

A joint workshop meeting of the City Commission and Community Redevelopment Agency was held on May 11, 2010 at 5:30 p.m. in the Commission Chambers at the Municipal Administration Building. The meeting was called to order by Mayor L. Jack Van Sickle.

**COMMISSIONERS AND CRA MEMBERS PRESENT:** Michael S. Carter; Terrye Y. Howell; John Paul Rogers; Jonathan Thornhill; Clinton Horne; John Adkinson; Mayor L. Jack Van Sickle.

**COMMISSIONERS AND CRA MEMBERS 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.

Chairman Van Sickle called the meeting to order and explained that a joint meeting was called so the Commission and CRA Board members could understand some very difficult issues.

**Agenda Item 1. City Commission Orientation: A. Charter  
B. Sunshine Law  
C. Public Records**

City Attorney Chuck Galloway said he wanted to add the Code of Ethics to the list, which is found in Chapter 112 of the Florida Statutes, because it was as applicable to each member of the City Commission and CRA Board.

### A. Charter

Mr. Galloway said that the Charter did not have a great deal to do with CRA members, but significantly did for City Commissioners. He read Section 3.07 (a) concerning prohibitions and said he wanted to make sure that the City Commissioners were aware of this section because it was the only place that specifically addresses items for which a City Commissioner can be recalled. He also read a portion of Section 3.07 (b), Interference with administration, and said that interfering with administration sets up the possibility of someone saying that there should be a recall. Mr. Galloway said that the third section of the Charter is significant because it explains the duties and how a Commissioner is elected, etc.

### **B. Sunshine Law**

Mr. Galloway said there is a book published annually called "Government-in-the-Sunshine Manual." This book is the bible for both sunshine and public records and is available on the City's website. Ms. Delmar explained how to access the manual on the City's website. Mr. Galloway said that specific questions can be answered by wading through the index, which can be difficult.

Mr. Galloway explained that the Sunshine Law is located in Chapter 286 of the Florida Statutes, which basically says that if two or more Commissioners, CRA members, or two or more members of any other appointed collegial body get together at any time it requires notice for the public must be made aware of it or they would be considered functioning outside the Sunshine Law. He added that if they are even seen talking on a street corner there is the potential that it might be construed that they are talking about City business outside the Sunshine, so it is best to avoid the appearance of impropriety.

### C. Public Records

Mr. Galloway said the Public Records Law is located in Chapter 119 of the Florida Statutes, which applies to almost all documents prepared by, provided to, mailed to, or produced by the City. There are some documents that are not subject to the Public Records Law because there is a Legislative exception for them such as documents that show police officer addresses and phone numbers. He gave an example of the Polk County School Board losing a lawsuit because it refused to produce requested information about all its school children and their family members. The School Board didn't think it had to provide this information, but if there is not a statutory exception for it, the information has to be produced. He said there may be requests for copies of Commission email communications so his recommendation was to

avoid sending emails to each other if possible pertaining to any business that might come before them for consideration. He said if there is a request for those emails, the employees have to spend time finding them, deciding if they are of private or public concerns and if they should be released. The email sender would have to be able to justify the sending of that email so it would be better not to send it.

#### **D. Code of Ethics**

Mr. Galloway said a question came up a few weeks before regarding the Code of Ethics, F.S. Chapter 112, pertaining to an invitation by Bok Tower Gardens for a Commissioner and family members to attend the "Symphony Under the Stars" concert as their guests. He'd wanted to know if that had to be disclosed under the Ethics Law and Mr. Galloway told him that in his opinion it did not. The key, he said, is if there is an expectation by the donor for the commission member to be influenced in some way. Anyone that does business with the City also needs to be concerned about whether or not something they give to a city employee could rise to the level of impropriety. His recommendation was that if it looks funny, feels funny, or causes them to question whether they should do it, it is probably something they should not do.

Mayor Van Sickle gave an example of donuts and coffee that had been provided by contractors at a meeting he attended whereby the government agency he worked for in the past refused letting them take any for fear it might be considered a bribe. He asked if there was anything in the City Charter and City ordinance that addressed things like the Chamber of Commerce providing lunches for the Commissioners, worth about \$15, at their meetings and if it would be considered something they should not do. Mr. Galloway said that in his opinion it was not a problem and that the Code of Ethics sets the threshold at \$100. It was not in the City Charter and he did not think it was in the Code of Ordinances. The key again is if it can be construed as being an influence on a vote they will cast, and if so they may decide not to accept it. He added that things like concert tickets or meals that did not pass the \$100 threshold were no problem, but if they were to go to quarterly concerts in the same year and the aggregated amount was say \$150, they would have to report it. It still does not say they cannot accept them, but it would be best to check the Ethics Code for a determination.

The Mayor gave another example of a company that would not let them buy their own dinner. So they established a practice of putting a letter in their contract file, and tipping an amount equal to the cost of their meal, so they were in all actuality paying for their meal and it could not be construed as getting something for nothing. Mr. Galloway said they always have to consider what the action looks like to someone else because they are constantly being judged.

Ms. Delmar said that, back in 1990 or so, the City Commission adopted a Code of Ethics policy for City employees, but chose not to make it applicable to themselves, though the Code of Ethics law does apply to the Commission. She added that the City's guidelines recommend against accepting free meals, etc. because of the perception of impropriety.

Commissioner Rogers asked if there would be a conflict of interest if a commissioner was a member or an officer of an organization that does business with the City, and also wanted to know if it should be declared if the City was going to vote on something for that organization. Mr. Galloway said, though it would not be a conflict, it would be prudent to let the other Commissioners know of any affiliation they had. It would only be a conflict if that commissioner was going to directly gain something because of that vote. He gave an example of the Green and Gold Foundation whereby a commissioner on that board would not benefit; only the foundation itself would. It would therefore not rise to the level of conflict of interest or preclude them from voting on that issue. Commissioner Horne, as a member of the Green and Gold Foundation, said that their board members are not allowed to accept anything of any monetary value. They also provide a report to the City showing all their expenditures so it can be scrutinized. Commissioner Rogers said he was not singling out any particular organization.

Commissioner Thornhill had a question about commissioners attending social functions. He said if people saw several commissioners at the monthly Ridge League of Cities dinner, or if two commissioners went to see a movie, or went to the same funeral, would they have to notify someone, and would that be seen as a conflict with the Sunshine Law. Mr. Galloway said that it would not require a notification and gave an example of all the Commissioners attending the Charter Review Committee meeting. They were not there

together and sat separately. Although what was being discussed would be coming back to the Commissioners at some point in time for a vote, none of the Commissioners expressed how they would vote on an action. He said as far as dinner, movies and funerals, more than one commissioner may be there but no notice is required because you would not be congregating in a way that might imply discussion of City business. Ms. Delmar said that if they were at a funeral and chose that as an opportunity to discuss cemetery plans that would be coming to a vote, then that would be a problem.

Commissioners Rogers asked if answering questions directed by a newspaper reporter as to how they would vote on an issue was in violation of the Sunshine Law. Mr. Galloway said the Attorney General gave several answers to that question. If the reporter requested a statement from a commissioner as to how that commissioner would vote, it would not be a violation. But if the commissioner went to the reporter with the intent and purpose of using it as subterfuge to let everyone know how he or she would vote, it would be a violation. He said the commissioner could choose not to answer the question, choose to be vague about the answer, or come right out and state what their vote would be, but as long as it was not the commissioners purpose to let others know, it would not be in violation though he added that someone might still accuse them of it. Commissioner Rogers asked if it would be better to say "no comment." Mr. Galloway said it was perfectly appropriate to comment but they always need to be aware of the flip-side, that someone might say that it was used as subterfuge.

Commissioner Thornhill asked if he needed to keep all the emails he received, including date and time reminders for things like the Ridge League dinner or the Scholarship Committee meetings, and should he make a copy for the City Clerk. Ms. Delmar said the emails should be forwarded to the City Clerk. Mr. Galloway said that he did not think reminders of meetings rises to the level of public record, though it would be a good idea to keep them. Ms. Delmar said they did not need to be printed out and piled up, but Commissioners do need to copy all email communications to the City Clerk because she keeps the public record copy. The Mayor asked if the City Clerk automatically got a copy of their emails coming through the City's website because he noticed that copies of emails from other commissioners were placed in his mailbox. Ms. Delmar said they generally share information between commissioners.

## **Agenda Item 2. Pre-Budget Discussion**

Mayor Van Sickle said the Commission needed to give staff guidance as to what their priorities were for budgetary items to be approved for October. He listed his priorities as follows:

- **Personnel:** He said that staff was the only real asset of the City and he did not feel that anyone should be laid off or furloughed and if additional staff was needed due to some employees working a lot of extra hours, they need to look at getting the extra staff.
- **Safety:** He said there was no reason or any desire on his part to cut safety, including police and fire protection. He said that it concerns him that there is still no permanent fire station in the north and northwest areas of the City, the one there being temporary and on private property. He said that once a day the fire truck has to leave that section of the City to change shifts because there is no place for the fire fighters to park at the temporary station. This leaves that part of the City unprotected for up to an hour each day. He noted that the last fire truck had been paid for by impact fees from Lake Ashton, and that impact fees from that area of town are twice what it is from the other parts of town. He believed that a permanent fire station needed to be a budgetary priority. He added that he knew staff was working on it but he wanted to make the issue public.
- **Utilities:** He said we needed to figure out how to budget those things on the priority list that cannot wait.
- **Buildings:** He said that they need to find a way to cover at least the maintenance for City buildings. If the money is not found, we need to shut down the building, find an organization that will maintain the building for the use of it or rent it out. The City needs to find a way to do general maintenance catch-up on all its facilities. This might be the only area where we can reduce our spending. However, we might find a pile of money somewhere to cover everything. He said he did not know.
- **Roads:** He said we are still paying on the bond. The City has done about \$2.5 million worth of road maintenance and will be paying it off for 20 years even though the roads might not last that

long. He said there are still a lot of roads in the City that need to be maintained and not enough money was being set aside for that purpose.

- **Reserves:** He said we needed to reduce spending so as not to touch City reserves.

Commissioner Rogers made the following comments and additions to the list:

- **Personnel:** He agreed that no employees should be laid off and no hours should be cut because the City is already behind on work needing to be done.
- **Grants:** He said that the organizations that have been receiving grant money need not expect it, or at least realize there may be reductions. At this time they do not know what organizations will have to be cut. If they have money left after the priority items are taken care of, they can explore the means of helping people.
- **Safety:** He said the first duty of the Commission is for the safety and welfare of its citizens. He said that he has agonized over how they were going to keep everything afloat and he was sure the other commissioners were doing the same.
- **Buildings:** He said he agreed with the Mayor that we needed to look at underutilized buildings, and should rent them out or find an organization to keep them up. Over the next five years we will need to spend \$450,000 to get the gymnasium repaired, though that is a lower priority over sewer and water.
- **Sewer and Water:** He said the antiquated sewer line in the northwest section was a priority because it is not sanitary or safe as some pipes are lying on top of the ground. It will cost about \$3 million plus to fix and the water plant upgrading and repairs will cost in the neighborhood of \$3 million plus. He hoped we could secure grants to help but said we should not depend on welfare to keep the City going, which was what he considered grants to be. The City should be able to stand on its own. He realized we are in bad financial shape due to the condition of the economy and to overspending.

Commissioner Rogers said he was looking forward to the budget meeting and to working closely with the other Commissioners and City staff. He said that many people don't realize that City staff often gets a lot of flack. The Commissioners may seem over-demanding at times, and so he asked the Commissioners if they have not been, to try to be a little more courteous, trying to understand their problem.

Commissioner Thornhill asked if Ms. Delmar was waiting for direction or wanted ideas. Ms. Delmar said the budget was still in the preparatory stages and so they were looking for direction from the Commission and for basically what each commissioner thought the focus of the budget should or should not be. Staff has to give the Commission a balanced budget so, given the economy, the state of the revenues, and the needs of the City, staff needs to know where they should place the emphasis.

Commissioner Horne brought forth an issue that involved children during summer vacations, which was one of his priorities for the City. The Green and Gold Foundation has been looking into ways they can constructively involve children during the summer. He said that at one time they thought they had a partnership with the police department. During the school year, kids walking from the Lake Wales Housing Authority to McLaughlin Middle School numbered 25-30 by the time they reached Publix on SR 60. They first contacted the Polk County School Board to try to get the kids transported to school as they were being bused only home. The School Board would not do anything. So the Green and Gold Foundation pulled together a group of people who went to Publix early every morning to make sure the kids continued on their way to school. That only worked for so long, so they called each of the school board members asking them to consider transporting the kids both ways. They finally relented. They had not been following their own guidelines because these kids had to cross a major highway. Then the Green and Gold Foundation called key educators about kids running wild all summer. The Police did not have the money for a program though several years ago they put together a program to constructively involve about 200 kids; that was before recreation cuts. The Green and Gold Foundation decided to start a recreation and academic program. Now the schools are locked down during the summer as a cost savings, so the Foundation does not have adequate facilities for their program. The Foundation is looking into expanding the B Street Community Center to accommodate the programs available throughout the year. Their program helps poor people sign up for benefits and they sign up more people than the other

three sites in the City. Their program also provides more computer training than almost all the other centers in Polk County. They asked the school board to help by providing portables at the B Street Community Center to accommodate 200-250 kids. They were told that they were way down on the list and it would be four years before they could get help. They presently utilize funds from the Mountain Lake Service Corp to keep the program going but it is not enough. Now they are talking with the Charter Schools about getting laptop computers for their summer program. They need about 100 to 125 and know they can get some from the Charter Schools and borrow some from the library. He said they are at a point where they don't know where to go from here or how to tackle all the problems they have with limited resources and limited skills. They are trying to get volunteers from the colleges and universities to help this summer because the problem of kids running loose all summer is a dangerous situation. He wanted the Commission to be aware of this. The Foundation does not know how much the City should get involved with it and so they try to involve other entities as much as possible, looking at the City as a fall-back.

Commissioner Carter set his priorities for the budget as follows:

- **Public Safety:** Number one on his priority list.
- **Personnel:** He said he did not want layoffs, pay reductions or furloughs and would like the continuation of employee training and tuition reimbursements.
- **Utility needs**
- **Roads**
- **Maintenance Repairs**
- **Reserves**
- **Debt:** No additional debt. If it can't be paid for with the cash flow then we probably shouldn't have it.
- **Parks and Recreation:** Some emphasis put on this area if possible.
- **Police substation on Lincoln Avenue:** Would like to see that move forward.
- **Sewer problem in the northwest section:** He said they need to find a way for that to be done, maybe in increments as it involves a lot of money.
- **Capital Expenditures:** He wanted them scrutinized to determine what we can put off for a year or so, such as equipment for the police and fire departments. If something is a little bit aged or we have lived without it for a while, we need to decide if it is possible to hang on to it for six more months, or do without it, but certainly not to jeopardize safety.

Commissioner Carter said we have a long way to go before full recovery but there is talk that it is turning around. The consumers will probably be the ones who bring us out of it as they start spending more money. He said he thinks they have not seen the full effects of the commercial mortgage crisis as we have seen from residential mortgages. If it happens we may be in a lot of trouble.

Commissioner Carter said that the bright side is that Lego Land will bring in a lot of people to the area and he thought it would have a tremendous impact on Lake Wales. He said there is a lot of activity as CSX is starting to break ground and soon SR 60 between Lake Wales and Bartow will be six lanes, divided. He mentioned the complex going in on the corner of US27 and CR-540 and Economic Development Director Harold Gallup said it was to be a 324,000 square foot power center.

Commissioner Howell added her comments:

- **Personnel:** If the City is facing a 17% to 20% reduction for the next fiscal year, she said she would rather see an employee pay reduction before citizens of Lake Wales have to pay higher taxes. She did not want people to lose their jobs but they could be given the option of taking a pay reduction or leaving.
- **Five-Year CIP:** She would like money earmarked for future projects to be adjusted or moved if possible and gave an example of the sidewalks. Ms. Delmar said that only the first year of the plan was in the operating budget and that years two through five were always adjustable.
- **Safety and Maintenance:** She said it was a priority and that we were just addressing things that needed repairs ten years ago. But some of the things on the list can wait and be adjusted.

- **Wish Lists:** When departments are making their lists, they should leave their wishes off and only include those things that are mandatory for the job and not things that they can do without for another year.

Mayor Van Sickle said that one thing he did not include on his list, but should have, was that the millage rate should not increase. Ms. Delmar said that was understood.

Commissioner Horne asked if they could look at not filling positions when someone leaves the City in order to save money. Ms. Delmar said they are already holding those types of positions open but that we have a very low turnover rate; none in the Fire Department, but possibly some in the Police Department. Mr. Horne asked about the contracted lawn maintenance as a possible cut and Ms. Delmar said that was ended three or four years ago for we could do it more cost effectively ourselves.

Commissioner Carter asked if they were referring to this fiscal year or next when they talk about the 17% to 18% reduction. Ms. Delmar said they were talking about fiscal year 2010-2011. She said there was a 9% reduction in General Fund revenues in the current year so the budget has been coming down. Commissioner Carter commented that we were seeing increased revenue on economic development projects. Ms. Delmar said that commercial tax helped us but residential property value has gone down, which really hurt us. She added that state revenue was also affected and building permits plummeted. He asked about the effects of revenue from Lego Land tourism and on the shopping mall. Ms. Delmar said they did not see any direct effect of revenue from Lego Land, except that it may generate the need for more residential development and if they shop at the mall it might affect our tax revenue. She explained that sales tax revenues go to the state and are allocated out. Mr. Gallup explained how City revenue is generated from commercial property like the mall, as well as the affects of commercial property lying vacant that receives tax reductions. He said he did not see any immediate affect from Lego Land on the short term but maybe in 18 – 24 months it would create jobs, housing and commercial demands, and new growth.

Commissioner Thornhill said that he agreed with the other Commissioners' priority lists and asked for an update on the funds from surplus property sales. Mr. Gallup said they were still working with several people on it and it was moving forward toward coming before the Commission.

Commissioner Adkinson said that the taxing district for the CRA was site specific and asked if the 17-18% General Fund reduction would have the same impact on the CRA or would there be a difference between the two. Ms. Delmar said there may be a small difference between the two but it was basically the same taxes. She said that Lake Aston, the mall, and all the residential development on US 27 were not within the CRA boundary. She added that it is possible that the worst was over and most of the residential property in the CRA has already taken its biggest hit with the property tax amendment. But we will not have a clue until we get the preliminary tax value in June.

Mayor Van Sickle asked if CRA dollars could be used for infrastructure. Ms. Delmar said that infrastructure improvements included in the CRA plan are eligible expenditures if the CRA Board wants to spend it that way. The Mayor said his concern was the utilities sewer problems. Ms. Delmar said it depended on if the work could be done within the boundaries of the CRA. The Mayor said the boundary started downtown but he did not know how far north it went and Ms. Delmar said it went to Florida Avenue but that the treatment plant was not within the boundary. The Mayor said he considered sewer treatment plants as a basic need for without them we would have a real problem. He added that between the two sewer treatment plants we were looking at 6-7 million dollars near-term, as it was not something we could wait five to seven years on. We don't have the money but may have to scrape up the funds so we don't have to borrow more. Even though the City has met the reserves the auditors say we need, the indicators for income revenue numbers are still not good so we don't need to take on more debt.

Commissioner Horne asked if we had any old debt bond issues that could be refinanced. Finance Director Dorothy Pendergrass said the terminology in the bond covenant for the current outstanding bond prevents refinancing to save on the interest rate. If the City chooses to refinance, the bank gets the full value as though it went to term. Therefore, there really is no benefit for refinancing at this time. The terms

were accepted when the debt was accepted. She said that the interest rate obtained by the previous Finance Director, Sylvia Edwards, was a good rate and current with today's market. If we refinanced now, we would basically pay the same interest rate or even slightly higher. She said she provided in their packet a document that shows the debt service repayment structure, which is very heavy for the first five years, slightly over \$3 million, but drops off after that to a million dollars. This will free up two million dollars after the five years. She said that this is the way all of those debts were structured and we basically had to live with the terms that were agreed to in the covenant. The Mayor remarked that we have five years of paying a lot of interest.

Commissioner Rogers said there is an old saying that you can't borrow yourself out of debt. He said we would have to live with paying it off and try not to get into more debt until we get financially stable.

Commissioner Carter said he wanted to add to his list that the money set aside for the pool was off limits. Mayor Van Sickle said he didn't know that they could say that until they found out in June what the exact cost would be. Ms. Delmar said the sole subject of the June Workshop would be the pool.

There being no further business, the meeting was adjourned.

ATTEST:

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

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