

The regular meeting of the Lake Wales City Commission was held on July 21, 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: Judith H. Delmar, Acting City Manager; Albert C. Galioway, Jr., City Attorney; Clara VanBlargan, City Clerk.

Ruth Dampier, vice president of Citizens for Good Government, conducted a drawing that she announced at the July 7, 2009 City Commission meeting. The three names that were drawn were James Foyer, Marian Mark, and Jacquie Hawkins. Each of the three winners will receive a check in the mail to purchase a paver brick donated by the Good Government group.

Agenda Item 4. APPROVAL OF MINUTES

Commissioner Howell made a motion to approve the minutes of the July 7, 2009 regular meeting. The motion was seconded by Commissioner Rogers.

By voice vote:

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

The motion carried 5-0

MAYOR

CONSENT AGENDA

Agenda Item 6. Bid Document for Force Main Pigging (Cleaning)

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Bonnie Hodge, Purchasing Agent]

SYNOPSIS

Staff is preparing to seek bids for Force Main Pigging and is requesting approval of the bid document.

RECOMMENDATION

It is recommended that the City Commission approve Bid Document #09-179, Invitation to Bid Force Main Pigging (Cleaning).

BACKGROUND

The Eagle Ridge Mall and Southside force mains require annual cleaning due to the length and flow conditions. Sediment such as sand, plastics and paper settle to the bottom of the pipe due to the low velocities of the liquid pushing the sediment. The method proposed for the cleaning of this section of force main is called the progressive poly pig procedure.

In the past, the City of Lake Wales has piggy-backed off of a master purchase agreement with Pinellas County, however, that contract expired in April 2009.

Staff has prepared Bid #09-179 for review by the Commission. Upon approval staff will advertise in the Winter Haven News Chief and the bid will be posted on the City's website. The bid document will be sent to qualified vendors on the City's vendor list.

[End agenda memo]

Agenda Item 7. Bid Document for Police Uniforms

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Bonnie Hodge, Purchasing Agent]

SYNOPSIS

Staff is preparing to seek bids for Police uniforms and is requesting approval of the bid document.

RECOMMENDATION

It is recommended that the City Commission approve Bid Document #09-180, Invitation to Bid Police Uniforms.

BACKGROUND

In the past, the Lake Wales Police Department has purchased their uniforms from Riverside Manufacturing utilizing a piggy-backed State contract. Riverside no longer has a contract with the State so it is necessary that the City of Lake Wales go out to bid.

Staff has prepared Bid # 09-180 for review by the Commission. Upon approval staff will advertise in the Winter Haven News Chief and the bid will be posted on the City's website. The bid document will be sent to uniform vendors on the City's vendor list.

[End agenda memo]

0Agenda Item 8. Bid Document for Electrical Installation of Emergency Generator

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Bonnie Hodge, Purchasing Agent]

SYNOPSIS

Staff is preparing to seek bids for Electrical Installation of an Emergency Generator at the High School Water Plant and is requesting approval of the bid document.

RECOMMENDATION

It is recommended that the City Commission approve the Bid Document #09-182 Invitation to Bid for Electrical Installation of an Emergency Generator at the Burns Avenue Water Plant.

BACKGROUND

Currently the Burns Avenue Water Plant emergency power system consists of a 500 KW generator purchased on October 23, 2008 and installed in January of 2009. This installation included the wiring and quick install to get the generator up and running due to the fact that the previous generator was inoperable. There are several items that still need to be completed as part of the electrical code to bring this generator into compliance. The power conversion (conduit wiring, panel boxes and audio and visual alarms) needs to be installed in order to conform to the state electrical code.

Staff has prepared Bid #09-182 for review by the Commission. Upon approval staff will advertise in the Winter Haven News Chief and the bid will be posted on the City's website. The bid document will be sent to qualified vendors on the City's vendor list.

[End agenda memo]

Agenda Item 9. T-hanger Rental Fees and Lease Agreements

The full staff memo is incorporated into the minutes.

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

SYNOPSIS

The Commission will consider waiving a \$10.85 per month increase in T-hanger rental fees that was not implemented during fiscal year 2008-2009 as required by city code section 3-33. The Commission will also consider requiring a review of T-hanger leases by the finance department before the signature of the Chairman of the Airport Authority.

RECOMMENDATION

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

1. Waive the \$10.95 per month increase in T-hanger rental fees that was inadvertently omitted from the lease agreements during fiscal year 2008-2009.
2. Require that the finance department review all T-hanger lease agreements before signature of the Chairman of the Airport Authority for compliance with City Code requirements.

BACKGROUND

In accordance with city code section 3-33, pertaining to airport rents and leases, T-hanger rental fees should have been increased on October 1, 2008 to a base rental fee of \$206.85 (\$197 x 5% per the June 2008 CPI). Due to a clerical error, however, the lease agreements only included \$196.00 as a base rental fee. The finance department recommends waiving the \$10.85 per month dollar increase for 2008-2009, but recommends that beginning on October 1, 2009 rental fees be calculated on a base fee of \$206.85, plus an increase based on June's annual CPI or two and one-half (2.5) percent, whichever is greater.

Current T-hanger lease agreements include the following language: "Notice for any rent increase will be sent to the TENANT by July 1st, to be effective on October 1st." This is notice requirement cannot be met because the June CPI is not available until August. This is a clerical issue that needs to be amended in the current lease agreements for compliance with City Code Section 3-33.

As a clerical matter, it was noted that the lease agreement have a signature line for the Chairman of the Lake Wales Airport Authority but none of the lease agreements were signed by the Chairman. Staff recommends that all T-hanger lease agreements be signed by the Chairman of the Airport Authority after a review by the finance department to insure compliance with the City Code.

FISCAL IMPACT

The waiver of \$10.85 per T-hanger per month for fiscal year 2008-2009 would be \$2,083.20. Cost of amendments to lease contracts relating notice of annual rental increase, review of T-hanger leases by the finance department and signature of the Chairman of the Airport Authority would be minimal.

[End agenda memo]

Agenda Item 10. Renewal of Agreement with Lake Wales Little League for Maintenance of Fields

The full staff memo is incorporated into the minutes.

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

SYNOPSIS

Staff is submitting for renewal the 2008-2009 Little League Agreement that provides for the City to pay the Little League \$60,000 in equal monthly installments for the care and maintenance of the Little League Fields. The agreement also provides that the Little League will reimburse the City for excessive use of electricity and requires that the Little League organization implement section 18-137 of the City Code with respect to league use of city-owned fields.

RECOMMENDATION

Staff recommends approval of the renewal of the agreement to begin retroactively on October 1, 2008 to expire on September 30, 2009. The agreement agrees to pay Little League \$60,000 to maintain the Little League Fields.

BACKGROUND

The City of Lake Wales, for the past several years, has entered into an agreement with the Lake Wales Little League to maintain the fields. This year, the agreement required negotiation of the following changes that delayed renewal of the contract:

1. Article IV was added to eliminate unnecessary or excessive use of field lighting. The City calculated the kilowatt hours used during FY07'08, applied a 10% reduction, and agreed to pay the charges for 156,00 kilowatts of annual usage. Charges for usage in excess of 156,000 kilowatts will be reimbursed to the City through a deduction from the final month's payment to the Little League. A chart showing Little League electricity usage for the period 10/1/07 through 9/30/08 is attached to the contract as Exhibit A.
2. Article IX was added to make the Lake Wales Little League, Inc. responsible for implementing Section 18-137 of the Lake Wales Code of Ordinances governing league use of city-owned fields. This means that they will collect a fee of \$4 participation fee from each player per person to play and remit the fees to the city. The participation fee will be utilized to offset the cost of utilities, maintenance, improvements and other costs associated with the operation of the fields. This is similar to County policy. Section 18-137 is attached to the contract as Exhibit B.

The agreement was approved by the Lake Wales Little League organization and executed by their

representative on May 18, 2009. Submittal of the agreement to the City Commission for ratification was inadvertently delayed until this time. The Little League has been performing the maintenance required by the contract and has been receiving its monthly installment payments as though last year's contract were still in effect.

OTHER OPTIONS

Do not ratify the agreement. The City will resume maintenance of the fields and pay all charges for electricity.

FISCAL IMPACT

\$60,000 is included in the adopted FY08'09 budget for this contract.

[End agenda memo]

Commissioner Rogers asked for discussion on Consent Agenda Item 9, T-hanger Rental Fees and Lease Agreements. He asked if the Airport Authority Board reviewed this item. Dorothy Pendergrass, Finance Director, said that when reviewing the T-hanger rentals she found a clerical error in the lease agreements. The amount stated in the agreements was lower than the amount stated in the ordinance. She said she would take this before the Airport Authority Board if that is the wish of the Commission. Commissioner Rogers said that would not be necessary.

Commissioner Howell said it states in Agenda Items 6, 7 & 8 that the bid documents would be advertised in the Winter Haven News Chief. She asked if the bid documents will be advertised in the Lake Wales News and Lakeland Ledger as well. Bonnie Hodge, Purchasing Agent, said they would not be but Ms. Delmar would also post the bids on the City's website.

Commissioner Wheeler asked if the bids would be advertised in the Lake Wales News. Ms. Hodge said she could do that. She said she would also notify all of the vendors registered with the City. Commissioner Wheeler said that the Lake Wales News is our local paper.

Commissioner Howell said each bid is for a different type of company. She asked if the bid forms would be standard in form, spelling out everything with no hidden costs. Ms. Hodge said the forms are specific to each different bid but they follow the scope of work as outlined in the bid document.

Mayor Van Sickle asked for discussion on Agenda Item 10, Renewal of Agreement with Lake Wales Little League for Maintenance of Fields. He said it looks as though we are contracting with Little League to pay them x-number of dollars for maintaining the field and to cap their electricity usage for lighting. Mayor Van Sickle said the period for this contract dates back to October 2008. He asked if this contract dropped through the cracks. Ms. Delmar said the contract had already been negotiated with the Little League and executed by their representative in May. It had inadvertently been omitted as an agenda item for Commission approval. Regarding the electricity consumption, it was agreed that the cost of excess usage would be deducted from the final contract payment of the year.

Mr. Galloway said that regarding the newspaper issue, you would not want to publish in both the Lake Wales News and the Winter Haven News Chief because it will cause the City to exceed its advertising budget. Ms. Delmar said that according to the statistics provided by both newspapers, circulation in Lake Wales is roughly the same. Commissioner Wheeler said he would rather use the Lake Wales News instead. Mayor Van Sickle said we could use the Lake Wales News now and then change back to the News Chief if the desired response to the bid advertisements is not received. Commissioner Thornhill asked if the price was the same for both papers. Ms. Hodge said it is comparable. Ms. Delmar asked if the Commission would like staff to advertise only in the Lake Wales News or in both newspapers. Commissioner Rogers said he would rather use our local paper. Mayor Van Sickle said try using the Lake Wales News first.

Commissioner Wheeler made a motion to approve the Consent Agenda as corrected. The motion was seconded by Commissioner Howell.

By voice vote:

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

The motion carried 5-0.

OLD BUSINESS

Agenda Item 11. Ordinance 2009-19, Revision of Chapter 15, Miscellaneous Offenses, Lake Wales Code of Ordinances – 2nd Reading and Public Hearing

Police Chief Herbert Gillis reviewed Agenda Item 11. The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Herbert Gillis, Police Chief]

SYNOPSIS

Amends Chapter 15, Miscellaneous Offenses, by adding Section 15-8 which requires retail sales establishments to provide fraud and retail theft training to their agents, attendants, employees or sales associates annually; Section 15-14 which prohibits aggressive panhandling and panhandling at specific locations; and Section 15-15 which authorizes a city employee to issue a trespass warning to a person that violates a state law, city ordinance, lawful command, regulation or rule at a City-owned building, complex, facility or park.

RECOMMENDATION

Staff recommends the City Commission approve Ordinance 2009-19 revising of Chapter 15, Miscellaneous Offenses, Lake Wales Code of Ordinances, on second reading after a public hearing.

BACKGROUND

The economic recession has resulted in an unemployment rate of 10.8 percent in Polk County. As a direct result, crime in Lake Wales increased 38.3 percent in 2008. Retail theft (shoplifting) offenses increased 72.2 percent in 2008. It is theorized that as disposable incomes decrease the theft of non-essential property will increase. To remove the opportunity for crime within our community, the Police Department recommends additional crime prevention measures are enacted. Accordingly, Chapter 15, Miscellaneous Offenses, Lake Wales Code of Ordinances, was amended to add or improve crime prevention measures. The revisions are summarized in detail as follows:

Section 15-8 Fraud and retail theft prevention training required: This section requires retail sales establishments to provide fraud and retail theft training to their agents, attendants, employees or sales associates annually. The penalty for a violation of this section is a fine of \$250.

Section 15-14 Panhandling: This section prohibits aggressive panhandling and panhandling within a specific zone, at a public library or any public building, within 50 feet of an automated teller machine or on private property unless authorized by an owner. The penalty for a violation of this section is arrest.

Section 15-15 Trespass warnings: This section authorizes a city employee to issue a trespass warning to a person that violates a state law, city ordinance, lawful command, regulation or rule at a City-owned building, complex, facility or park. Trespass warnings may be issued for a period of 1 to 2 years. The city manager or designee may authorize a person who has received a trespass warning to enter the City-owned building, complex, facility or park to exercise their First Amendment rights or to conduct necessary City business. This section does not contain a penalty.

OTHER OPTIONS

The Commission may choose not to approve the revision of Chapter 15, Miscellaneous Offenses, Lake Wales Code of Ordinances, on first reading.

FISCAL IMPACTS

This action will not require an expenditure of funds.

[End agenda memo]

Ms. VanBlargan read Ordinance 2009-19 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING CHAPTER 15, MISCELLANEOUS OFFENSES, ADDING SECTION 15-8, FRAUD AND RETAIL THEFT PREVENTION TRAINING REQUIRED; SECTION 15-14, PANHANDLING; SECTION 15-15 TRESPASS WARNINGS; ESTABLISHING PENALTIES; REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

David Smith, Babson Park, asked what actions would be taken by the employees regarding the issuance of trespass warnings. Police Chief Gillis said the employees would get the name of the violator, call the Police Department and tell them of the violation, and then the Police Department will contact that person. Mr. Smith asked if this would end up in any kind of court action. Chief Gillis said no, it is just a trespass warning. If the person is arrested for violation of the warning then that would go through the County court. Mr. Smith asked if the City employee would be covered under the City's workers compensation policy if something were to happen to them while issuing a trespass warning. Chief Gillis and Sandra Davis, Human Resources Director, said they would be covered as long as they are on the job.

Randy Feltrim (sp?), owner of a retail sales establishment, asked who would provide the fraud and retail theft prevention training. Police Chief Gillis said the Police Department would have a curriculum in place that meets all the requirements of the ordinance that a retail sales establishment can use at no charge. Mr. Feltrim asked if an employee had to be retrained every year. Chief Gillis said the retail sales establishment would only have to return the paperwork provided to them saying that they acknowledge and are complying.

CLOSED PUBLIC HEARING

Commissioner Howell made a motion to adopt Ordinance 2009-19 after second reading and public hearing. 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 12. Discussion of Revised FDOT Conceptual Plan for the Construction of a Median on State Road 60, from 11th Street going east to just west of Capps Road

Police Chief Herbert Gillis reviewed Agenda Item 12. The full staff memo is incorporated into the minutes.

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

SYNOPSIS

FDOT staff will be present to discuss the revised S.R. 60 median plan with the Commission and the public.

BACKGROUND

City staff asked FDOT to explore the construction of a grass median in this section of State Road 60 using federal highway safety funds. Following various public meetings on the project, FDOT staff made a few revisions to the original conceptual plan that was presented. The main revision was to add a left turn to the shopping area near Evergreen Drive as requested at the City Commission meeting last November.

Currently, this section of State Road 60 has an open, omni-directional turn lane. It is believed that highway safety would be improved with the construction of a grass median. The median would limit the ability of motorists to make turns. For example, the conceptual plan would allow turning movements as follows:

Open intersections allowing turns in any direction

- 11th Street
- 12th Street/the driveway just west of the Tractor Supply building
- 14th Street/the entrance to the Winn Dixie plaza
- Buck Moore Road/Hunt Brothers Road
- Lewis Griffin Road/Evergreen Drive
- Entrance to the Country Club/County Fire Station
- Hibiscus Drive

Limited access to driveways serving the following properties:

- McDonald's and the Orange Grove Plaza west driveway: right turns only
- Tractor Supply east driveway: right turns only
- 13th Street, Hamlin Street (Perkins and Race Track): right and left turn in, right turn out, no left turn out
- Most of the businesses on the north side of State Road 60 from 13th Street to 14th Street – right turns in and out only
- Walgreen's driveway: right turns in and out only
- Bank and All-Star Grill plaza driveways east of Buck Moore Road: right turns in and out only
- Wal-Mart and other businesses' driveway: right turns in and out only
- Orange Park Blvd.: right turns in and out, left turn in, no left turn out
- Tangelo Street: right and left turn in, right turn out, no left turn in
- Highland Drive, Shady Oak Avenue, Myrtle Avenue: right turns in and out only

- Driveways east of Lewis Griffin Road: right turns in and out only
- On the revised drawing, a left turn into the shopping area near Evergreen Drive

FDOT staff will be present at the City Commission meeting to address concerns and to answer questions.

VOICE Volunteers hand-delivered flyers to property owners and businesses within the project area.

[End agenda memo]

Mayor Van Sickle said this is agenda item is for informational purposes only.

Gary Amig, Access Management Safety Program Manager, gave a PowerPoint presentation explaining the SR 60 median project and gave a breakdown of the cost of the project: \$269,243 for design; \$1,732,206 for construction; and \$149,751 for construction support. He said that based on comments received at a presentation given to the City Commission on November 18, 2008 and at a public information meeting on February 19, 2009 at City Hall, the Florida Department of Transportation (FDOT) decided to install an emergency traffic signal at the Golfview Fire Station and Clubhouse Road, add a directional median opening into the retail center just west of Evergreen Drive and Lewis Griffin Road, add additional pavement at locations throughout the project where feasible for u-turns, and add a left turn lane for east bound motorists at Hibiscus Drive for u-turns. The design phase is scheduled for FY-09/10 and the construction phase is scheduled for FY-10/11.

Mr. Amig addressed questions and concerns of the Commission and business owners Marsha Brown and Ken Artail.

Agenda Item 13. Grant SC801 and Continued Work on the 1919 School Building

Ms. Delmar reviewed Agenda Item 13. The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Judith H. Delmar, Acting City Manager]

SYNOPSIS

The Commission will make decisions regarding the 1919 School Building that include: (1) termination or continuation of the contract with SEMCO, and (2) whether or not to return historic preservation grant SC801 in the amount of \$350,000 and use the CRA funding match of \$300,000 to close down the project by taking actions necessary to protect and preserve the work that has already been accomplished until future funding is available.

RECOMMENDATION

Staff recommends that the City Commission make a decision at this meeting regarding the future of grant SC801 and continuation of work on the 1919 school building.

If the City Commission wishes to move forward with grant SC801, it is staff's recommendation that SEMCO be retained as construction manager and that the scope of work submitted on December 30, 2008 be reduced to fit within the \$650,000 available and rebid to take advantage of current construction prices.

If the City Commission wishes to discontinue construction work on the 1919 school building and return SC801 to the state, it is staff's recommendation that the \$300,000 appropriated in FY08'09 as the local funding match be utilized for repair or replacement of the roof, repointing of the bricks, repair of the window frames and other work necessary to protect and preserve project elements already completed. It is staff's further recommendation that we go out to bid for a contractor to do this work.

BACKGROUND

At recent City Commission workshops the Commission expressed interest in terminating the contract with SEMCO, the general contractor who is currently serving as the construction manager for the 1919 building contract, and going out to bid for work to be accomplished by historic preservation grant SC801 (Phase 6).

At the same time, there has been discussion about stopping work on the project after completion of grant SC621 (Phase 5) and returning the \$350,000 grant SC801 to the State. The City has budgeted \$300,000 in CRA funds for the local match on SC801, and, if the grant is returned, it has been proposed that some of these matching funds could be used to fix roof leaks, deal with potential termite infestation, and take other actions necessary to protect and preserve the work that has already been accomplished. If any funds remain after completion of this work, they could be used for other CRA purposes.

Continuation of work on the 1919 School Building

Historic preservation grant SC801 was awarded to the City with a grant period starting on July 1, 2007 and ending on June 30, 2009. The \$350,000 in grant funding was encumbered on January 6, 2009, but no grant funds have actually been expended to date. On June 22, the ending date for the grant was extended to December 31, 2009. If it is the intention of the City Commission to keep historic preservation grant SC801, the following must be considered:

- 1) The grant funds and local matching funds must all be fully expended and the project must be completely closed out by December 31, 2009. No further extensions will be allowed.
- 2) The City "piggybacked" on SEMCO's contract with the County which has since expired. If the City desires to utilize SEMCO's services on SC801, a new contract should be negotiated or the City may "piggyback" on the latest SEMCO contract with the County.
- 3) If SEMCO is to be replaced as construction manager, we must allow a minimum of 60 days to advertise, complete the bid process, and award a contract to a new contractor. Prior to issuing the invitation to bid, Parlier Architects must revise the existing project design to provide biddable plans for the work to be funded by SC801 and the local match. Mr. Parlier has advised staff that it will take 2 to 3 weeks to develop a scope of services for this work and a minimum of 6 to 8 weeks to complete the biddable plans. The scope of services must be approved by the City Commission before Mr. Parlier will commence work on the plans. A best case scenario would have the plans ready to bid by late September and the contract ready to award by late November or early December. This best case scenario would allow 30 to 45 days to complete construction and close out the grant by the deadline.
- 4) Payment of fees for additional work by Parlier Architects are not part of the scope of work covered by SC801, and it will be necessary for either the General Fund or the CRA to pay this unbudgeted cost.
- 5) If a contract is awarded to a new contractor, a specific contract provision must be negotiated to deal with the issue of liability for work previously performed. The new contractor will have to accept the prior work or there will have to be some method of clearly identifying previously performed work for which the new contractor will have no liability.
- 6) If the Commission wishes to retain SEMCO as construction manager, work can commence on the project in 30 days if the scope of work submitted on December 30,

2008 is approved and the work is rebid. However, this scope of work has already been value-engineered with an estimated construction cost of \$1.1 million. Before rebidding, we must reduce the scope of work to fit within the \$650,000 available, and this modification and approval process will add about two weeks to the schedule. At the latest, construction could commence during the first week of September allowing approximately 120 days to complete construction and close out the grant.

If the City Commission wishes to move forward with grant SC801, it is staff's recommendation that SEMCO be retained as construction manager and that the scope of work submitted on December 30, 2008 be revised and rebid to obtain current construction market prices. This recommendation is based on staff's understanding that the grant project cannot otherwise be completed by the required deadline.

Discontinuation of work on the 1919 School Building

A further point to consider is the fact that after expenditure of the grant SC801 funds and the local matching funds (total \$650,000), money must be found to close down the project and protect the work already accomplished until future funding is available, either from public or private sources.

To moth-ball the project, whether grant SC801 is completed or not, funds must be found for repair of the roof, repair of the east wall (i.e., repointing of the bricks and resealing), and repair, resealing and repainting of the wood frames in the windows. Currently, the cost to stabilize and encapsulate the building envelope is estimated to be \$270,000. In addition, an ongoing operating budget must be appropriated for utilities, security, upkeep of the grounds, and maintenance of the building in accordance with grant covenants; this expense will be part of the recreation facilities budget in the General Fund.

If it is the intention of the City Commission to discontinue construction work on the 1919 building and return SC801 to the state, the \$300,000 appropriated in FY08'09 as the local match can be utilized to address the stabilization and encapsulation issues described above. It is staff's recommendation that this work be bid out with the goal of completing the work no later than the end of the calendar year.

FISCAL IMPACT

Discussed above.

OTHER OPTIONS

Various options have been identified as follows:

1. Retain grant SC801 and utilize SEMCO who, after reducing and rebidding the existing scope of work, will have approximately 120 days to complete the project before the December 30, 2009 deadline.
2. Retain grant SC801 and go out to bid for a new contractor who, after preparation of biddable plans, completion of the bid process and award of contract, will have approximately 30 to 45 days to complete the project before the December 30, 2009 deadline.
3. Return grant SC801 and utilize SEMCO to stabilize, encapsulate and close down the project to await future funding.
4. Return grant SC801 and go out to bid for a contractor to stabilize, encapsulate and close down the project to await future funding.

[End agenda memo]

Commissioner Wheeler said the City does not have the people or the money to operate a fine arts complex. Because the building probably has quite a bit of loan value to it, an organization could take

over it and borrow money to finish it up. This would get it out of the City's hands. If operated properly, it would stay open. If not operated properly, the organization could be shut down. He recommended keeping all the money received from the State, do as much as we can with it, and then start looking for a non-profit organization to take it over. This seems to be the only way to conclude this issue. If we terminate with Semco we would have to find somebody else, who would have to do a learning curve on the building. Therefore, we need to keep Semco, have them finish the building, and then find someone to take over the whole project.

Commissioner Thornhill asked if anyone ever approached Lake Wales asking to take over the project. Commissioner Wheeler said no. We probably would have to do the selling ourselves. Commissioner Thornhill said because we received the money and signed a covenant, we are responsible for the maintenance. Ms. Delmar said that is correct. Commissioner Thornhill asked who has been the overseer of this project. Ms. Delmar said the construction manager. Commissioner Thornhill said no, the City. Commissioner Thornhill asked who at the City is supposed to make sure that it is maintained. Ms. Delmar said facility management, but this is a construction site. Commissioner Thornhill asked how far behind are we in maintenance as far as time wise. Mr. Gallup said there is a series of events over the last decade where work had been done with no follow up maintenance, such as with the roof, windows, and ceilings. We have far exceeded any warranty that has existed. Whatever we spend today to enact any kind of turn over of this property in any kind of condition considering the economic market that we are in, is going to take some time. If we put this money in the building, we need to prepare to move forward in stabilizing the building to preserve the expenditures that have already occurred and that may occur with grant SC801. Whether we go forward or not, staff is recommending that we move forward in stabilizing the building. We are bound by covenants, so we have to preserve the building. The expenditure and condition of the building as far as maintenance is behind. If we move forward with this concept, we must program money now to move forward to keep up with what we do today. Ms. Delmar said she is not sure any alarm was raised in regards to the condition of the walls, but measures have been taken to correct the roof problems. She said, as the budget person, no one has ever told her to budget for maintenance. These expenditures apparently have been accumulating and now we have to deal with it.

Commissioner Thornhill said it is frustrating to see the amount of money that we have received and find that we have done a very poor job. He would hate to see the people that have gone out of their way to try to get this only to see the money returned to the State. We have done a very poor job. If we pull the plug now on Semco, it would probably cost us more money, which is just more poor management on our part. However, we have to decide where we are going to get the money, which is the issue.

Commissioner Howell asked if we hired Gabe Statom because we thought he would see that the project was done. Ms. Delmar said no. She said we contracted with Mr. Statom to develop a plan for using the performing arts center and he was going to raise additional funds to help secure some more dollars for the project. His main purpose was to develop a vision and to develop those connections for using the building when finished. Commissioner Howell said that did not work out for various reasons. Commissioner Howell said we have had ten years to complete the project and asked if we could make the December 30 deadline. Ms. Delmar said this has not been a ten-year grant. We have had this \$650,000 grants since 2007. Commissioner Howell asked if Semco provided the scope of work that the Commission requested. Ms. Delmar said the last scope of work provided was for \$1.1 million. That has to be further reduced to fit within the \$650,000 budget. Mayor Van Sickle said on December 30, 2008, we came back with a scope that never went anywhere. That scope of work was to do the lobby only, which is not the same as the original scope of work. He said he had an issue with the original scope of work because it contained errors. Mayor Van Sickle said that, at that time, he thought the direction was to rebid the project based on what the original scope was. He asked if that took place. Ms. Delmar said no.

Commissioner Howell asked the penalty for returning the money. Ms. Delmar said there would be no penalty. She said we are actually \$950,000 short of finishing the whole project as currently estimated. Commissioner Howell said that a private agency needs to take over the building.

Commissioner Wheeler said we have to get this thing off our back. The loan value of the property must be close to \$2 million. We need to let somebody take a risk just like with the hotel.

Commissioner Rogers said he has been through the building and found mold in the building, leaks in the roof, and water going under the doors. We have spent \$300,000 on the roof in the last eight years and he is wondering if that money was for patching the roof, etc. There are a lot of questions needing answers. He said he hates to consider getting rid of the building, but he does not know what else we could do. We are talking about \$1.5 million to complete the building, which does not include any landscaping or the parking lot. The building must be secured. He would like to see Semco handle that, but he would like to see some bids for things like the roof. We need to know if it is going to be a patch job, etc. We can't keep throwing away money because we don't have that kind of money any more. The City and the Commissioners are to blame for poor management. The building is in the shape it is in today because we have not done our duties. Tonight, we need to decide what we are going to do.

Mayor Van Sickle said the grant requires a \$300,000 match. If we expend the \$350,000 plus the \$300,000 matching, we have state requirements to follow. We also have to come up with \$300,000 for maintenance and where are we going to get that money? There are things that should have been done that were not done. The first thing is to secure the building to prevent further deterioration. This is a biddable project without a whole lot of work, which is his recommendation. Mayor Van Sickle said he is not saying that Semco has ever done any bad work, but we need to do a better job than what we have been doing. As Commissioners, we need to look at that package to make sure there are not any errors like before, because we cannot waste the citizen's money. We want to change the impression that the City has had before us.

Mimi Hardman, 300 S. Lakeshore Blvd., said she is responsible for this burden and she is sorry. She said someone should take over the building. We paid Mr. Statom about \$6,500 to help raise money and he did not. The Historic Lake Wales Society is willing to give the money that it pledged to the school, which would help with what the City needs. Other communities are very upset with Lake Wales because we took the money and were not good stewards. Mayor Van Sickle said he could guarantee that because he researched all the grants and all its documentation and found that we did not do a very good job. Ms. Hardman said she is responsible because she should have been more vocal. She said she used the gym as a match for the 1919 school and the gym has been destroyed, which is not according to covenant. The building must be protected as soon as possible. Ms. Hardman said her heart and soul is in the building, and there is nobody right now to take over it. Mayor Van Sickle said he has been contacted by a performing arts organization in Orlando that has some interest. Their issue right now is that they have to find the money to do it. Ms. Hardman said she is familiar with that group because her son is helping them out. They are currently working with the Methodist Church and buying up property right now. We need immediate things and people are willing to help. The Commission recently approved to get a committee to help raise money for that project.

Mayor Van Sickle said we need a bare minimum of \$300,000 for maintenance right now. We do not have the money to do that and we must protect the building. There are two things we can do: (1) seal the building to protect it, find a company to take over the building, make it into what it was intended to be, and move forward; and (2) decide if we compete or go back to Semco. Competing is a very simple method because we know what needs to be done and we do not need an architect to review the drawings to do that. Competing without restoring is another issue because you have to bring plans forward to do that. To close it down, we need to compete it and then find someone to take over the building.

Commissioner Wheeler asked if some of the \$300,000 match could be set aside for maintenance for the next year or so. Ms. Delmar said provided that it fits within the parameters of the CRA Plan. She is not sure that maintenance of facilities is part of the CRA Plan. Commissioner Wheeler said maintenance is part of the grant. Mr. Gallup said the maintenance issue is outside the parameters of

any of the grants. We are preparing to do maintenance performed under other grants. The \$300,000 is for specific work in that grant for \$650,000 worth of funding. Grant money cannot be used to maintain grants. Commissioner Wheeler said that is the way the grant is written right now. He does not think Tallahassee wants to see this project fail and they would be willing to modify the grant term in any way necessary to get the job done. Mr. Gallup said if that is the direction of the Commission, staff will talk to Tallahassee.

Commissioner Thornhill asked if staff has asked Semco if he was able or willing to make any modifications. Mr. Gallup said yes. He said the number we came up with for the elements that need to be refurbished, repaired, and maintained is an unbidded number that could either go up or down. Mr. Locke had said that in the refurbishing work, the repairs, stabilization, and encapsulation work, he would be willing to do that at 0 percent of administration cost, and in regards to the \$650,000 work that was not discussed. This is not going to be an overnight project. This has been an on-going stop and go project, which is a nightmare. We have to remember that maintenance must be kept up on the old work as well as on the new work.

Mayor Van Sickle said if the State says that we do not have to provide the match, the \$300,000 could be used for maintenance.

Ms. Delmar asked the scope of work for the \$650,000. Mr. Locke said the State should fund a project that they feel worthy and follow through to completion. During a stop and go process the scope of work changes, especially when different hands get involved. The second floor has never been fully designed out. The current drawings only show the first floor. There are two sets of drawings: one set is for the construction of the historical restoration of the first floor and the exterior. This does not include the site work, which is the parking, landscaping, etc.; and the other set of drawings is for the theatre system, which through a competitive bidding process was at \$1 million. That number was tossed out because there was no way to put a theatre system in for \$1 million. This scope of work has already been value-engineered with an estimated construction cost of \$1.1 million. Based on the current scope of work of the building only, not including any civil site on the outside, we are now looking at around \$950,000. This is just for the first floor, which does not include an elevator. The second floor would need to be encapsulated, so there would be no issue of climate control, etc. As instructed, the grant money is to move forward, not necessarily to back up and repair, etc. Mr. Locke said to help facilitate and move forward, he would be willing to do whatever is needed as the construction manager. With 0 percent as his fee, he would competitively bid the project out to sub-contractors to get multiple subs for all the different trades. He said he has been the most involved in this project.

Ms. Delmar said she would like to clarify for the record that all the money donated to this project has been spent on the project and not on the City.

Mayor Van Sickle said we need to seal the building. He does not see how we can spend the \$650,000 we have and then add another \$300,000 to take care of what should have been done all along, and we, the City, did not do it. We need to take the \$300,000, seal the building, protect what is there, and then hopefully we can find someone with all the money and expertise to move that building forward. The question is whether we want to go with Mr. Locke at 0 percent construction fee or competitively bid the project.

Commissioner Thornhill said we should keep Mr. Locke because he has the most expertise regarding the building. The other Commissioners concurred.

Ms. Hardman said the building is in the CRA district so CRA funds can help pay for the project.

Ms. Delmar said we have known all along that this project was going to cost more than we had in grant funds and in City funds to complete, but we continued to progress regardless. Now, we are at the point where we have to decide if we are going to continue to spend State monies on a project that we know we cannot finish or return those monies.

Mayor Van Sickle made a motion to have staff call Tallahassee to see if they will allow the City to spend the \$350,000 with no match and the City use the \$300,000 for maintenance of that building to restore it to where it should be. He said we need the answer within one week. The motion was seconded by Commissioner Thornhill.

By voice vote:

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

The motion carried 5-0.

NEW BUSINESS

Agenda Item 14. Certification of 2009 Taxable Value, Interim Millage & FY09'10 Budget Hearing Dates

Ms. Delmar reviewed Agenda Item 14. The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Judith H. Delmar, Acting City Manager]

SYNOPSIS

The City Commission will consider approval of the Polk County property appraiser's certification of taxable value for 2009, set the interim millage rate, and set the dates for the public hearings to adopt the final millage rate and the FY09'10 budget.

RECOMMENDATION

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

1. Approve the Property Appraiser's Certification of Taxable Value for 2009.
2. Set the interim millage rate at the rollback rate of 8.1817 mills.
3. Set the dates for the required public hearings for the final millage rate and adoption of the FY09'10 budget as Wednesday, September 9 and Tuesday, September 15.

BACKGROUND

Attached for your review and approval is the Polk County property appraiser's Certification of Taxable Value for 2009. As indicated, the City's gross taxable value for operating purposes is \$757,664,763. Lake Wales has experienced a decline in taxable value of \$79,563,250 since the 2008 certification. The certification for 2009 is 10.5% below 2008's final gross taxable value of \$848,687,715. It is recommended that the City Commission approve the Certification of Taxable Value for 2009.

In order for the property appraiser to proceed with the mailing of the required TRIM notices, it will be necessary for the Commission to set an interim millage rate and establish the required public hearing dates for adoption of the final 2009 millage rate and the FY09'10 budget.

We are recommending that the interim millage rate be set at 8.1817, the current year rolled-back rate. The rolled-back rate is the rate required to generate the same amount of ad valorem tax proceeds for 2009 as this year's millage rate generated with the 2008 taxable value.

In early August staff will present a proposed budget balanced on the 2008 tax rate of 7.3277 which will, by necessity, reflect reduced levels of service in some areas. Setting the interim rate at the rolled-back rate of 8.1817 will afford the City Commission some flexibility in working through the budget adoption process. The final adopted millage rate may not exceed the interim millage rate, but it may be reduced as the budget adoption process commences.

Because the rolled-back rate does not exceed the City's 2009 maximum millage rate, the rolled-back rate will require a regular majority vote (3-2) for final adoption. The maximum millage rate that may be adopted by a regular majority vote of the City Commission is 8.3862.

The City Commission must set a date and time for the first public hearings on the final millage rate and FY09'10 budget. This information will be included on the preliminary tax notice which is forwarded to each taxpayer and will serve as official public notice of the hearings. Florida Statutes stipulate that the first public hearings can be held no sooner than 65 days after the Certification of Taxable Value by the Property Appraiser or July 1, whichever is later. Certification occurred on July 1, therefore the first public hearings can be held no sooner than Thursday, September 3 (65 days after July 1).

Normally our public hearings are held during the City Commission's regularly scheduled meetings in September unless there are conflicts with the dates scheduled by the Board of County Commissioners or Polk County School Board. This year, the BOCC has scheduled its public hearings on Thursday, September 3 and Thursday, September 10. The School Board's final public hearing is scheduled for Tuesday, September 8.

Although there are no conflicts with the dates scheduled by either of these agencies, the first regularly scheduled City Commission meeting date falls on the 63rd day after July 1 and is not an eligible date for our first budget hearing.

We are recommending that the first regular City Commission meeting in September be rescheduled to Wednesday, September 9 to accommodate the first public hearings for the millage and budget. We are also recommending that the second public hearings be held at the regularly scheduled City Commission meeting on Tuesday, September 15 (the third Tuesday).

OTHER OPTIONS & FISCAL IMPACT

If we were designing the budget process it would look like this:

1. City staff would gather information and prepare the budget
2. the Commission would review the budget document
3. the Commission would adopt the millage rate required to fund the budget

However, state law requires that the county property appraiser notify each property owner of the interim millage rate and the dates of the meetings for adoption of the millage and budget. To give time for the mailing of this notice to the property owner, the taxing agency (city, county, school board, water management district, etc) must, by law, adopt an interim millage rate no later than August 4.

This date creates difficulties in the budget schedule because some critical information that staff must use in budget preparation – including state revenue estimates and insurance cost increases – is not usually available early enough to work into the proposed budget much before the deadline for adopting the interim millage rate.

The law provides that the final rate adopted can be lower than the interim millage, but not higher (you can not have a final rate that is higher than the interim millage rate, but it can be lowered). Therefore, it is not uncommon for a city commission to adopt an interim millage rate that is likely to be higher than the final millage rate in order to allow flexibility during the budget review process.

There are several options in setting the interim millage rate:

- The rolled-back rate is the millage rate that will generate the same amount of revenue next year as the current year's rate. If the taxable value of the city goes up, the rolled-back will be lower than the current rate. If the taxable value of the city goes down, the rolled-back rate will be higher than the current year's rate. The taxable value of new construction and annexations is excluded from the calculation. The rolled-back rate represents a 0% change in tax receipts. The rolled-back rate for 2009 is 8.1817 per \$1,000 of taxable value.
- The City's current rate is 7.3277. Maintaining the current tax rate will mean a tax reduction of 10.44% because it is lower than the rolled-back rate.
- The maximum millage rate refers to the maximum rate that can be adopted by majority vote of the City Commission (a 3-2 vote). The City's 2009 maximum millage rate is 8.3862 per \$1,000 of taxable value. This represents a 2.5% increase in the tax rate because it is 2.5% higher than the rolled-back rate of 8.1817 per \$1,000.
- The interim millage rate can be set at a rate between 8.3862 mills (maximum millage rate) and 9.2249 (maximum plus 10%) with a two-thirds vote (a 4-1 vote). Any rate above 9.2249 mills will require the unanimous vote of the City Commission for adoption.

Revenues generated by the various options are as follows:

	2009 millage rate	2009 ad valorem proceeds	2009 proceeds over (under) 2008 proceeds	Adoption requirement
			6,134,955	
Current	7.3277	5,551,939	(583,016)	3-2 vote
rolled-back	8.1817	6,198,985	64,030	3-2 vote
Maximum	8.3862	6,353,927	218,972	3-2 vote
Maximum + 10%	9.2249	6,989,381	854,426	4-1 vote

The City Commission does not have to make a decision on the final rate at this meeting. The final decision can be made after we thoroughly review and discuss the budget and all of its implications; however, we do have to make a decision on the interim millage rate at this meeting.

It is staff's recommendation that we set the interim millage rate at the rolled-back rate of 8.1817 to allow flexibility going forward into the budget review process.

[End agenda memo]

Commissioner Howell made a motion to approve the Property Appraiser's Certification of Taxable Value for 2009; set the interim millage rate at the rollback rate of 8.1817 mills; and to set the dates for the required public hearings for the final millage rate and adoption of the FY09'10 budget for Wednesday, September 9 and Tuesday, September 15. 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.

Agenda Item 15. Transmittal of the Comprehensive Annual Financial Report, For Fiscal Year Ended September 30, 2008

The full staff memo is incorporated into the minutes.

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

SYNOPSIS

The City's independent auditors, Purvis, Gray and Company, will present the Comprehensive Annual Financial Report for fiscal year ended September 30, 2008 for acceptance by the City Commission.

STAFF RECOMMENDATION

Accept the City's Comprehensive Annual Financial Report for fiscal year ended September 30, 2008 and independent auditors' report as presented.

Purvis, Gray and Company representative: Joseph J. Welch, C.P.A.

BACKGROUND

In the independent auditors' report for the fiscal year ending September 30, 2008, the auditors stated that, in their opinion, the financial statements present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, the discretely presented component unit, each major fund, and the aggregate remaining fund information of the City as of September 30, 2008, and the respective changes in financial position, and where applicable, cash flows thereof for the year then ended in conformity with accounting principles generally accepted in the United States of America.

This is the fourth subsequent year that the City has received an unqualified opinion. This is the first year that the City has prepared a comprehensive annual financial report (CAFR). A CAFR is a financial report that contains, at a minimum, three sections: 1) introductory, 2) financial, and 3) statistical, and whose financial section provides information on each individual fund and component unit.

Financial Highlights

- The assets of the City exceeded its liabilities at the close of the most recent fiscal year by \$39,115,471 (*net assets*). Of this amount, \$2,200,548 (*unrestricted net assets*) may be used to meet the government's ongoing obligations to citizens and creditors. CAFR – page 15.
- The City's total net assets increased by \$6,790,824. Approximately \$2.97 million (44%) of this increase in net assets is attributable to governmental activities. Approximately \$3.82 million (56%) of this increase in net assets is attributable to business-type activities. CAFR – page 17.

- As of the close of the current fiscal year, the City's governmental funds reported combined ending fund balances of \$12,278,225; an increase of \$7,829,924 in comparison with the prior year. Approximately 16.1% is available for spending at the government's discretion (*designated and unreserved fund balance*). CAFR – page 18.
- At the end of the current fiscal year, unreserved/undesignated fund balance for the general fund was \$943,845 or 8.5% of total general fund expenditures. CAFR – page 18 and 20.
- During the fiscal year, the City entered into a note payable for the Community Redevelopment Area for \$9,500,000 and a capital lease for fire and police communication equipment for \$217,804. CAFR – page 47.

[End agenda memo]

Joseph J. Welch, the City's independent auditor with Purvis, Gray and Company, gave an overview on the Comprehensive Annual Financial Report for fiscal year ended September 30, 2008. He said it would have been nice if the City had some Fund Balance carried forward. The City has been working on that for a number of years, but something always seem to get in the way. Mr. Welch said he does not think this is due to mismanagement by the City or the Commission. As discussed in the Finance Committee meeting before this meeting, the audit went well for 2008. Overall, the General Fund had a reasonably good year although there is still some work to do. The Utility Fund had a good year. The rate increase that went in effect at the beginning of 2008 generated additional revenue and that money was used for planned capital improvements. His firm issued the City an unqualified opinion on its financial statements and good opinions on its internal control and compliance. There were no findings on the City's federal and state grant programs. Mr. Welch said that in management letter in the back of the Comprehensive Annual Financial Report provided to the Commission, there are five comments that the City responded to as requested. He said he is happy with those responses and the progress that was made. He said in the front of the Comprehensive Annual Financial Report there is a four-page Governance letter that they issued. It is a new audit standard and is very technical to the City. The Governance letter is intended to be a detailed report of the audit results, and includes the matters generally of interest to audit committees. This is the first year the City prepared the document itself. Mr. Welch thanked Finance Director Dorothy Pendergrass for her work in that. He said she also made this document a Comprehensive Annual Financial Report.

Commissioner Howell said the City did better in 2008 than it did in 2007 despite the cutbacks in the General Fund.

Commissioner Wheeler made a motion to accept the City's Comprehensive Annual Financial Report for fiscal year ended September 30, 2008 and independent auditors' report as presented. The motion was seconded by Commissioner Howell.

Voice Vote:

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

The motion carried 5-0.

Agenda Item 16. Swimming Pool Survey

Mayor Van Sickle said Agenda Item 16 was postponed.

Agenda Item 17. Reconsideration of US 27 Landscape Beautification

Teresa Allen, Public Services Director reviewed Agenda Item 17. The full staff memo is incorporated into the minutes.

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

SYNOPSIS

Due to current staffing levels, declining revenues and economic conditions in general, assuming new maintenance responsibilities becomes a serious budget issue for the City. Staff is requesting that the Commission review the feasibility of moving forward with the grant-funded project to install landscaping on US27 between Towerview Boulevard and north of SR540.

RECOMMENDATION

Staff recommends that the City Commission decline to complete the installation phase of the Landscape Beautification project for US27 from Towerview Boulevard to north of SR540 in order to avoid additional maintenance responsibilities that cannot be adequately funded during current economic conditions.

BACKGROUND

In November 2004, the City and the State of Florida Department of Transportation entered into an agreement to design, install and maintain certain landscaping improvements on US27 from Towerview Boulevard to north of SR540 (2.0 landscaped miles/\$400,000). Due to the 2004 hurricanes and the US27 widening project, the agreement was not executed until May 23, 2006.

In March 2008, the Commission authorized the City Manager to enter into a \$25,000 contract with Whidden Design Studios to design the plans and oversee the project for the US27 landscape installation. Whidden Design Studios has received \$20,000 to date for the project. \$2,500 would become due after the bid process to select a landscape contractor and the remaining \$2,500 would become due upon completion of the project.

In 2008, the Florida Department of Transportation installed irrigated landscaping on US27 from SR60 to Towerview Boulevard (2.66 landscaped miles/\$532,000.00). The City is already obligated to take over maintenance of the landscaped medians in January 2009. It will be necessary to add one employee for maintenance of this area in order to avoid reduction of maintenance levels elsewhere in the city (Central Avenue, park and recreation areas, city-owned lots, etc.).

Regarding the grant-funded landscape installation from Towerview Boulevard to north of SR540, Ms. Karen Miracola, FDOT District One Coordinator has indicated that if the City cannot afford to assume maintenance responsibilities for the landscape improvements on that stretch of US27 we should not move forward with the installation. She further stated that FDOT would provide reimbursement for the cost of the landscape design for those cities that can't afford to maintain the landscaping and choose not to complete their installations.

There has been some concern expressed that the City of Lake Wales would be one of the few cities along US 27 without landscaped medians. The City Commission must decide whether this is sufficient justification for the additional maintenance costs. The FDOT has told us that we are not the only city involved in the state-wide highway beautification initiative that is reconsidering the long-term costs of participation. Lee County and the City of Lakeland are among those jurisdictions that are considering withdrawal from the program.

FISCAL IMPACT

Grant funding in the amount of \$400,000 for the landscape installation is included in the current 08/09 budget. Of this amount, \$25,000 is allocated for design and project oversight, and \$375,000 is allocated for landscaping materials.

Due to current staffing levels, declining revenues and economic conditions in general, assuming new maintenance responsibilities of this magnitude becomes a serious budget issue.

The City currently has 6 employees in the Streets Department and 8 employees in the Parks Department to maintain all of the City's rights-of-ways, landscaped areas, streets, parks, city-owned lots and recreational areas. We are already faced with adding one employee to maintain US 27 between SR 60 and Towerview Blvd. or reduce maintenance levels everywhere else in the city.

It will require a minimum of one additional employee to adequately maintain the new landscaping between Towerview Blvd. and north of SR540. The additional annual payroll cost for one employee to do this work is currently \$46,173 (40 hours/wk X \$15.03/maintenance worker III + current cost of benefits). Chemicals, other horticultural supplies, and equipment would be additional costs.

OPTIONS

Do not complete the project by installing the landscaping materials and receive reimbursement for the landscape design (\$20,000).

Complete the project by the designated October 1, 2009 and hire additional staff to ensure proper maintenance.

[End agenda memo]

Public Services Director Teresa Allen said to maintain this area the City would have to hire at least one more employee.

Mayor Van Sickle said the City currently does not have enough maintenance people. It is hard for them to keep up with what they have now. This would not be a smart business decision to go forward. Ms. Delmar said we are already faced with adding one employee to maintain the irrigated landscaping on US27 from SR60 to Towerview Boulevard. The maintenance of the new landscaping would require an additional staff person.

Commissioner Howell made a motion to decline completing the installation phase of the Landscape Beautification project for US27 from Towerview Boulevard to north of SR540 in order to avoid additional maintenance responsibilities that cannot be adequately funded during current economic conditions. The motion was seconded by Commissioner Thornhill.

By voice vote:

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

The motion carried 5-0.

Agenda Item 18. Florida Lions Camp Polk Folk and Festival

Ms. Delmar read the synopsis to Agenda Item 18. The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Katie Kinloch, Administrative Assistant to City Manager's Office]

SYNOPSIS

The approval of the Special Event Permit Application will allow the Polk Folk Fair and Festival event to be held at Lake Wailes Park on August 1, 2009 between the hours of 9:00 a.m. and 10:00 p.m. Permission is also requested to set up a beer garden in conjunction with the event.

RECOMMENDATION

It is recommended that the City Commission approve the Special Event Permit Application from the Lions Club for their Polk Folk Fair and Festival to be held at Lake Wailes Park on August 1, 2009 between the hours of 9:00 a.m. and 10:00 p.m. Approval for the Beer Garden should be granted subject to the condition that a license issued by the State of Florida Division of Alcoholic Beverages & Tobacco is submitted to the City prior to issuance of the Special Event Permit.

BACKGROUND

Amy Avirett, Event Planner for the Lions Club Camp, submitted a Special Permit Application for their Polk Folk Fair and Festival to be held August 1, 2009 between the hours of 9:00 a.m. and 10:00 p.m. at Lake Wailes Park. Activities will include craft vendors and food vendors such as hot dogs, hamburgers, barbeque, cotton candy, and snow cones. They will also be having games for the children such as ring toss, corn hole tournament, face painting, and an obstacle course. This event is to raise money for the Florida Lions Camp.

A beer garden will be set up on the south east side of the event near the stage. Entertainment is being provided by Folk and Country Bands. The sponsor is required to have two police officers present during the time that alcohol is being served. This expense is to be paid by the Lions Club Camp. All permits are being obtained and proof of liability insurance with the City listed as coinsured is being provided by the sponsor as required. Any and all conditions specified by the City will be met.

The Florida Lions Camp policy for a beer garden is as follows: This area would be marked off and secured; the area would be patrolled at all times by no less than three (3) people; no alcoholic beverage would be allowed to leave the marked off area; service would be denied to anyone they felt was intoxicated; no minors would be allowed in the marked off area; those partaking would be carded; and the 'beer garden' would be discontinued at the first sign of trouble.

Section 18-87 of the Lake Wales code prohibits the sale or consumption of alcoholic beverages within any city park except that the City Commission may approve the sale or consumption of alcoholic beverages with the issuance of a special event permit if the event sponsor is licensed by the state for the sale of alcohol. The Florida Lions Camp has applied for a one-day permit (ODP) to sell alcoholic beverages and will submit it to the City for our records prior to the day of the event.

OTHER OPTIONS

Do not approve the event.

FISCAL IMPACT

The cost of police officers for the beer garden would be the responsibility of the Florida Lions Camp as well as set up and clean up. Keep Polk Beautiful is providing the necessary receptacles and trash bags.

[End agenda memo]

Commissioner Howell made a motion to approve the Special Event Permit Application from the Lions Club for their Polk Folk Fair and Festival to be held at Lake Wailes Park on August 1, 2009 between the hours of 9:00 a.m. and 10:00 p.m., and to approval for the Beer Garden should be granted subject to the condition that a license issued by the State of Florida Division of Alcoholic Beverages & Tobacco is submitted to the City prior to issuance of the Special Event Permit. The motion was seconded by Commissioner Thornhill.

By voice vote:

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

The motion carried 5-0.

Agenda Item 19. Discussion of Financial Statements for June 30, 2009, Fiscal Year to Date

Ms. Delmar reviewed Agenda Item 19. The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Judith H. Delmar, Acting City Manager]

SYNOPSIS

The financial statements report revenues received and expenditures made since 10/1/2008. At the end of June we have completed 75% of the fiscal year. The financial statements report revenues received and expenditures made since 10/1/2008. At the end of June we have completed 75% of the fiscal year. General Fund revenues are slightly ahead of target, but Utility Fund revenues are significantly behind where they should be at this point in the fiscal year. Expenditures are running behind target.

The unaudited financial statements for the City of Lake Wales for the Period Ending June 30, 2009 are presented to the City Commission for review. At the end of June, the City is 75% into the fiscal year. Nineteen of twenty-six payrolls (73.1%) have been expensed through June 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 June 30, 2009. Capital expense funded by CRA bond or loan proceeds is excluded from the analysis:

Fund	Budgeted	Actual at 6/30	Target at 6/30	Actual at 6/30 Over (Under) Target	Over (Under) as percentage of target
General					
Revenues ¹	\$10,959,493	\$9,176,605	\$9,100,589	\$76,016	+0.7%
Expenditures ³	\$10,763,769	\$7,599,043	\$8,072,827	(\$473,784)	-4.4%
Special Revenue					
Revenues ¹	\$6,323,629	\$4,012,221	\$5,685,039	(\$1,672,818)	-26.5%
Expenditures ³	\$4,408,938	\$2,704,619	\$3,306,704	(\$602,085)	-13.7%
Debt Service					
Revenues ³	\$2,392,495	\$1,774,629	\$1,794,371	(\$19,742)	-0.8%
Expenditures ²	\$2,436,478	\$1,774,651	\$1,774,651	\$0	+0.0%
Utilities					
Revenues ¹	\$6,850,140	\$4,826,469	\$5,422,875	(\$596,406)	-8.7%
Expenditures ³	\$6,913,450	\$4,547,118	\$5,185,088	(\$637,970)	-9.2%
Airport					
Revenues ³	\$101,403	\$59,040	\$76,052	(\$17,012)	-16.8%
Expenditures ³	\$101,403	\$84,882	\$76,052	\$8,830	+8.7%

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 June we are 9/12 or 75% into the fiscal year. This method assumes a relatively even distribution of expense or revenue from month to month.

In general, most operating revenues are about where we would expect them to be at the end of nine months, but there are a few potential problem areas that we are watching.

Revenue estimates in the General Fund and Transportation Fund were revised downward with Budget Amendment #1 and #2, and analysis of the financials at 6/30/09 is in relation to the amended budgets. These two funds are affected by shortfalls in the state budget which necessitate reduction of revenues shared with the cities (sales taxes and gas taxes). We are monitoring the State's website for continuing reductions in revenue projections as the fiscal year progresses. Our next budget amendment will reflect an additional reduction of \$26,763 in state revenues, and there may be further downward revisions before the end of the current fiscal year..

Building permits and other development fees are running far behind target. By the end of June 2008, we had received \$395,733 from these sources (\$284,604 for building permits; \$111,129 for development permits). At the end of June 2009, we had only received a total of \$130,114 (\$117,460 for building permits; \$12,654 for development permits). This is less than one-third the revenue from these sources than was received in the prior year.

Water and sewer revenues at the end of June 2009 were \$263,903 behind where they were in June 2008 (water, -\$275,762; sewer, +\$11,859). If we use 75% of the fiscal year as the target level, however, water revenues were \$292,026 under target and sewer revenues were \$4,769 over target. This is a combined shortfall of \$287,257 compared to budget. Fortunately, operating expenditures are also running behind target at the end of June. Excluding project costs funded by CRA bond proceeds, Utility Fund expenditures were 9.2% or \$637,970 below the target level.

Operating expenditures in the General Fund are running 4.4% below target (-\$473,784), and operating expenditures in the other Funds are running behind target levels with the exception of the Airport Fund which is ahead of target (+\$8,830). 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	6/30/09	Difference
Pool/Tax Anticipation Investment Account	\$1,037,852	\$1,040,924	\$3,072

On the face of it, the City's overall cash position at the end of June 2009 declined significantly from the cash position at the end of June 2008 (-\$1,424,973). In order to make a valid comparison, however, the following adjustments must be made:

	6/30/08	6/30/09	Difference
Total Cash & Investments	7,504,265	6,079,292	(1,424,973)
Due to Other Governments	(596,582)	(45,933)	
Insurance Proceeds & Other Airport Cash	(774,946)		
Deferred Revenues*	(463,224)	(410,773)	
Customer Utility Deposits**	(522,664)		
Cash & Investments Net of Adjustments	5,146,849	5,622,586	475,737

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

** customer utility deposits were reclassified from cash to restricted assets at 9/30/08

After excluding cash that has been collected on behalf of other governments, unexpended Airport insurance proceeds, deferred revenues, and customer utility deposits, the City's overall cash position at the end of June 2009 was \$475,737 higher than at the end of June 2008.

In comparison to the cash position at May 31, 2009 of \$4,308,677, the June position shows an increase of \$1,313,909. This increase results mainly from the fact that \$1,299,596 in CRA Bond proceeds were drawn down in June to reimburse operating revenues that were used for payment of costs related to bond-funded projects. In addition, \$588,021 in ad valorem tax receipts were received during June, an unusually high remittance for this point in the fiscal year.

[End agenda memo]

CITY MANAGER'S REPORT

CITY COMMISSION TRACKING REPORT

There were no updates the City Commission Tracking Report.

Commissioner Wheeler said he understands that the adult daycare facility project has been funded. He asked when the demolition would start. Mr. Gallup said the demolition is scheduled to start about

30 days after the Polk County Health Department moves from that facility adjacent to the Fire Station to their new facility on SR60. All the necessary permits are in place.

Commissioner Thornhill asked when the City would have its Economic Summit. He said this would be a good time to have one. Mr. Gallup said that event was pushed back by the City Manager. He said he would need about 60 days to start putting things in place. The Summit could be held anytime after October or November. Ms. Delmar said she would add the Summit to the tracking report.

CITY COMMISSION COMMENT

Commissioner Wheeler said the Commission has been confused on what the procedures are for Commission meetings such as who can make a first motion. He said part of the problem seems to be that we do not have any adopted rules that govern the conduct of our meetings. The City's Charter seems to have some elements of the Robert's Rules of Order, so it might be worthwhile to consider making a formal adoption of that. That way, we will have a reference point that everyone can follow.

Mr. Galloway explained that it is the Lake Wales Code and not the Charter that provides for conduct of the meetings. One of the things the Commission would need to be concerned about in the adoption of Robert's Rules of Order would be that someone who is hired by the City Manager would have to make sure the rules are followed. He said he represents numerous associations and his blanket advice to everyone that he represents is do not adopt the Robert's Rules of Order. It becomes a tool to be used to stop the meeting, to cause difficulties, etc. Problems are created by that adoption, rather than solved. Commissioner Wheeler asked if there are cities that have done this. Mr. Galloway said most of the cities locally have not adopted it and their City Attorneys are of the same opinion that it sounds good in print but when you start using it, it can be used as a club, making it impossible for the body to function if someone chooses to do that.

Ms. Delmar said she will put a copy of the ordinance in the Commissioner's mail box for mark up. Commissioner Wheeler recommended expanding the gray areas to avoid any confusion. Mr. Galloway said the Commission needed to be aware that although the Mayor is the presiding officer, each Commissioner has an equal right to participate. Any Commissioner can make a first motion and second a motion.

Commissioner Thornhill said this is his opportunity to discuss issues with the five Commissioners. He presented the following ideas that that he thought would prevent further issues in the future:

1. Implement a municipal survey that is strictly an employee survey created for municipalities. Mr. Thornhill said the one that the City currently uses is similar to the one used on his job and he does not think it is right for municipalities. He suggested adding more areas for comment by the employees.
2. Modify the City Manager's performance evaluation. Mr. Thornhill said he would rather see a much better evaluation tool, something that is more constructive that tells someone that something is wrong and that we need something to happen to make a change.

Commissioner Thornhill said he has been trying to do his research for the July 29 hearing and he would like an honest dialogue. He said there has to be something that Commissioners Howell and Wheeler would like to see the City Manager change. Commissioner Thornhill said he cannot believe that the City Manager has done everything perfectly. He said they do not have to answer that. He is merely asking because he is trying to make a decision. There has to be something that they would like for the City Manager to improve.

Commissioner Howell said some of the residents of Highland Crest are complaining that Florida Refuse is not properly putting their garbage cans back and garbage cans are left in the streets. She asked if Florida Refuse provides a red hazardous waste box for such things as batteries. Ms. Delmar

said those items are not picked up on a routine basis. They are only picked up certain times of the year, which is an advertised event. Commissioner Wheeler said he did not see an advertisement.

Commissioner Howell asked when cameras would be installed around town. Police Chief Gillis said in about two weeks.

COMMUNICATIONS AND PETITIONS

Ms. Sellers, 65 Grove Avenue, thanked the City for re-paving her road with left over millings. She said because there is a bend spot on the other side of the light pole near her driveway people are turning around in her yard. The City could keep that from happening by maintaining the area on the other side of the light pole, cleaning around the water utilities, and by putting some of the recycled asphalt there.

Jean Scott, 306 Townsend Avenue, asked if it would be possible to have the hearing for the City Manager at the Lake Wales High School instead of in the Commission Chamber on July 29, and if it would be possible for Comcast to broadcast if the meeting was there. Mayor Van Sickle said Comcast could broadcast the meeting in the Chamber. Ms. Delmar said the hearing has already been advertised, but it could be re-advertised if the Commission would like to change the location. However, she does not know if Comcast could broadcast the meeting at the high school. City Clerk Clara VanBlargan said she would have to check the Charter to see if the hearing could be held in another location other than in the Chamber.

Ms. Scott provided an update on the Florida Refuse recycling program.

Wes Rogers, 500 W. Bullard Avenue, commented on Agenda Item 13, Grant SC801 and Continued Work on the 1919 School Building. He said approximately \$300,000 has been allocated for roof repairs in an eight-year period. If we are faced with more roof repairs, someone needs to find out exactly who is responsible for doing these roof repairs and who is responsible for following up on their work. Something is wrong somewhere. Our only choice at this point is to seal the building and get out of this as quick as possible because we have no money.

David Smith, president of the Lake Wales NAACP, said that members of the NAACP, as concerned citizens of the northwest area, met last night at the B Street Community Center. It was voted to request that the City Commission reinstate Tony Otte as the City Manager.

Howard Kay, president of the Unity and Community, asked how the hearing would be conducted on July 29. Mr. Galloway said it would be of a standard manner in which public hearings are conducted by the City Commission. Mr. Kay asked how many people would be allowed to speak. Mr. Galloway said he would not know that. It would be up to the Mayor and the person who is chairing the meeting. Certainly, the Commission would want to hear what the folks have to say. As stated at the last meeting, the resolution presented did not require public comment. However, he had advised the Mayor before hand that it would probably be prudent to allow comment, which he chose to do. Had he not, the Commission could have asked for public comments. If during the public hearing, there comes a point where the Mayor says that the body has heard enough to make its decision, three members of the Commission could ask for further comment. There are no specifics but there could come a point where this body would say it has heard enough. Mayor Van Sickle said the Commission would allow comments, which are welcomed, desired, and are needed. The decision is really based on the facts that the Commissioners find. Comments cannot go into an emotional or personality issue. Commissioner Howell asked who would be talking on July 29 other than the public. Mr. Galloway said the public. The Commission will open the public hearing, the public will speak, the public hearing will be closed, and then the Commission will consider the resolution before it and make a vote.

Ruth Dampier, 1154 S. Lakeshore Blvd., said she has never attended a meeting in her entire life that turned out to be a brawl. She could not believe the insults she heard. She said after the meeting she asked the Police Chief if there was anything that he could have done to stop it and he said that the

people were not breaking the law. That infuriated her. Ms. Dampier suggested allowing so many minutes for each side to speak so the City Clerk could keep track. There is no way that everyone can speak or the meeting will last until midnight. It will only be a repeat of the last meeting and no one would want to sit there that long. She said she appreciated the Commission for tolerating all the harassment and urged limiting the comment time for each side.

Betty Wojcik, 4005 Dunmore Drive, asked the Mayor for clarification of his statement that the public would be able to speak, but their comments would not be considered when making a decision. Mayor Van Sickle said he would listen to the comments and take any facts into consideration. He said at the last meeting most of the people commented on how nice the City Manager is. Mayor Van Sickle said he understands that and he does not disagree with those comments, but that is not what this decision should be based on. Instead, it should be based on the issues that were brought up and discussed and any new issues that will be brought up. Each Commissioner has the right to speak and voice their concerns based on the information they have. It is not a personality opinion poll. Ms. Wojcik said she is not suggesting that it is a personality opinion poll. She asked why hold a public hearing if the Commission is not going to listen to public comments and consider them when making a decision. Mayor Van Sickle said he would listen to the comments and any information based on facts on whether the City Manager is doing a good job or not will be taken into considered.

Commissioner Wheeler said the Code says that the public hearing will be closed after all citizens have been given the opportunity to speak. Ms. VanBlargan said the Code also addresses the time limit for public comment. Commissioner Howell said it was suggested to her that each side should be allowed equal time to speak. Mayor Van Sickle said at the last meeting comments were getting rather personal and out of hand. He cannot allow that to happen again.

Ms. Dampier, 1154 S. Lakeshore Blvd., said we do not need another popularity vote at the next meeting. If people can say what Mr. Otte has done as an asset to the City then that is what we want to hear. Comments will also be made about what he has not done for this City. She said that limiting the time for each side to speak would work out better than trying to hear so many people repeat the same thing.

David Smith, Babson Park, said the Commission needed to limit comments on July 29 like it did at the Commission meeting where the Burney Hayes issue was discussed.

Jack Neal, 435 E. Central, said he has been trying to keep garbage trucks from tearing up his road. Dorothy Pendergrass, Finance Director, said she spoke to Florida Refuse twice about the problem and was reassured both times that the trucks would not go down that alley. She will check the contract to see if there is a covenant under the penalty section that addresses that and get it taken care of.

There being no further business, the meeting was adjourned.



Mayor/Commissioner

ATTEST:



City Clerk