

The regular meeting of the Lake Wales City Commission was held on December 1, 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

CONSENT AGENDA

Agenda Item 5. APPROVAL OF MINUTES: November 11, 2009, Workshop Meeting; November 17, 2009, Regular Meeting

Agenda Item 6. Lease Agreement Amendment with Historic Lake Wales Society for the Operation of the Depot Museum

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Jennifer Nanek, Grants Administrator]

SYNOPSIS

The renewal of the Lease Agreement will allow the Historic Lake Wales Society to operate the Depot Museum through September 30, 2010.

RECOMMENDATION

Staff recommends renewal of the attached contract with the Historic Lake Wales Society for \$30,000 to operate the Depot Museum Complex which includes the Depot Museum, the three rail cars, the Children's Museum, the Freight (Yellow) Depot, and the Stuart House.

BACKGROUND

In September 2008, the City of Lake Wales entered into a contract with the Historic Lake Wales Society for \$54,161 to operate the Depot Museum Complex. The \$54,161 was designated towards the costs of utilities, Pioneer Days and staffing. This contract has been modified from last year. The City will cover costs of Pioneer Days and some utilities such as the telephone.

The \$30,000 is primarily designated for electric, water and staffing costs.

OTHER OPTIONS

Modify the contract

Do not approve the contract and budget for the City to operate the Depot Museum Complex as done prior to the 2008-2009 Fiscal Year.

FISCAL IMPACT

\$30,000 - This is in the 2009-2010 Fiscal Year.

[End agenda memo]

Agenda Item 7. Agreement with Energy Saving Systems - Energy Conservation Project

The full staff memo is incorporated into the minutes.

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

SYNOPSIS

A recent energy audit to identify options for energy savings in City buildings resulted in a proposed energy conservation project. The City Commission is asked to enter an agreement with Energy Saving Systems to implement the project.

RECOMMENDATION

Staff recommends the Commission approve a shared savings agreement between Energy Saving Systems and the City of Lake Wales to carry out an energy conservation project and authorize the City Manager to execute the agreement.

BACKGROUND

The City Commission tasked the Purchasing Department with exploring options to save energy in city buildings. Staff contacted Energy Saving Systems from Lake Placid Florida on the recommendation of staff who had worked with this company in the past. Energy Saving Systems performed an energy audit of the City Administration Building, the CSX building, the Lake Wales Library, the James P. Austin Community Center, the Albert Kirkland Gymnasium, the Fire Department and the Police Department. Their findings indicated that most buildings could achieve energy cost reductions in electricity bills of 20% to 30% by implementing energy cost reducing technologies.

Staff is recommending an Energy Performance Agreement, which involves no up-front cash from the City. Included in this agreement, Energy Saving Systems will retrofit all interior lights that do not meet energy efficient standards, install occupancy sensors in areas where needed, and provide exterior lights with energy efficient lighting and sensors or timers. Programmable thermostats will be installed where necessary and A/C units will be revised for different AC energy improvement technologies such as, economizers, programmable thermostats and coil cleaning. Window tinting and weather stripping will be installed where applicable and economically feasible. Roofs will be inspected for possible cool roof technology.

OTHER OPTIONS

Not to enter into the agreement with Energy Saving Systems and explore other cost saving options.

COMMENTS

The worst case scenario for the City is that there will be no cost savings, however, the City will have state of the art lighting and occupancy sensors at no cost to the City. The risk is all on Energy Saving Systems with no risk for the City.

FISCAL IMPACT

The City will pay a down payment of \$0 due upon execution of the agreement. After Energy Saving Systems has finalized retrofitting each building of the project, the City will pay Energy Saving Systems 75% of the monthly savings generated by the project determined by the Baseline Year comparison for each building. This 75% will be paid from the savings the City will realize. The City will retain 25% of the savings generated. After a five (5) year period the City will retain 100% of the Savings.

[End agenda memo]

Agenda Item 8. New Tenant Hangar Lease Agreement with Insurance – Lake Wales Airport

The full staff memo is incorporated into the minutes.

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

SYNOPSIS

A new lease for "New Hangar Lessees" at the City of Lake Wales Airport with requirements for additional insurance coverage by lessee to the City.

RECOMMENDATION

The Staff recommends that the City Commission take the following motions:

1. Approve and adopt the "New Tenant Lease" as presented for use at the Lake Wales Airport for new lessees for the Fiscal Year 2009 –2010 and thereafter until amended; and
2. Authorize the Mayor to execute the lease after appropriate reviews and approvals by Staff and the Airport Authority.

BACKGROUND

The City Staff in reviewing the lease agreements in use at the COLW Airport and in discussion with the City's Risk Management Office and Insurer concluded that the additional insurance coverage by adding the City as an "Additional Insured" for an amount that equals the construction value of a single hangar was a prudent requirement. This allows for the City's insurance to stand second in the demand of payment on direct damages to a hangar. Currently, the City is in the position of Primary Insurer. The change is found in Paragraph 4 of the document. All of the existing hangars are for storage of the listed aircraft. Any additional or other uses that are conducted in the hangar are classified as in conflict with the FAA, unless written authorization is obtained from appropriate individuals named in the lease.

CURRENT FISCAL IMPACT

No current impact.

FUTURE FISCAL IMPACT

The change will provide for additional insurance coverage from the user of the facility and may reduce an expenditure of municipal funds to cover a monetary gap in replacement costs.

OTHER ALTERNATIVES

Do not approve the change and leave the lease without the additional insurance coverage.

[End agenda memo]

Agenda Item 9. Polk County Library Cooperative Books by Mail Interlocal Agreement

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Tina Peak, Library Director]

SYNOPSIS

Approval of the Polk County Library Cooperative Books by Mail Interlocal Agreement will allow continuation of the Books by Mail Program.

RECOMMENDATION

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

1. Approve the Polk County Library Cooperative Books by Mail Interlocal Agreement
2. Authorize the Mayor to execute the Agreement on the City's behalf

BACKGROUND

In March 2006, the Polk County Library Cooperative developed a plan for home delivery of library materials to all qualified residents of Polk County.

The Lake Wales Public Library had a successful home delivery service in operation in 2006, serving homebound residents through the Free Postage for the Blind and Disabled.

In an effort to offer this service to all residents the Polk County Library Cooperative Governing Board requested the Lake Wales Public Library manage this expanded program for all member libraries through their existing books by mail service.

An Interlocal Agreement was drawn up by the Polk County Library Cooperative's Governing Board to implement this service through the Lake Wales Public Library. The Lake Wales City Commission approved the interlocal agreement in April 2006.

The Polk County Library Cooperative *B-Mail*, Books by Mail, service began operation May 2006. In the first month of operation 200 items were mailed to library customers throughout Polk County. The current average monthly circulation is 4,700. A total of 46,859 items were lent through B-Mail in FY'08'09.

This is an extremely successful library program. Customer satisfaction is very high and the statistics indicate the program continues to grow.

The Polk County Library Cooperative Governing Board approved the renewal of the Books by Mail Interlocal Agreement, with limited changes, continuing operations through the Lake Wales Public Library.

Staff recommends approval.

OTHER OPTIONS

None.

FISCAL IMPACT

None. The Polk County Library Cooperative reimburses the Lake Wales Public Library for all costs associated with this program. It is estimated that the cost of the program in FY09'10 will be approximately \$195,000.

[End agenda memo]

Agenda Item 10. Kimley-Horne and Associates, Inc. – Task Order #1, Reuse Water Ski Mount Booster Station

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Jerry Torrance, Jr., Engineering Inspector]

SYNOPSIS

The primary purpose of the Reuse Booster Station is to increase the pressure in the system to provide sufficient reclaimed water pressure to the existing and future users of the reclaimed water system to the east of Ninth Street.

RECOMMENDATION

It is recommended that the City Commission:

1. Approve Task Order Authorization No. 09-01 to the contract between the City of Lake Wales and Kimley-Horn and Associates, Inc. dated November 13, 2009 for engineering and other related services in the amount of \$33,850.
2. Authorize the City Manager to execute the agreement on the City's behalf.

BACKGROUND

On December 5, 2006, the City Commission authorized the City Manager to enter into an agreement with Boyle Engineering to prepare a Wastewater and Reclaimed Water Facility Master Plan. This plan includes construction of a reuse water distribution main along with the construction of several key elements for the system to operate correctly. Listed below are elements of construction that are completed and elements to be constructed.

Completed Elements in 2008:

Reuse Project P727 reclaimed water main, which extends the city's reclaimed water distribution system from the Rapid Infiltration Basins (RIB's) eastward to the intersection of 11th street and Post Salter Road. This element of the project was completed in 2008.

Elements to be constructed in 2009:

The installation of a skid mounted booster pump station to be installed on city property located at the Whispering Ridge lift station area.

SUMMARY

The primary purpose of the Reuse Booster Station is to increase the pressure in the system to provide sufficient reclaimed water pressure to the existing and future users of the reclaimed water system to the east of Ninth Street.

OPTIONS

Do not approve the reuse booster station, leaving areas to the east of Ninth Street unable to utilize the reuse water.

FISCAL IMPACT

This project will be funded by sewer impact fees in the amount of \$33,850 and is included in the FY09'10 Reuse Division capital budget.

[End agenda memo]

Agenda Item 11. SWFWMD Cooperative Funding Initiative Grant Application

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Jennifer Nanek, Grants Administrator]

SYNOPSIS

This is an application to the Southwest Florida Water Management District (SWFWMD) Cooperative Funding Program. This application is for \$157,500 to build a retention pond at Polk Avenue and Lakeshore Boulevard in order to improve the water quality of Lake Wailes.

RECOMMENDATION

Staff recommends approval of a grant application to the Cooperative Funding Initiative of SWFWMD for \$157,500 to construct a retention pond at Polk Avenue and Lakeshore Boulevard in order to improve the water quality of Lake Wailes.

BACKGROUND

In January 2008, an analysis prepared for SWFWMD recommended a shallow, dry retention pond with gentle side slopes be constructed at Polk Avenue and Lakeshore Blvd. This would improve the water quality in Lake Wailes by reducing the pollutant loads to the lake in excess of 80 percent annually. This project would fall under SWFWMD's goals in the area of Water Quality.

These funds, if approved, would become available during the next fiscal year. The required match is normally 50%, but, as Lake Wales is a designated REDI (Rural Economic Development Initiative) community, the match requirement is reduced to 25%. Total cost of the project is \$210,000.

OTHER OPTIONS

Do not apply for the grant.

FISCAL IMPACT

The City must budget a General Fund expenditure of \$52,500 in the 2010-2011 Fiscal Year.

[End agenda memo]

Agenda Item 12. Mapping Services – Rapid Surveying Inc.

The full staff memo is incorporated into the minutes.

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

SYNOPSIS

The Commission is asked to approve a proposal from Rapid Surveying Inc. for mapping services in connection with the Lake Wales Cemetery.

RECOMMENDATION

Staff recommends that the City Commission approve a proposal with Rapid Surveying Inc. to complete mapping of the Lake Wales Cemetery required for re-platting existing areas in order to gain additional burial spaces. The cost of the mapping services will not exceed \$24,000.00.

BACKGROUND

In October 2008, the City Commission approved an agreement with Rapid Surveying Inc. (RSI) for mapping services necessary to update the sewer and water utilities database. Also approved was the Survey Rate Schedule that would be used for compensating RSI for work performed under the agreement.

At the same time, RSI was asked to survey and map the cemetery so that staff could assess the feasibility of adding burial lots to the cemetery's inventory of unsold lots. This essential work was necessary for evaluating the capacity of the cemetery for expansion. Re-platting would be the final step to be performed before new lots could be made available for sale. The work would utilize the Survey Rate Schedule approved in October 2008.

During the last several years, the fact that we are running out of unsold burial spaces at the Lake Wales Cemetery has been a matter of concern. Currently, fewer than 300 lots are available for sale with approximately 100 lots per year sold in recent years. The cemetery is land-locked by highway on the east, pasture land on the southwest that tends to be wet during rainy periods, the wastewater treatment plant on the west, and residential neighborhoods on the north. Expansion of the cemetery beyond its current boundaries being unfeasible, land was purchased in 2007 on the north side of Hunt Brothers Road that will accommodate future development of a cemetery after 2013.

To manage in the short term, former staff at the cemetery estimated that between 150 and 200 burial lots could be added within the cemetery boundaries by utilizing land along the west fence line, around the lake area, and at the end of existing rows. In order to gain these additional lots, however, the cemetery would require mapping and re-platting.

RSI has completed the boundary survey, a conceptual plan for 174 additional grave sites, survey of the drainage outfall of the lake, and mapping work that has permitted the combination of all the various separately platted cemetery sections into a single map. The single map has facilitated the assignment of a unique number to each individual burial space and will permit the future creation of a computer database for cemetery record-keeping.

Current staff feels that this work needs to be separately approved since cemetery mapping services are not properly included as part of an agreement covering water and sewer utilities data. A proposal has been prepared by RSI for this purpose.

FISCAL IMPACT

This cost of the work completed to date is \$13,895. Work remaining to be done to complete the re-platting process will not exceed \$10,000. Total cost of the mapping services related to the cemetery expansion will not exceed \$24,000.

Minimum revenue generated by 174 additional burial spaces will be \$92,698 (174 lots x the 10/1/09 rate of \$532.75 for inside-city residents). The cost of the mapping services will be covered by the future sale of 45 new lots at current inside-city rates.

A budget amendment will be forthcoming to address this cost.

OTHER OPTIONS

Do not complete the mapping required to re-plat the cemetery for additional burial spaces. Currently, fewer than 300 lots remain available for sale.

[End agenda memo]

Agenda Item 13. Agreements – City of Lake Wales/The Lake Wales Professional Firefighters

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Sandra Davis, Human Resources Director]

SYNOPSIS

This amendment will ratify the 1% bonus for The Lake Wales Professional Firefighters approved by the City Commission following adoption of the budget.

STAFF RECOMMENDATION

It is recommended that the City Commission ratify the proposed amendments to the agreement between the City of Lake Wales and the Lake Wales Professional Firefighters and authorize the City Manager to execute the appropriate documents.

BACKGROUND

Members of the Lake Wales Professional Firefighters, Local 3538 met on November 17, 2009 and voted unanimously to accept the 1% bonus approved by the City Commission. Negotiations will continue on a proposed pension improvement of 25 years of service with no age qualifer for retirement and a request to change the number of hours worked per shift.

AMENDMENT Article 15 Salaries

15.4 Members shall receive a one percent (1%) ~~cost-of-living increase to base annual salary, effective October 1, 2008.~~ one time bonus to be dispersed in December 2009.

Note: The 1% bonus is consistent with what the general employees will receive.

FISCAL IMPACT

The one percent (1%) bonus for members of the Lake Wales Professional Firefighters, Local 3538 will cost 13,171 and will be included in FY09'10 budget amendment #2.

OTHER OPTIONS

Do not ratify this amendment.

[End agenda memo]

END CONSENT AGENDA

Commissioner Rogers wished to discuss Agenda Item 8, New Tenant Hangar Lease Agreement with Insurance – Lake Wales Airport. He said he knows people who have airplanes that are not yet flyable in the airport hanger. They asked if their aircraft would have to be removed from the hangar for the annual inspection. Commissioner Rogers asked if this item should be discussed by the Airport Authority. Ms. Delmar said that the requirement he referred to is contained in the existing lease. It was her understanding that the proposed modification only changes the lease as it pertains to insurance requirements. Commissioner Rogers asked if this would be for new leases only and if the old leases would be grandfathered in. Ms. Delmar said that was correct. Harold Gallup, Economic Development Director, said that the existing lease requires aircraft to be air-worthy, have all the necessary licenses, and all the other requirements. The change in the lease being proposed at this time is to change the City from “Primary Insurer” to “Additional Insured” in case of a catastrophe. After the tenant’s insurance pays, the City’s insurance would close the gap. He said this had not been a requirement before, but it makes good business sense now. The aircraft have to be air-worthy and have a certification. If not, a time will be allotted for which they can remedy it. If not remedied, they will have to remove the aircraft from the hangar and will no longer be eligible for the lease. Ms. Delmar said that would be the subject for a different lease modification. She said that this proposed lease modification strictly relates to the insurance requirement and only for new tenants.

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

By Voice Vote:

Commissioner Howell	“Yes”
Commissioner Wheeler	“Yes”
Commissioner Rogers	“Yes”
Commissioner Thornhill	“Yes”
Mayor Van Sickle	“Yes”

The motion carried 5-0.

OLD BUSINESS

Agenda Item 14. Ordinance 2009-30, FY09’10 Budget Amendment #1 – 2nd Reading & Public Hearing

Ms. 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

First amendment of the FY09’10 Budget adopted on September 15, 2009 to add expenditures for cemetery improvements as approved by the City Commission.

RECOMMENDATION

It is recommended that the City Commission adopt Ordinance 2009-30 after second reading and public hearing.

BACKGROUND

Ordinance 2009-21 estimating revenues and appropriating funds for Fiscal Year 2009-10 was adopted by the City Commission on September 15, 2009. We are presenting for second reading and public hearing

an amendment of Ordinance 2009-30 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 unaudited financial reports for the accounting period ending on 9/30/09. The following is a summary of changes included in the proposed amendment:

Revenues & Balances Fwd	Increase(Reduction)
General Fund	491,196
Special Revenue Funds	
Debt Service Fund	
Capital Projects Fund	
Airport Fund	
Utility System Fund	
Total Increase(Reduction) of Revenues & Balances Fwd	491,196
Appropriated Expenditures & Reserves	
General Fund	300,000
Special Revenue Funds	
Debt Service Fund	
Capital Projects Fund	
Airport Fund	
Utility System Fund	
Reserves	191,196
Total Increase(Reduction) of Appropriated Expenditures & Reserves	491,196

The proposed budget amendment increases the City's total budgeted expenditures by \$300,000 and increases reserves by \$191,196, for a net increase in appropriated expenditures and reserves of \$491,196 (from \$42,767,942 to \$43,259,138).

This amendment deals solely with the appropriation of \$300,000 in excess revenues over expenditures at 9/30/09 for the purpose of making cemetery improvements. It was the consensus of the Commission at the regular meeting on November 3 to expend these monies for this purpose.

CEMETERY IMPROVEMENTS BUDGET

LWC = Lake Wales Cemetery

WLC= Willow Lawn Cemetery

001-539-100

Cemetery	Item Description	Amount	Expense	Acct #	Total
LWC	Trash Receptacles	4,000	Op Sup	352-055	5,500
WLC	Trash Receptacles	1,500	Op Sup	352-055	
LWC	Signage	7,500	Op Sup	352-056	10,000
WLC	Signage	2,500	Op Sup	352-056	
LWC	Bollards - Traffic Control	5,000	Op Sup	352-503	5,800
WLC	Bollards - Traffic Control	800	Op Sup	352-503	
WLC	Building Repairs	7,150	M&R	446-192	7,150
LWC	New office building with ADA compliant restrooms	55,000	C/O	662-001	55,000
LWC	Irrigation/repair upgrades	65,000	C/O	663-001	65,000
LWC	Potable water line to Mausoleum	1,000	C/O	663-002	1,000
LWC	Security Lighting	10,000	C/O	663-003	10,000
LWC	Surveillance Camera System	37,100	C/O	663-004	52,100
WLC	Surveillance Camera System	15,000	C/O	663-004	
WLC	Fencing	5,400	C/O	663-006	5,400
LWC	Miscellaneous	1,000	Other	349-900	2,000
WLC	Miscellaneous	1,000	Other	349-900	
	Resurfacing of roadways *	81,050	M&R	346-910	81,050
TOTAL		300,000			300,000

* Roadway resurfacing budget has been reduced from original discussion and may be reduced further to fund improvements where estimates are low. Roadway improvements will be deferred until a future year in order to complete other improvements budgeted.

OTHER OPTIONS

Do not appropriate \$300,000 in excess FY08'09 revenues over expenditures for cemetery improvements.

FISCAL IMPACT

See Exhibit A and Exhibit B attached to Ordinance 2009-30.

[End agenda memo]

Ms. VanBlargan read Ordinance 2009-30 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING ORDINANCE 2009-21 TO MODIFY THE ESTIMATES OF EXPENDITURES FOR THE OPERATION OF

THE SEVERAL DEPARTMENTS OF SAID CITY FOR THE 2009-2010 FISCAL YEAR AND TO 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.

OPENED PUBLIC HEARING

There were no comments made by the public.

CLOSED PUBLIC HEARING

Commissioner Rogers commented that the City is being criticized for putting money back into the cemetery. What they do not realize, he said, is that in the 1960's, the City robbed the cemetery fund to purchase needed fire equipment and now we are just repaying that fund. He asked Ms. Delmar if he was correct. She said for the most part that is correct. It was not \$300,000 that was used, because a fire engine back then did not cost as much as one purchased in 2009, but it did reduce the cemetery trust fund down to zero. It took about 20 years to build the funds back up. In the late 80's to early 90's, the cemetery was set up as an enterprise fund, meaning there was no taxpayer support of the cemetery at all. For a period of about ten years, the cemetery depended entirely on lot sales to pay its operating expenses, and, because lot sales revenues were not sufficient to cover operating costs, what remained of the cemetery trust fund was drawn back down to zero. So, it was a combination of things and in all fairness, the fire truck was not the entire problem. She added that over the past 60 years, an average of \$600 a year was spent on capital improvements in the cemetery. Commissioner Rogers said that it became clear that something had to be done. Ms. Delmar said that for years there have been complaints about how the cemetery looks. The irrigation does not function properly. We did some installation of irrigation using reuse water, but that needs to be extended throughout the cemetery. Most of what we are going to do is improve irrigation, which will improve the appearance of the cemetery and that should please most of the citizens in Lake Wales. We will also improve the security, night security in particular. Commissioner Rogers said he wanted the public to know that we had used cemetery funds in the past and how we are trying to bring the funds up to date.

Commissioner Howell made a motion to adopt Ordinance 2009-30 after second reading & public hearing. The motion was seconded by Commissioner Rogers.

Roll Call:

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

The motion carried 5-0.

NEW BUSINESS

Agenda Item 15. Ordinance 2009-24, Correcting Error relating to Airport Tie-Down Fees - 1st Reading

Mr. Gallup reviewed Agenda Item 15. The full staff memo is incorporated into the minutes.

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

SYNOPSIS

In a review of existing rates and charges for airport facilities it was identified that Ordinance 2007-55 contained a flaw in setting fees for tie-downs at the City of Lake Wales Airport that requires correction.

RECOMMENDATION

Staff is recommending that the City Commission approve Ordinance 2009-24 after first reading to delete provisions in the Airport code relating to tie-down leases and tie-down fees.

BACKGROUND

In the process of modifying the hangar lease for the City of Lake Wales Airport and in discussion with the FBO, staff was made aware of a possible conflict that may have been created with Ord. 2007-55 setting fees for t-hangar and tie-down rental fees. After file review and consultation with the City Attorney, it was found that there is a conflict, and Commission action is necessary to return the charge of setting tie-down fees to the administrative jurisdiction of the designated FBO. The setting of tie-down fees is within the FBO's area of responsibility per the existing agreement between the City and the FBO.

CURRENT FISCAL IMPACT

None; the City has not been receiving revenues from this source.

OTHER ALTERNATIVES

None

[End agenda memo]

Ms. VanBlargan read Ordinance 2009-24 by title only.

AN ORDINANCE AMENDING CHAPTER 3, AIRPORT, LAKE WALES CODE OF ORDINANCES; DELETING PROVISIONS RELATING TO TIE-DOWN LEASE AND TIE-DOWN RENTAL FEES; PROVIDING FOR AN EFFECTIVE DATE.

Ms. Delmar said that we have an ordinance regulating the rentals of facilities at the airport and in that fee schedule is a rental fee for tie-downs. The City is actually not involved in tie-downs. By contract, that is part of the function of the FBO. Therefore, we need to take the reference to tie-downs fees out of the ordinance. It is an error.

Commissioner Rogers said he noticed on the bid-sheet [for the airport hangar project], we had \$4,200 designated for tie-downs. He asked if the tie-downs were ever completed, and if not, what was done with the \$4,200. Mr. Gallup said he researched this with the contractor and, in the bid document, there was a series of tie-downs. He obtained a diagram for the tie-downs, and at this time, the tie-downs were still owed to us and the contractor has no problem providing them. The problem right now is the location for each tie-down. He gave an illustration of parallel parking cars, where if parked too closely; a car within the chain of cars would have difficulty getting out. Parking planes would cause the same problem and would not be functional. According to sources, the FBO had problems with them being lined up in front of the building, which would impede sight. He said he just received the drawings for the field analysis to determine the best locations for the tie-downs and would have them installed. The contractor, SEMCO, had been directed to hold off on installing the tie-downs until instructed as to the proper location.

Mayor Van Sickle asked if we have an active contract. He said he did not realize we still had a contract with SEMCO to do work at the airport. Mr. Gallup said they were under the existing contract in building that. The Mayor asked if the contract was ever closed out. Mr. Gallup said that the last draw and retainage, he believed, had been disbursed, but whether a formal document close out had taken place, he couldn't answer but he would find out. The delay is not due to the contractor. It was from a specific direction from the City and the FBO.

Mayor Van Sickle said his concern was not that the contractor did not do the work, if they got direction from the City not to do it. His concern was that if the final documents had been closed out, the contractor

could say he did not have to finish the job. If the contract was closed out, we have no means of spending dollars. He said he would like those answers because it sounds like a contract that the City did in the past. The City did not do as well as it should have on some of these contracts. This is obviously in that category. Mr. Gallup said he could not answer that, because it was not under his direction at the time. He assured the Mayor that in conversation with SEMCO, they said they would have no problem getting the tie-downs installed in whatever location they were so directed.

Commissioner Wheeler made a motion to approve Ordinance 2009-24 after first reading. 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.

[End agenda memo]

Agenda Item 16. Ordinance 2009-31, Amending Chapter 10, Fire Prevention, Lake Wales Code of Ordinances – 1st Reading

Ms. Delmar reviewed Agenda Item 16. The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Chuck Croley, Fire Marshal]

SYNOPSIS

The amendment will update two sections of Chapter 10 to achieve compliance with State Statute.

RECOMMENDATION

It is recommended that the City Commission approve Ordinance 2009-31 after first reading.

BACKGROUND

Section 10-1 adopted the 1994 edition of the Standard Fire Prevention Code as the minimum fire safety standard for the city in 1996. Pursuant to Florida Statute 633.025 and Florida Administrative Code 69A-60.002, the Florida Fire Prevention Code is the minimum fire prevention code deemed adopted by each municipality, county, and special district with fire safety responsibilities. The 2007 Florida Fire Prevention Code has an effective date of January 1, 2008, which is triennial pursuant to F.S. 633.215. Therefore, Section 10-1 needs to reflect the statewide adoption to remove conflict and to allow for enforcement locally. Without local enforcement, any citations for non-compliance would require adjudication through the county court system.

Section 10-7 covers the sale, lease or use of portable kerosene heaters within the city and is currently unenforceable, the section would require a local amendment to the Florida Fire Prevention Code, pursuant F.S. 633.0215, to allow for enforcement. The technology, safety and testing incorporated in modern appliances makes this section obsolete. The Florida Fire Prevention Code addresses the necessary restrictions to ensure the public's safety. Therefore, section 10-7 requires deletion.

OPTIONS

None. Approval of Ordinance 2009-31 will bring the City into compliance with Florida Statute.

[End agenda memo]

Ms. VanBlargan read Ordinance 2009-31 by title only.

AN ORDINANCE AMENDING CHAPTER 10, FIRE PREVENTION, LAKE WALES CODE OF ORDINANCES, TO ADOPT STANDARDS OF SEC. 10-1 MINIMUM FIRE SAFETY STANDARDS AND THE DELETION OF SEC. 10-7 SALE, LEASE OR USE OF KEROSENE HEATERS; PROVIDING AN EFFECTIVE DATE.

Fire Chief Jerry Brown said this was a housekeeping ordinance needed so the City will be using the right version of the Florida Fire Prevention Code. He explained that the State of Florida sets the minimum fire safety standards throughout the state. The 2007 version of the Florida Fire Prevention Code was adopted by the state in January of 2008, and we need to update our ordinance accordingly. The second half of the ordinance repeals the section prohibiting the sale of portable kerosene heaters in the city. We want to take that prohibition off the books so residents can purchase them. As we have not been enforcing this section, it needs to be removed.

Commissioner Thornhill made a motion to approve Ordinance 2009-31 after first reading. 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.

Agenda Item 17. Ordinance 2009-32, Cemetery Rules & Regulations – 1st Reading

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 City Commission will consider adopting the ordinance developed by the cemetery committee to revise the current rules and regulations governing use and operation of the municipal cemeteries.

RECOMMENDATION

It is recommended that the Commissioners approve Ordinance 2009-32 as proposed after first reading.

BACKGROUND

After the recent problems at the Lake Wales Cemetery relating to the clearing, without notice, of grave ornaments that did not comply with the cemetery ordinance, a committee composed of staff and concerned citizens was formed to make recommendations for the improvement of cemetery rules and regulations.

The committee met once a week for five weeks, and each meeting lasted for two hours. The number of citizen participants ranged from 17 at the first few meetings to 10 at the fifth meeting. Discussions were spirited but not adversarial, and everyone took the opportunity to express personal opinions about all the various regulations governing the use of the cemeteries.

Proposed Ordinance 2009-32 is the result of these discussions. While most of the rules and regulations in the proposed ordinance represent the consensus of the committee members, in a few instances some members would have preferred more or less latitude than a particular rule permits. These preferences are presented to the Commission under the "Other Options" section of this memo.

The proposed ordinance includes a statement of legislative intent that the ordinance will serve as a contract between the City and the users of the cemetery; i.e., it is a contract defining the responsibilities of the City in caring for the cemeteries and the responsibilities of persons paying respect to loved ones interred in the cemeteries.

In addition to minor changes of an administrative nature, substantial changes were made to the existing ordinance that include the following:

Existing	Proposed
Some definitions and rules are vague and open to interpretation or discretion of the cemetery manager	Definitions and rules are clarified where necessary and discretion is removed; items either comply as specified or do not comply and will not be allowed.
The city will provide general maintenance and care to the cemeteries if proceeds from the sale of burial lots cover the cost of operation; there is no obligation to fund costs that exceed cemetery revenues and no obligation to maintain care and upkeep standards	Perpetual care of the cemeteries is assumed by the taxpayers and is defined to mean cutting and irrigation of grass, raking and cleaning of grounds, pruning of shrubs and trees, maintenance of pathways and roadways
There is no existing language that spells out the responsibilities of cemetery users	Users of the cemetery must understand that anything that keeps the city from fulfilling its commitment to care for the cemetery or adds undue cost for the taxpayers is prohibited
There is no existing standard for conduct of cemetery workers beyond prohibition against accepting tips, gratuities or commissions for work performed	Conduct standard for cemetery workers is expanded to include responsibility for reporting vandalism, obligation to use care with equipment to avoid damaging markers, etc., and obligation to behave in a courteous and respectful manner
Cemetery trust is used to fund current operating shortfalls and capital expansion of the cemetery	Cemetery trust may be used <u>only</u> to make capital improvements to the cemeteries
Monuments , markers etc. may only be bronze, granite or marble	Monuments , markers etc. may be bronze, granite, marble <u>or any suitable and approved material</u>
All monuments and markers must be set on a foundation constructed on a minimum of 3" of concrete	Monuments must be set on minimum 6" concrete foundation with steel bar reinforcement; markers must be set on minimum 3" concrete foundation with steel bar reinforcement; permit required (\$25.00 fee) for installation; foundation must be inspected by city before monument or marker is set
Temporary metal markers can only remain on grave for 6 months after burial	Families have option to install memorial brick (\$35.00) instead of temporary metal marker until larger permanent marker can be installed; brick can remain on grave indefinitely
Permanent planting and maintenance of grasses, shrubs, trees flowers can be done or approved by the city	Only the city can plant trees, shrubs, etc.; anything planted in a memorial section before 12/1/09 will be removed and transplanted elsewhere in the cemetery after notice to family; anything planted in a non-memorial section may stay as long as properly maintained by family

Existing	Proposed
<p>All vases and receptacles must be approved by City; approved vases may be of invertible type; fixed vases shall not exceed 6" diameter by 10" tall; no other receptacle may be used as vase</p>	<p>A frame may be used in lieu of a vase to support non-live flowers placed on special dates or until a permanent marker can be installed provided that combined height of frame and flowers does not exceed 24"</p>
<p>Potted plants are not permitted except as a special decoration on special dates</p>	<p>Potted plants will be allowed provided that pot is buried so that top edge is flush with ground, pot does not exceed 1-gallon in size and plant does not exceed 24" tall; plant does not have thorns or stickers; plant is maintained properly by family</p>
<p>Fences, hedges, borders, pipe, chains, enclosures are prohibited</p>	<p>A flat border will be permitted provided it is flush-mounted, is laid on a foundation to prevent tilting or shifting, is made of a material specified by city (example on file in cemetery office), and is maintained properly by family</p>
<p>Grave decorations may be removed when, in the judgement of the cemetery manager, they do not conform to the decorum of the cemetery. May be removed periodically by cemetery personnel if they become unsightly, interfere with the normal maintenance of the cemetery, or are otherwise objectionable.</p>	<p>Discretion is eliminated, grave decorations <u>will be</u> removed if they violate cemetery rules and regulations.</p>
<p>Special dates are birthdays, anniversaries, Mother's Day, Father's Day, Memorial Day, Veteran's Day, Christmas, Easter, etc.</p>	<p>Definition of special dates expanded to mean birthdays, anniversaries, Mother's Day, Father's Day, Memorial Day, Veteran's Day, Christmas, Easter, or <u>other dates of religious or cultural significance</u>.</p>

Existing	Proposed
<p>Placing of boxes, toys, shells, glass, metal designs, ornaments, chairs, settees, wood or iron cases and similar articles upon grave sites shall not be permitted and, if so placed, will be removed at no risk to City.</p>	<p>The following will not be allowed upon grave sites, and, if placed, will be removed after notice:</p> <ol style="list-style-type: none"> 1) Toys, dolls, stuffed animals or similar articles; 2) Shells, rocks, stones or pebbles; 3) Glass, ceramic or plastic objects; 4) Metal designs, frames, or hangars except as allowed on a temporary basis in accordance with paragraph 6-242(e); 5) Chairs, settees, benches or tables; 6) Wood or metal boxes or cases; 7) Lights, with the following exceptions: <ol style="list-style-type: none"> A. A single solar-powered light may be flush-mounted on each side of the headstone provided that the solar-powered light is of a style and material specified by the city; an example of such acceptable solar-powered light shall be displayed in the cemetery office; and B. Up to two (2) battery-powered or solar-powered candles may be placed on a grave site at Christmas and other dates of religious significance; 8) Inflatable items, with the exception that up to one (1) balloon no larger than fourteen (14) inches in diameter may be placed on a grave site on special dates; 9) Figurines or statuettes, with the exception that up to one (1) figurine or statuette of a religious subject (e.g., angel, saint, or the like) may be placed on a grave site on special dates provided it is placed upon a headstone or grave marker, is no more than twelve (12) inches in height, and is made of natural stone or cast concrete; 10) An ornament or item of any type that: <ol style="list-style-type: none"> A. Interferes with the maintenance of the cemetery; or B. Presents a potential safety hazard to cemetery staff and the public; or C. Offends or insults any segment of the population that resides in the community; or D. Disrespects the hallowed ground of the cemetery; or E. Disrupts the good order of the cemetery.
<p>There is no specific provision for placement or removal of flags on graves</p>	<p>Up to one American flag no larger than 13" x 8" may be placed on a grave site on Veterans' Day, Memorial Day, and Independence Day; small flags no larger than 6" x 4" may be incorporated into floral arrangements at all times during the year; flags removed will be returned to VFW for re-use or, if faded or damaged, will be destroyed in a dignified manner in accordance with U.S. Code</p>
<p>There is no requirement for notice prior to removal of items in violation and no requirement to store items removed.</p>	<p>Notice will be provided to family by placing a flag or similar marker on the grave site. If violation is not corrected within 30 days, item in violation will be removed, placed in a bag, tagged with identifying information, and stored for 12 months. If not claimed within 12 months, bag will be disposed of by the city without liability</p>

Existing	Proposed
Cemeteries are open for visitation purposes between hours of 7:00 a.m. and 7:00 p.m.	Cemeteries will be open from sunrise to 9:00 p.m. daily. Persons visiting between sunset and 9:00 p.m. will do so at own risk. Persons entering a cemetery after 9:00 p.m. and before sunrise will be trespassing.
There is no provision relating to alcoholic beverages	No person shall consume any alcoholic beverage, including beer and wine, within the boundaries of the cemeteries.
Bicycles and motorcycles are prohibited except during funerals	This provision is deleted
No person shall be allowed to sit, lie or lounge on the grass, shrubbery, grounds, graves or monuments or in the buildings	No person shall disrespect or desecrate grave sites by lying, sitting or standing on top of markers, monuments or any other memorial structures.
There is no provision relating specifically to disturbing the peace of the cemetery	No person shall disturb the peace or disrupt the proper order of the cemetery by yelling, fighting, running, engaging in games or sports activities, engaging in horseplay, playing loud music, or using offensive words or insults. No person shall loiter or wander aimlessly about on cemetery grounds.

OTHER OPTIONS

Proposed	Alternative
Potted plants will be allowed provided that pot is buried so that top edge is flush with ground, pot does not exceed 1-gallon in size and plant does not exceed 24" tall; plant does not have thorns or stickers; plant is maintained properly by family	In the memorial section, there should be no change to the current ordinance provision; i.e., potted plants are not permitted except as a special decoration on special dates
A flat border will be permitted provided it is flush-mounted, is laid on a foundation to prevent tilting or shifting, and is made of a material specified by city	In the memorial section, no border should be permitted.
The following will not be allowed upon grave sites, and, if placed, will be removed after notice: 2) Shells, rocks, stones or pebbles;	Placing a rock or stone on the grave site should be permitted so that a card or note to deceased can be placed under the rock or stone.
The following will not be allowed upon grave sites, and, if placed, will be removed after notice: 9) Figurines or statuettes, with the exception that up to one figurine or statuette of a religious subject (e.g., angel, saint, or the like) may be placed on a grave site on special dates provided it is placed upon a headstone or grave marker, is no more than 12" in height, and is made of natural stone or cast concrete;	Angels or other religious figures should be allowed on the grave site all year long, even in the memorial section.
Up to one American flag no larger than 13" x 8" may be placed on a grave site on Veterans' Day, Memorial Day, and Independence Day; small flags no larger than 6" x 4" may be incorporated into floral arrangements at all times during the year.	Up to one American flag no larger than 13" x 8" may be placed on the grave site of a veteran all year long.
Notice of violation will be provided to family by placing a flag or similar marker on the grave site.	Written notice should also be provided to address of record.

FISCAL IMPACT

Aside from the \$25.00 permit fee assessed for inspection of a monument or marker foundation, there is no fiscal impact associated with the adoption of this ordinance.

[End agenda memo]

Ms. VanBlargan read Ordinance 2009-32 by title only.

AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, LAKE WALES CODE OF ORDINANCES, BY REVISING CERTAIN RULES AND PROCEDURES FOR CEMETERY ADMINISTRATION; PROVIDING FOR AN EFFECTIVE DATE.

Ms. Delmar pointed out that the ordinance itself represents the consensus of the committee. For the most part everybody could agree, but there were some points where some members of the committee wanted to see a little more latitude and others a little tighter regulation. She said she expressed those opinions as "Other Options" at the end of the schedule of changes.

Mayor Van Sickle explained that normally on a first reading of an ordinance, there is no public comment, but since this is such a heated item, he would allow it.

OPENED TO PUBLIC COMMENT

Manuel Crespo, 850 Wildabon Avenue, said he participated on the committee. He said it had been important that they formulate an ordinance that was not too restrictive, so as to prevent its enforcement, and not too relaxed and too lenient. They had followed democratic principals for open discussion. He praised City Manager Judy Delmar for her leadership in leading the discussion with care and sensitivity. Because of that, a lot has been accomplished. The proposed changes to the whole ordinance encompass the feelings of a group of citizens, putting aside their prejudices, to make the necessary changes to prevent another fiasco similar to the one that surfaced a few weeks ago. When there is no enforcement of rules for years, and then enforcement is suddenly executed, problems are bound to happen. By not enforcing the rules, you send a message that you do not care. Therefore, what is contained in the new ordinance must be enforced, and order restored in the workings of the cemetery, while always allowing for compassion. He asked the Commission to consider the proposed ordinance.

Becky Wynkoop-Seymour, 1301 Byrn-Mawr Avenue, said she had not been able to attend the cemetery committee meetings because she works, and had told three Commissioners that she requested an evening committee meeting. She said that what she read in the paper sounded pretty good, but she had some questions that had not been addressed. Ms. Delmar said that we made the comment several times that anyone who could not attend the daytime meetings could schedule an evening meeting with Teresa and herself, and she would take their concerns to the committee. She added that the committee represented two distinct portions of the community and the concerns of both sides were expressed. Ms. Delmar told Ms. Seymour that if she had additional concerns she would be happy to meet with her about them between now and second reading.

Ms. Seymour brought up two concerns. The first was an issue about a vase on a lot that became missing 1-1/2 to 2 years ago. She said it was probably hit by a mower and wanted to know if the City would reimburse for damages or if she was going to have to replace it at her own expense. Ms. Delmar said the committee addressed maintenance issues such as care during mowing and weeding, which were all in the proposed ordinance. City Attorney Chuck Galloway said that there was not a provision in the existing ordinance for reimbursement of any sort. Ms. Seymour asked if there would be reimbursement if it was caused by the negligence of staff. Mr. Galloway said that there was no way to demonstrate that being the case, but that there was not a provision in the existing ordinance for reimbursement to any person who has burial rights in the Lake Wales Cemetery.

Ruth Dampier, 1154 S. Lakeshore Blvd., said that she was on the committee. She said that when someone is given a certificate for purchasing a cemetery lot, they should read what that entails. For they

would see that the City is not responsible for breakage. She said it had to be that way because there is no way to identify who broke it or how it got broken. She said she feels that the ordinance the committee has worked on so hard and diligently is going to solve all the problems that have popped up through the years. She said lot owners need to remember that they have to take some responsibility and if something breaks they should fix or replace it. She said the cemetery looks 100% better now, even before enforcing the new ordinance.

Nancy Kilburn, 36 Garner Avenue, said she was on the committee and one of the problems was with flags. The proposed ordinance says that only American flags would be allowed and she disagreed with that. She said that her son had been a true red-neck and she wanted to put a small rebel flag on his grave. There was no racial intent. She said she also knew of Spanish and other nationalities that are buried there and she felt they should be able to put their national flag on the grave. She said there had been a rebel flag on her son's grave for 9 years, and a small angel on her husband's grave for 22 years, but they were taken off. She would like to be able to return them. Ms. Delmar read the section of the proposed ordinance referring to flags. She said small flags, no greater than 6" by 4" can be incorporated into a floral arrangement at all times during the year. It does not state that the flag has to be an American flag, but she said she believed that was the intent of the committee.

David Smith, Babson Park, said the cemetery looks good and he did not think we needed flags on graves that will cause problems. If it is only American flags placed on graves there, all will be fine.

May Odom Lee said she did not want to disclose her address. She said she served on the committee because most of the graves that the City claimed were in violation were not. She had a problem with the way it was handled. The City was so involved in the controversy between the Mayor and the past City Manager that nobody did their job. She said she did not blame them because if she was not sure she would have a job tomorrow she wouldn't worry about doing it today. When all that was settled, the grass was very overgrown so the City took everything off the graves to allow mowing it down. She complained about the way the Mayor treated the public during the Commission meeting when the cemetery issues were first discussed. She said if she was a City resident she would ask for him to be recalled from the bench.

CLOSED TO PUBLIC COMMENT

Mayor Van Sickle said that he agreed with Mr. Smith that the American flag is the only appropriate flag. We have many people from Italian, Spanish, and African decent, as well as other countries, but when they come to our country, they should respect the beliefs of the country. In his opinion, the American flag should be the only one.

Commissioner Rogers said that he talked with some of the committee members and they had high praise for the way Ms. Delmar handled it and the way she worked with the people. He said he is glad that the City has a City Manager that tries to work with the public. He said that concerning the flags, the VFW puts out the American flag to honor the veterans of this country. He said as an old confederate veteran, he had no problem with a rebel flag, but if we allow all the other flags to be placed there it would take away from honoring our veterans on Veteran's Day. He thanked Ms. Delmar again for the way she handled this issue.

Commissioner Howell had some questions about the proposed ordinance:

- Suitable and Approved Monument Material and Foundation: She asked if the approved material was already defined in addition to bronze, granite and marble. Ms. Delmar said it was not defined, but it would include any suitable material. Mr. Crespo returned to the podium to address this question. He said that they have on the market now materials that are better, and that can be used as substitutes for traditional monument materials. The committee only wanted to leave an opening for the use of these new materials. Commissioner Howell asked who would approve the material and Ms. Delmar said the City would approve it. Commissioner Howell said she wanted to be sure that people putting up monuments know what is suitable before they make their purchase.

- Planting of Trees and Shrubs: She had a concern as to how the family members would be notified when trees or shrubs had to be removed from the memorial section. She asked who would be contacted if there were no local family members. Out-of-state family members will not know about the removal until they travel here to visit the grave. Ms. Delmar said the rules would be posted and mounted on the side of the cemetery building. That way everyone who comes to the cemetery can read them. Commissioner Howell asked if there would be a time-frame or would the City just go in and cut down the trees. Ms. Delmar said that in the old section the trees would be allowed to stay until they die, etc. But, in the flat or memorial section, there are only one or two lots where trees are an issue and those will be dealt with.
- Grave Decorations for Special Occasions: She asked how long could the decorations stay up, and Ms. Delmar said seven days.
- Items Not Allowed on Grave Sites: She asked how long before non-allowable decorations would be removed. Ms. Delmar said they had 30 days after notification to remove them. At that time, decorations will be picked up by staff and put in a bag, marked and stored for one year.
- Other Options- Angels and other Religious Figures: She asked if angels or figures were allowed if they were part of the monument itself. Ms. Delmar said that this option is talking about grave decorations.
- List of Approved Materials and Decorations: She asked if there would be a list available for lot owners as well as funeral homes of approved materials and special decorations. Ms. Delmar said they would receive the list as well as the monument companies. Commissioner Howell asked if they would get their copy after the second reading and Ms. Delmar said they would, as soon as they could get them in the mail.

Commissioner Howell ended by saying she thought the committee did a great job on the proposal. Ms. Delmar said the praise did not go to her alone but to the committee members, and to Jennifer Nanek who kept them straight on the things being discussed. She added that it was a good experience with both points of view expressed, spirited but not adversarial, and was representative of the community.

Commissioner Thornhill said he was pleased with the results and it just shows what can happen when the government and community work together. He said it looks great and he does not think they will have to make changes any time soon. The City had made a good move by finally taking care of the cemetery, which is probably one of the first things a city should do. If we do not show honor to those who have gone before us, how can we talk about the future. He said he appreciated everyone who took part, and for those not in the audience but were watching it on TV, he thanked them.

Commissioner Wheeler asked Mr. Galloway if notification of a violation by putting a marker on the gravesite was legal sufficiency of notice. He said he could not imagine it was, especially for families living out of state. Mr. Galloway said that it was sufficient notice. He said that according to the Code Enforcement Chapter 162, if you cannot find them to give notice you can simply post the property. Ms. Delmar said she checked with other cemeteries and this is a typical method of notification. It is the responsibility of the purchaser of a lot to keep the City notified and updated as to their address, but this almost never occurs. The more recent purchases probably have current information, but for those that are not recent, we may only have the name of the deceased. Commissioner Wheeler asked if notification could be written in order to show respect to the family. Ms. Delmar said we tried that and were unsuccessful. Mr. Galloway said it would depend on the availability of addresses. Teresa Allen, Public Services Director, said that the problem they had with written notices was that they had a hard time finding many of the addresses. Even with some of the addresses they did find, the notices went out to those listed on the deed, and the local family members who were the caretakers did not get the notification. So they also put notification on the gravesite. The City feels like it is proper notification to tag the grave site as it takes too much time to find all the addresses. The problems that the City has had were

with local family members, and those caretakers would not have gotten written notification anyway. Ms. Delmar said we are anticipating that with proper enforcement of the ordinance we will not have these problems. Commissioner Wheeler said he could understand the problem with older graves, but with recent ones, he felt that we should go the extra distance and provide written notification to known addresses. Ms. Allen said that they could do that although they may run into the problem. Commissioner Wheeler said that it would be a thoughtful thing, especially for people living out of state because they wouldn't have a clue otherwise that they were in violation. He suggested adding a modification to the ordinance that written notification be given provided we have an address to send it to. Ms. Delmar said it could say something to the effect: "written notice will be provided and all effort will be made to locate a current address."

Commissioner Wheeler said regarding to the flag issue, he could easily see chaos reigning if we allowed anything but American flags at the cemetery. Though it may seem unfair, to avoid chaos we should stick with just the American flag.

Commissioner Thornhill made a motion to approve Ordinance 2009-32 after first reading with an amendment that all effort would be made to give written notification. 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.

Agenda Item 18. Authorize the Department of Economic Development to use the Polk County Incentive Program in Business Attraction Incentive Package

Mr. Gallup reviewed Agenda Item 18. The full staff memo is incorporated into the minutes.

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

SYNOPSIS

The City's position on the use of incentives has been limited over the past years. The County has modified its current Incentive Program to be more inclusive of "Small Employment Based Companies" with the "Soft Landing Spot" addition. This is an important modification in this economic environment.

RECOMMENDATION

Staff is recommending that the City Commission take the following actions:

1. The City Commission agrees to participate in the Polk County Incentive Program for use in negotiating with companies considering a location Lake Wales; and
2. The City Commission authorizes through the City Manager, the Director of Economic Development to employ this tool in the preparation of proposal responses or other negotiation scenarios, for attracting companies that meet the program criteria, with the requirement that the Final Approval of any Incentive Package must be obtained from the City Commission and is subject to available funding.

BACKGROUND

The attraction of business to Central Florida, as with any area, is very difficult given the current economic environment. This is another overall tool that may be used, but it may not be the only proposal that will be needed to create a competitive location in the site location decision-making process.

CURRENT FISCAL IMPACT

To be determined on a Proposal by Proposal Presentation

OTHER ALTERNATIVES

Do not authorize the use of the Incentive Program.

[End agenda memo]

Mr. Carson from Central Florida Development Council gave a presentation about the Standard Research Initiative and the potential target clusters for Polk County. An executive summary of the cluster study was distributed to the Commission. Mr. Carson explained that the executive summary outlines the target cluster selection process and key findings of the cluster research and analysis.

Commissioner Thornhill asked how we were going to go after them to get our name on the map. Mr. Carson said the program has been in place for 24 years. They raised up the program significantly after the findings of marketing initiatives. Last year, they did eight trade shows, four consultant events, and two international trips. This year, they are doing 12 domestic trips, four consultant events and two international trips. They got a grant from the state for international outreach initiatives. When he goes overseas, he takes Polk County companies with him. Those trips have garnered about 30 million dollars in sales for Polk County companies already. When you think about the inflow of capital in Polk County, that's a good thing as it means more money going into the local economy. They are expending a lot of time and energy. They just revamped the business license tax. So their budget has been increased slightly to be used for more outreach efforts.

Commissioner Howell asked how they were going to get businesses here. Mr. Carson said they were actively recruiting, talking face to face with candidates, and marketing Polk County at trade shows. This gives them a venue to go out and talk to other companies. Commissioner Howell asked if right now they were talking to small engineering type companies about coming to Lake Wales. Mr. Carson said they were talking to small engineering, water engineering, sciences, and manufacturing companies. He said their efforts were not limited to just what was in the cluster study. He said when a company calls them stating an interest in locating in Polk County, the lead is passed on to their community partners, Harold Gallup being one of them who is a representative and respondent for Lake Wales. If the partner thinks this is a project that will fit in their community, they are asked to respond to the material given them. If it is a business that is not a desire for Lake Wales like a company that is consuming two million gallons of water a day, that is something that they would never respond to.

Commissioner Howell asked what the chances were of getting a company here in Lake Wales instead of Lakeland. She said she heard of a special pharmacy-type company that wanted to come to Lake Wales but they had to jump through so many hoops with Lake Wales ordinances that they did not come. She wanted to know how he would help companies come to Lake Wales if we have so many deterrents. Mr. Carson said he could not speak about the City's ordinances because he does not know them that well, but he could say they have an extensive business expansion program run by Amy Palmer who partners with the local Chamber of Commerce and Mr. Gallup in making local calls on business that are within their defined clusters in asking them about their particular industries and finding out where their growth opportunities are, and also in asking them about the local impediments to growth. Mr. Carson said that they are collecting all these particular issues from around the county and at the end of every year they put these issues together in one report so that no one city is pulled out of it. Then Lake Wales, as a community, can take a look at it to see what issues are impediments to growth. From a City Commission

prospective, the more business friendly that Lake Wales can be while still maintaining its level of service to its citizens is the biggest thing. It also may mean that the City would need to look at some of the ordinances it has in place. Commissioner Howell asked Mr. Carson if his company would be able to tell if a particular company was interested in Lake Wales, if it would be a good fit, and if the City has too many impediments that would make them go somewhere else. Mr. Carson said if the company says that Lake Wales would not be a good fit for them, they would try to find out why and pass that information on to Mr. Gallup so he could then pass that along to the most appropriate individual within the City. There is also the potential for them of being able to work through those particular issues on a case by case basis. He said they are working very hard to be very proactive in reaching out. Mr. Carson said that his particular job in what he sees from the county prospective is to fill the pipeline with particular projects and allow the community to close those projects. The more projects he can put into the pipeline for Harold, the greater the opportunity of closing on one of those particular projects. He said their success rate right now is about 10-15% of the projects that they put in the pipeline are actually announced. Last year, they did 84 projects and closed seven of them, resulting in \$165 million in capital investment for Polk County and almost 800 new jobs to be created over the next three years. The prior year they did \$180 million in capital investments and almost 1,200 jobs. The more projects there are in the pipeline, the more opportunity that one might come to Lake Wales.

Harold Gallup, Economic Development Director, said that he was unaware of the pharmaceutical company to which Commissioner Howell referred. We look at many proposals, but do not take them all, and some of them we cannot service. We try to find companies in certain clusters. We may not be able to compete for a company that wants to be in a high-tech corridor next to a university, but we can go after the companies that service them. The rent is up. In the high-tech corridor it may be \$28 - \$35 a square foot for office and research areas, whereas we can provide a service company a facility at \$8 - \$10 a square foot. That helps a company to expand, while being only 15 minutes away by interstate or highway, which is the kind of company we are going to attract. He said he thought the focus of the study points to what needs to be done in Polk County, especially in the area of education. The Commission needs to know this will not be a short-term fix of one, two or even three-years, but rather a 5-15-year program. Mr. Gallup said that a significant capital intensive firm he presently is dealing with has starting wages of \$80,000 going up to \$120,000 for an assistant engineer in that facility. We are one of a half a dozen sites right now, but we are still in the lead. However, things do change. He said that confidentiality was very important and a company will move from a chosen site to a secondary site if an announcement was made too soon, and their competitors found out what they were doing. We work with the CFDC extensively. He said he was being facetious during budget hearing when saying all he needed was \$4 million to create another facility [industrial park] to put us in another competitive market, but in reality, he needed that four million dollars. He is trying to find it through grants and other things, to move in with another facility that would house companies that he knows are coming through CFDC that we cannot address now. We do not have the land mass, services, facilities, and infrastructure to accommodate it. The costs of this SRI initiative and the update is about \$150,000. This is intensive research that we are capitalizing on, and have been capitalizing on. This program is the basis we have been using to be selective about what we are trying to attract. On the flip side, we did lose someone to Jacksonville because he could not guarantee from within our labor force a certain quality of worker that could do certain arithmetic functions critical to a high powered machine. Knowing what a company needs, working with them on funding, working with the incentives, competitively brings us to the table. We may not get all of the companies we go after, but we will pitch every one that we can.

Commissioner Thornhill asked if we were advertising through trade shows and similar things. Mr. Carson said they have built up a good reputation by participating in trade shows throughout the year. A good reputation has been built. Unfortunately, Polk County has always been kind of looked at as being the red-haired step child to Orange and Hillsborough Counties. Example, our fiscal year ended at the end of September and the number of closures were down to seven. The average wages were at \$43,000, which is up from \$38,000 the prior year, and \$33,000 the year before that. We are making progress, but we are just one small component of that. The local communities need to realize that they must fund economic development programs fully and provide the support they need. Mr. Carson said that, if it were not for Mr. Gallup being here for Lake Wales, his voice would be muted on the issues and the direction of where Lake Wales is going. Mr. Gallup becomes his conduit to know what the Commission is looking for and what it needs. He is the conduit for selling Lake Wales. There are communities in Polk County that are

struggling because they do not have an economic development program. We really need to make it an initiative to say that this is priority #1 for Lake Wales, because there are more things that Mr. Gallup can do just outside of closing a particular deal, both short-term and long-term.

Mr. Gallup said this program provides a successful building program. It allows us to use some incentives in attracting on a lease basis some companies that are looking at buildings now. He said the proposed recommendation is to add one more tool to the box. However, this is not an answer to the competitive position. There are still a number of issues on site locations. This is just one of a number of things. We are aggressive about satisfying all of them. He, unless given direction by the Commission and the City Manager, is not out to mortgage the future of this City by incentives. They are a closing part of the proposal. This is all based on budgetary availability. Before the commitments are signed, sealed, and done, this Commission will review the deal. If it is not available, it is not available. Mr. Gallup added that that over the last year to 14 months, the Commission has been getting new advertisements that have been geared to go with the SRI study, aiming for sectors that we know we can attract.

Commissioner Howell asked what the cost of the program. Mr. Gallup said it would depend on each business as it comes in. At that time, the cost would be identified. He warned them that they would hear about companies going to other places, but it might be that we have fallen short on incentives.

Mayor Van Sickle said there was nothing to vote on and asked if what Mr. Gallup was seeking was a consensus. Mr. Gallup said he was asking that authority be given to the City Manager to execute the principles of this incentive bonus program and the elements outlined in the SRI. The Mayor said he thought it was something the City had to do in order to get companies to Lake Wales. He said Mr. Gallup had the consensus of the Commission to go forward with it.

Mr. Galloway said he thought it would be prudent in some fashion to get a consensus because it has only been stated by the Mayor at this stage. He would think we really need to have a voice vote that identifies for the record that a consensus exists.

Mayor Van Sickle asked if all were in favor of the statements he just made to Mr. Gallup.

By voice vote: All "AYE"; None "NAY."

CITY MANAGER'S REPORT

CITY COMMISSION TRACKING REPORT

Ms. Delmar said there were no changes to the Tracking Report as presented. However, there is a TAC meeting this week. There is no indication that we are going to run into any problems with the timetable for the intersection improvements at Scenic and Mt. Lake Cut-Off Road.

COMMUNICATIONS AND PETITIONS

Becky Wynkoop-Seymour, 1301 Bryn-Mawr Avenue, reported several concerns:

- She asked if the money for the cemetery was still there or if it went for other uses. Mayor Van Sickle said the money for the cemetery was still there.
- She said that posting the rules on the side of the building might not be enough because people would not know to go to the office to read them. She suggested having the rules posted at the two entrances. Ms. Delmar said that everyone would get a copy of the rules with their deed and contract. She said they could put a sign at each entrance stating that the rules are posted on the office building.
- Ms. Seymour asked if there was a waterproof directory and map so people from out of town could find their loved ones. Ms. Delmar said there were 11,500 lots and she did not think that they could do anything like that. She said they could post a diagram or map of the layout of the cemetery.

But, beyond that, it would be more than they could accommodate. Ms. Seymour asked if it could be posted on a web-site and Ms. Delmar said that she was not sure if that was a Privacy Act issue, but she would look into it. She said that a person could call the cemetery during working hours and ask for that information, but whether it was feasible to post that information, she was not sure.

- Ms. Seymour asked why the City did not take blame for the decorations and markers removed from the cemetery. She said the staff person suffered no repercussion for his actions. Mayor Van Sickle said she was incorrect, that both he and Ms. Delmar, together and separately, on four major networks, took responsibility for what happened at the cemetery. Ms. Delmar also relieved a cemetery worker from duties at the cemetery because of the issues. He said that her saying the City took no position was false.

CITY COMMISSION COMMENT

Commissioner Thornhill said that the CSX Building looked great, a major change and great improvement, especially for the people in the area. Ms. Delmar asked Beverly Pennington to stand up and take a bow.


Commissioner Howell asked about the lights at Spook Hill that were on the tracking report. She asked if Teresa Allen, Public Services Director, had called the work order in to Florida Power [Progress Energy]. Ms. Allen said she had reported it but the lights might not be on yet because it took at least five business days.

There being no further business, the meeting was adjourned.



Mayor/Commissioner

ATTEST:



City Clerk