

A workshop meeting of the City Commission was held on March 9, 2010 at 5:00 p.m. in the Commission Chambers at the Municipal Administration Building. The meeting was called to order by Mayor L. Jack Van Sickle.

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

COMMISSIONERS ABSENT: None.

CITY REPRESENTATIVES PRESENT: Judith H. Delmar, City Manager; Albert C. Galloway, Jr., City Attorney; Clara VanBlargan, City Clerk; Jacquie Hawkins, Deputy City Clerk.

Agenda Item 1. Backflow Prevention Program

Mr. Moran reviewed Agenda Item 1. The full staff memo is incorporated into the minutes.

[Please see agenda packet for any document that the agenda memo says is attached]

[Begin agenda memo, prepared by Tom Moran, Public Works Director]

The City of Lake Wales Ordinance (copy attached) states: all connections to the city's water system shall be required to have an approved backflow device installed and that backflow testing shall be done at least once in a twelve (12) month period. The Ordinance further stipulates that failure to install or maintain the appropriate backflow device by the time specified in a written notification (a copy of the proposed letter is attached) from the utilities director shall result in termination of water service. Also attached are three (3) spreadsheets that indicate the establishments that have never installed a backflow device, never filed an inspection report and those that are delinquent for the 2009 calendar year.

The Environmental Protection Agency (EPA) rule for backflow prevention devices provides guidance for inspection procedures. "These backflow prevention programs typically require testing of each backflow prevention device (typically on an annual basis) to ensure that it is functioning properly."

The Florida Department of Environmental Protection (FDEP) in a letter dated December 23, 2008 adopts the national standard of practice developed by the American Water Works Association (AWWA manual M14). A proposed rule to Chapter 62.555-360 (DEP Water systems) states that backflow prevention devices must be tested at least annually.

The AWWA has promulgated a manual regarding backflow assemblies, M14 – Recommended Practice for Backflow Prevention and Cross-Connection Control. A copy of the entire manual is available for review at the Public Works Utility department, water division. Chapter 2 of the manual alludes to the requirement for annual inspections, Chapter 7 identifies Maintenance and Testing Procedures, Chapter 8 identifies Backflow Assembly Field Test Procedures and Appendix B (Sample Backflow Ordinance) article 3.26 states "It shall be the duty of the customer-user at any premises where backflow prevention assemblies are installed to have certified inspections and operational tests made at least once per year."

RECOMMENDATION

1. Amend section 21-72(c)(4) to read "Failure to install or maintain the appropriate backflow device by the time specified in a written notification from the utilities director shall result in a monthly fine of \$50.00 until the report is submitted; failure to comply in six months shall result in termination of water service. Service so terminated shall not be restored until all conditions specified by the utilities director have been satisfied."
2. Submit the Notification letter to the customers and enforce the City Ordinance.
3. Those establishments that do not have a backflow device installed should be given written notification that states, "A backflow device must be installed within thirty (30) days of the date of

this letter. Failure to notify the water department that such a device has been installed shall result in the termination of your water service.”

[End of memo]

Ms. Delmar said that the City wanted to be business and customer friendly but in some cases the City was driven by regulatory agencies that require things to protect public health, safety, and welfare. This was one of those times. The City does not have the option of repealing this ordinance and it needs to be enforced. Mr. Moran said the City is required to submit a report to DEP stating that the ordinance is being enforced. If we do not enforce the ordinance, DEP can fine the City.

Holly Britt, Utilities Operations Supervisor, explained that the City has been meeting the reporting requirements since the backflow prevention device rule was adopted in 2008. Businesses were notified in 2008 and in 2009 that they needed a backflow device, which had to be tested annually, why it was needed, and who was enforcing it. Some businesses complied and some did not. Ms. Britt said because businesses were aware of the requirement since 2008, staff is requesting a 30-day notice requirement to be added to the ordinance. She said the cost to install a backflow device is \$600.00 and the annual testing is about \$75.00. New companies will receive a letter every August letting them know they have two months to turn in their report. If at that time they do not turn in the report, they will be given a second notice which gives them until December 31st.

Mr. Moran explained that the annual backflow inspection had to be done by a certified plumber or a licensed backflow inspector. If the owner of the building resides in the building and does business in the building, a licensed backflow inspector can perform the inspection. If the building is leased to a business by the owner, a licensed plumber has to do it.

Commissioner Howell was concerned if a 30 day notice provided sufficient time to allow those who have not complied to do so. Ms. Delmar suggested extending the initial period to allow for that. Commissioner Howell asked if they were given instructions on how to write the report. Ms. Britt said they are given a sample report sheet, but most backflow testers have their own report. Commissioner Wheeler said it would be helpful if the Commissioners had a copy of a report so they could see what is being discussed. Ms. Britt said she would get them one. She said that out of over 800 customers, only 150 had not complied. Commissioner Howell asked if a company's backflow fails during an inspection, who would notify the owner to get the device fixed. Ms. Britt said that typically the plumber would tell the business that the inspection failed and that it would have to be repaired.

Commissioner Rogers asked that the City work with the smaller businesses on the cost of a backflow device during these difficult economical times so the City would not get fined by any government agency. Ms. Delmar suggested adding the cost to their water bills in the form of some type of payment plan.

Commissioner Wheeler said it seemed to him to be more of a reporting problem than a mechanical problem. He said that after looking at the names on the list, he had to question whether they were told they needed to hand in a report because one of them is the JC Penny Corporation and he certainly did not think they would miss turning in a report. Ms. Britt said a business that turn in a failed report will stay on the list until their device is repaired.

Commissioner Thornhill asked if the City supplied the owner with a list of companies that can do annual backflow inspections. If not, the City is telling them they have to do something without giving them the information they need. Ms. Britt said staff cannot provide specific names, but they are told to either contact a certified plumber or a licensed inspector, which can be found in the yellow pages. Commissioner Wheeler asked how many qualified plumbers and inspectors were in town. Ms. Britt said according to a list that was given to her, there were approximately 60 between Winter Haven and Lake Wales.

Commissioner Howell said that businesses without the device needed to get another letter telling them they have to get one within 30 days. If they can't find a plumber to do the work by then, they need to send

the City the date in which a plumber is scheduled to do the work. Mayor Van Sickle suggested sending them a letter stating that they have 90 days to comply and to send in the report. He said those that sent in failed reports should get a letter letting them know that they have a certain period of time, say 60-90 days, to get the device repaired. Ms. Delmar said 90 days would be reasonable and the Mayor agreed.

Dorothy Pendergrass, Finance Director, explained how the city would do the payment plan on the utility bill for those who could not afford to have the device installed. She said with Commission approval, it could be handled one of two ways: (1) The customer could pay the plumber and give the City a copy of the cancelled check showing that it had been installed and the plumber actually cashed the check. Then the City could write the customer a check for the same amount and set up monthly payments to go on their water bill. (2) The plumber could send the bill directly to the City to pay. The City could then collect the money, plus interest, through the customer's water bill. She added that, as they would be using public funds for these short-term loans, interest should be charged at the same interest rate as the banks presently use, which is 1%. City Attorney Chuck Galloway said that statutory interest should be charged which is 7%. Ms. Pendergrass said she would leave that decision up to the Commission.

Mayor Van Sickle said the City should try to help businesses and he opened it up for discussion whether to charge the 1% interest or 7% interest. He added that if a business could not afford to pay \$600 to have the device installed, then the interest charged may be a problem and he thought the City should be as lenient as possible. Commissioner Howell said that the important thing was to get the backflow devices installed so the City would be in compliance. If we have to charge interest, she suggested the 1%. The City should let them know that the interest would increase to 7% if the device is not installed by the deadline.

Agenda Item 2. C Street and Vicinity Sewer Improvements

Mr. Moran reviewed Agenda Item 2. The full staff memo is incorporated into the minutes

[Begin agenda memo, prepared by Tom Moran, Public Works Director]

A complaint voiced at a City Commission meeting regarding raw septage on the ground in the vicinity of "C" Street and Washington Avenue prompted the City staff to visit the site and conduct a preliminary investigation to the cause.

The site visit indicated that the gravity sanitary sewer system did not appear to be in compliance with the existing Department of Environmental Protection guidelines.

This led to a contract with ENVISORS Engineering to conduct a survey of the gravity system approximately bounded by CSX railroad to the east, Harding Avenue to the north, "G" Street to the west and North Avenue to the south. This area entailed a majority of the gravity system that feeds into lift station # 16.

The results of the survey are provided as the attached drawings and table. An evaluation of the survey indicates that a majority of the system is not in compliance with the Ten State Standards. The Ten State Standards are guidelines adopted by the Department of Environmental Protection for the design of gravity sewer systems. Two (2) pages of the standards are provided for your review.

Recommendations:

1. Contract with ENVISORS, LLC to complete a survey of the entire gravity system that feeds into lift station # 16.
2. Upon completion of the survey, contract with ENVISORS, LLC to evaluate the existing the conditions and provide various solutions to the problem. The solutions should include an estimated cost.

Additional information:

A portion of the existing system is not in a utility easement; rather it is on the property line between adjacent parcels. The City attorney has been advised of this situation and provided with the relevant tax appraiser sheets, and he is in the process of determining a solution.

[End of memo]

Mr. Moran explained the chart he displayed showing the gravity sewer system in the vicinity of C Street and Washington Ave. He said that, after reviewing the available data, staff realized that about 70% of the gravity system was out of compliance, which included the slope of the sanitary pipe, the flushing manholes at the end, and the spacing between some of the manholes. He explained each one and said that to effectively evaluate the entire gravity system, a survey needed to be done of the entire system to get the accurate data. He said there were several solutions and explained them. He said that some of the existing lines were on property lines instead of on the easements. The attorney is aware of it and we are working together to resolve the issue, which will end up being a big paperwork package by the time it is done.

Chuck Galloway said the lines have been in the ground for far more than 20 years, so there is an easement that exists by prescription. The first thing they needed to do would be to ask those people who own those adjacent properties to grant the easement. If there are owners that refuse to do that, then the City would have to get the court to grant that prescriptive easement. The property owners are utilizing the system and the City is maintaining it, which is pretty much the requisite for getting the court to declare that an easement by prescription exists. Staff started doing an analysis of ownership. His advice was to ask the owners first and then go after the ones through the court system who were not willing.

Commissioner Rogers said it has been suggested that the lines be moved to the center of the road. His concern would be the cost of hooking up to the system that the homeowner would have to pay, which could cost over \$2,000. Ms. Delmar said if the lines are moved to the center of the street, then the property owners would have to re-plumb to connect to them. Mr. Moran said part of the system was in the road and the horizontal location was not a problem, though the vertical might be.

Mayor Van Sickle said the estimate for the engineering was about a quarter of a million dollars. He asked if staff had gotten an estimate for the whole project. Mr. Moran said that he and Harold Gallup, Economic Development Director, came up with the five million dollar estimate. He added that DEP might supply some funding because it might be considered an environmental issue as there was raw septage on the ground. He suggested following through to see if that was a possibility. He added that, either way, the cost would not go away. It was just a question of whose pocketbook it would come from.

Commissioner Howell said in order for it to work properly, everything around it would have to be fixed, not just Lift Station 16. She asked if that was included in the aforementioned cost. Mr. Moran said no. He said the first step in the recommendation was to have Envisors obtain the rest of the information for the remaining gravity system was not in the scope of services.

Commissioner Howell asked for the projected start and completion time if the city could get the support of the community. She said this has been a problem for a long time as all the piping in the northwest section had not been done properly. Mr. Moran said if we just started lowering the pipes, making the slopes accurate, maybe three or four months to start the work.

Ms. Delmar said that to start construction, we would need the funds available, which was one of the reasons this had been brought to the Commission. Before they put any funding into engineering or additional surveying, staff wanted to be sure we have a commitment to find the funds available to move forward. If not, we would put the engineering plans on the shelf and await better days. She said that operating funds would not be sufficient to fund a project of this scope, so bank financing would be necessary. It would require the City to borrow close to \$5 million dollars to do the project unless grants offset some of the cost.

Mayor Van Sickle said there were several big capital improvement projects budgeted 2009/2010, the wastewater treatment expansion, and the wastewater treatment plant rehab. These were identified as costing \$3 million dollars and the City was looking for low-interest loans to pay for them also. He said with the economy the way it is, he doubts very seriously that the City could even get a bond. Ms. Delmar said we have the money for the engineering allocated in the CRA bond. She added that once we obtained the engineering, we could do \$1 million dollar phases or do the entire project at one time, but in either case, we need the funding or grants to finance it.

Commissioner Howell asked why have a workshop on something that we do not have the money to do. There seems to be money for everything else. Ms. Delmar said this is a problem that must be fixed. Staff is seeking direction from the Commission that once the engineering is done and problems are identified, it agrees to seek the financing needed to do the project or if that is out of the question, then we stop here.

Commissioner Thornhill said he would like to move forward with completing the survey to identify the problems, so we can best evaluate to see how we can correct the conditions. Then, seek help from DEP because it is an environmental issue. Ms. Delmar said there would be some type of match required; the City could pledge CRA funds from future budget years.

Commissioner Rogers asked if we would have to increase the sewer rates. Ms. Delmar said that was always a possibility in order to pay for the bond. Mayor Van Sickle said the key was to have a better idea of the cost. He believed that engineering was the first step and once we had an idea of what was really needed, we could figure out how we would get there. Ms. Delmar said before we go to the engineer, we need to know if this will be a backyard or front yard project, meaning we will leave the lines where they are or replace them by moving them to the front.

Mayor Van Sickle said that if the lines are moved to the center of the street, the property owners would be responsible for connecting to them, which would be costly. It would be cheaper for them to grant the easement. Ms. Delmar added that once the pipes were moved to the street, service in the back would be disconnected, and the homeowners would have to connect in order to have service.

Ms. Delmar said staff would then plan on broadening the survey, going through the back property line, and then completing the engineering. We would have to complete the survey of the areas that feeds into that lift station in order to identify the extent of the problem.

Commissioner Howell asked if it would affect the people with septic tanks. Ms. Delmar said she believed that once service is available they are required to connect. Mr. Galloway agreed and said he believed it was a DEP regulation.

Commissioner Rogers asked that staff start contacting the property owners to see if they will cooperate so we can proceed with the engineering. Ms. Delmar said they first needed to decide what form the project would take, backyard or front yard, and then proceed accordingly. If it is decided to go down the back of the property, we would need to obtain the cooperation from the property owners to grant the easement.

Mayor Van Sickle explained that there was a homeowner in the audience and asked her to come forward with her concerns.

Kathelia Turner, 318 C Street, said the lines in her back yard were about three inches below the surface. At one time, she had some fruit trees taken down and the man who did the work broke the lines when he ran over them with his truck. The City came out and poured concrete over it and told her not to let anyone drive there. With the concrete there, she could not utilize her own property. There was a section they did not put concrete on and when the hurricanes came, that line broke, spewing raw sewage on the ground. The City told her to cover it the best she could and they would come out and fix it, which turned out to be three or four days later. Ms. Delmar said that to fix her property was one of the reasons the City wanted to do this project.

Mayor Van Sickle said it looks as though the direction of the Commission is to find out the impact of the

total project. Hopefully, DEP will be willing to help fund the project. Until we know what to ask for, we cannot go any further.

Commissioner Thornhill asked how deep the line was supposed to be in the ground. Mr. Moran said a minimum of 18 inches below ground but preferably three feet. Mr. Rogers said you also have to have the right pitch and angle. Mr. Moran said staff would evaluate and then give them recommended figures.

Agenda Item 3. Stormwater Issues

The full staff memo is incorporated into the minutes

[Begin Agenda Memo, prepared by Judith H. Delmar, City Manager]

At a recent City Commission meeting, a citizen raised the issue of grass clippings and other yard debris being swept into the streets and with rain being carried via the storm drains and into the lakes. The Commission requested that ordinances from other cities be obtained to serve as a possible model for a Lake Wales ordinance that would prohibit grass clippings being swept into the streets.

Apparently, an ordinance of this type is uncommon in Florida. The Florida Department of Environmental Protection offers no model ordinance relating to stormwater pollution prevention or stormwater management.

I did locate an ordinance that was adopted by the City of Winter Park that could serve as a model ordinance if this commission wishes to pursue adoption of a stormwater management utility. Division 2 of this ordinance, at a minimum, could serve as a model for a stormwater pollution prevention ordinance.

In addition to stormwater pollution prevention, the workshop will include discussion of possible future implementation of a stormwater utility.

[end of memo]

Ms. Delmar said she would like to discuss a broader prohibition because there were more things than vegetation being carried via the storm drains and into the lakes such as chemicals, paints, and soaps. At a minimum, we need to adopt an ordinance prohibiting such things because DEP prohibits them as well.

Commissioner Thornhill said he was concerned about enforcement of the ordinance because Code Enforcement has trouble enforcing the ordinances already on the books. He said he has occasionally watered on the wrong day and had been called on it by a neighbor. His teenage children sometimes park on the grass. He knows that chemicals and things should not end up in our lakes, but wanted to know how the prohibition would be enforced.

Ms. Delmar said enforcement is a problem. She said that the State of Florida has very few cities with this type ordinance. All of the cities she checked in Texas, for example, did have them. She suggested publishing guidelines on the City's website to promote the rules because everyone should be responsible for treating their environment properly. If the City did adopt an ordinance, it would be obligated to enforce it. Commissioner Howell suggested making sure the Weekend Warriors were not putting the grass in the streets. People should make sure their yard man does not do it either. It would be better to have neighbors keep watch than having Code Enforcement officers riding around trying to catch someone. Commissioner Thornhill agreed that it would be better coming from a neighbor, and if the code enforcement officer happened to come across someone not bagging up the lawn waste, information could be given to them in the form of a pamphlet or some other way.

Ms. Delmar said the DEP didn't even have any model ordinances on the subject though they have good information on their website, which is really just a guideline and explanation of what damage is done to the water. We could beef up the public information on our website, and could even have it go out to each utility customer in their water bill. She said they were discussing this in response to Ms. Dampier's valid

concern, but instead of an ordinance it might be best to engage in public education. Mayor Van Sickle told Ms. Delmar she might want to check the Chesapeake Bay Area as they have a lot of ordinances telling residents what they can and cannot do because there, all runoff would drain into the Chesapeake Bay.

Mr. Moran explained that implementing a stormwater utility program would enable the City to hire two more people for stormwater management. He said that no one was concerned with stormwater management until there was flooding. The purpose of the stormwater utility management program would be to form a stormwater management plan that would clean out all the inlets, retention ponds, mow the grass in the retention ponds, make sure the system was accurate, repair the pipes, and flush out the storm drain pipes. He said there was not a lot of money in the existing budget for stormwater. If they had the opportunity to implement a good stormwater maintenance program, they would have the money to make it work. He said he heard that in the future the DEP would be coming down with strict guidelines that would require everything to be pretreated before going into the lakes, possibly through an underground vault, which would cost a lot of money. Starting with a stormwater utility program now would only help the situation.

Ms. Delmar said they talked about stormwater utility around 1990 and, though the Commission was for it, there was much public opposition so they backed off. It was being brought up again to see if it was something this Commission wanted staff to research and possibly bring forward or if they would rather drop it.

Commissioner Howell asked if they wanted to hire someone to do it and Ms. Delmar said no. Ms. Delmar said there were only a few ways to do a stormwater utility. One was to make an assessment based on property square footage. The more square footage, the higher the stormwater fee. Other models used front footage as the measurement. There are a couple of models available but it would take some staff time to research if the Commission wants to pursue it.

Mayor Van Sickle asked if someone getting ready to develop a piece of property would have the assessment go against that property. Ms. Delmar said it would go against all current residents except in the newer developments that have their own stormwater ponds. These are usually exempt from an assessment unless they have some kind of impact on a city's drainage system. The Mayor said that they had a special water assessment in his development and they pay a large amount of money every year to have the weeds cut and the ponds cleaned and maintained. It was not an inexpensive process.

Mr. Moran explained what the NPDES was and what it did in addressing water management, their guidelines, and recommendations on how to make it work.

Commissioner Wheeler asked if these fees would be added to the monthly water bill and was told it would. He commented that residents would love that! Ms. Delmar said some models put the assessment on their tax bill. She asked for some direction as to whether the Commission wanted them to investigate further by researching the models, or was the Commission not at all interested in pursuing this. She said it would be a lot of technical work. Commissioner Howell asked that they be given more information before having to decide. Mayor Van Sickle said the Commission needed to understand what it would cost because it might be a tough sell depending on the cost.

Ms. Delmar said she understood the Commission to be directing staff to investigate further because it may or may not be interested, depending on the amount of the assessment. Mayor Van Sickle said the Commission is interested in pursuing this. He said he was concerned about the estimated 13% less revenue next year. The Commission may not want to bring on another program, and he wondered how much the citizens could bear. It would be better to know the cost before making that kind of decision. Commissioner Howell said something needed to be done now. Mr. Moran said situations are handled as they arise in a reactive mode, but the concept was to get out of the reactive mode and go into proactive. Ms. Delmar said she was not hearing no. Commissioner Howell said that was correct. Staff will investigate further.

Commissioner Rogers read a headline in a newspaper that said Polk City was drowning in debt and he thanked the City Manager and Finance Director for keeping them in the black. He commented that we needed to pay close attention or we could find ourselves in the same position. The Commission needed to pay attention to the City's debt service, and not put extra burdens on the citizens of Lake Wales. He said he knew everyone wanted different things, but the main thing needed was a safe city and a clean environment if possible. He did not know anyone who could afford more fees or taxes placed upon them. Before things are voted in, he asked that they be told the cost. He said that right now we have a sewer problem and do not have the money to take care of it. If the City had been doing what it needed to be doing years ago, they would have been laying the money aside for maintenance programs to keep the equipment and streets up. But, we have borrowed money to do maintenance work, and any business person knows not to borrow money to keep up the existing infrastructure. If the City was ever to get ahead moneywise, it needed to start a preventative maintenance program. He said the City is paying on a 20-year note for roads when they will only last about ten years. It is important that the Commission listen to the Finance Director and City Manager and start a maintenance program. He would like to see the City's debt paid down. He said he hoped it never happens that Lake Wales' name is in the paper for drowning in debt. Commissioner Wheeler said it had happened in the past.

Mayor Van Sickle asked for public comment.

David Smith, Babson Park, said that he was one of those affected by the backflow because he owns the former Epps Funeral Home and explained the backflow issue on his property. He said this was the first he heard about it and wondered why he had not been contacted like everyone else. Ms. Delmar noted that Mr. Smith's property was not on their list.

Pastor Cleare, Allen Temple AME Church, explained where his property and the church property were located in relationship to the sewer problem. He asked Mr. Moran if stormwater run-off fed into the same gravity system. Mr. Moran said it was not supposed to but he could not say for sure until they get the accurate survey from Envisors. Pastor Cleare said that the area's flooding problem was supposed to have been improved with the street paving project, but the flooding problem still exists in that area, causing a sluggish problem when toilets are flushed. He said he did not know if the two problems were connected but there was a possibility. He said because of the combination of floods and the sewer problems in their area, he was going to encourage the residents to comply [with granting of easements]. He was sure they would not want the City to have any unnecessary expenses, on top of it being a possible \$5 million dollar project. He had a concern about the angle of the lines coming out of their homes once the lines were dropped. Mr. Moran said the existing service had enough slope and explained how they would deal with it. Pastor Cleare gave a brief history of how those houses were built over fifty years ago and explained that they were given the bare minimum attentions because they were built for migrant workers. He thought that the problems might give them an opportunity to partner with SWFWMD and he said he had other alternatives that could be considered and that he would assist in any way he could. He agreed that preventive maintenance was much better than reactive maintenance.

Jack Neal, 435 E. Central Avenue, suggested using a floater made with PVC pipe that would help with sediment pileup where the stormwater comes out. He said it won't take the place of a sediment pond but it might be a cheaper method.

Mayor Van Sickle said the problem with the backflow had been a problem since 1996 and was ignored. In the past, the City ignored many things and did not have preventive maintenance. He said the present Commission is trying to take care of things that have been neglected for a period of time. It is not an easy process but the Commission is dedicated to getting those things resolved. Those pipes should have been replaced 25 or 30 years ago, and now we are stuck with that issue. But, it won't happen overnight, but it will take some time.

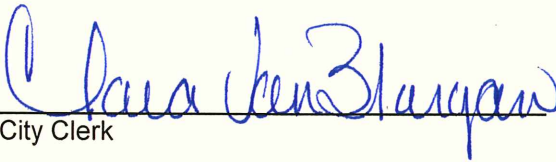
Mayor Van Sickle closed by saying the workshop meeting lasted an hour and a half, and in the future he would like them to be less than that.

There being no further business, the meeting was adjourned.

ATTEST:



Mayor/Commissioner



City Clerk