

The regular meeting of the Lake Wales City Commission was held on November 3, 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, City Manager; Albert C. Galloway, Jr., City Attorney; Clara VanBlargan, City Clerk; Jacquie Hawkins, Deputy City Clerk.

#### **MAYOR**

#### **Agenda Item 5. PROCLAMATIONS:**

Polk County Family Week: November 14-20, 2009: Margaret Anne, Senior Coordinator for Community Involvement for the Polk County School Board, was presented with a proclamation to celebrate and honor strong families.

National Hunger and Homelessness Awareness Week; November 15-21, 2009: Members of the Homeless Coalition were presented with a proclamation to make Lake Wales residents aware of neighbors in need.

#### **CONSENT AGENDA**

**Agenda Item 6. APPROVAL OF MINUTES: October 14, 2009, Workshop Meeting; October 20, 2009, Regular Meeting**

**Agenda Item 7. Invitation to Bid for Utilities contracts**

The full staff memo is incorporated into the minutes.

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

#### **SYNOPSIS**

Staff is preparing to seek bids for Sludge Hauling, the purchase of Sodium Hypochlorite, and the purchase of Polymer.

#### **RECOMMENDATION**

It is recommended that the City Commission approve Bid Document #09-186, Invitation to Bid Sludge Transporting, Bid Document #09-188, Invitation to Bid Sodium Hypochlorite Purchase, and Bid Document #09-187, Invitation to Bid Polymer.

#### **BACKGROUND**

#### **SODIUM HYPOCHLORITE**

Sodium hypochlorite is a compound that can be effectively used on a large scale for surface purification, bleaching, odor removal and water disinfection. Sodium hypochlorite as a disinfectant has the following advantages: It can easily be stored and transported when it is produced on-site. Dosage is simple and transport and storage of sodium hypochlorite are safe. Sodium hypochlorite is as effective as chlorine gas and is essential in the treatment of both water and wastewater processing killing pathogens that could prove to be harmful to humans.

Over the past 20 years, disinfection technology and chemical treatment for wastewater has been consistent with the use of chlorine as the standard chemical to safely and effectively treat wastewater media. The delivery of the chlorine to the flow stream ranges from gaseous, liquid chemical, or carrier chemical agents. Today, through the development and realization towards improving safety and reducing risk, Sodium Hypochlorite has commonly been used in various applications where disinfection or sterilization of water is needed. Sodium Hypochlorite is becoming more and more popular based on its inherent chemical characteristics of being a safer, less costly, lower risk chemical, and still an effective means to treat wastewater media.

### SLUDGE TRANSPORTING

The Florida Department of Environmental Protection (FDEP) and the Environmental Protection Agency (EPA) require a system of accountability for proper disposal of all wastewater sludge by the generating wastewater treatment facility. The sludge produced at the Sam P. Robinson Reclaimed Water Treatment Plant as an end product is dried to a consistency of approximately 14 percent solids.

Continuous monitoring of the City's Wastewater Treatment Plant sludge is required. An annual sludge report must be submitted to EPA and FDEP. The City must maintain a record of all sludge produced, treated and applied to the approved disposal land site. The City is responsible for how much sludge is applied to the site, how the sludge is applied to the site, chemical analysis of the sludge on the site, location and size of the sludge application areas and the water levels at the time of application. This level of accountability makes it absolutely necessary for the City to have a qualified hauler transporting and disposing of the sludge.

### POLYMER

The use of polymers optimizes the treatment process, thus yielding better quality sludge that could not be obtained otherwise. Concerns about Giardia cysts, asbestos fibers, etc., can be greatly reduced through the proper selection and application of a polymer. The proper selection and use of a polymer will often significantly reduce the overall treatment costs of producing public access reuse. Sometimes these savings are hidden through less obvious concerns, such as sludge disposal costs, labor costs, or reduced backwash costs. The use of a polymer, in lieu of an inorganic coagulant such as alum, significantly reduces the amount of sludge that is generated in the treatment process. The cost of disposing of these sludges in landfills has steadily increased. Consequently, it is a significant economic benefit when polymer is employed. The proper selection and use of a polymer often results in extended filter runs, reduced backwash times, and lower energy costs, resulting in significant savings as well. The proper selection and application of a polymer can simplify operations by improving overall performance of the treatment process; thus reducing the probability of treatment plant upsets.

Staff has prepared Bid #09-187, Bid #09-188, and Bid #09-186 for review by the City Commission. Upon approval staff will advertise in the Lake Wales News Chief and the bid will be posted on the City's website. These bid documents will also be sent to qualified vendors on the City's vendor list.

[End agenda memo]

Commissioner Rogers, who pulled this item for further discussion, asked Ms. Kirkland how much polymer had been used the preceding year. Sarah Kirkland, Utilities Projects Supervisor, said the City had used between \$21,000 and \$22,000 of polymer and between \$50 and \$75 of chlorine. She expected that it

would be approximately the same amount this year.

Mayor Van Sickle commented that various strengths are needed for different materials in wastewater plants and that testing is needed to get the right percentage to be used. Ms. Kirkland concurred.

**Agenda Item 8. Award of Bid for Utilities Contracts**

The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

Staff is seeking an award of bid for Utility Revenue Enhancement Services

**RECOMMENDATION**

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

Award the bid to ISI Water Company (referred herein as Water Company of America "WCA") for utility revenue enhancement services.

Authorize the City Manager to execute an agreement with WCA.

**BACKGROUND**

The City, on August 17, 2009, issued an RFP seeking proposals from firms specializing in the analysis and correction of water, wastewater and solid waste system under-billings and misbillings, with the intent of increasing revenue for the City.

WCA was the only bid received. WCA, if approved, will use various sort routines and comparisons to identify potential problems with consumers, such as:

- Unlisted Customers
- Account Coding Errors
- By-pass or Malfunctioning Meters
- Rate Discrepancies

WCA's revenue enhancement program is offered on a performance fee basis to the City. WCA will be paid only a share of any new found and collected revenues generated by this program. WCA will be entitled to a share equal to 50% of all increased revenues for a period of 36 months.

**FISCAL IMPACT**

A fee of 50% of all increased revenues for a period of 36 months. If no additional revenues are found, there will be no cost to the City.

[End agenda memo]

**Agenda Item 9. Christmas Parade – Temporary Street Closings**

The full staff memo is incorporated into the minutes.

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

## **SYNOPSIS**

Approval of the street closing request will allow the Christmas parade to be held on Saturday, December 12, 2009.

## **RECOMMENDATION**

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

Approve the temporary street closings for the Kiwanis Annual Christmas Parade to be held Saturday, December 12, 2009 from 4:00 p.m. to 8:00 p.m.

Authorize the City Manager to sign the event permit.

## **BACKGROUND**

The Kiwanis Club of Lake Wales submitted a special event application for the Annual Christmas Parade to be held Saturday, December 12, 2009 from 4:00 pm to 8:00 pm. Line up for the parade will begin at 4:00 pm. Starting point of the parade is Scenic Highway (SR 17) and Park Avenue.

The application also includes a request for the street closing of the following streets:

Scenic Highway (SR 17) and Park Avenue heading west to Wetmore Street, south on Wetmore Street to Stuart Avenue, east on Stuart Avenue to Scenic Highway (SR 17), south on Scenic Highway to Central Avenue, west on Central Avenue to First Street, parade ends at First Street and Central.

The crossing of Scenic Highway requires a permit from the Florida Department of Transportation. This permit request was submitted to the Bartow office in August of this year. Mr. David Smith, District Permits Manager has granted verbal approval for the temporary road closing of Scenic Highway. The signed permit is forthcoming.

All departments have reviewed the application and have approved the event. The Lake Wales Police Department and VOICE will be available to provide escort for the parade and for traffic control. The Streets Department will be providing the barricades for the street closings.

## **OTHER OPTIONS**

Not to approve this event and road closings.

## **FISCAL IMPACT**

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

[End agenda memo]

### **Agenda Item 10. Extension of Fellowship dining Program Lease Agreement**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Clara Van Blargan, City Clerk]

## **SYNOPSIS**

Extension of the Lease Agreement will allow the Fellowship Dining Program to continue through December 31, 2012.

## RECOMMENDATION

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

1. Approve the lease extension agreement with the Polk County Board of County Commissioners to operate their Fellowship Dining Nutrition Program at the James P. Austin, Jr. Community Center and;
2. Authorize the City Manager to execute the lease extension agreement.

## BACKGROUND

The Polk County Board of County Commission is seeking to extend its current agreement with the City to lease facilities at the James P. Austin, Jr. Community Center for the Fellowship Dining Program. The agreement is for the period January 1, 2010 through December 31, 2012. Base rental shall remain the same at \$75.00 a month for an annual payment of \$900.00 per year. The hours of operation are Monday through Friday from 8:30 a.m. to 1:30 p.m. in a designated area of 2,288 square feet. As stated in the original lease agreement, additional fees will be charged at the same rate as for other City residents if any special events take place outside of the regular operating hours. The lease extension agreement shall remain in full force and effect under the existing terms and conditions of the original lease agreement.

Fellowship Dining currently serves meals at the James P. Austin Center and makes home deliveries to clients that live too far away to come to the meal site. They offer nutrition education and counseling by a licensed, registered dietitian, provide transportation to and from the meal site, and provide trips to the grocery store if needed.

## FISCAL IMPACT

Execution of the agreement will generate an annual income of \$900.00 to help offset the cost of facility maintenance.

## OTHER OPTIONS

The City could deny the renewal of the agreement and serve notice to discontinue the program. However, by not renewing the agreement, it makes it difficult for this organization to find another facility to run this program.

[End agenda memo]

## **Agenda Item 11. Acceptance of Donation from the Polk county Sheriff's Office**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Christopher Velasquez, Deputy Police Chief]

## SYNOPSIS

Approval of donation will provide a spare vehicle to the Lake Wales Police Department.

## RECOMMENDATION

Staff recommends that the City Commission:

1. Accept the donation of a 2000 Ford Crown Victoria.
2. Establish the value of the vehicle as \$4000.00.

3. Recognize revenues totaling \$4,000.00 and authorize expenditures on the accounting record.

### **BACKGROUND**

The Police Department is in need of spare vehicles for members to drive during times when their assigned vehicles are down for maintenance or repair. The Polk County Sheriff's Office has offered a white, unmarked Crown Victoria to the Police Department at absolutely no cost. This vehicle has 70,000 miles on it, is in good mechanical condition and has basic emergency equipment already installed. If approved, this vehicle can immediately be added to inventory and put into use by the department.

### **OTHER OPTIONS**

The Commission may choose not to accept the donation.

### **FISCAL IMPACT**

None.

[End agenda memo]

### **Agenda Item 12. Lake Wales Medical Center License and Indemnification Agreement**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Chuck Galloway, City Attorney]

### **SYNOPSIS**

A directional sign for the Lake Wales Medical Center has been approved by the City Manager to be located in the 11<sup>th</sup> Street right-of-way. The site was determined to be the most visible location for the sign. The license agreement is recommended to protect the City from liability.

### **RECOMMENDATION**

Authorization for the Mayor to execute the agreement.

The Lake Wales Medical Center has sought permission to use a portion of the City's dedicated right-of-way along 11<sup>th</sup> Street near the Medical Center for a directional sign. The permit for this use has been approved by the City Manager after approval of the various City Departments was secured.

The License and Indemnification Agreement relative to the use of this property for the sign is attached hereto and approval of the Agreement is recommended. If approved, the Agreement will be provided to the Medical Center to be executed at its corporate office.

The Lake Wales Medical Center agreed, as a part of the process, to reimburse the City for legal expenses related to this permit and preparation of the Agreement. The expenses are in the amount of \$380.11. The cost to record the Agreement in the public records will be \$27.00. The total is the sum of \$407.11 which must be provided to the City with the executed Agreement.

[End agenda memo]

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

By Voice Vote:

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

The motion carried 5-0.

## **OLD BUSINESS**

### **Agenda Item 13. Ordinance 2009-27, Local Vendor Preferences – 2<sup>nd</sup> Reading & Public Hearing**

City Manager Judith Delmar reviewed Agenda Item 13. 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 adopt Ordinance 2009-27 after second reading and public hearing.

#### **BACKGROUND**

The City Commission 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 was prepared for this purpose and was approved by the Commission after first reading.

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.

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". In addition, the definition has been expanded to include any vendor with a business located outside the city limits that has a Lake Wales mailing address provided the mailing address is not a post office box. Language has also been added to state that utilization of a post office box will not disqualify a vendor who can demonstrate that the physical address of the place of business is located at a Lake Wales mailing address if mail was delivered to the physical address.

#### **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

## OTHER OPTIONS

Do not adopt a local vendor preference ordinance or further modify the definition of "local vendor."

Another option has been suggested by Rob Quam, Executive Director of the Lake Wales Care Center as follows:

The City Commission could choose from any bids which do not exceed 2% of the lowest "qualified" bid. Factors to consider when choosing which bid to negotiate a contract with would include, but not be limited to:

1. local business / contractor
2. past performance with City contracts (quality of work & timeliness)
3. past complaints from citizens or city staff
4. capacity to perform work
5. use of local sub-contractors

Although this introduces subjectivity which is absent when staff is required to select the lowest qualified bid, there will be a good deal of subjectivity when staff starts looking at "local contractors" who come in at no more than 2% above the minimum bid. Staff could work up a score card to present to the commission that would take each bid which qualifies and score them on each of the listed factors, for example:

1. local business / contractor
  - 1 = lake wales
  - 2 = southeast polk county
  - 3 = polk county
  - 4 = central florida
  - 5 = beyond
2. past performance with City contracts (quality of work & timeliness)
  - 1 = no issues
  - 2 = minimal issues
  - 3 = some issues
  - 4 = more issues than we would like
  - 5 = too many issues
3. past complaints from citizens or city staff
  - 1 = no complaints – but compliments
  - 2 = no complaints – no compliments
  - 3 = some complaints – just normal griping
  - 4 = more complaints than we would like – why don't they go away
  - 5 = too many complaints – and/or legal concerns

etc.

[End agenda memo]



## OPENED PUBLIC HEARING

No one came forward.

## CLOSED PUBLIC HEARING

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.**

Commissioner Wheeler made a motion to adopt Ordinance 2009-27 as proposed, after second reading and public hearing. The motion was seconded by Commissioner Howell.

Roll Call:

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

The motion carried 5-0.

## **NEW BUSINESS**

### **Agenda Item 14. Ordinance 2009-28, FY08'09 Budget Amendment #4 – 1<sup>st</sup> Reading**

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

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

### **SYNOPSIS**

The Commission will consider adoption of the fourth and final amendment of the FY08'09 Budget that was adopted on September 16, 2008.

### **RECOMMENDATION**

It is recommended that the City Commission approve Ordinance 2009-28 after first reading.

### **BACKGROUND**

Ordinance 2008-34 estimating revenues and appropriating funds for Fiscal Year 2008-09 was adopted by the City Commission on September 16, 2008 and amended by Ordinances 2009-07, 2009-09 and 2009-23. We are presenting for first reading the final amendment of Ordinance 2008-34 to modify the estimates of revenues and appropriations budgeted in various funds. Exhibits A and B and supporting attachments provide the detail for the proposed amendment. This budget amendment is based on preliminary unaudited financial reports for the year period ending on 9/30/09. As can be seen in the following chart, there is neither an increase nor decrease in the total revenues and expenditures budgeted. This is because all amendments are accomplished by reallocating surplus appropriations to cover shortfalls elsewhere.

Revenues & Balances Fwd	Increase(Reduction)
General Fund	0
Special Revenue Funds	0
Debt Service Fund	0
Capital Projects Fund	0
Airport Fund	0
Utility System Fund	0
Total Increase(Reduction) of Revenues & Balances Fwd	0
Appropriated Expenditures & Reserves	
General Fund	0
Special Revenue Funds	0
Debt Service Fund	0
Capital Projects Fund	0
Airport Fund	0
Utility System Fund	0
Reserves	0
Total Increase(Reduction) of Appropriated Expenditures & Reserves	0

The proposed budget amendment does not increase the City's total budgeted expenditures or reserves beyond those adopted with the third budget amendment. After this fourth and final amendment, appropriated expenditures remain at \$50,497,305 and reserves remain at \$7,678,667. Total appropriated expenditures and reserves are \$58,175,972.

Items adjusted in this amendment include:

City Commission - increasing budget for hosting Ridge League dinner to reflect actual cost (covered by donations and receipts at the door)	3,261
City Mgr Office - increasing payroll budget to cover former employee salary and benefits payout	56,171
City Clerk - adding budget for legal services to cover cost of April 2008 election litigation	3,527
Support Services - increasing payroll budget to cover former employee benefits payout	11,605
Parks Division - increasing payroll budget to reflect market parity adjustments for employees	23,085
Parks Division - increasing Waste Disposal budget due to disposal of railroad ties removed in conjunction with Rails-to-Trails extension project	5,530

Parks Division - increasing Water & Sewer budget due to increased irrigation of median plantings	12,102
Parks Division - adding budget for C/O Autos & Trucks to cover cost of van	11,350
Various General Fund Departments – reducing surplus appropriations (reappropriating to departments with excess expenditures)	(126,631)
Special Rev Fund - Streets Division - adding budget for Unemployment Compensation paid	11,280
Special Rev Fund - Streets Division - increasing budget for Electricity/Street Lighting	24,614
Special Rev Fund - Stormwater Division - reducing surplus appropriations, reappropriating to Streets Division	(35,894)
Special Rev Funds - adjustments to Police Forfeiture and Law Enforcement Grant funds to increase appropriations of additional revenue	9,114
Special Rev Funds - adjustment to CDBG fund to reduce appropriations as offset of above item	(9,114)
Utilities Fund - Reuse Division - Adding budget for permitting fees	11,625
Various Utilities Fund Departments – reducing surplus appropriations (reappropriating to departments with excess expenditures)	(11,625)
Total Expenditure Amendment	0

**OTHER OPTIONS**

None. This is a required housekeeping amendment,

**FISCAL IMPACT**

See Exhibit A and Exhibit B attached to Ordinance 2009-28.

[End agenda memo]

Ms. VanBlargan read Ordinance 2009-28 by title only.

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING ORDINANCE 2008-34 AS AMENDED BY ORDINANCES 2009-07, 2009-09 AND 2009-23 TO FURTHER MODIFY THE ESTIMATES OF EXPENDITURES FOR THE OPERATION OF THE SEVERAL DEPARTMENTS OF SAID CITY FOR THE 2008-2009 FISCAL YEAR AND TO FURTHER MODIFY THE APPROPRIATION OF FUNDS RAISED AND COLLECTED FROM ALL SOURCES SET FORTH IN THE ESTIMATE OF REVENUES FOR SAID FISCAL YEAR; REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.**

Ms. Delmar said that this was basically a housekeeping item and the bottom line was that there were no increases or decreases in the total amount budgeted.

Commissioner Thornhill made a motion to approve Ordinance 2009-28, after first reading. The motion was seconded by Commissioner Rogers.

Roll Call:

Commissioner Thornhill                      “Yes”

2009-558

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

The motion carried 5-0.

**Agenda Item 15. Ordinance 2009-29, Measuring Distance between Alcohol Sales and a Church – 1<sup>st</sup> Reading**

Judith Delmar reviewed Agenda Item 2009-29. 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 clarify the measurement of distance between a place of business selling alcoholic beverages and a church.

**RECOMMENDATION**

At the October 20, 2009 meeting the City Commission adopted Ordinance 2009-25 that made significant revisions to Chapter 5 regulating the hours and location of alcoholic beverage sales and consumption within the city limits. Ordinance 2009-25 contains the following language relating to the prohibition against consumption, sale and service of alcoholic beverages within 500 feet of a church:

- (b) The distance of five hundred (500) feet shall be measured as follows:
  - 2. Pertaining to established church. Five hundred (500) feet from the nearest point of the building of the place of business, location or establishment to the nearest point of the real property containing a church building or buildings.

During his presentation of the ordinance at the meeting for second reading and public hearing, Police Chief Herb Gillis recommended deleting the words underlined above and retaining the existing language; i.e., the distance would be measured from building to building, rather than from building to property line. Following discussion, it appeared that there was consensus among the Commissioners to retain the existing language.

Lengthy discussion ensued regarding Sunday hours for alcoholic beverage sales. A motion was made to amend the proposed language by limiting Sunday hours to the period between 12 noon and 12 midnight, rather than allowing Sunday sales between 8 a.m. and 2 a.m. The motion to amend was defeated 3-2, and a motion was made to adopt Ordinance 2006-25 "as is." The second motion passed 5-0.

Although it seemed that the consensus of the Commission was to measure a location's distance from a church by measuring to the church buildings rather than to the property line of the church, this was not included in the motion. The ordinance was adopted "as is," i.e., "as presented" with the language shown in (b)2. above.

To clarify the intent of the Commission regarding consumption, sale and service of alcoholic beverages within 500 feet of a church, we are proposing Ordinance 2009-29.

**OTHER OPTIONS**

Do not adopt Ordinance 2009-29, and 500 feet will be measured from the place of business to the property line of the church.

## FISCAL IMPACT

There is no cost associated with this ordinance.

[End agenda memo]

Ms. VanBlargan read Ordinance 2009-29 by tittle only.

### **AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA AMENDING CHAPTER 5, ALCOHOLIC BEVERAGES, LAKE WALES CODE OF ORDINANCES TO REVISE THE PROVISION REGARDING CONSUMPTION, SALE AND SERVICE OF ALCOHOLIC BEVERAGES WITHIN 500 FEET OF A CHURCH; PROVIDING AN EFFECTIVE DATE.**

Commissioner Howell asked if the 500 foot measurement would be a straight line as birds fly between the two buildings, or 500 feet by use of roads. City Attorney Chuck Galloway said it would be measured in a straight line between the two buildings. He explained that the reason for the change was that if the property line were to be extended, then that would change the measurement.

Commissioner Wheeler made a motion to approve Ordinance 2009-29, after first reading, so the 500 foot measurement would be from the business building to the church building. The motion was seconded by Commissioner Howell.

Roll Call:

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

The motion carried 5-0.

## **Agenda Item 16. Appointments – Boards, Commissions & Committees**

The full staff memo is incorporated into the minutes.

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

### **SYNOPSIS**

The appointments will fill vacancies that occur annually on various city boards, commissions and committees.

### **RECOMMENDATION**

It is recommended that the City Commission make appointments as it deems appropriate.

### **BACKGROUND**

Vacancies exist on various Boards, Commissions, and Committees due to resignations, expirations of terms, newly established boards, etc. The City Commission is asked to make appointments to fill vacancies as it is deems appropriate.

**Airport Authority Board** – Members are appointed by the City Commission. The Board consists of seven (7) members. At least four (4) members must be qualified electors of the City, and one member is a City Commissioner, who is a non-voting member. (3-year term)

There is no interview process requirement for applicants applying for appointment to this board.

One (1) vacancy: term expires 07/01/12

Applying for appointment: Don Stephen Wildmon, resident

A vacancy is due to the resignation of Robert G. Gibson.

Commissioner Wheeler made a motion to appoint Don Stephen Wildmon to serve as a member on the Airport Authority Board for a term to expire on 07/01/12. The motion was seconded by Commissioner Thornhill.

By Voice Vote:

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

The motion carried 5-0.

**Recreation Commission** – Members are appointed by the Mayor and confirmed by the City Commission. The Recreation Commission consists of seven (7) members and five (5) alternates. At least five (5) regular members and three (3) alternate members must reside within the City limits of Lake Wales. (3-year term)

There is no interview process requirement for applicants applying for appointment to this board.

Two (2) regular vacancies: terms expire 10/01/12

Two (2) alternate vacancies: terms expire 10/01/10; partial terms

Applying for appointment: Nate Seidl, non-resident with City water

Regular vacancies are due to the expiring terms of Richard L. DeLoach and Robert Shields.

#### **FISCAL IMPACT**

None. These are volunteer citizen boards.

#### **OTHER OPTIONS**

Do not appoint the applicants named above and seek other applicants; however, it may be difficult for some boards to obtain a quorum.

[End agenda memo]

Commissioner Thornhill made a motion to appoint Nate Seidl to serve as a member on the Recreation Commission for a term to expire on 10/01/12. The motion was seconded by Commissioner Wheeler.

By Voice Vote:

Commissioner Thornhill	"YES"
Commissioner Wheeler	"YES"
Commissioner Rogers	"YES"

Commissioner Howell "YES"  
Mayor Van Sickle "YES"

The motion carried 5-0.

Commissioner Thornhill asked if there were possible boards that could be combined to make it easier to find enough volunteers to serve. Ms. Delmar explained that each board has a specific purpose and there should probably be a committee to review the boards before they were combined. Several boards are required by statute. Others were formed to address a specific task like the Bicycle and Pedestrian Committee, formed to review sidewalks and bicycle paths, and the Parks and Community Appearance Board, to review trees and general landscaping. Commissioner Thornhill asked about the Depot Museum Board and the Historic Society. Ms. Delmar said the Depot Museum Board was formed to help the Director, and the Historic Society Board is not a city board with members appointed by the City Commission. She added that the Historic Regulatory Board is a function of the Planning and Zoning Department. She said there is a possibility that the Bicycle and Pedestrian Board and the Recreation Board could be combined, but that would need to be reviewed. She said there were some boards that were no longer active and could be "sunsetting" out of existence. Mayor Van Sickle said that he had gotten several people to volunteer for The Drug & Prostitution-Related Nuisance Abatement Board and they never had been called. Ms. Delmar explained that this board did not meet regularly but was called upon when a need arose. The Mayor suggested that a city employee contact the members of that board to make sure they knew how the board was structured. Ms. Delmar said the Police Chief would call them and explain how it works.

**Agenda Item 17. Discussion of Preliminary Financial Statements for Fiscal Year Ending September 30, 2009**

Ms. Delmar reviewed Agenda Item 17. The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

The preliminary financial statements report revenues received and expenditures made during fiscal year 2008-2009. General Fund revenues were slightly under budget, but Utility Fund revenues were significantly under budget. Expenditures were under budget.

The unaudited preliminary financial statements for the Year Ending September 30, 2009 are presented to the City Commission for review. Revenue and expenditure budgets have been adjusted to reflect Budget Amendments #1, #2 and #3.

**SUMMARY**

At the end of September, the City completed 100% of the fiscal year. While most revenues and expenditures have been recorded, these numbers are subject to change as the Finance Department makes adjustments in preparation of the YE 9/30/09 audit. The following chart gives a brief summary of overall revenue and expenditure performance for the year ending September 30, 2009; capital expense funded by CRA bond or loan proceeds is excluded from the analysis:

Fund	Budgeted	Actual at 9/30	Target at 9/30	Actual at 9/30 Over (Under) Target	Over (Under) as percentage of target
General					
Revenues	\$11,052,040	\$11,015,562	\$11,052,040	(\$36,478)	-0.3%
Expenditures	\$10,799,496	\$10,524,366	\$10,799,496	(\$275,130)	-2.5%
Special Revenue					
Revenues	\$6,323,629	\$4,324,586	\$6,323,629	(\$1,999,043)	-31.6%
Expenditures	\$4,408,938	\$3,537,957	\$4,408,938	(\$870,981)	-19.8%
Debt Service					
Revenues	\$2,392,495	\$2,369,659	\$2,392,495	(\$22,836)	-1.0%
Expenditures	\$2,436,478	\$2,026,539	\$2,436,478	(\$409,939)	-16.8%
Utilities					
Revenues	\$6,687,140	\$6,339,452	\$6,687,140	(\$347,688)	-5.2%
Expenditures	\$6,913,450	\$6,257,949	\$6,913,450	(\$655,501)	-9.5%
Airport					
Revenues	\$101,403	\$211,879	\$101,403	\$110,476	+108.9%
Expenditures	\$101,403	\$114,153	\$101,403	\$12,750	+12.6%

### GENERAL FUND

Total General Fund revenues fell \$36,478 short of the amended budget (-.3%), but in comparison to the originally adopted budget, this shortfall amounts to \$211,384 (-1.88%). Compared to the original budget, significant shortfalls occurred in the following revenues:

Building Permits/Development Fees	-220,878
Half-Cent Sales Tax	-96,213
Court Fines	-59,427

On the other hand, significant surpluses compared to the original revenue budget occurred as follows:

Ad Valorem Taxes	+123,893
Communications Services Tax	+85,689

The General Fund finished the year with expenditures \$275,130 or 2.5% under the amended budget. This can be attributed primarily to the fact that the adopted budget was amended to set aside \$135,900 for a fuel reserve that was not drawn down and there were savings in various departments. With the adoption of Budget Amendment #3, it was anticipated that \$252,544 would be returned to fund balance at 9/30/09, but preliminary unaudited financial statements indicate that fund balance will be increased by \$491,196; this is \$238,652 better than originally anticipated.

### OTHER FUNDS

Overall revenues in the Special Revenue Funds were at 76% of the amended budget:

The Library Fund received 97.1% of its budgeted revenues (-\$29,474), with most of the shortfall occurring in impact fee collections (-\$28,278). Library Fund expenditures were \$65,051 under budget (-6.7%).

The Transportation Fund received \$881,245 in operating revenues; this is 101.1% of budget (+\$8,373) excluding grants and interfund transfers. Expenditures excluding bond-funded capital



projects totaled \$889,384, making it necessary for the General Fund to subsidize the Transportation Fund in the amount of \$8,201 which was \$40,060 less than was budgeted.

The CRA fund recorded \$2,392,138 or 91.1% of budgeted revenues (-\$232,998); the shortfall can be explained by \$92,328 less interest income than was anticipated and \$140,671 less city and county tax increment receipts due to decline in CRA property values between the preliminary and final valuations by the property appraiser's office. CRA operating expenditures excluding transfer of CRA bond proceeds totaled \$1,907,077, allowing a \$485,061 increase in fund balance at 9/30/09.

There was very little activity in the CDBG or Historic Preservation grant funds in FY08'09 and these project projects were carried forward into FY09'10.

Water and sewer revenues at the end of Sept. 2009 were \$287,624 under budget (water, -\$257,224; sewer, -\$30,400). Overall, utility charges for service in FY08'09 were \$505,471 less than the amount received in FY08'07. Excluding project costs funded by CRA bond proceeds, Utility Fund expenditures were 9.9% or \$686,204 below budget at the end of the fiscal year.

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	9/30/09	Difference
Pool/Tax Anticipation Investment Account	\$1,037,852	\$1,042,442	\$4,590

On the face of it, the City's overall cash position at the end of September 2009 improved over the cash position at the end of September 2008 (+\$1,674,472). In order to make a valid comparison, however, the following adjustments must be made:

	9/30/08	9/30/09	Difference
Total Cash & Investments	3,458,406	5,131,312	1,672,906
Due to Other Governments	(121,404)	(55,344)	
Insurance Proceeds & Other Airport Cash	(375,157)		
Deferred Revenues*	(491,040)	(475,570)	
Cash & Investments Net of Adjustments	2,470,805	4,600,398	2,129,593

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

After excluding cash that was collected on behalf of other governments, unexpended Airport insurance proceeds and deferred revenues, the City's overall cash position at the end of September 2009 was \$2,129,593 better than at the end of September 2008.

In comparison to total cash and investments at August 31 of \$4,603,317, the September cash and investments position declined by \$2,919.

## GENERAL FUND BALANCE

As stated above, the preliminary unaudited financial statements for the General Fund indicate that fund balance has increased because revenues exceeded expenditures in FY08'09 by \$491,196. This is \$238,652 better than the originally anticipated \$252,544, and fund balance has increased from

\$2,596,546 at 9/30/08 to \$3,087,742 at 9/30/09. Fund balance in the amount of \$3,087,742 is 28.6% of FY09'10 operating expenditures (\$10,785,691). Excluding the \$1,042,442 pool/tax anticipation investment account, fund balance at 9/30/09 is 19% of FY09'10 operating expenditures.

When the FY09'10 budget was adopted, \$183,000 of the anticipated excess revenues over expenditures at 9/30/09 was budgeted forward to fund General Fund capital outlay. Subtracting this \$183,000 from the \$495,069 excess revenues leaves \$308,196.

### CEMETERY IMPROVEMENTS

Staff requests that the City Commission consider allocating \$275,000 of the excess FY08'09 General Fund revenues to much-needed improvements at the Cemetery during FY09'10. A search of the records indicates the following history of improvements at the Lake Wales Cemetery:

	Buildings	Other Improvements
1948 - Office Building	\$3,045	
1967 - Entryway Improvements		\$6,500
1970 - Roadway paving		\$21,800
1972 - Fencing		\$756
1979 - Misc Improvements		\$4,125
1987 - Mausoleum	\$115,124	
Total	\$118,169	\$33,181

Excluding the construction of the mausoleum, slightly more than \$36,000 has been spent on cemetery improvements during the last sixty years, and, as can be seen from the chart above, nothing has been spent on cemetery improvements since 1987.

Over the years, the condition of the Lake Wales Cemetery has declined and has been the subject of frequent complaints. It is our goal to bring the cemetery to a standard that the community expects, deserves and can be proud of. In addition to improved staffing and improved maintenance levels, certain capital improvements must be made. Tom Moran, Public Works Director, has provided estimates for the following repairs and improvements:

Irrigation repairs/upgrades	\$65,000
New office building with ADA compliant restrooms	\$55,000
Installation of potable water line to Mausoleum	\$1,000
Resurfacing of roadways	\$127,000
Surveillance Camera System	\$7,500
Security Lighting	\$10,000
Signage, Trash Receptacles & Miscellaneous	\$9,500
Total	\$275,000

If the Commission wishes to allocate less than \$275,00 for cemetery improvements at this time, staff recommends deferring the roadway resurfacing until FY10'11. This would leave a total of \$148,000 to appropriate from the excess FY08'09 revenues for improvements that we strongly recommend be accomplished in FY09'10.

If it is the consensus of the Commission to the excess FY08'09 revenues for all or a portion of the improvements shown above, staff will prepare the necessary budget amendment and present it at the next Commission meeting.

[End agenda memo]

Commissioner Wheeler said that maintenance at the Lake Wales Cemetery has been needed for decades. Commissioner Thornhill referred to the cemetery office as a shed and agreed with the appropriation of funds to make the listed improvements. Commission Howell was in favor of the improvements and asked if the resurfacing would be from millings. Ms. Delmar said that millings could not be used because of the conditions of the roads. Commissioner Rogers said the fence at Willow Lawn needed to be repaired on the north side and the building painted. He said one section of the fence had been taken down and the property was being used as a roadway over unmarked graves. Once the fence is repaired, he suggested contacting the property owners adjacent to the cemetery to let them know this behavior has to end. Mayor Van Sickle asked if surveillance cameras would be part of the police surveillance system at the cemetery. Ms. Delmar said it probably would not be until the Flexnet system was extended south to the new water tower. When that is complete, the two systems can be meshed. She explained the IT Director's plan for four surveillance cameras that would allow viewing a tape after an incident for the identification of vandals. This would be a short term solution until the infrastructure is put in place. Mayor Van Sickle said that he would prefer that the City invests a little more up front and installs a security system that can be viewed from police vehicles so they can catch vandals in the act.

As the consensus of the Commission was to go forward with repairs, Ms. Delmar said she would bring it back as an item for the next Commission Meeting.

## **CITY MANAGER'S REPORT**

### **CITY COMMISSION TRACKING REPORT**

Ms. Delmar gave an update on the Thompson Nursery Road speed limit issue and turned it over to Police Chief Gills who said that he and the City Attorney determined that the City could proceed with modifying the speed limit. The Streets Department would be erecting 45 mph speed signs along Thompson Nursery Road. Police Officers will give warnings for the first two weeks and then start issuing citations.

Ms. Delmar said she removed the adult day care center item from the tracking report as construction has begun.

Beverly Pennington, Division Manager, reported that staff has begun the alley milling. Commissioner Howell asked how they prioritized the roads for milling. Ms. Pennington said that city staff worked with Florida Refuse for a list of the alleyways that gave the garbage trucks the most trouble, as those trucks do most of the damage to the roads. But, she added, that if a resident contacted them requesting an alleyway to be milled they would take a look at it, and if it was worse than the alleys already on their list they would take care of it.

Mayor Van Sickle said that residents seem to be having difficulty receiving the small totes from Florida Refuse. Finance Director Dorothy Pendergrass said there should not be any issue with receiving them as Florida Refuse is supposed to stay current with it.

It was announced that the Chamber of Commerce wanted to schedule a joint workshop with the City Commission for a mutual discussion. Wednesday, December 9<sup>th</sup> was decided upon by the Commission.

## COMMUNICATIONS AND PETITIONS

David Smith, Babson Park, thanked Commissioner Rogers for keeping up with the cemeteries and asked that whatever improvements are done to the Lake Wales Cemetery be done also to the Willow Lawn Cemetery. He said there is a parking problem on Sundays and police need to monitor it. Ms. Delmar said the rules would apply to both cemeteries.

Lake Wales resident Ruth Dampier requested that a Lake Wales Cemetery sign be posted at that location. She said if improvements are made, hopefully citizens will take pride in it and help keep it up. Ms. Delmar said that we need to reshape the way people use the cemetery.

Jackie Williams, 2054 Bel Ombre Circle, said that the City had planted 15-18 live oak trees along Central Avenue but after the contracted period of time to water them was over, they were not watered and 1/3 of them are dead. She said the City has a mobile tank and they should have been taking care of them, even if the trees were purchased through a grant. Beverly Pennington said they do have a 500-gallon tank and they have started to water them. She explained that she had not been aware when they were to have begun watering them. She said they replaced some dead trees and moved one tree to 4<sup>th</sup> Street.

## CITY COMMISSION COMMENT

Commissioner Rogers said that he received many calls about the cemetery and he is pleased that a committee is working on the problems there. He was disturbed with residents thinking it was okay to tear down fences and drive over graves with total disregard for the feelings of others. Ms. Delmar said that the Police Department has added about ten Voice Patrols to the regularly scheduled police officers that will be monitoring the cemeteries on a regular basis.

Commissioner Howell said that at one time our volunteer board members were given a plaque when they left office but not anymore. She said that people who have served faithfully for years should be recognized. She also mentioned that citizens who are employed cannot attend the cemetery committee meetings as they are held during work hours. Ms. Delmar said that those who contacted her were told that she would meet with them individually after their job ended to get their input and pass along to them ideas of the other members. She said she expected there to be only one or two meetings left and then she would bring their recommendations to the Commission.

Commissioner Thornhill said he would like the City to take care of both cemeteries. He was distressed that citizens would show so little respect and wanted to do something to keep people from parking and driving where they should not. He suggested a write-up in the newspaper to get the word out.

Commissioner Wheeler agreed with Commissioner Howell that board volunteers should receive more than a proclamation for their dedicated service, more like a plaque. He announced that Lake Wales Family Literacy was sponsoring a pancake breakfast Saturday, November 7<sup>th</sup> from 7 – 11 AM to raise funds for the great work they do in Lake Wales and hoped everyone would support them.

The Mayor's final comment was that if the City takes care of its property, citizens would take pride in it and help the City care for it.

There being no further business, the meeting was adjourned.

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

ATTEST:

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