

The regular meeting of the Lake Wales City Commission was held on June 1, 2010 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.

### **PLEDGE OF ALLEGIANCE**

**COMMISSIONERS PRESENT:** Terrye Y. Howell; Mike Carter; 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; Jacquie Hawkins, Deputy City Clerk.

### **MAYOR**

### **CONSENT AGENDA**

**Agenda Item 5. APPROVAL OF MINUTES: May 11, 2010, Joint Workshop Meeting; May 18, 2010, Regular Meeting**

**Agenda Item 6. Approval of the Polk County Library Interlocal Agreement**

The full staff memo is incorporated into the minutes.

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

### **SYNOPSIS**

The current Interlocal Agreement between the City of Lake Wales, the Polk County Library Cooperative and the Polk County Board of County Commission expires September 30, 2010. Approval of this Interlocal Agreement will allow the City of Lake Wales to continue to participate in the Polk County Library Cooperative and provide services to non-City of Lake Wales' residents.

### **STAFF RECOMMENDATION**

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

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

### **BACKGROUND**

The Polk County Library Cooperative (PCLC) is a group of seventeen public and special libraries and government entities that joined together in 1997 to provide library services to all persons residing in Polk County, including residents of the unincorporated areas and incorporated communities not served by a local public library. Upon the formation of PCLC in 1997, the Polk County Board of County Commissioners agreed to a funding commitment of \$600,000 per year for at least three years.

On September 16, 1997 the City Commission approved the first Polk County Library Cooperative Interlocal Agreement authorizing participation by the Lake Wales Public Library in PCLC. Under the initial three-year interlocal agreement the Lake Wales Public Library received \$36,591 per year from the BOCC to reimburse the costs incurred providing library services to non-City of Lake Wales' residents.

In 2000 the City Commission approved a one-year revision of the Polk County Library Cooperative Interlocal Agreement, again authorizing the Lake Wales Public Library's participation in the PCLC. Increased financial commitment from the BOCC resulted in revenue for the library of \$136,930 in FY'00'01 only.

Two additional Interlocal Agreements approved by the City Commission continued to increase the financial support of the BOCC to each PCLC member library.

The Lake Wales Public Library, its staff and physical plant have seen the effects of an enormous increase in usage by unincorporated and city residents alike. The average monthly foot traffic through the library's doors exceeds 19,000 per month.

As of April 1, 2010 the Lake Wales Public Library's membership is 15,796, 35% are city residents, 63% are residents of unincorporated Polk County, and 2% are from outside Polk County.

The 2006 Interlocal Agreement with the Polk County Library Cooperative and the Board of County Commissioners was modified to denote the BOCC's creation of a dedicated funding source, the Library MSTU (Ordinance 05-025) that assists in the BOCC's effort to reach a funding level of \$20 per capita.

The recent downturn in property values has made this commitment difficult, if not impossible, to reach in the near future. The BOCC, like this City Commission, recognizes the importance of library service for Polk County and is dedicated to continue its relationship with PCLC.

The Lake Wales Public Library's allocation from the 2009-2010 Library MSTU was \$306,975. Projected revenues for FY'10'11 may remain level, however a reduction is anticipated as revenues are tied to taxable residential properties in unincorporated Polk County.

The proposed Interlocal Agreement contains a funding distribution formula that calculates the amount of revenues each city receives to serve the unincorporated residents of Polk County. Allocation levels are based on the most recently completed fiscal year's circulation figures and the level of support provided to each city's library budget.

The proposed Interlocal Agreement also contains guidelines for participating municipalities and the County to designate at least one and no more than two alternate representatives on the PCLC Governing Board, in addition to the regular representative.

## **OPTIONS**

None

## **FISCAL IMPACT**

With the approval of this Interlocal Agreement, the Lake Wales Public Library will continue to receive revenues to reimburse our community for the cost of library service provided to unincorporated residents of Polk County, along with the benefits and services provided by the Polk County Library Cooperative.

[End agenda memo]

Commissioner Howell made a motion to approve the consent agenda. The motion was seconded by Commissioner Rogers.

By Voice Vote:

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

The motion carried 5-0.

### **OLD BUSINESS**

### **NEW BUSINESS**

#### **Agenda Item 7. Ordinance 2010-11, Amending Chapter 23, Zoning, Land Use & Development Regulations, Wine and Beer Bars Downtown Core – 1<sup>st</sup> Reading & Public Hearing**

Ms. Swanson reviewed Agenda Item 7. The full staff memo is incorporated into the minutes

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

### **SYNOPSIS**

The proposed amendment will restrict wine and beer bars to a new "Downtown Core District" (C-1A), which corresponds with the Downtown Historic District. The ordinance addresses City Commissioners' concerns expressed at the May 4, 2010 meeting about problems with wine and beer bars in close proximity to residential areas.

### **RECOMMENDATION**

Staff recommends that the Commission approve Ordinance 2010-11 after first reading.

A public hearing is required on a first reading for an ordinance that changes the allowable uses in zoning districts. Public notice requirements have been met.

### **BACKGROUND**

At its May 4 meeting, the Commission called for a reassessment of the zoning regulations allowing wine and beer bars in light of recent problems in the Lincoln Ave. area. Currently, wine and beer bars are allowed in both of the C-1 zoning districts, located in the downtown and along Lincoln Ave. The consensus of Commission members was to temporarily ban new wine and beer bars with the understanding that staff would develop a recommendation to allow the bars in areas where disturbance to residences would be minimized.

Economic Development and Planning staff recommend a reduction in the area where wine and beer bars are allowed rather than a temporary across-the-board ban. The primary area where such bars are appropriate is the downtown core: Park and Stuart Avenues between the Scenic Highway and First St., including the Grand Hotel site. Encouraging entertainment uses in the downtown core supports economic revitalization.

A new zoning district, C-1A is proposed to effectuate the change. The area corresponds to the Downtown Historical District. (See ordinance Attachment A.) The north and south boundaries of the district are along alleys. Buildings that front on Park and Stuart Aves. as well as the Grand Hotel are included in the proposed district. Buildings that front on Orange and Central Aves. are not included.

The recommendation to drastically reduce the area where the bars are allowed is based on an analysis of existing residential uses in and around the C-1 district. Both of the C-1 districts contain some residential uses, including single-family houses. Disturbance to residents is particularly problematic in the Lincoln Ave. district, because it is a narrow zone surrounded by residential uses. The district extends only 200-300 feet north and south of the avenue.

The downtown C-1 district contains some residential areas west of First St. and borders Grove Manor between Wetmore and First. Although there are some residential uses in the downtown core, they are in mixed-use buildings, where proximity to urban uses is desirable.

Since the zoning amendment that allowed wine and beer bars, three bars have been approved: "Massey's" on Lincoln Ave. "Waves," downtown on Park Ave., and "Just One More" (formerly "Wilbur's") on First St. Two other wine and beer bars, presumably approved under previous regulations, are located on Orange Ave. An application was submitted several weeks ago for a new establishment in the building behind the Post Office on the corner of First St. and Orange. With the exception of "Waves," all of these businesses are outside of the proposed C-1A district, but are legally in place and will be allowed to continue operation. They will, however, be subject to any changes in the general code for hours of operation.

Wine and beer bars are subject to special conditions in sec. 23-342 (in the *Zoning Regulations*), which set a minimum floor area of 1,000 sq. ft. and a maximum of 5,500. Regulations for hours of operation and distance from schools also apply ("Alcoholic Beverages" in Chapter 5 of the Lake Wales Code).

A summary of the proposed amendments:

- Sections 1 and 2 of the ordinance establish the C-1A Downtown Core district, state the purpose of the district, and amend the zoning map to show the boundaries of the district.
- Section 3 of the ordinance amends the chart of uses in the various zoning districts to allow wine and beer bars only in the new C-1A district.

## **OTHER OPTIONS**

The boundaries of the district could be expanded to include existing bars on Orange Ave. or to include buildings fronting on Central Ave.

## **FISCAL IMPACT**

Continuing to allow wine and beer bars in the downtown core will be a plus for economic development in that area.

[End agenda memo]

Ms. Hawkins read Ordinance 2010-11 by title only.

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING LAKE WALES CODE OF ORDINANCES, CHAPTER 23, ZONING, LAND USE AND DEVELOPMENT REGULATIONS; ESTABLISHING A C-1A "DOWNTOWN CORE DISTRICT" IN THE HISTORIC DOWNTOWN; AMENDING THE ZONING MAP TO ESTABLISH THE BOUNDARIES OF THE C-1A DISTRICT AS DEFINED HEREIN AND SHOWN ON ATTACHMENT A; ALLOWING WINE AND BEER BARS AS CONDITIONAL USES IN THE C-1A DOWNTOWN CORE DISTRICT; AND PROVIDING FOR AN EFFECTIVE DATE.**

Commissioner Rogers asked if this ordinance would affect the existing wine and beer bars. Ms. Swanson said the existing bars would be grandfathered in under zoning, but that any changes in Chapter 5 would apply. Commissioner Rogers asked what would happen if the owner sold the bar. Ms. Swanson said it would also be grandfathered in.

Commissioner Howell asked if the forming of the C-1A District in the downtown area was because of residents being disturbed by noise on Lincoln Avenue. Ms. Swanson said staff identified an area that is referred to as the Downtown Core. It is a sub-district of the C-1 District and is essentially the Historic District. The Downtown Core would be confined to Park and Stuart Avenues between Scenic Highway and First Street, and including the Grand Hotel. It would not include any businesses along Orange or Central Avenues to the north and south. Commissioner Howell asked if the Elks Club would be able to rebuild on B Street. Ms. Swanson said they could rebuild there because that is a club and not a wine and beer bar so it would not affect them.

Commissioner Howell said the need for forming the Downtown Core was because the wine and beer bar was in a neighborhood. Ms. Swanson said staff wanted to select an area suitable for wine and beer bars inside the economic revitalization downtown area so as to minimize disturbances to family residences or apartment buildings. She added that residents living in the Downtown Core area presumably wanted to live in a place with mixed uses. Commissioner Howell said the northwest section was also being revitalized, yet no other wine and beer bar will be allowed there. Ms. Swanson said that if a restaurant meets all the requirements for an alcohol license, it could be built there because restaurants serving alcohol are allowed anywhere within the C-1 District. She explained that there are no food requirements for wine and beer bars. Therefore if this ordinance passes, wine and beer bars would be restricted to only the C-1A District, or Downtown Core. The ordinance would not affect the duly licensed restaurants under the State law because they serve food along with alcohol. Commissioner Howell said that Massey's Place would be the only wine and beer bar on Lincoln Avenue and any other establishment wanting to serve alcohol would have to be a restaurant. Ms. Swanson said that if the business was abandoned for a period of time, it could not be reestablished because it would be a non-conforming use.

Commissioner Carter asked where hard liquor figures in when defining a wine and beer bar license and Ms. Swanson explained the difference between a 4-COP license and a 2-COP license. She explained that hard liquor falls under the alcoholic beverage licensing requirement, which is only allowed in restaurants that have a bar license. Commissioner Carter said if the three established wine and beer bars sold their businesses the new owners could not open another beer and wine bar. Ms. Swanson said they could as long as the building did not remain empty for the period of time stated in the ordinance, which she thought was about six months. It would then be considered abandoned and would be classified as a non-conforming use and therefore could not be reestablished.

Commissioner Carter asked if DeCoseys was included in the C-1A District and Ms. Swanson said it was outside the proposed district. Commissioner Carter said DeCoseys would never be able to open up as a wine and beer bar again and Ms. Swanson said they could open up as a restaurant. Commissioner Carter said that one of the justifications for the downtown area was to promote economic development and he asked why that would not be the same for Lincoln Avenue. Ms. Swanson said staff had been asked by the Commission to look into options to protect residential areas. She added that the district on Lincoln Avenue only extends 200 to 300 feet and is very close to a lot of residential areas. If a restaurant wanted to open there it would be a permitted use but a bar is potentially disturbing to the neighborhood. She added that people living in the downtown are there because they want to live in a multi-use area.

Commissioner Thornhill said one issue was not having ample parking on Lincoln Avenue and another issue was having the bar so close to residential areas. He said he was behind businesses but he wanted to make sure that businesses did not cause problems for citizens in their homes. This ordinance, he felt, would alleviate that problem.

Mayor Van Sickle said that this was a difficult subject. It was something the Commission passed several months ago with the intention that if it caused problems they would revisit the issue. So now it is being revisited because there are some issues with it being so close to a residential area.

Before opening the public hearing, the Mayor asked that comments be limited to new issues and not comments already stated.

## **OPENED PUBLIC HEARING**

Phyllis Johnson, 138 D Street, said she did not appreciate the noise, trash, and fighting that takes place all hours of the night due to the bar on Lincoln Avenue. She said people come from all the surrounding cities and because they do not live in Lake Wales, they disrespect those living near the bar. She asked the Commission to close Massey's Place not only so she could sleep at night or so she doesn't have to live in fear, but because the bar is within 500 feet of a church, and because there is not suitable parking, trash bins, and bathrooms for the amount of people who come.

Jamilia S. Highsmith, 1530 Lewis Griffin Rd, spoke in favor of keeping the bar there because it is the only wine and beer bar that caters to African Americans. She said the noise and disturbances were not Greg Massey's fault and that, since the police have been in the area, the problems have decreased.

Commissioner Howell asked Chief Gillis to confirm that the noise and other problems have not come from Greg Massey's establishment. Chief Gillis confirmed and said the problems came from the crowds that were drawn to the area. Commissioner Howell said she wanted to make sure everyone heard that the problem was not with Mr. Massey's bar. She said when she went to Massey's Place to see for herself, she found that the music was not loud enough inside the building to cause any trouble. The loud music was coming from parked cars or those driving down Lincoln Avenue.

Greg Massey, 1332 Morningside Drive and owner of Massey's Place, confirmed that the noise and problems were not from his establishment and that he has done everything he could to try to control the situation including hiring off-duty police to patrol outside his building, and keeping patrons from parking where the City did not want them to park. He said his concern was that other establishments were being punished for something they have no control over by cutting their operational timeframe. He complained that in the newspaper his business was repeatedly highlighted as the cause of the problems when even the Police Chief confirmed that it was not. He disagreed that there were ten fights in the area. He said that City plans to revitalize the northwest section was fine, and building the health clinic there was fine, but the people in that area needed a place where they could socialize and be entertained and his establishment was the only place for them to do that. He said there are five other wine and beer bars in the City that cater to Whites, which he listed, but that his was the only one catering to Blacks. He asked if he was wrong for being Black or for catering to Blacks and asked if it was a racial issue.

Commissioner Howell said the purpose of this ordinance was to set up a downtown core area and it was not about cutting back the hours of operation. She said no one was talking about closing down any of the existing bars, as they would be grandfathered in. Nothing in the ordinance suggested that he either had to close or should close his business. The City, she said, was trying to address the problem of bars being opened late at night when people were trying to sleep. Mayor Van Sickle told Mr. Massey that the time issue would be addressed in the next ordinance. Mr. Massey said he also had problems with setting a perimeter that excluded African Americans from having bars that cater to them because Blacks will not go to the other bars.

Mayor Van Sickle repeated that this had nothing to do with Mr. Massey's establishment, except for the crowds that are drawn by the establishment. The Commission changed the zoning to allow a bar closer to a residential area, church, and school than they should have. The reason the Commission did that was to revitalize Lincoln Avenue by helping any business that wanted to make money because when they make money the City makes money. But, when that becomes a problem for residents, the Commission is left to decide the best place for this type of establishment so it would not affect residents. The downtown core area does not have residential houses close by. The reason for the ordinance is to separate the noise and crowds from those people who want to go to bed because they have a right to be able to sleep at night. He said he had not visited Massey's Place because as a diabetic he cannot have beer. He understood that the noise from cars would be hard to correct but that the police are doing a fairly good job of doing that. He said he realized that the loud noise, talking, and trash was not something Mr. Massey could control, and that police will have a hard time controlling people who do not have respect for the neighborhood they are going through. That is why they wanted to come up with an area where wine and beer bars would not affect people living there.

Mr. Massey said the neighborhood was always there and his bar changed nothing. Before he opened Massey's Place there was walking, talking, littering, fighting, shooting, and loud music on Lincoln Avenue and if he leaves there, the problems will still be there.

Mayor Van Sickle confirmed that the problem was not caused by Massey's Place.

Linda Kimbrough, 307 Florida Avenue, addressed the parking issue. She agreed with Mr. Massey that nothing has changed on Lincoln Avenue. There never was enough parking on Lincoln Avenue because the area was created as quarters with very small lots. They want economic development on Lincoln Avenue but unless the City buys some land by tearing some houses down **to put in parking lots**, there will be no economic development. She said if you want economic development on Lincoln Avenue you can't tie people's hand and tell them they can't put what they want there. She said she read the newspaper's version of the problem and it does put the blame on Massey's Place. She said that before the bar was there and when there were no businesses on that street the problems existed.

Adele Cherry, resident and owner who leased the property to Mr. Massey, said that he opened the beer and wine bar against her wishes. She disagreed that there was a lot of noise on Lincoln Avenue before the bar was established. Mayor Van Sickle explained that if there are no businesses opened, the police can move loiters away from the area as they have no reason for being there, but having a late night business there gives them a reason for loitering in the area and the police can't ask them to leave. He added that by limiting the hours of operation, crowds would have no reason for being there and they could be asked to leave.

#### **CLOSED PUBLIC HEARING**

Commissioner Thornhill agreed that parking would always be a problem there. He said the problem was with the small size of the establishment as it is not suitable to accommodate the large crowds that show up. This ordinance is about not letting another wine and beer bar on Lincoln Avenue. He said that thriving businesses were what the Commission wanted on Lincoln Avenue and that Massey's Place seems to be doing very well because we have the problem of too many people coming who can't get inside the building. If they could all fit inside, there would not be the problem because the noise would be inside, and the trash would be placed in the dumpster like any other business. Unfortunately, they can't all fit and we have a problem. The Commissioners have gotten numerous calls about the noise and we don't want a line of wine and beer bars along Lincoln Avenue creating a bigger problem because that would not be fair to the residents.

Commissioner Howell asked if this issue could be re-addressed when Lincoln Avenue starts getting more businesses because they might want to establish a more upscale establishment, more like DeCosey's started out to be. Ms. Delmar said the Commission could always re-address an ordinance at a later date if conditions change.

Commissioner Carter asked if each wine and beer bar would be considered on a one-by-one basis. Mayor Van Sickle said that they are permitted one at a time but they can only be established in an approved zone. Commissioner Carter said it seemed to him that the Commission is saying no to something before it happens, before it knows where one wants to go in and before it becomes a problem. He said that maybe another wine and beer bar on Lincoln Avenue would be a good thing, he did not know, but we were giving a blanket "no" regardless. Commissioner Howell reminded him that the issue was the disturbances to residents and Ms. Delmar added that they were trying to separate uses that were not compatible. Commissioner Carter said he was very sensitive to noises but he did not think the broad approach was the right answer. He said that when a new establishment wanted to open there would be a hearing and we would know the exact location. Mayor Van Sickle said there would not be a hearing because they would be applying for a business in a zone, which defines where that type business can go in. With this ordinance we would be creating that zone where beer and wine bars could be established. City Attorney Chuck Galloway said they could not address licensing case-by-case because wine and beer bars are applied for by zone. After the zone is established, they can move in there by right. Commissioner

Carter asked if there was not a public hearing for each request and he was told there was not. Commissioner Carter said that a wine and beer bar then could move in to any address they wanted within the approved zone with no hearing at all, and it was confirmed. He said that something was wrong with that method.

Commissioner Rogers said he wanted to make sure that Ordinance 2010-11 does not interfere with Mr. Massey's establishment in any way and it was confirmed. He said that this ordinance only establishes a zone for which alcohol can be served and that was also confirmed. He said that if he owned Massey's Place he would not want any competition so the ordinance was making it so no one could move next door to Mr. Massey.

Commissioner Howell made a motion to approve Ordinance 2010-11 after first reading and public hearing. The motion was seconded by Commissioner Rogers.

By Roll Call:

Commissioner Howell	"YES"
Commissioner Rogers	"YES"
Commissioner Carter	"NO"
Commissioner Thornhill	"YES"
Mayor Van Sickle	"YES"

The motion carried 4-1.

**Agenda Item 8. Ordinance 2010-12, Amending Chapter 5, Alcoholic Beverages, Lake Wales Code of Ordinances – 1<sup>st</sup> Reading**

A revision of Ordinance 2010-12 was provided to the City Commission before the meeting. The full staff memo is incorporated into the minutes

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

**SYNOPSIS**

The City Commission will consider amending Chapter 5, Alcoholic Beverages, to regulate wine and beer bars within the City of Lake Wales

**RECOMMENDATION**

Staff recommends the City Commission approve on first reading the revision of Chapter 5, Alcoholic Beverages, Lake Wales Code of Ordinances.

**BACKGROUND**

On October 20, 2009, the City Commission amended Chapter 23, Zoning, Land Use and Development Regulation, Lake Wales Code of Ordinances, to allow wine and beer bars within certain locations. In addition, Chapter 5, Alcoholic Beverages, was amended to remove prohibitive language.

When considering the amendments, the City Commission clearly indicated the prevailing concern was the reduction of alcohol abuse and the preservation of peace within the city. Accordingly, the City Commission declared it would revisit the regulations if the establishment of wine and beer created public nuisances.

Based on the crime and disorder directly related to wine and beer bars, the City Commission will consider amending Chapter 5, Alcoholic Beverages, Lake Wales Code of Ordinances, to further regulate wine and



beer bars within the City of Lake Wales. It is the opinion of the Chief of Police these changes will reduce alcohol abuse and preserve the public peace within the city.

The revisions are summarized in detail as follows:

*Section 5-4 hours of sales:* This section regulates when alcoholic beverages may be consumed, permitted to be served, served and sold. The current code prohibits alcoholic beverages from being consumed, permitted to be served, served and sold at a wine and beer bar between the hours of 8 am to 2 am of the following day. The revision reduces the hours of sale at a wine and beer bar between the hours of 8 am to 12 midnight.

*Section 5-6 Consumption, sale and service of alcoholic beverages within 500 feet of a church or school prohibited.* This section regulates the sale of alcoholic beverages within proscribed distances of schools and churches, allows for sealed container sales from retail establishments and alcohol sales at restaurants. As amended, this section would prohibit the establishment of a wine and beer bar within 500 feet of a church or school.

## **OTHER OPTIONS**

The Commission may choose not to amend Chapter 5, Alcoholic Beverages, Lake Wales Code of Ordinances on 1st Reading.

## **FISCAL IMPACTS**

This action will not require an expenditure of funds.

[End agenda memo]

Ms. Delmar read revised Ordinance 2010-12 by title only.

## **AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING CHAPTER 5, ALCOHOLIC BEVERAGES; AMENDING HOURS OF SALE, SERVICE AND CONSUMPTION; REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mayor Van Sickle said the changes made by the Commission concerning the sale of alcohol led to a need to address the late hour issue again.

Police Chief Herb Gillis reviewed the memo with the following points:

- The duty of the Police Department is to maintain peace in the City of Lake Wales. There has been an increase in noise and disturbances since the bar opened on Lincoln Avenue.
- When the Commission approved the code, which allowed the wine and beer bars, it created the opportunity for crime and disorder in our neighborhoods.
- Wine and beer bars operating until 2 a.m. has created an unreasonable cause for service for the Lake Wales Police Department around wine and beer bars, straining the law enforcement resources and drawing law enforcement away from other areas of the City.
- There have been many complaints from citizens living in the area about the noise and disturbances created around the bar late at night.

Chief Gillis recommended that the Commission reduce the crime associated with wine and beer bars by limiting the hours that alcohol can be sold to from 8 a.m. to midnight in order to protect the health, safety, and welfare of every citizen.

Commissioner Rogers asked if businesses would be allowed to remain open after midnight if they had a game room and if so, would that cause the same problems. Chief Gillis said they could remain open if they chose to do so as long as no alcohol would be sold on the premises. Commissioner Rogers asked what the percent of revenue would be that they would lose between midnight and 2 a.m. as it was not the intention of the Commission to put anyone out of business. Chief Gillis said he did not have that information. Commissioner Rogers asked if it would make any difference if they compromised and closed at 1 a.m. instead of 2 a.m. Chief Gillis said they would enforce whatever the Commission decided but that question needed to be directed to the residents who have been disturbed by wine and beer bars.

Commissioner Howell made the following comments:

- She said she had asked the police to go to the problem areas on Lincoln Avenue to control the loud noise so people living there could have some peace and they did. She said, though she had received numerous complaints about the noise, she knew there were older citizens in the area who were also being disturbed by the noise but who would not say anything. She was glad the police are patrolling the area because it allows people to sleep better.
- She said she had been asked why the police had to stand in front of Massey's Place, as it has been determined that his business was not the cause of the problem. She said that Community Policing was budgeted for that area and she asked that police move down toward B Street or wherever the noise was being generated. She wanted the police to give tickets to those who have no respect for the people living in that area. She said with the police standing outside Massey's Place it might be construed that they do not want anyone going into his establishment.
- She said they did not always have problems on Lincoln Avenue. When she was a child there were many businesses there but the people respected one another. When the businesses closed down another wave of people came in causing problems and that was before Massey's Place was there. Officer Quinn said that after the businesses closed down, the police were able to move people away from that area because they had no business being there. But with an open business there they cannot ask them to leave.
- She said the problem is with the number of people, many of whom come from other towns and have no respect for those living in Lake Wales. She said she would like the police to continue giving tickets for a while longer, doubling the fee for each offense etc. and maybe the out-of-town crowd would decide it was not economically feasible for them to come to Lake Wales and they will take their noise somewhere else.
- She asked the police to educate the people about the loud music and they in-turn will educate others so they know that if the loud music and problems persist in the area, the Commission will have to reduce the hours of operation. With the Community Police ticketing offenders for loud music and educating them as to what is expected, those who patronize that establishment will have the opportunity to make the necessary changes. And, she added, if the police find that Massey's Place is causing the loud music, fine him also.
- She told Ms. Johnson to keep calling the police and the commissioners to report problems and to encourage her neighbors to do likewise.
- She said that after a period of time, the Commission could address this issue again and if the hours have to be cut because the necessary changes had not been made, she was in favor of even lowering the time more.

Commissioner Carter said the problem was not inside Massey's Place so cutting the hours of operation was not, in his opinion, the answer. The problem was with people living outside the City who come here to party and show no respect for those who live here. He said that Mr. Massey has done everything that the City and the law asked him to do and we were still punishing him. He said if Blacks don't want to go out until ten o'clock at night that is their choice. If that place is closed down, the Blacks have no other place to go but out of town, and then they would have to drive home after drinking. The answer is more police presence where loud music is causing the problems. He said the City needs to be very careful that we don't cross the line of racial discrimination in this issue.

Commissioner Thornhill made the following comments:

- He reminded everyone that midnight had been the cut-off until the Commission recently extended it to 2 a.m. Chief Gillis said that from years of police experience he could say that there is a significant increase in calls for service from midnight to 2 a.m. because the longer patrons are there, and the more alcohol they consume, the more intoxicated they become and the more the likely it becomes for violent crime to occur. They recommend clearing the crowds earlier, before it spills-over into violent crime.
- He asked the Police Chief if there was an ordinance against loitering as that was basically the problem. Chief Gillis said that as long as a business was open and there was a reason for people being there, the police had no power to make them leave. If they say they are there to go to Massey's Place they have a valid reason for being there. Commissioner Thornhill said that if persons are asked and they give that excuse, but later the same ones are still standing around, it should be recognized as loitering. Chief Gillis agreed that if there was a group, say near the B Street Community Center, and they say they are there to go to Massey's Place, which is about two blocks away, the police can encourage them to go ahead and clear the B Street area.
- He asked if cars parked on private property illegally could be towed. Chief Gillis explained that an agent agreement signed by a property owner would give them the authorization to do that but from his experience he knew that most property owners would not agree to that. As agents of the City, they could tow cars parked on city property, but not on private property. Chief Gillis added that one reason the police were congregating around Massey's Place was because of an agent agreement signed by Ms. Johnson giving the police permission to go onto her property to keep people from parking there. Commissioner Thornhill asked if residents had called complaining of illegal parking on their property and Chief Gillis said most of the calls they receive are about noise disturbances. He said they have handed out 33 citations so far and had one arrest.

Commissioner Rogers said that if this passes it would regulate all establishments that sell alcoholic beverages across the board and therefore no one could say it was discrimination. City Attorney Chuck Galloway said it would be for all establishments equally.

Mayor Van Sickle said that Mr. Massey's bar can only accommodate 60-70 people and asked Chief Gillis what size crowds were they seeing in the area after midnight on a weekend night because, though the crowd outside the bar is not drinking, those that can't get into the bar may loiter about or sit in their cars with the radio on, causing a problem. He was told 150 to 200 people. The Mayor said that this ordinance at one time closed bars at midnight and the Commission decided to change it to see what would happen and there is a problem. This ordinance enforces all beer and wine bars and all restaurants and does not point to any particular area or person. It is being addressed because of the tendency for loitering after midnight with people drinking and causing problems. Chief Gillis said that this ordinance would not change the hours of operation for a restaurant or retail store. Mr. Galloway said he did not think you could effectively change the hours of beer and wine establishments without changing all alcoholic establishments. The Mayor said that was his understanding too, that it would go back to the way it was six months ago.

The Mayor said that though this does not require a public hearing he would open it up for public comment.

#### **OPENED TO PUBLIC COMMENT**

An owner of a wine and beer bar in Lake Wales said that two years ago when he got his license it was for 7 a.m. to 2 a.m. except for Sunday, which was 12 p.m. to 12 a.m. He opposed the ordinance as punishing those establishments that have not had any trouble or had **any** need for the police, because a problem of which they had no control over. He said most times people don't stay past 11:30 or 12:00 at his wine and beer bar, but they have karaoke on Saturday night and they do stay later.

Greg Massey, 1332 Morningside Drive, said that 90% of his business is done between midnight and 2:00 a.m. He said if he has to close at 12:00 a.m. he might as well not open at all. He agreed that he could not

accommodate all the people who come there but that he has done everything in his power to solve the problem and would do anything the police suggest for him to do. He said it was not fair to punish all wine and beer bars for something that happens on Lincoln Avenue because they will blame it on the Blacks.

Captain Quinn, Supervisor of Community Policing, said the issue with him was the allocation of resources. When he has to use his officers at night on Lincoln Avenue, he is not able to accomplish the program's goals, which were explained; He said they have received complaints from residents who have a right to live in peace and quiet. The City created the problem by letting the bar get established so close to resident dwellings and so the City needs to fix the problem.

Brenda Meeks, bar tender of Massey's Place, said she lives on D Street not far from the bar and she has no problems sleeping at night. She said there always was a problem with trash there.

#### **CLOSED TO PUBLIC COMMENT**

Commissioner Rogers stated that if this was passed it would affect restaurants also and Mr. Galloway confirmed that it would affect across the board all establishments that serve alcohol on their premises. Mayor Van Sickle asked if there were any restaurants that stayed open past midnight and he was told Chili's and All Star stayed open later. The Mayor asked Mr. Galloway if he needed time to research and make sure the hours would affect restaurants also. Mr. Galloway said he was confident that we would have to regulate any consumption on premises equally, though he said he could look at it in further detail if the Mayor wished.

Commissioner Carter asked if it would solve the problem to have one or two off-duty police officers there, and if so, if they would have radio contact with the rest of the force so if a problem arose, the police could be there in a few minutes. Captain Quinn said they could be there in seconds, but the call would go out not only to the Community Policing Officers but to all police officers. He added that the off-duty police have in the past solved a problem before it became a significant problem.

Commissioner Howell said that Mr. Massey could hire off-duty police if he wanted to, but that she was not going to ask him to do that because there is money in the budget for the Community Police to be in that area and they should be out there policing. Chief Gillis said they have been out there, but the problem was that it was taking away from their Community Policing goals as it places all their resources on Lincoln Avenue for this problem, leaving little resources to engage the community to find out what the problems are in the various neighborhoods. Commissioner Howell asked when it was they went from neighborhood to neighborhood and Captain Quinn said they have done surveys frequently. Commissioner Howell asked if they could do their surveying and talking to the people while they write out tickets on Lincoln Avenue. Chief Gillis said that while surveying the neighborhood one of the things they found out was that residents wanted to see more police presence during the day. Since the problem on Lincoln Avenue they have had to pull the officers off the dayshift to have them patrol that area at night. Commissioner Howell said that she thought Community Policing meant that police officers would be policing during the period of time that people are misbehaving. Chief Gillis said that policing was one component of their job but another was talking with residents to find out what their problems and concerns were in their particular neighborhood so they could find solutions to those problems. He said the police were not limited to the Lincoln Avenue area. One officer is assigned to Historic Downtown, one at Grove Manor and the surrounding area in conjunction with the Housing Authority, and the other three are for the rest of the northwest community including Lincoln Avenue. Commissioner Howell asked if the police were walking around talking to the people in the day and night times and the Chief said they were not in the daytime anymore because the officers have been shifted to the night duty in order to deal with the problem on Lincoln Avenue. Commissioner Howell said that she had the wrong idea of what Community Policing was.

Commissioner Howell made a motion to table Ordinance 2010-12 to allow time for the Community Police people to educate the people in the Lincoln Avenue area, allowing time for the citizens to change their behavior, to allow time for the Commission to look again at the time restrictions, and to bring this item back at a later date.

Mayor Van Sickle said he did not think the police department had enough employees to educate people on behavior. Commissioner Howell said that when the police are handing out tickets they can be told that this will not be tolerated and that a second offense would double the fine, and to let them know that if their behavior is not changed the Commission will be forced to take further action. The Mayor said they have been doing that for the last few months and it hasn't happened. Commissioner Howell said that when she drove through there the police officers were standing around and were not talking to the people. She said this was her suggestion.

Mayor Van Sickle asked for a second to the motion made by Commissioner Howell and Commissioner Carter seconded.

Roll Call Vote:

Commissioner Howell	"YES"
Commissioner Carter	"YES"
Commissioner Rogers	"YES"
Commissioner Thornhill	"YES"
Mayor Van Sickle	"NO"

The motion carried 4-1.

The Mayor said that Ordinance 2010-12 did not pass and the hours remain the same.

Mayor Van Sickle asked how much of an impact this would put on the Police Department with their resources being tied up on those nights. Captain Quinn said he currently has one police officer working from 8 p.m to 2 a.m. exclusively in that area. He added that he would do as he was requested to do, but the first half of his mission would be neglected. Commissioner Howell asked what the police officers would have been doing if not assigned to that area at night and Captain Quinn said canvassing the area to find out the problems. He added that the solutions to problems are not always putting someone in jail or writing a ticket. The Police Department knows what the problem is on Lincoln Avenue. We have loitering in a residential area because of a legitimate business there. Commissioner Howell said that talking to the people about the noise etc. was part of their job, so they could tell them that this behavior would not be tolerated and if they persist what will happen. Captain Quinn said that was what they would do.

Commissioner Thornhill asked if the motion could be amended to include a timeline so that if the problems on Lincoln Avenue fail to improve within that timeframe, the commission could revisit the ordinance. Captain Quinn said as long as there was a timeframe, they would know where they needed to focus. Commissioner Howell said that would give the two officers' time to talk to the people in that area to see if the noise was bothering them and if there was anything they could help them with, which was what Captain Quinn said was their focus.

Commissioner Rogers asked Ms. Delmar if there was money in the budget to cover Commissioner Howell's proposal and Ms. Delmar said most of it would not be overtime, though some overtime had been budgeted if it was needed. This year was funded but next year would be another question. At this point we are not over budget in overtime but may be the closer to the end of the year we get. Chief Gillis said they have been doing their best to schedule during normal hours and will continue to try to do that. Commissioner Rogers said he did not think we should go over the budget.

Mayor Van Sickle said the citizens may not be aware that the funding projection for next year will be a shortfall of 19%. This means we will have 19% less money to do what we have done this year, which is not a good position to be in. Chief Gillis said they would try to stay on budget if possible.

Commissioner Thornhill asked if they could amend Commissioner Howell's motion to include a timeline as he did not want it to go on indefinitely, and he was told it would require a separate motion. He suggested that this item be re-addressed at the second meeting in July.

Commissioner Thornhill made a motion to bring back Ordinance 2010-12 at the second meeting in July for a review. The motion was seconded by Commissioner Carter.

Roll Call Vote:

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

The motion carried 5-0.

Mayor Van Sickle said the newspapers may want to get this information out to let all establishments in Lake Wales know we are considering a change in time for the sale of alcohol.

**Agenda Item 9. Resolution 2010-15, Highway Lighting, Maintenance and Compensation Agreement**

Ms. Allen reviewed Agenda Item 9. The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

The Commission will consider approving Resolution 2010-15 authorizing the mayor to execute on behalf of the City an agreement between the City of Lake Wales and the State of Florida Department of Transportation to maintain state highway lighting in the jurisdictional boundaries of the City. The agreement provides the City with compensation of \$54,209.85 for the maintenance of 317 highway lights.

**RECOMMENDATION**

Staff recommends that the City Commission approve the following action:

1. Approve Resolution 2010-15, highway lighting maintenance and compensation agreement.
2. Authorize the mayor to execute on behalf of the city an agreement with the Florida Department of Transportation to maintain state highway lighting in the jurisdictional boundaries of the city for compensation in the amount of \$54,209.85.

**BACKGROUND**

In May 2005 the City Commission approved Resolution 2005-15, a resolution authorizing the mayor to execute on behalf of the City an agreement between the City of Lake Wales and the State of Florida Department of Transportation to maintain state highway lighting in the jurisdictional boundaries of the City.

Resolution 2010-15 replaces resolution 2005-15 and provides the City with compensation of \$54,209.85 for maintenance of 317 highway lights (\$190.01 per light). This is 90% compensation for the 317 lights, exhibit "A" ( $\$190.01 \times 317 = \$60,233.17 \times 90\% = \$54,209.85$ ).

**FISCAL IMPACT**

If we do not accept the agreement, we will lose the compensation and the FDOT will not be required to provide lighting. Although the FDOT is not reimbursing at the rate of 100% per light, the compensation has been increased from \$163.91 to \$190.01 per light.

**OTHER OPTIONS**

Do not accept the agreement.

[End agenda memo]

Ms. Hawkins read Resolution 2010-15 by title only.

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY AN AGREEMENT BETWEEN THE CITY OF LAKE WALES AND THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE MAINTENANCE OF STATE HIGHWAY LIGHTING WITHIN THE JURISDICTIONAL BOUNDARIES OF THE CITY.**

Commissioner Thornhill made a motion to approve Resolution 2010-15. The motion was seconded by Commissioner Rogers.

Roll Call Vote:

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

The motion carried 5-0.

**Agenda Item 10. Disposal of Surplus Land**

Ms. Delmar reviewed Agenda Item 10. The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

Staff is requesting authorization to proceed with disposal of surplus land. One parcel is located outside the city limits at the corner of Candlelight Road and Candlelight Lane and the other is located within the city limits in the 300 block of W. Park Avenue.

**RECOMMENDATION**

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

1. Determine that Parcel #1 and Parcel #2, identified herein, may be classified as surplus property because they serve no useful purpose for the City.
2. Establish a fair market value of \$7,702 for Parcel #1 located in Candlelight Groves Subdivision based on the Just Market Value estimated by the Property Appraiser's Office.
3. Establish a fair market value of \$4,394 for Parcel #2 located in the 300 block of West Park Avenue based on the Land Value (Market) estimated by the Property Appraiser's Office for the two parcels lying directly to the east.
4. Authorize the City Manager to advertise a Request for Bids for the purchase of the two parcels with the minimum bid requirement equal to the value established above for each parcel.

5. Authorize the Mayor to execute the deed(s) for transfer of title to the subject properties in the event that a bidder complies with the requirements set forth in this memorandum.

## BACKGROUND

At the April workshop, the City Commission considered a list of City-owned properties which might be designated as surplus and for which authorization might be granted for disposal. A few properties were removed from the list because they may serve a future City purpose. Several properties were designated to be discussed with Habitat for Humanity or similar organizations for development of affordable housing. Two properties were identified for immediate disposal, and authorization for disposal is accordingly requested at this time.

Section 2-476 of the City Code authorizes the City Commission to classify as surplus any city property which is obsolete, which serves no useful purpose, or which is uneconomical or inefficient to maintain for continued use. Authority for the disposal of surplus property for which the cost or value exceeds \$750 must be recorded in the official minutes of the City Commission. Such authority must include approval of the method of disposal and estimated value of the property.

### Parcel #1

In the mid-1980's, the City acquired several small water plants from Polk County Utilities. Among these was the Candlelight Water Plant located on Tract A in Candlelight Groves, a subdivision south of the city limits on the east side of U.S. Highway 27. The city-owned property is at the corner of Candlelight Road and Candlelight Lane.

In 2007, the Candlelight Water Plant was taken off line, and the subdivision began receiving water service via lines extended south from the Grove Avenue Plant. Subsequent to removal of the Candlelight well from service, it was abandoned in accordance with SWFWMD requirements. The parcel no longer serves a useful public purpose, but must be maintained by the City at an estimated annual cost of about \$1,800. Further, the parcel abuts several residential properties and represents a potential public liability if not properly maintained.

Details of the parcel are as follows:

Parcel ID:	273014-927030-000470
Acreage:	0.2526 acres
Legal Description:	Candlelight Groves PB 58 PG 18 Tract A
Just Market Value:	\$7,702

Resolution 96-09 authorized the issuance of Utility System Improvement Refunding Revenue Bonds, Series 1996. Section 20, paragraph (F) of this resolution stipulates the covenants relating to disposition of utility system assets and includes the following statement:

... the Issuer may sell or dispose of, for fair market value, any properties or parts of the System which the Consulting Engineers shall certify in writing are not necessary for the continuing operation of the System, and that the sale or disposal of which will not adversely affect the revenues derived from the System...

Although the property in question was not purchased with bond proceeds, it is a utility system asset. Funds generated from the proposed sale will be recorded as Utility System revenues.

### Parcel #2



At their meeting on November 17, 2009, the City Commission accepted the donation of two lots from the Estate of Russell Cooper. One of the lots is located at the corner of 4<sup>th</sup> Street and Kissimmee Avenue and was conveyed with the restriction that it be used for a park or other recreational purpose.

The second lot or parcel consisted of two non-contiguous pieces of land located in the 300 block of W. Park Avenue. This parcel was subsequently split into two separate parcels by the Property Appraiser's Office at the City's request. The westernmost parcel provides public access to Lake Weaver and will be retained by the City. The easternmost parcel is vacant and lies between two residential properties; it is suitable for residential development. This parcel serves no useful public purpose, but must be maintained by the City. It is this parcel that is recommended for disposal as surplus property.

Details of the parcel are as follows:

Parcel ID:	273002-000000-034320
Acreage:	0.1698 acres
Legal Description:	BEG 30 FT W OF NE COR OF SW1/4 OF SW1/4 OF NW1/4 OF SECTION 2, TOWNSHIP 30 SOUTH, RANGE 27 EAST; RUN S 127PT5 FT W 116 FT TO POB N 127PT5 FT W 58 FT S 127PT5 FT E 58 FT TO POB
Just Market Value:	\$0

As of May 24, a Just Market Value had not yet been estimated by the Property Appraiser for this parcel. The two residential properties lying directly to the east of the city-owned parcel are exactly the same size; i.e., 0.1698 acres. Both properties show a Land Value (Market) of \$4,394 in the Property Appraiser's records. It is reasonable, therefore, to assign a value of \$4,394 to the city-owned parcel.

#### **FISCAL IMPACT**

The sale of these properties will relieve the public of ongoing maintenance costs and potential liability. Although Parcel #1 is located in unincorporated Polk County, Parcel #2 is inside the city limits and will be returned to the city's tax roll if purchased by a private entity.

#### **OTHER OPTIONS**

Determine that one or both of these parcels should not be declared surplus property. Assign some other value to the properties.

[End agenda memo]

Commissioner Howell asked if the minimum bid was the market value or could someone get a parcel for \$100. Ms. Delmar said there was a minimum price on it. Commissioner Carter asked what would happen if it did not sell within a fixed time. Ms. Delmar said they are requesting that all bids be turned in by July 7<sup>th</sup>, and if there are no bids it will come before the Commission for further action. Commissioner Carter asked if no one bid on the property could the Commission consider turning them into mini or pocket parks. Ms. Delmar said one of the lots was in the county and we wouldn't want to make a park there. But the other lot is between residential properties and the Commission could certainly consider doing that.

Commissioner Rogers made the following motion:

1. Determine that Parcel #1 and Parcel #2, identified herein, may be classified as surplus property because they serve no useful purpose for the City.
2. Establish a fair market value of \$7,702 for Parcel #1 located in Candlelight Groves Subdivision based on the Just Market Value estimated by the Property Appraiser's Office.

3. Establish a fair market value of \$4,394 for Parcel #2 located in the 300 block of West Park Avenue based of the Land Value (Market) estimated by the Property Appraiser's Office for the two parcels lying directly to the east.
4. Authorize the City Manager to advertise a Request for Bids for the purchase of the two parcels with the minimum bid requirement equal to the value established above for each parcel.
5. Authorize the Mayor to execute the deed(s) for transfer of title to the subject properties in the event that a bidder complies with the requirements set forth in this memorandum.

The motion was seconded by Commissioner Thornhill.

By Voice Vote:

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

The motion carried 5-0.

**Agenda Item 11. Grant Acceptance: Florida Forest Health Improvement Initiative Grant**

Ms. Nanek reviewed Agenda Item 11. The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

Approval of this agreement will accept a tree maintenance grant award of \$18,000 to trim and maintain park trees.

**RECOMMENDATION**

Staff recommends that the City Commission take the following actions:

Approve the grant award agreement for \$18,000 from the Division of Forestry's Florida Forest Health Improvement Initiative. This grant is non-matching and the deadline for completion of the project is September 30, 2011.

Authorize the City Manager to sign all grant-related documents.

**BACKGROUND**

The Florida Forest Health Improvement Initiative is part of the Recovery Act (stimulus bill). These funds are designed for the planting and maintenance of trees. This grant program is through the Florida Department of Agriculture and Consumer Services Division of Forestry.

This project will carry out recommendations from the 2008 Lake Wailes Park System Tree Survey Report. These funds will go towards the pruning of approximately 50 trees and some fencing and bollards to protect certain trees from vehicular damage. A majority of the trees are located in Lake Wailes Park and Crystal Lake Park.

The City of Lake Wales applied for this grant in February 2010. A supporting resolution was approved by the City Commission on February 2, 2010.

### **OTHER OPTIONS**

Do not approve the grant award agreement and decline the grant.

### **FISCAL IMPACT**

No local match is required for this grant.

[End agenda memo]

Ms. Nanek said they applied for this grant several months ago for \$24,000 to essentially trim trees. Though there was no match requirement, in order to spread the wealth around, we were cut back to \$18,000 so the remainder would be taken from the tree fund.

Mayor Van Sickle said he had an issue with using the tree fund and asked for an explanation for its use. Planning Director Margaret Swanson explained that the tree fund comes from developers who remove trees but do not wish to replace them and instead pay into the tree fund to be used for tree planting and maintenance. The Mayor asked how much money was presently in the fund, as there has not been any new development to add to it. Ms. Swanson said she had not checked lately but it is in the neighborhood of \$50,000. The Mayor asked where the trees would be planted. Ms. Swanson said the grant was for maintenance of trees in Lake Wailes Park, Crystal Lake, and the north Lake Wales area. She explained that a few years ago a tree survey identified a lot of trees that needed pruning by a professional tree company and this would allow them to hire the professionals. There is some money allocated for tree protection that may be used for fencing or barriers to keep cars from parking on trees that are stressed.

Commissioner Howell said, though the grant is for \$18,000, the estimate for the pruning was only \$16,000. Ms. Swanson said if they have some left they will just prune more trees as there is a lot more work needing to be done to maintain the trees in our parks.

Ms. Delmar said we presently have \$73,000 in the deferred revenue account for tree replacement and maintenance.

Commissioner Howell made a motion to approve the grant award agreement for \$18,000 from the Division of Forestry's Florida Forest Health Improvement Initiative; and authorize the City Manager to sign all grant-related documents. The motion was seconded by Commissioner Rogers.

By Voice Vote:

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

The motion carried 5-0.

### **Agenda Item 12. Grant Application to the Kodak American Greenways Program for \$2,500 to be used for the Rails to Trails**

Ms. Nanek review Agenda Item 12. The full staff memo is incorporated into the minutes.

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

## SYNOPSIS

This grant application for \$2500 will be used towards the purchase of a historic marker and an extra bench for the Scenic Highway end of the trail.

## RECOMMENDATION

Staff recommends approval of a grant application to the Conservation Fund's Kodak American Greenways Program for \$2,500 for an historic marker and a bench for the Rails to Trails. No match is required. Grant Application is due June 15.

## BACKGROUND

The Eastman Kodak Company, The Conservation Fund and the National Geographic Society team up each year to present the Kodak American Greenways Awards Program. This program is specifically designed to help create or enhance trails and greenways. The maximum grant award is \$2,500.

This grant application is for \$2,500. If awarded, the Kodak American Greenways Program will allow \$2,000 of the grant to be used as a match for yet another grant, i.e., the State of Florida Historic Marker Grant Program. Thus, if successful, this application would ultimately fund two historic markers along the trail, one at Scenic Highway, one at Kiwanis Park. Historic Markers cost approximately \$2,000 each depending on the amount of wording.

These historic markers will convey the historical significance of the former Seaboard Air Line rail bed. Historic markers will only be purchased to the extent that grant funds have been awarded.

The Recreation Trail Program grant from the Office of Greenways and Trails allowed for benches to be purchased for the eastern end at Buck Moore Road, this grant would allow for a bench at the Scenic HWY end. Cost of the benches and mounting kit were \$400 each.

## OTHER OPTIONS

Do not approve the grant application.

## FISCAL IMPACT

No match is required.

[End agenda memo]

Mayor Van Sickle said we are applying for a \$2,500 grant with no match and yet the budget calls for two historic markers, each costing \$2,000. But, he said, that was because if we don't get the additional grant we would only get one marker for \$2,000 plus one bench for \$500, for the total of the \$2,500. Ms. Nanek confirmed.

Commissioner Howell made a motion to approve the grant application to the Conservation Fund's Kodak American Greenways Program for \$2,500 for an historic marker and a bench for the Rails to Trails. No match is required. Grant Application is due June 15. The motion was seconded by Commissioner Rogers.

By Voice Vote:

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

The motion carried 5-0.

**Agenda Item 13. Modification of the Official Traffic Map**

Police Chief Gillis reviewed Agenda Item 13. The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

The Mayor and City Commission will Review Quantitative and Qualitative Data Sources and Determine if Modification of the Official Traffic Map is Warranted

**RECOMMENDATION**

It is recommended the City Commission review available quantitative and qualitative data sources and determine if the following modifications of the Official Traffic Map are warranted:

1. Establish the intersection of Lakeshore Boulevard at Sunset Drive as a four-way stop intersection and place official traffic control devices and roadway markings as required.
2. Establish the intersection of Wildabon Avenue at 8<sup>th</sup> Street as a two-way stop intersection and place official traffic control devices and roadway markings as required.

**LAKESHORE BOULEVARD AND SUNSET DRIVE**

At the December 15, 2009 regular meeting of the City Commission, the Lake Wales Police Department was instructed to complete an inventory of the stop signs placed in the city as a traffic calming measure. After identifying and reviewing each location, the Police Department recommended the intersection of Lakeshore Boulevard at Sunset Drive be restored to a two-way stop intersection. Accordingly, the City Commission approved the recommendation on May 4, 2010.

When the intersection was restored to a two-way stop intersection, several residents contacted the City Commission to oppose the modification. Additionally, at the May 18, 2010 regular meeting of the City Commission, two residents urged the City Commission to return the intersection to a four-way stop intersection.

The section of Lakeshore Boulevard at Sunset Drive is a straight and level roadway with no identified vision obstructions. The maximum speed limit is 30 MPH. The average speed recorded in a period of 2 hours on May 4, 2010 was 28.5 MPH. A neighborhood survey conducted on May 1, 2010, identified 3 residents in support of four-way stop intersection while 1 resident favored the current two-way stop intersection configuration. A review of crash records identified a total of 3 vehicle crashes at the intersection since 1990.

**WILDABON AVENUE AND 8<sup>TH</sup> STREET**

On May 12, 2010, Commissioner Carter moved forward a request from a resident to modify the intersection of Wildabon Avenue at 8<sup>th</sup> Street. Currently, the intersection is configured as a two-way yield intersection. The resident was concerned for the safety of local children as vehicles failed to reduce speed when approaching or entering the intersection.

A neighborhood survey conducted on May 14, 2010, identified 2 residents in support of a two-way stop intersection, 1 resident favored the current two-way yield intersection configuration and 1 resident had no preference. A review of crash records identified 1 vehicle crash at the intersection since 1990.

**OPTIONS**

If the City Commission determines a change is warranted based on a review of the available data sources, the Official Traffic Map should be modified. No action is required if the City Commission determines change is not warranted. The City Commission could delay action on this item if additional data or information is desired to make a decision.

**FISCAL IMPACTS**

Funding was included in the Field Operations operating budget for signage and the required materials are in inventory.

[End agenda memo]

**OPENED TO PUBLIC COMMENT**

Donna Baldwin, 801 Wildabon Avenue, was in favor of the stop sign on Wildabon Avenue and 8<sup>th</sup> Street because she has small children and she believes it is an accident waiting to happen.

Ron Jepson, 1166 S. Lakeshore Blvd., was in favor of returning the stop sign to Lake Shore and Sunset Avenue because there is a lot of traffic there and he has seen many close calls, especially with walkers.

**CLOSED TO PUBLIC COMMENT**

Ms. Delmar said that for about twenty years she lived in that area **the** speed on that end of the lake at all hours of the day and night was frightening. She said during the time she lived there a child had been hit while on his bike, and the street was known as "Death Row for Pets" because of all the pets that were hit by cars. Cars sometimes went so fast that they would swerve into yards. She said that anything to slow the traffic down would be a good thing.

Commissioner Thornhill spoke in favor of the two-way stop at Wildabon Avenue and 8<sup>th</sup> Street.

Commissioner Carter said the stop signs needed to go back and that he would like a crosswalk on Wildabon Avenue and 8<sup>th</sup> Street as well.

Commissioner Thornhill made a motion to approve the traffic map. Commissioner Howell seconded the motion.

By Voice Vote:

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

The motion carried 5-0.

**Agenda Item 14. Discussion of Preliminary Financial Statements for April 30, 2010, Fiscal Year to Date**

Finance Director Dorothy Pendergrass reviewed Agenda Item 14. The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

The preliminary financial statements report revenues received and expenditures made through the end of April 2010. Revenues were slightly ahead of target in the General Fund and slightly behind in the Utility Fund. Expenditures in both these major budgets were under budget.

The unaudited financial statements for the City of Lake Wales for the Period Ending April 30, 2010 are presented to the City Commission for review. At the end of April, the City was 58% into the fiscal year. Fifteen of Twenty-six Payrolls (57%) have been expensed through April 30. Revenue and expenditure budgets have been adjusted to reflect changes through Budget Amendment #2.

**SUMMARY**

The following chart gives a brief summary of overall operating revenue and expenditure performance as of April 30, 2010. Capital expense funded by CRA bond or loan proceeds is excluded from the analysis.

Fund	Budgeted	Actual at 04/30	Target at 04/30	Actual at 04/30 Over (Under) Target	Over (Under) as percentage of target
General					
Revenues <sup>1</sup>	\$10,839,648	\$7,688,827	\$7,399,611	\$289,216	+2.7%
Expenditures <sub>3</sub>	\$11,159,394	\$6,259,797	\$6,509,647	(\$249,850)	-2.2%
Special Revenue					
Revenues <sup>1</sup>	\$4,814,305	\$3,543,007	\$4,217,319	(\$674,312)	-14.0%
Expenditures <sub>3</sub>	\$3,233,455	\$2,185,588	\$1,886,182	\$299,406	+9.3%
Debt Service					
Revenues <sup>3</sup>	\$2,363,120	\$1,386,574	\$1,378,487	\$8,087	+0.3%
Expenditures <sub>2</sub>	\$2,363,650	\$1,928,456	\$1,928,456	\$0	+0.0%
Utilities					
Revenues <sup>1</sup>	\$6,608,450	\$3,727,963	\$3,925,767	(\$197,804)	-3.0%
Expenditures <sub>3</sub>	\$7,018,722	\$2,973,575	\$4,094,255	(\$1,120,680)	-16.0%
Airport					
Revenues <sup>3</sup>	\$107,193	\$42,452	\$62,529	(\$20,077)	-18.7%
Expenditures <sub>3</sub>	\$107,193	\$56,608	\$62,529	(\$5,921)	-5.5%

<sup>1</sup> Revenue target = prior year performance at same point in fiscal year

<sup>2</sup> Expenditure target for Debt Service Fund = actual YTD expenditure because we are paying off debt in accordance with set schedules

<sup>3</sup> Target = 1/12 of budgeted amount multiplied by the number of months since the start of the fiscal year (October 1); i.e. at the end of April we are 7/12 or 58.3% into the fiscal year. This method assumes a relatively even distribution of expense or revenue from month to month.

In general, most operating revenues are about where we would expect them to be at this point in the fiscal year with the exception of that utility revenues are still lagging.

Revenues from water and sewer charges at the end of April 2010 were \$121,281 behind where they were in April, 2009 (water, -\$125,158; sewer, +\$3,877). If we use 58% of the fiscal year as the target level, however, water revenues were \$196,734 under target and sewer revenues were \$13,213 under target. This is a combined shortfall of \$209,947 compared to the budget. Operating expenditures were running behind target at the end of April. Excluding capital outlay and debt service, Utility Fund expenditures were 6.1% or \$235,268 below the target level.

Operating expenditures in the General Fund are running 2.2% behind target (\$242,632). Operating expenditures in the other Funds are running behind target levels.

The City has not borrowed any money from the Pool/Tax Anticipation Investment Account. The balance at the end of FY 07'08 when the account was created and the current balance are as follows:

	9/30/2008	4/30/2010	Difference
Pool/Tax Anticipation Account	\$1,037,822	\$1,051,055	\$13,233

The City's overall cash position at the end of April 2010 increased over the cash position at the end of April, 2009 (+1,317,110). In order to make a more accurate comparison, the following adjustments are made:

	prior year	current year	Difference
Total Cash & Investments	5,635,070	6,952,180	+1,317,110
Due to Other Governments	-121,560	-140,748	
Insurance Proceeds & Other Airport Cash	0	0	
Deferred Revenues*	-411,373	-407,068	
Cash & Investments Net of Adjustments	5,102,137	6,404,364	+1,302,227

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

After excluding cash that was collected on behalf of other governments and deferred revenues, the City's overall cash position at the end of April 2010 was \$1,302,227 higher than its April 2009 level.

In comparison to total cash and investments at March 30 of \$6,838,229, the April cash and investments position decreased by \$476,075. A decrease or minor increase is not unusual with the slow-down of ad valorem tax revenues at this time of year. Between December 1 and December 31, the City received \$3,511,706 in ad valorem taxes and \$994,855 in CRA tax increment revenues from the County. In April, revenues from ad valorem taxes totaled \$469,413 but were offset by Debt Service Payments, including the Utility Fund totaling \$475,550.

[End agenda memo]

Ms. Pendergrass said that some revenues came in above expectation, but those were non-reoccurring revenues that could not be counted on such as permits, impact fees, and other revenue within the Utility Department. Water revenue was below expectation, by \$125,158, and sewer revenues were also down. She said the Finance Department has been studying this every month and that within the next three weeks they will be making a recommendation to the Commission for a budget amendment to bring the budgeted revenue amount down. The Water Company of American was hired to see if our computer system had been billing correctly and if there were problems with the water meters, mostly relating to a four month time period. She said that water revenues will be less than they historically have been during the top construction period but the budget amendment will bring the budget expectations and the actual revenues received in line, and they will have to address the issue of how that will affect operating expenditures and capital, not only within this year but also in the following year.



Ms. Pendergrass explained the concern expressed by Mayor Van Sickle that debt services show revenues of \$1.3 million with expenditures of \$1.9 million. Ms. Delmar said that in relation to the budget we are actually ahead of target.

Mayor Van Sickle said the Commission did not have time to look at the hand-out received just before the meeting regarding the June 1<sup>st</sup> estimated taxable value. Ms. Delmar explained that according to the estimated municipal taxable value posting by the Polk County Property Appraiser, all cities took a hit. The City of Lake Wales was not as bad as some of the others. The property value for Lake Wales will be 15.48% less than it is this year, meaning that ad valorem tax revenues will be \$863,346 less than what we received last year, a huge reduction to overcome during the budget process. Ms. Delmar said the CRA property value was 22% less than it was last year, a reduction of about \$330,000 in City increment, and would also result in an equal reduction coming from the county, probably over a million dollars just from ad valorem sources.

Commissioner Rogers commended Ms. Delmar for a spending freeze notice that she sent to all departments as soon as she found out about the estimated decrease, declaring a freeze on spending and hiring and stating that no purchase was to be made unless operations would not function without the purchase, and that no vacant position was to be filled unless department operations would cease to function or the safety of the public or employees would be placed in jeopardy. Commissioner Rogers said he believed that all the Commissioners understood that next year's work was cut out for them in balancing the budget and a lot of things would have to be looked at hard, for example he thought recreation was one area that might have to be cut. He added that the City needed to be thankful for it could have been worse.

Commissioner Carter questioned inter-governmental revenues, which he said seemed to make up the largest source of revenues, and asked if we had any control over that. Ms. Delmar said there was no control over that because it depends upon the state's estimates, such as sales tax. Commissioner Carter asked if it was dependable revenues and Ms. Delmar said they have been in the past, but it was a formula that was affected by the economy.

Ms. Pendergrass said that in the last seven months compared to last year's figures, the community services tax is down \$62,000; state revenue sharing is down \$20,000; half-cent sales tax is down \$34,000; and the county increment is down \$159,500 and she expects those numbers to grow by year end.

### **CITY MANAGER'S REPORT**

City Commission Tracking Report

Ms. Delmar said there were no changes except to say that there have been 33 citations issued on the noise ordinance and two arrests made.

### **COMMUNICATIONS AND PETITIONS**

Jack Neal, 135 E. Central Avenue, said despite the City's hardship, the Commission voted at its last meeting to spend \$200,000 on an alley that is not that bad.

Mimi Hardman, 300 S. Lakeshore Blvd., said she spoke to the Scenic Highway people and they are willing to pitch in, along with the Historic Lake Wales Society, to help get another historic marker.

### **CITY COMMISSION COMMENT**

Commissioner Carter asked for a status on hurricane preparedness. Ms. Delmar said a presentation is scheduled for the next agenda. The IT Department will be seeking permission to post a hurricane preparedness video on the City's website.

Commissioner Carter said there has been an ongoing parking problem on N. Lakeshore Drive in the area of the Pram Fleet building. He said there is very narrow section of grass between N. Lakeshore Drive and the trail where cars park even though signs are posted prohibiting parking there. A couple of months ago rubber cones had been placed there and it solved the problem, but the cones are no longer there, and people are parking there again. He commented that this is clearly a situation where public safety is more important than public convenience. Those people need to be told not to park there before something happens.

Mayor Van Sickle mentioned parking problems in other areas and said the Police Department should ticket every car parked where they should not. Chief Gillis told the Mayor that the areas he mentioned were being watched and warnings or citations will be issued to change the behavior. Ms. Delmar said we need to be aware that the officers cannot be everywhere all the time, so it would be helpful if citizens and Commissioners contacted the Police Department to report violations.

Commissioner Carter said he understood that we were working toward a zero tolerance on the noise ordinance so asked for contact information for citizens to report a noise problem. Chief Gillis said to call the Police Department's automated system at 863-678-4223, Ext. 1, for the police dispatch center.

Commissioner Carter asked for an update on the problem with the Comcast's sound system. Ms. Delmar said that several of the complaints had been that the public could not hear the Commissioners or herself, although they could hear the City Clerk very well. She said it was because they were leaning back in their chairs instead of leaning forward into the mike. If they can hear the City Clerk there is no reason why they should not hear the rest of us, so we all need to work on that. Ms. Delmar said she will have the IT Department check it out and get with Comcast. Commissioner Carter said he understood that the Comcast equipment here was a little outdated. Ms. Delmar said it had been replaced not too long ago. Commissioner Carter asked about lapel-wireless microphones. Ms. Delmar said that might be something to look into.

Commissioner Carter asked for the status of Habitat for Humanity making some of the City's lots into low income homes. Margaret Swanson, Planning & Development Director, said that Kathy Bangley, Asst. Planning & Development Director, contacted Habitat for Humanity who said they would get back with them on it and they didn't, so she will have Ms. Bangley contact them again.

Commissioner Carter asked if they would get the cost estimate on gym repairs sometime this month. Harold Gallup, Economic Development Director, said he would provide an update on a 5-year timeline at the next City Commission meeting.

Commissioner Carter reminded them that Mr. Wes Rogers had suggested at the last meeting that they move the starting time of Commission meetings to 6:30 p.m. to make the meetings more open and accessible to all the citizens. He said it was worth a try. Ms. Delmar said the meetings in the past had been at 7:30 p.m.; 7:00 p.m.; 6:30 p.m.; and now 6:00 p.m. Commissioner Carter said he was not sure of the process. She said an ordinance is required to change the time with two readings, one of which is a public hearing. Mayor Van Sickle said the Commission needed to also consider staff time as well. With the two Commission meetings and a workshop each month, City staff must work from 8:00 a.m. to 9:00 p.m. or 10:00 p.m. and most of them do not get paid for that time. Commissioner Carter said he understood and appreciates that but that his main concern was to make the meetings more accessible to the public. Mayor Van Sickle said 6:00 p.m. is probably a good time for most people. The one he had problems with was 5:30 p.m. He said all meetings should be standardized. Ms. Delmar said the workshops were scheduled for 5:00 p.m. at the Commission's request. She added that it did not require an ordinance to change a workshop time, only the regular meetings. Commissioner Carter asked for the process of getting citizen input on changing the start time to 6:30 p.m. Ms. Delmar said the item can be placed on the agenda as a discussion.

Commissioner Carter said he would like to change the format of the agenda to allow public input at the beginning and at the end of the meeting to encourage more participation. Mayor Van Sickle said he

always opens agenda items for public input. He said that when they provided for public comments at the beginning and end of the meeting, on several occasions, it ended up with three hours of people making comments. Commissioner Carter said he understood that and he appreciated it, but the Commission is here for the people of Lake Wales and it needs to do whatever it can to provide the opportunity for them to be heard, etc.

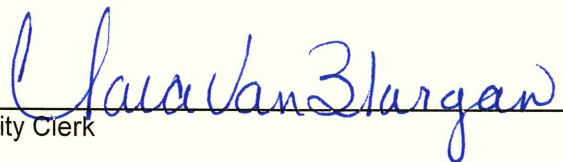
Commissioner Thornhill commended the Police Department for all the work they do and for arranging to put the two stop signs back up. Beverly Pennington, Public Works Division Manager, asked when the Commissioners would like the stop signs to be put back up and they said tomorrow. Ms. Pennington commented on all the calls received after taking them down.

Commissioner Thornhill asked about pedestrians crossing to the lake from 9<sup>th</sup> Street, N. Lakeshore Blvd., and the ball fields. He said he did not know if it required an ordinance, but he thought preference should be given to pedestrians. He suggested having crosswalks. Mayor Van Sickle said Florida law says that pedestrians have the right-of-way. Commissioner Howell asked if there was a crosswalk across from Grove Manor leading to the park. Ms. Delmar said there was one but it needed brightening up.

There being no further business the meeting was adjourned.

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

ATTEST:

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