

The regular meeting of the Lake Wales City Commission was held on October 5, 2010 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; Michael S. 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; Clara VanBlargan, City Clerk; Jacquie Hawkins, Deputy City Clerk.

#### **MAYOR**

#### **CONSENT AGENDA**

Commissioner Carter requested that Agenda Item 7 be pulled for separate discussion and vote.

**Agenda Item 5.            APPROVAL OF MINUTES: September 10, 2010, Regular Meeting; September 14, 2010, Workshop**

**Agenda Item 6.            Award of Bid to Florida Spectrum for Laboratory Services**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Sarah Kirkland, Utilities Manager]

#### **SYNOPSIS**

Staff requests commission approval to award the bid for laboratory services to Florida Spectrum for the testing and analysis of water and wastewater samples.

#### **STAFF RECOMMENDATION**

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

1. Award the bid to Florida Spectrum for laboratory services.
2. Authorize the City Manager to execute the appropriate documents, on the City's behalf in regards to this service.

#### **BACKGROUND**

The City of Lake Wales' Water and Wastewater Divisions are required by the Environmental Protection Agency and the Florida Department of Environmental Regulation to routinely monitor and sample the water and solid residuals throughout the various stages of their respective treatment processes. The majority of these samples must be submitted to a laboratory certified by the State of Florida for analysis and reporting purposes to ensure that proper treatment is taking place and that compliance parameters are being met.

Staff made a request for bid for these laboratory services with a bid open date of September 8, 2010. There were four responsive bidders with Florida Spectrum being the lowest bidder. Therefore, staff requests commission approval to award the bid for laboratory services to Florida Spectrum.

#### **OPTIONS**

None. This testing is a requirement per the Department of Environmental Protection.

#### **FISCAL IMPACT**

\$8,000 and \$23,000 were placed in the FY '10-'11 Operating Budgets for Water and Wastewater laboratory services, respectively.

[End agenda memo]

Commissioner Howell made a motion to approve the Consent Agenda excluding Agenda Item 7. 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 7.           Renewal of Agreement for Management of Albert Kirkland Sr. Gymnasium**

The full staff memo is incorporated into the minutes.

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

#### **SNYOPSIS**

The City Commission will consider approving the renewal of the agreement with the Boys and Girls Club to operate the Kirkland Gymnasium

#### **RECOMMENDATION**

Staff recommends that the City Commission take the following action:

1. Approve renewal of the with the Citrus Center Boys and Girls Clubs, Inc. to operate the Kirkland Gymnasium for an annual compensation of \$55,698.00.

#### **BACKGROUND**

In October 2008 the City entered into an agreement with the Lake Wales Branch of the Boys and Girls Club to operate the Albert Kirkland Sr. Gymnasium. In October of 2009, the City extended the agreement with the Boys and Girls Club until December 31, 2009 in an effort to explore other cost effective operational options. Those options did not develop, and the agreement was renewed through September extended to September 30, 2010.

This renewal only modifies the term of the agreement. The hours of operation, amount of compensation, and other particulars of the agreement are unmodified from last year's contract. The term of the agreement commences on October 1, 2010 and ends September 30, 2011, with an option for renewal for up to eight remaining additional one-year terms (originally 10 one-year terms). Either party may terminate the agreement by giving the other party a sixty-day written notice prior to the end of any term.

The gymnasium hours of operation will be 11:30 a.m. to 8:30 p.m. Monday through Friday. The Boys and Girls Club will have exclusive use of the facility from 3:00 p.m. to 4:00 p.m. for its club members. The gymnasium will be open from 11:30 a.m. to 5:30 p.m. on Saturdays and Sundays. The Boys and Girls Club will not be responsible for operating the gymnasium on national holidays.

#### **OTHER OPTIONS**

Do not approve the renewal request.

#### **FISCAL IMPACT**

Funding in the amount of \$55,698.00 for this contract is included in the FY10'11 budget.

[End agenda memo]

Commissioner Carter asked the following questions:

- Commissioner Carter asked that language be put into the contract requiring a staff member to be on the premises when the gymnasium is supposed to be open. He explained that one Friday afternoon about 4:30 p.m. he went to the gym and found a line of people waiting to go in. He said he understood that the person went home very sick and those things happen. But a phone call should have been made to get the supervisor or someone down there to make sure the gym is opened. Economic Director Harold Gallup said staff could ask that they do that. He said the staff person who got sick did not exercise the best management judgment and City staff talked with them about that so it should not happen again. Mr. Gallup said he would send a letter. Ms. Delmar said that it was an omission that should be addressed in the contract. She said compensation to cover the additional hours of operation was increased in the new contract to assure that individuals were on the premises whenever the gym was scheduled to be open, bar an emergency.
- Commissioner Carter asked if the contract was already signed and Ms. Delmar said it was and explained that it is general practice to get the other party to sign first, so the Commission would know they are in agreement.
- Commissioner Carter asked if the gymnasium would be closed down for a period of time while repairs were being done. Mr. Gallup said it would be. Commissioner Carter asked if there was anything in the contract stating that the City would not be required to pay the Boys and Girls Club employees who would not be coming to work during the time the gymnasium was closed. Mr. Gallup said staff needed to take a look at that. He said staff was trying to determine the minimum amount of time the gym would need to be closed and it may be that the gym could remain open for some of the activities. Commissioner Carter asked that language be incorporated in the contract that says if the gymnasium has to be closed for repairs the City would not have to pay for that time. Ms. Delmar said it could be prorated.

Mayor Van Sickle said that if someone is hired to work certain hours in the gym, and then the gym is closed for repairs, that employee may have to be paid for those hours anyway. If the employee is hired at a certain income for a certain amount of hours, that income would be taken away by closing the gym. So there might be an issue with that. Commissioner Carter said that if the language is in the contract that should not be a problem. The Mayor said they may choose not to sign the contract if that language is

there. Commissioner Carter said it needs to be fair to both sides but the City should not have to pay for services not rendered.

Commissioner Howell asked if the gym could be closed as much as two to three weeks and Mr. Gallup said that was a possibility but they would not know for sure until they got into the truss system.

Commissioner Carter made a motion to approve the renewal of the agreement with the Boys and Girls Club to operate the Kirkland Gymnasium for an annual compensation of \$55,698.00 provided there is a provision added that the manager agrees to provide two employees on the premises during all hours of operation barring unforeseen emergencies. The motion was seconded by Commissioner Howell.

By Voice Vote:

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

The motion carried 5-0.

## **OLD BUSINESS**

### **Agenda Item 8. Ordinance 2010-21, Amendment to Cemetery Ordinance – 2<sup>nd</sup> Reading & Public Hearing**

The full staff memo is incorporated into the minutes.

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

## **SNYOPSIS**

The City Commission will consider adopting Ordinance 2010-21 amending Lake Wales Code of Ordinances Chapter 2, Administration to allow up to two urns bearing cremated remains be buried with one casketed remains.

## **RECOMMENDATION**

Staff recommends that the City Commission approve the following action:

1. Adopt Ordinance 2010-21 after second reading and public hearing.

## **BACKGROUND**

Ordinance 2010-21 went before the City Commission on September 21 and was approved after first reading.

In December 2009 the City Commission approved Ordinance 2009-32 revising rules and regulations governing use and operation of the municipal cemeteries. The ordinance defined the responsibilities of the City in caring for the cemeteries and the responsibilities of persons paying respect to loved ones interred in the cemeteries.

Section 2-631 pertaining to graves and vaults prohibits burials above ground and authorizes only one interment per grave, except for the following:

- A parent and an infant

- Two children in one coffin
- One casketed remains and one cremated remains

The ordinance has always read this way, but through the years various cemetery supervisors have allowed two cremation urns to be buried in a grave with one casketed remains. Although it happened infrequently, it apparently began to happen more often after all the cremation niches in the mausoleum were sold.

Ordinance 2010-21 amends the Code of Ordinances to provide the authority to allow up to two urns bearing cremated remains to be buried with one casketed remains.

#### **FISCAL INPACT**

There is no monetary affect to the City's budget if this action is approved.

#### **OTHER OPTIONS**

Do not adopt Ordinance 2010-21

[End agenda memo]

Ms. VanBlargan read Ordinance 2010-21 by title only.

#### **AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING LAKE WALES CODE OF ORDINANCES CHAPTER 2, ADMINISTRATION, TO PROVIDE FOR BURIAL OF CREMATED REMAINS IN A GRAVE WITH CASKETED REMAINS; PROVIDING FOR AN EFFECTIVE DATE.**

Ms. Delmar reviewed Agenda Item 8.

#### **OPENED PUBLIC HEARING**

There were no comments made by the public.

#### **CLOSED PUBLIC HEARING**

Commissioner Howell made a motion to adopt Ordinance 2010-21 after second reading and public hearing. The motion was seconded by Commissioner Rogers.

By Roll Call Vote:

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

The motion carried 5-0.

#### **NEW BUSINESS**

**Agenda Item 9. Ordinance 2010-16, Police Officers' Pension Plan Amendment – 1<sup>st</sup> Reading; Ordinance 2010-17, Firefighters' Pension Plan Amendment – 1<sup>st</sup> Reading**

The full staff memo is incorporated into the minutes.

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

## **SNYPSOS**

The City Commission will consider a proposed amendment to the Police Officers' Pension Plan and Firefighters' Pension Plan for partial allocation of DROP investments options.

## **RECOMMENDATION**

Staff recommends the City Commission take the following actions:

1. Approval after first reading Ordinance 2010-16 providing for an amendment to the Police Officers' Pension Plan for partial allocation of DROP investment options.
2. Approval after first reading Ordinance 2010-17 providing for an amendment to the Firefighters' Pension Plan for partial allocation of DROP investment options.

## **BACKGROUND**

Within the current Police Officers' and Firefighters' retirement plan, any member of the system who has satisfied the requirement for normal retirement may elect to withdraw from the retirement system while continuing to be an employee of the city for a period of up to five (5) years. During this period, the member and employer shall cease to make contributions to the fund and benefit accruals shall cease at the date of withdrawal from the system.

At the time of withdrawal, the member may elect any optional form of retirement income as allowed by the Plan. The amount of the monthly pension which would otherwise be paid shall be maintained as a co-mingled "DROP" account in the name of the member within the fund and shall be segregated from other trust assets on a bookkeeping basis only.

Under the current retirement system, participants in the DROP may elect investment options in either the Interest Election or the Earnings Election but are not allowed an allocation between the two investment options. For each DROP member there is a \$60 quarterly fee charged by the actuarial to calculation the member's quarterly drop account balance. This fee is paid as part of the administrative cost of the plan.

If approved, proposed Ordinance 2010-16 and Ordinance 2010-17 will allow partial allocation between the Interest Election and the Earnings Election investment options. This ordinance also provides that any additional costs arising for the election of partial allocation of the monthly benefit amount shall be paid by the DROP member.

Foster & Foster, actuarial consultants for the Police Officers' Pension Plan and Firefighters' Pension Plan, have provided impact statements which state that if the DROP member were required to pay the \$60 fee for each extra update, then the City would bear no additional administrative expenses associated with this proposed provision.

## **FISCAL IMPACT**

Ordinances 2010-16 and 2010-17 will result in no fiscal impact for either Pension Plan provided the DROP member is required to pay for any additional administrative fees for each extra update.

[End agenda memo]

Ms. VanBlargan read Ordinance 2010-16 by title only.

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE WALES, FLORIDA, AMENDING CHAPTER 16, ARTICLE IV OF THE LAKES WALES CODE, TO PROVIDE THAT PARTICIPANTS OF THE MUNICIPAL POLICE OFFICERS' PENSION PLAN MAY PARTIALLY ALLOCATE DROP BENEFIT PAYMENTS INTO EITHER OR BOTH OF THE STATED OPTONS; PROVIDING FOR CODIFICATION; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Ms. VanBlargan read Ordinance 2010-17 by title only.

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE WALES, FLORIDA, AMENDING CHAPTER 16, ARTICLE III OF THE LAKES WALES CODE, TO PROVIDE THAT PARTICIPANTS OF THE FIREFIGHTERS' PENSION TRUST FUND MAY PARTIALLY ALLOCATE DROP BENEFIT PAYMENTS INTO EITHER OR BOTH OF THE STATED OPTONS; PROVIDING FOR CODIFICATION; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Ms. Pendergrass reviewed Agenda Item 9.

Commissioner Rogers made a motion to approve after first reading Ordinance 2010-16 providing for an amendment to the Police Officers' Pension Plan for partial allocation of DROP investment options. The motion was seconded by Commissioner Thornhill.

By Roll Call Vote:

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

The motion carried 5-0.

Commissioner Rogers made a motion to approve after first reading Ordinance 2010-17. The motion was seconded by Commissioner Thornhill.

By Roll Call Vote:

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

The motion carried 5-0.

**Agenda Item 10. Ordinance 2010-24, Modifying Fees for the Northwest Complex (Frazier Field)**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Dorothy Pendergrass, Finance Director; and Katie Kinloch, Administrative Assistant]

**SYNOPSIS**

The Commission will consider establishing a fee to reimburse the public for cost of weekend and after-hour staff time, preparation and lining of the fields, and use of overhead lighting at Northwest Complex (Frazier Field) when rented outside of normal operating hours.

## **RECOMMENDATION**

It is recommended that the City Commission approve proposed Ordinance 2010-24 establishing fees for use of the Northwest Complex (Frazier Field).

## **BACKGROUND**

### **Weekend and After-Hours Staff Time:**

On December 19, 2006 the City Commission adopted Ordinance 2006-48 establishing rules and regulations for the use and rental of city parks and recreation facilities. On January 19, 2010, the City Commission adopted Ordinance 2010-01 that included a staff charge for employee presence at the Austin Center during rental functions.

Ordinance 2010-01 did not address the issue of reimbursement of staff costs incurred when the Northwest Complex is rented after hours and on weekends and city staff has to open and close the complex. Staff is also needed to turn on and turn off the overhead lights if the fields are rented at night. The City does not release a key to this complex to rental groups because of past experiences with vandalism, violation of rules and lack of control over use of the fields.

Currently the City is not charging for staff time to do this service, so the public is bearing this cost. Staff recommends charging a flat fee of \$15.50 per rental for staff time opening, closing and lighting activation after hours and weekend tournaments and softball games. This is the equivalent of 1 hour of overtime calculated as follows: the employee's current hourly rate multiplied by 1.5 (time-and one-half) plus the cost of the city's FICA and pension contribution.

### **Preparation and Lining of the Ball Fields:**

At its meeting on September 21, 2010 the City Commission gave final approval to the Little League contract which provides for maintenance of softball fields #1 and #2 at the Northwest Complex, also called Frazier Field. The contract does not include the preparation and lining of a field prior to its rental for tournaments or softball games because this task is not a part of field maintenance.

Staff is proposing a \$25.00 "Field Preparation and Lining Fee" for each ball field rented when preparation and lining are requested. This request would be made in writing on the City's rental agreement form. The fee, however, would not be charged to a group or organization that does not want the fields prepared or lined prior to its event.

The \$25.00 fee would be allocated as follows:

- Twenty dollars will be allocated towards the cost of hiring an outside service to prepare and line the ball fields. Mr. Jim Maggard, President of Lake Wales Little League has agreed to prepare and line a field when requested by the City for a cost of \$20.00 per field.
- Five dollars will be allocated to cover the city's administrative costs (review/processing monthly invoices, accounts payable processing, general ledger coding, etc.).

### **Use of Overhead Lighting:**



At various times throughout the year, groups and organizations who rent the Northwest Complex fields request the use of the overhead field lighting so that their event can continue after dark until the Complex closes at 10:00 p.m. Groups and organizations have been able to use the overhead lightning at no cost.

Prior to October of 2008 groups and organizations were allowed to use the overhead lighting with free access to be able to turn them on and off. This practice has been discontinued and a city staff member is the only one who has access to the controls for lighting at the complex. A request must be made in advance by a group or organization before use of lighting is approved and activated.

The electrical cost at the complex currently averages \$248.11 per month based on consumption since October 2009. The total annual cost has been reduced from \$6,355 in FY07'08 to \$5,573 in FY08'09 to \$2,977 in FY09'10. This reduction is due to the fact that, since May 2009, use of the overhead lights is not allowed without city staff on site to turn the lights on and off. To offset some of the electrical costs, staff is proposing a lighting fee of \$15.00 per rental for groups and organizations who request use of the overhead field lighting during their event.

#### **OTHER OPTIONS**

Do not approve Ordinance 2010-24. Groups and organizations renting the fields at the Northwest Complex will continue to use the overhead lighting without cost, there will be no reimbursement for city staff to open and close the complex after hours and on weekends, and the City will incur the cost of preparing and lining the ball fields.

#### **FISCAL IMPACT**

Fees will be charged to offset costs of city staff associated with opening and closing the complex after hours and on weekends, offset the cost of electricity for overhead lighting, and offset cost of preparing and lining the ball fields.

[End agenda memo]

Ms. VanBlargan read Ordinance 2010-24 by title only.

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING LAKE WALES CODE OF ORDINANCES CHAPTER 18, STREETS, SIDEWALKS AND OTHER PUBLIC PLACES BY PROVIDING FOR PAYMENT OF COST OF STAFF TIME FOR AFTER HOURS AND WEEKEND TOURNAMENTS AND SOFTBALL GAMES, PROVIDING FOR COSTS FOR PREPARING AND LINING OF BALL FIELD, AND PROVIDING FOR PAYMENT OF COST FOR USE OF OVERHEAD LIGHTING OF BALL FIELDS, AND PROVIDING FOR AN EFFECTIVE DATE.**

Ms. Pendergrass reviewed Agenda Item 24.

#### **CLOSED PUBLIC HEARING**

Commissioner Carter clarified that the fee for lining the field was \$25, of which \$20 would go to the Little League, and \$5 would be for administrative cost. Ms. Pendergrass confirmed.

Commissioner Thornhill, regarding a survey distributed to the Commission before the meeting, commented that the City was being very generous in its fees as compared to the surrounding cities. He said he thought that was a good thing.

Commissioner Howell said this was another reason the City needs a Recreation Director. People wouldn't have to pay these fees because lining the field would be the Director's job and we could have an employee there all the time.

Mayor Van Sickle said he thought the fees were very reasonable. Some of the other cities that have a Recreation Director still charge for the service so we were being very generous.

Commissioner Carter made a motion to approve Ordinance 2010-24 after first reading. The motion was seconded by Commissioner Rogers.

By Voice Vote:

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

The motion carried 5-0.

**Agenda Item 11. Ordinance 2010-25, Police Officers' Pension Plan Amendment – 1<sup>st</sup> Reading; Ordinance 2010-26, Firefighter's Pension Plan Amendment – 1<sup>st</sup> Reading**

The full staff memo is incorporated into the minutes.

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

**SNYOPSIS**

The City Commission will consider proposed amendments to the Police Officers' Pension Plan and the Firefighters' Pension Plan for purposes of compliance as a "qualified plan" under IRS Code Section 401(a).

**RECOMMENDATION**

Staff recommends the City Commission take the following actions:

1. Approve after first reading Ordinance 2010-25 providing for amendments to the Police Officers' Pension Plan.
2. Approve after first reading Ordinance 2010-26 providing for amendments to the Firefighters' Pension Plan.

**BACKGROUND**

On August 12, 2010, the Police Officers' Pension Plan and the Firefighters' Pension Plan each received a letter from their attorney, the Law Offices of Sugerman & Susskind. The pension attorney recommended that the boards of trustees apply for a Favorable Determination Letter during Cycle E for their respective Plans.

A Favorable Determination Letter is a letter from the IRS stating that the provisions of the plan, as set forth in the plan document, satisfy the requirements of Section 401(a) of the Internal Revenue Code. A plan that satisfies the requirements of Section 401(a) is deemed to be a "qualified plan," and is entitled to favorable tax treatment. Specifically, the employees are not taxed on the value of contributions paid on their behalf until they begin to receive benefits under the plan; and the income of the fund, including investment earnings, is not subject to taxation.

Cycle E runs from February 1, 2010 to January 31, 2011. Although a plan may apply for a Favorable Determination Letter outside of its designated five-year cycle, Sugerman & Susskind advised the board of trustees to file its application in accordance with the designated cycle for the plan. The IRS has indicated that plans that file during the cycle will be treated leniently. Also, with respect to the current application period, its ending date, January 31, 2011, is also the deadline for governmental plans to make any remedial plan amendments required by the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). Generally, therefore, in the case of an application submitted prior to that date, if the IRS determined that certain amendments were required in order to bring the plan into compliance with EGTRRA, the trustees would be permitted to make the necessary amendments without any penalties being levied against the plan. In the case of an application submitted after January 31, 2011, penalties may apply to each provision, or lack thereof, of the Plan that does not comply with the requirements of EGTRRA.

The preparation of an application for a favorable Determination Letter is a multi-step process. Ordinance 2010-25 and 2010-26 amendments are the first step. If approved, the Finance Department shall complete the second step by preparing all necessary IRS forms required for an Application For Determination for Employee Benefit Plan (Form 5300) and any additional related forms. The Finance Department expects to be able to complete the filing process during November of 2010.

#### **FISCAL IMPACT**

Foster & Foster, actuarial consultants for the Police Officers' Pension Plan and the Firefighters' Pension Plan, have reviewed the proposed Ordinances amending the Plans to incorporate recent changes in Internal Revenue Code and Chapter 2009-97, Laws of Florida. They have determined that adoption of these ordinances will have no impact on the assumptions used in determining the funding requirement of the program.

[End agenda memo]

Ms. VanBlargan read Ordinance 2010-25.

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE WALES, FLORIDA, AMENDING CHAPTER 16, ARTICLE IV OF THE LAKE WALES CODE, TO PROVIDE THAT THE TRUSTEES OF THE MUNICIPAL POLICE OFFICERS' PENSION PLAN AND TRUST BE IN COMPLIANCE WITH STATE AND FEDERAL LAWS AND REGULATIONS AND SECTION 401(a) OF THE INTERNAL REVENUE CODE; PROVIDING FOR CODIFICATION; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Ms. VanBlargan read Ordinance 2010-26.

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE WALES, FLORIDA, AMENDING CHAPTER 16, ARTICLE III OF THE LAKE WALES CODE, TO PROVIDE THAT THE TRUSTEES OF THE FIREFIGHTERS' PENSION PLAN AND TRUST BE IN COMPLIANCE WITH STATE AND FEDERAL LAWS AND REGULATIONS AND SECTION 401(a) OF THE INTERNAL REVENUE CODE; PROVIDING FOR CODIFICATION; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Ms. Pendergrass reviewed Agenda Item 11.

#### **CLOSED PUBLIC HEARING**

There were no comments made by the public.

Commissioner Rogers made a motion to approve after first reading Ordinance 2010-25. The motion was seconded by Commissioner Thornhill.

By Roll Call Vote:

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

The motion carried 5-0.

Commissioner Thornhill made a motion to approve after first reading Ordinance 2010-26. The motion was seconded by Commissioner Rogers.

By 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 12. Resolution 2010-19, Declaration of Official Intent regarding SRF Funding of Wastewater System Projects**

The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

The Commission will consider approval of Resolution 2010-19 authorizing the Declaration of Official Intent in anticipation of Florida Department of Environmental Protection State Revolving Loan Program (SRF) funding.

**STAFF RECOMMENDATION**

It is recommends that the City Commission:

1. Approves Resolution 2010-19, authorizing Declaration of Official Intent under U.S. Treasury Regulations with respect to reimbursement from note and bond proceeds of temporary advances made for payment prior to issuance, and related matter.
2. Authorize the City Manager to sign the Declaration of Official Intent.

**BACKGROUND**

On August 10, 2009, the City's construction projects entitled "City of Lake Wales 2009 Wastewater Treatment Facility Improvements" and "City of Lake Wales Crooked Lake Park Lift Station & Force Main" were accepted by Florida Department of Environment Protection (FDEP) for future funding through the State Revolving Loan Program (SRF).

In anticipation of a bond issuance by FDEP providing additional revenues under the SRF program, FDEP requires the attached resolution and Declaration of Official Intent forms to be executed. These forms are necessary to comply with United State Treasury Regulations for funding infrastructure projects with tax exempt bonds. These documents are to be returned no later than 60 days following expenditures so as not to jeopardize funding.

[End agenda memo]

Ms. VanBlargan read Resolution 2010-19 by title only.

**AUTHORIZING DECLARATIONS OF OFFICIAL INTENT UNDER U.S. TREASURY REGULATIONS WITH RESPECT TO REIMBURSEMENTS FROM NOTE AND BOND PROCEEDS OF TEMPORARY ADVANCES MADE FOR PAYMENTS PRIOR TO ISSUANCE, AND RELATED MATTERS.**

Ms. Pendergrass reviewed Agenda Item 12.

**CLOSED PUBLIC HEARING**

Commissioner Carter asked for confirmation that there was no fiscal impact to the City and Ms. Pendergrass confirmed.

Mayor Van Sickle asked for confirmation that there was enough money in the debt service to pay for it, and Ms. Pendergrass confirmed. Mayor Van Sickle added that over the next six years the City would have to monitor its spending.

Commissioner Thornhill made a motion to approve Resolution 2010-19. The motion was seconded by Commissioner Rogers.

By 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 13. Resolution 2010-22 and related actions necessary for Authorization and Acceptance of SRF Construction funding for Project No. WW53030**

The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

The Commission will consider approval of Resolution 2010-22 and other authorizations needed for acceptance of SRF construction funding for the WWTP rehab, modification and Crooked Lake Park lift station and force main (Project No. WW53030).

**RECOMMENDATION**

It is recommended that City Commission take the following actions:

1. Approve Resolution 2010-22;
2. Authorize the submittal of an SRF loan application for Project No. WW53030;
3. Authorize the City Manager to execute the loan application documents, on the City's behalf;  
and
4. Authorize the Mayor to execute the appropriate loan documents, on the City's behalf.

**BACKGROUND**

On September 22, 2010, Florida Department of Environmental Protection (DEP) provided a letter to the City stating that \$3,937,000 in construction funding is now available for the City's Treatment and Transmission Facilities Project No. WW53030 as a result of the September 15, 2010 public hearing held by the Department. A completed loan application is due by 01/13/2011. Also, the City's loan agreement must be fully executed (signed by all parties) by 4/13/2011. The City's project will be subject to removal from the priority list for failure to meet these deadlines.

**FISCAL IMPACT**

WWTP Rehab., Modification and Crooked Lake Park Lift Station and Force Main - Construction Costs

Description	Construction Costs	10% Contingency	Technical Services	Total
WWTP Rehab.	\$ 2,315,000	\$ 231,500	\$ 32,644	\$ 2,579,144
WWTP Modification	1,490,000	149,000	21,011	1,660,011
Crooked Lake Park Lift Station & Force Main	450,000	45,000	6,345	501,345
<b>Total</b>	<b>\$ 4,255,000</b>	<b>\$ 425,500</b>	<b>\$ 60,000</b>	<b>\$ 4,740,500</b>

The City currently does not have sufficient utility reserves for pay-as-you-go capital relating to the estimated \$4,740,500 WWTP rehab, modification and Crooked Lake Park construction project.

If the City received SRF funding in the amount of \$3,397,000 at 2.1% interest, with semi-annual debt service payments over 20 years, the interest expense over the life of the debt would be \$904,815. The annual debt service payment would be \$242,090. The use of SRF funding compared to current market funding is projected to provide a \$789,525 savings in interest expense based upon the lower interest rate offered through SRF.

If the City received current market funding of \$3,937,000 at 3.75% interest, with semi-annual debt service payments over 20 years, the interest expense over the life of the debt would be \$1,694,340. The annual debt service payment would be \$281,568.

[End agenda memo]

Ms. VanBlargan read Resolution 2010-22 by title only.

**A RESOLUTION OF THE CITY OF LAKE WALES, FLORIDA, RELATING TO THE STATE REVOLVING FUND LOAN PROGRAM; MAKING FINDINGS; AUTHORIZING THE LOAN APPLICATION; AUTHORIZING THE LOAN AGREEMENT; ESTABLISHING PLEDGED REVENUES; DESIGNATING AUTHORIZED REPRESENTATIVES; PROVIDING ASSURANCE; PROVIDING FOR CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.**

Ms. Pendergrass reviewed Agenda Item 13.

Commissioner Thornhill asked for confirmation that this was not the C Street sewer project and Ms. Pendergrass confirmed.

Commissioner Thornhill made a motion to approve Resolution 2010-22. The motion was seconded by Commissioner Howell.

By Roll Call 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. Request of Water's Edge of Lake Wales for Signage in City Right-of-Way**

Agenda Item 14 was pulled from the Agenda.

**CITY MANAGER'S REPORT**

**CITY COMMISSION TRACKING REPORT**

Ms. Delmar said there were no changes to the tracking report.

Ms. Delmar, referring to the tree article in the Lake Wales News, said the decision had been made early last week that the tree would not be removed because it is in the Historic District and because it is not the City's policy to take down healthy trees. The tree might be trimmed if necessary to keep it safe and healthy but as long as she was City Manager, there would be no plan to take down the tree. She added that staff has been exploring the possibility of making it into a neighborhood park as the tree sits on a City alleyway and is therefore on public property. This item might be brought to the City Commission at a later date.

Economic Development Director Harold Gallup said the department had been working for a long time with realtor Bob Kelly representing the Sealy building on creating an energy park. He said there were three other Fortune 500 companies involved and over the next three to three-and-a-half years about \$120 million worth of capital investment will be made in the field of alternative energy on the SR 60 west corridor. His best calculation is that it will bring in 40-70 jobs with the collateral draw reaching as high as 100. This industrial attraction will be the anchor as one of the key sectors under the SRI study by the Florida Economic Development Council, Inc. He said staff will be making a presentation to the Commission in the near future as progress is being made. Commissioner Howell asked for the location and Mr. Gallup said it was the EB Malone Corporation or known as the old Sealy building on SR 60 west. A significant amount of development will be seen over the next decade and a half along that corridor. Commissioner Carter asked if it was just west of the airport and south of SR 60 and that was confirmed.

**COMMUNICATIONS AND PETITIONS**

City Attorney Chuck Galloway said Pastor Cleare and Pastor Roberts requested time to speak in regards to Burney Hayes. Mr. Hayes elected to appeal his termination of employment directly to the City Manager. Mr. Galloway explained that the City Manager will serve as the sole hearing officer for the appeal so in order to preserve the integrity of the hearing process she must be excused from the communications and petitions portion of the meeting, particularly on the subject of Mr. Hayes. The appeal process does not include public input and there is no provision in the City's code for public input concerning personnel matters. This is why the City Manager has been excluded from this petition process.

Mayor Van Sickle paraphrased from Section 3.07 of the City Charter where it states that the City Commission does not have any authority to be involved in the hiring and firing of personnel except for the City Clerk, City Attorney, and City Manager and so should not discuss it. The Commission can however discuss personnel matters with the City Manager. During the communications and petitions portion of the meeting, the Commission would be allowed to get citizen input but there would be no discussion.

Mayor Van Sickle read the Pledge of Civility, the standard of behavior at public meetings. He said that hopefully concerns and comments could be heard without it becoming adversarial, even though everyone may not agree.

The following residents spoke in opposition to the firing of Sergeant Burney Hayes:

- Reverend James Cleare, 310 C Street, Pastor of Allen Temple AME Church, and representing the NAACP and Lake Wales Ministerial Alliance
- Pastor Ralph Roberts, 2240 Lilly Street and President of the Lake Wales Ministerial Alliance
- Pastor J.J. Pearce, pastor of First Institution Missionary Baptist Church, 205 Lincoln Avenue
- Pastor Rosco Williams, 2400 Lydia Street, Pastor of Greater St. Thomas Holiness Church, representing the Lake Wales Ministerial Alliance asked for a date and time when they can review the records of all police officers, including the Police Chief, for the last ten years
- Don Brown, Kissimmee, representing the NAACP as third Vice President of the Florida State Conference and owner of Lake Wales' property.
- Dexter Smith, resident of Lake Wales

It was expressed that Burney Hayes was treated unfairly and unequally as some officers are allowed more latitude than others for the same offences and his firing hinders the City to move forward in race relations. Burney Hayes is a top-ranking, veteran officer who has done a lot of good for the department and community and is a hero to many children in the City, both black and white. A public record's request was made for the personnel records for the past 10 years of Lake Wales Police Department employees.

Wes Rogers, 500 East Bullard Avenue, read a letter he had written to the Lake Wales News that had not been printed as it was written, concerning his views on Main Street.

Cassandra Richards, 2356 Friedlander, expressed concerns in favor of not cutting down the tree in the alley. She asked to see the plat showing that the tree is on City property because she understood it to be on private property. She said she was not in favor of putting a park there. The Mayor said the plat could be seen in the Planning & Development Department. He said that staff thought that because people were using the tree location as a park it should be identified as one and thought they would like tables and benches there on which to play cards.

Noel Phetteplace, 436 E. Central Avenue commented on the handicap walkway that the City put in about 10 or 15 feet west of the triangle on Central Avenue instead of putting it on Lake Shore Blvd. where visibility was good. He said it was an accident waiting to happen because the landscaping at the house on the corner of Lake Shore Blvd. and Central Avenue blocked the view of cars turning west onto Central Avenue. The City's solution to the problem had been to make the owner cut down the very expensive bushes and put several signs up. He said none of that would be needed if they placed the walkway where it should go, on the corner of Lake Shore Blvd. and Central Avenue. He said that would make it safer for pedestrians and handicap persons.

#### **CITY COMMISSION COMMENT**

Commissioner Rogers asked the Commissioners to be especially careful about statements they make to the press or for the public before speaking. He said he sometimes is guilty himself and that they all should be mindful to get the facts straight before speaking and not try to cause trouble when no trouble exists.



Commissioner Carter addressed the following:

- He asked what steps such as beautification projects, new signage downtown or sprucing up overgrown lots were planned over the next year in preparation of the coming of Lego Land with the annual two million people that are expected to visit. He said some of the other cities are making efforts to do so and he would like to see our city do likewise. Mayor Van Sickle said it takes dollars to do that and Commissioner Carter said it did not take much to clean up. He said he realized the City did not have a lot of money but it seemed to him that we should be able to do something.
- Commissioner Carter listed some items he would like to have status reports on including the sub-station on Lincoln Avenue, Habitat for Humanity, the preservation of Spook Hill, the energy audit, and gym repairs.

Mayor Van Sickle explained the process for filing a complaint against a police officer, where to obtain the complaint forms, and the estimated time it could take for the person filing the complaint to get an answer. He said public record requests regarding personnel matters are made in the Human Resources Department.

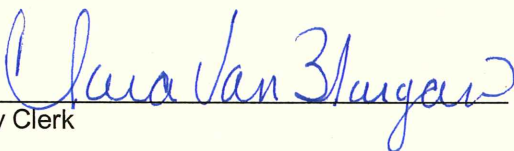
Commissioner Howell questioned the length of time it took for someone to get an answer on a complaint filed at the Police Department. Captain Quinn explained that the amount of time depends on the type of complaint and if any records would have to be obtained from Bartow. Commissioner Howell asked if thirty to sixty days would be adequate for major complaints and Captain Quinn said the major investigations usually take no more the thirty to forty-five days but then the discipline process begins, which could be lengthy.

Mayor Van Sickle said he read what was in the newspaper about the sidewalk issue but because he did not know what the real story was, he asked Public Works Director Tom Moran to put together some information on the issue for the Commissioners. He said he heard or read that there were reasons why the cuts were made where they are and he wanted all the Commissioners to have access to that information.

There being no further business, the meeting was adjourned.

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

ATTEST:

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