

A workshop meeting of the City Commission was held on October 14, 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.

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

**COMMISSIONERS ABSENT:** None.

**CITY REPRESENTATIVES PRESENT:** Judith H. Delmar, City Manager; Jacquie Hawkins, Deputy City Clerk.

### **Agenda Item 1. Code Enforcement Foreclosure and Demolition Policies**

Each Commissioner had a copy of the chart entitled "Properties with City Liens at 10-1-09," which listed 10 properties with liens that code enforcement considered potential candidates for foreclosure and 83 that are not currently candidates.

City Attorney, Chuck Galloway, explained that to date there have not been any articulated policies governing the decision on how to proceed with these properties. The Code Enforcement Officer was requesting guidance in the form of a policy from the Commission. Mr. Galloway listed some considerations needed to determine if it was advantageous to foreclose on a property with a lien, which included:

- The amount of taxes that are due, as these cannot be waived
- The cost to the City in the form of fines and filing fees, as they are not budgeted items: Mr. Galloway explained that the filing fees have gone up for foreclosures. The filing fee had been \$300. Now it is \$400 for property valued less than \$50,000; \$5,000 for property valued from \$50,000 to \$250,000; and \$1,500 for those higher.
- The assessed value of the property: Mr. Galloway said that he would not recommend foreclosure on property where the cost to the City was more than the property value.
- Whether the property is a Homestead, as a homesteaded property cannot be foreclosed
- What condition the structure is in and where the lot is located
- The probability of being able to re-sell the property

Mr. Galloway said there was a recent court decision that may impact some of these actions as well. The Statute of Repose, or the period of time that a code enforcement lien can be attached to a property has been twenty years. But, he gave an example of a community in Florida that sought to foreclose and the judge ruled with the defendant that under Chapter 95, the statute of limitation was five years.

City Manager Judy Delmar added that there was additional cost to the City for foreclosing on a property; i.e., the cost to maintain the property and the increased workload placed on the field crew. She added that since the City Commission alone is authorized to approve unbudgeted items and take on additional costs for the City, not the Code Enforcement Board, she felt that the City Commission should set the policy regarding foreclosures.

Mr. Galloway explained that with the foreclosure of the Grand Hotel, the City waited until the lien was \$300,000, which was higher than the value. That way there would not be a third party bidder, and the City would take title to the property and be able to convey the property in a manner it thought best.

Mr. Galloway's recommendation was to let word out that the City would bid no higher than the property value, or even quite a bit lower if the City was certain of a third party bid. If a third party purchased the property, they would get it cleaned up, which is the sole purpose of the lien. The City would recoup its losses and the property would be utilized.

Commissioner Wheeler asked what would happen if the owner tries to sell. Mr. Galloway said that many times the owner does not know the extent of the lien on their property. It can accrue at \$250 a day for 20 years. When they receive notice of foreclosure, they may decide to bring the property into compliance and then come before the Code Board to ask that the fines be waived. The Board may decide to limit the fine to administrative cost and/or one day's fine. The costs associated with it would be recovered, and the property would have been brought up to compliance, which is the Board's goal. He added that the City has had excellent volunteers on the Board who live in the community and have compassion for the property owner's.

Ms. Delmar added that the City may contract a service out in order to bring a property into compliance with a lien imposed to cover the cost if there is a public health or safety issue. The cost to the City would be paid back with the foreclosure or sale of the property and cannot be waived by the Code Board.

Bill Gindlesperger, Code Enforcement Officer, showed a map with the lien properties pegged to show their location, pointing out that the older neighborhoods naturally had more liens than newer neighborhoods. He explained the lien process: The owner is given an Issue of Violation notice and given ten days to bring the property up to compliance. The owner appears before the Code Enforcement Board and, if it is determined that they are still in violation, they are given 30 days to comply. If they do not comply within the allotted time, then liens and fines are put into place. He said that for each lien in place, thirty hours of work has been done, and staff can go no further. The property can accrue \$250 day for 20 years, but may be still out of compliance. Neighbors complain, thinking that Code Enforcement is not doing their jobs, but their hands are tied. If it is commercial or rental property they can start foreclosure proceedings, but if it is a homestead they can't.

The Commissioners reviewed the list of ten properties for potential foreclosure. Mayor Van Sickle said he thought it would be foolish to foreclose on the three lots at 319 Weaver Street as the City would have to spend far more than the property was worth. Mr. Gindlesperger said that if the company got a notice from our Attorney stating that the City may foreclose on the property, though it may be just a bluff, they may decide to get the property cleaned up. Mayor Van Sickle agreed, saying we would not actually have to foreclose.

Commissioner Roger suggested looking at foreclosing on properties that were not homesteaded, and that were current on their taxes. Mr. Gindlesperger said that in his opinion, the three best possibilities were items 6-8 because of their location, value, current paid taxes, and because there would be a good chance someone would buy them. Mr. Galloway said he would not recommend foreclosure. Rather he recommended deciding how low the City would bid, letting word out to the community so as to encourage 3<sup>rd</sup> party bidding. Mayor Van Sickle recommended making a list of the properties we could get off the books, either through city foreclosure or a 3<sup>rd</sup> party bid, and put the recouped money into a fund to be used to fund future foreclosures. Ms. Delmar said that the property least likely to bring in a return for the City was the property most in need of action. The property on Weaver Street already has a demo lien on it and has been an eyesore in the area with many citizen complaints.

Commissioner Howell said the question is how can we make the City look better by making people take responsibility for their property and clean it up. Ms. Delmar said that presently people just ignore the liens and neighbors think we are doing nothing. Ms. Howell asked if it was the city's responsibility to take care of those that the owner would not. Mr. Galloway replied that it is not the City's responsibility. Ms. Delmar questioned the prudence of city residents having to pay to keep private property in compliance because the owner refuses to do so. Commissioner Thornhill said that he had served on the Code Enforcement Board and the same people return again and again. They get away with it and think if they do not do anything, the City will take care of it for them.

Commissioner Rogers asked if the owner could turn the property over to the City using a Quit Claim Deed because then there would be no filing fees associated with it. Mr. Galloway said the City would still have to pay the taxes. Mr. Galloway said that there were ramifications with Quit Claim Deeds and he would not recommend it without looking further into the cost to the City. He added that residents may think that turning over property in this manner would improve their credit rating, but doing so would not fix a bad rating.

Commissioner Howell asked if a property was foreclosed, would the City get back its cost? The three types of liens were explained:

- Service Liens, where public funds were expended to bring the property into compliance;
- Demo Liens, where costs were incurred by the public to demolish a building;
- Code Enforcement Liens, where fines have been levied against the property owner in an effort to bring the property into compliance.

The actual costs for demolition or services rendered would be reimbursed to the city, but we would lose the code enforcement accrued fines.

Ms. Delmar said that what staff was asking for was a general policy that could be followed, not necessarily for the list provided. After a discussion the following was agreed upon:

- The City Attorney would send a letter informing the owner of the intent of the City to foreclose if the property was not brought up to compliance.
- Code Enforcement would bring to the Commission twice a year a list of the top potential candidates with the least cost to the City for possible foreclosure for them to review.
- After a foreclosure fund is accumulated, the Commission may decide to proceed with a derelict property that may incur additional expense, using the seed money.

Mayor Van Sickle opened it for public comment.

James Bryan, 6711 Winterset Gardens Road, Winter Haven, Florida asked that the City remove some trees on a lot on Park Avenue that may fall into rental units on his property.

## **Agenda Item 2.           Annexation Policy**

Planning Director Margaret Swanson displayed a current map showing the city limits. She was requesting direction from the Commission for an annexation and growth policy. She explained that in the past our policy has been that we would annex if they were in our service area. The first time the Commission hears of an annexation is when a comp plan amendment is on the agenda. There have been times when it turned out this was not the wish of the Commission, and time and expense was spent unnecessarily. She would like to have a general policy so she would know how to proceed in advance by knowing what areas of the city the Commission would like to see expanded.

Ms. Swanson said that the decision to expand is often complicated because of the County's land use on the property, and because if the City declines annexation, the developer can still develop the land under the County's plan. If so, they would still be using the City's services such as parks and library but would not have to contribute through impact fees. She said that through our concurrency rule, we cannot approve development if we can't provide utility service by the time they need it. To reserve service, the developers have to prepay impact fees and that money would be used to expand the utilities.

Mayor Van Sickle shared his concerns about long water lines and the problems that they cause when annexation occurs far from the water plant. He also had a concern with the cost to the City for providing police service to areas so far from the police station. Ms. Swanson said that the location of our water lines and the capacity of the water plant has to be taken into consideration. If the plant is too far out we would need to build another plant and would need the developer to cover the cost. We would not want the City to take out a bond for improvements because if the economy turns, the developer may not go forward with his plans and the City would be stuck with the bill.

Mayor Van Sickle asked Ms. Swanson where she would recommend expansion and development to occur. She responded that she would recommend filling in the parcels in the existing service area and not expand further out on US 27 or SR 60. Commissioner Wheeler suggested we adopt the view that just because someone wants to annex does not mean they will unless it is advantageous to the City.

Commissioner Howell suggested developing industry on our property borders to keep out encroachment by the City of Winter Haven. Ms. Swanson said that expansion of utilities to the west on SR 60 is contemplated, but the market drives which particular parcels are developed. Ms. Howell said that they would have to be in the queue and make a reservation contributing to the cost. Mayor Van Sickle noted two very large areas in our service area that had no development and said it would not make sense to develop residential there but rather fill in our boundaries. He said the City should work with commercial and business annexations individually. Commissioner Rogers said we should only annex if it is advantageous to the City, but we can help them and they can help us. Ms. Swanson closed by saying they would be continuing the discussion.

### **Agenda Item 3. Business Friendliness Policy**

Mayor Van Sickle shared his concerns that the City of Lake Wales is considered by developers to be business unfriendly. He gave an example of a \$40 sign being placed in a downtown business window that cost \$80 for the permit, though he was not sure this was accurate. Ms. Swanson said she would check into it.

Ms. Swanson went over a list of changes the Planning Department has made to improve the climate for businesses:

- Professional reviews handled with a transparent process
- The building, public works, and planning department working hand in hand
- Having handouts available to help guide people through the process
- Helping small businesses with their plans
- Streamlining Ordinances
- Eliminating the requirement to go before the Board of Adjustment for special exception use permits
- The addition of waiver provisions by the Planning Board
- The revision of zoning codes with the widest range of uses in older commercial areas near the downtown area
- Expanded use of Neighborhood Commercial Zones
- Provisions to allow outdoor activities such as cafes, outdoor sales and special events
- The loosening of regulations in the LCI districts at the request of property owners
- Administrative approvals of site plans not requiring waivers

Mayor Van Sickle had a concern about the ban on internally lit and neon signs because it was not considered proper for the historic district. He said that actually there were neon signs in the era that the historic district represents. He suggested the sign ordinance needed to be reviewed. Ms. Swanson explained how the ordinance was designed and explained there was only a ban on one type of internally lit signs. She said they could take another look at the neon sign restriction.

Ms. Delmar reminded them of a past issue with the fire lines for sprinkler systems whereby each customer sharing a fire line has been billed for the entire cost of the line instead of sharing an allocated portion of the cost of the line. Billing records have been corrected and credits issued where due.

### **Agenda Item 4. Discussion of Local Preference Policies**

Ms. Delmar said that the Commission had asked that they see how other cities handled bids. She reviewed with the Commissioners a handout entitled "Survey of Local Preference Policies" showing the policies of Winter Haven, Auburndale, Lakeland, Haines City and Polk County. The question was when and how would preferential treatment be used for local businesses placing a bid with the City. Mayor Van Sickle suggested that any local bid that was no more than 2% higher than the lowest bid, would go to the local bidder. As the Commission was in agreement, Ms. Delmar said an ordinance would be brought back to the Commission.

Mayor Van Sickle opened it for public comment.

Bob Kelly, 1149 Cepha Street, Lake Wales Florida addressed his concern about the tree ordinance requirement of using live oak trees on small properties. He suggested the City take a look at further developing SR 60 East because that area has a hospital, Walmart, restaurants, medical facilities and is an area for growth. He said he would like more community involvement. He said that developers stay away from Lake Wales because the tax rate and fees are so high and contractors advise developers to look elsewhere. Mr. Kelly also said that he felt the Chamber of Commerce should do more to bring businesses to Lake Wales and to help the existing businesses to survive.

Harold Gallup, Economic Development Director, addressed a number of changes to help change the perception of Lake Wales being business unfriendly:

- A Public Works Director newly hired to bring continuity to the process
- The cooperation between departments through pre-construction meetings to make the process easier
- A new attitude toward developers

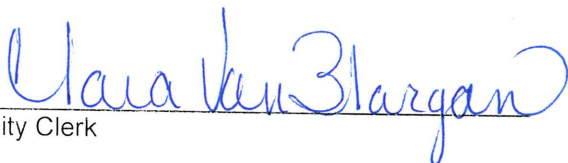
Mr. Gallup said that the Commission can ask to review or revisit any ordinance or policy. The City needs a balance of residential, industry and commercial and he believes that current staff is making great strides in making developmental changes. Now, all we need to do is get the word out.

Ms. Delmar said that though the City wants to be known as business friendly, we do not want to be known as "easy." We need to keep the best interests of the City in mind.

There being no further business, the meeting was adjourned.

  
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Mayor/Commissioner

ATTEST:

  
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City Clerk