATING TO THE STATE REVOLVING FUND LOAN PROGRAM; MAKING FINDINGS; AUTHORIZING THE LOAN APPLICATION; AUTHORIZING THE LOAN AGREEMENT; ESTABLISHING PLEDGED REVENUES; DESIGNATING AUTHORIZED REPRESENTATIVES; PROVIDING ASSURANCE; PROVIDING FOR CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.**

Commissioner Rogers asked what the City would be doing for the people that now have a franchise for the utility system at Crooked Lake Park. Mr. Otte said when that was brought up at a previous Commission meeting, where we moved a head with the application for the construction funds, he had said that a proposal would be brought back to the Commission on what our relationship would be with the owner of that plant if we are successful in acquiring that loan. He said he has a meeting set up with the owner of the plant and our Utilities attorney on Thursday of this week regarding that topic. The options are that we take over the plant and the system or that the owner's utility becomes a bulk customer to the City. That will come back to the Commission for a final resolution if we are successful with the loan application.

Commissioner Rogers said before moving forward with the loan, we have to have some plans in place to submit to the people we are borrowing money from.

Commissioner Rogers made a motion to approve Resolution 2009-04. The motion was seconded by Commissioner Thornhill.

**ROLL CALL:**

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

The motion carried 5-0.

Mr. Galloway asked Commissioner Rogers if his motion was to also authorize the Mayor to execute the documents as set forth in the staff recommendation. Commissioner Rogers said yes.

**Agenda Item 14. 2009 Assistance to Firefighters Grant Application**

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

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

**SYNOPSIS**

The fire chief is asking the City Commission for permission to submit a grant application to the Department of Homeland Security. This is a 95/5 percent matching grant in the amount of \$53,119 for the purchase of eleven 800 Mhz Mobile Radios and 2,200 feet of 5" Large Diameter Fire Hose. If awarded, the department will have one year to complete the project.

**RECOMMENDATION**

It is recommended that the City Commission authorize the Fire Chief to submit the completed application for the 2009 Assistance to Firefighters Grant.

## BACKGROUND

The Department of Homeland Security is accepting applications for the 2009 Assistance to Firefighters Grant until 5:00 p.m. Eastern Daylight Time on May 20, 2009.

The grant request is for the purchase of eleven mobile radios to replace the units currently in service. The radio replacement is necessary due to a digital encryption system upgrade scheduled by the county for the 800 Mhz system in December of 2009 or January of 2010. The mobile radios currently being utilized by the department will not operate on the system once the digital upgrade takes place. The grant request for the mobile radios totals \$38,269.

The grant request also includes the purchase of twenty-two sections of 5" x 100' fire hose to replace hose on two of the department's fire engines. This fire hose is tested annually and is over twenty years old. The remainder of the department's 5" fire hose is much newer having been purchased in 2004 and 2006. The grant request for the fire hose totals \$14,850.

Staff will follow city purchasing procedures as spelled out by ordinance in the event we are successful in the awarding of the grant.

## OTHER OPTIONS

Do not apply for the grant and budget for the purchases in the FY 09-10 CIP.  
Do not replace the equipment at this time.

## FISCAL IMPACT

Approval will require a 5% match of \$2,655 to be requested in the FY 09/10 CIP Budget.

[end memo]

Mr. Otte said to be a little more specific, the 95/5 break down means that this grant application will require a 5% match, which is \$2,655.

Commissioner Wheeler made a motion to approve Ordinance 2008-12 after first reading and public hearing. The motion was seconded by Commissioner Rogers.

## ROLL CALL:

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

The motion carried 5-0.

## Agenda Item 15.           **Modification of the Official Traffic Map for Thompson Nursery Road and Dunmoore Drive and Mulligan Lane**

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

[begin agenda memo, prepared by Captain Patrick Quinn]

## SYNOPSIS

Designates the section of roadway on Thompson Nursery Road from Olsen Road to U.S. 27 as a 45 MPH speed zone. Designates the intersection of Dunmoore Drive and Mulligan Lane a three way stop to avoid the potential for traffic accidents.

## **RECOMMENDATION**

Staff recommends that the Mayor and the City Commission:

1. Modify the official traffic map, making the section of Thompson Nursery Road from Olsen Road to U.S. 27 a 45 MPH speed zone.
2. Designate the intersection of Dunmoore Drive and Mulligan Lane a three-way stop intersection.

## **BACKGROUND**

This designation is proposed in response to citizen safety complaints and citizen meetings regarding these locations. City staff has had inquiries from the residents of Lake Ashton regarding the speed of vehicles traveling on Thompson Nursery Road. The current speed limit for the section between Olsen Road and U.S. 27 is 55 MPH, however the speed limit lowers to 45 MPH in the vicinity of Eloise Loop Road. The residents of Lake Ashton have complained that the traffic approaching the intersection of Ashton Club Drive and Thompson Nursery road is traveling too fast for the existing conditions, so as to allow for vehicles to safely enter and exit the Lake Ashton subdivision. In response to these complaints the Police Department has monitored traffic in the area and enforced the current speed limit, however it is clear that the speed of traffic crossing this intersection is too fast for conditions. The Police Department recommends lowering the speed limit to 45 MPH as is consistent with the speed on the remainder of the roadway.

City staff has received complaints from residents of this neighborhood in regards to the speed of vehicles traveling on Dunmoore Drive. A three way stop intersection at the intersection of Dunmoore Drive and Mulligan Lane is proposed as a traffic calming measure to address the citizen safety concerns.

The location(s) 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 Gillis addressed questions by the Commission. He explained that there is a speeding problem in front of Lake Ashton on Thompson Nursery Road. The speed limit lowers to 45 MPH in the vicinity of Eloise Loop Road on the western part of Thompson Nursery Road. Chief Gillis said we just took Commission action a couple months ago to annex the roadways because we didn't have control over that road. We now have the right as a municipality to set the speed limit, but we do not have maintenance responsibility, which is a good thing.

Commissioner Wheeler made a motion to modify the official traffic map, making the section of Thompson Nursery Road from Olsen Road to U.S. 27 a 45 MPH speed zone, and to designate the intersection of Dunmoore Drive and Mulligan Lane a three-way stop intersection. The motion was seconded by Commissioner Rogers.

ROLL CALL:

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

The motion carried 5-0.

**Agenda Item 16. Direct Request from Feltrim Development for Payment of \$7,500.00 on Attorney's Fees for Remediation Close Out and Release of Escrow Funds**

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

[begin agenda memo, prepared by Harold Gallup, Economic Development Director]

**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 exchange a check for \$7,500.00 and accept a \$10,000.00 Escrow Deposit in an interest bearing account to be released at the issuance of the first permit to commence any phase of construction at Mayfair. This is contingent upon the receipt of the current Escrowed funds and accrued interest on the 6 acre parcel.

**BACKGROUND**

The subject 6 acres of land is a parcel held out of the main tract of the property known as the Cooperative Fruit Property and now known as the Mayfair Development. The direct request from the developer is for \$7,500.00 for claimed extraneous legal fees associated with their legal counsel's reviews and ultimate approval for acceptance of the property. The Mayfair Project has a commitment for a road that was to be built by September 2007. The project has gone through an extensive sequence of reviews for multiple phases of development and is still going through review for phase 12. The economy had taken a down turn and the main housing developer had withdrawn from the start of the housing portion of the project. Hence, the road was not constructed and the City was opening the soccer complex that this road was to serve.

On May 20, 2008 at a Mayfair PDP Approval review by the City Commission the developer's representative agreed to the condition that if the City had to build the a separate entrance connector to Hunt Brothers Road before the construction of Phase 1, then the developer would reimburse the City for the temporary entrance. The estimate at that time was \$10,000.00 based upon a contractor's estimate and their conversation with the County. Ultimately the cost was \$33,000.00 for the entrance as per the requirements of the County. The contractor had agreed to a cap of \$10,000.00 for the construction of the entrance.

The developer at this time is indicating that the stated intent of time of payment of the \$10,000.00 was with the start of phase 1, which is still undetermined at this writing. Feltrim now states that they did not

commit to payment now but in the future. Further, the developer is representing that in conversation and e-mails on this subject the City Manager had committed to releasing \$7,500.00 from interest earned on the Escrow Account. (Note: no such commitment was ever found in writing, and the City Manager does not have a problem with the request as it is being paid out of interest earned, but does not believe there was ever a commitment for payment since such a commitment can only come from the City Commission). This is also part of an earlier possible request from the City for early release of \$50,000.00 of the Escrow Funds for payment to the environmental engineering firm for completed work. This was never advanced for consideration due to the fact that the work was at that time close to completion and there was no need to go further with the request.

The environmental work was completed in late December of 2008. The Mayfair attorney issued a Letter of Satisfactory of Completion after an extensive review of the final submission of work on February 16, 2009. A letter requesting the release of the Escrow Funds and accrued interest was sent by the City Attorney on February 24, 2009. The developer through e-mail and conversation with the City Manager had again asked for the release of \$7,500.00 for the extra legal fees and felt he had received a commitment from the City Manager to have the payment authorized. The issue of the \$10,000.00 due the City is not an issue in the estimation of the developer and his engineer with regard to the payment from the City. The commitment by the developer is in his opinion a "future commitment" that when the phase 1 commences that is when the obligation is due. There is also a new road that the developer will have to build to the complex that is part of that commitment that was not fulfilled by September 2007.

The last action by the City Commission on April 10, 2009 was the instruction to negotiate a settlement of the funds to the City. The Director of Economic Development contacted the developer and a meeting was held on April 28, 2009 with Garrett Kenny, Developer, to discuss exchanging debt but not checks for the \$7,500.00 and \$10,000.00 respectively. The developer restated he was fully expecting the approval of payment and not a negotiation and was not willing to accept any of the proposals and again requested payment. The developer requested an agenda item to address a specific action of payment as requested and as he believes was committed to by the City Manager. At this moment there are no guarantees that the development will go forward in the immediate future and that the city will receive payment on the outstanding debt – hence the recommendation by City staff for the deposit of \$10,000 in an escrow account.

#### **CURRENT FISCAL IMPACT**

If the City pays the \$7,500, it will come from the interest earned on the \$300,000 put in escrow for the purchase of the 6 acres.

#### **OTHER OPTIONS**

Do nothing, or pay the \$7,500 with no guarantee that the \$10,000 for the park entrance will be paid.

[end agenda memo]

Mr. Otte said that Garrett Kenny, Developer, had told him that he thought this was already approved. Mr. Otte said it could not be approved until the Commission approves it. Mr. Otte said that is why this item is before the Commission tonight. The request is that because there was an extended period of time for clean up of the property the firm would like to have \$7,500, which is less than half of the interest. Mr. Otte said that he had told Mr. Kenny that he would bring the request to the Commission and that he did not have a problem with that. However, the firm also owes us \$10,000. Mr. Otte then read a section of the May 20, 2008 meeting minutes where Greg Brown of Feltrim Development said they would not have a problem with that condition in order to let the Soccer Park be opened on time as long as there is a dollar cap in place. The dollar cap that we agreed to was \$10,000. Staff was directed by the Commission to have Mr. Gallup speak with Mr. Kenny and Mr. Kenny said he did not wish to pay the \$10,000 until the first phase was developed. Mr. Otte said that staff did not agree with that, but we are bringing it back to the Commission.

Commissioner Wheeler asked if we have any guarantee of getting our \$10,000. Mr. Otte said he thought Mr. Gallup's suggestion for having Feltrim put that amount in escrow was very good. He said that Mr. Gallup was afraid that if the development is sold then this commitment by Mr. Brown would just evaporate. So, a way to ensure payment is to have Feltrim put the \$10,000 in an Escrow account. Then the Commission would direct staff to close on the six acre parcel, and the City would pay Feltrim \$7,500. The \$10,000 would be there until some period, whatever we agree to in that Escrow agreement for those funds.

Mr. Gallup said, as directed by the Commission, he met with the developer and put the issues on the table. The developer said no and that he wanted his \$7,500 and he would pay the City the \$10,000 at some point in the future.

Mr. Otte said the reason we are even here talking about this \$10,000 is because Feltrim missed their deadline for building a road, which was September 2007. That caused us to have to spend money to put in a temporary driveway, which is now a permanent entrance to the Soccer Multi-purpose Complex.

Mayor Van Sickle said we had to clean up the 6-1/2 acres because of environmental issues. Feltrim is holding \$300,000 and they have already signed off on the statement that we, the City, have cleaned that property. When they give us the \$300,000 that they owe us, including interest, then we could possibly entertain this issue and their legal fees. Legally, they owe us money. They are trying to hold back from giving us that money and at the same time, they are asking us for \$7,500. Mayor Van Sickle said we should proceed in requesting that they turn over the money they owe us and carry this as a separate issue. Mr. Gallup said, just for the record, there is no legal obligation in regards to the \$7,500. After pursuing this letter, we did receive a release from their environmental attorney based upon every point that they mandated. On February 24, 2009, the City Attorney had sent a letter requesting the release of funds. On April 28, the City Attorney had sent a letter for immediate release of proceeds. We are now at the second level. The direction to the City Attorney by this Commission would be to proceed to the next level to perfect our agreement.

Commissioner Rogers said we need to initiate an order of release of the Escrow funds immediately and collect our \$300,000. If Feltrim is persisting that we owe them \$7,500, he would be willing to settle if they send us \$2,500, and then we can call it square. Mr. Galloway said if that is what the rest of the Commission would like to do then he will send a letter asking them to send us a check for \$2,500, retaining \$7,500 from interest earned on the \$300,000, and forward the balance by wire immediately.

Mayor Van Sickle said that if the Commission agrees with that, then he would go along with it. He said he personally does not like a company blackmailing the City, and he would not hand over the \$7,500. There is no legal means to say we should be paying these legal fees. Mayor Van Sickle said he would recommend the direction be to have the City Attorney request the \$300,000 plus interest that they owe us. If they would like to take up the \$7,500 issue then we could negotiate that.

Mr. Galloway said that according to the Escrow agreement, the interest accrues, in essence, to the City. That is why Feltrim suggested that because they had to spend additional fees that they would like for it to come out of the interest instead of the principal. There are many arguments about what precipitated their additional fees because there is more than one incident where our engineer said that it was clean. Then their environmental attorney said it was not as clean as she would like it to be. So, that is simplifying things tremendously on their part.

Commissioner Wheeler said he has a lot of reservations as to whether or not this developer intends to follow through with the Mayfair development.

Commissioner Howell asked if we have any extra legal fees that we had to pay because of this. Mr. Galloway said there is always a legal fee when he has to respond to an attorney on behalf of the City. Mr. Otte said this was a special situation where they hired an environmental attorney to review our environmental company's reports.

Mr. Galloway said he could demand the \$300,000 and if they do not come forward with it, then he would have to file an action to get it. Mr. Otte said he would recommend that we do that.

Commissioner Wheeler made a motion to direct the City Attorney to send a letter to Mr. Kenny saying to forget about the \$7,500, and that we would like our \$300,000 plus interest. Mr. Galloway asked the Commission if they would like him to proceed with legal action if the response to that is no. The Commission said yes. The motion was seconded by Commissioner Rogers.

ROLL CALL:

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

The motion carried 5-0.

**Agenda Item 17. Request for a letter of support for a plan to re-build the Sunrise Apartment Complex by the Lake Wales Housing Authority**

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

[begin agenda memo, prepared by Tony Otte, City Manager]

**SYNOPSIS**

Officials from the Lake Wales Housing Authority have asked that the City provide a letter of support for their current plan to rebuild the Sunrise Apartment Complex.

**RECOMMENDATION**

City staff does not have enough information at this time to make a recommendation. Staff will gather information and expects to make a recommendation at the meeting.

**BACKGROUND**

The Sunrise apartment complex was built about 35 years ago in the block between Spook Hill, Spook Hill Elementary School, Burns Ave, and Old Scenic Highway. The apartment buildings were suffering from structural defects before Hurricane Charley in 2004, and they were severely damaged from Charley and the other hurricanes that year. The Lake Wales Housing Authority (LWHA) had the entire complex evacuated and demolished after the 2004 hurricane season.

Since that time LWHA has been working on plans to re-build the complex. Several years ago LWHA presented a package of plans and financing to the City Commission that involved partnering with a private firm, but those plans were not implemented. LWHA now has a new plan and has requested a letter of support. A project description and draft letter of support have been provided by LWHA and are attached.

City staff is supportive of the re-building of Sunrise. When the complex was evacuated and demolished, many Lake Wales families were displaced and it was said that some families were re-located to other public housing in Tampa. This was extremely disruptive for family members seeking to continue their employment, schooling, and community ties.

The additional information for the project to be requested by City staff will include specifics on the proposed relationship between the LWHA and the private firm being brought in as a developer. In the

earlier proposal, the private firm being brought in would have been given 99% equity in the ownership of the completed complex, a provision which was heavily questioned.

## **OPTIONS**

Do not provide a letter of support.

## **FISCAL IMPACT**

The re-building of the Sunrise complex will have a fiscal impact on the City in the provision of basic municipal services including police and fire. There will also be revenue from utility customers.

[end agenda memo]

Mr. Otte read a brief report from the Planning & Development Department concerning a meeting they had on April 3 with Norstar developer Richard Cavalieri, and Stephen McConn with Chaistain Skillman, regarding a conceptual plan for the redevelopment of the Housing Authority property known as Sunrise, a 17 acre site. He said that as the letter states, a letter of support would not constitute final approval. A PDP, Planned Development Plan, approval by the Commission, will be required. Mr. Otte said that he and planning staff would like to make it very clear that a letter of support is not an approval of a plan.

Al Kirkland, Housing Authority Director, said they are requesting a letter of support for the disposition of the Sunrise property. A disposition would allow them to go forward to HUD requesting that they turn the property over to the Housing Authority to dispose of it so they can carry out this development. He said they could not move forward without it.

Mr. Cavalieri gave a PowerPoint presentation to describe their project. He said there would be three phases to the development. The first phase would consist of 72 family units beginning in 2010, the second phase would probably be a senior phase beginning in 2011, and the third phase would begin in 2012. He said that they are required to put in full handicapped accessibility in 15% of the units. Mr. Cavalieri said that the phasing is a feature of the financing plan through the state. This development is only for 62 years and older seniors who meet the 60% median or below income requirement. There would also be an emergency evacuation plan in place that will be posted on every door.

Commissioner Rogers asked if there would be any compensation to the City for fire and police protection. Mr. Cavalier said unless there is a PILOT in place, they would not be paying any taxes. Ms. Delmar said currently there is a PILOT. Mr. Cavalieri said they would adhere to it.

Mr. Otte asked if the Housing Authority would have 100% equity when the project is done. Mr. Cavalieri said they have a land lease with the Housing Authority. There will be a development partnership between the Housing Authority and Norstar, and it will be a separate development entity. Norstar would have to guarantee the project moving forward for a minimum 15 years. The tax credit period is normally 10 years and then an additional 5 years beyond that. The Housing Authority would get a share of the developer fee. After the 15 years, the property would revert to the Housing Authority.

Commissioner Thornhill said the Commission is only being asked to authorize the City to provide a letter of support to the Housing Authority for the rebuilding of Sunrise. Mr. Otte said that he does not want to give the impression that we have approved a plan. So, he would recommend that we approve an intent to develop etc., but back away from the specifics. Mr. Otte said that he would like to move forward with this. He recommended that the Commission authorize staff to negotiate the letter, so it would not bind us to a certain plan.

Commissioner Howell asked about modifying the draft letter a little. Mr. Cavalieri said that the draft letter of support provided to the Commission was developed by the attorneys for the Housing Authority and Norstar, and he would not know the legality of modifying it. He said that he does not know the timeframe of submitting the letter but he could come back to the City and discuss whatever problem there may be.



Commissioner Wheeler said that according to the draft letter, it doesn't bind the City to anything other than writing a letter.

Mayor Van Sickle said the direction to Mr. Otte and staff should be to address the letter to the developer and make sure that our City Attorney has looked at it to see if any changes need to be made.

Commissioner Howell said she would like the letter to be written as soon as possible so we do not miss any dead lines like in the past. Mr. Cavaliere said the deadline for submitting the letter to HUD is May 26. Mr. Kirkland said it takes HUD a 100 days to review everything before giving an approval, and because of that time period he would not want it to conflict with any tax credits. Mr. Otte said he could have the letter by the end of the week. He said to let the record show that the City has not missed any deadlines. Commissioner Howell said she does not want another deadline extended after the project has gotten this far.

Commissioner Wheeler made a motion to authorize the City Manager to draft a letter of support along the guidelines agreed upon by staff, and to do so as quickly as possible. The motion was seconded by Commissioner Howell.

ROLL CALL:

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

The motion carried 5-0.

**Agenda Item 18. Appointments – Parks & Community Appearance Advisory Board**

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

[begin agenda memo, prepared by Clara VanBlargan, City Clerk]

**SYNOPSIS**

Appointments will fill vacant positions on the Parks & Community Appearance Advisory Board.

**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.

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

Two (2) vacancies:                           One term expires 07/01/09; partial term  
  One term expires 07/01/10; partial term

Applying for Appointment:                  Charles James Fairchild, resident  
  Todd Ullum, resident

Vacancies are due to one position that was never filled and a position vacated by Rob DiPardo.

**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]

Mayor Van Sickle appointed Charles James Fairchild to serve as a member on the Parks and Community Appearance Advisory Board for a term to expire on 07/01/09 and Todd Ullum to serve on the Parks and Community Appearance Advisory Board for a term to expire on 07/01/10. Commissioners Wheeler and Rogers confirmed the appointments made by the Mayor.

All "AYE"; All "NAY"  
The motion carried 5-0.

**CONSENT AGENDA**

**Agenda Item 19.           Award of Contract - Financial Advisory Services**

Mr. Otte read the synopsis for Agenda Item 19. The full staff memo is incorporated into the minutes.

[begin agenda memo, prepared by Dorothy Pendergrass, Director of Finance]

**SYNOPSIS**

Contract with Public Financial Management, Inc. for financial advisory services.

**STAFF RECOMMENDATION**

Authorize the City Manager to execute the proposed agreements with Public Financial Management, Inc. (The PFM Group) for provision of financial advisory services.

**BACKGROUND**

On October 29, 2003, the City Commission approved the selection of William R. Hough & Company as the City's financial advisor. The City Commission authorized the City Manager to execute the initial service agreement with an ending date of November 4, 2004, renewal each year thereafter.

On February 17, 2009, the City issued a request for proposal for financial advisory services. The PFM Group and First Southwest Company submitted proposals. A selection committee selected the PFM Group for recommendation to provide financial advisory services to the City.

The attached financial advisory agreement is for five years and the agreement may be renewed thereafter by the City upon written notice to the financial advisor and written acceptance of the same. In addition,

either party may cancel and terminate the agreement upon thirty (30) days' written notice to the other party.

The agreement authorizes the PFM Group act as Financial Advisor to the City. Upon request, the PFM Group may assist, evaluate, and advise Staff regarding:

- The development of capital plan and financial policies
- Review of existing debt structure and review of the capital budget
- Analyze future debt capacity and identify financing alternatives
- Develop and monitor financing schedule and analyze structure alternatives
- Recommend a negotiated or competitive sale, assist issuer in selecting working group members and procuring services for underwriter selection
- Work with members of working group to develop financing terms, develop financing documents, coordinate the marketing of bonds, and assist with rating agency presentations and assist with the pricing of bonds and bond closing.

As Financial Advisor they will be available to attend meetings and participate in conference calls and conferences with City personnel and other consultants.

**FISCAL IMPACT**

**City Debt Issuance Services**

For tasks outlined in EXHIBIT A of the contract related to debt issuance, FINANCIAL ADVISOR shall be compensated based on the following fee schedule for advisory services on debt transactions including bonds, notes, loans, capital leases, and other debt obligations (whether taxable or tax-exempt, fixed rate or variable rate).

TRANSACTION (\$000)	FEE SCHEDULE
Debt Transaction 1 – 20,000	\$.95/\$1,000 amount par
Debt Transaction 20,001 - 40,000	\$.80/\$1,000 amount par
Debt Transaction 40,001	\$.65/\$1,000 amount par
Minimum Debt Transaction Fee	\$17,500

These contingent fees are subject to a minimum fee of \$17,500 per bond/bank issue. For multi-purpose debt transactions, such as combined new money and refunding, the above fee schedule would be multiplied by 150%.

Negotiated and competitive transactions are billed at the same rate. Refunding issues will also be billed in accordance to the schedule above, with the exception of a \$2,500 addition for extra services required for refunding. Notes (Bank Loans) and other financing that require a limited scope of services will be billed at 60% of the bond fees referenced above subject to a minimum fee of \$12,500.

For non-transactional services as specified in the Scope of Services, the following hourly rates shall be paid for the indicated levels of experience or their equivalents.

<b><u>Experience Level</u></b>	<b><u>Hourly Rate</u></b>
Managing Director & Senior Managing Consultant	\$190.00
Consultant	\$180.00

Administrative Staff \$125.00

**Structured Products, Investment Advisory, and Arbitrage Rebate Services**

The financial advisory compensation proposed above does not apply to services related to procurements of bond proceeds investments, investment management, or arbitrage rebate. Fees for these special services shall be negotiated as a function of the complexity of the proposed engagement and the specific scope of services outlined. PFM Asset Management, LLC, registered investment advisor, is prepared to offer the City its full range of investment management and arbitrage rebate compliance services. This might include the procurement of structured investment products or other investment securities for a bond construction account or refunding escrow. If needed, PFM Asset Management, LLC, would perform these services pursuant to a separately negotiated letter agreement. PFM Asset Management, LLC fully discloses all fees related to any transaction.

**Swaps**

Swaps used as debt management tools would also be subject to a negotiated fee schedule depending on the size and complexity of the transaction. Swap transactions would be executed by PFM Asset Management LLC subject to a letter agreement.

**Incidental Expenses**

FINANCIAL ADVISOR will be reimbursed for incidentals (out of pocket expenses) at cost by the CITY according to the following schedule:

<b>INCIDENTAL EXPENSES</b>	<b>FEE SCHEDULE</b>
Photocopies	\$0.10 per page for Black & White \$1.00 per page for Color
Faxes	\$1.00 per page
Long Distance Telephone and Conference Calls	At Cost
Travel	In accordance with F.S. 112.061
Mileage (Out of City)	In accordance with F.S. 112.061
Postage, Courier, Overnight Delivery	At Cost

[end memo]

**Agenda Item 20 Award of Contract - Utility Payment Processing Software and Hardware**

Mr. Otte read the synopsis for Agenda Item 20. The full staff memo is incorporated into the minutes.

[begin agenda memo, prepared by Dorothy Pendergrass, Director of Finance]

**SYNOPSIS**

Purchase software and hardware from ProfitStars for utility payment processing which will enable electronic transmission directly into the City's utility billing software and also create a cash transmittal letter for direct electronic transfer of data to the city bank for instance deposit for funds.

## **STAFF RECOMMENDATION**

Authorize the City Manager to execute the proposed agreements with ProfitStars for purchase of software, hardware and annual software license fees.

## **BACKGROUND**

The City currently processes utility payments, received through the mail, using a labor intensive data entry process. With the use of the requested software and hardware, it is estimated that the new process would have a cost saving in labor of 3.5 hours per day. An estimated annual saving of \$12,936.

The new process would also enable direct transfer of electronic data to the bank. This would decrease the amount of float time from the time a check is received by the city to the time those funds are deposited in the City bank accounts.

February 12, 2009, the City requested quote for utility payment processing software. The City received eight proposals. ProfitStars was selected by the Finance Director based on ability to meet the City's needs and also ProfitStars proposal had the lowest cost.

## **FISCAL IMPACT**

Software and hardware purchase \$7,425 and annual software fees \$1,160.

[end agenda memo]

## **Agenda Item 21.           Contract – FDOT Highway Lighting, Maintenance and Compensation Agreement**

Mr. Otte read the synopsis for Agenda Item 21. The full staff memo is incorporated into the minutes.

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

## **SYNOPSIS**

In 2005, the City Commission approved Resolution 2005-15 authorizing the City of Lake Wales and the Florida Department of Transportation to enter into an agreement for the City to maintain state highway lighting in the jurisdictional boundaries of the City. The agreement provides the City with compensation of \$46,763.52 for the maintenance of 317 highway lights.

## **RECOMMENDATION**

Staff recommends that the City Commission approve the State Highway Lighting, Maintenance and Compensation Agreement between the City of Lake Wales and Florida Department of Transportation.

## **BACKGROUND**

In May 2005 the City Commission approved Resolution 2005-15, a resolution authorizing the mayor to execute on behalf of the City an agreement between the City of Lake Wales and the State of Florida Department of Transportation to maintain state highway lighting in the jurisdictional boundaries of the City. This agreement provides the City with compensation of \$46,763.52 for maintenance of 317 highway lights (\$163.91 per light). This is 90% compensation for the 317 lights ( $\$163.91 \times 317 = \$51,959.47 \times 90\% = \$46,763.52$ ).

Maintenance for 2008 was \$19,654.00.

Energy cost for 2008 was \$96,678.00.

## **FISCAL IMPACT**

The Florida Department of Transportation State Highway Lighting, Maintenance and Compensation agreement funds the current budget of \$10,000.00 for light maintenance.

This amount does not fully cover our annual energy cost. It is a partial compensation to supplement our annual cost.

If we do not accept the agreement, the City will lose compensation in the amount of \$46,763.52 in energy compensation.

## **OTHER OPTIONS**

Do not accept the agreement.

[end agenda memo]

## **Agenda Item 22. Contract - Services with the Lake Wales Housing Authority**

Mr. Otte read the synopsis for Agenda Item 22. The full staff memo is incorporated into the minutes.

[begin agenda memo, prepared by Herbert Gillis, Chief of Police]

## **SYNOPSIS**

Commissioners will consider approving a contract with the Lake Wales Housing Authority to provide specialized law enforcement services at the Grove Manor public housing complex and recommendation of funding to create a full-time police officer position

## **RECOMMENDATION**

It is recommended that the City Commission:

Authorize the City Manager to execute the Contract for Services with the Lake Wales Housing Authority.

Approve amending the 2008/2009 CRA Operating Budget to recognize revenue from the Lake Wales Housing Authority for the amount of \$17,088 and authorize an expenditure of \$34,176 for an additional law enforcement position in the Community Policing Unit.

## **BACKGROUND**

Community policing originated in Lake Wales when law enforcement officers were partnered with the Lake Wales Housing Authority to remove crime and disorder from the Grove Manor and Sunrise Park public housing complexes. Working with the Lake Wales Housing Authority and residents, officers not only removed crime and disorder, they forged a partnership that has evolved into the current community policing philosophy of the Lake Wales Police Department. Unfortunately, funding from the Lake Wales Housing Authority for a community policing officer was eliminated some years ago.

Today, the Sunrise Park public housing complex stands to be rebuilt after it was destroyed in the 2004 Hurricane Season. The Grove Manor public housing complex will soon be revitalized. Unfortunately, a number of factors may lead to an increase in crime at the Grove Manor public housing complex in the near future. First, the declining economy and an unemployment rate at 10 percent may result in an increase of violent crime, including assault and robbery. Second, the formulation of rival criminal street gangs, specifically the B Street Boys and the Group Home Boys, has resulted in large fights at the Grove Manor public housing complex.

The Lake Wales Housing Authority has a duty to safeguard the health and safety of their residents. To fulfill this obligation, the Lake Wales Housing Authority Board is cooperating with the Lake Wales Police Department to remove crime and disorder from the Grove Manor public housing complex.

At the April 15, 2009 Lake Wales Housing Authority Board meeting, members instructed the Executive Director, Al Kirkland, to present a Contract for Services for consideration at a special meeting.

At an April 22, 2009 Lake Wales Housing Authority Board special meeting, the Contract for Services was approved contingent upon the availability of funds during the Housing Authority's Fiscal Year beginning July 2009 through June 2010. The Contract would reimburse the Community Redevelopment Agency for personnel costs totaling \$2,136 each month.

Understanding the importance of safeguarding the health and safety of the residents of the Grove Manor public housing complex, the City Manager and the Chief of Police respectfully request the City Commission to approve amending the 2008/2009 Operating Budget to add an additional officer to the Community Policing Unit. This will require the CRA to contribute \$17,088 toward the cost of the additional officer. This is the equivalent of a 50 percent match, with the remaining 50 percent contributed by the Lake Wales Housing Authority Board.

### **OPTIONS**

The City Commission may vote against approval of the Contract for Services with the Lake Wales Housing Authority.

### **FISCAL IMPACT**

The 2008/2009 Operating Budget will recognize revenue from the Lake Wales Housing Authority for the amount of \$17,088 and add an expenditure of \$34,176 for an additional law enforcement officer position in the Community Policing Unit as outlined by the attachment. The cost to the CRA will be \$17,088. If approved, the operating budget will be amended to recognize revenue and set expenditures as appropriate.

[end agenda memo]

### **Agenda Item 23. Contract - MXU Transmitter Purchase**

Mr. Otte read the synopsis for Agenda Item 23. The full staff memo is incorporated into the minutes.

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

### **SYNOPSIS**

Purchase of 400 additional MXU transmitters for installation on approximately 800 meters.

### **BACKGROUND**

It is recommended that the City Commission:

1. Approve the expenditure of \$58,000.00 for the purchase of 400 additional MXU transmitters.

### **BACKGROUND**

For several years City staff members have discussed with vendors the possibility of switching to an automatic meter reader system. Over the past few years water meter company representatives encouraged City staff to switch the entire system at once, which would require a great expense up Those vendors brought in financing companies and laid out plans for us to borrow about \$1 million to retro-fit the

system. City staff rejected that plan. In its place, City staff developed a different plan – one that the company representatives criticized as not being the industry standard - for implementing this new technology. The City plan has several steps:

- 1) Requiring all water meters installed for new buildings be "touch read" ready;
- 2) Replacing worn-out meters with radio read meters; and gradually, over a number of years, retro-fitting existing meters to "touch read" ready;
- 3) When an area is ready for "radio read", changing each meter from touch read to radio read – a simple procedure that takes very little time per meter.

The current budget has funds allocated for the implementation of these water meter improvements. In addition, these improvements were noted when the City Commission changed the pricing for the installation of water meters (Ordinance 2007-06).

The City has been requiring new developments to purchase the touch read meters as noted in step one. Step two is underway, with the majority of meters in Lake Ashton, Carlsberg, Dinner Lake, and Brookshire already converted to touch read. (These areas were selected as being the furthest away from City Hall.) The City Commission at its April 4, 2008 commission meeting approved the purchase of the FlexNet Meter Reading system. City staff has installed approximately 600 MXU's which have the capability to service up to 1200 meters. City staff has successfully billed for the past two months 892 meters on the newly installed radio read system. City staff is now ready to purchase 400 additional MXU transmitters for installation by the utilities field personnel. These 400 transmitters have the potential to service 800 additional meters.

Sensus Metering Systems is considered a sole source in this situation in that they are the original manufacturer of the meters and software and they use HD Supply Waterworks, LTD, as their sole subcontractors.

#### **OPTIONS**

To not expand the system to radio read or abandon the implementation of the system would miss the opportunity to maximize the efficiency of the system as planned.

#### **FISCAL IMPACT**

The current budget has funds budgeted for this program in the Water Operations budget, for meter change outs and retro-fitting existing meters. The original budgeted amount was \$252,000. There is currently \$133,552 remaining in this budget line item.

[end agenda memo]

#### **Agenda Item 24. Change Orders – Southside Elevated Storage Tank**

Mr. Otte read the synopsis for Agenda Item 24. The full staff memo is incorporated into the minutes.

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

#### **SYNOPSIS**

Two change orders to cover the cost of the installation of an aviation light at the top of the tower and installation of a ladder security gate at the base of the tower.

#### **RECOMMENDATION**

It is recommended that the City Commission:



1. Accept change order 1 in the amount of \$1,200.00 from Phoenix Fabricators and Erectors, Inc in relation to the construction of the Southside Elevated Storage Tank.
2. Accept change order 2 in the amount of \$22,810.00 from Phoenix Fabricators and Erectors, Inc in relation to the construction of the Southside Elevated Storage Tank.

## **BACKGROUND**

Two sealed bids were received from contractors on 5/20/08 and reviewed by Boyle Engineering. The two bidders for the construction of this project were as follows. Phoenix Fabricators and Erectors, Inc of Avon, Indiana submitted a Lump Sum bid of \$1,132,670.00 to perform the specified work. Close Construction, Inc. of Okeechobee, Florida submitted a Lump Sum bid of \$1,244,600.00 to perform the specified work to include installation of a tank to be furnished and installed by Mosley and Sons Construction of Stuart, Florida as a subcontractor. Close Construction, Inc. also submitted an unsolicited alternate bid for an alternate style elevated storage tank using a concrete base column topped by a glass coated bolted steel storage tank of the same volume for the lump sum price of \$1,750,000.00.

During the construction of the new elevated storage tower it was discovered by staff that the installation of an aviation light and a ladder security gate had not been included in the original bid. Staff then requested for the contractor to supply pricing in the form of two change orders, one to represent the cost to install the security gate and one to represent the cost of the installation of the aviation light. With the addition of these two change orders the final cost of construction increases by \$24,010.00, bringing the total for construction to \$1,156,680. Although the total cost of construction increases, Phoenix's total to complete construction is still lower than the other received bid.

## **OPTIONS**

None. The aviation lights and ladder security gate are necessary components to ensure the safety of the public and staff.

## **FISCAL IMPACT**

\$1,500,000.00 was budgeted for this construction and is included in the CRA Bond.

[end agenda memo]

## **Agenda Item 25. Change Orders – LMR Construction**

Mr. Otte read the synopsis for Agenda Item 25. The full staff memo is incorporated into the minutes.

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

## **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.

## **RECOMMENDATION**

It is recommended that the City Commission:

1. Accept quote 1 in the amount of \$98,703.00 from LMR Construction, Inc for sliplining rehabilitation of the sewer lines south of Lake Altamaha.
2. Accept quote 2 in the amount of \$29,120.00 LMR Construction, Inc for sliplining rehabilitation of the sewer lines in Washington Avenue area.

3. 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 in the CRA bond area. This work is being 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 that we continue using 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.

The locations included in these change orders would include repairs to the sanitary sewer lines and manholes between south of Lake Altamaha and Hwy 27 and the Washington Avenue areas. The repair work consists of cleaning, chain cutting, and lining of 2,172 lf of 8, 10, and 16 inch gravity sewer line, reinstating 14 residential sewer services and lining of the four manholes in the above mentioned repair area.

## **OPTIONS**

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

## **FISCAL IMPACT**

\$570,000 over a period of two budget years was 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]

## **END CONSENT AGENDA**

Mayor Van Sickle pulled Agenda Items 22 and 25 for separate discussion.

Commissioner Howell made a motion to approve the Consent Agenda excluding Agenda Items 22 and 25. The motion was seconded by Commissioner Thornhill.

### **ROLL CALL:**

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

The motion carried 5-0.

Mayor Van Sickle said that Agenda Item 25 would be discussed first.

## **Agenda Item 25. Change Orders – LMR Construction**

Mr. Otte read the synopsis and the staff recommendation for Agenda Item 25.

Mayor Van Sickle said that he does not like change order contracts. He said that 2007 prices are not the best price. It looks as though we are trying to match the number of feet of pipe that we are actually repairing to the amount of dollars that we have. Mayor Van Sickle asked if we have an estimate of how many feet of pipe that need to be replaced. Sarah Kirkland, Utilities Project Manager, said no, but she does have a list of streets that have not been repaired. Mayor Van Sickle said in the future, instead of doing change orders, he would like to see a complete contract where we are asking for a cost of doing repairs, and then breaking that up into Options 1, 2 & 3. Then based on that, we can set up a method where we do the repairs, as the money becomes available. This way, we would be replacing all the pipe as we get the funding versus replacing the pipe with the amount of money that we currently have.

Mr. Otte said we are taking an existing unit price and applying that to areas we know that need to be sliplined. Mayor Van Sickle said that concerns him.

Commissioner Howell suggested looking at the blueprints for Lake Wales to see how the pipe is laid and then go by that. Mayor Van Sickle said that could be a way of doing it, but not all pipes in Lake Wales can be identified on our blueprints.

Mr. Otte said if it is the direction of the Commission, staff could go back out to bid. Mayor Van Sickle said he just wanted to present his philosophy on contracts the way he would like to see it done in the future.

Ms. Kirkland said that the prices are the same as two years ago. This is a new contract that was just negotiated with LMR and a company that they are going to subcontract with for the same type of work.

Mayor Van Sickle asked if this is the same contract that we have been doing change orders for. Ms. Kirkland said no.

Commissioner Howell made a motion to accept Quote 1 in the amount of \$98,703.00 from LMR Construction, Inc for sliplining rehabilitation of the sewer lines south of Lake Altamaha, accept Quote 2 in the amount of \$29,120.00 from LMR Construction, Inc for sliplining rehabilitation of the sewer lines in the Washington Avenue area, and to authorize the City Manager to execute the appropriate documents, on the City's behalf, in regards to this project. The motion was seconded by Commissioner Rogers.

ROLL CALL:

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

The motion carried 5-0.

**Agenda Item 22. Contract - Services with the Lake Wales Housing Authority**

Mr. Otte read the synopsis and the staff recommendation for Agenda Item 22.

Mayor Van Sickle opened this item up to public comments.

Booker Young, 201 N. Wiltshire, asked that this item be tabled to the next regular City Commission meeting to allow him more time to present his statistics. He said the statistics that are being presented tonight are incorrect.

Commissioner Howell said she does not think the item should be postponed. There have been resident and regular meetings held regarding this topic. She said about four years ago, Mr. Young had a work-up

about getting more police officers at the Housing Authority and was trying to push that through. Now, there is a board member that lives in Grove Manor who is asking for immediate help. Commissioner Howell said she does not see a need to postpone this item when the residents are concerned for their safety.

Commissioner Wheeler asked Mr. Young the source of his statistics. Mr. Young said the statistics are from the Police Department and the statistics that are being presented now are not correct.

Commissioner Wheeler asked if this has been voted on by the Housing Authority Board. Commissioner Howell said yes, the Board voted for the Lake Wales police officers, so they can help bring in discipline to Grove Manor.

Fay Farrell, a resident of Grove Manor, said that there has been a big problem at Grove Manor for a very long time. She said she does not know why Mr. Young would say differently, especially when he is not a resident there.

Commissioner Thornhill asked if there is a way that police officers could know who lives in Grove Manor so persons who do not live there could be asked to leave. Chief Gillis said the Executive Director of the Housing Authority recently provided them with a list of residents for that purpose.

Commissioner Howell made a motion to authorize the City Manager to execute the Contract for Services with the Lake Wales Housing Authority and to approve amending the 2008/2009 CRA Operating Budget to recognize revenue from the Lake Wales Housing Authority for the amount of \$17,088 and authorize an expenditure of \$34,176 for an additional law enforcement position in the Community Policing Unit. The motion was seconded by Commissioner Wheeler.

#### ROLL CALL:

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

The motion carried 4-1.

Commissioner Rogers said he had to vote no because Mr. Young had requested a continuance of two weeks, and he did not think that was unreasonable.

### **COMMUNICATIONS AND PETITION**

#### **CITY COMMISSION TRACKING REPORT**

SR 60 Medians: Mr. Otte reported that he believes that FDOT has scheduled a meeting to take place within the next two weeks with staff to review their recommendations.

WHAT Payment: Mr. Otte said there has been one update with the Winter Haven Area Transit System, but not regarding a payment. There has been a request from the Library Director, Tina Peak, for an amendment to their bus route to come through town, go past the PCC campus downtown and the Library, and then continue to go back up through Grove Manor. He said that WHAT staff are considering the request.

Moving of the Veteran's Monument: Mr. Otte reported that there will be a ribbon cutting for the monument on Memorial Day, May 25, at 3:00 p.m. Mayor Van Sickle asked if it had been verified that ROTC from the Lake Wales High School would be able to participate. Mr. Otte said he called them but they have not called him back. He said he would follow up on that.

### **CITY COMMISSION COMMENT**

Commissioner Thornhill thanked everyone for the honor of being their Commissioner for the next four years.

Commissioner Howell said there are potholes on Wildabon Avenue that need to be repaired.

### **CITIZEN COMMENT**

Mayor Van Sickle said he would entertain individuals to speak, but we are not going to have everybody speaking on the same subject. So, if you are saying something that has already been said, please don't speak because we will be here all night.

Jean Scott, 306 Townsend Avenue, thanked Jerry Torrance, Asst. to the City Manager, and his staff for getting APAC to pave the roads at the Cemetery. Ms. Scott commented on the monument. She said it was a great idea that the VFW had, but unfortunately, they had no funds. She said that we need to thank all the companies that volunteered their services to make it all happen. She also thanked Mr. Otte and his staff for their hard work in getting the many things done that were long over due.

Ruth Dampier, 1154 S. Lakeshore Blvd., asked when the bricks would be on sale. Mayor Van Sickle said that is currently being reviewed by the City Manager's office. The Mayor said that the account has already been set up, he has negotiated a contract with an engraving company, and the bricks will be put on sale for \$35.00. He said we are looking for the bricks to go on sale within weeks, and something would be in the newspaper about it.

David Smith, president of the Lake Wales Branch of the NAACP, said he heard what was said about saying the same thing, but there are a lot of people that would like to speak tonight in reference to Burney Hayes. It will be the same thing and not the same person. There are people outside of the Commission Chambers trying to get in. He commented that they are sitting on a "heart attack" and would like to be heard.

Mayor Van Sickle said there are several issues. This Commission can not speak on an on-going investigation. He said that he is not going to listen to many people, but he will listen to a couple of people. This Commission is not going to stay here 3 minutes timed for 100 people, because we would be here most of the night. Mr. Smith said these people spend their money in Lake Wales, and times are hard. We need for these people to be head, and we do not want them taking their money somewhere else. Mayor Van Sickle said he is not sure what the money has to do with the issue that is being brought up. He asked Mr. Smith to make his comments and he would listen, but he is not going to listen to the same thing over and over when this Commission cannot respond to that issue. He said he is sorry, but the Commission is not going to do it.

Don Brown, 3<sup>rd</sup> Vice-President of the Florida State Conference of the NAACP Branches, thanked the Commission for allowing him to speak to them, and congratulated the new Commissioners. He said what brings him here is a simple fact and he is here because he is watching a community about to implode. It is centered around Burney Hayes and what has happened to him over a period of time. He has read articles in the paper talking about his organization that sometimes disgusts him because they are not members and they do not know anything about them, and he resents that. What's going on in the LWPD is tantamount to cronyism. An anonymous letter sent to state attorney was what brought this all up. He said he spoke with the State Attorney, he pulls no punches, and he is here to say what he really feels. Mr. Brown said he hopes the Commission would really listen, because that is something we don't do very well, and sometimes he is guilty of that himself. A man's career is on the line because of racist innuendoes, and allegations of sexual impropriety. The black community should have the advantage of having the same treatment as other communities. He said he does not want the advantage of being first or to be treated in a particular way. Black people in this community need the advantage sometimes. But, if the allegations are correct he is asking that the City be fair with the black community. He would like the

black community to have an advantage, which is not to always be the first one to be dwelt with unfairly. They would like to have an advantage that with the same thing that is perpetrated by everyone else in the police department that they get the get the same treatment. Allegations have been stated about the Chief. Nothing happened. The City Manager did nothing. If you're going to do it to one, then do it to all. Even a notarized statement that a Captain in LWPD cursed the Chief and nothing was done, why is Burney treated different. If you are going to do it to one, do it to all

Pastor James Cleare, 110 C Street, said this is one of the saddest days in his life to have to speak to this issue. He has talked to the Chief about the need for sensitivity and cultural diversity training. Chief listened, but nothing was done. The Police Department has spun out of control. The way that situation has been handled is atrocious. The attitude and hubris of some involved is unacceptable. Pastor Cleare said he understands the position of the Commission, but if the Commissioners had examined files the way he has, they would be sickened.

Marshall Hartley, Herb Gillis's father-in-law, said he has known Chief Gillis about four years, and he is not a racist and he is not prejudiced. This is a bad situation, but Chief Gillis did not know what else to do. Mr. Heartly said they had dinner with a black person last night. They're looking for a scapegoat.

Teawanda Copeland said she would like to speak on behalf of her son Alante regarding his Uncle Burney. She said that she feels the allegations toward him are false, she was at that football game, and it was blown out of proportion. She said Burney would never do anything to physically harm her child. If it wasn't for police officers like him her son would be out on Lincoln Avenue getting into trouble. Ms. Copeland said Burney is a mentor for all children, he loves children and that has always been his passion, and he would never harm a child.

Mayor Van Sickle said he was not going to entertain any more comments, he got the feel, he has read the papers, he has seen the comments, he knows Officer Hayes, but it has to work out through the State.

Commissioner Howell said she does understand that we do not have to listen to every comment, but she does remember when she was younger when there was turmoil in the City. Someone at that time had to stand up trying to get the City to pay attention to what was going on in the community. During that time, the barns started burning down because it was so explosive and so necessary for people to talk and to be heard. The Commission cannot do anything about it and it is sad that we could not do something about it a month or two months ago. She said she does not want to hear everyone, but she does believe sometimes you have to say something and if not you know what is going to happen. It can get very explosive when people cannot just say something. Commissioner Howell said she is in favor of leaving every meeting early as well as others, but we need to listen to a couple of people if there is something in their hearts that they have to say if it is not regurgitating what someone else has said.

Mayor Van Sickle said he grew up in Washington D.C., he was there in 1968 when it burned and he understands what he can do. He was there in 1963 when the march took place, which he understands was out of hate, he has seen things change, but the community has got to keep it under control. We as individuals who care have to get out there and not allow things to explode. Everyone has an opinion, everybody should be able to voice their opinion, but not to a point that things are going to explode. If that is the case, we are not hurting anyone but ourselves.

Mayor Van Sickle asked the Commission if they would like to accept more comments. Commissioner Wheeler said that if you do not allow people to express themselves it would bottle up a lot of emotion. That is not good for any community. He said he remembers when things used to go on and lot of it happened because people didn't feel like they were being heard. Mayor Wheeler said he would sit here all night if he has too to let everybody talk.

Commissioner Thornhill said he is fine with listening to some more comments if it is within the time limits, but if it going to be the same continual thing he would just like certain people to speak.

Commissioner Rogers said he does not have a problem with people speaking as long as it is new information.

Mayor Van Sickle opened the floor up for another 15 minutes.

Clifford James Morgan, former student in Lake Wales, said that Coach Hayes has inspired him and he is a role model. He said that because of Coach Hayes, he has turned into a positive person with a bright future.

Beverly Harris, 117 Washington Avenue, said she was having trouble with her son when they first moved here. Officer Hayes turned her son around and she has had no more trouble with him. She said that other people in the community also need Officer Hayes. Ms. Harris said if you get rid of Officer Hayes then Lake Wales is in trouble.

Janet Bradley, said her husband is a 30 year educator in Polk County. She then asked if people in the hall could come in and listen. Mayor Van Sickle said there are safety requirements and asked what the capacity was for the room. Fire Chief Jerry Brown said about 98 persons. He said based on how many people are in the room now about 30 people could come in. Some of them may have to stand against the wall or at the door. Ms. Bradley continued and said that Burney is a product of his environment. He was taught to have discipline and respect by Coach Bradley. A person can be charged for putting a board on somebody, but there are hundreds of people that say to Coach Bradley that if Burney had not laid the wood on them, they would either be in jail, on the streets or in the grave yard. She said she has a son that has been incarcerated for 12 years, but that did not stop Burney from trying to save him. Ms. Bradley said that she understands that the FCAT scores help determine how many for prisons we are going to build. So, some of us need Burney Hayes to help them. People love and respect him, and they will do anything for him. She said that Burney stood up for their young people. Although their fathers were locked up, Burney was a role model for their young men. Burney is a father and a father to other people, and we don't want to see him lose everything.

Rondell Walsh said Mr. Hayes was a role model, who motivates your determination.

Bobby Lee said he is an athlete and he was born and raised here. He said that he remembers when the first black female was introduced on the Lake Wales Police Department. It made history, but it did not last long. Mr. Lee said the City is talking about closing the gap between the Police Department and the community, but this is not a good way to start. He said the one thing he can say about black boys is that black boys need black men. There is no person in Lake Wales who has done for the young men in Lake Wales what Burney has done.

Earl Gerelle, Winter Haven, said he met Burney Hayes 12 years ago when he lived on Townsend Avenue in Lake Wales. A lot of things have been omitted in the newspapers about Burney, one of which was that over the last four years, 49 kids have gone to college through an organization that Burney is heading up. He said show him a coach in Lake Wales that have sent 49 kids to college in the last four years. Mr. Gerelle said do not let a few mistakes cost a man his life. He urged the Commission to support Burney Hayes.

Erica Bell, said her son, James Bell, will be graduating from Villanova University because of Burney Hayes. She said she has not met any man who has been such a good influence as Burney Hayes. Ms. Bell said she trusts her son with Burney even if meant biting, punching, stepping on his head or whatever else it takes to make her son a good man. She said that what you have in this community, no other community has. It makes no sense that this type of thing is happening to a man who is doing so much for the community. As it said in the newspaper today, "If you don't stand for something, you will fall for anything." If you do not stand up for somebody who has done so much for his community, then you will lose the best thing that has happened to the black community in Lake Wales.

Rev. J.J. Pierce, Pastor of 1<sup>st</sup> Institutional Baptist Church & founder of Unity in the Community (UIC), said that when he first heard how the City had handled Burney Hayes he took the diplomatic approach and

quickly called UIC. This is an organization designed to build race relations among the great divide of our community. He said they appealed to Chief Gillis and the City Manager and asked them to reconsider the decision about Burney long before it got to this point. Chief Gillis had nothing but accolades and appreciation, and he valued Burney's work ethic. Chief Gillis had said that Burney is a fine person and a friend, and what he experienced in his office, the venting, was out of character for Burney. Burney was working under stress and trying to make things happen with small amounts of funds, and shortfalls. Pastor Pierce said for these reasons, why would you not think that a man of this caliber would deserve a second chance. A good officer like this, who makes a mistake, certainly deserves a second chance. The measures taken did not fit the crime. He would think that Chief Gillis would reconsider his decision. The very man who has the final word, City Manager Tony Otte, whom we appeal to was sitting in the midst and heard everything that everyone else heard. One would think that the City Manager for the sake of justice and fairness would have overrode that decision. Where is humanity in leadership?

Susan Yeoman, 342 E Seminole Avenue, said she is a 5<sup>th</sup> grade teach at Spookhill Elementary School and a VOICE volunteer at the Lake Wales Police Department. She said she came today for a completely different reason, but she is leaving with a history lesson. The saddest thing she heard in her life tonight was that FCAT scores determine if a person goes to prison. How unfair is that? She said she would love to be on a committee to help close the gap. If a bus is going somewhere, don't leave her behind.

Mr. Otte said that after listening to everybody, he would like to make a comment because he is not sure that everybody understands something. There were two incidents referred to here. Pastor Pierce referred to one that involved the demotion of the rank of Burney Hayes. He said the report on that is available to anybody who would like to see it. But, the other thing we talked about the most was the incident with Alante and TC coming forward. Mr. Otte said he would like everyone to know that the police received a complaint about that, took action, talked to TC, and then decided to do nothing, to drop it. Then the State Attorney became involved through an anonymous letter he said he received. On April 20, we knew the State Attorney was doing something. So, on April 20, he, Chief Gillis, and Human Resources Director, Sandra Davis, went to State Attorney Jerry Hill, who Mr. Otte had never met before, to sit down with him because he wanted Mr. Hill to know what we thought. Mr. Otte said this was all his idea. We told Mr. Hill we wanted Burney to remain a Lake Wales Police Officer, and that is in concert with our previous actions - we did nothing with the complaint with Alante. Mr. Otte said he told Mr. Hill that we love Burney, we don't Burney to go anywhere, and we don't want anything to happen to Burney because we do realize what we have. Mr. Hill said this is a very serious matter, he is taking it very seriously, and that they will wrap their investigation up soon. So, that is where we are today.

There being no further business, the meeting was adjourned.

  
Mayor/Commissioner

ATTEST:

  
City Clerk



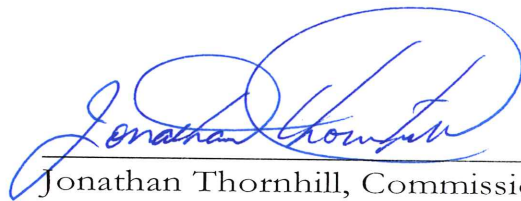
City of Lake Wales  
**COMMISSIONER'S OATH**

"I, Jonathan Thornhill, do solemnly swear that I will support, protect and defend the Constitution and Government of the United States and of the State of Florida;

that I am duly qualified to hold office under the Constitution of the State;

and that I will well and faithfully perform the duties of Commissioner for the City of Lake Wales in the office of which I am now about to enter,

So help me God."



Jonathan Thornhill, Commissioner

May 5, 2009

2009-222 A

City of Lake Wales  
**COMMISSIONER'S OATH**

"I, Terrye Y. Howell, do solemnly swear that I will support, protect and defend the Constitution and Government of the United States and of the State of Florida;

that I am duly qualified to hold office under the Constitution of the State;

and that I will well and faithfully perform the duties of Commissioner for the City of Lake Wales in the office of which I am now about to enter,

So help me God."

  
\_\_\_\_\_  
Terrye Y. Howell, Commissioner

May 5, 2009

2009-222 B

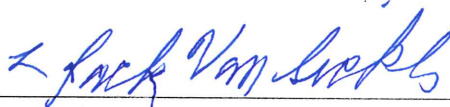
City of Lake Wales  
**MAYOR'S OATH**

"I, L. Jack Van Sickle, do solemnly swear that I will support, protect and defend the Constitution and Government of the United States and of the State of Florida;

that I am duly qualified to hold office under the Constitution of the State;

and that I will well and faithfully perform the duties of Mayor for the City of Lake Wales in the office of which I am now about to enter,

So help me God."



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L. Jack Van Sickle, Mayor  
May 5, 2009

2009-222 C