

The regular meeting of the Lake Wales City Commission was held on January 18, 2011 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. 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**

**Agenda Item 5. Commendation: Sergeant Lawrence McCalley for the "Shop with a Cop Program"**

Police Chief Herbert Gillis presented a Commendation to Sergeant Lawrence McCalley for the "Shop with a Cop Program."

Mimi Hardman read a resolution concerning the Census Centennial for the 150<sup>th</sup> Anniversary of Polk County.

### **CONSENT AGENDA**

**Agenda Item 6. Approval of Minutes**  
December 21, 2010, Regular Meeting  
January 4, 2011, Regular Meeting

**Agenda Item 7. Lake Wales Mardi Gras Celebration for 2011 – Modification of Event Permit**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Katie Kinloch, Administrative Assistant]

### **SYNOPSIS**

Approval of the request will allow the beer tent and the musical entertainment to relocate to the city parking lot directly west of 252 Stuart Avenue and permit the dumpsters and sanitary facilities to be moved to the city parking lot at the intersection of Stuart Avenue and Scenic Highway (SR17) on Saturday, March 5, 2011 between the hours of 10:00 a.m. and 10:00 p.m.

### **RECOMMENDATION**

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

1. Approve the request for the temporary closing of the city parking lot directly west of 252 East Stuart Avenue for the relocation of the beer tent and musical entertainment during the Mardi Gras Celebration on Saturday, March 5, 2011 between the hours of 10:00 a.m. and 10:00 p.m.

2. Approve the request for the temporary closing of the city parking lot at the intersection of Stuart Avenue and Scenic Highway for the relocation of the dumpsters and sanitary facilities

## **BACKGROUND**

At its December 7, 2011 meeting, the City Commission approved the Special Event Permit Application for the Lake Wales Mardi Gras Celebration and Parade which is to take place on March 5, 2011. At the same time, approval was given for the temporary closing of several city streets for the Mardi Gras parade, temporary closing of the Marketplace and its parking lot, and approval of the beer tent and musical entertainment to be located on the private parking lot across from Wachovia Bank.

At this time Mr. Bill Ouelette, President of the Lake Wales Mardi Gras, is requesting a modification of the permit. He is seeking Commission approval for the temporary closing of the city parking lot located directly west of 252 Stuart Avenue and approval to relocate the beer tent and the musical entertainment to that city parking lot. He is also seeking approval to use the city parking lot at the intersection of Stuart Avenue and Scenic Highway for the relocation of the dumpsters and sanitary facilities. This relocation is to obtain better lighting for the event and to keep the activities centralized between Marketplace, Stuart Avenue and south Market Street.

City departments do not have any issues with this request. All other conditions previously set are still in place and will be followed. Sec. 5-5 of the Lake Wales Code of Ordinance authorizes the City Commission to approve consumption of alcoholic beverages on public property in conjunction with issuance of a special event permit.

## **OTHER OPTIONS**

Do not approve this request from the Lake Wales Mardi Gras Committee.

## **FISCAL IMPACT**

The temporary closing of the two parking lots for the relocation of the beer tent, musical entertainment and sanitary facilities will not change the cost for in-kind services as estimated. In-kind services provided by the City were budgeted for FY10/11 in the amount of \$8,142.00. The Mardi Gras Committee is responsible for 25% or \$2,714.00 of the cost.

[End of agenda memo]

## **Agenda Item 8. Lake Wales Art Show March 25, 26, and 27, 2011 at Lake Wailes Park Special Event Permit Application and request for Overnight RV's**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Katie Kinloch, Administrative Assistant]

## **SYNOPSIS**

Approval of this request will allow the Lake Wales Art Show to be held in Lake Wailes Park on March 26 and 27, 2011 and allow artists to set up RV's on March 25, 2011 in a designated area.

## **RECOMMENDATION**

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

1. Approve the Special Event Permit Application for the 40<sup>th</sup> Annual Lake Wales Art Show to be held March 26 - 27, 2011 in Lake Wailes Park between the hours of 10:00 a.m. and 5:00 p.m.

2. Approve the request for the set up of RV's by the artists on March 25, 2011 in a designated area established by the City
3. Approve the event with the conditions set forth below

## **BACKGROUND**

Mr. Karl Hesser, Executive Director for the Lake Wales Arts Council, Inc. submitted a Special Event Permit Application for the 40<sup>th</sup> Annual Lake Wales Art Show to be held March 26<sup>th</sup> and 27<sup>th</sup>, 2011 in Lake Wailes Park between the hours of 10:00 a.m. and 5:00 p.m. The application also includes a request to allow five RV's to camp overnight in Lake Wailes Park during the event. Some of the participants would like to stay on site for security reasons and protection of their property. Set up of the RV's would be on March 25, 2011 no earlier than 8:00 a.m.

Per sec. 18-82 q. of the Lake Wales Code, camping is prohibited in a City park unless specifically authorized by special permit. RV's were allowed previously with the approval of the City Commission. Mr. Hesser has met with City staff and will continue to do so as the event date approaches to ensure that all conditions are met.

City departments have reviewed and approved the event providing that all conditions are met as follows:

- The RV's will arrive no earlier than 8 a.m. Friday, March 25<sup>th</sup> and must depart no later than 7 p.m. on Sunday, March 27<sup>st</sup>.
- The RV's will be parked in the open area south of the southern entrance to the "Festival Area" of Lake Wailes Park and north of the Central Ave. intersection with Lakeshore Drive, as shown on the attachment.
- No parking of vehicles will be allowed off pavement except in the camping area as noted, in the temporary parking area across from the football field, and in the area along the horseshoe drive between the basketball courts and the retention area.
- No vehicles shall be parked or driven within 15 feet of the trunk of any trees within the park. Event personnel will install tape or temporary fencing to protect the trees.
- No vehicles shall drive or park on the bike path or cross the bike path
- Vendors and Artists approved to set up inside the "horseshoe drive" across from the basketball courts shall maintain a 15-foot distance from tree trunks. Vehicles shall be parked on the pavement only.
- Insurance documents for the event shall be submitted prior to the issuance of any tent permits and electrical hook-ups.
- Sponsor is responsible for set up, site preparation and assistance with site clean up, additional trash receptacles and sanitary facilities

## **OTHER OPTIONS**

Do not approve the event or the request for RV's at this event.

## **FISCAL IMPACT**

In-kind services provided by the City were budgeted for FY10/11 in the amount of \$2,300. The Lake Wales Arts Council will be responsible for reimbursing 25% of the cost of in-kind services (estimated at \$767.00).

[End agenda memo]

Commissioner Carter wanted to make sure that the tape and temporary fencing would be in place well before 8 a.m. on Friday morning. Planning & Development Director Margaret Swanson said it was the responsibility of the applicant but the barriers will be in place.

## **END CONSENT AGENDA**

Commissioner Thornhill made a motion to approve the Consent Agenda. 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.

## **OLD BUSINESS**

### **NEW BUSINESS**

#### **Agenda Item 9. Ordinance 2011-01 Charter Amendments – 1<sup>st</sup> Reading**

The full staff memo is incorporated into the minutes.

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

#### **SYNOPSIS**

The City Commission will consider accepting, amending, or declining to accept the recommendations of the Charter Review Committee for revision of the City's Charter.

#### **RECOMMENDATION**

If the Commission wishes to place amendments of the City Charter on the April 2011 ballot for consideration by the voters, it is recommended that the City Commission approve Ordinance 2011-01, either as proposed or with Commission revisions, after first reading.

#### **BACKGROUND**

On January 19, 2010, the City Commission approved Resolution 2010-04 establishing a five-member Charter Review Committee. The committee was charged with the task of reviewing the Lake Wales Charter and making recommendations for possible changes that would be submitted to the electors if approved by the City Commission. The following members were appointed to the Committee and met once monthly between March and December:

- Robin Gibson, Chair
- Chevon Baccus
- Ed Bowlin
- Sylvia Rogers
- Allison Snyder

Committee recommendations were submitted to staff in December and discussed with the City Commission in a workshop held for that purpose on January 11, 2011.

Ordinance 2011-01 has been prepared for the purpose of placing the Committee recommendations, as approved or modified by the City Commission, on the ballot for approval or disapproval by the voters on Tuesday, April 5, 2011.

Unless modified by the Commissioners, the questions to be submitted to the voters will appear on the ballot as follows:

**CHARTER AMENDMENT #1**  
**SEC. 1.03**  
**REQUIRING A SUPER MAJORITY TO REVISE OR REPEAL AN ETHICS ORDINANCE**

If the city commission adopts an ordinance to impose higher standards of ethical conduct and disclosure requirements than those imposed by Florida Statutes, this amendment proposes that the ordinance can only be revised or repealed by a super majority vote of the commission. With a 5-member commission, this means that a minimum of 4 affirmative votes is required.

Question - Shall the above-described amendment be adopted?

YES for Approval.  NO against Approval.

**CHARTER AMENDMENT #2**  
**SEC. 3.04**  
**REVISING MAYOR'S SALARY**

This amendment proposes that the mayor's salary will be at least fifty percent higher than the salary of the other commissioners in order to compensate for additional duties and responsibilities.

Question - Shall the above-described amendment be adopted?

YES for Approval.  NO against Approval.

**CHARTER AMENDMENT #3**  
**SEC. 3.05**  
**REVISING METHOD FOR ELECTION OF MAYOR**

This amendment proposes that the voters will elect a mayor at large for a term of four years. Any commissioner or other qualified elector of the city can run for mayor, but –whether elected or not– a commissioner who runs for mayor will lose his/her commission seat effective on the day of the election. A commissioner who seeks to run for mayor must give notice of intent by the 45<sup>th</sup> day before the start of the qualifying period in order to allow time for election notice, candidate qualification, and ballot preparation for the seat to be vacated. The candidate elected to the vacated commission seat will serve for the remainder of the term.

Question - Shall the above-described amendment be adopted?

YES for Approval.

NO against Approval.

**CHARTER AMENDMENT #4  
SEC. 3.06**

**REVISING FUNCTIONS AND POWERS OF MAYOR**

In addition to all functions and powers currently assigned to the position, this amendment proposes that the mayor will perform a greater leadership role. The mayor will be expected to advance initiatives to benefit the community that can be improved upon with the city commission's collective judgment; will represent the city in all intergovernmental relationships; with the consent of the city commission, will make appointments to the various citizen boards and committees; will appoint commission members to serve on other committees and boards; will promote the overall quality of life, economic development, enhancement of property values, and other areas important to the progress and well-being of the community; will serve as the liaison between the municipal government and the community's citizens, business and civic organizations to collectively achieve projects that neither the city nor one organization could afford to achieve on its own; and will present an annual state of the city message that informs the public about the city's current fiscal position, accomplishments in the prior year, work plan for the coming year and goals for the future.

Question - Shall the above-described amendment be adopted?

YES for Approval.

NO against Approval.

**CHARTER AMENDMENT #5  
SEC. 3.08(c)**

**REVISING PROCEDURE FOR FILLING OF VACANCIES ON THE COMMISSION**

This amendment proposes that a vacancy on the commission will be filled by a majority vote of the remaining members. The interim commissioner will serve until the seat is filled in the normal course by the voters and the next elected commissioner takes office.

Question - Shall the above-described amendment be adopted?

YES for Approval.

NO against Approval.

**CHARTER AMENDMENT #6  
SEC. 3.09(d)**

**REVISING NUMBER OF COMMISSIONER VOTES REQUIRED FOR APPROVING AN AGENDA ITEM**

This amendment proposes that the affirmative vote of at least three members is necessary to approve all matters requiring a vote of the commission. Currently, the affirmative vote of at least

three members is necessary to approve an ordinance or resolution; but approval of other matters requires only a majority of the members present at the meeting.

Question - Shall the above-described amendment be adopted?

YES for Approval.  NO against Approval.

**CHARTER AMENDMENT #7  
SEC. 3.10**

**DELETING PROCEDURES FOR INITIATIVE AND REFERENDUM**

This amendment proposes that the procedures included in the charter for initiative and referendum elections be deleted because these procedures are superseded by Florida Statutes and are found in the City of Lake Wales Municipal Election Code.

Question - Shall the above-described amendment be adopted?

YES for Approval.  NO against Approval.

**CHARTER AMENDMENT #8  
SEC. 4.02**

**REVISING PROCEDURES FOR REMOVAL OF CITY MANAGER**

This amendment proposes a revision of procedures to remove a city manager. By majority vote, the commission will schedule a pre-termination evaluation of the city manager's performance. The evaluation will suggest areas for improvement and will allow a period of at least 30 days but no more than 90 days to make improvements. At the end of the period, a second evaluation will be conducted to determine if performance has improved to the commission's satisfaction. Following this evaluation, by majority vote, the commission may give notice to the city manager that the matter of possible termination will be considered at the next regular commission meeting; by separate majority vote, the manager may be suspended with full salary until the next regular meeting. At the next regular meeting, the commission will consider termination of the manager with no provision for public comment. The city manager will have the opportunity to respond to commissioner comments. The commission, by majority vote of its total membership, may adopt a resolution to terminate the city manager. The commission may terminate the manager for malfeasance, misfeasance, neglect of duty, etc. without need for a pre-termination evaluation. Incorporated into procedures for city manager removal are statutory provisions for dealing with felony or misdemeanor charges related to duties of office.

Question - Shall the above-described amendment be adopted?

YES for Approval.  NO against Approval.

**CHARTER AMENDMENT #9  
SEC. 4.03  
REVISING METHOD FOR DESIGNATING AN ACTING CITY MANAGER**

By resolution adopted by the city commission, a qualified city administrative officer will be designated to exercise the powers and perform the duties of the city manager during the city manager's temporary absence or disability.

Question - Shall the above-described amendment be adopted?

YES for Approval.  NO against Approval.

**CHARTER AMENDMENT #10  
SEC. 8.01(a)  
DELETING CHARTER REFERENCE TO DATE OF ELECTION**

This amendment proposes to delete the method for setting an election date from the charter and requires that all city election dates be established in accordance with Chapter 8, Lake Wales Code of Ordinances (the "Lake Wales Municipal Election Code").

Question - Shall the above-described amendment be adopted?

YES for Approval.  NO against Approval.

**CHARTER AMENDMENT #11  
SEC. 8.03  
REVISING RESIDENCY QUALIFICATION FOR ELECTION TO COMMISSION SEAT FIVE**

The candidate seeking election to commission seat five may reside anywhere within the city limits and will be elected by all the voters in the city at large. Candidates seeking election to commission seats one through four must reside in the geographical district represented by the commission seat but will still be elected by all the voters in the city at large.

Question - Shall the above-described amendment be adopted?

YES for Approval.  NO against Approval.

**CHARTER AMENDMENT #12**



**SEC. 8.06(b)**

**DELETING CONFLICT WITH FLORIDA LAW FOR CANVASS OF ELECTION RETURNS**

This amendment deletes charter provisions that conflict with Florida Statute 101.048 governing the canvass of election returns and provides that city election returns will be canvassed in accordance with state law.

Question - Shall the above-described amendment be adopted?

YES for Approval.

NO against Approval.

**CHARTER AMENDMENT #13  
SEC. 8.10**

**ESTABLISHING NUMBER OF COMMISSION DISTRICTS**

This amendment proposes that there will be four geographical city commission districts containing population that is as equal as feasible. Commission seat five will not represent a geographical district but will be an "at large" seat.

Question - Shall the above-described amendment be adopted?

YES for Approval.

NO against Approval.

**CHARTER AMENDMENT #14  
SEC. 9.07**

**GRANTING AUTHORITY TO MAKE CLERICAL CHANGES TO CHARTER BY RESOLUTION**

This amendment proposes that the city commission be granted authority to pass a resolution making non-substantive clerical changes to the charter in order to correct language that has become obsolete, inappropriate, or not conforming to commonly accepted usage.

Question - Shall the above-described amendment be adopted?

YES for Approval.

NO against Approval.

**OPTIONS**

Accept, modify or do not accept recommendations of the Charter Review Committee.

**FISCAL IMPACT**

None

[End of agenda memo]

Ms. VanBlargan read ordinance 2011-01 by title only.

**AN ORDINANCE AMENDING THE LAKE WALES CHARTER IN ONE OR MORE OF THE FOLLOWING MANNERS: BY REQUIRING A SUPER MAJORITY VOTE OF THE COMMISSION TO REVISE OR REPEAL AN ETHICS POLICY ORDINANCE; BY REVISING THE COMPENSATION, ELECTION, FUNCTIONS AND POWERS OF THE MAYOR; BY REVISING THE PROCEDURE FOR FILLING A VACANCY ON THE COMMISSION; BY REVISING THE NUMBER OF VOTES REQUIRED FOR APPROVING MATTERS CONSIDERED BY THE COMMISSION; BY DELETING PROCEDURES FOR INITIATIVE AND REFERENDUM; BY REVISING PROCEDURES FOR REMOVAL OF A CITY MANAGER; BY REVISING METHOD FOR DESIGNATING AN ACTING CITY MANAGER; BY DELETING REFERENCE TO A DATE FOR HOLDING A MUNICIPAL ELECTION; BY REVISING RESIDENCY QUALIFICATION FOR ELECTION TO COMMISSION SEAT NUMBER FIVE; BY DELETING PROCEDURES IN CONFLICT WITH FLORIDA STATUTE 101.048 FOR CANVASS OF ELECTION RETURNS; BY ESTABLISHING THAT THERE SHALL BE FOUR GEOGRAPHICAL CITY COMMISSION DISTRICTS CONTAINING POPULATION THAT IS AS EQUAL AS FEASIBLE; BY AUTHORIZING NON-SUBSTANTIVE CLERICAL CHANGES TO THE CHARTER BY RESOLUTION OF THE COMMISSION FOR THE PURPOSE OF CORRECTING LANGUAGE THAT HAS BECOME OBSOLETE, INAPPROPRIATE OR NOT CONFORMING TO COMMONLY ACCEPTED USAGE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN ELECTION IN WHICH QUALIFIED ELECTORS OF THE CITY MAY VOTE FOR OR AGAINST THESE CHARTER AMENDMENTS; PROVIDING FOR AN EFFECTIVE DATE.**

City Manager Judith Delmar reviewed Agenda Item 9 including a couple newly proposed changes.

Mayor Van Sickle said there had been disagreements on some of the items at the City Commission Workshop and so they would first vote collectively on those amendments without disagreement, and then vote one-by-one on the rest.

**Amendment 1. Requiring a Supermajority to Revise or Repeal an Ethics Ordinance**

Commissioner Howell said they were trying to make the ethics policy more stringent and asked if there would be a ceiling to that stringency. Ms. Delmar said the City Commission would adopt an ordinance allowing for an ethics policy, but the ethics policy itself would not be part of the Charter. The only part that would be included in the Charter would be the way in which it could be repealed or modified once it was adopted, if one was adopted by the Commission.

**Amendment 2. Revising Mayor's Salary**

Commissioner Howell said they should not vote on the Mayor's salary until they vote on whether the mayor would have the additional duties. Ms. Delmar said that in the past, because the mayor has had additional duties and meetings to attend, there had been discussion on whether the mayor should be compensated for it, whether by 50% or by some other figure. This could be the opportunity to change that even if the extra duties proposed in this Charter Amendment were not adopted. She pointed out that things like trips to Tallahassee or to mayor meetings should be part of the budget as work related expenses and should not be part of the mayor's salary.

Commissioner Thornhill suggested making Amendment 2 contingent on the passing of Amendments 3 and 4. Commissioner Howell agreed. Ms. Delmar said the language could be changed if that was what the Commission wanted.

Commissioner Carter asked if what was being presented to them was the wording that would appear on the ballot, and Ms. Delmar said it was except for any changes they wished her to make. Commissioner

Carter said the ballot language says the increase in salaries was for additional duties so therefore Amendment 2 should be tied to amendments 3 and 4. Ms. Delmar commented the mayor position has always had additional duties, though not as many as proposed by these amendments.

Commissioner Howell asked if Amendment 11, which is about Seat 5, should be voted on along with Amendments 3 and 4. Ms. Delmar said it did not have to be part of the other amendments because they would simply be going back to the four district seats and one at-large seat that they had after a previous census. If Amendments 3 and 4 were not passed, Seat 5 would remain a commission seat instead of becoming a mayor seat.

**Amendment 5. Revising Procedure for Filling of Vacancies on the Commission**

Commissioner Howell said if there were only four Commissioners present at a meeting, the vote could be a two-to-two tie. Ms. Delmar said someone else would have to be recommended until a majority vote was reached.

**Amendment 6. Revising Number of Commissioner Votes Required for Approving an Agenda Item.**

No comments

**Amendment 7. Deleting Procedures for Initiative and Referendum**

Commissioner Howell said this was a housekeeping issue because it is superseded by Florida Statute. She asked what would happen if the electorate does not vote yes. Ms. Delmar explained that all changes to the Charter have to go before the electorate. City Attorney Chuck Galloway said they would still have to comply with the Florida Statute even if the Charter did not comply.

**Amendment 9. Revising Method for Designating an Acting City Manager**

No comments

**Amendment 10. Deleting Charter Reference to Date of Election**

No comments

**Amendment 12. Deleting Conflict with Florida Law for Canvass of Election Returns**

No comments

**Amendment 14. Granting Authority to Make Clerical Changes to Charter by Resolution**

No comments

Commissioner Carter made a motion to approve placing Amendments 1, 2 (with approval of 3 and 4), 5, 6, 7, 9, 10, 12, and 14 on the ballot. The motion was seconded by Commissioner Howell.

By Roll Call Vote:

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

The motion carried 5-0.

**Amendment 3. Revising Method for Election of Mayor**

Commissioner Carter said he was opposed to a four-year term for Mayor because it would make it hard to find qualified people to spend the amount of time that would be needed.

Commissioner Thornhill was not in favor of the four-year term but said the voters should have the opportunity to decide.

Commissioner Rogers said he had concerns with the four-year term but wanted it on the ballot for voters to decide. He hoped voters would take the time to consider what would be best for Lake Wales.

Commissioner Howell said she was in favor of a mayor having a stronger leadership role though she preferred a two-year term. She asked what would happen to her commission seat if she were running for mayor in her third year but did not win and had to give up her seat. Ms. Delmar said that if she were running for mayor she would have to give the City Clerk a 45-day notification so a declaration for an election could be made for that vacancy. The new commissioner would fill her seat for the remainder of her term.

Mayor Van Sickle said he preferred a strong mayor form of government. In the present amendment he did not see that the mayor would have more authority than the mayor has now so he did not believe it would accomplish anything. Ms. Delmar said it would make more of a liaison between the commission and local community based organizations like Main Street and the Chamber of Commerce, but not necessarily agencies in the county.

Commissioner Howell made a motion to approve including Amendment 3, Sec. 3.05, on the ballot. The motion was seconded by Commissioner Thornhill.

By Roll Call Vote:

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

The motion failed 3-2.

**Amendment 4. Revising Functions and Powers of Mayor**

Commissioner Carter said he was opposed to this because it was another form of strong mayor government and it would be impractical to expect one person to do the duties outlined in the Charter Amendment. He said five people were needed out in the community talking with organizations and not just one, allowing views to be discussed collectively.

Commissioner Thornhill said that without Amendment 3 he saw no need for Amendment 4.

Commissioner Howell said they approved to include Amendment 2, which would give the mayor a raise, but now it seems they don't want him to do anything extra. Ms. Delmar said the raise in Amendment 2 was contingent on the passing of Amendments 3 and 4. Commissioner Howell said she was in favor of the mayor being the cheerleader for the commission but she agreed with Commissioner Carter that all of the commissioners should be out doing something. She said she thought the State of the City Address should also be given at night so working people would have a chance to hear it. Ms. Delmar said the ordinance only covered who would be the one to give the address and did not cover when it would be given. Commissioner Howell said that without including Amendment 3, the need for Amendment 4 was weak.

Mayor Van Sickle said he did not think this amendment was adding a whole lot to the position. Ms. Delmar read what was presently listed in the City Charter under Mayor Duties, and said that without a charter amendment, they would not be able to assign the mayor any additional duties.

Commissioner Howell made a motion to exclude Amendment 4, Sec. 3.06, from the ballot. The motion was seconded by Commissioner Thornhill.

By Roll Call Vote:

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

The motion passed 3-2.

#### **Amendment 8. Revising Procedures for Removal of City Manager**

#### **MAYOR VAN SICKLE'S RECOMMENDATION FOR ALTERNATIVE LANGUAGE**

#### **Sec. 4.02. Removal.**

The commission may remove the manager from office in accordance with the following procedures:

(1) The commission shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reason for removal and may suspend the manager from duty for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered promptly to the manager.

(2) Within five (5) days after a copy of the resolution is delivered to the manager, he may file with the commission a written request for a public hearing meeting, without a requirement for public comment on the matter, for the commission to reconsider termination. This hearing meeting shall be held at a commission meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The manager may file with the commission a written reply not later than five (5) days before the hearing.

(3) The commission may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the manager, if he the manager has not requested a public hearing meeting, or at any time after the public hearing meeting if he one has been requested one. The manager shall continue to receive his a salary until the effective date of the final resolution of removal. The action of the commission in suspending or removing the manager shall not be subject to review by any court or agency.

(4) In the event that a manager is arrested for a felony or for a misdemeanor related to the duties of office, the commission shall immediately convene a special meeting and adopt a resolution to suspend the manager without pay or allowance and appoint an individual to serve as interim manager. If the manager is convicted of any of the charges for which he or she was suspended, the commission shall convene a special meeting and adopt a resolution terminating the manager. If the manager is acquitted or found not guilty or is otherwise cleared of the charges, the commission shall convene a special meeting and adopt a resolution to revoke the suspension and reinstate the manager, who shall be entitled to full back pay and allowance. The manager is thereafter subject to review as stated above.

Mayor Van Sickle reviewed the above handout with his recommendation for changes to the procedure. He said the public hearing portion at the last city manager's dismissal got out of hand. The Charter Review Committee's recommendation was to get rid of the public hearing portion. He said that giving the city manager a 90-day period would be somewhat dangerous and explained that in the business world there is no public debate. When an employee is terminated he or she is asked to leave immediately, and their keys etc. are taken from them so there would be no possibility of that person being able to damage something within the organization. He said he would like the City Commission to have the same authority to hire and fire a city manager with no public debate as a city manager has in hiring and firing an employee with no public debate, and the same authority the public has in voting out a commissioner.

Commissioner Rogers concurred.

Commissioner Howell asked for further explanation as to what would be done at the City Commission Meeting and the Mayor said the City Commissioners would discuss the reasons for possible dismissal but there would be no public input. Commissioner Howell said she could not pass judgment on this because she had not had the opportunity to study the Mayor's handout.

Commissioner Thornhill said there was no mention about changes to the evaluation. Mayor Van Sickle said they currently have the authority to establish an evaluation and Ms. Delmar said the Commission could call for an evaluation at any time. Ms. Delmar said the only change to the current procedure for removal would be that it eliminates the requirement that allows the city manager to ask for a public hearing.

Commissioner Carter said he would also like the opportunity to spend some time studying the Mayor's recommendation but realized the time constraints. He said he did not favor eliminating public input because doing so would not eliminate the community's divisiveness or stop people from being upset.

Commissioner Rogers made a motion to approve placing on the ballot the modification as amended by the Mayor for Amendment 8, Sec 4.02. The motion was seconded by Commissioner Thornhill.

Ms. Delmar recommended that the City Attorney be given the opportunity to work through some problems with the language before the next City Commission meeting.

By Roll Call Vote:

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

The motion passed 3-2.

**Amendment 11. Revising Residency Qualification for Election to Commission Seat Five**

Commissioner Rogers said he thought the way they were doing it now was fine.

Commissioner Carter said he was not in favor of the change because commissioners are already elected at-large. Ms. Delmar said the difference would be having four geographically determined districts and one at-large district, instead of five geographically determined districts. Commissioner Carter said it would have the potential of having unequal representation.

Commissioner Thornhill said he preferred having single-member districts because the at-large system has the potential of being influenced by those districts with better voter turnouts. He said he thought the

true purpose of this amendment was in connection with the amendments involving the stronger mayor so it was no longer necessary, though he thought the voters should decide.

Commissioner Howell asked if Amendment 11 would be needed now that Amendments 3 and 4 were excluded from the ballot. Mayor Van Sickle said that when he first became a commissioner they talked about one seat being at-large the way it had been done at one time, allowing anyone from the city to run for that seat. Commissioner Howell said she had no problem with the at large seat.

Mayor Van Sickle said he had no preference whether it was on the ballot or not.

Commissioner Rogers made a motion not to include Amendment 11, Sec 8.03, on the ballot. The motion was seconded by Commissioner Thornhill.

By Roll Call Vote:

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

The motion failed 3-2.

**Amendment 13.            Establishing Number of Commission Districts**

Commissioners Carter and Thornhill said this amendment was tied with Amendment 11 so their vote would be not to include it on the ballot.

Commissioners Rogers and Howell said they did not have a problem with it.

Commissioner Thornhill asked what would happen if Amendment 11 passed but Amendment 13 did not and Ms. Delmar said language would have to be changed in Amendment 11 so it would be contingent on the adoption of Amendment 13. Commissioner Carter asked if the two amendments could be combined and Ms. Delmar said it could not because they were in separate sections in the Charter.

Commissioner Thornhill made a motion to approve including Amendment 13, Sec. 3.10, on the ballot conditioned on the voting approval of Amendment 11. The motion was seconded by Commissioner Howell.

By Roll Call Vote:

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

The motion passed 3-2.

Mr. Galloway said the motion should probably be amended to say that Amendments 11 and 13 are conditional upon each other so if one fails the other fails.

Commissioner Thornhill amended his motion to approve including Amendment 13, Sec. 3.10, on the ballot conditioned on the voting approval of Amendment 11, and that Amendments 11 and 13 are conditional on each other. The motion was seconded by Commissioner Howell.

By Roll Call Vote:

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

The motion passed 4-1.

Mayor Van Sickle said they were through with each individual item and asked if they also had to vote on the ordinance in total. City Attorney Chuck Galloway said that at the second reading they would need to adopt Ordinance 2011-01 as it was just adopted, as a single vote and not singularly as they just did.

**Agenda Item 10. Ordinance 2011-02 – Repeal of Ordinance 2007-11 and Dissolution of Mayfair Community Development District, 1<sup>st</sup> Reading**

The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

Ordinance 2011-02 will repeal Ordinance 2007-11 which created the Mayfair CDD. This action will effectively dissolve the CDD and is taken at the request of legal counsel for the CDD pursuant to actions taken by the DCA to declare the CDD inactive.

**RECOMMENDATION**

Staff recommends that the City Commission approve Ordinance 2011-02 after first reading.

**BACKGROUND**

The City Commission created the Mayfair Community Development District (CDD) through Ordinance 2007-11 on April 04, 2007. This was done in accordance with the then development scheduling of Mayfair Development. Since the contraction of the real estate market, the Mayfair CDD has been inactive and has not met any of the requirements of the State of Florida. The action is now being brought at the request of the State of Florida to officially designate the Mayfair CDD as "Dissolved".

Pursuant to Section 189.4044(4), Florida Statutes, the same entity that created a special district which has been declared inactive must dissolve that special district by repealing its enabling law. Ordinance 2011-02 is proposed for this purpose and its adoption by the City Commission will repeal Ordinance 2007-11 and effectively dissolve the Mayfair CDD. Ordinance 2011-02 is proposed pursuant to the actions of the Department of Community Affairs in administering Chapter 189 of the Florida Statutes and at the direct request of the legal counsel for the Mayfair Community Development District.

**CURRENT FISCAL IMPACT**

NONE

**FISCAL IMPACTS OF OTHER ALTERNATIVES**

NONE



[End agenda memo]

Ms. VanBlargan read Ordinance 2011-02 by title only.

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, REPEALING ORDINANCE 2007-11 WHICH SERVED TO CREATE THE MAYFAIR COMMUNITY DEVELOPMENT DISTRICT; AND PROVIDING FOR AN EFFECTIVE DATE**

Commissioner Howell asked if there was some reason why they did not meet for two years. Economic Development Director Harold Gallup said that because the development had gone quiet, there was no reason for a meeting of the CDD. By doing that they failed to comply with the State Statute so it got to the point that it was disadvantageous to the organization. Once you have that \$75,000 on paper, knowing that the housing market is still in contraction, you are just throwing money out the door. At the direction of the client, the State had asked for the inactivity and dissolution, so they were just following through. Upon passage, the State will render the dissolution.

Commissioner Carter asked if anyone had heard if Mayfair knew this was happening and Mr. Gallup said they absolutely knew. Commissioner Carter asked if there was any cost to the City and Mr. Gallup said Mayfair had to pay the legal fees and there was no cost to the City. Commissioner Carter asked if this was simply a housekeeping item and Mr. Gallup said it was. Commissioner Carter asked if the group was in fact inactive and Mr. Gallup said it was.

Commissioner Rogers asked if Mayfair had ever paid the City the \$10,000 they owed. Mr. Gallup said they did not because it was conditional on the pulling of the first development permit from the Planning Department.

Commissioner Thornhill made a motion to approve Ordinance 2011-02. 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 11. Task Order 13 - Hoyle, Tanner and Associates for Professional Engineering Services**

The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

The City Commission will consider approving a task order for professional engineering services related to runway 17/35 safety area improvements project.

**RECOMMENDATION**

Staff recommends that the City Commission take the following actions:

1. Approve Task Order #13 to the Master Agreement with Hoyle, Tanner and Associates for professional engineering services for runway 17/35 safety area improvements project at the Lake Wales Municipal Airport in the amount of \$19,735 and authorize the City Manager to execute the applicable documents.

## **BACKGROUND**

In August of 2008 the Florida Department of Transportation (FDOT) inspected the Lake Wales Municipal Airport and identified the following deficiencies on Runway 17/35.

- The safety area at the approach end of runway 17 is only 91 feet long and should be relocated 149 feet or a declared distance calculated, installed and published.
- The safety area at the approach end of runway 35 is only 102 feet long and should be relocated 138 feet or a declared distance calculated, installed and published.

Corrections are necessary to maintain the Public Airport License. Following these inspections a project was entered into the FDOT Joint Automated Capital Improvement Program (JACIP) to address these deficiencies. The City of Lake Wales subsequently added the project to its capital improvement plan. The project costs were estimated at \$100,000 which will be paid through an 80/20 grant agreement between FDOT and the City, where FDOT pays 80% of the eligible project cost and the City pays the remaining 20%. The following corrective actions will be taken to address the deficiencies found in the Runway 17/35 safety area.

- Runway 17 safety area will be filled and graded to provide a full 240' safety area length beyond the runway end that is required.
- Runway 35 end will be moved 138 feet north. This will provide the full 240' safety area length beyond the runway end that is required.

At its regular scheduled October 19, 2010 commission meeting the City Commission approved Resolution 2010-23, Master Joint Participation Agreement 2011-A with the Florida Department of Transportation. This agreement committed to funding in the amount of \$100,000 for improvements to bring runway 17/35 safety areas to standard and remark the pavement.

## **FISCAL IMPACT**

Funding is included as follows in the 10/11 budget: **City: \$20,000 FDOT: \$80,000**

**Project total:** \$100,000 (engineering & construction)

## **OTHER OPTIONS**

The City has already entered into the Master JPA grant agreement with the Florida Department of Transportation (FDOT) for this project.

[End agenda memo]

Ms. Allen reviewed Agenda Item 11.

Commissioner Rogers said the Airport Authority talked about this for some time and because the improvements to the runway would make it safer for pilots, he believed the Commission needed to move on it.

Commissioner Carter asked if the \$19,000 represented the 20% city contribution and Ms. Allen said it did not. She stated that the \$100,000.00 covered the engineering and construction phase of the project with

the City paying \$20,000.00 and FDOT paying \$80,000.00. The \$19,735.00 is for the design phase which the City would pay \$3,947.00 and FDOT would pay \$15,788.00.

Wilbur Mathurin from Hoyle, Tanner and Associates said the fee was for design and construction for the whole project. Commissioner Carter asked for confirmation that Hoyle, Tanner and Associates would assist with both the bid process and construction phase and they concurred.

Commissioner Rogers made a motion to Approve Task Order #13 to the Master Agreement with Hoyle, Tanner and Associates for professional engineering services for the runway 17/35 safety area improvements project at the Lake Wales Municipal Airport in the amount of \$19,735 and authorized the City Manager to execute the applicable documents. The motion was seconded by Commissioner Howell.

By Voice Vote:

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

The motion carried 5-0.

**Agenda Item 12. Expansion of the Flexnet Meter Reading System**

The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

Staff is seeking Commission approval to purchase the second Flexnet antenna for installation on the south side tower to aid in the continued expansion of the radio read metering system.

**STAFF RECOMMENDATION**

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

1. Accept the proposal of \$12,000 from HD Supply Waterworks, LTD., for upgrades to Eagle Ridge Mall Flexnet Antenna and \$80,000 for the purchase of the Southside Tower Antenna to further expand the Flexnet radio read metering system.
2. Authorize the City Manager to execute the appropriate documents, on the City's behalf.

**BACKGROUND**

The reading of meters is a crucial city function. The work involves visiting every water meter once every month and recording the reading. Over the years there have been technological improvements. For example, rather than writing the readings down in a book and bringing the book back to City Hall at the end of the day to have the readings posted in city records to produce a bill, the water meter readers now carry computerized, hand-held units that bring each customers' name and address on the route. The meter reader then enters the reading into the unit. At the end of the route the reader brings in the unit, which plugs into another computerized device that automatically downloads the data and prepares the monthly bills.

The use of computerized devices avoids the need to re-enter the reading data from the old route books used in the past; however, it still requires the reader to punch in the read numbers, which on occasion is a source for error. In addition, meter readers must still open boxes and sometimes wipe dirt off of the meter register in order to read it, and, during winter, are sometimes greeted with a snake or other animal seeking warmth from the cold air.

In addition, water meters tend to slow down over time and give inaccurate readings. In the recent past the City has budgeted approximately \$30,000 per year to replace old, worn out water meters.

There is now new technology available to improve the accuracy and efficiency of meter reading. For several years city staff members have discussed with vendors the possibility of switching to an automatic meter reader system. Two types of system are available:

1. A "touch read" system, that allows the meter reader to simply touch the meter with an electric wand to record the reading; or
2. A "radio frequency" system, which involves a small transmitter being installed on each meter to send the reading via radio signal to an antenna and then on to the computer to record the reading.

Over the past few years water meter company representatives encouraged city staff to switch the entire system at once, which would require a great expense up front. To help the City implement the new system, vendors brought in financing companies and laid out plans for the City to borrow about \$1 million to retro-fit the system. City staff rejected that plan.

In its place, staff developed a different plan --one that company representatives criticized as not being the industry standard-- for implementing this new technology. The City's plan has several steps:

1. Requiring all water meters installed for new buildings to be "touch read" ready;
2. Replacing worn-out meters with radio read meters; and gradually, over a number of years, retro-fitting existing meters to "touch read" ready;
3. When an area is ready for "radio read", changing each meter from touch read to radio read, a simple procedure that takes very little time per meter.

The current budget has funds allocated for the continued implementation of these water meter improvements. In addition, these improvements were noted when the City Commission changed the pricing for the installation of water meters in Ordinance 2007-06.

The City has been requiring new developments to purchase touch read meters as noted in step one. Step two has been completed with all the meters in Lake Ashton, Carlsberg, Dinner Lake, and Brookshire converted to radio read. Staff has also begun the process of changing out the meters east of town in preparation of the installation of the second antenna.

The radio read system will consist of two radio read antennas: one already installed on the north side of town using the water tower at Eagle Ridge Mall; and one antenna on the south side of town, using the water tower built near the intersection of Scenic Hwy and Hunt Brothers Rd. Staff is now ready to seek commission approval for the purchase of the second antenna and to purchase the necessary components to upgrade the antenna at Eagle Ridge Mall.

Sensus Metering Systems is considered a sole source in this situation in that they are the original manufacturer of the meters and software, and they use HD Supply Water Works, LTD as their sole subcontractor.

## **OTHER OPTIONS**

Not expanding the system to radio read or abandoning the implementation of the system would miss the opportunity to maximize the efficiency of the system as planned.

**FISCAL IMPACT**

The current budget has funds for this program in two areas:

- In the water operating budget, for meter change outs and retro-fitting existing meters funded through operating revenues: beginning budget of \$160,000 current available budget \$93,161; and
- In the Capital Outlay budget, for the other system components including the antenna and upgrade software funded through impact fees; \$116,000

[End agenda memo]

Ms. Kirkland reviewed Agenda Item 12.

Commissioner Howell said this would make the readings more accurate so there would be less fussing by residents at the Utilities Department. Ms. Kirkland said they would also be able to tell customers what days they used the water, how much they used, if there was a leak, and if there was a consistent flow within a 24 hour period. This would help staff in being able to determine what the problem was and what needed to be repaired.

Commissioner Thornhill said it was necessary.

Commissioner Carter said the city has the touch-read system now. Ms. Kirkland said that everything that had the touch-read system has been changed to the radio-read system. Commissioner Carter asked if the terms radio-read and radio-frequency were synonymous and Ms. Kirkland confirmed. She explained that the touch-read system required a reading at each location whereas the radio-read system is read at the tower.

Mayor Van Sickle said although there had been a few problems at Lake Ashton converting to the radio-read system, it was a very good system. He added that the system has greater potential than what is currently being used because of the lack of enough staff to monitor it to its maximum.

Commissioner Carter asked if it was being used only for residential use or if it was also being used for commercial and Ms. Kirkland said at the present time their focus was on residential use but eventually everyone will be on it.

Commissioner Thornhill made a motion to accept the proposal of \$12,000 from HD Supply Waterworks, LTD., for upgrades to Eagle Ridge Mall Flexnet Antenna and \$80,000 for the purchase of the Southside Tower Antenna to further expand the Flexnet radio read metering system and to authorize the Mayor 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 Rogers	"YES"
Commissioner Carter	"YES"
Mayor Van Sickle	"YES"

The motion carried 5-0.

**Agenda Item 13. Multipurpose Recreational Soccer Complex Parking Surface Material**

### **Expansion – Ellison Rem, Inc.**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Harold Gallup, Economic Development Director]

#### **SYNOPSIS**

The original plan for the subject complex had an area that was designated for expansion of the parking surface when the use of the facility grew to a certain demand level. The facility is experiencing a high demand for parking during certain events and the anticipated expansion needs to be done at this time.

#### **RECOMMENDATION**

For the purpose of expanding the parking area at the Multi-Purpose Recreational Complex on Hunt Brothers Road, staff recommends that the City Commission take the following actions:

1. Authorize the purchase of parking area material from Ellison REM, Inc. as sole source supplier at a cost not to exceed \$10,000, said purchase to be funded by currently un-appropriated and undesignated General Fund balances.
2. Authorize the City Manager to execute the applicable contract documents.

#### **BACKGROUND**

The original funding for this project was through State Grants and County Funding. This is the same provider of material as previously approved by the City Commission on May 6, 2008 and used in an earlier stage of the project. Ellison REM, Inc., is the sole supplier of the material and has been approved by the City as a Sole Supplier. The project has now moved to the point where the use of the facilities has created a demand for expansion of the parking area as shown on the attached photographs and reduced site plan.

At this time the supply of material is available for the project. The reduction of activity in the housing market limited the supply in 2010. We have looked at possibly using a different material, but there are issues of costs and, most importantly, the aesthetics of matching the existing material in both color and physical size of material. In working with the supplier, he has agreed to continue discounting the cost by approximately 28% plus providing for the spreading and rolling of the material at no additional charge. The completed project element may require no less than 30 and not more than 40 truckloads of material.

#### **CURRENT FISCAL IMPACT**

Impacts on Revenue: No additional revenue is expected to be generated from this activity.

Impacts on Expenditures: The funding for this project is not budgeted, and an appropriation of General Fund reserves will be required. If the Commission approves the expenditure, the appropriation will be included in the next budget amendment.

#### **OTHER ALTERNATIVES**

This project is strongly recommended because the current lack of adequate parking impedes the use of the facility and creates a significant safety hazard by forcing participants and spectators to park along the shoulder of Hunt Brothers Road.

[End agenda memo]

Commissioner Carter said this was an excellent example of why recreation is such an excellent stimulus

for the City.

Commissioner Rogers asked where the \$10,000 would come from because it was not appropriated yet in the budget. Ms. Delmar said it would have to come from the undesignated General Fund balance. Commissioner Rogers asked if the parking lot was absolutely necessary and Ms. Delmar said it was a safety issue when there were large tournaments or practices because kids have to get out of cars on Hunt Brothers Road, which was really dangerous.

Commissioner Howell said she was glad they were going for safety.

Mayor Van Sickle said he was not opposed to the safety of it but said another material would be a lot less expensive. Mr. Gallup said it was the same material used in the original base lot, and they were getting it at a substantial discount because it is recycled material. The City is getting the material, the placement of it, and the vibration compaction at about a 28% discount. Mayor Van Sickle asked the City Manager to try to keep this within the available parks and recreation funds if possible instead of using the General Fund. Ms. Delmar said the parks and recreation budget was very tight, and most of that was for the gymnasium M & R. She said if this item was approved it would have to come from fund balance because at this point in the year there is no other place from which to get it. At the end of the year it might be different. Mayor Van Sickle asked what the impact would be on the fund balance and Ms. Delmar said it would go from about three million dollars to \$10,000 less than that. The Mayor said that even though \$10,000 is not a lot compared to three million, it would be pulled out of funds being set aside for major contracts.

Commissioner Rogers made a motion to authorize the purchase of parking area material from Ellison REM, Inc. not to exceed \$10,000, and authorize the City Manager to execute the applicable contract documents. The motion was seconded by Commissioner Carter.

By Voice Vote:

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

The motion carried 5-0.

Ms. Delmar said this would come back to the City Commission to be incorporated during the first budget amendment.

**Agenda Item 14. Award of Contract for Repair and Replacement of Lighting on Lincoln Avenue under the CDBG Commercial Revitalization Grant**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Harold Gallup, Economic Development Director and Bonnie Hodge, Purchasing Director]

**SYNOPSIS**

Staff is seeking approval of a contract with Himes Electric Company, Inc. for replacement of three light poles and repair of 63 lighting fixtures on Lincoln Avenue and intersecting streets from "A" to "E" Street.

**RECOMMENDATION**

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

1. Approve the contract for repair and replacement of light poles and lighting on Lincoln Avenue and intersecting streets from "A" to "E" Street with Himes Electric Company, Inc. and authorize the City Manager to execute the contract.

## **BACKGROUND**

On September 29, 2008 the City of Lake Wales submitted an application to the Florida Department of Community Affairs for a Community Development Block Grant (CDBG) for Commercial Revitalization. The grant was executed on June 23, 2009. Included in this grant is a maximum of \$150,000 budgeted for repairs and replacements of light poles and fixtures on Lincoln Avenue from 'A' Street to 'E' Street. Although the City has an electrical contractor under contract, the CDBG grant process required a complete rebidding for electrical contractor services for this specific project.

On December 2, 2010 staff advertised an Invitation to Bid for repair and/or replacement of the existing street light poles and fixtures along Lincoln Avenue from 'A' Street to 'E' Street with bids due on December 20, 2010. There were four firms that attended the mandatory pre-bid meeting held on December 9, 2010.

Proposals were received Himes Electric Company, Inc. in the amount of \$55,246 and Central Florida Electric in the amount of \$78,934.31. One other contractor missed the deadline for submittal of the proposal.

Because there was a \$23,000 variance between the two bids, staff contacted Himes Electric Company via email to confirm that everything requested in the bid specifications was included in the bid. Staff sought clarification from Himes Electric Company, Inc. that their proposal of \$55,246 was inclusive of all of conditions included in the bid specs. Staff also asked clarification that their proposal included the Federal Labor Standards Provisions, Davis-Bacon Act, inclusive of all overburden and benefits associated with each position.

Staff was contacted by email by Michael Ahwesh, Controller with Himes Electric Company, Inc., confirming that all of the bid documents had been reviewed by him and that Himes Electric Company, Inc. can and will provide all labor, materials, tools, equipment and transportation necessary for the proper execution of the work in accordance with the contract document and that all incidental work necessary to complete the project in an acceptable and timely manner, inclusive of any and all associated bond and insurance costs at their proposal cost of \$55,246. Staff followed this email with a telephone conversation with Thomas Cook and Michael Ahwesh to confirm this again.

Himes Electric Company, Inc. indicated that they, based upon similar job experience, can accomplish the contract requirements through working each pole from the ground and using a sequence of work that eliminates a MOT Plan.

Staff, through the discussions, advised Himes Electric Company, Inc. that there will be no "Change Orders" for placing the extra costs, regulatory or otherwise, back in the project costs as certified by the contractor. The contract has been modified to include this condition and reviewed with Himes Electric Company, Inc. and there is full agreement by the contractor of this condition.

## **FISCAL IMPACT**

\$150,000 is budgeted in the 2010/2011 fiscal year with funding provided by the CDBG commercial revitalization grant awarded in 2009. This contract does not include painting the light poles; however, staff has received quotes on the painting and determined it will cost an additional \$6,400 to complete the project.

[End agenda memo]

Mr. Gallup reviewed Agenda Item 14.



Commissioner Carter asked when the work would begin and Mr. Gallup said they should receive the needed materials in about six weeks and then they would have 71 days after that to complete the project.

Commissioner Rogers said the lighting on Lincoln Avenue is needed and appropriate.

Commissioner Rogers made a motion to approve the contract for repair and replacement of light poles and lighting on Lincoln Avenue with Himes Electric Company, Inc. and authorize the City Manager to execute the contract. The motion was seconded by Commissioner Howell.

By Voice Vote:

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

The motion carried 5-0.

**Agenda Item 15. Approval of Contract with Clarion Associates to Update Impact Fee Study**

The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

A contract with Clarion Associates of Chapel Hill, North Carolina, for \$24,975 is recommended to update the impact fee study of 2005. The update will recalculate appropriate impact fees based on the City's 5-year capital improvements plan for sewer, water, parks, police, fire, and libraries. Impact fees are paid by developers to cover the City's capital costs to provide services required for new development.

**RECOMMENDATION**

Staff recommends that Clarion Associates be awarded a contract for \$24,975 to update the city's impact fee study.

**BACKGROUND**

Studies to support impact fee schedules must be updated periodically to stay current with facility costs and growth rates. The schedule of impact fees was last revised in 2005 based upon a study by TischlerBise. An update is needed to adjust fees to ensure that they reflect current conditions, as required under Florida law. Impact fees will be used to fund the study.

The study is expected to take about three months and may result in significant adjustments in fees, given the changes in the economic climate since 2005.

The recommendation to hire Clarion Associates is based on their price of \$24,975, their experience and expertise, and their partnership with Dwayne Guthrie, formerly with TischlerBise, the firm that prepared the last impact fee study for Lake Wales. Mr. Guthrie was our principal contact with the firm and provided us excellent service.

Per the purchasing manual, a contract for under \$25,000 can be awarded by the City Commission on the basis of three written quotes. Two other proposals were received for the project:

TischlerBise, Bethesda, MD	\$62,880
Tindale-Oliver, Tampa, FL	41,285

Impact fees are one-time charges used to fund capital facilities required to serve new development. The fees must reflect the costs to the city for infrastructure and other hard costs for each service. They cannot be used for operation and maintenance or for capital costs within a development.

The 2005 study calculated the city's costs to fund growth-related system improvements for key services, based on information specific to Lake Wales' facilities and projected need. The level-of-service standards adopted in the comprehensive plan were used as applicable.

Since the study, the impact fee schedule has been adjusted annually to reflect changes in construction costs. Under new state requirements (F. S. Ch. 163.31801(3)(a) amended in 2009), the impact fees must be "based on the most recent and localized data." Updates at five-year intervals are considered reasonable in the industry. Professional assistance in updating fees is recommended because of the complexity of the analysis to withstand legal tests.

Impact fees for sewer, water, parks, police and fire were in place prior to the 2005 study; at the request of the city, an impact fee for libraries was added in 2005. The current fee schedule is attached for your information.

The process will entail three community meetings and an outreach program. Meetings with staff will be held to initiate the study and review draft reports and to obtain data and details of capital projects. The final report will be presented to the City Commission and will provide the basis for an ordinance to adopt the study and new impact fee schedule.

#### **FISCAL IMPACT**

Impact fees that have already been collected will be used to fund the study.

#### **OTHER OPTIONS**

Delaying the study is not recommended because of the legal requirement to base impact fees on current data. Use of a professional consultant experienced in impact fee studies is recommended rather than an in-house update because of the complex nature of the analysis to ensure the fees meet legal requirements.

[End agenda memo]

Ms. Swanson reviewed Agenda Item 15.

Commissioner Carter questioned the timing of spending the equivalent of \$5,000 a year for a feasibility study during the worst economic recession that any of them could remember. He said Polk County put a moratorium on impact fees and the City of Bartow was considering the same thing. He asked that this item be tabled and opened for discussion at a workshop between Commissioners, staff, citizens, businesses and developers so they could establish impact fee policies. He said that though impact fees were an essential part, he did not think it should be done until they establish the policy.

Commissioner Rogers agreed and said he did not know why it was even being discussed because it made no sense to spend this kind of money when there was no building construction going on to start with and they were not collecting impact fees.

Mayor Van Sickle asked for confirmation that impact fees are fees charged by the city to be able to give certain services such as water and sewer and that putting a moratorium on those fees would mean the cost for maintaining and improving the sewer plants would be put on the taxpayers instead of the new people coming into the city. He said it was a catch 22 and though they could use the moratorium, it may

be that the taxpayers will be paying far more than they want. Ms. Swanson said that was basically correct. She explained that impact fees were for the capital cost incurred for facilities needed to provide the services. The city is collecting impact fees, though there is currently not a high rate of development, so if the City does not continue to collect those impact fees, the cost for those facilities goes on the taxpayers because the money has to come from somewhere. The Florida Law states that you have to have current data to base impact fees on, with the industry standard being five years, and our last study was done in 2005. If the Commission wants to have a moratorium on impact fees that is a different story. But if the city continues to collect impact fees, it would be better for us to have a study to look at our capital program and to recalculate how much it is costing the city and how much the developers' share should be.

Commissioner Thornhill said that 2005 was the peak of construction so the present fees may be too high now. The voters just turned down decreases in November and wanted the developers to have the fees. The City of Bartow and the County went against what the voters wanted. He believes the impact fee rates should be checked out because they could be too high. He said he did not want to spend \$25,000 for a study either but we do need to know what a good, current price would be, whether higher or lower. If we want to be business friendly and those around us have a moratorium, we may want to do that also, so we need the study done. Ms. Delmar said our impact fee study in 2005 set impact fees based on the huge growth demands we were experiencing at the time. At that time there had been a large need for additional sewer capacity, lines and storage tanks for the near future. As that environment changed, those needs receded further into the future so it is likely that the fees set now are higher than they need to be.

Commissioner Howell asked how much the City would have to pay if we were not conforming to the Florida State law. Mr. Galloway said we could possibly be required to reimburse the impact fees already collected.

Commissioner Carter asked if there is a standard in which our impact fees would be compared with to determine if we were out of line. Ms. Delmar said impact fees are geared purely to the local situation and would vary from community to community. She said if another city had already built adequate wastewater treatment plants for the next twenty years, the fees would be lower than ours if we have to build a new treatment plant in the next five years to accommodate the expected growth. Commissioner Carter said he was not suggesting that we stop collecting or have a moratorium on impact fees, but that we establish a policy. Ms. Swanson said we have a policy in that we have impact fees that are established by ordinance. She pointed out that the impact fee study money would come from the impact fees collected and not from general fund money. Commissioner Carter said that if we spend that money on the study we would not have it to spend on repairing the water treatment plant. Ms. Delmar said it could not be used for repairs on an existing plant but had to be spent only for development of new systems and the related costs.

Commissioner Carter asked if there was a state mandate that we do a study every five years and Ms. Swanson said the State Statute does not specify five years, but it was the recommendation of most consultants based on court case challenges for impact fees. If the data is more than five years old it is not considered current. Commissioner Carter said consultants who wanted the business would of course recommend it. City Attorney Chuck Galloway said it was established by case law. The court looks at how old the data is, and if that information is out of date then that argument would be deemed invalid. The purpose of the study is to establish that number, which would vary from community to community.

Mayor Van Sickle said he thought five years was a reasonable time to insure that they stay within case law. He said if we were willing to pay \$10,000 for a lot for people to park on we should be willing to pay \$25,000 to insure we are being paid the exact fees required.

Commissioner Rogers suggested contacting other cities to find out what they are charging. He said he was tired of throwing taxpayer money away on more studies if all we had to do is pick up the telephone and use a little common sense. He said if Haines City has a lower fee we would know to lower ours. Mayor Van Sickle said that would depend on if Haines City already had a brand new sewer plant. Ms. Delmar said the study would consist of analyzing our five-year capital plan and the facility master plan prepared by our engineers to tell us what improvements would be needed to our water and sewer

systems, our library, our police department, and our fire department for the next five years to accommodate what growth might be out there. They look at each individual situation and if there is little growth, the fees would be lower and vice versa if a lot of growth. Commissioner Rogers said we already know we will need to spend three million dollars on our sewer plant to get it up to snuff. We know our water system is in trouble and we know our finances are in trouble so he said he could not see spending that much money.

Commissioner Thornhill said he would not want to be the one that said we got our numbers from talking to someone on the phone. He would want something that would stand up in court.

Commissioner Thornhill made a motion to award Clarion Associates the contract for \$24,975 to update the city's impact fee study. The motion was seconded by Commissioner Howell.

By Voice Vote:

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

The motion carried 3-2.

**Agenda Item 16. Discussion of Preliminary Financial Statements for December 31, 2010, Fiscal Year to Date**

The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

The preliminary financial statements report revenues received and expenditures made through the end of December 2010. Revenues were slightly below target in the General Fund and slightly above target in the Utility Fund. Expenditures in the General Fund were slightly above target. Due to the timing of Utility Debt Service principal and interest payments, expenditures were ahead of target in the Utility Fund.

The unaudited financial statements for the City of Lake Wales for the Period Ending December 31, 2010 are presented to the City Commission for review. At the end of December the City was 25% into the fiscal year. Seven of Twenty-six Payrolls (26.9%) have been expensed through December 31.

**SUMMARY**

The following chart gives a brief summary of overall operating revenue and expenditure performance as of December 31, 2010. Capital expense funded by CRA bond or loan proceeds is excluded from the analysis.

Fund	Budgeted	Actual at 12/31	Target at 12/31	Actual at 12/31 Over (Under) Target	Over (Under) as percentage of target
General Revenues <sup>1</sup>	\$10,249,626	\$3,714,104	\$3,754,941	(\$40,837)	-0.4%

Expenditures <sub>3</sub>	\$10,693,437	\$2,790,057	\$2,673,359	\$116,698	+1.1%
Special Revenue Revenues <sup>1</sup>	\$2,109,369	\$1,969,832	\$1,354,779	\$615,053	+29.2%
Expenditures <sub>3</sub>	\$4,578,987	\$651,451	\$1,144,747	(\$493,296)	-10.8%
Debt Service Revenues <sup>3</sup>	\$2,224,126	\$553,297	\$556,032	(\$2,735)	-0.1%
Expenditures <sub>2</sub>	\$2,279,722	\$1,890,265	\$1,890,223	\$42	+0.0%
Utilities Revenues <sup>1</sup>	\$6,372,500	\$1,651,514	\$1,592,294	\$59,220	+0.9%
Expenditures <sub>3</sub>	\$5,825,762	\$2,179,817	\$1,456,441	\$723,377	+12.4%
Airport Revenues <sup>3</sup>	\$105,683	\$15,855	\$26,421	(\$10,566)	-10.0%
Expenditures <sub>3</sub>	\$105,683	\$24,960	\$26,421	(\$1,461)	-1.4%

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

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

<sup>3</sup> Target = 1/12 of budgeted amount multiplied by the number of months since the start of the fiscal year (October 1); i.e. at the end of December we are 3/12 or 25.0% 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.

Revenues from water and sewer charges at the end of December 2010 were \$49,513 ahead of where they were in December, 2009 (water, 51,022; sewer, -1,509). If we use 25% of the fiscal year as the target level, however, water revenues were \$54,438 over target and sewer revenues were \$4,822 over target. This is a combined surplus of \$59,320 compared to the budget. Operating expenditures were running over target at the end of December. Excluding capital outlay and debt service, Utility Fund expenditures were 12.4% or \$723,377 above the target level.

Operating expenditures in the General Fund are running 1.4% above target (\$116,698). 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	12/31/2010	Difference
Pool/Tax Anticipation Account	\$1,037,822	\$1,059,933	\$22,111

The City's overall cash position at the end of December 2010 decreased over the cash position at the end of November 2010 (-1,570,111) In order to make a more accurate comparison, the following adjustments are made:

	prior year	current year	Difference
Total Cash & Investments	8,165,024	6,594,913	-1,570,111

Due to Other Governments	-364,874	-8,062	
Insurance Proceeds & Other Airport Cash	0	0	
Deferred Revenues*	-407,521	--391,051	
Cash & Investments Net of Adjustments	7,392,629	6,195,800	-1,196,829

\*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 December 2010 was \$1,196,829 lower than its December 2009 level.

In comparison to total cash and investments at November 30 of \$3,734,411, the December cash and investments position increased by \$2,860,502. We received \$2,905,552 in ad valorem tax revenue during the month of December which accounts for the increase

[End agenda memo]

Ms. Pendergrass reviewed Agenda Item 16.

Commissioner Howell asked if we were on target and Ms. Pendergrass said we were.

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

#### **CITY COMMISSION TRACKING REPORT**

City Manager Judith Delmar said that Ms. Nanek was handling the tracking report now and indicated to her that there were no changes.

Commissioner Carter asked Mr. Gallup for a gymnasium repair update. Mr. Gallup said he had received a response earlier that day from the insurance company and though staff was still reviewing the report, it looked like we would not be getting any money from them. He said that once construction starts on the gym, it should go rather quickly. Specialty items pertaining to structural issues require the expertise of our engineers in order to do it right. The fault with the facility is due to the lack of an adequate maintenance program and capital expenditures to solve the problems as they occur. Band-aids have been applied over and over until they will no longer stick and major work now is necessary. Commissioner Carter said he understood all that but it was taking too long especially when they were told that haste was necessary in getting the work finished before further damage was done to the building. Mr. Gallup said a lot of time was spent going over the contract and he believed they have the best dollar value for the scope of services, the very best professional services and design, and will have the best field evaluation at the end of the process.

### **COMMUNICATIONS AND PETITIONS**

Richard Crawford, Lake Wales' Resident, active member of Chapter 60 of the Special Forces Association in Tampa, offered his appreciation and thanks for the support they receive from Lake Wales and explained.

### **CITY COMMISSION COMMENT**

Commissioner Rogers explained that his stance against paying for more studies was because he felt they could obtain the information more cheaply by finding it themselves. He said he would like the City to get more self-sufficient and not do so many studies.

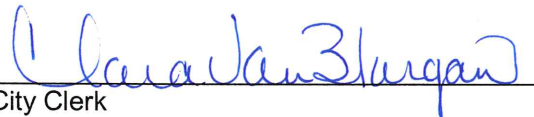
Commissioner Thornhill said that though he had hoped the City would receive some insurance money for the gymnasium, he never guaranteed it, and he encouraged staff not to get discouraged for if they had not asked for it we would never know if we could have gotten it.

Mayor Van Sickle said tonight was an example of the Commission doing what he envisioned it should be doing; five people with different opinions, all trying to do the best for the City though they may not always agree on how that should be done.

There being no further business, the meeting was adjourned.

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

ATTEST:

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