

The regular meeting of the Lake Wales City Commission was held on October 20, 2009 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, City Manager; Albert C. Galloway, Jr., City Attorney; Clara VanBlargan, City Clerk; Jacquie Hawkins, Deputy City Clerk.

#### **MAYOR**

**Agenda Item 5. PROCLAMATION: Family Literacy Week; October 19-26, 2009**

Mayor Van Sickle presented the proclamation to Rob Quam, Director of the Lake Wales Care Center, representing Lake Wales Family Literacy, proclaiming the week of October 19-26 Family Literacy Week.

#### **CONSENT AGENDA**

**Agenda Item 6. APPROVAL OF MINUTES: October 6, 2009, Regular Meeting**

**Agenda Item 7. Extension of Utilities Annual Contracts Previously Bid**

The full staff memo is incorporated into the minutes.

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

#### **SYNOPSIS**

Staff is seeking Commission approval to extend Annual Contracts to Florida Analytical, Inc for Lab Services and Cassady & Hogan, Inc for electrical services for the repair and maintenance of municipal facilities including industrial electrical work, commercial work, motor and motor controls.

#### **RECOMMENDATION**

It is recommended that the City Commission approve Extended Annual Contract for Bid #09-172 to Cassady & Hogan, Inc and Extended Annual Contract for Bid #09-169 to Florida Analytical, Inc.

#### **BACKGROUND**

City staff issued a Request for Bid for an Electrical Services Contractor on April 14, 2009. A total of seven responsive bidders submitted packets for evaluation. Ultimately city staff with commission approval chose Cassady & Hogan, Inc to be awarded Bid #09-172 for these services. City staff is now requesting commission approval to extend the annual contract for an additional year for a contract term of October 1, 2009 to September 30, 2009 with the previously approved terms. If the commission sees fit not to approve extending this annual contract, city staff will either go back out to bid for these same services or go out for quotes every time there is electrical work to be done on instrumentation controls and motors.

City staff issued a request for Bid for Laboratory Services with a bid open date of March 23, 2009. Florida Analytical was the only responsive bidder. City staff with commission approval chose Florida Analytical, Inc to be awarded Bid #09-169 for laboratory services. City staff is now requesting commission approval to extend the annual contract for an additional year for a contract term of October 1, 2009 to September 30, 2009 with the previously approved terms. If the commission sees fit not to approve extending this annual contract, city staff will go back out to bid for these same services.

#### **FISCAL IMPACT**

None at this time for Bid # 09-169. Expenditures will be determined at such time when services are needed and submitted to commission for approval as required.

\$5,700 and \$22,800 were placed in the FY '09-'10 Operating Budgets for Water and Wastewater Contract Services – Laboratory, respectively.

[End agenda memo]

#### **Agenda Item 8. Award Calkins Electric Construction Company Inc. the Design Build Contract for the Rehabilitation of Runway 10-24, Medium Intensity Taxiway Lights System (MITL,s).**

The full staff memo is incorporated into the minutes.

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

#### **SYNOPSIS**

The Commission will consider awarding the bid for construction of the Medium Intensity Taxiway Lights System at the Lake Wales Municipal Airport.

#### **RECOMMENDATION**

It is recommended that the bid for construction of the Medium Intensity Taxiway Lights System at the Lake Wales Municipal Airport be awarded to Calkins Electric Construction Company in the amount of \$268,897.98.

#### **BACKGROUND**

At its regular scheduled September 9, 2009 Commission Meeting the City Commission approved Resolution 2009-10, which amends Resolution 2008-15, Master Agreement and task order #10 with Hoyle, Tanner & Associates, Inc. to include the construction engineering phase of the project in the amount of \$50,000.00, and to accept the grant agreement from the Federal Aviation Administration for the Federal Share for the construction phase of the project.

On Wednesday, August 12, 2009, at 2:00 p.m. Hoyle, Tanner & Associates and City staff opened sealed bids for the above referenced project. After analyzing the information provided by each contractor, Hoyle, Tanner & Associates determined that all bidders had supplied the information necessary to adequately evaluate the bids.

<b>Bidder</b>	<b>Bid Schedule A</b>	<b>Bid Schedule B</b>	<b>Total Construction</b>
Calkins Electric Construction Co	\$204,013.09	\$64,884.89	\$268,897.98
H.L. Pruitt Corporation	\$239,289.20	\$70,679.80	\$309,969.00
Itran Partners Inc.	\$345,092.75	\$63,364.50	\$408,457.25
Precision Approach LLC.	\$312,874.00	\$99,165.00	\$412,039.00

Based on the above information, Hoyle, Tanner & Associates recommends award of all bid schedules to Calkins Electric Construction Company, Inc.

#### **FISCAL IMPACT**

Funding is as follows in the 09/10 budget:

<b>FAA</b>	\$302,953.00	<b>City</b>	\$7,972.00	<b>State</b>	\$7,972.00	<b>Project total:</b>	\$318,897.00
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#### **OTHER OPTIONS**

The City has already accepted the FAA grant for the design phase of this project.

[End agenda memo]

#### **Agenda Item 9. Award of Contracts: General Engineering Services**

The full staff memo is incorporated into the minutes.

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

#### **SYNOPSIS**

The City Commission will consider awarding continuous/master consulting contracts for general engineering services.

#### **RECOMMENDATION**

It is staff's recommendation that the City Commission take the following actions:

1. Authorize the City Manager to execute Continuous / Master Consulting Engineering Service Agreements with the following firms: Kimley Horn and Associates Inc. and ENVISORS INC. for a period of twelve months with renewal at the discretion of the City of Lake Wales.
2. Authorize the City within the next Manager to execute a Continuous / Master Consulting Engineering Services Agreement with GAI Consultants 30 days after certain outstanding billing issues are resolved from previous work under review by Utilities and Planning.

#### **BACKGROUND**

The City had solicited through RFP09-173 for general engineering services that would allow the city staff to expedite engineering services that are required for City projects. As we apply for Grants and funding for projects, one of the requirements is to submit engineering plans at a certain state of completion in order to accumulate necessary ranking points to qualify for funding consideration. In addition, on a more frequent basis, there is the need for small engineering projects and work that will aid in the processing of work for water, sewer, planning, and economic development projects. The City Commission will still need to authorize expenditures on all projects. This process allows staff to reduce time in advertising / soliciting for engineering services for projects. We have also negotiated a cost savings on the contracts on services that averages approximately nine percent (9%) on hourly rates or multipliers.

#### **CURRENT FISCAL IMPACT**

Each project will have the engineering / planning funds in the project so there is no negative fiscal impact in approving these contracts.

#### **FISCAL IMPACTS OF OTHER ALTERNATIVES**

None.

## **OTHER ALTERNATIVES**

Keep the current system of soliciting for engineering / planning services.

[End agenda memo]

### **Agenda Item 10. House of Prayer Halloween Youth Festival Special Event Permit and Temporary Street Closing**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Katie Kinloch, Administrative Assistant]

## **SYNOPSIS**

Approval of the street closing will allow the "Annual Halloween Youth Festival" Event to be held on Saturday, October 24, 2009.

## **RECOMMENDATION**

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

1. Approve the application for the Special Event Permit submitted by the House of Prayer for their Annual Halloween Youth Festival to be held October 24, 2009 between the hours of 10:00 am and 5:00 p.m. at 506 North First Street.
2. Approve the temporary street closing of Seminole Avenue from First Street to Scenic Highway (SR 17) between the hours of 12:30 p.m. and 5:00 p.m.
3. Authorize the City Manager to sign the special event permit.

## **BACKGROUND**

Ms. Florida Peterson from the House of Prayer submitted an application for a special event permit for their Annual Halloween Youth Festival to be held October 24, 2009 at 506 North First Street between the hours of 10:00 am and 5:00 p.m. Activities will include games, food, music, a costume contest and good fun for the entire family. The church is responsible for clean up before and after the event. Sanitary facilities, parking and site preparations will be the responsibility of the House of Prayer.

The House of Prayer is requesting the temporary street closing of Seminole Avenue from First Street to Scenic Highway beginning at 10:00 am and ending at 5:00 p.m. This would allow for the activities to take place on the church property and in the street. The Lake Wales Police Department will not approve the street closing beginning at 10:00 a.m. since this would conflict with the Pioneer Day's Antique Car Parade which is being set up and occurring during the hours of 10 a.m. and 12:30 p.m. Chief Herbert Gillis will approve the street closing of Seminole Avenue with the condition that the timeframe is from 12:30 p.m. to 5:00 p.m.

## **OTHER OPTIONS**

Not to approve this event.

## **FISCAL IMPACT**

There is \$21, 000 budgeted for in-kind services for special events.

[End agenda memo]

**Agenda Item 11. First Baptist Church "Christmas by the Lake" Special Event Permit Application**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Katie Kinloch, Administrative Assistant]

**RECOMMENDATION**

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

1. Approve the special event permit for the First Baptist Church "Christmas by the Lake"
2. Authorize the City Manager to sign the permit

**BACKGROUND**

Charles Little with the First Baptist Church submitted an application for a special event permit for the "Christmas by the Lake" to be held on Friday, December 11, 2009 and Sunday, December 13, 2009 at Lake Wailes Park. The performances will take place beginning at 6:00 p.m. and ending approximately 8:00 p.m. with setup time starting at noon each day.

This event will entail the church choir on stage singing Christmas music with the church's orchestra (brass, woodwinds, strings and keyboards) providing the background music. The choir will be performing on portable risers with the orchestra being set up slightly off to the side. The event will also include a live Nativity Scene of the traditional re-enactment of the manger scene with the shepherds and wise men coming to the manger to present their gifts to Mary, Joseph and the baby. These characters will all be in period costume and will appear only during a portion of the overall presentation. Amplification will be needed, so a sound system will be used. They will be serving hot chocolate, cookies, and cake. This event will be open to the public.

The First Baptist Church will be responsible for site preparation, stage set ups, sanitary facilities, parking, and site cleanup. Liability insurance has been provided as required. Tent and electrical permits will be obtained from the Planning/Building department as required. City departments have reviewed the application and found no conflicts or issues, which would prevent approval of this event. The Police Department will have officers available from the normal shifts if needed. The Parks Division and Streets Division will take care of the regular schedule of trash pick up on Friday and Monday.

**OTHER OPTIONS**

Not to approve this event.

**FISCAL IMPACT**

There is \$21,000 budgeted for in-kind services for special events.

[End agenda memo]

**Agenda Item 12. Extension of Management Agreement with The Boys & Girls Club for Operation of the Kirkland Gym**

The full staff memo is incorporated into the minutes.

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

### **SYNOPSIS**

The extension of the existing Management Agreement with the Boys & Girls Club will allow for the operation of the Gym for the community and to allow City Staff to finish discussions with Webber University

### **RECOMMENDATION**

The City Staff recommends that the City Commission authorize the Mayor to execute an Extension of the existing Management Agreement through December 31, 2009 as provided for in the original Agreement with the Boys & Girls Club approved by City Commission on October 07, 2008.

### **BACKGROUND**

The City by previous agreement had the Boys & Girls Club administer the Kirkland Gym on a restricted schedule. The facility has had repairs to the first floor basketball area / bleacher and office area. The lower floor is currently closed off for safety reason, but walls and flooring are being repaired by City of Lake Wales personnel.

We are requesting that the Management Agreement with the Boys & Girls Club be extended with a term beginning on October 08, 2009 and ending on December 31, 2009. The staffing will be funded at the level approved during the budget hearings, i.e.; 2 employees for the extended hours for 7 days a week. The budgeted amount for this first quarter period is \$13,925.00.

### **CURRENT FISCAL IMPACT**

Funds are included in the 2009-2010 Budget.

[End agenda memo]

### **Agenda Item 13. Lease of Office Space for Senator J. D. Alexander's District Office**

The full staff memo is incorporated into the minutes.

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

### **SYNOPSIS**

Staff is seeking approval of a lease agreement with Senator J. D. Alexander for use of space inside City Hall.

### **RECOMMENDATION**

Staff recommends that the City Commission make and authorize the following actions:

1. That the City enter into a lease on a year to year basis, dependent on State Funding, for approximately 376 ft of space in the Municipal Administration Building for Senator Alexander's Office in Lake Wales.
2. That the term is yearly for not more than three successive terms

3. That the rent is set at Six Hundred Dollars per month with provisions for prorating the rent for a term not starting at the beginning at the first of the month and not ending on the last day of the month. The first month is set for November 09, 2009 and ending at November 08, 2010.

## **BACKGROUND**

Early in 2009 an inquiry was made by Senator J.D. Alexander's staff for space inside the City Hall. The preliminary space requirements were reviewed and the available space in the required geographic areas was reviewed and presented to the Senator's staff. A field visit was made to the respected available spaces. A space in downtown Lake Wales was selected and terms were outlined and presented to the Senator's staff. During this time the some basic elements of the space criteria changed and the selected space was not able to accommodate the location of the office. The space in the municipal building was now the primary selection as the location. The Basic Deal Points are as follows:

Square footage +/- 376

Rooms --111,115, and part of 116 in the Administration area in the City Manager's Office

Lease Term is for 1 year with Options to renew for 2 succeeding like terms

Rent --\$600.00 per month, plus appropriate sales tax. Rent is a modified Triple Net Lease. Water, Sewer, Common Area Restrooms, No CAM or additional pass through charges are in the lease.

Access—Normal Business Hours of City Hall

The Lease meets the general market parameters of the available space in the marketplace.

## **CURRENT FISCAL IMPACT**

Impacts on Revenue: There is a positive impact on revenue through the lease payments for the space.

Impacts on Expenditures: No impact with this project

## **OTHER ALTERNATIVES**

As the market was surveyed and the space and time limitations of the project could not be met, this remains the most probable solution.

[End agenda memo]

## **Agenda Item 14. Lease Agreement for Support Parking for the Adult Day Care Facility**

The full staff memo is incorporated into the minutes.

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

## **SYNOPSIS**

Staff is seeking approval of a lease agreement with the BOCC property adjacent to Central Avenue across from the site for the New Adult Day Care Center Project.

## **RECOMMENDATION**

Staff recommends that the City Commission authorize the City Manager to execute the Ground Lease for the support parking for the New Adult Day Care Facility being constructed on the old Health department site adjacent to the City Fire Station.

## **BACKGROUND**

The County has approved a new Adult Day Care Center to be constructed on Central Avenue where the old Health Department structures are located. The proposed lease is for city Property that will support provide support parking that is required in addition to on-site parking for the facility. The city property lies between the existing Health Department structures and the Chamber of Commerce building. Staff has reviewed the Lease, and the City Attorney and the County Attorney have worked through the document. The Lease has been approved by the County and executed by the Chairman of the Board of County Commissioners.

#### **CURRENT FISCAL IMPACT**

No Impact.

#### **OTHER ALTERNATIVES**

None.

#### **FISCAL IMPACTS OF OTHER ALTERNATIVES**

None.

[End agenda memo]

#### **Agenda Item 15. Relocation of Security Fence at Hardman Hall**

The full staff memo is incorporated into the minutes.

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

#### **SYNOPSIS**

The security fence needs to be realigned around a parking area on the north side of the project site to redefine the perimeter of the project site and allow parking on a part of the paved area to support other city facilities and the Little Theater.

#### **RECOMMENDATION**

Staff recommends that the City Commission authorize the City Manager to execute a contract with Best Fence Company, Inc., in the amount of Two Thousand Two Hundred Forty Dollars and 38/100 (\$2,240.38) for the relocation of a portion of the security fence at Hardman Hall Complex to facilitate expanded support parking for City and Art / Cultural venues and to redefine the Hardman Hall Construction Site.

#### **BACKGROUND**

The City is proceeding with the most recent reprogrammed scope of work for the Hardman Hall Complex and will be reducing its activity at the site until adequate funding is available to move the project to completion. The requested work will allow the construction site to be redefined and make available a portion of the parking area available to support the existing renovated City facilities. Three quotes have been obtained from the following:

Walker's Fence Company at \$3,218.28  
Jim Williams Fence Company, Inc. at \$2,562.00  
Best Fence Company at \$2,240.38

It must be noted that the low quote does provide for a contingency for an extra cost if concrete is encountered in the sub-base. Only one quote noted the possible field condition. It must also be noted that each company did visit the site and came up with their on site computations. The City Staff has probed



the area and feel reasonable sure that we will not encounter conflict sub-base conditions. A City crew will be clearing the asphalt line on the east boundary of the installation. The work can be completed within the same amount of field time so no difference in completion time is a factor.

### **CURRENT FISCAL IMPACT**

The funding for this Project is part of the City's match for Grant SC 801 for Hardman Hall.

### **OTHER ALTERNATIVES**

Leave the fence in its existing location.

[End agenda memo]

Commissioner Wheeler inquired about Agenda Item 13, Lease of office space for Senator J. D. Alexander's District Office. He asked about the hours of operation and if the office space would be staffed. Mr. Gallup said the Senator's staff would be operating during normal Administration Building business hours while the Senate was not in session.

Commissioner Rogers made a motion to approve the Consent Agenda. The motion was seconded by Commissioner Wheeler.

By Voice Vote:

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

The motion carried 5-0.

### **OLD BUSINESS**

#### **Agenda Item 16. Ordinance 2009-14, Amendment to Zoning Regulations for Wine and Beer Bars – 2<sup>nd</sup> Reading & Public Hearing**

Margaret Swanson, Director of Planning and Development, reviewed Agenda Item 16. The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Margaret Swanson, Director of Planning and Development]

### **SYNOPSIS**

Ordinance 2009-14 will allow "wine and beer bar" as a conditional use in the C-1 zoning districts, located in the downtown and the Lincoln Ave. business district. The ordinance also removes the distance requirements from the zoning regulations (Chapter 23); these regulations will be retained in the alcoholic beverage license regulations (Chapter 5).

### **RECOMMENDATION**

It is recommended that the City Commission adopt Ordinance 2009-14 upon second reading and public hearing.

A public hearing is required. Public notice requirements have been met.

## BACKGROUND

At the October 6 meeting the City Commission approved a first reading of the proposed ordinance with one change: the minimum floor area for a wine and beer bar was reduced from 2,000 to 1,000 square feet. The ordinance has been amended accordingly.

The Commission previously approved a first reading of an ordinance to allow wine and beer bars. To address other changes to the alcoholic beverage regulations, two ordinances are now proposed: Ordinance 2009-14, amending the zoning regulations (Chapter 23) and Ordinance 2009-25 amending the alcoholic beverage regulations (Chapter 5).

Ordinance 2009-14 will allow "wine and beer bar" as a conditional use in the C-1 zoning districts, located in the downtown and the area along Lincoln Ave. For the purpose of precluding very small and very large venues, the bars will be required to have a business floor area of at least 1,000 square feet and a maximum of 5,500 square feet.

Wine and beer bars will be exempt from the requirement to be a minimum of 500 feet from a school or church. The exemption is proposed because in the compact C-1 districts, there are very few sites that could meet the requirement.

The ordinance also removes the distance requirements from the zoning regulations (Chapter 23); these regulations will be retained in the alcoholic beverage license regulations (Chapter 5).

Note that the distance requirement applies to retail establishments, such as liquor stores, but does not apply to restaurants that derive 50% or more of their revenue from food sales or to grocery stores selling beer and wine.

## FISCAL IMPACT

Allowing wine and beer bars in the C-1 districts could assist with revitalization.

## OTHER OPTIONS

Decline to amend the regulations to allow wine and beer bars. However, the elimination of the duplication of distance requirements in Chapters 5 and 23 is recommended regardless.

## Summary of Regulations for Alcoholic Beverage Businesses under Proposed Amendments

Types of businesses:

- **Retail** (package sales) – Retail stores are required to be at least 500 feet from a church or school unless the establishment is a grocery store licensed to sell beer and wine. Liquor stores must meet the distance requirement.

Examples: ABC Liquor (liquor store), Publix (grocery)

- **Restaurant** (consumption on premises) – All are required to derive at least 50% of their revenue from food sales under City regulations. The state regulations require the 50% rule only if the restaurant has a full bar, but not if the bar is limited to beer and wine.

Examples: Chili's (full bar – 50% rule applies under state license)  
Crazy Fish (beer & wine – 50% rule applies under City Code only)

- **Wine and beer bar** (consumption on premises) – Bars limited to wine and beer are allowed in C-1 Downtown zoning districts, provided business floor area is between 1,000 and 5,500 square feet in size. Food service is not required by state or local regulations.

Example: Phase III (grandfathered for wine and beer sales)

- **Fraternal organizations** (consumption on premises) – These organizations usually have a special license from the state, but are not regulated separately under City Code. The state requires incorporation for two years prior to issuance of a liquor license except for nationally recognized clubs.

Example: VFW, Masonic Lodge

Note that full bars are not allowed under Lake Wales zoning code unless in a restaurant meeting the 50% rule or in a fraternal organization. Most restaurants in Lake Wales have a 2COP license, allowing wine and beer to be consumed on premises. The two "grandfathered" bars in the City have 2COP licenses, not full bar.

[End agenda memo]

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

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING LAKE WALES CODE OF ORDINANCES, CHAPTER 23, ZONING, LAND USE AND DEVELOPMENT REGULATIONS; DEFINING "BARS, WINE AND BEER"; ALLOWING WINE AND BEER BARS IN THE C-1 DOWNTOWN COMMERCIAL DISTRICTS AS CONDITIONAL USES; AMENDING THE SPECIAL CONDITIONS FOR ALCOHOLIC BEVERAGE SALES; AND PROVIDING FOR AN EFFECTIVE DATE.**

#### **OPENED PUBLIC HEARING**

No one came forward

#### **CLOSED PUBLIC HEARING**

Commissioner Thornhill said he was unsure whether the 1,000 sq. ft. minimum was big enough. He asked if there were any businesses with that low of a square footage on Lincoln Avenue. Chief Gillis reviewed a list of square footages taken from the property appraiser records for buildings located on Lincoln Avenue and said that the downtown area had businesses of similar sizes. Linda Kimbrough, city consultant for the downtown area, agreed with the Chief's findings. There was a discussion about various buildings and their sizes.

Commissioner Howell commented that the Commission had previously recommended changing the minimum square footage from 2,000 to 1,000 because of small business sizes in the C-1 zoning district. She asked if the City could require wine and beer bars to adhere to the food restriction even if the State did not. Attorney Chuck Galloway said that the City cannot require that food be served. He said that Ordinance 2009-14 only addresses allowing wine and beer bars in the C-1 district and removing the distance requirement and does not address the serving of food. Commissioner Howell asked if all the fraternal organizations had to be listed in the document, as there were only two listed at the present time. She feared that in years to come, if each individual organization was not listed, the intent of the Commission might be at question. Ms. Swanson said the two listed were only given as examples. She said there were several in town that were approved under a special license for fraternal organizations, but that social clubs have to be in existence for at least two years before qualifying for state licensing as a club.

Commissioner Wheeler made a motion to approve Ordinance 2004-14, allowing wine and beer bars in the C-1 zoning district and removing the distance requirement from the zoning regulations, after second reading and public hearing. The motion was seconded by Commissioner Rogers.

Roll Call:

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

The motion carried 5-0.

**Agenda Item 17. Ordinance 2009-25, Amending Chapter 5, Alcoholic Beverages, Lake Wales Code of Ordinances – 2<sup>nd</sup> Reading & Public Hearing**

Chief Gillis reviewed Agenda Item 17. The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

The City Commission will consider adopting a significant revision of Chapter 5, Alcoholic Beverages.

**RECOMMENDATION**

Staff recommends the City Commission adopt Ordinance 2009-25, after second reading and public hearing, revision of Chapter 5, Alcoholic Beverages, Lake Wales Code of Ordinances.

**BACKGROUND**

In a separate agenda item, the City Commission will consider amending Chapter 23, Zoning, Land Use and Development Regulation, Lake Wales Code of Ordinances, to allow wine and beer bars within certain locations based on zoning district regulations.

Accordingly, Chapter 5, Alcoholic Beverages, must be amended to remove prohibitive language. When reviewing state and city laws regarding alcoholic beverages it was determined Chapter 5 should undergo significant revision to further regulate the consumption, possession, sale and service of alcoholic beverages. These changes should reduce alcohol abuse and preserve the public peace within the city.

The revisions are summarized in detail as follows:

Section 5-1 Legislative findings and intent: This section declares the intent of the City Commission to reduce alcohol abuse and its desire to preserve the public peace. In addition, this section identifies authority granted by the Florida Statutes to regulate alcoholic beverages.

Section 5-2 Applicability: This section declares the provisions of Chapter 5 will regulate the consumption, possession, sale and service of alcoholic beverages within the city.

Section 5-3 Definitions: This section defines terms used in Chapter 5. In addition to updating existing terms for uniformity with the Florida Statutes, the following terms were added: Alcoholic beverages, Beer, Retail sales establishment, Sale and sell, Wine and beer bar, and wine. The following terms were deleted: F.S.

Section 5-4 hours of sales: This section regulates when alcoholic beverages may be consumed, permitted to be served, served and sold. The current code generally prohibits alcoholic beverages from being consumed, permitted to be served, served and sold between the hours of 7 a.m. to 2 a.m. of the following day. The revision regulates the hours of sale specific to the following locations:

Alcoholic beverages may be consumed, permitted to be served, served or sold with a meal at a restaurant between the hours of 8 a.m. and 2 a.m. of the following day.

Alcoholic beverages may be sold at a retail sales establishment between the hours of 6 a.m. and 2 a.m. of the following day.

Alcoholic beverages may be consumed, permitted to be served, served or sold at a wine and beer bar between the hours of 8 a.m. and 2 a.m. of the following day.

Section 5-5 Consuming, drinking and possessing alcoholic beverages prohibited: This section makes it unlawful for a person to consume, drink or possess an open container in public open spaces. This section does not apply to public open spaces adjacent to restaurants approved by the City Commission or special events approved by the City Commission. In addition, the revision requires alcoholic beverages served at special events to be contained in clear plastic containers not exceeding 16 ounces.

Section 5-6 Consumption, sale and service of alcoholic beverages within 500 feet of a church or school prohibited. This section prohibits the sale of alcoholic beverages within 500 feet of the real property that comprises an established church or private or public elementary, middle or secondary school. This section does not apply to restaurant or grocery store, and the requirement for a 500-ft distance from a church does not apply to a wine and beer bar. To provide uniformity with the Florida Statutes, this section calculates the measurement from the real property that comprises the church or school rather than a building located on the real property.

Section 5-7 Bottle club prohibited; This section prohibits a bottle club within the city.

Section 5-8 Reserved

#### **OTHER OPTIONS**

The Commission may choose not to amend Chapter 5, Alcoholic Beverages, Lake Wales Code of Ordinances on second reading.

#### **FISCAL IMPACTS**

This action will not require an expenditure of funds.

[End agenda memo]

Ms. VanBlargan read Ordinance 2009-25 by title only.

#### **AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING CHAPTER 5, ALCOHOLIC BEVERAGES, IN ITS ENTIRETY TO READ AS HEREIN SET OUT; REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.**

Chief Gillis reviewed the changes that were in the amendment. He said that the extension of the Sunday sale of wine and beer was to provide consistency throughout the week. He recommended that the wording for the distance from a church or school in Sec. 5-6, remain 500 feet from the building instead of to the "property line" as was proposed in the first reading of the ordinance. He added that wine and beer bars, restaurants, and grocery stores would be exempt from the requirement to be 500 feet from a church.

## **OPENED PUBLIC HEARING**

Rob Quam, 710 Carlton Avenue, said he was not representing any particular group but was addressing the Commission as a resident of the city. He said that though he did not believe that restricting the sale of alcohol on Sundays would stop alcohol use, he did believe it would act as a moral or social speed bump. He said that we teach our children that what makes Lake Wales a great community is its conservative and communal atmosphere, and our community leaders who set policies that do not necessarily conform to policies from other towns and cities. He said people choose to live in Lake Wales because of these qualities and he is opposed to any policy that would change what makes us unique and special. He was opposed to the extension of sales on Sunday.

Verna Echols, 621 Osceola Ave, said that anything that would change people's personalities disturbed her and she was against alcohol sales on Sunday as it was the Lord's Day and we should keep it Holy.

Ruth Dampier, 1154 S. Lake Shore Blvd., was concerned about private clubs, wanting them to be required to serve food also. Mayor Van Sickle said this ordinance only concerns the days and the hours of alcohol sales.

Charles Little, 426 Tower View Drive, said he was against making alcohol more and more accessible and encouraged the Commission to take a higher standard instead of the easy road.

Greg Massey, 344 Lincoln Ave., asked that the Commission stand firm with the decision they previously made. He said citizens who want alcohol and cannot buy it in Lake Wales, will simply go to another city for the purchase, and then would have to drive back to Lake Wales under the influence.

David Clemons, 336 Wiltshire Ave. East, was not in favor of the extension. He said alcoholism is a problem. Some people know their limits while others do not and have no self-control. Adding four hours to Sunday's availability would be four more hours of people driving on city streets under the influence.

Marvin Gingry, 3124 Antigua Rd, said he is a bar owner who takes responsibility for not letting his customers drink too heavily. He approves of the extension. He agreed that the hours should be uniform each day.

## **CLOSED PUBLIC HEARING**

Commissioner Wheeler said he understood the sensitivity in selling alcohol during church hours, and though he did not believe restricting sales would accomplish much, he thought selling it at 8:00 AM. was a bit much. He recommended reinstating Sec. 5.4 b, which would limit sales to from noon to midnight on Sundays.

Commissioner Thornhill said that his concern would be for people traveling through Lake Wales who would want to purchase wine or beer to take to the beach with them. He had no issue with the additional four hours. Restricting it may not make it easier for people to get, but they would still get it. He added that, if the extension caused additional problems, the Commission could revisit this amendment in the future.

Commissioner Howell said that she could live with the change but that she was more concerned with the business owners continuing to sell after the 2 AM deadline. She asked Chief Gillis if a violator would be fined or if the business would be closed down. Chief Gillis said those who violated the city ordinance would be arrested, pay a fine of approximately \$500, and have to serve community service hours.

Commissioner Rogers said he had many calls from constituents not wanting the sale of alcohol extended on Sundays so they would have four hours of alcohol free time. He did not believe the restriction would stop anyone from drinking but he would go along with the community's request.

Mayor Van Sickle, said that our society is diverse and there are some religions that do not worship on Sunday. He said that to drink or not to drink was an adult decision and we should not restrict someone traveling through, for example, who wanted to pick up some beer before going fishing. He was in favor of the extension.

Commissioner Wheeler made a motion to adopt Ordinance 2009-25, after second reading and public hearing, with an amendment limiting the sale of alcohol on Sundays from 12 noon to 12 midnight. The motion was seconded by Commissioner Rogers.

Roll Call:

Commissioner Wheeler	"Yes"
Commissioner Rogers	"Yes"
Commissioner Thornhill	"No"
Commissioner Howell	"No"
Mayor Van Sickle	"No"

The motion failed 3-2.

Commissioner Thornhill made a motion to adopt Ordinance 2009-25 as is, after second reading and public hearing. The motion was seconded by Commissioner Howell.

Roll Call:

Commissioner Thornhill	"Yes"
Commissioner Howell	"Yes"
Commissioner Wheeler	"Yes"
Commissioner Rogers	"No"
Mayor Van Sickle	"Yes"

The motion carried 4-1.

**Agenda Item 18. Ordinance 2009-26, Repealing Ordinance 2007-32, Contractor Requirement - 2<sup>nd</sup> Reading & Public Hearing**

City Manager Judith Delmar reviewed Agenda Item 18. The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

The Commission will consider repealing the requirement that a contractor seeking to do business with the City must certify that it has no pending damage claim against it by a citizen of Lake Wales. Requires a Public Hearing.

**RECOMMENDATION**

It is recommended that the City Commission adopt Ordinance 2009-26 after second reading and public hearing.

**BACKGROUND**

On August 21, 2007 the City Commission approved Ordinance 2007-32 to require that contractors who seek to do business with the City must certify that they have no pending damage claims or claims against it by any Lake Wales citizen relating to construction services performed within the city limits. This

ordinance was adopted in response to problems experienced by several citizens in resolving claims of damage suffered during construction of the Rails-to-Trails project.

Several commissioners have asked that an ordinance be prepared to repeal this requirement inasmuch as it can result in potentially excessive costs to the City when a contractor that submits a low bid is precluded from a bid award because there is an unresolved claim against it, whether or not the claim is actually justified.

Ordinance 2009-26 is proposed for the purpose of repealing this requirement.

#### **OTHER OPTIONS**

Do not adopt Ordinance 2009-26 and leave the requirement in place.

#### **FISCAL IMPACT**

Repealing the requirement may save the City money in the future if a contractor that has submitted or might have submitted a low bid is not disqualified because a Lake Wales citizen has a claim pending against it.

[End agenda memo]

Ms. VanBlargan read Ordinance 2009-26 by title only.

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA REPEALING ORDINANCE 2007-32 AND THEREBY AMENDING CHAPTER 2, ADMINISTRATION, LAKE WALES CODE OF ORDINANCES BY DELETING SEC. 2-408 REQUIRING CONTRACTOR ASSERTION AS TO NO PENDING DAMAGE CLAIMS; PROVIDING AN EFFECTIVE DATE.**

#### **OPENED PUBLIC HEARING**

Jack Neal 435. E. Central Avenue, reminded the Commission of the damages to the houses along the Rails to Trails caused by a vibrating roller during construction. He said that he saw a company using a vibrating roller for construction recently on Scenic Highway and he wanted to know why we would allow it after a vibrating roller caused so much trouble before. Beverly, Division Manager, said it was not the same company that used it this time, but that an email had been sent to let them know that vibrator rollers could not be used. Apparently, they did not get the email. She said that as soon as Mr. Neal told her that one was being used, she went directly to the site to tell them in person. They had ceased using it immediately.

#### **CLOSED PUBLIC HEARING**

Commissioner Thornhill said that this ordinance was originally written to protect the citizens of Lake Wales but the way it was worded any small complaint against a company, no matter how frivolous, could keep a viable company from working for the City. He suggested having the ordinance rewritten with more specifics.

Commissioner Howell said that with the proposed changes, a company could potentially cause great damage to property, as was done with Lane Construction, and still be able to work for the City. Mayor Van Sickle said the amendment was written to keep frivolous claims from excluding a company from doing work in the City.

Commissioner Thornhill made a motion to adopt Ordinance 2009-26 after second reading and public hearing. The motion was seconded by Commissioner Rogers.

Roll Call:



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

The motion carried 5-0.

## **NEW BUSINESS**

### **Agenda Item 19. Ordinance 2009-27, Local Vendor Preference – 1<sup>st</sup> Reading**

City Manager Judith H. Delmar reviewed Agenda Item 19. The full staff memo is incorporated into the minutes.

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

#### **SYNOPSIS**

The Commission will consider adopting an ordinance to provide for granting preference to local vendors when making a purchase or awarding a contract.

#### **RECOMMENDATION**

It is recommended that the City Commission approve Ordinance 2009-27 after first reading.

#### **BACKGROUND**

The City Commission has expressed a desire to amend our purchasing ordinance to provide for granting preference to local vendors when awarding a bid for commodities or contract services. At the workshop held on October 14, the consensus of the Commission was to show preference for a local vendor when the bid of the local vendor is not more than 2% higher than the low bid. Ordinance 2009-27 has been prepared for this purpose.

Our current ordinance allows for granting preference to a local vendor when the cost of the goods or services does not exceed \$25,000 but makes no such provision when the cost exceeds that amount. Further, the current ordinance is difficult to implement because it offers no guidance beyond the statement "when all other factors are equal". Ordinance 2009-27 amends the current ordinance to allow the City to award a bid to a local vendor, regardless of the cost of the goods or services, whenever the local vendor's bid is within 2% of the low bid.

#### **OTHER OPTIONS**

Our current ordinance defines the term "local purchasing source" as one which "has a principal place of business located within the City of Lake Wales". Ordinance 2009-07 amends the term defined to "local vendor". The City Commission could choose to expand the definition to include any business with a Lake Wales address or any business within a certain distance from the city.

#### **FISCAL IMPACT**

The potential cost of a local preference policy when awarding a bid is illustrated in the following chart:

Amount of Bid	Value of 2%
\$25,000	\$500

\$50,000	\$1,000
\$200,000	\$4,000
\$500,000	\$10,000
\$1,000,000	\$20,000

[End agenda memo]

Ms. VanBlargan read Ordinance 2009-27 by title only.

**AN ORDINANCE AMENDING ARTICLE IV, PROCUREMENT OF PROPERTY AND SERVICES, OF CHAPTER 2, ADMINISTRATION, LAKE WALES CODE OF ORDINANCES, BY PROVIDING FOR THE GRANTING OF PREFERENCE TO LOCAL VENDORS WHEN PROCURING COMMODITIES OR CONTRACTUAL SERVICES; PROVIDING FOR AN EFFECTIVE DATE.**

Ms. Delmar said that at the workshop they had discussed the range of preference and decided 2% would be appropriate, but they had not discussed the meaning of "local vendor." Currently, the definition means a business located in the City of Lake Wales. Other options the Commission could consider would be expanding that definition to include businesses with a Lake Wales mailing address or extending it to an area within a certain radius from the city limits. Commissioner Howell asked if that would include anyone using city water, and Ms. Delmar said it could if the Commission opted to extend it to the City's utility service area.

**OPENED TO PUBLIC COMMENT**

Don Ryan, representing the Florida Contractor's Association, said he did not think there was enough competition in Lake Wales to merit preferential treatment and recommended extending the area to all of Polk County. He said that even with the edge given to local businesses, those businesses could hire out of town contractors to do the actual work.

**CLOSED TO PUBLIC COMMENT**

Commissioner Wheeler recommended having the amendment extended to the Lake Wales mailing area, excluding Post Office box addresses.

Commissioner Thornhill said that it was important to give back to our community and its local vendors, and that other cities have similar ordinances.

Commissioner Rogers said that charity begins at home and we need to look after our own people.

Commissioner Howell said that the City may not have as many competing businesses presently, but this ordinance would encourage Lake Wales growth. She recommended an amendment to require that at least 15% of the contractors and workers on a project reside in Lake Wales. We need jobs here and this would be an incentive.

Mayor Van Sickle said this amendment would give local contractors a step-up. The City would still welcome all bidders, but they would have to sharpen their pencils because of the 2% local edge, which would stimulate the local economy. He believed that the work done in Lake Wales should be done by people living in Lake Wales.

Commissioner Wheeler made a motion to approve Ordinance 2009-27, after first reading, with an amendment to change the definition of the word "vendors" to include businesses with a Lake Wales mailing address exclusive of post office boxes. The motion was seconded by Commissioner Thornhill.

Roll Call:

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

The motion carried 5-0.

**Agenda Item 20. Adult Day Care Facility – Release of Reverter Provision**

City Attorney Chuck Galloway reviewed Agenda Item 20. The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Albert C. Galloway, Jr., City Attorney]

**SYNOPSIS**

The County Commission of Polk County has approved the funding for the construction of the Adult Day Care Facility to be constructed on the parcel being vacated by the Polk County Health Department. The project site is west of the Fire Station located at the Municipal Administration complex.

The property was conveyed to Polk County in 1958. Copies of the initial Quit Claim Deed and the subsequent corrective Quit Claim Deed, as recorded in Official Records Books 171 and 191, at Pages 144 and 224, respectively, of the Public Records of Polk County, Florida, are attached hereto. Each of the Deeds contains a reverter clause, which provides that the title to the property will revert to the City in the event the property ceases to be used for a public purpose.

I have been advised by the County Attorney, Michael Craig, Esquire, that the County Commission requires that the reverter clause be released before the County invests approximately Two Million dollars (\$2,000,000.00) in the project. A copy of Mr. Craig's correspondence to me, together with a copy of the proposed Quit Claim Deed which will release the reverter provision, are also attached to this Memorandum.

In order to bring this project to fruition for the benefit of the citizens of Lake Wales, I believe it prudent for the City Commission to release the reverter provision and authorize the Mayor to execute the proposed Quit Claim Deed in order to accomplish the release.

[End agenda memo]

Commissioner Rogers wanted to be assured that the City of Lake Wales was not funding the project, but only releasing the reverter clause and authorizing the Mayor to execute the Quit Claim Deed. Mr. Galloway assured him that was the case.

Commissioner Howell made a motion to release the reverter provision and authorize the Mayor to execute the proposed Quit Claim Deed. 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 21. Amusement Center – Approval of Location for an Amusement Center with Coin Operated Games at 344 Lincoln Avenue**

Agenda Item 21 was withdrawn from the agenda.

**Agenda Item 22. Reprogramming of Historic Preservation Grant SC801 for Hardman Hall**

Economic Development Director Harold Gallup reviewed Agenda Item 22. The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

The State Historic Preservation Bureau has approved the reprogramming of the work for the SC810 Grant and SEMCO Construction has secured pricing for the reprogrammed work.

**RECOMMENDATION**

The Staff recommends the following Motion: The Formal Motion will be provided before the meeting so as to incorporate any and all elements that are required to full describe the Scope of Work Bids received and reviewed by Staff on October 19, 2009.

**BACKGROUND**

The City Commission had directed the staff to work through the process to see if the reprogramming of the State Funds and the City's matching funds could be done and still meet the extended deadline of December 31, 2009. A meet was held on September 10, 2009 with Mr. Dave Ferro of the State Historic Preservation Bureau and with Ed Locke of SEMCO and City representatives. The approval was granted in late September for the reprogrammed scope of work. The State has also done a site visit and has indicated that they are satisfied with the progress of the project and the proposed work.

SEMCO has created a Project Bid Manual that served for the pricing by subcontractors. A pre-bid meeting was held on September 29, 2009; Bids and Quotes were received at end of day on October 09, 2009; Costs and recommendations were to be received by the City before end of day on October 19<sup>th</sup>.

**CURRENT FISCAL IMPACT**

No additional impact beyond the grant funds (\$350,000) and the local match (\$300,000) already appropriated.

**OTHER ALTERNATIVES**

None.

[End agenda memo]

Mr. Gallup explained that there was not enough time to advertise for bids because of the December 31 deadline and therefore recommended approval of the Semco Construction contract. If approved the work would commence the following morning.

Mayor Van Sickle reminded the Commission that Semco Construction also had the contract for the building of the new adult day care center and he expressed his concern that if Semco Construction dragged its feet we would miss the deadline. He recommended that having a superintendent on site 100% of the time to assure that the schedule was being adhered should be included in the contract. Commissioner Rogers requested that the contract include verbiage stating that if the work was not

completed by the deadline, there would be \$1,000 fine. Mr. Gallup responded that there would be a full-time superintendent on site at no extra cost to the City to assure things will be completed on time. He added that the contract already stated that if the project is not finished on time, and the deadline is missed, Semco Construction Company will not be paid.

Mayor Van Sickle recommended that no Commissioners or other persons be allowed to enter the construction site unless they go through staff. Mr. Gallup concurred and said the construction site would be a closed site and anyone entering without clearance by City Hall could be arrested on felony charges. Ms. Delmar added that this was a liability issue and the site would be posted as closed.

Commissioner Wheeler congratulated Mr. Gallup for his negotiation skills.

Commissioner Thornhill made a motion to reprogram the Historic Preservation Grant SC801 for Hardman Hall. The motion was seconded by Commissioner Howell.

Roll Call:

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

The motion carried 5-0.

**CITY MANAGER'S REPORT**

**CITY COMMISSION TRACKING REPORT**

Ms. Delmar said there had been no changes in the tracking report since the last update, and that there were only five projects presently open.

Commissioner Thornhill asked when the milling work on alleyways would commence. Beverly Pennington, Division Manager, said the work was to begin on November 1.

Mayor Van Sickle commented on the speeding issue on Thompson Nursery Road and explained that the Commission had wanted the speed limit lowered to 45 mph. The County said they would do a study. The result was that the average speed was 57 mph. The speed limit there now is 55 mph but the Mayor, who travels that road, said it was more like 60 mph, and that drivers pass on double lines and on curves. Chief Gillis said that he was going to consult with the City Attorney who would consult with the County Attorney and review the Attorney General's opinion to see if they could come up with a compromise. Mayor Van Sickle suggested placing patrol cars there and fining speeders heavily if the County would not lower the limit.

**COMMUNICATIONS AND PETITIONS**

Janice Davis of Lake Wales voiced her dissatisfaction with the way the cemetery cleanup was handled as her son's monument was removed that had been there for 16 years. Although she had heard from Mr. Gallup, she was upset with the lack of response she received from the Commissioners. Mayor Van Sickle said he had tried unsuccessfully to contact her, but then he heard that staff had been in contact with her. Ms. Davis said she wanted to serve on the Cemetery Committee, but the Committee meets during the day and she has to work. Ms. Delmar said that she and Teresa Allen would meet with her at any time, after hours or whenever she could make it. Ms. Delmar asked Ms. Davis to remain after the meeting to set up a meeting.

Christopher Lutton, 437 S. 9<sup>th</sup> Street, voiced his displeasure with the increased water fees and added that if residents were being charged more for water, they expect the water quality to be better. He said his water filter is repeatedly clogged up and when he fills his pool it has dirt floating in it. Ms. Delmar said that Mr. Moran would investigate this.

Jack Neil, 435 E. Central Avenue said that a contractor's vactor truck sat for a week on Scenic Avenue across from the CSX building and then the city's truck showed up. He wanted to know why we paid contractors to do a job if we had to follow up after them. Beverly Pennington said that FDOT and the City are working on a joint project to control flooding.


**CITY COMMISSION COMMENT**

Commissioner Howell said that she was proud of the Lake Wales Police Department's response during the area lockdown for their professionalism, which made residents quickly feel safe.

There being no further business, the meeting was adjourned.

  
\_\_\_\_\_  
Mayor/Commissioner

ATTEST:

  
\_\_\_\_\_  
City Clerk