

A workshop meeting of the City Commission was held on December 14, 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.

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

COMMISSIONERS ABSENT: None.

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

Agenda Item 1. Roll Call

Agenda Item 2. Provision of Utility Services Outside City

Handout prepared by Planning & Development Director Margaret Swanson.

[Begin Handout]

An inquiry from John Wood regarding the provision of water and sewer utilities to Tower Wood Mobile Home Park (330 units) on US Hwy. 27 N. prompts a discussion of policies on utility services. The fiscal impact and practical considerations must be weighed by both sides to determine the best option.

Options are:

- Decline service as not advantageous to city (upgrade and expansion of Tower Wood's sewer and water plants would be required to meet future needs.)
- Provide service upon annexation – with or without taking over collection/distribution pipes
- Provide service without annexation (requires Code amendment) – with or without taking over collection/distribution pipes

Issues:

Annexation - The property is contiguous to the city limits, therefore could be annexed upon the request of John Wood, the owner. The consent of the mobile home owners is not required by state statute.

Currently, City Code (sec. 21-2 and 21-3) allows provision of services outside of the city only if the property is in the Chapter 180 area (SR 60 west of US 27) or if the state has requested that municipal services be provided to eliminate an environmental quality issue. Limitations on serving land outside of the city were put in place to protect capacity for development by city property owners/tax payers and to avoid leap-frog development scattered around the city's perimeter. (Note: there are an estimated 6,600 acres of undeveloped land within the city.) To provide service to the development without annexation, an amendment to Code is required.

Existing system at Tower Wood – Water and sewer plants, distribution and collection systems

Proposed is the closure of the sewer and water plants and installation of a 6-inch master water meter. The cost of connecting the park to the city's system would be the responsibility of the owner.

Mr. Wood has stated that he prefers that the city takes over the internal collection and distribution systems. The systems are approximately 25 years old. If problems with the systems developed, such as infiltration of storm water to the sewer pipes, the city would be responsible if city accepts systems.

Fiscal impact – Preliminary figures for discussion

<u>With Annexation</u>	<u>Without Annexation</u>
2010-705	

Utility Impact Fees – 6" meter	\$ 933,945 (\$2,830/unit)	Same
Est. annual utility bill	168,542 (\$43/mo./unit)	\$ 205,538 (\$52/mo.unit)
RE Taxes – to City (2010 - \$96,646 total)	44,652 (@7.3277 mils)	0
Fire fee (from County)	0	11,225

[End memo agenda]

Ms. Delmar reviewed Agenda Item 2 and then summed up by saying that the City would generate more revenue if it did not annex Tower Wood Mobile Home Park because the City would have to provide fire and police services, and costing the City about \$14,000 net to annex. The problem with the current code is that it does not provide for providing water and sewer service without annexation so it would require a code amendment if the Commission chooses to do that.

Ms. Delmar said the reason for the workshop was to talk about the issues and get a feel from the Commission as to which way they would like to go; decline service, provide services upon annexation, or provide services without annexation; and whether to go with a master meter versus individual hookups. She said that this was the first instance where a request was made from a pre-existing development versus a new development. Commissioner Howell asked if we sold Country Oaks water and Ms. Delmar said we do but they pay the 125% surcharge for being outside the City. She listed other areas outside the City that did the same thing.

City Attorney Chuck Galloway said by Statute the owner can annex without the residents' approval. He did not know whether or not there has been a case law interpretation change, so he would have to research the question. In the present statute language, the answer would be yes, but residents who lease there may not be pleased with the annexation if it has a negative impact on them. It would be up to the Commissioners as to what they want to do.

Commissioner Rogers read a list of the nine questions below for the record and said that answers to them might help the Commissioners make reasonable decisions.

1. Do we have any information on the current design capacity of the water plant and its current average daily flow?
2. Are there any pending permit issues with this plant and system?
3. Are there any current fines from DEP for violations?
4. Do we have any information as to the current condition of the plant and the distribution system?
5. Are there any maintenance problems that have to be corrected right now?
6. Are there existing drawings for the plant and system and have they been updated as modifications were made?
7. If the City were to agree to take over the water distribution system and allow for a master meter to provide water service, how will this additional water user affect the current Lake Wales water system? Will this require a new permit from DEP and SWFWMD?
8. What has been the annual cost to maintain this water system for John Wood?
9. If the City were to take over the responsibility of this water system will this require the City to hire additional staff?

Sewer

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Utility Projects Administrator Sarah Kirkland said that a request had been made to Mr. Woods for answers to questions 1-6 for both water and sewer but they have not received answers for questions 2-6. They found out what the average daily flow was for question #1 but did not receive the current design capacity.

John Wood, owner of Tower Wood Mobile Home Park, made the following comments:

- Addressing Commissioner Rogers' questions, he said that they were not far enough along in the process to provide the information because there were some policy considerations that needed clarification from the Commission before knowing if it would be worthwhile to proceed, but that he would address all of the issues with staff when they know the transaction could transpire.
- He said he met with the residents to inform them of the possibility of hooking up to the City's system, though he had not taken a formal vote and would not go forward with the project without the consent of the majority of residents. It would take some education in explaining the long-range benefits of the transaction to the residents
- There have been no problems with the system over the 25 years they have had it but they will need a new storage tank at the water plant if they continue using it. Before making the investment to upgrade the plant, they decided to look into the possibility of obtaining service from the City of Lake Wales because it is convenient, within close proximity, and because being part of a major system would be a positive benefit to himself and to the residents of Tower Wood.
- He said the proposed impact fee is close to a million dollars, which is what a new development would pay, but new developments get total services. He thought that Tower Woods should also get total services if they pay the same impact fees.
- He said he understood the City's concern with the age of the system but with due diligence and a warranty from the developer to cover a reasonable amount of time, the financial interests of the City could be adequately protected.

Ms. Delmar asked if he thought the option not to annex would most meet their needs and Mr. Wood said that was the sense he had gotten from his residents and he believed it would have a better chance of being accepted if they did not have to be annexed. Ms. Delmar asked, if the City amended the ordinance to accept service outside the city, if the city would be responsible for the maintenance of the structure and Mr. Wood said it would depend on what the impact fee would be. He said if the impact fee is the same as for a brand new development, the City should provide service right up to the meter, taking care of things like maintaining the lift stations and repairing breaks in the line.

Chuck Galloway asked if the tenants were individually metered and Mr. Wood said they were though now their water usage is part of their rent. Ms. Delmar asked if their well would be closed and Mr. Wood said he would suspect so. Ms. Delmar asked how much was permitted and he said about 90,000 gallons a day but he thought that their consumption permit could be transferred to the City. Ms. Delmar said that would off-set some of the impact fees. Ms. Kirkland said the City's capacity was 17-18 million gallons and Mr. Wood asked if the City would have the capacity to take them on. Ms. Delmar said it would help if they were allowed to take on their capacity.

Finance Director Dorothy Pendergrass commented that if annexed into the City, Tower Woods would be getting service from Florida Refuse and she did not know how the heavy trucks would impact those

roads. Mr. Wood said the roads were private and their current service from Waste Management had not impacted their roads. He said that if they are able to get service without having to annex, there would not be any City expense for garbage pick-up as Tower Woods would keep their current service.

Commissioner Carter asked if the residents would be expected to pay the impact fee and Mr. Woods said the impact fees would be structured so to be part of their rent and that he had talked with staff about providing financing for that.

Ms. Delmar said the question was if the Commission wanted to go down the annexation route and prepare for that, not do annexation and deal with the property as being an outside City customer, or decline service.

Mayor Van Sickle said one thing they had not addressed was switching the meters to those read by computers, which would be additional cost. He said that because the city limits nearly wrap around Tower Woods, his preference would be to annex them into the City even if the City loses a little revenue in the process. He asked for opinions from the other Commissioners.

Commissioners Carter, Rogers, Thornhill, and Howell said they needed more information before making a decision.

Commissioner Carter commented that the system was already 25 years old, which was half the serviceable life for the system, so if the City annexed Tower Woods, Commissioners would have to make sure they put money in reserve each month to cover the replacement cost. Mr. Wood said, like any utility system, things have been replaced like valves, and maintenance has been kept up, so the entire system was not 25 years old.

Commissioner Thornhill said he was leaning towards annexation because if they have to pay the impact fees they should receive full service. He asked about the cost of providing police service and Ms. Delmar said Chief Gillis said they would not need additional staff.

Commissioner Howell said she would be in favor of annexation only if the residents want it. Ms. Delmar said that residents would be affected with such things as property taxes and communication services tax. She said that when Tower Lake annexed, they provided a petition signed by the majority of residents who agreed with the annexation. That way the City knew the residents were behind it. She said we might want to do that also with Tower Woods. Commissioner Rogers said they would not want to take over the system by force so we would have to sell them on the idea. Ms. Delmar said a panel from the City's various departments had met with the residents at Tower Lakes before they came on line, but not to promote the annexation. Questions were answered and it was their decision. Commissioner Rogers said he wanted to know all the cost the City would incur.

Ms. Delmar said that if the Commission is interested in annexation, then the next step would be for Mr. Woods to petition the community. She would think that provisions without annexation would be their fall-back. Mr. Woods said that before they embark on a due diligence mission, which takes a long time, they will get the requested information for the Commission.

Ms. Delmar said if they find that 51% of the residents were not in favor of annexation, and if the Commission has to pass the ordinance to allow them to hook up without annexation, all the information would be provided along with the costs before the Commission has to make the final decision.

Agenda Item 3. Code Enforcement Ordinance

Agenda Item 3 prepared by Police Chief Herb Gillis

[Begin agenda memo]

SYNOPSIS

Amends Chapter 12, Health, Sanitation and Nuisances in its entirety to improve the code compliance process

A discussion of revisions to the Code Enforcement section of the City Code is tentatively scheduled for the December 14th City Commission workshop. A copy of the proposed revised ordinance is forwarded for your review at this time.

BACKGROUND

In September 2009, a review of the code enforcement process determined a lack of productivity efficiency created a system that was ineffective. In an effort to improve the process, the Lake Wales Police Department has worked to improve and enhance the organizational components, policies and procedures related to code enforcement. This required a paradigm shift from reactive to proactive enforcement.

In September 2009, a Code Enforcement Task-Force, comprised of the City Attorney, Chief of Police and current and former code compliance officers, was created to evaluate the following code enforcement areas:

1. Code Enforcement Board or special master or combination of both
2. Chapter 12, Health, Sanitation and Nuisances, City of Lake Wales Code of Ordinances
3. Criminal code violations
4. Foreclosure of properties
5. Notice periods
6. Documents, forms and reports

In April 2010, the Police Department engaged to community to identify code enforcement concerns.

In April 2010, the Lake Wales Police was reengineered and the code enforcement function was consolidated within the Community-Oriented Policing Section. Sergeant Timothy Harrell was selected to manage the transition.

In June 2010, with the approval of the City Attorney, the code enforcement documents, forms and reports were standardized and reduced to improve efficiency.

In July 2010, an electronic records management system was purchased for the Community Oriented Policing Section. Using the iWorQ intranet-based software, productivity efficiency was significantly improved by providing code compliance and law enforcement officer the capability of initiating, monitoring and updating cases from the field.

Chapter 12, Health, Sanitation and Nuisances, was revised in its entirety to improve the policies and procedures related to code enforcement. Currently, Chapter 12 is a collection of ordinances adopted in a period of 1962 to 2000. In addition, some areas of Chapter 12 are exact reproductions of the Florida Statutes and are redundant. Accordingly, a draft is being presented to the City Commission, City Manager and City Attorney for review. I respectfully request you provide comment regarding the proposed code. For your convenience, I have included the current Chapter 12 for comparison purposes. As always, I encourage you to contact me with any questions.

A summary of the proposed changes:

FORMAT

Currently, Chapter 12 is organized as follows:

Article I. In General
Article II. Nuisances
Article III. Code Enforcement

As recommended, Chapter 12 would be reorganized as follows:

Article I. In General
Article II. Nuisances
Article III. Enforcement Procedures

In addition, the various Divisions contained the respective Articles have been reorganized. Most significantly, Article II. Nuisances are currently organized as follows:

Division 1. – Generally
Division 2. – Debris, Weeds, Wild Growth and Unsanitary Conditions
Division 3. – Noise Control
Division 4. – Abandoned, Wrecked, Junked Property
Division 5. – Litter

As recommended, Article II. Nuisances would be organized as follows:

Division 1. – Abandoned, Crashed and Inoperable Trailers, Vessels and Vehicles
Division 2. – Rental Housing
Division 3. – Litter
Division 4. – Noise Disturbances
Division 5. – Unclean, Unhealthy and Unsanitary Conditions
Division 6. – Unattended Collection Boxes

ARTICLE 1. IN GENERAL

Currently, this section contains no content. As submitted, this section would contain the legislative intent of the City Commission and defines terms used in the chapter.

ARTICLE II. NUISANCES, DIVISION 1. – ABANDONED, CRASHED AND INOPERABLE TRAILERS, VESSELS AND VEHICLES

Currently this section provides an abandoned, crashed or inoperable trailer, vessel or vehicle may be impounded within 72 hours after notice by the City Manager. As submitted, this section would authorize the impoundment of an abandoned, crashed or inoperable trailer, vessel or vehicle within 7 days. In addition, the revised code removes an appeals process related to the impoundment of trailers, vessels and vehicles.

[End agenda memo]

Police Chief Herb Gillis was available for questioning.

Commissioner Carter asked the following questions:

1. Commissioner Carter asked for a copy of the original document for comparison purposes and Chief Gillis said he would provide each Commissioner with a copy.
2. Division 4. Noise Ordinance

- **Section 12-152- Noise Disturbance Defined:** Commissioner Carter asked for a definition of "unreasonable" noise and asked if there was a set decibel level that would be unreasonable. Chief Gillis explained there was no set decibel level and there was no absolute definition but that there was a definition of sorts in Section 12-152. He read that section aloud and gave examples. He said that basically, if there is a complaint, then the noise level must be interfering with the comfortable enjoyment of life.

Commissioner Thornhill gave examples of train noise and noise produced by children at a park or ball field being reasonable because they would be expected at those locations. He said it would be unreasonable for a neighbor to have a rock band blaring all hours of the night.

- **Section 12-153 Noise Disturbance Prohibited:** Commissioner Carter asked for an explanation of the word "continuation" of a noise and Chief Gillis said that after a warning, if the noise continues, enforcement action would be taken, not to the individual who was making the noise but the property owner who allowed the continuation so is responsible for what goes on because it is his property.
- **Section 12-155 Exemptions (14) Organized Athletic Events:** Commissioner Carter said he expected noise at organized events from the ball fields but the problem they have is with the triple-x rap music played during practice sessions on Friday nights that rattle his windows. He said he would like the ordinance expanded to include this type of incident. Ms. Delmar said it could be written to exclude practice sessions.
- **(17) Refuse Collection:** Commissioner Carter said something needed to be done to keep garbage from being collected at 5 a.m. and Chief Gillis said that there was a timeframe in the contract for that. Ms. Delmar said we could add that garbage had to be picked up between 7 a.m. and 9 p.m.

3. **Division 5 - Unclean, Unhealthy and Unsanitary Conditions, Section 12-202**

- Commissioner Carter reported that property between the railroad tracks and the CSX building and some city owned properties on Scenic Highway needed work and asked what could be done. Chief Gillis said Ms. Delmar's top priority was to take care of the city's property and so he would address both issues.

Commissioner Thornhill asked the following questions:

1. **Division 2 – Rental Housing, Section 12-50 – Standard Housing Code Adopted:** Commissioner Thornhill asked how this would be adopted and Chief Gillis said they would create a data base like a big contact list for properties where they gather contact information for rental housing at no cost to the landlord. Included would be a contact number for local caretakers if the owners live outside the city or state, so if there is a complaint or a violation it can be addressed more rapidly. He said if approved by the Commission, they would work with the local press to let the public know. Ms. Delmar asked how they would get compliance because it did not cover rentals of single family homes and duplexes. She said there is a requirement for rentals with more than two units to pay business taxes and the City has a hard time enforcing that. Chief Gillis said they would put public information out through the newspapers, and because most of the violations are with rental housing, when they have a violation, Code Enforcement will have them register at that time. It will be something we build upon over time. Ms. Delmar said it would be basically an honor system. Commissioner Thornhill asked if it would cover landlords who turn a rental into a boarding house and Chief Gillis said that was something that has happened in the past and it is a violation.
2. **Division 1 – Abandoned, Crashed and Inoperable Trailers, Vessels and Vehicles: Section 12-17:** Commissioner Thornhill said this covers vehicles parked on the street but asked what if it was abandoned or inoperable but in their driveway. Chief Gillis said it pertains to anything in the

city limits whether on the street, in the yard, or on the driveway. Ms. Delmar said it could be amended to add driveway. **Section 12-19** Chief Gillis said that any such vehicle would be subject to impound after seven days. The current code calls for 72 hours but it would be extended to 7 days to give more time to find a solution to the storage problem.

3. **Division 4 – Noise Disturbances: Section 12-154:** Commissioner Thornhill said that the list of specific prohibitions needed to include DVD players and MP3 players. Chief Gillis said it could be added.

Commissioner Howell asked the following questions:

1. **Division 1 – Abandoned, Crashed and inoperable Trailers, Vessels and Vehicles: Section 12-19:** Commissioner Howell gave some examples of extenuating circumstances such as a person being in the hospital and asked if these type things would be taken in account. Officer Tim Harrell from Code Enforcement said they would put a green sticker on their window in plain view; they would ask the neighbors for information, and then if there were extenuating circumstances, give them as much time as they need because their basic goal is compliance. He said they would have to be sure of those circumstances because there are those who try to use something like that as an excuse. Ms. Delmar asked if something could be put in the ordinance to give them authority to take into account extenuating circumstances.
2. **Division 4 – Noise Disturbances: Section 12-155 Exemptions (3) Authorized Target Shooting:** Commissioner Howell asked if this was shooting in ones yard and Chief Gillis said this would be at a shooting range, and though there presently are none operating in Lake Wales, there could be in the future.
3. **Division 2 – Rental Housing, Section 12-50 – Standard Housing Code Adopted:** Commissioner Howell asked how they would keep up with changes to the data base if a rental caretaker no longer has that job for whatever reason. She thought the owner should be required to hire another caretaker immediately to make sure the rental houses are being maintained. Chief Gillis said they could not make a landlord hire a caretaker but they could probably put in a provision that anytime the contact information changes they are required to update the Police Department.
4. **Division 6 – Unattended Collection Boxes** Commissioner Howell asked what an outdoor collection box was and Chief Gillis said they were donation boxes where people place clothing etc. for charity. He said the problem has been that, especially around the County, there are some collection boxes that are posted for a charity but when they have been checked out, they found they were really collecting to sell for profit. He said there were boxes around like for the Red Cross but those boxes are locked, maintained, and emptied often so bags and boxes are not piled up around a full to overflowing collection box.

COMMISSION COMMENTS

Commissioner Rogers complemented the way Finance Director Dorothy Pendergrass handled the City's recent financial problem and said he heard that she went to the bank and stayed there until she got some results.

Commissioner Howell referred to statements Commissioner Carter made at previous meetings concerning the high cost of contracting for engineering services and asked if it would save the City money to hire the engineers and have the work done in-house. Ms. Delmar said we would have to add a good deal of highly trained staff. She said that staff is doing the work it can but that the projects are large and we wouldn't be able to just hire one engineer. Commissioner Thornhill said that Tom Moran is qualified to handle things like planning and development but he is not a wastewater engineer. He said that most engineers have a specialty now. He said he has been working on a breakdown of engineering services

and would give it to the City Manager to hand out. Mayor Van Sickle said that for one project contract you may be hiring the expertise of 12 different people. If we hired 12 people qualified to handle the different types of job, there might not be enough work to keep any of them busy full time. Commissioner Thornhill said the larger issue was liability and he gave some examples. Hiring out for contracted services puts the liability on them if something goes wrong whereas, if we did it in-house it would be the City's liability. Utility Administrator Sarah Kirkland added that Mr. Moran was a Civil Engineer and gave examples of specialty engineers that would be needed such as GIS, CAD, water and wastewater modelers, computer modelers, and surveyors that Mr. Moran is not qualified to do. Ms. Delmar said that a city our size could not afford to hire the staff, but possible a city the size of Lakeland could, though they most likely would still have to contract parts of it. Commissioner Thornhill said that even Polk County did not have its own engineers.

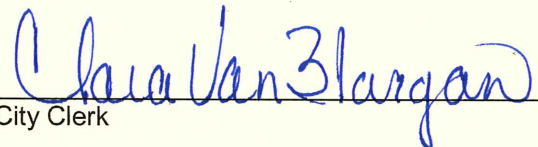
Commissioner Carter congratulated Finance Director and her staff for the way she handled the financial situation. Ms. Delmar said that the transfer happened over a long holiday weekend and because staff has a regular routine for checking transactions, which was not done before, they were able to recover some of what was lost. Mayor Van Sickle concurred.

There being no further business, the meeting was adjourned.



Mayor/Commissioner

ATTEST:



City Clerk