

The regular meeting of the Lake Wales City Commission was held on May 19, 2009 at 6:00 p.m. in the Commission Chambers at the Municipal Administration Building. The meeting was called to order by Mayor L. Jack Van Sickle.

INVOCATION

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

PLEDGE OF ALLEGIANCE

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

COMMISSIONERS ABSENT: None.

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

Agenda Item 4. APPROVAL OF MINUTES

Commissioner Howell made a motion to approve the minutes of the April 28, 2009 workshop meeting and the May 5, 2009 regular meeting to include a name change from Teawanda Copeland to Teawanda Collins under Communications and Petitions. The motion was seconded by Commissioner Rogers.

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

MAYOR

Agenda Item 5. PROCLAMATION: Memorial Day, May 25, 2009

Mayor Van Sickle read a proclamation proclaiming May 25, 2009 as "Memorial Day." A representative of VFW Post #2420, Lake Wales, Florida accepted the proclamation.

CITY MANAGER

Agenda Item 6. Ordinance 2009-14, Amendment to Alcoholic Beverage Regulations 1st Reading & Public Hearing

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

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

SYNOPSIS

Amendments to the zoning and alcoholic beverage sections of the city code will allow the city commission to approve special exception use permits in the C-1 Downtown Commercial Districts for bars limited to wine and beer. The amendment was prompted by City Commission discussion at the April 28, 2009 workshop of a proposal by James Hahn for a private club on Park Ave. The code currently allows alcoholic beverages to be consumed only at a restaurant.

RECOMMENDATION

Staff recommends the approval of Ordinance 2009-14 on first reading if the City Commission wishes to allow wine and beer consumption at establishments in the C-1 zoning districts.

A public hearing is required and has been advertised. An ordinance that changes the list of permitted and special exception use permits requires a public hearing at both first and second readings.

BACKGROUND

At the workshop on April 28, 2009, City Commissioners indicated that they would like to consider amending the code to allow businesses other than restaurants to serve wine and beer downtown. The proposed ordinance is designed to allow City Commission discretion to approve such businesses, through the special exception use permit process, in the C-1 Downtown Commercial Districts only.

The C-1 districts are shown on the attached zoning maps and are described below:

- Downtown boundaries – Generally between Wetmore and the Scenic Highway south of Sessoms/Crystal to the alley south of Central Ave. Also includes the area between the Scenic Highway and Crystal Lake south from Sessoms to Park Ave.
- Lincoln Ave. area boundaries – Generally 4-6 lots north and south of Lincoln Ave. between E Street and the railroad

The code now allows alcohol to be consumed at restaurants (defined as deriving at least 51% of their revenue from food). There is also a prohibition of sale or consumption of alcoholic beverages within 500 feet of a church or school. Restaurants are exempt from the distance requirement. The ordinance adds an exemption for wine and beer bars because in the compact C-1 districts it would be very difficult to locate an establishment that meets the distance rule.

The ordinance accomplishes the following:

1. Allows application for wine and beer bars in the C-1 districts only (downtown and Lincoln Ave. area – See zoning map attached.).
2. Requires City Commission approval through a public hearing and review process with specific criteria to determine if the proposed business is appropriate in the specific location. The Commission may deny the application if it finds that it does not meet the approval criteria or may impose conditions on hours of operation, maximum capacity, etc. with an approval.
3. Exempts wine and beer bars from the requirement to be located 500 feet or more from a church or school.
4. Eliminates duplication of language in Chapter 5 (Alcoholic Beverages) and Chapter 23 (Zoning) by deleting the distance rule from Chapter 23.

Note that all alcoholic beverage license application forms must be signed off for zoning compliance before being issued by the state. Sec. 23-342 authorizes the administrative official (director of planning and development) to approve the location of an establishment "engaged in alcoholic beverage sales" provided that it meets the requirements of code.

The amendments will not allow bars that serve liquor or change the requirement for restaurants holding full bar (4COP-SRX liquor, wine and beer) licenses from meeting the requirement for 51% of revenue from food.

FISCAL IMPACT

Allowing wine and beer bars will help stimulate activity and economic growth in the downtown districts.

OTHER OPTIONS

There are several other options.

- Make no changes to the code.

- Make wine and beer bars subject to the distance rule. This would make it difficult to locate a bar because of the number of churches in and near the districts, including store-front churches.
- Allow wine and beer bars in other commercial districts. There was a recent request from a business outside of the C-1 districts for a permit to serve wine. It could not be approved because the business was not a restaurant; there was also a store-front church close by.
- Allow wine and beer bars by right (permitted use) rather than by special exception use permit. This would eliminate the requirement for City Commission approval.

[end agenda memo]

Ms. Delmar read Ordinance 2009-14 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING LAKE WALES CODE OF ORDINANCES, CHAPTER 5, ALCOHOLIC BEVERAGES AND CHAPTER 23, ZONING, LAND USE AND DEVELOPMENT REGULATIONS; DEFINING "BARS, WINE AND BEER"; ALLOWING WINE AND BEER BARS IN THE C-1 DOWNTOWN COMMERCIAL DISTRICTS BY SPECIAL EXCEPTION USE PERMIT WITH CITY COMMISSION APPROVAL; EXEMPTING WINE AND BEER BARS FROM THE PROHIBITION OF SALE OR CONSUMPTION WITHIN 500 FEET OF A CHURCH OR SCHOOL; AMENDING THE SPECIAL CONDITIONS FOR ALCOHOLIC BEVERAGE SALES; AMENDING THE PROCESS FOR SPECIAL EXCEPTION USE PERMITS TO REQUIRE CITY COMMISSION APPROVAL FOR WINE AND BEER BARS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Otte said that one of the things that this ordinance provides is that proposals come forward for these establishments and they can have special restrictions put on them. He said he suggested to Margaret Swanson, Planning & Development Director, in response to a comment made by Police Chief Herbert Gillis that we develop a standard restriction to be placed on all establishments within this regulation that allows for revocation of the permit under certain circumstances. For example, if there is an excessive number of police calls etc. at that establishment. This would be a standard that we would develop. Mr. Otte said this could be discussed at the June Workshop.

OPENED PUBLIC HEARING

There were no comments made by the public.

CLOSED PUBLIC HEARING

Commissioner Wheeler made a motion to approve Ordinance 2009-14 after first reading and public hearing. The motion was seconded by Commissioner Howell.

ROLL CALL:

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

The motion carried 5-0.

Agenda Item 7. Ordinance 2009-15, Chapter 23 Zoning, Amendments to Site Development Permit Requirements – 1st Reading

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

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

SYNOPSIS

The ordinance make adjustments to the requirements for application for a site development permit in the zoning regulations. The most significant change is to require a payment of 50% of the review fee upon application for a site development permit (engineered construction plans). The current ordinance requires only a token fee upon application and the full fee at the time of permit issuance. If project reviews are prolonged or projects cancelled, considerable staff time is expended without compensation.

RECOMMENDATION

Staff recommends approval on first reading of Ordinance 2009-15 amending Sec. 23-217 and 23-242 of the *Zoning, Land Use and Development Regulations* pertaining to the requirements for a site development permit application.

The Planning & Zoning Board reviewed proposed changes at its April 28, 2009 meeting and supports the amendments.

BACKGROUND

A site development permit authorizes site construction for a project and entails time-consuming review of detailed engineering plans. The planning and building staff coordinate the process, and several departments review plans and perform inspections, including utilities, streets, fire, planning, and building.

The amendments will accomplish the following:

- *Require 50% of the review fee upon application*
The most notable change is to require 50% of the review fee upon application for a site development permit. The current ordinance requires a relatively small fee (\$577.50 plus \$11.55 per acre over 5 acres) upon application and the full fee (2-1/2% of infrastructure costs excluding buildings) at the time of permit issuance.

The site development permit process is a long, detailed review taking up to a year in the best of times. Significant staff time is expended without compensation until the end of the process. In the past couple of years, the economic downturn has caused almost all of the residential projects to be put on hold in the middle of review, including Leoma's Landing, Forest Lake Townhomes, Sunset Development and Estates of Lake Wales. The City may never recoup the costs incurred for the reviews done to date.

An example of fees: a \$2.6 million residential development paid \$950 upon application and owes \$66,000 upon permit issuance. Under the new requirement, this type of development would pay \$33,000 to commence review and \$33,000 at permit issuance.

- *Require payment of 50% of the review fees for stalled projects that do not complete their site development permit process within a year of this amendment*
This amendment will require projects already in the system to pay 50% of the fee to continue review if the permit has not been issued by June 2010. Note that this does not penalize them, but changes the timing of payment. Applicants will be notified of this change upon passage of the ordinance.

The majority (62% by value) of the projects that have pending site development applications are now on hold. Outstanding fees for stalled projects total over \$500,000, and paid application fees total only \$12,250. Many of these projects have been in the process for well over two years and have undergone extensive reviews and revisions.

Of the "active" projects, Mayfair accounts for 92% of the value. Site development reviews began in November 2006. No permits have been issued, although the phase 1 permit has been ready to issue

since February 2007. Unpaid fees total \$293,400, and \$4,400 has been paid to date. The provision for stalled projects will apply to the nine phases currently under review if the permits are not issued by June 2010. The requirement for 50% payment upon application will be applicable to any new phases submitted for a site development permit.

Overall, projects currently in the site development permit process are valued at over \$33 million with unpaid permit fees of \$831,683. Paid application fees total only \$14,735. (See attached sheet "Status Site Development Permit Applications.")

- *Amends requirements for application package*
The list of information required with a site development permit application package is amended to add specifics on tree survey, lighting plan and other requirements. In addition, draft utility and utility capacity agreements, required for reservations of capacity, are added to the list.

FISCAL IMPACT

The amendments will require payment of fees to cover the expense of plans review by City staff in a timely manner.

OTHER OPTIONS

The City could continue to require payment at permit issuance or eliminate the requirement for stalled projects to pay the fee if not completed by June 2010.

[end agenda memo]

Ms. Delmar read Ordinance 2009-15 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING LAKE WALES CODE OF ORDINANCES, CHAPTER 23, ZONING, LAND USE AND DEVELOPMENT REGULATIONS, SECTION 23-217 AND 23-242 RELATING TO REQUIREMENTS FOR SITE DEVELOPMENT PERMIT APPLICATIONS; REQUIRING A PRELIMINARY CONSTRUCTION COST ESTIMATE; AMENDING LIST OF ITEMS REQUIRED IN APPLICATION PACKAGE; REQUIRING DRAFT UTILITY AND CAPACITY AGREEMENTS; REQUIRING 50% OF REVIEW FEE AT TIME OF APPLICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Howell asked if this ordinance would hamper commercial businesses coming to Lake Wales. Ms. Swanson explained that this does not change the fee itself. This only changes when the fee is collected. When business development was rapidly chugging along, we did not worry so much because we knew we would get the fee when the review was finished. With developments stalled, we are in a position with some of the developments where we have very little money paid at the beginning of the review. Then we spend hours and hours at various departments reviewing plans etc. and we don't get the money until the end of the process. If a development never picks up a permit, we will never get that money. This is just a change in the timing of that collection and it is based on the infrastructure cost of the development and not the building itself. The fee is not really in proportion necessarily to the size of the building but more or less the size of the site. So, large sites where you have a lot of roadways, pipes, sewer lift stations, etc. they will pay a much higher fee than a commercial development that is on a 1 acre or 1-1/2 acre lot. It is just timing that we are changing. Ms. Swanson said she forgot to provide the City Clerk with one of the attachments to this item "Status: Site Permit Applications, May 2009," but she does have them available tonight if anyone would like to have a copy.

Ms. Swanson said this is at the site construction stage. So, when the developers have their preliminary site plan or when a Subdivision PDP gets approved in a preliminary form, the next step is to do the very detailed engineering plans, which show where all the roads, pipes, lift stations are located. That has to be done for every development, but if you have a subdivision where they build all the roads and somebody

comes in and wants to build a house on one of those lots, the home builder would not get charged this fee. The fee has already been paid by the developer when developing the roads.

Commissioner Rogers made a motion to approve Ordinance 2009-15 after first reading. 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.

Agenda Item 8. Ordinance 2009-16, Plan Checking Fees, Amending Chapter 7, Buildings and Building Regulations – 1st Reading

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

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

SYNOPSIS

The amendment requires that plan checking fees are due upon permit application for commercial buildings. No change is proposed to the requirement that fees for residential buildings are due upon permit issuance. The amendment also removes old cross-references that are no longer valid and updates references to the Florida Building Code.

RECOMMENDATION

Staff recommends approval on first reading of Ordinance 2009-16 amending Chapter 7 sections 6, 26, and 201 of the Code of Ordinances pertaining to the requirements for a payment of plan checking fees for a building permit and references to the Florida Building Code.

BACKGROUND

Staff has performed plans review on a number of occasions where the contractor never came in to pick up and pay for the permit. In these cases the department has performed work without receiving compensation.

In an effort to support the financial stability of the building department, a change to the fee schedule is proposed for commercial projects. Commercial plan-checking fees will be due at the time the plans are submitted for review. Residential plan-checking fees will remain due at the time the building permit is issued. The fee in both cases is equal to one-half of the base building permit fee. This fee is calculated using the total valuation of the proposed project.

The amendment also specifies that the plan checking fee for revised plans is set at one-half the original plan-checking fee. For large commercial projects there can be multiple revisions to a plan that require full review every time they are resubmitted. The code currently allows for this additional review fee but the amount of the fee was not clearly stated. The amendment as written will correct this.

FISCAL IMPACT

The amendment will increase revenue for review of revised plans and will ensure that the City is compensated for plans review in cases where commercial permits are never picked up.

OPTIONS

City Commission could choose not to approve the amendment.

[end agenda memo]

Ms. Delmar read Ordinance 2009-16 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 7, BUILDINGS AND BUILDING REGULATIONS; AMENDING REQUIREMENTS FOR THE PAYMENT OF FEES FOR PLAN CHECKING FOR A BUILDING PERMIT; UPDATING REFERENCES TO THE FLORIDA BUILDING CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Mayor Van Sickle said that he has heard rumors, nothing that has been verified, that a lot of builders seem to not want to build in Lake Wales for some reason. He asked how our impact fees compare to our surrounding neighbors. Ms. Swanson said some of the complaints that she has heard are some of the developments or restaurants that have thought about moving to Lake Wales have been scared off more by the county impact fees or transportation impact fees than by city's impact fees. The county has been adjusting their impact fees. Ms. Swanson said that she does not think that our impact fees are way out of line. Every city's impact fees are based on their projected infrastructure cost. There are going to be differences. They have to be based on real numbers.

Mr. Otte said when compared to the other cities in the county at the time of adoption, we were not the highest, but we were probably in the upper third. Ms. Delmar said that was after we did the revision. We were far too low before we did the study.

Mayor Van Sickle said even though there is no growth right now, when it does start to happen again it would be nice if we could figure out some way to entice that commercial growth here versus letting it go somewhere else. Ms. Swanson said we have had a lot of commercial growth and it is still moving along.

Mr. Otte said that the CRA has given incentives in the past for commercial developments. That is a standard CRA process.

Commissioner Howell made a motion to approve Ordinance 2009-16 after first reading. The motion was seconded by Commissioner Wheeler.

ROLL CALL:

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

The motion carried 5-0.

Agenda Item 9. Ordinance 2009-17, Expanding Membership of CRA Board – 1st Reading

Mr. Otte said he had a meeting in the last two weeks with the Chamber's committee, which is called the CRA Steering Committee. They asked about having a workshop meeting on this topic and other CRA topics. He said that he would propose that this ordinance be tabled until sometime after the May 28, 2009 CRA Board meeting. Mr. Otte said he would invite the CRA Steering Committee to attend.

Commissioner Howell made a motion to table Agenda Item 9. The motion was seconded by Commissioner Wheeler.

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

Agenda Item 10. CDBG Grant Award
1. CDBG Grant Award Agreement
2. CDBG Contract Administrator

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

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

SYNOPSIS

City Commission consideration of the CDBG Grant Award Agreement of \$750,000.00 in grant funding and the designation of a Contract Administrator for the grant.

RECOMMENDATION

It is recommended that City Commission make the following motions:

1. The City Commission authorizes the City Manager to execute the CDBG Grant Award Agreement and other documents required for acceptance; and
2. The City Commission authorizes the designation of Andy Easton and Associates in partnership with Guardian Resource Management Inc. as Grant Administrator for the \$750,000.00 Commercial Revitalization Grant awarded the City of Lake Wales for a fee of NOT TO EXCEED THE NEGOTIATED FEE of \$43,000.00 for the services outlined in the submitted proposal; and authorize the City Manager to execute all documentation required for the Grant Administration.

BACKGROUND

CDBG Grant

On September 25, 2008, the City Commission approved a grant application to the Small Cities Community Development Block Grant Program for \$750,000. On September 11, 2008, the City Commission approved Resolution 2008-18 authorizing the City to use previously committed City funds for fire protection improvements as a local match for the application.

City staff has been notified that the City's application has been approved. This grant will be used to fund:

1. Three storefront façades - 218 Lincoln Avenue, \$18,500, 340 Lincoln Avenue, \$54,500 and 344 Lincoln Avenue, \$27,450 for a total amount of \$100,450. Because of time restraints a fourth storefront façade at 207 Lincoln Avenue, was included in the grant application as a contingency item (future need), which means that it will be addressed only if the other activities that the grant is paying for come in under budget;
2. \$331,390 for landscaping along Park, Stuart, and Central Avenues between Scenic Highway and First Street, within the downtown Historic District;
3. \$75,000 for a new parking lot at Lincoln Avenue and C Street,
4. \$150,000 for replacement lighting of the 42 lights on Lincoln Avenue,
5. \$33,160 for engineering (project inspection and related),
6. \$60,000 for grant administration. It is possible that the savings on the Fee Administration cost can be utilized on another project element.

The City Commission is being asked to authorize the execution of the standard CDNG grant agreement and related documents by the City Manager.

CDBG Grant Administration

It has become a standard practice for the City (and for many cities) to hire a grant administrator for the CDBG grants that are obtained through the state competitive program. Two responses were received from the advertisement for Request for Proposals for Community Block Grant Administration Services. The two responders are Andy Easton and Associates in partnership with Guardian Resource Management Inc. and Fred Fox Enterprises Inc.

A committee comprised of Ms. Bonnie Hodge, Purchasing Agent, Ms. Bridgett Denihan, Accounting Manager, Ms. Linda Kimbrough of Kimbrough and Associates, Consultant to the City for the Community Redevelopment Projects, and Harold Gallup, Director of Economic Development, met and ranked the proposals on five criteria and a weighed point system. The final scores ranked Andy Easton and Associates at 383 and Fred Fox and Associates at 344. The criteria are the same base criteria that have been consistently used by the City on CBDG Grants over the last five years. Based on the aforementioned the Committee has made its recommendation. The cost proposal from Fred Fox was \$14,000 less expensive than Andy Easton, and Mr. Easton has agreed to charge the lesser price. This is permitted by CDBG regulations.

OTHER OPTIONS

Do not approve the negotiated Proposal for Services.
Re-advertise for additional proposals

FISCAL IMPACT

City has received \$750,000.00 in CBDG Grants for specific projects at no cost to the City of Lake Wales.

[end agenda memo]

Commissioner Howell asked if the funds that we are saving would have to come out of what the grant was written for. Mr. Otte said from past experience we have some flexibility on what we can spend money on if the item is already in the grant and we are just changing the dollar amount from item to the next. He does not believe we can add items. Ms. Delmar said we have in the past been able to have excess funds reprogrammed but we had to apply to the CDBG agency, which they have generally approved. We have to go through a formal process. Mr. Otte asked if new items could be added to the grant. Mr. Torrance said that we can but we have to go through a process with the State agency to do it.

Commissioner Howell asked if they say no, could we revert it back to the original line item. Mr. Torrance said that is correct.

Mr. Otte said we had the Lincoln Avenue lighting included as a project in the CRA bond. When Andy Easton, grant consultant, was developing the application he said that Lincoln Avenue lighting could be included in the CDBG project. Mr. Otte said he told Mr. Easton to go ahead and do that because he would rather reprogram the CRA money to some other critical need such as resurfacing streets etc. Mr. Torrance said as soon as the CDBG is programmed in we are at a kind of holding pattern. We have some of the stuff coming for the lighting before we go out to bid for the painting of the existing lighting. So, when the CDBG money comes in we are able to reprogram what we originally had in the CRA bond toward another project within the bond. Mr. Otte asked if we could use CDBG money to paint the existing lights. Mr. Torrance said that Mr. Easton has not given us that answer yet. We are still checking on that.

Mayor Van Sickle said at the workshop meeting there was a parking lot mentioned that is located on First Street across from the City Barbershop. That parking lot is not listed as project. He asked if that parking lot was added by mistake. Mr. Otte said he would check on that. Ms. Delmar said she thinks it was listed

as an alternate if additional funds became available. She said there were a few projects listed at the bottom of the spreadsheet but she did not recall what they were. Mayor Van Sickle said in this document we are stating that there are four front facades on Lincoln Avenue of which we are proposing to do three based on the way the money has been allocated. If there is money left over, we can do that fourth one.

Mayor Van Sickle said we are projecting \$331,000 for landscaping along Park, Stuart, and Central Avenues between Scenic Highway and First Street. He said that is a whole lot of dollars, and he would rather pull dollars from there to finish all those facades on Lincoln Avenue. That way, we can hopefully get that area built up so we can get some kind of businesses in there. Mr. Torrance said we can do that as long as we are not creating something new.

Mr. Otte suggesting having Mr. Easton to attend the CRA Workshop meeting or the June 11 City Commission Workshop meeting to address those items. That is, if Mr. Easton is hired.

Mayor Van Sickle said he would rather use that money to benefit a lot more people. He said he is not opposed to flowers, but that seems like a lot of money.

Commissioner Thornhill asked what the \$331,000 includes. Mr. Torrance said he does not know because he has not yet looked at the design of that. Mr. Otte said the initial thought that he had was we could replace trees downtown and add more shade trees. That also involves moving some sidewalks and curves. He said we need to review the report that we got back from the landscape architect because some of the things in there are not really what we wanted. Mr. Otte said Ms. Swanson worked with the architect on the design. He then asked Ms. Swanson to report on that.

Ms. Swanson said she did not really work with the architect too much because we only had one initial meeting and then the next thing she knew we had a complete package. She said she has a problem with that package because it does not have a complete map of all the planters that they want to change out. The project includes Park, Stuart, and Central Avenues between First Street and Scenic Highway changing out a lot of the plants and planting some trees. Ms. Swanson said there are some things that she wants to get corrected that she asked the landscape architects to address that they did not address. This needs to be addressed before bidding the project out.

Mayor Van Sickle said we had a workshop on that but the Commission did not get any of that information. He said that in the future he would like the Commission to see that type of information before having the workshops. It is important to know exactly what that \$331,000 is going towards. Mayor Van Sickle said those three streets are not that long and if you pay a \$100 for a tree, there is no way in the world you could plant those trees and pay \$331,000. Ms. Swanson said you could not get a tree for \$100. We want something that is substantial in size at planting. She said that \$331,000 is a lot of money for that, so we would have to go over those figures to see exactly what we want to do with that money.

Mayor Van Sickle said that money would benefit the City more by using it to clean up an area a little more than spending a lot of the dollars on landscaping. The majority of the \$750,000 is the \$331,000 for landscaping.

Ms. Swanson said she had a meeting with the Main Street group and they are putting together a list of some issues with the sidewalks, the curves, etc. on those streets that need to be addressed. So, we may want to use some of the money for that if we are not going to spend it all on plants.

Commissioner Howell made a motion to authorize the City Manager to execute the CDBG Grant Award Agreement and other documents required for acceptance; and authorize the designation of Andy Easton and Associates in partnership with Guardian Resource Management Inc. as Grant Administrator for the \$750,000.00 Commercial Revitalization Grant awarded the City of Lake Wales for a fee of not to exceed the negotiated fee of \$43,000.00 for the services outlined in the submitted proposal; and authorize the City Manager to execute all documentation required for the Grant Administration. The motion was seconded by Commissioner Wheeler.

ROLL CALL:

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

The motion carried 5-0.

Agenda Item 11. Trail Design for the Section between Scenic Highway and Fourth Street

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

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

SYNOPSIS

City staff will provide a report at the meeting regarding FDOT staff recommendations on the trail section from Scenic Highway to Fourth Street.

RECOMMENDATION

City staff will provide a report at the meeting after the FDOT staff recommendation is received.

BACKGROUND

As discussed at the recent workshop, FDOT staff has notified City staff that funds are available to build the trail section from Scenic Highway to Fourth Street. City staff needs to ensure that the funding also provides for the proper mitigation of environmental concerns in the area. In addition, the route of the trail is uncertain at this point. Three different routes have been discussed:

1. North of the former railroad bed, alongside Kissimmee Ave;
2. In the rail bed; or
3. South of the rail bed.

City staff is waiting to hear from FDOT staff regarding their final recommendation, and an assurance that the funding proposed is adequate to complete the job; and if option 2 is chosen, that the funding includes provisions to properly mitigate the environmental concerns.

FDOT staff has notified City staff that the City has until June 1 to make a decision in this matter, or the deadline may be extended until after the June 2 Commission meeting. City staff is placing this item on the May 19 agenda in an abundance of caution, in case FDOT staff holds to the June 1 deadline, even though City staff does not yet have the FDOT staff recommendation as to the proposed route of the trail.

OPTIONS

Do not accept the funding offer.

FISCAL IMPACT

The funding offered was approximately \$155,000.

[end memo]

Mr. Torrance said at one of the recent workshops that our biggest concern was the contamination and mitigation of the contaminants on the proposed trail section between Fourth Street and Scenic Highway. In discussion with FDOT and their designers, and we received emails that reference this, they will address the mitigation in their design of the trail. That will become part of the construction. If there is an issue regarding contamination later, it will be because the City or someone else deviated from the original construction of the trail, such as to put in a park bench etc.

Commissioner Rogers asked if a match would be required. Mr. Torrance said no. He said the actual amount for the trail is \$159,000. The only thing we will be responsible for is maintenance to the trail. The maintenance agreement will be on the June 2 City Commission agenda. Commissioner Rogers asked if there would be a liability to the City. Mr. Torrance said there is always a liability just like with the rest of our parks.

Mayor Van Sickle said the City recently rented the property in front of the CSX building. In the agreement, it states that if we do anything on the trail the City is responsible for mitigating any of the environmental issues. If we signed and agreed to that, he would think that we would have to have something in writing to go along with their taking care of this problem because that document says it is the City's problem. Mr. Galloway said we probably have to have some kind of agreement between FDEP, or whoever has the title to that the property, and the City to address that.

Mayor Van Sickle said we do a lot of mowing around the community. He asked if we have the people to take on the mowing or would we have to hire some other people to do it. Mr. Torrance said with this construction there would be no mowing, because there will be vegetation that will not promote people to leave the asphalt of the trail. The maintenance will be very limited even more so than what we have on the other end of the trail.

Mr. Otte said we do need to ask FDOT to prohibit their contractor from using a vibratory compactor. Mr. Torrance said we have already talked to them about that and we let them know that we do not allow the use of vibratory rollers within the City limits.

Mr. Otte said we anticipate bringing to the next regular meeting the maintenance agreement on the trail.

Agenda Item 12. Approval to submit an SRF application for the June 1, 2009 cycle

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

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

SYNOPSIS

Staff is requesting commission approval to submit a completed SRF application for the June 1, 2009 funding cycle.

STAFF RECOMMENDATION

It is recommended that the City Commission:

1. Approve the submittal of an SRF application for the June 1, 2009 funding cycle.
2. Authorize the Mayor to execute the appropriate documents, on the City's behalf.

BACKGROUND

Commission approval was granted at the April 21, 2009 commission meeting for city staff to work with grant writer, Any Easton, in an effort to submit applications for both preconstruction and construction funds to aid in the waste water treatment plant rehabilitation and expansion in connection with the

addition of the Crooked Lake Waste Treatment Plant. DEP staff has decided to not fund any construction projects that did not have permits in place as of April 29, 2009. DEP was considering relaxing this rule, but they decided to stay with the requirement that the project needed to have its permits in place in order to be considered for funding. Since the Crooked Lake project did not have all of its permits, it could not be funded during this cycle.

The plan now is for DEP is to sell more bonds and then have another funding cycle for construction loan funds. The RFI deadline will be June 1, 2009. City staff has now obtained all applicable permits and requests City Commission approval to submit an SRF application in the June 1, 2009 funding cycle.

OPTIONS

Do not give staff approval to submit for SFR funds and in turn staff would be required to acquire other means of funding.

FISCAL IMPACT

The exact fiscal impact for this action, will depend upon how much money is borrowed.

[end agenda memo]

Mr. Otte reviewed Agenda Item 12.

Mayor Van Sickle said we were originally going to accept the Crooked Lake project so we could get more points for this funding. He asked if we were going in that direction because there are still a lot of unknowns in what that effort would cost the City. Mr. Otte said we are still going in that direction. This is not an acceptance of the money, this is only to get us in line to get money. He explained that before we accept the money we have to clear up what relationship we are going to have with the owner of that package plant.

Commissioner Rogers made a motion to approve the submittal of an SRF application for the June 1, 2009 funding cycle, and to authorize the Mayor to execute the appropriate documents, on the City's behalf. The motion was seconded by Commissioner Howell.

ROLL CALL:

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

The motion carried 5-0.

Agenda Item 13. Discussion of Financial Statements for April 30, 2009, Fiscal Year to Date

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

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

SYNOPSIS

The financial statements report revenues received and expenditures made since 10/1/2008. At the end of April we have completed 58.3% of the fiscal year; both revenues and expenditures are running behind target.

The unaudited financial statements for the City of Lake Wales for the Period Ending April 30, 2009 are presented to the City Commission for review. At the end of April, the City is 58.3% into the fiscal year. Fifteen of twenty-six payrolls (57.7%) have been expensed through April 30. Revenue and expenditure budgets have been adjusted to reflect both Budget Amendment #1 and #2.

SUMMARY

The following chart gives a brief summary of overall operating revenue and expenditure performance as of April 30, 2009. Capital expense funded by bond or loan proceeds and grants is excluded from the analysis:

General					
Revenues ¹	\$10,959,493	\$7,521,168	\$7,627,258	(\$106,090)	-1.0%
Expenditures ³	\$10,763,769	\$6,003,970	\$6,278,865	(\$274,895)	-2.6%
Special Revenue					
Revenues ¹	\$6,323,629	\$3,800,978	\$5,415,180	(\$1,614,202)	-25.5%
Expenditures ³	\$4,408,938	\$2,248,674	\$2,571,881	(\$323,207)	-7.3%
Debt Service					
Revenues ³	\$2,392,495	\$1,380,205	\$1,395,622	(\$15,417)	-0.6%
Expenditures ²	\$2,436,478	\$1,758,927	\$1,758,927	\$0	+0.0%
Utilities					
Revenues ¹	\$6,850,140	\$3,711,338	\$3,732,026	(\$20,688)	-0.3%
Expenditures ³	\$6,913,450	\$3,247,159	\$4,032,846	(\$785,687)	-11.4%
Airport					
Revenues ³	\$101,403	\$49,431	\$59,152	(\$9,721)	-9.6%
Expenditures ³	\$101,403	\$64,969	\$59,152	\$5,817	+5.7%

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

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

³ Target = 1/12 of budgeted amount multiplied by the number of months since the start of the fiscal year (October 1); i.e. at the end of April we are 7/12 into the fiscal year. This method assumes a relatively even distribution of expense or revenue from month to month.

In general, operating revenues in relation to budget are running behind where we would expect them to be at the end of seven months. There are a few areas of particular concern that we are watching.

Revenue estimates in the General Fund and Transportation Fund were revised downwards with Budget Amendment #1 and #2, and analysis of the financials at 4/30/09 is in relation to the amended budgets. These two funds are affected by shortfalls in the state budget which necessitated reduction of revenues shared with the cities (sales taxes and gas taxes). Revised state revenue projections at the end of March have resulted in an additional reduction of \$28,109 for the General Fund (Sales Tax, -\$23,632; Revenue Sharing, -\$4,477). We will continue to monitor the State's website for additional reductions in revenue projections as the fiscal year progresses. It is likely that additional downward revisions will be necessary.

Building permits and other development fees are running far behind target. By the end of April 2008, we had received \$264,997 from these sources (\$169,730 for building permits; \$95,157 for development permits). At the end of April 2009, we had only received a total of \$99,141 (\$86,487 for building permits; \$12,654 for development permits). This is slightly more than one-third the revenue from these sources

that was received in the prior year. Budget Amendment #2 reduced the budget for these revenues by 55.7% (-\$251,500). At the end of April, these revenues were only at 49.6% of the amended budget.

Water and sewer revenues at the end of April 2009 were \$10,539 behind where they were in April 2008 (water, -\$55,876; sewer, +\$45,337). If we use 58.3% of the fiscal year as the target level, however, water revenues were \$245,409 under target and sewer revenues were \$5,433 under target. This is a combined shortfall of \$250,842 compared to budget. Fortunately, operating expenditures are also running behind target at the end of April. Excluding project costs funded by CRA bond proceeds, Utility Fund expenditures were 11.4% or \$785,687 below the target level.

Operating expenditures in the General Fund are running 2.6% below target (-\$274,895), and operating expenditures in the other Funds are running behind target levels with the exception of the Airport Fund which is ahead of target (+\$5,817). Spending has been limited wherever possible because it is anticipated that expenditure budgets will have to be reduced if revenues continue to fall short of budgeted levels.

The City has not borrowed any money from the Pool/Tax Anticipation Investment Account. The balance at the end of the last fiscal year and the current balance are as follows:

	9/30/08	4/30/09	Difference
Pool/Tax Anticipation Investment Account	\$1,037,852	\$1,040,229	\$2,377

The City's overall cash position at the end of April 2009 has declined from the cash position at the end of April 2008 (-\$1,848,858). In order to make an accurate comparison, the following adjustments must be made:

	4/30/08	4/30/09	Difference
Total Cash & Investments	7,489,409	5,640,551	(1,848,858)
Due to Other Governments	(334,785)	(121,560)	
Insurance Proceeds & Other Airport Cash	(610,621)		
Deferred Revenues*	(507,229)	(411,373)	
Cash & Investments Net of Adjustments	6,036,774	5,107,618	(929,156)

*reflected in cash but restricted to a specific future expenditure (grant project, tree replacement fund, etc), at which time revenue will be recognized

After excluding cash that has been collected on behalf of other governments, unexpended Airport insurance proceeds, and deferred revenues, the City's overall cash position at the end of April 2009 was \$929,156 lower than at the end of April 2008.

In comparison to the cash position at March 31, 2009 of \$6,217,028, the April position shows a decline of \$1,109,410. This reduction was largely a result of the fact that ad valorem tax receipts have slowed down. In addition, customer utility deposits were reclassified as a restricted asset which had the effect of moving \$457,445 out of the cash & investments category on the balance sheet.

[end agenda memo]

CONSENT AGENDA

Agenda Item 14. Telecommunications Cost – Reduction Program

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

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

SYNOPSIS

Contract with Florida League of Cities for Telecommunication Cost-Reduction Program. An analysis and audit of all telecom voice, data, internet and long distance services and billing will be conducted.

RECOMMENDATION

Authorize the City Manager to execute the proposed agreements with Florida League of Cities for Telecommunication Cost-Reduction Program.

BACKGROUND

All local governments are facing reduced revenues and increased costs. This program has a proven history of significantly lowering telecom costs. The Florida League of Cities has selected an experienced team with a combined background in accounting and all aspects of telecommunications and networking.

The team will request complete copies of one month's of billing records for all telecom services, and copies of all contracts pertaining to voice, data, wireless, etc. The great majority of their work is done away from City premises. The team will be authorized to work directly with all service providers and will need only occasional time with city staff as they develop potential savings concepts.

FISCAL IMPACT

The program costs nothing, except for staff time to provide the information. If no saving occurs, there is no fee. The League's fees are 45% of actual savings for the first twelve months. For every \$2.00 saved by the City, the fee is \$0.90. After the first twelve months the City keeps 100% of the continuing savings, which may go on for years.

[end agenda memo]

Mr. Otte noted that he saw this item mentioned in correspondence from the League of Cities and Ms. Pendergrass has followed up on it.

Agenda Item 15. Edward Byrne Memorial Justice Assistance Grant Program (State Solicitation)

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

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

SYNOPSIS

The City Commission will consider authorizing the Chief of Police to apply for funding through the Edward Byrne Memorial Justice Assistance Grant Program to purchase advanced and specialized criminal justice information systems.

RECOMMENDATION

Staff recommends that the City Commission authorize the Police Department to execute an application to the Edward Byrne Memorial Justice Assistance Grant Program (State Solicitation).

BACKGROUND

The American Recovery and Reinvestment Act of 2009 provides an expansion of domestic spending, including law enforcement programs.

Since 2005, the Police Department has received funding from the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. The JAG provides a local and state solicitation. The local solicitation provides an award directly to the City of Lake Wales based on Uniform Crime Report (UCR) data. The state solicitation is a competitive process between local units of government in Polk County.

The JAG allows local units of government to support a broad range of activities to prevent and control crime based on their own local needs and conditions. The JAG provides agencies with the flexibility to prioritize and place justice funds where they are needed most. JAG funds can be used for local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support and information systems for law enforcement programs.

The JAG allocation obtained by the Police Department is \$74,000. If approved, the Police Department proposes to use JAG funds to purchase advanced and specialized criminal justice information systems to improve the effectiveness and efficiency of law enforcement services. Specifically, the Police Department will purchase 45 mobile data computers (MDCs) and related accessories, a bar code inventory control system for evidence, property and records management and a laser crash and crime scene mapping system.

Note: At the time this memorandum was completed, the online application through the Florida Department of Law Enforcement Office of Criminal Justice Grants was not available.

OTHER OPTIONS

The City Commission may choose not to authorize the Police Department to execute an application the Edward Byrne Justice Assistance Grant Program and reject the \$74,000. If rejected, the funding would be available to other local units of government in Polk County.

FISCAL IMPACT

The Edward Byrne Justice Assistance Grant Program does not require matching funds. If approved, the FY 2008/2009 Operating Budget would be amended to recognize additional revenue and expenditures accordingly.

[End agenda memo]

Commissioner Howell asked what happens to the old computers in the cars. Police Chief Herbert Gillis said that a majority of the computers would go into surplus and some will go to other City departments.

Commissioner Howell made a motion to approve the Consent Agenda. 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.

COMMUNICATIONS AND PETITION

CITY COMMISSION TRACKING REPORT

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. We now have the forms available for the purchase of the bricks, which are \$35.00 each.

Mayor Van Sickle welcomed everyone to attend the ribbon cutting.

CITIZEN COMMENT

Mimi Hardman, 300 S. Lake Shore Blvd., asked for an announcement of the guest speaker at the memorial ceremony. Mayor Van Sickle said it is General McLaughlin.

CITY COMMISSION COMMENT

Commissioner Howell said it is flooding again near Taylor Industrial Coating. Mr. Torrance there are two storm drains there that connect to each other, which is the problem. We have to get an engineer to look at that. He said now that we have some money in our bond that can be redirected, so that problem can be addressed.

Commissioner Rogers said that today he and Mr. Torrance found where the roof on the 1919 school building is leaking in about five places and a lot water is coming in from underneath the doors. They also noticed that the window frames need painting, plexiglass needs to be put on the windows to keep them from being knocked out, and the roof needs to be repaired. This building needs to be made water tight. The grant requires that we keep this property up. He said that he would like the Commission to authorize the roof to be repaired, and the building be made secure and water tight. Commissioner Rogers said he does not feel that we are going to be able to do much more with the building. Mr. Torrance said he already instructed the Supervisor of Maintenance to find out where the roof is leaking. He said this does not really require Commission approval because it falls under our normal maintenance.

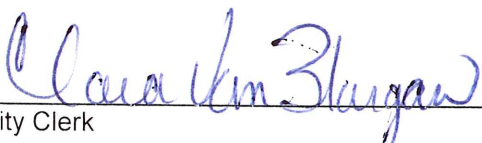
Mayor Van Sickle said he is concerned that the existing grant project is not completed. We need to find out exactly what needs to be done to complete it because that is where the roof leaks are located. The building has been sitting for months and nothing has been done. Mr. Torrance said he spoke with Ed Locke on Monday and he said that they would hop right on it, get the lexan on the windows, and get the building secured. Mayor Van Sickle asked if Mr. Locke was given a direction on when we wanted the proposal back. Mr. Otte said we need it back ASAP. Mr. Torrance said Mr. Locke is hoping to have that information back to us before the first meeting in June. Mayor Van Sickle said he would like a copy of the scope of work when it does come back.

There being no further business, the meeting was adjourned.



Mayor/Commissioner

ATTEST:



City Clerk