

The regular meeting of the Lake Wales City Commission was held on July 20, 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, Warner University.

### **PLEDGE OF ALLEGIANCE**

**COMMISSIONERS PRESENT:** Terrye Y. Howell; Jonathan Thornhill; John Paul Rogers; Michael S. Carter, via telephone; Mayor L. Jack Van Sickle.

**COMMISSIONERS ABSENT:** None.

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

### **MAYOR**

### **OLD BUSINESS**

#### **Agenda Item 5. Approval of Minutes, July 6, 2010, Regular Meeting**

Commissioner Rogers reported a correction to be made to the July 6, 2010 regular minutes. In Agenda Item 14, he meant to say that the estimated cost for rebuilding a diesel engine should be \$8,000 and not \$80,000.

Commissioner Rogers made a motion to approve the July 6, 2010 regular meeting minutes to include the correction he made. 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 6. Ordinance 2010-12, Amending Chapter 5, Alcoholic Beverages, Lake Wales Code of Ordinances – 1<sup>st</sup> Reading**

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 bars created public nuisances.

On June 1, 2010, the City Commission considered action on this matter, however delayed taking action until the regular meeting on July 20, 2010.

The Lake Wales Police Department responded to the crime and disorder originating in and around wine and beer bars using the community-oriented policing approach that is based on problem solving. Residents residing in and around wine and beer bars have made formal complaints regarding loitering, noise disturbances and violent crimes. The Police Department analyzed the problem and determined wine and beer bars located in close proximity to residential neighborhoods was the central problem. The response developed by the Police Department involved the immediate reallocation of personnel resources from the Community Oriented Policing Section (COPS) to conduct high-intensity enforcement operations to remove the opportunity for crime and disorder. As the analysis identified that the central problem was wine and beer bars in close proximity to residential neighborhoods, the Police Department recommended the City Commission amend the Code of Ordinances to limit wine and beer bars to commercial areas that have a sufficient buffer from residential neighborhoods. The City Commission agreed, and amended the code accordingly. To restore peace to the residents currently residing in close proximity to a wine and beer bar, the Police Department also recommended the City Commission reduce the hours during which alcoholic beverages can be consumed, permitted to be served, served and sold at existing wine and beer bars. This measure has the potential to reduce alcohol abuse and to restore peace to surrounding residents. In addition, this measure could reduce the personnel resources expended by the Police Department in response to the crime and disorder originating in and around wine and beer bars. A minimum of 40 work hours are expended each week in response to this problem. In addition, as COPS is the principal organizational component responsible for providing the sustained response, other community-policing initiatives have been suspended in and around the Historic Lincoln Avenue area.

Based on the crime and disorder directly related to wine and beer bars, the City Commission should amend 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 restaurant or 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 restaurant or wine and beer bar between the hours of 8 am to 12 midnight

## **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. VanBlargan read 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.**

Police Chief Herbert Gillis reviewed Agenda Item 6.

## **OPENED TO PUBLIC COMMENT**

Kerry Wienkler, 1434 Lakeview Road and owner of Just One More, said the change in closing time probably would not affect his business except during special occasions like Mardi Gras and New Year's Eve when customers tend to want to stay longer. Closing at 12:00 a.m. would not be acceptable on those occasions and he asked the Commission to consider making provisions for special occasions.

Martin Henry, Towerwood, said he has been the owner a beer and bar wine bar in Lake Wales for about 2-1/2 years and he has never had to call the police out to his bar. There has been no trouble there because he does not allow it. To say that the city is having trouble with beer and wine bars is not true; maybe with one but not with all of them. He said he has special competition nights for things like dart tournaments when patrons stay longer, and shutting down at 12:00 a.m. would hurt his business just when the economy has made it difficult to even stay in business.

Greg Massey, 1332 Morningside Drive and owner of Massey's Place, said that besides hurting the businesses in Lake Wales that have not caused a problem, the roll-back time would not solve the problems on Lincoln Avenue because alcohol is not the problem there. Loud music is the problem and it was always the problem. His establishment can remain open after 12:00 a.m. even though he would not be able to sell alcoholic beverages so the problem of loud music would most likely not go away. He asked if a couple hours would really make that much of a difference.

## **CLOSED TO PUBLIC COMMENT**

Commissioner Thornhill asked if it would be possible to write the ordinance in such a way as to allow alcohol to be served after 12:00 a.m. on special occasions. City Attorney Chuck Galloway said he did not know the answer to that question, but he could find out. He said that his initial thought was that making allowances for certain times would not be the approach the City would want to take.

Commissioner Carter asked Police Chief Gillis the following:

- He asked how many complaints had been received from citizens since June 1<sup>ST</sup>. Chief Gillis said he did not have that information with him.
- He asked if Chief Gillis thought the number of complaints had gone down since June 1<sup>st</sup>. Chief Gillis said complaints had decreased but he thought it was because of the number of officers assigned there on Friday, Saturday, and Sunday nights. He explained that coverage on Lincoln Avenue drains their ability to cover other parts of the City.
- He asked if Chief Gillis thought the COPS program was working. Chief Gillis said it was but it was because of the COPS high intensity initiative with zero tolerance and sustained law enforcement. He added that they feared once those resources are removed, the problem would return quickly.

Commissioner Carter said he visited Massey's bar twice and both times there were no problems. He said that changing the time was not the answer for it would be treating the symptoms and not the problems. He said the Police Department needed to be permitted to do its job and if zero tolerance didn't work, maybe putting some of them in jail for a few nights would go a long way towards solving the problems. He said the ordinance is not the answer to this problem, so he could not support it.

Commissioner Howell made the following comments:

- She said she had been happy to see police officers walking among the people on Lincoln Avenue, though many times they were just sitting in their cars.
- She said she did not understand why this would be such a financial item when the money was funded by the CRA. She said it was a scheduling problem if they were being paid overtime. Ms. Delmar said the problem was that the officers were being pulled off other areas and scheduled to work on Lincoln Avenue during the nights on weekends. Commissioner Howell said she did not see why it would cost the City more money because they were still working their normal amount of hours. Ms. Delmar said it was not a money issue and Chief Gillis explained that there are four Community Officers assigned to various areas: one officer is assigned to the historic downtown area; one officer is assigned to the Grove Avenue area; one officer is assigned to the historic Lincoln Avenue business district; and the other is their supervisor. Because the problems on Lincoln Avenue draw those officers to that one location, they cannot deal with solving problems in other parts of the area, including recent burglaries. The purpose of Community Policing, he explained, is to determine where and what the problems are and then shift officers to that location to try to catch the perpetrator or solve the problems. But because all the scheduled hours are directed to Lincoln Avenue to keep the noise down and ward off fights, they can't do that. It is not just a matter of putting people in jail. They use policy and the law to not just suppress a problem but remove it. She said officers should be scheduled to work where they are most needed. If officers are being assigned to work on Lincoln Avenue at 2:00 in the afternoon, then it is a scheduling problem because there are no problems on Lincoln Avenue at that time of day.
- She said she would hate to close the wine and beer bars at 12:00 a.m. just because we want to have a police problem satisfied. She would hate to have citizens not be able to join in a dart tournament on one side of town in order to solve a problem on the other side of town.
- She said the noise problem is so much better now and residents near Lincoln Avenue are happy.

Chief Gillis said an officer went to local restaurants that serve alcohol to see how many of them would be affected by the change and found that All Star Grill was the only restaurant staying open after midnight, and then only on Saturdays until 1:00 a.m. The other restaurants close between 10:00 p.m. and midnight.

Mayor Van Sickle said if you are short on resources you have to limit something. You can't be in two places at once so it is a resource issue. Cutting the hours could possibly help but he said he has a problem with trying to solve a problem in one area when it affects other businesses where there are no problems. He also knew that we could not have officers working 60 plus hours. We may have to find another way to resolve it, maybe by getting tough with those causing the problems. It was his understanding of the law that if the ordinance was changed, it would change the hours for all establishments selling alcohol, and the City could not limit hours at just one location.

Commissioner Howell said that police presence on Lincoln Avenue has made a difference and the noise problem is better. She said the police should continue to patrol the area, even if they just swing their cars through that area like they do in other places in Lake Wales. The noise is not always around Massey's Place. Sometimes it is down closer to B Street or in the park so police officers need to patrol wherever the noise is coming from and continue telling offenders to turn down the music because people want to sleep.

Commissioner Thornhill recommended tabling Ordinance 2010-12 until October, the anniversary month for when the hours were changed to 2 a.m., to give the Commission time to evaluate police efforts. If the efforts are no longer working, the hours can be changed at that time. He added that it might be a solution everyone could agree on. He reminded the Commissioners of the upcoming budget and said they would need to make sure the Police Department has the resources it needs to protect the City.

Commissioner Howell said we don't necessarily have to give the Police Department money if they redo their schedule.

Commissioner Rogers made a motion to table Ordinance 2010-12 after first reading until after the first of October.

Mayor Van Sickle said if this ordinance is tabled he would like Chief Gillis to keep the statistics of the amount of time he has all Community officers sitting on Lincoln Avenue and if crime is starting to show up in other areas because they are hamstrung to one area. At the same time we should be able to get a legal opinion on how we handle the exceptions of a super bowl, dart games etc.

The motion was seconded by Commissioner Howell.

Roll Call Vote:

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

The motion carried 5-0.

**NEW BUSINESS**

**Agenda Item 7. Ordinance 2010-14, FY09'10 Budget Amendment #3 – 1<sup>st</sup> Reading**

The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

Commissioners will consider the third amendment of the FY09'10 Budget adopted on September 15, 2009.

**RECOMMENDATION**

It is recommended that the City Commission approve Ordinance 2010-14 after second reading and public hearing.

**BACKGROUND**

Ordinance 2009-21 estimating revenues and appropriating funds for Fiscal Year 2009-10 was adopted by the City Commission September 15, 2009 and amended on December 1, 2009, and March 16, 2010. We are presenting for first reading a third amendment of Ordinance 2010-14 to modify the estimates of revenues and appropriations budgeted in various funds. Exhibits A and B and supporting attachments provide the detail for the proposed amendment. This budget amendment is based on unaudited financial reports for the accounting period ending on 5/31/10. The following is a summary of changes included in the proposed amendment:

Revenues & Balances Fwd	Increase(Reduction)
General Fund	32,855
Special Revenue Fund	(841,143)
Debt Service Fund	213,043
Capital Projects Fund	80,890
Utility System Fund	400,076
Airport Fund	18,000
Total Increase(Reduction) of Revenues & Balances Fwd	(96,279)
Appropriated Expenditures & Reserves	
General Fund	196,237
Special Revenue Fund	(825,895)
Debt Service Fund	-
Capital Projects Fund	3,826
Utility System Fund	64,454
Airport Fund	18,000
Reserves	447,099
Total Increase(Reductions) of Appropriated Expenditures & Reserves	(96,279)

The proposed budget amendment decreases the City's total budgeted expenditures by \$543,378 and increased reserves by \$447,099 for a net decrease in appropriated expenditures and reserves of \$96,276 (from \$44,445,031 to \$44,348,752).

Reasons for this amendment include:

**Estimated Revenues and Reserve Balances:**

- Balances forward must be adjusted to conform to the audited fund balances at 9/30/09. This amendment resulted in a net increase of \$256,129:
  - decrease of 104,732 in the General Fund,
  - increase of 66,928 in the Special Revenue Funds,
  - increase of 213,043 in the Debt Service Fund,
  - increase of 80,890 in the Capital Projects Fund.
  
- Revenues projected within the General Fund must be adjusted to reflect a net increase of \$137,587 for revenue changes realized/expected within several revenue accounts:
  - increase of 63,800 in building permits,
  - decrease of 50,463 in fire department grant,
  - increase of 36,600 in garbage fees,
  - increase of 51,200 in fire department donations from the County for radios,
  - increase of 9,600 interest income,
  - increase of 25,850 in loss recoveries,
  - increase of \$1,000 donation to the police for a SWAT obstacle course.
  
- Revenues projected within the Special Revenue Fund must be adjusted to reflect a net decrease of \$908,071 for revenue changes realized/expected within several revenue accounts:
  - Transportation Fund - decrease of 200,000 transfer from the CRA fund for the Downtown Drainage Project,

- Transportation Fund - decrease of 417,900 transfer from the CRA fund for the Twin Lakes Project,
- Transportation Fund - decrease of 300,000 from SWFWMD Grant – Twin Lakes,
- Law Enforcement Grant Fund - increase of 9,829 for a law enforcement grant.
- Revenues projected within the Utility Fund must be adjusted to reflect a net increase of \$400,076 for revenue changes realized/expected within several revenue accounts:
  - increase of 700,076 in transfers from the CRA Fund for engineering costs relating to “C” St. and vicinity
  - decrease of 300,000 in water revenues.
- Revenues projected within the Airport Fund must be adjusted to reflect a net increase of \$18,000 for revenue changes realized/expected within several revenue accounts:
  - increase of 18,000 relating to the FBO lease improvement credit,
  - decrease of 6,000 in FBO Lease (Net Payment),
  - increase of 6,000 for a transfer from the General Fund.

**Estimated Expenditures & Revenues Balances:**

- Expenditures projected within the General Fund must be adjusted to reflect a net increase of \$195,237 for expenditure changes realized/expected within several accounts:
  - City Commission - decrease of 765 in capital outlay,
  - City Commission - increase of 2,090 in training/education,
  - City Manager - decrease of 1,325 in memberships,
  - Planning - increase of 26,000 in professional fees relating to GAI billing,
  - Police - increase of 32,900 in operating costs (28,741) and capital outlay (3,159 for in-car cameras and 1,000 SWAT obstacle course),
  - Fire - increase of 80,137 in operating supplies (67,206) and capital outlay (12,931 for radios),
  - Solid Waste - increase of 46,200 in solid waste fees due to larger customer bases than originally budgeted,
  - Recreation Facilities - increase of \$5,000 in professional services due to pool design,
  - Transfers – increase of 6,000 to Airport.
- Expenditures projected within the Special Revenue Fund must be adjusted to reflect a net increase of \$92,005 for expenditure charges realized/expected within several accounts:
  - CRA Fund - increase of 82,176 in a transfer to the Utility System Fund for engineering costs relating to “C” St. & Vicinity Project, and
  - Law Enforcement Grant Fund – increase of 9,829 law enforcement grant project for operating supplies relating to vehicle push bumpers, two anti-theft devices and stop sticks.
- Expenditures projected within the Capital Projects Fund must be adjusted to reflect an increase of \$3,826 for two rifle platforms. (Carry forward from prior year.)
- Expenditures projected within the Utility System Fund must be adjusted to reflect a net increase of \$64,454 for expenditure changes realized/expected within several accounts:
  - increase of 41,163 for GAI invoices,
  - increase of 31,000 for wastewater facility modification engineering,
  - increase of 124,000 for wastewater facility rehabilitation engineering,
  - decrease of \$100,000 in Southside System Upgrades Project,
  - decrease of 100,000 in the Minnesota/Grove Ave Area Project,
  - increase of \$164,000 for a booster station,
  - increase of 700,076 for engineering costs relating to “C” St. & Vicinity Project,

- o decrease of 618,487 for 2006A and 109,468 for 2006B principal payment which will not be paid until October 1, 2010 due to the set up of automatic bank draft services for these loans,
  - o a decrease of 67,830 for 2006B interest expense due to reduction in the interest rate from 3.8% to 1.14%.
- Expenditures projected within the Airport Fund must be adjusted to reflect an increase of \$18,000 relating to transfer of the FBO lease improvement credit to the Debt Service Fund.

**OTHER OPTIONS**

With the exception of the reallocation of the CRA resources of \$700,076 for engineering costs relating to "C" St. & Vicinity Project and the Utility System water revenue reduction of \$300,000, this is primary a housekeeping ordinance to conform the budget to items approved by the City Commission.

**FISCAL IMPACT**

See Exhibit A and Exhibit B attached to Ordinance 2010-14

[End agenda memo]

Ms. VanBlargan read Ordinance 2010-14 by title only.

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING ORDINANCE 2009-21 AS AMENDED BY ORDINANCE 2009-30 AND ORDINANCE 2010-03 TO MODIFY THE ESTIMATES OF EXPENDITURES FOR THE OPERATION OF THE SEVERAL DEPARTMENTS OF SAID CITY FOR THE 2009-2010 FISCAL YEAR AND TO MODIFY THE APPROPRIATION OF FUNDS RAISED AND COLLECTED FROM ALL SOURCES SET FORTH IN THE ESTIMATE OF REVENUES FOR SAID FISCAL YEAR; REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.**

Finance Director Dorothy Pendergrass reviewed Agenda Item 7. She said that most of the items are housekeeping items except for two: the increase of \$700,076 in transfers from the CRA Fund for engineering costs for the "C" Street project and the utility revenue reduction of \$300,000. Ms. Delmar pointed out that the \$700,000 is not just for engineering costs, it is for construction costs as well.

Commissioner Carter said he had a couple of questions to discuss with the City Manager when he gets back in town.

Commissioner Thornhill made a motion to approve Ordinance 2010-14 after first reading. 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 8. Resolution No. 2010-10, Establishing the Initial Assessment Rate for the Brookshire Street Lighting District**



The full staff memo is incorporated into the minutes.

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

## SYNOPSIS

The Commission will consider adopting of a resolution establishing the Initial Assessment rate for the Brookshire Street Lighting District

## RECOMMENDATION

It is recommended that City Commission adopt Resolution No. 2010 – 10 establishing initial rates for the Brookshire Street Lighting District of \$162.98 and \$174.34 per parcel for fiscal year 2010-11 and 2011-12, respectively, and to schedule the final rate assessment resolution for September 10, 2010.

## BACKGROUND

The Brookshire Homeowners Association, over the last two years, has had difficulty having sufficient funds to pay for street lighting costs. Developers who have acquired lots for home construction have not moved forward with their development and the lots have now gone back into receivership, with the original developer seeking return of the lots. The builders have failed to pay funds to the Homeowner's Association as required in the contract, thus creating revenue shortfalls for the Homeowner's Association, which have made it unable to pay the costs associated with the street lights. The inability to pay for street lighting costs has created a public safety problem meriting the intervention of the City.

The City of Lake Wales has received a petition requesting the creation of a Street Lighting District for the Brookshire subdivision. The petition bears the signature of 67.82% of the property owners within the proposed boundaries. The proposed District will include the thirty-one (31) decorative street lighting poles. Eighty-seven (87) platted lots are contained within the proposed street lighting district. The initial estimated annual charge per platted lot is outlined in attachment Exhibit D.

In order to proceed with consideration of the proposed Brookshire Street Lighting District, adoption of the following items is needed.

- 1) **Initial Street Lighting Assessment Resolution.** This resolution will establish the tentative (not to exceed) assessment rates, and, if adopted, each property owner will be mailed a notice of the tentative assessment.
  - a) Requires one time publication of the resolutions (scheduled for 8/04/10) F.S. 170.05
  - b) Requires notice of the time and place of the Final Resolution in two publications (scheduled 8/18/10 and 8/25/10) F.S. 170.07.
  - c) Requires 30 day written notice to property owners within the assessment area. (scheduled for mailing on 8/03/10) F.S. 170.07;
- 2) **Resolution for Uniformed Collection Method** (scheduled for 9/10/10). F.S. 197.3632
  - a) Requires four publications (scheduled August 4<sup>th</sup>, 11<sup>th</sup>, 18<sup>th</sup> and 25<sup>rd</sup>.);
  - b) Requires to be mailed to County Property Appraiser and Tax Collector before 1/01/11 for inclusion on ad valorem tax bill for fiscal year 2011/2012. (If adopted, city staff will perform the annual billing for fiscal year 10/11); and
- 3) **Final Street Lighting Assessment Resolution** (scheduled for 9/10/10). This resolution will establish the final assessment rates that will determine the assessment placed on each property owner's parcel.

## FISCAL IMPACT

Annual assessment revenue as outlined in Exhibit D is expected to pay all street lighting costs relating to services, facilities and programs, excluding the electricity costs, within the Brookshire Street Lighting District. This includes all costs incurred by the city in administering the assessment program.

[End of agenda memo]

Ms. VanBlargan read Ordinance 2010-10 by title only.

**A RESOLUTION OF THE CITY OF LAKE WALES, FLORIDA, AUTHORIZING AND ADOPTING A NON-AD VALOREM ASSESSMENT WITHIN THE AREA OF THE CITY DESCRIBED HEREIN FOR THE PURPOSE OF STREET LIGHTING SERVICES, FACILITIES AND PROGRAMS WITHIN A NEW "BROOKSHIRE STREET LIGHTING DISTRICT" IN THE CITY OF LAKE WALES, FLORIDA; MAKING CERTAIN FINDINGS AND DETERMINATIONS OF SPECIAL BENEFIT AND THE LOGICAL RELATIONSHIP BETWEEN THE STREET LIGHTING AND THE BENEFIT RECEIVED; SPECIFYING THE TOTAL ESTIMATED COST OF THE STREET LIGHTING AND THE TOTAL AMOUNT TO BE LEVIED AGAINST EACH SUBJECT PARCEL; SPECIFYING THE UNIT OF MEASUREMENT FOR, AND THE ESTIMATED MAXIMUM ANNUAL AMOUNT OF SAID ASSESSMENT TO BE LEVIED AGAINST EACH PARCEL WITHIN THE DESCRIBED AREA; PROVIDING FOR ANNUAL ADJUSTMENTS TO THE AMOUNT OF THE ASSESSMENT; PROVIDING FOR CERTAIN OTHER AUTHORIZATIONS AND DELEGATIONS OF AUTHORITY IN RELATION THERETO; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

Finance Director Dorothy Pendergrass reviewed Agenda Item 8. She said according to the petition 59 properties owners out of 87 requested the assessment. This is the first step in that process.

Commissioner Rogers said his opinion remained the same as it was when the issue was first brought up. He did not feel that the City had any business getting involved with a problem between the homeowners and contractor or the promoter of the project. It was their problem and they should work it out.

Commissioner Howell said that because it was a safety issue she thought the City needed to help them. She asked the following questions:

- She asked if those who did not sign the petition had to pay the assessment regardless if they wanted to or not, and Ms. Pendergrass said they did.
- She asked when the homeowner sells the property if the assessment would transfer to the new property owner and it was confirmed.
- She asked how long the assessment would stay with the property and Ms. Pendergrass said until the Commission brought forward another resolution to do away with it or until there was another petition within the community with at least 50% of the property owners requesting that the resolution be removed.
- She asked if the residents or the City could request that the decorative poles be removed and replaced with standard poles so it would not be so expensive. Ms. Pendergrass said the City went through the process of talking with Progress Energy about that and found it was not an option. Ms. Delmar said the problem was not just the stylish poles, but the number of poles as there is more lighting than there would be in a normal subdivision. They are paying for additional lighting as well.

Commissioner Thornhill asked what they normally paid and Ms. Pendergrass said a 2% property appraiser charge was added plus a \$300 charge for the City's time in preparing it for the property appraiser; but other than that it would be their actual cost.

Commissioner Howell made a motion to adopt Resolution No. 2010 – 10 establishing initial rates for the Brookshire Street Lighting District of \$162.98 and \$174.34 per parcel for fiscal year 2010-11 and 2011-12, respectively, and to schedule the final rate assessment resolution for September 10, 2010. The motion was seconded by Commissioner Thornhill.

Roll Call Vote:

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

The motion carried 4-1.

**Agenda Item 9. Certification of 2010 Taxable Value, Interim Millage & FY&10'11 Budget Hearing Dates**

The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

The City Commission will consider approval of the Polk County property appraiser's certification of taxable value for 2010, set the interim millage rate, and set the dates for the public hearings to adopt the final millage rate and the FY10'11 budget.

**RECOMMENDATION**

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

1. Approve the Property Appraiser's Certification of Taxable Value for 2010.
2. Set the interim millage rate at the rollback rate of 8.3456 mills.
3. Set the dates for the required public hearings for the final millage rate and adoption of the FY10'11 budget as Friday, September 10 and Tuesday, September 21.

**BACKGROUND**

Attached for your review and approval is the Polk County property appraiser's Certification of Taxable Value for 2010. As indicated, the City's gross taxable value for operating purposes is \$645,748,799. Lake Wales has experienced a decline in taxable value of \$115,266,581 since the 2009 certification. The certification for 2010 is 15.1% below 2009's final gross taxable value of \$761,015,380. It is recommended that the City Commission approve the Certification of Taxable Value for 2010.

In order for the property appraiser to proceed with the mailing of the required TRIM notices, it will be necessary for the Commission to set an interim millage rate and establish the required public hearing dates for adoption of the final 2010 millage rate and the FY10'11 budget.

We are recommending that the interim millage rate be set at 8.3456, the current year rolled-back rate. The rolled-back rate is the rate required to generate the same amount of ad valorem tax proceeds for 2010 as this year's millage rate generated with the 2009 taxable value.

In early August, staff will present a proposed budget balanced on the 2009 tax rate of 7.3277 which will, by necessity, reflect reduced levels of service in some areas. Setting the interim rate at the rolled-back rate of 8.3456 will afford the City Commission some flexibility in working through the budget adoption process. The final adopted millage rate may not exceed the interim millage rate, but it may be reduced as the budget adoption process commences.

Because the rolled-back rate does not exceed the City's 2010 maximum millage rate, the rolled-back rate will require a regular majority vote (3-2) for final adoption. The maximum millage rate that may be adopted by a regular majority vote of the City Commission is 9.6535.

The City Commission must set a date and time for the first public hearings on the final millage rate and FY10'11 budget. This information will be included on the preliminary tax notice which is forwarded to each taxpayer and will serve as official public notice of the hearings. Florida Statutes stipulate that the first public hearings can be held no sooner than 65 days after the Certification of Taxable Value by the Property Appraiser or July 1, whichever is later. Certification occurred on July 1, therefore the first public hearings can be held no sooner than Friday, September 3 (65 days after July 1).

Normally our public hearings are held during the City Commission's regularly scheduled meetings in September unless there are conflicts with the dates scheduled by the Board of County Commissioners or Polk County School Board. This year, the BOCC has scheduled its public hearings on Thursday, September 9 and Thursday, September 16. The School Board's final public hearing is scheduled for Tuesday, September 7.

The first regularly scheduled City Commission meeting would be September 7, thus creating a conflict with the School Board's final public hearing. We are recommending that the first regular City Commission meeting in September be rescheduled to Friday, September 10 to accommodate the first public hearings for the millage and budget. We are also recommending that the second public hearings be held at the regularly scheduled City Commission meeting on Tuesday, September 21 (the third Tuesday).

#### **OTHER OPTIONS & FISCAL IMPACT**

If we were designing the budget process it would look like this:

1. City staff would gather information and prepare the budget
2. the Commission would review the budget document
3. the Commission would adopt the millage rate required to fund the budget

However, state law requires that the county property appraiser notify each property owner of the interim millage rate and the dates of the meetings for adoption of the millage and budget. To give time for the mailing of this notice to the property owner, the taxing agency (city, county, school board, water management district, etc) must, by law, adopt an interim millage rate no later than August 4.

This date creates difficulties in the budget schedule because some critical information that staff must use in budget preparation – including state revenue estimates and insurance cost increases – is not usually available early enough to work into the proposed budget much before the deadline for adopting the interim millage rate.

The law provides that the final rate adopted can be lower than the interim millage, but not higher (you can not have a final rate that is higher than the interim millage rate, but it can be lowered). Therefore, it is not uncommon for a city commission to adopt an interim millage rate that is likely to be higher than the final millage rate in order to allow flexibility during the budget review process.

There are several options in setting the interim millage rate:

- The rolled-back rate is the millage rate that will generate the same amount of revenue next year as the current year's rate. If the taxable value of the city goes up, the rolled-back will be lower than the current rate. If the taxable value of the city goes down, the rolled-back rate will be higher than the current year's rate. The taxable value of new construction and annexations is excluded from the calculation. The rolled-back rate represents a 0% change in tax receipts. The rolled-back rate for 2010 is 8.3456 per \$1,000 of taxable value.

- The City's current rate is 7.3277. Maintaining the current tax rate will mean a tax rate reduction of 12.20% because it is lower than the rolled-back rate.
- The maximum millage rate refers to the maximum rate that can be adopted by majority vote of the City Commission (a 3-2 vote). The City's 2010 maximum millage rate is 9.6535 per \$1,000 of taxable value. This represents a 15.67% increase in the tax rate because it is 15.67% higher than the rolled-back rate of 8.3456 per \$1,000.
- The interim millage rate can be set at a rate between 9.6535 mills (maximum millage rate) and 10 mills with a two-thirds vote (a 4-1 vote).

Revenues generated by the various options are as follows:

	2010 millage rate	2010 ad valorem proceeds	2010 proceeds over (under) 2009 proceeds	Adoption requirement
			5,576,492	
current	7.3277	4,731,854	(844,638)	3-2 vote
rolled-back	8.3456	5,389,161	(187,331)	3-2 vote
maximum	9.6535	6,233,736	657,244	3-2 vote
maximum + 10 % (cap @ 10 mills)	10.0000	6,457,488	880,996	4-1 vote

The City Commission does not have to make a decision on the final rate at this meeting. The final decision can be made after we thoroughly review and discuss the budget and all of its implications; however, we do have to make a decision on the interim millage rate at this meeting.

It is staff's recommendation that we set the interim millage rate at the rolled-back rate of 8.3456 to allow flexibility going forward into the budget review process.

[End agenda memo]

Ms. Delmar reviewed Agenda Item 9. She said a balanced budget will be presented at the current millage rate of 7.3277. In the past the interim millage rate has been set at the rollback rate to give the Commissioners some flexibility in putting things back into the budget things requested by the public. It is a matter of Commission discretion. We can't go higher than the interim millage rate when the budget is adopted but we can bring it back down.

Mayor Van Sickle said the newspaper stated that Lake Alfred and other cities in Polk County as well as the county itself set their millage at last year's rate instead of the roll-back rate and he thought we should do the same so that people will know their taxes will not go up, and that some people may even have a reduction depending on their house value. He said City staff needed to know they would have to keep within the budget presented and judgments would have to be made within that budget. Right now, the citizens are having a hard time and he believed we needed to help them.

Commissioner Rogers, after talking to homeowners, said he found that cost of insurance and household maintenance increased so he wanted to stay with the 7.3277 millage rate. He said the City would have to learn to live with what it could afford, though some worthwhile projects might suffer. He did not think there

was anything at this time they could do about it. People have been laid off, their unemployment is running out, and they don't know what they are going to do because there are no job hopes in the future. People are losing their homes and you can see in the paper that tax certificates are being sold. The City is faced with a tough budgeting problem but we have to make every effort to accommodate residents.

Ms. Delmar said public hearing dates for the budget needed to be set because the dates have to be included on the TRIM notices mailed to property owners. She recommended that the first regularly scheduled City Commission meeting in September be rescheduled to Friday, September 10<sup>th</sup>, and the second public hearing be at the regularly scheduled City Commission meeting on Tuesday, September 21<sup>st</sup>.

Commissioner Howell asked for confirmation that people would be paying what they did last year if the City went with the roll back rate of 8.3456. Ms. Delmar said theoretically everyone would be paying the same as they are paying this year but that would depend on how individual properties have been reassessed. Some may not see that, but some may see more of a reduction. But 8.3456 is the tax rate needed to generate the same amount of revenue that we have this year at our current rate. She said for the record, at the current millage rate of 7.3277, our ad valorem proceeds will be \$844,638 less than we received this year and if another \$300,000 is added to that for the reduction in the county tax increment payment to the CRA, our ad valorem based revenues will be down 1.2 million dollars.

Commissioner Howell asked about changing the date of the September 10<sup>th</sup> public hearing but after some discussion, the 10<sup>th</sup> was the best date.

Commissioner Carter asked for clarification that Ms. Delmar would be presenting a balanced budget based on the current 7.3277 millage rate and that there would be no salary reductions and no layoffs in that budget. Ms. Delmar said he was correct. Commissioner Carter commended Ms. Delmar and staff for such a tremendous job. Ms. Delmar said the budget would be austere and bare bone, but balanced. Commissioner Carter said he had other questions but would wait until he was back in town to ask Ms. Delmar.

Commissioner Thornhill said that, among other things, the City was trying to promote business growth and that he hoped the economy would recover soon. Keeping the millage rate down shows the citizens that the City is trying to stay the course, work within its budget and live within its means. Hopefully, that will encourage the housing market.

Mayor Van Sickle applauded City staff and the City Manager for balancing the budget. He hoped it would serve as a message to citizens who say the City spends whatever it gets, that the City is no longer doing that.

Commissioner Thornhill made a motion to approve the Property Appraiser's Certification of Taxable Value for 2010, set the interim millage rate at 7.3277 mills, and set the date for the required public hearing for Friday, September 10<sup>th</sup>, and Tuesday, September 21<sup>st</sup>. The motion was seconded by Commissioner Rogers.

By Voice 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. Contract for Preventative Maintenance and Load Banking of Generators**

Ms. Delmar withdrew Agenda Item 10 to bring back at the next meeting.

**Agenda Item 11. Crooked Lake Park Lift Station and Force Main Project**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Utilities Project Administrator Sarah Kirkland]

**SYNOPSIS**

Staff is seeking commission approval to modify the scope of services for the Crooked Lake Park Lift Station and Force main construction project

**RECOMMENDATION**

It is recommended that the City Commission consider taking the following action:

1. Approve Envisors Task Authorization #10-01 Modification No. 2 relating to the Crooked Lake Park Lift station and force main project with fees not to exceed \$9,800.
2. Authorize the City Manager to execute the appropriate documents, on the City's behalf.

**BACKGROUND**

The Lake Wales College Park Mobile Home Park is currently operating a small packaged type wastewater treatment facility. However, due to its advanced state of deterioration, the Florida Department of Environmental Protection (FDEP) has requested that it be taken out of service and the wastewater pumped to the Lake Wales Wastewater Treatment Plant.

Commission approval was granted at the April 21, 2009 commission meeting for staff to work with grant writer, Andy Easton, in an effort to submit applications for both preconstruction and construction funds to aid in the Waste Water Treatment Facility Improvements and the Crooked Lake Pump Station and Force Main Construction. Since the Crooked Lake project did not have all of its permits, it could not be funded during the initial funding cycle. The FDEP then developed a plan to sell more bonds and create another funding cycle for construction loan funds. Commission approval was granted at the May 19, 2009 commission meeting for staff to submit a State Revolving Fund (SRF) application in the June 1, 2009 funding cycle.

Staff received notification on August 10, 2009 from FDEP that both the Waste Water Treatment Facility Improvements and the Crooked Lake Pump Station and Force Main Construction projects were approved for funding once funds became available. As directed by FDEP, staff began soliciting bids for the construction of the Crooked Lake Pump Station and Force Main Construction. The project was advertised for bids and bids were received. However, due to issues with the bid documents prepared by the previous engineering firm, city staff made the decision to reject all the bids.

Staff contacted Envisors and requested that this firm prepare a task modification proposal to review and revise the existing bid documents and provide limited re-bidding services for the project. Staff requests commission approval of Task Authorization #10-01 Modification No. 2 which amends the master consulting agreement with Envisors to provide these services at a cost not to exceed \$9,800.

**OTHER OPTION**

Choose not to approve Envisors Task Authorization #10-01 Modification No. 2 and seek another engineering firm to provide these services. This option will result in further delay of the bidding and construction phase.

**FISCAL IMPACT**

This cost will be funded by State Revolving Fund pre-construction monies.

[End agenda memo]

Public Works Director Tom Moran reviewed Agenda Item 11.

Mayor Van Sickle asked for confirmation that one of the reasons why we were still looking into this was because SWFWMD, working with DEP, told us that in order to get things we wanted done, we would have to resolve this issue. Ms. Delmar said that basically our position for funding the wastewater treatment plant rehab for SRF funding was contingent on doing this project.

Commissioner Carter asked if the \$105,000 would be enough money to complete the work that needed to be done. Mr. Moran asked Commissioner Carter where he saw the amount of \$105,000. Ms. Delmar said there was \$105,000 left in the State Revolving Fund reconstruction money to use for this project. Mr. Moran said that amount would be enough to complete the work for this project, but if we had to combine that with the wastewater treatment facility then probably not. Commissioner Carter said he had a question about the wastewater treatment bid document and the engineering firm but he would wait until he was back in town to have that discussion.

Ms. Delmar pointed out that this project is important to the health of Crooked Lake. There were serious problems with the Crooked Lake Park system caused by heavy rains during the 2004 hurricane season. The Department of Environmental Protection pretty much mandated that Crooked Lake Park be hooked into the city's system. They hadn't actually told us that but pressure was applied that if we wanted funding for the wastewater treatment plant we would need to do the Crooked Lake project, which she said was an important regional project.

Commissioner Thornhill made a motion to approve Envisors Task Authorization #10-01 Modification No. 2 relating to the Crooked Lake Park Lift station and force main project with fees not to exceed \$9,800; and authorize the City Manager to execute the appropriate documents, on the City's behalf. The motion was seconded by Commissioner Rogers.

By Voice Vote:

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

The motion carried 5-0.

**Agenda Item 12. Engineering Support for Florida Food Tankers**

The full staff memo is incorporated into the minutes.

[Begin agenda memo prepared by Utilities Projects Administrator Sarah Kirkland]

**SYNOPSIS**



Staff is seeking commission authorization to amend its agreement with Kimley Horne & Associates, Inc to perform engineering support in the evaluation of the possible tie-in to the city sewer system for Florida Food Tankers.

## **RECOMMENDATION**

It is recommended that the City Commission consider taking the following action:

Authorize the amendment to the master agreement with Kimley Horne & Associates for services not to exceed a fee of \$1500.

Authorize the City Manager to execute the appropriate documents, on the City's behalf.

## **BACKGROUND**

Florida Food Tankers has approached city staff and expressed interest in being connected to the city sewer system. In an attempt to determine if this decision would be in the best interest of the city, staff requested reports from Florida Food Tankers in reference to the chemical waste levels that would be potentially being sent to the city's waste water treatment plant.

Staff is requesting commission approval to amend the master consulting services agreement with Kimley-Horne & Associates to provide the required environmental engineering expertise needed to make an informed decision regarding the acceptance of waste from this industrial user. Once the review is completed and it is determined that the waste will not harm the treatment plant, a utility agreement between the City and Florida Food Tankers will be brought to the Commission for approval.

## **OTHER OPTION**

If the commission chooses not to approve this amendment, staff will be at a disadvantage when trying to determine the feasibility of allowing an industrial user of this magnitude to discharge into the city's waste water collection system.

## **FISCAL IMPACT**

Currently there is \$500 available in the Professional Services Engineering Line item. A budget transfer for \$1000 would be done to cover this expense. The waste water division has several accounts from which this \$1000 could be transferred. The funding source for this line item is current year operating revenues.

[End agenda memo]

Public Works Director Tom Moran reviewed Agenda Item 12.

Mayor Van Sickle asked if Florida Food Tankers would provide parking spots so fire fighters wouldn't have to come down at 6 a.m. Ms. Delmar said Florida Food Tankers has provided the temporary location of the City's substation since May of 2005, without any cost to the City. Florida Food Tanker was annexed into the City during that period with the hope that at some point in the future they would have access to the City's wastewater facilities. The City wants to help this business do what they need to, but we have to protect the integrity of the wastewater treatment plant first and the quality of the effluent. Mayor Van Sickle said that Lake Ashton does appreciate the fire service.

Commissioner Howell asked if the fire substation was on Florida Food Tanker property and Ms. Delmar said it was. She said she had wondered why the City was paying for engineering to make sure it is environmentally safe instead of requiring them to pay for it but said it was a kind of "tit' for tat". Ms. Delmar said she was correct.

Commissioner Rogers reminded them of the major problem the City had with Oakley when it dumped its waste into the City's water system, which caused some major problems at the wastewater treatment plant. He said that resulted in a cost to the City of about a half a million dollars, so we do not want to have that happen again. Ms. Delmar said there was a settlement in which Oakley compensated the City for a lot, if not all, of that cost. She added that they had thought they were going to lose the treatment plant. We didn't, but it really did harm it. Commissioner Rogers said he had no objections to them connecting to the plant. Chief Brown said the City pays no rent to Florida Food Tankers.

Commissioner Thornhill made a motion to authorize the amendment to the master agreement with Kimley Horne & Associates for services not to exceed a fee of \$1,500; and authorize the City Manager to execute the appropriate documents, on the City's behalf. The motion was seconded by Commissioner Howell.

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 13. Waste Water Treatment Facility Improvements**

The full staff memo is incorporated into the minutes.

[Begin agenda memo prepared by Utilities Projects Administrator Sarah Kirkland]

#### **SYNOPSIS**

Staff is seeking commission approval to enter to into an agreement with Kimley Horne & Associates for engineering services related to the waste water treatment plant improvements.

#### **RECOMMENDATION**

It is recommended that the City Commission consider taking the following action:

Approve the consulting services authorization from Kimley Horne & Associates in the amount of \$206,452.00 to provide all related engineering services related of the rehabilitation and expansion of the waste water treatment plant.

Authorize the City Manager to execute the appropriate documents, on the City's behalf.

#### **BACKGROUND**

In May 2009, the City submitted an application to the Florida Department of Environmental Protection (FDEP) State Revolving Fund (SRF) for financing to rehabilitate the 23-year old waste water treatment facility and to expand capacity from 1.90 million gallons per day (mgd) to 2.19 mgd.

Preliminary plans for improvements were prepared by Murchkey Engineering, Inc. to meet the requirements of the SRF application. Both plans and specifications were approximately 60% complete when submitted and require additional work before the project can be sent out for bidding. Additionally, the existing plans should be reviewed for value engineering opportunities and the operational preferences

of the city. Given that the existing plans and engineering calculations require significant review before bidding, Kimley Horne & Associates (KHA) will assume the role of successor engineer. KHA will prepare the supplemental information required for the FDEP permit applications, SRF loan modifications, plan and specifications reviews, plan and specification modifications, and bid administration.

Items to be considered for the improvements project are:

- Rehabilitation
  - New screening/comminution system at the treatment plant headworks
  - New rotor aerator for the existing oxidation ditch
  - New aeration system for the existing aerobic digester
  - New aerobic digester
  - Replace existing clarifier mechanisms
  - Rehabilitate existing sand filter
  
- Expansion
  - New clarifier
  - New disk filter
  - New rotor aerators (2) for the existing oxidation ditch
  - New RAS/WAS Pump Station

KHA will prepare a revised opinion of probable construction cost (OPC) incorporating the proposed modifications. KHA will also prepare revised construction plans and specifications reflecting modifications, value engineering opportunities, and design modifications identified above and agreed upon by the city.

SRF funding of the WWTF improvements is tied to the Crooked Lake Lift station and Force main extension. This is what gained the city favorable action for the anticipation of funding. Since the Crooked Lake project did not have all of its permits, for the initial funding cycle, neither project could be funded at that time. The FDEP then developed a plan to sell more bonds and create another funding cycle for construction loan funds. Commission approval was granted at the May 19, 2009 commission meeting for staff to submit a State Revolving Fund (SRF) application in the June 1, 2009 funding cycle.

Staff received notification on August 10, 2009 from FDEP that both the Waste Water Treatment Facility Improvements and the Crooked Lake Pump Station and Force main Construction were approved for funding once funds became available. Before this project can go out to bid, however, the plans for the WWTF expansion/rehabilitation must be reviewed and brought up to a biddable status.

Staff is requesting commission approval to enter into an agreement with Kimley-Horne & Associates to perform the required engineering as described in the attached agreement for the amount of \$206,452.00.

#### **OTHER OPTIONS**

Chose not to enter into an agreement for these services and further delay the start of the bidding and construction phase for the project.

#### **FISCAL IMPACT**

The funding of these engineering fees of \$206,452.00 is recommended from the following funding sources:

- \$55,200 from the Pre-construction State Revolving Fund Loan
- \$31,000 from impact fees (requesting within budget amendment #3)
- \$120,252 from utility operating revenues (requested within budget amendment #3)

[End agenda memo]

Public Works Director Tom Moran reviewed Agenda Item 13.

Mayor Van Sickle said that both the sewer problem in the northwest section and the rehabilitation of the wastewater treatment facility were top priority and needed to be fixed simultaneously, because if the sewer system is fixed it won't do any good if the effluent has no place to go. He said there has been a lot of engineering, a lot of wasted money, so he would like to see this project done ASAP because if we have a sudden spurt of growth, the plant would not be able to handle it running at 50% to 51% efficiency.

Commissioner Thornhill asked if this was the issue where we almost lost the permit back in 2003 and Ms. Delmar said there were some sludge issues but the City was on a temporary operating permit earlier than that. Those issues got resolved along with some others. She said she thinks the normal life for a wastewater treatment plant is 40 years provided it is maintained at a decent level for those 40 years. This 25 year old plant would have to be replaced if this project is not done. It is unavoidable and this is to rehabilitate the plant to provide the public with the service it needs and to extend the life of the plant. Commissioner Thornhill said he did not like band-aid fixes so he was in favor of doing the proper maintenance needed to get more life out of the plant.

Commissioner Howell asked if the \$206,000+ was to fix the problem or for just the engineering. Ms. Delmar said it was just for the engineering and explained that there are three funding sources for the project.

Commissioner Rogers said the sewer plant was in bad shape and needed immediate attention. He was scheduled to tour the facility and encouraged the other Commissioners to do likewise. If we are going to get rid of a lot of our reclaimed wastewater we need it fixed. Mr. Moran explained the repairs that needed to be done.

Ms. Delmar said, with the economy the way it is, she recommended deferring the expansion components for a couple of months because we don't want to borrow funds until we need to. Mayor Van Sickle said that we may be able to find a grant and Ms. Delmar said that was right.

Commissioner Howell made a motion to approve the consulting services authorization from Kimley Horne & Associates in the amount of \$206,452.00; to provide all related engineering services related of the rehabilitation and expansion of the waste water treatment plant and authorize the City Manager to execute the appropriate documents, on the City's behalf. The motion was seconded by Commissioner Rogers.

By Voice Vote:

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

The motion carried 5-0.

**Agenda Item 14.      Petition for a Rate Increase Adjustment of Republic Services of Florida L.P.  
Florida Refuse Relating to Landfill Cost Increases**

The full staff memo is incorporated into the minutes.

[Begin agenda memo prepared by Finance Director Dorothy Pendergrass]

**SYNOPSIS**

The Commission will consider approval of a petition for a thirty-cent cost increase adjustment due to landfill cost increases to be paid by Republic Services of Florida L.P. Florida Refuse relating to solid waste services.

### STAFF RECOMMENDATION

It is recommended that the City Commission approve the petition for a thirty cent cost increase, to be absorbed by the City, on disposal charges to be paid to Republic Services of Florida L.P. Florida Refuse, effective October 1, 2009.

### BACKGROUND

Ordinance 2008-25, amending the franchise granted to Florida Refuse, Incorporated, Section 2-1, provides that the Contractor may petition the City for rate adjustments at reasonable times on the basis of changes in disposal charges, and not such request shall be unreasonable denied.

Polk County North Central Landfill garbage/trash (class 1) landfill costs had a rate increase from \$34.50 to \$37.95, effective October 1, 2009. Republic Services of Florida L.P. Florida Refuse and the Finance Department have worked on an acceptable methodology for the calculation of the proposed petition rate adjustment. The agreed upon methodology was based on the 2009 calendar year actual tonnage for residential household waste (398 monthly average) to calculate the additional cost increase ( $\$37.95 - \$34.50 = \$3.45 \times 398 \text{ tonnage} = \$1,373$  monthly average rate increase). The additional cost increase was then divided by the average customer count ( $\$1,373 / 4,605 = \$0.30$  cost increase). The average cost increase calculated to a thirty cent ( $\$ 0.30$ ) cost increase. The detailed calculation worksheet has been attached. (Exhibit A)

Staff recommends a \$0.30 rate increase adjustment, from \$14.04 to \$14.34, to Republic Services of Florida L.P. Florida Refuse, effective October 1, 2009. Staff recommends the cost increase to be absorbed by the City with no pass through cost recognized by the City's solid waste customers.

### FISCAL IMPACT

With the recommended changes, the city anticipates an annual increase in solid waste services fees of \$16,476 ( $\$1,373 \text{ est. additional cost increase} \times 12 \text{ months} = \$16,476$ ) for fiscal year 2009-2010.

[End agenda memo]

Finance Director Dorothy Pendergrass reviewed Agenda Item 14.

Commissioner Howell made a motion to approve the petition for a thirty cent cost increase, to be absorbed by the City, on disposal charges to be paid to Republic Services of Florida L.P. Florida Refuse, effective October 1, 2009. The motion was seconded by Commissioner Thornhill.

By Voice Vote:

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

The motion carried 5-0.

**Agenda Item 15.            Audit Engagement Letter, Fiscal Year Ending September 30, 2010**

The full staff memo is incorporated into the minutes.

[Begin agenda memo prepared by Finance Director Dorothy Pendergrass]

## **SYNOPSIS**

The City Commission will consider approval of the Audit Engagement Letter submitted by Purvis, Gray & Company for auditing services for fiscal year ending September 30, 2010.

## **STAFF RECOMMENDATION:**

It is recommended that the City Commission authorize the City Manager to execute the Audit Engagement Letter submitted by Purvis, Gray & Company for the audit of the City's financial statements for Fiscal Year Ending September 30, 2010.

## **BACKGROUND**

On September 9 2009, the City Commission selected the accounting firm Purvis, Gray & Company to audit the City's financial statements for the fiscal year ending September 30, 2009 with an optional renewal for the four subsequent fiscal years.

Mr. Joseph Welch of Purvis, Gray & Company has provided an Audit Engagement Letter for the fiscal year ending September 30, 2010. The letter provides a detailed description of the services that will be provided through the audit process. The audit will be conducted in accordance with generally accepted auditing standards.

## **FISCAL IMPACT**

The audit fee, including expenses, will not exceed \$69,000. The proposal fee for 2010 represents a 2.98% increase over the 2009 fee. A fee increase not to exceed 3% per year is in compliance with Purvis, Gray & Company's fee schedule as provided within their 2009 proposal to provide professional auditing services dated August 3, 2009.

[End agenda memo]

Finance Director Dorothy Pendergrass reviewed Agenda Item 15.

Commissioner Carter made the following comments:

- He said we have had Purvis and Gray for quite a while and asked if it goes out for bid from time to time. Mayor Van Sickle said he believes that it went out for bid last year and Purvis and Gray was awarded the contract. Ms. Pendergrass said that was correct.
- He said that \$7,210 is for the audit of the Airport Authority and asked why the audit was needed. Ms. Delmar said that it was an FAA and FDOT grants requirement.
- He asked if this included a compliance audit of any of the contracts the City has with vendors of aircraft. Ms. Pendergrass said this was not a performance audit but a fiscal or financial audit, for accountability and not compliance, except for grant compliance. Ms. Delmar added it was an audit of the accounting record.

Commissioner Thornhill made a motion to authorize the City Manager to execute the Audit Engagement Letter submitted by Purvis, Gray & Company for the audit of the City's financial statements for Fiscal Year Ending September 30, 2010. The motion was seconded by Commissioner Howell.

By Voice Vote:

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

The motion carried 5-0.

**Agenda Item 16. Discussion of Preliminary Financial Statements for June 30, 2010, Fiscal Year to Date**

The full staff memo is incorporated into the minutes.

[Begin agenda memo prepared by Finance Director Dorothy Pendergrass and Accounting Manager Bridget Denihan]

**SYNOPSIS**

The preliminary financial statements report revenues received and expenditures made through the end of June 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 June 30, 2010 are presented to the City Commission for review. At the end of June the City was 75% into the fiscal year. Nineteen of Twenty-six Payrolls (73%) have been expensed through June 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 June 30, 2010. Capital expense funded by CRA bond or loan proceeds is excluded from the analysis.

Fund	Budgeted	Actual at 06/30	Target at 06/30	Actual at 06/30 Over (Under) Target	Over (Under) as percentage of target
General					
Revenues 1	\$10,839,648	\$9,296,079	\$9,109,888	\$186,191	+1.7%
Expenditures 3	\$11,159,394	\$7,946,753	\$8,369,546	(\$422,793)	-3.8%
Special Revenue					
Revenues 1	\$4,795,651	\$3,673,970	\$4,460,413	(\$786,443)	-16.4%
Expenditures 3	\$3,230,413	\$2,785,307	\$2,422,810	\$362,497	+11.2%
Debt Service					
Revenues 3	\$2,363,120	\$1,788,547	\$1,772,340	\$16,207	+0.7%
Expenditures 2	\$2,363,650	\$1,881,168	\$1,881,168	\$0	+0.0%
Utilities					
Revenues 1	\$6,608,450	\$4,855,406	\$5,105,220	(\$249,815)	-3.8%
Expenditures 3	\$7,018,722	\$4,172,216	\$5,264,042	(\$1,091,825)	-15.6%

Airport					
Revenues 3	\$107,193	\$76,698	\$80,395	(\$3,697)	-3.4%
Expenditures 3	\$107,193	\$74,950	\$80,395	(\$5,445)	-5.1%

- 1 Revenue target = prior year performance at same point in fiscal year
- 2 Expenditure target for Debt Service Fund = actual YTD expenditure because we are paying off debt in accordance with set schedules
- 3 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 June we are 9/12 or 75.0% 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 June 2010 were \$94,708 behind where they were in June, 2009 (water, -\$130,469; sewer, +35,760). If we use 75% of the fiscal year as the target level, however, water revenues were \$197,494 under target and sewer revenues were \$3,029 over target. This is a combined shortfall of \$194,465 compared to the budget. Operating expenditures were running behind target at the end of June. Excluding capital outlay and debt service, Utility Fund expenditures were 15.6% or \$1,091,815 below the target level.

Operating expenditures in the General Fund are running 3.8% behind target (\$422,793). 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	06/30/2010	Difference
Pool/Tax Anticipation Account	\$1,037,822	\$1,053,691	\$15,869

The City's overall cash position at the end of June 2010 increased over the cash position at the end of June, 2009 (+94,516) In order to make a more accurate comparison, the following adjustments are made:

	prior year	current year	Difference
Total Cash & Investments	6,167,072	6,261,588	+94,516
Due to Other Governments	-45,933	-51,962	
Insurance Proceeds & Other Airport Cash	0	0	
Deferred Revenues*	-410,733	-372,777	
Cash & Investments Net of Adjustments	5,710,366	5,836,849	+126,483

\*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 June 2010 was \$126,483 higher than its June 2009 level.

In comparison to total cash and investments at May 30 of \$5,986,165 the June cash and investments position decreased by \$149,316. 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 June, revenues from ad valorem taxes totaled \$529,409.

[End agenda memo]

Finance Director Dorothy Pendergrass reviewed Agenda Item 16.

There were no comments made by the City Commission.

Ms. Delmar said that the City department heads have managed to save \$422,000 in relation to budget.

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

City Commission Tracking Report

Ms. Delmar reported no changes to the City Commission Tracking Report.

### **COMMUNICATIONS AND PETITIONS**

Ruth Dampier, 1154 Lake Shore Blvd., made a complaint about Comcast reception for Channel 6 at her house. She said the reception comes and goes. Ms. Delmar asked the viewers to call in and report reception problems because they were finding that viewing and sound are fine in certain parts of the City and were terrible in other parts. The information is needed so it can be reported to Comcast.

Ms. Dampier said she heard that we could get recycle bins with rollers on them and wanted to know how to get one. Ms. Pendergrass said she would check on that and get back with her.

Mimi Hardman, 300 S. Lake Shore Blvd., announced the soon to be published book that included pictures depicting historical places, people, and events.

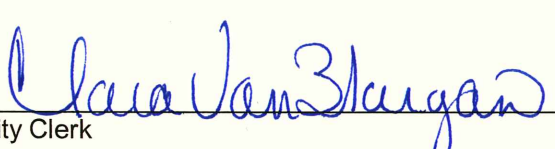
### **COMMISSION COMMENTS**

Commissioner Thornhill thanked staff for their hard work in balancing the budget and said they had his prayers and support.

There being no further business the meeting was adjourned.

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

ATTEST:

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