

The regular meeting of the Lake Wales City Commission was held on March 1, 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. Jim Moyer, Warner University.

### **PLEDGE OF ALLEGIANCE**

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

**COMMISSIONERS ABSENT:** None.

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

### **MAYOR**

#### **Agenda Item 5. Proclamation: Girl Scout Week; Week of March 6, 2011**

Mayor Van Sickle presented the proclamation to troop leaders and scouts from troops 411 and 61.

### **CONSENT AGENDA**

#### **Agenda Item 6. Approval of Minutes February 8, 2011 Workshop Meeting February 15, 2011, Regular Meeting**

#### **Agenda Item 7. RFP for Tennis Courts Resurfacing**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Bonnie Hodge, Purchasing Director]

### **SYNOPSIS**

Staff is seeking approval of the RFP to resurface the tennis courts at Crystal Lake Park and Northwest Complex.

### **RECOMMENDATION**

It is recommended that the City Commission take the following action: Approve the Request for Proposal #11-224A, - Resurfacing of Tennis Courts.

### **BACKGROUND**

In fiscal year 2022/2012 \$30,000 was budgeted to resurface the tennis courts at Crystal Lake Park and Northwest Complex which have become cracked and faded over time. The resurfacing project will involve repairing or filling the cracks, sealing and repainting the surface, and relining the courts.

Staff has prepared Request for Proposals #11-244A for the City Commission's review. Court resurfacing specifications can be reviewed on page 12 of the RFP.

After approval of the RFP document, staff will advertise in Lakeland Ledger. The RFP will be posted on the City's website and a copy will be sent to qualified vendors on the City's vendor list.

**[End agenda memo]**

**Agenda Item 8. Appointment of Election Officials**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Clara VanBlargan, City Clerk]

**SYNOPSIS**

It is necessary that the City Commission appoint inspectors and a clerk of election to keep the polling places open from 7:00 a.m. to 7:00 p.m. for the City Election to be held on Tuesday, April 5, 2011.

**RECOMMENDATION**

It is recommended that the City Commission appoint the persons listed to serve as election workers for the City Election to be held on April 5, 2011.

**BACKGROUND**

On February 3, 2004, the City Commission approved the consolidation of 7 polling locations into 1 polling location in the Municipal Administration Building for City elections only.

It is necessary that the City Commission appoint inspectors and a clerk of election to keep the polling places open from 7:00 a.m. to 7:00 p.m. for the City Election to be held on Tuesday, April 5, 2011.

The following registered voters have indicated they are available to serve as election workers:

Patricia "Tish" Pike – Precinct Clerk  
Susan Giacherio, Voter Information Specialist  
Kenneth Anderson, Ballot Box Inspector  
Jimmy Hunter, Audio Book Inspector  
Gary Wiesing - Deputy  
Suzanne "Tootie" Perdue, Book Inspector  
Linda Higginbotham, Book Inspector  
Dorothy "Dottie" Wade, Alternate  
Martha Mattox, Alternate

**OTHER OPTIONS**

None. These persons will receive all the necessary training for the April 5 Municipal Election.

**FISCAL IMPACT**

The money has been budgeted to pay the cost of election workers for the April 5 Municipal Election.

[End agenda memo]

**Agenda Item 9. Hillcrest Elementary School Annual Walk-A-Thon March 11, 2011**

The full staff memo is incorporated into the minutes.

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

## **SYNOPSIS**

Approval of the special event permit application will allow Hillcrest School to hold the Walk-A-Thon on March 11, 2011. The event will require the closing of some city streets. Approval is requested to close Marietta Street, S. Lakeshore from Marietta to 8<sup>th</sup> Street, 9<sup>th</sup> Street to Carlton Avenue, and Carlton to Marietta.

## **RECOMMENDATION**

It is recommended that the City Commission approve the temporary road closing of sections of Marietta Street, South Lakeshore Boulevard from Marietta to 8<sup>th</sup> Street, portion of Lakeshore between 8<sup>th</sup> and 9<sup>th</sup> Streets, 9<sup>th</sup> Street from Lakeshore Boulevard to Carlton Avenue and Carlton Avenue east to Marietta for the Hillcrest Elementary School Walk-A-Thon on Friday, March 11, 2011 from 8:30 a.m. to 12:00 pm

## **BACKGROUND**

Mr. Damian Moses, Principal of Hillcrest Elementary School submitted a Special Event Permit Application for the annual Hillcrest Elementary School Walk-A-Thon to take place on Friday, March 11, 2011 beginning at approximately 8:30 a.m. and ending around noon. This event is to benefit the Parent Teacher Organization (PTO) with an endeavor to raise money for special projects for the school.

The volume of students and parents participating in this event requires that the streets are closed to ensure the safety of all participants. The PTO will provide volunteers to assist with traffic control and redirection for the event. The road closings will be coordinated by the Police Department and the Streets Department. This event will require the closing of the following streets between the hours of 8:30 a.m. and 12:00 p.m.:

Marietta from Hillcrest Elementary School to Lakeshore Boulevard

S. Lakeshore Boulevard to 9<sup>th</sup> Street

Portion of Lakeshore from 8<sup>th</sup> Street to 9<sup>th</sup> Street

9<sup>th</sup> Street from S. Lakeshore to Carlton Avenue

Carlton Avenue at 9<sup>th</sup> Street east to Marietta

This route includes closing a small portion of Lakeshore Boulevard between 8<sup>th</sup> Street and 9<sup>th</sup> Street which will divert traffic away from the intersection of Ninth Street and Lakeshore Boulevard where the students will turn south on Ninth Street. Residents living between 8th Street and 9th Street on Lakeshore will be able to leave their residence when necessary.

## **OTHER OPTION**

Do not approve the request for the road closings for the event.

## **FISCAL IMPACT**

In Kind services for the City of Lake Wales were budgeted for FY10/11 in the amount of \$107.00. If Hillcrest Elementary were to need in kind services for this event their 25% would be \$36.00.

[End agenda memo]

## **END CONSENT AGENDA**

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

### **OLD BUSINESS**

#### **Agenda Item 10. Ordinance 2011-03, Amendments to Chapter 5 Alcoholic Beverages – 2<sup>nd</sup> Reading & Public Hearing**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Margaret Swanson, Director of Planning and Development; Kathy Bangley, Asst. Director of Planning and Development]

#### **SYNOPSIS**

This ordinance provides for "fraternal or civic organizations" to be added to Chapter 5, Alcoholic Beverages, *City of Lake Wales Code of Ordinances*, for hours of sale and exemption from the distance restriction from churches. The ordinance also relocates regulations for consuming alcoholic beverages in an outdoor seating area on public property to Chapter 23 (zoning regulations).

#### **RECOMMENDATION**

Approval of Ordinance 2011-03 upon second reading: Public notice requirements have been met for a public hearing.

A first reading of the ordinance was approved by City Commission on February 15, 2011.

#### **BACKGROUND**

Currently, there are no provisions in City Code to allow the issuance of an alcoholic beverage license to a "fraternal or civic organization." (Note: The VFW has an alcoholic beverage license, apparently issued under an earlier version of Chapter 5 of the Code.) This ordinance will define "fraternal or civic organization," set hours of sale/consumption of alcoholic beverages at such establishments, and exempt them from the requirement to be 500 feet from any church.

A companion ordinance (Ord. 2011-04) will amend the zoning regulations (Chapter 23) to allow the approval of an alcoholic beverage license for a "club" only if it meets the definition of "fraternal or civic organization" in Chapter 5, Alcoholic Beverages.

The ordinance also makes a housekeeping change to regulations in sec. 5-5 to eliminate duplication of regulations (in Chapters 5 and 23) and improve organization.

Details of the proposed changes follow:

#### **Section 5-3 Definitions**

- Adds a definition for "fraternal or civic organization." In keeping with state licensing classifications, the proposed definition limits organizations eligible for an alcoholic beverage license to "national fraternal or benevolent associations." State licenses limit these organizations to serving alcohol by the drink for consumption on premises (no package sales) to members and members' guests.
- Adds "served or consumed" to the definitions for "operator" and "owner." This change is for clarification. Alcoholic beverage regulations pertain to establishments that allow patrons to "consume" alcohol whether or not a "sale" has taken place.

#### **Section 5-4 Hours of sale**

Sets hours of sale for fraternal or civic organizations as 8:00 a.m. until 2:00 a.m. of the following day. This is consistent with all other establishments allowing consumption on premises.

#### **Section 5-5 (consumption on public area)**

- Eliminates the approval requirements for alcoholic beverage consumption on public property (e.g. sidewalk café) from this section and cross references the zoning regulations, which already address the issue. These regulations are more appropriately located in the zoning regulations because zoning approval is required on all alcoholic beverage license applications and because City Commission approval of the private use of public space does not always involve consumption of alcohol.
- The requirement for City Commission approval for alcoholic beverage consumption at special events in public areas will remain in sec. 5-5 (2) because it does not involve zoning approval.

#### **Section 5-6 Distance from church or school**

- Exempts "fraternal or civic organization" from the requirement to be 500 feet from established churches. State law requires that bars be at least 500 feet from a school, but the distance requirement from a church is optional.
- Lake Wales' Code also exempts wine and beer bars from the church rule.

**OTHER OPTIONS:** The Commission may choose not to add "fraternal or civic organization" to the list of establishments that may be approved for an alcoholic beverage license in Lake Wales.

**FISCAL IMPACT:** Fiscal impact is limited to review fees for alcoholic beverage license applications.

[End agenda memo]

Ms. VanBlargan read Ordinance 2011-03 by title only.

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING LAKE WALES CODE OF ORDINANCES, CHAPTER 5, ALCOHOLIC BEVERAGES; DEFINING FRATERNAL OR CIVIC ORGANIZATION, AMENDING HOURS OF SALE, AMENDING PUBLIC AREAS, EXEMPTING FRATERNAL OR CIVIC ORGANIZATIONS FROM THE REGULATION ON DISTANCE FROM CHURCHES; AND PROVIDING FOR AN EFFECTIVE DATE.**

#### **OPENED PUBLIC HEARING**

There were no comments from the public

#### **CLOSED PUBLIC HEARING**

Commissioner Thornhill wanted confirmation for the record that this ordinance would not allow people to walk around town with an open container. It was confirmed by Ms. Bangley who clarified that when it is codified the entire paragraph under number two will stay in its entirety.

Commissioner Howell wanted confirmation that with this ordinance, organizations like Mardi Gras would still have to get special permission to drink. Ms. Bangley said they would have to get a Special Event

Permit and the Special Event Alcohol License issued by the State for a certain number of days and restricted to a certain area.

Commissioner Howell made a motion to adopt Ordinance 2011-03 after second reading and public hearing. The motion was seconded by Commissioner Carter.

By Roll Call Vote:

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

The motion carried 5-0.

**Agenda Item 11. Ordinance 2011-04, Chapter 23 Zoning, Amendments to Table of Uses, Alcohol and Outdoor Seating Regulations – 2<sup>nd</sup> Reading & Public Hearing**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Director of Planning and Development; Kathy Bangle, Asst. Director of Planning and Development]

**SYNOPSIS**

Amendments to the zoning regulations will add "club" to the table of permitted and special exception uses in non-residential districts and will authorize zoning approval of alcoholic beverage licenses for clubs meeting the definition of "fraternal or civic organizations." The ordinance will also consolidate and reorganize requirements for outdoor seating and for the service of alcoholic beverages in public areas, such as sidewalk cafes in the downtown.

**RECOMMENDATION**

Staff recommends approval of Ordinance 2011-04 upon second reading. Public notice requirements have been met for a public hearing.

**BACKGROUND**

Lodges and clubs, such as the Veterans of Foreign Wars, are not defined or allowed specifically in the zoning code. The practice of classifying them as offices does not recognize that clubs differ greatly from offices. They are primarily meeting/gathering facilities, not merely offices, and they often have kitchens, outdoor party or sports facilities, and sometimes bars.

The amendments proposed in this ordinance will define "club" as a separate use to be allowed as a permitted use (administrative approval) in commercial zoning districts and a special exception use (planning board approval) in professional, neighborhood commercial, and mixed use districts.

The ordinance will allow zoning approval of an alcoholic beverage license for a "club" only if it meets the definition of "fraternal or civic organization" proposed in the companion Ordinance 2011-03 for Chapter 5 – Alcoholic Beverages.

Special condition regulations for "outdoor cafes" are revised to cover "outdoor seating" in general. The section is reorganized to separate regulations pertaining to all outdoor seating and those pertaining only to outdoor seating on public property. The provisions are essentially unchanged, including the

requirement for City Commission approval for outdoor seating areas and alcoholic beverage service on public property (usually sidewalks).

Specific amendments:

**Sec. 23-342. Alcoholic beverage sales and service – Conditional use regulations**

This section governs zoning approval for alcoholic beverage licenses. Applications for state licenses require sign-off by the zoning officer certifying that the location for the proposed business is zoned appropriately for the type of license requested. There are various types of licenses depending upon whether alcohol is consumed on or off premises and whether alcohol to be served is beer/wine or liquor.

Specific changes are:

- The section is reworded to replace confusing language and improve consistency.
- The proposed new use “club” is added to the list of uses eligible for an alcoholic beverage license, provided the club meets the definition of “fraternal or civic organization” proposed in Chapter 5 – Alcoholic Beverages. (See companion Ordinance 2011-03.) License applications will receive zoning approval only if they qualify as a national fraternal or benevolent association. The state licensing agency has additional requirements that must be met prior to the granting of the license. Licenses for these types of organizations allow for beer, wine and liquor to be consumed on premises. No package sales are allowed.
- Regulations for alcoholic beverages at establishments with outdoor seating areas on public property (e.g. public sidewalks) are moved from *sec. 23-353 Outdoor seating* to this section to consolidate all requirements for zoning approval for alcoholic beverage licenses.
- The minimum amount of indemnification (at least one million dollars) is moved from Chapter 5 to this section, as part of the license application approval requirements.

**Sec. 23-353 Outdoor seating – Conditional use regulations**

Changes to this section are to improve clarity; no changes in the requirements themselves are proposed.

- The title of the section is changed from “Outdoor cafés” to “Outdoor seating” to indicate that it covers outdoor seating in general.
- The section is reorganized to separate outdoor seating requirements for public and private property. Note that outdoor seating on public property, such as sidewalk, is limited to the C-1 downtown districts and requires City Commission approval.
- The change in terms (“outdoor café” to “outdoor seating”) is not meant to require City Commission approval of incidental placement of a bench or decorative item on the sidewalk outside a business; *sec. 18-26* of the Code authorizes the City Manager to approve “obstructions” in the public right-of-way. Outdoor display of goods, whether on public or private property, requires Planning Board approval.
- The requirements related to alcoholic beverage service in public seating areas are moved to *sec. 23-342 Alcoholic beverage sales and service*. A cross reference to that section has been added.

**Table 23-421 Permitted Uses and Special Exception Uses**

Amendments to the table are proposed to add “Club” and to modify footnotes to correspond to changes in regulations in this ordinance.

- “Club” is added under the amended title “EDUCATIONAL AND CULTURAL USES.”
- Footnotes are modified to correctly cross-reference regulatory sections as amended in this ordinance.
- The table is modified to allow “clubs” as follows:
  - Permitted* (administrative verification) in C-1 Downtown, C-2 General commercial, C-3 Highway commercial, and LCI – Limited commercial-industrial districts
  - Special exception use permit* (Planning Board approval) in C2R – Commercial/residential mixed use, C-4 Neighborhood commercial, C-5 Village center, and PF – Professional districts

**Sec. 802 Definitions**

- Definition of the new use “Club” is added.

- Definition of "Outdoor seating" is added. The term covers outdoor gathering areas at various types of businesses. For zoning purposes, an area used for customer service or gathering will be subject to regulations for outdoor seating regardless of whether actual tables and chairs are provided.

#### **OTHER OPTIONS**

If the Commission chooses not to make the proposed changes, new "clubs" will be classified as "offices" and will be limited in the types of facilities to those appropriate to offices. No new alcoholic beverage licenses will be approved for these types of organizations. Two clubs that will be restricted are the American Legion and the Elks Club.

#### **FISCAL IMPACT**

Some increase in tax base may result from the addition of "club" to the list of permitted uses. However, most fraternal and civic clubs are tax exempt.

[End agenda memo]

Ms. VanBlargan read Ordinance 2011-04 by title only.

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING LAKE WALES CODE OF ORDINANCES, CHAPTER 23, ZONING, LAND USE AND DEVELOPMENT REGULATIONS; AMENDING THE CONDITIONAL USE REGULATIONS FOR ALCOHOLIC BEVERAGE SALES AND FOR OUTDOOR SEATING AREA; DEFINING CLUB; ALLOWING CLUBS IN VARIOUS ZONING DISTRICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

#### **OPENED PUBLIC HEARING**

There were no comments from the public

#### **CLOSED PUBLIC HEARING**

Commissioner Thornhill wanted confirmation for the record that this would not allow people walking the streets with open containers and Ms. Bangley confirmed.

Commissioner Howell made a motion to adopt Ordinance 2011-04 after second reading and public hearing. The motion was seconded by Commissioner Carter.

By Roll Call Vote:

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

The motion carried 5-0.

#### **NEW BUSINESS**

**Agenda Item 12. Ordinance 2011-05, FY2010/2011 Budget Amendment #2 – 1<sup>st</sup> Reading**

The full staff memo is incorporated into the minutes.



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

**SYNOPSIS**

The City Commission will consider approval of the second Amendment to FY10'11 Budget that was adopted on September 21, 2010.

**RECOMMENDATION**

It is recommended that the City Commission approve Ordinance 2011-05 after first reading.

**BACKGROUND**

Ordinance 2010-19 estimating revenues and appropriating funds for Fiscal Year 2010-11 was adopted by the City Commission September 21, 2010 and amended on December 21, 2010. We are presenting for first reading a second amendment of Ordinance 2010-19 to modify the estimates of revenues and appropriations budgeted in various funds. Exhibits A and B and supporting attachments provide the detail for the proposed amendment.

This budget amendment is based on unaudited financial reports for the accounting period ending on 12/31/10. The following is a summary of changes included in the proposed amendment:

Revenues & Balances Fwd	Increase(Reduction)
General Fund	35,344
Special Revenue Fund	935,877
Debt Service Fund	(18,000)
Capital Projects Fund	79,055
Utility System Fund	995,307
Airport Fund	225
Total Increase(Reduction) of Revenues & Balances Fwd	2,027,808
<b>Appropriated Expenditures &amp; Reserves</b>	
General Fund	51,411
Special Revenue Fund	17,149
Debt Service Fund	(18,000)
Capital Projects Fund	-
Utility System Fund	120,746
Airport Fund	225
Reserves	1,856,277
Total Increase(Reductions) of Appropriated Expenditures & Reserves	2,027,808

The proposed budget amendment increases the City's total budgeted expenditures by \$171,531 and increases reserves by \$1,856,277 for a net increase in appropriated expenditures and reserves of \$2,027,808 (from \$39,776,201 to \$41,804,009).

Reasons for this amendment include:

**Estimated Revenues and Reserve Balances:**

- Balances forward must be adjusted to conform to the audited fund balances at 9/30/10. This amendment resulted in a net increase of \$1,985,853:
  - decrease of \$10,206 in the General Fund,
  - increase of \$921,697 in the Special Revenue Funds (\$28,297 Transportation, \$845,239 CRA, -\$4,694 Police Forfeiture, \$52,375 Library, and \$480 Law Enforcement),
  - increase of \$79,055 in the Capital Projects Fund,
  - increase of \$995,307 in the Utility System Fund.
- Revenues projected within the General Fund must be adjusted to reflect a net increase of \$35,344 for revenue changes realized/expected within several revenue accounts:
  - increase of \$300 in administrative charges for Brookshire Street Lighting District,
  - increase of \$20,000 in cemetery capital improvement revenue for additional irrigation capital costs,
  - increase of \$24,000 in miscellaneous revenue,
  - increase of \$1,250 in reimbursement for ball field lining,
- Revenues projected within the Special Revenue Fund must be adjusted to reflect an increase of \$14,180 for revenue expected within the Street Lighting Fund.
- Revenues projected within the Debt Service Fund must be adjusted to reflect a decrease of \$18,000 due to reclassification of the FBO credit agreement from the Debt Service Fund to the Airport Fund.
- Revenues projected within the Airport Fund must be adjusted to reflect an increase of \$225 for a transfer from the General Fund to cover operating costs.

**Estimated Expenditures & Revenues Balances:**

- Expenditures projected within the General Fund must be adjusted to reflect a net increase of \$51,411 for expenditure changes realized/expected within several accounts:
  - Finance – increase of \$22,860 for the conversion of a part-time accounting clerk position to a full-time position. Additional duties to be assigned to this position would include internal review procedures relating to utility billing, accounts payable and payroll.
  - Fleet Maintenance - increase of \$2,072 in capital outlay for an air compressor,
  - Police – increase of \$340 in contract services for legal review of IRS technical compliance changes made to the police pension plan.
  - Fire - increase of \$340 in contract services for legal review of IRS technical compliance changes made to the fire pension plan,
  - Fire - increase of \$3,030 in maintenance/repairs to all overhead doors at the Fire Department,
  - Cemetery - increase of \$20,000 in capital outlay for installation of an irrigation system at the Lake Wales Cemetery,
  - Cemetery – increase of \$1,004 in capital outlay for a memorial sign at Willow Lawn Cemetery,
  - Recreation facilities – increase of \$1,000 for ball field lining at the North West Complex (revenue offset of \$1,250),
  - Recreation facilities – increase of \$540 for Hardman auditorium alarm monitoring service,
  - Transfer to the airport fund – increase of \$225 for additional airport operating costs associated with annual alarm inspection and sensitivity testing.
- Expenditures projected within the Special Revenue Funds must be adjusted to reflect a net increase of \$17,149 for expenditure charges realized/expected within several accounts:
  - Transportation Fund - increase of \$3,651 maintenance/repair cost for replacement of decorative light damaged at the corner of Central & MLK.

- Street Lighting Fund – increase of \$13,498 for expected costs associated with Brookshire Street Lighting District (revenue offset of \$14,180).
- Expenditures projected within the Debt Service Fund must be adjusted to reflect a decrease of \$18,000 due to reclassification of the FBO credit agreement from the Debt Service Fund to the Airport Fund.
- Expenditures projected within the Utility System Fund must be adjusted to reflect a net increase of \$120,746 for expenditure changes realized/expected within several accounts:
  - increase of \$1,710 for desktop computers in Utility Billing,
  - increase of 3,636 for reuse monitoring wells carry forward from prior year,
  - increase of 115,400 for booster station carry forward from prior year,
  - increase in WWTP Rehab and decrease in Crooked Lake Park lift station/force main project of \$435,870,
- Expenditures projected within the Airport Fund must be adjusted to reflect a net increase of \$225 for expenditure changes realized/expected within several accounts:
  - increase of \$225 for annual alarm inspection and sensitivity testing.
  - increase in debt service principal-FBO and decrease in transfer to debt service of \$18,000 due to reclassification of the FBO credit agreement from the Debt Service Fund to the Airport Fund.

## **OTHER OPTIONS**

With the exception of the request to convert a part-time accounting clerk position to a full-time position for the ability to add additional internal review procedures within the Finance Department (\$22,860 additional expenditure) and the inclusion of the Street Lighting Fund (\$14,180 additional revenue and \$13,498 additional expenditure), this is primarily a housekeeping ordinance to conform the budget to items approved by the City Commission.

## **FISCAL IMPACT**

See Exhibit A and Exhibit B attached to Ordinance 2011-05

[End agenda memo]

Ms. VanBlargan read Ordinance 2011-05 by title only.

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING ORDINANCE 2010-19 AS AMENDED BY ORDINANCE 2010-32 TO MODIFY THE ESTIMATES OF EXPENDITURES FOR THE OPERATION OF THE SEVERAL DEPARTMENTS OF SAID CITY FOR THE 2010-2011 FISCAL YEAR AND TO MODIFY THE APPROPRIATION OF FUNDS RAISED AND COLLECTED FROM ALL SOURCES SET FORTH IN THE ESTIMATE OF REVENUES FOR SAID FISCAL YEAR; REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.**

Ms. Pendergrass reviewed Agenda Item 12.

City Manger Judith H. Delmar said for the record, this was budget amendment #2.

Commissioner Carter asked if the position going from part-time to full-time was to strengthen the internal auditing and Ms. Pendergrass confirmed.

Commissioner Thornhill asked Ms. Pendergrass to explain the \$18,000 for the reclassification of the Debt Service Fund. Ms. Pendergrass said that in prior years the City carried the FBO payment credit in the Debt Service Fund, which is a government activity fund. Now that construction activity is finished with projected revenues coming in at the airport, and in order for her to accurately report the FBO payments and credits, she said she needed the debt listed in the Airport Fund. This would put the expense and principal payment for the debt in line with the balance sheet. Ms. Delmar added that it was created sometime before the Airport Authority was created in its current form and the enterprise fund was set up to record airport revenue and expenses. This ordinance would simply fix it.

Commissioner Thornhill made a motion to approve Ordinance 2011-05 after first reading. The motion was seconded by Commissioner Howell.

By Roll Call Vote:

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

The motion carried 5-0.

**Agenda Item 13. Ordinance 2011-06, Enhanced Ethics Provisions – 1<sup>st</sup> Reading**

The full staff memo is incorporated into the minutes.

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

**RECOMMENDATION**

That the City Commission considers adoption of the subject Ordinance which applies more stringent standards of ethical conduct to the City Commission and to the City's appointed officials and employees.

**BACKGROUND**

The City Commission requested that an Ordinance be brought forward for consideration which would provide for more stringent ethical standards than those found in the Florida Code of Ethics as codified in §§ 112.311 - 112.326, Florida Statutes. Authority for the City Commission to adopt more stringent standards is found in § 112.326. The proposed Ordinance is based upon similar provisions found in the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance. If adopted, the Ordinance will require amendment to provide for enforcement and an authority to interpret and enforce its provisions. More input from the City Commission will be required for development of a reasoned approach to enforcement.

**FISCAL IMPACT**

None contemplated.

[End agenda memo]

Ms. Van Blargan read Ordinance 2011-06 by title only.

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, PROVIDING FOR MORE STRINGENT STANDARDS OF ETHICAL CONDUCT THAN THOSE SET FORTH IN §§ 112.311 - 112.326, FLORIDA STATUTES CONCERNING VOTING CONFLICTS, GIFTS, MISUSE OF POSITION,**

**DISCLOSURE OF INFORMATION, DOING BUSINESS WITH ONE'S AGENCY, CONFLICTING EMPLOYMENT, AND ACCEPTANCE OF TRAVEL EXPENSES, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE**

Commissioner Rogers said there was a need for a stronger ethics code and it was a long time in coming. He said that city employees have been required to live up to an ethics code and it was time that the City Commission and those serving on various committees are required to do likewise. He said that the Miami-Dade County Ethics Code states that if a commissioner or committee member is affiliated in any way with a company or organization, they cannot vote on any recommendation for 18 months. Commissioner Rogers said he would like to have that included in the Lake Wales Code of Ethics.

Commissioner Carter said he was in favor of strengthening the code of ethics policy when needed and proper but added that this would be a significant change, affecting all elected officials, every employee of the city, and every member of an advisory board. He voiced the following concerns:

- Commissioner Carter said the document provided no definitions for terms used in the document and asked what was meant by immediate family, financial interest, and indirect compensation. He asked that definitions for these be included.
- Commissioner Carter said the document referred to State Code 112, yet it was not provided for comparison.
- Commissioner Carter said the "direct or indirect financial interest" section could be interpreted to mean that anyone under this policy who had a home loan or owned stock in Wachovia Bank would be in violation of the ethics code.
- Commissioner Carter read a portion from the Miami-Dade minutes stating that they did not have a free standing ethics committee so enforcement would have to be done through a citizen's advisory board and by City Commission recommendation. But it also said Miami-Dade had a problem enforcing theirs. Commissioner Carter did not think Lake Wales needed to consider something based on an ordinance with a known problem, nor did he think they should vote on an ordinance that had no way of being enforced. He said it should not be considered by the Commission until it is complete, with definitions and an enforcement policy, as a total package.
- Commissioner Carter asked what confidential information was being referenced in the section, "disclosure of confidential information," and who decides what is confidential and what is not.
- Commissioner Carter asked if changes would take a supermajority once passed and Ms. Delmar said only if the Charter Amendment passed. Mayor Van Sickle said the requirement for a supermajority had been recommended by the Charter Review Committee. City Attorney Chuck Galloway said a more stringent standard would be going before the Electorate on April 5<sup>th</sup>, stating that eradicating or lessening the ethics code would take a supermajority.

Commissioner Thornhill made the following comments:

- Commissioner Thornhill said he supported having a more stringent ethics policy, but one limited to finance ethics. He said that he supported excluding commissioners and board or committee members that have influence over an organization's funds from voting on a request by that organization to receive city funds. He gave an example of a Girl Scout Troop coming before the Commission seeking a grant. If a Commissioner was on the Girl Scouts' board and would have a say as to how those funds would be spent, there would be a conflict of interest. Commissioner Thornhill acknowledged that the State Code says there is no conflict of interest unless there is a direct financial gain, but he thought there still would be a financial conflict and so would like this in the City's policy. Ms. Delmar said the proposed ordinance says that they would not be allowed to vote on **any** matter so that, referring to his example, if the Girl Scout troop came before the Commission to simply ask for a special event permit, the Commissioner on the Girl Scout Board would not be allowed to vote on that either..
- Referring to Commissioner Carter's concern for enforcement, Commissioner Thornhill said it would be up to the Commission to set the enforcement provisions.
- Commissioner Thornhill said he wanted to make sure something was in the policy whether under Misuse of Position, Conflict of Employment, or Disclosure of Information that would keep Commissioners from negotiating behind the scenes because that was a city staff job. Ms. Delmar agreed that it would interfere with the administration.

- Commissioner Thornhill said the regulations on receiving gifts were already part of state law. Mr. Galloway said the proposed ordinance would have more specificity, having greater limits from which you could or could not receive gifts.

Commissioner Howell addressed the following issues:

- Commissioner Howell said that she thought this ordinance was way out of line with what the City of Lake Wales needed. She said the Miami-Dade policy assumed that city officials were corrupt, which she thought was "way over the top". Maybe a strict policy was needed in places like Miami or New York City, but not in Lake Wales.
- Commissioner Howell wondered why the Sunshine Law was not included in the document. Mr. Galloway said the Sunshine Law had nothing to do with the ethic's policy because it stands alone. They are governed by it just as they are governed by Chapter 112 and this ordinance would be just an enhancement. Commissioner Howell said if they were already governed by Chapter 112 there was no need to change it. Mr. Galloway said it was because the consensus of the Commission had been to bring a more stringent plan back to them and so he has done that.
- Commissioner Howell said that this ordinance would discourage people from wanting to be on the City Commission or serve on boards. The City wants elected and appointed people to be involved in the community by being members of various organizations and not just sitting home watching TV. But if this ordinance passes, the more involved they are in the community the less they will be allowed to vote until they will be doing nothing but taking up space.
- Commissioner Howell disagreed with the section on not receiving gifts saying, for example, that because she was a Commissioner, she would not be allowed to accept a donation for something she needed in her school classroom. She asked if under the proposed changes, taking a gift for her class would be considered unethical if she is also a Commissioner. Ms. Delmar suggested that they possibly may be giving her the gift because they know she is also a City Commissioner. Commissioner Thornhill reminded her that she could accept the gift as long as it did not exceed \$100.

Mayor Van Sickle agreed that ethics policies can be too stringent and gave the following example from where he once worked. When he was offered a cup of coffee at a contractor's meeting, he was not allowed to accept it because of his company's ethics code, and had to get coffee from the vending machine. He said that made no sense to him and he did not think Lake Wales needed anything that stringent. But he did think there needed to be an ethics policy for Commissioners to live by because they are the ones making the laws for others to follow and the ones spending citizen's tax dollars. Lake Wales' citizens should know that their elected officials are governed by an ethics code. He said he thought there was time for the Commission to pass the ordinance now and later create the regulatory document.

Mayor Van Sickle asked if they could limit the document to financial issues as was recommended by some Commissioners. City Attorney Chuck Galloway said it could be modified for that purpose. He said he talked with Robert Myers from Miami-Dade on several occasions after the January Workshop, and Mr. Myers sent him some suggestive language, which was as stringent as Miami-Dade's. He said Lake Wales does not have the problems Miami-Dade has but he had been asked by the Commission to bring forward a policy and this was the language suggested for it. He added that when Mr. Myers was at the City Commission Meeting he stated that there were very few small communities in the state that have even tried to form a more stringent ethics policy but the Commission said it had wanted to give it a shot.

Commissioner Carter asked how the policy would be enforced. He said it made no sense to pass a law that had no teeth and no document with provisions for enforcement. Mr. Galloway said the Commission would have to create the document. Commissioner Carter asked if it would make better sense to create them both at the same time so the Commission would know what they were getting into. Mr. Galloway said that was not necessarily the case. He said the Commission could change the document any way it wished. They would be the ones to determine how it would be enforced and put those enforcement tools into place. This ordinance was just a starting place and could be narrowed without changing the title. If the Commission wanted their comments included, he would make the changes.

Commissioner Howell asked if Commissioners could email him their suggested changes and Mr. Galloway said the changes needed to be discussed at the present meeting. He would note the changes and try to incorporate them into the document. Commissioner Howell wanted the part that says you can't be a part of any organization in Lake Wales and vote taken out. Commissioner Thornhill said except for financial interests.

Commissioner Howell said right now they only have to disclose their affiliation with an organization and then can vote, and asked if they would be able to do that with the new policy. Mr. Galloway said they would not under this scenario. If you are paid by the Girl Scouts you would have to excuse yourself, leave the room, and not vote. He added that he thought the consensus was to remove everything except pure financials from the voting conflict paragraph, and Commissioner Thornhill confirmed. Mr. Galloway asked Commissioner Howell if that suited her and she said it would not because if she was affiliated with many different organizations she would not be allowed to vote on anything. Ms. Delmar said that Commissioner Thornhill's suggested change would limit that to only decisions of a direct or indirect financial nature such as receiving a grant, but would not limit voting on things like special event permits. Commissioner Howell said she just wanted to make sure that citizens would not be discouraged to run or hold office because of this ordinance. Ms. Delmar said the way the ordinance was presently written that would be a real concern but if it is changed to apply only to financial matters, it would only be an issue during budgetary times.

Commissioner Thornhill said it was necessary that they not vote if they are a part of an organization that would benefit from their vote. He added that it would also be beneficial to them as Commissioners because those organizations would not be pressuring them for their vote.

Commissioner Rogers gave a recent example of a Commissioner who had to pay a \$600 fine because he did something that had not been clear to him to be wrong. He said this ordinance would make things clear so they all could understand it in plain English. He said he did not think any Commissioner should be a lobbyist for a private organization, yet he said he had seen this happen since he became a Commissioner. He supported passing the ordinance and then working on the enforcement of it.

Commissioner Thornhill asked if they could provide additional recommendations to be considered before the second reading if they went ahead and voted. Mr. Galloway said no. He said if they were going to submit their proposed change to him in that way the other Commissioners would not have an opportunity to see those changes until it comes back to them. He suggested that if they had something they thought needed to be changed, they should discuss it right then, and he would attempt to make those changes. It would come back to them again for them to decide if the document was what they intended for adoption. Commissioner Carter said that if he therefore wanted to take some time to put his thoughts down in a somewhat concise email, they would have to start the process over and Ms. Delmar said it would require another 1<sup>st</sup> reading. He asked what the disadvantage would be to do that and Ms. Delmar said nothing but additional time. Commissioner Carter said he thought that would be a more thorough way of getting everything they wanted. Mayor Van Sickle said it seemed that the voting paragraph was the biggest issue and Commissioner Carter added the financial issue.

Mr. Galloway listed the change requests thus far as follows:

- Definitions to be included
- The limitation to only financial matters
- The question of Commissioners being unable to negotiate individually on behalf of the city which would be construed as interference with administration
- Confidential information needing to be addressed.

Ms. Delmar said the only confidential information that might be disclosed would be something discussed during Shade Meetings, and Mr. Galloway said it could also be things like future economic development plans given to staff members in confidence. Ms. Delmar pointed out that the confidential section reads to apply only to City Commissioners and it would have to be changed to cover staff. Mr. Galloway read where the definition for City Commissioner included the mayor and all appointed officials and officers, the city manager, city attorney, city clerk, all other members of boards, commissions or advisory bodies appointed by the City Commission, and all personnel employed by the city. Ms. Delmar said that it states specifically

that "no Commissioner shall" and asked if it needed to be expanded to something like "no person subject to this ordinance shall". Mr. Galloway said it did not need to be changed.

Commissioner Carter suggested they schedule a workshop to discuss the issues. Mayor Van Sickle said they already had the workshop and directions had been given to the City Attorney. Commissioner Carter said the consensus by the majority may have been given but it was certainly not unanimous. He still had the concern that they would not be able to enforce the policy. The State would not enforce it, so time, money, and resources would be spent on a law that could not be enforced.

Mayor Van Sickle asked Mr. Galloway if he was given enough information to proceed with the modifications if a motion was made for approval with the suggested modifications. Mr. Galloway said he could do that and the modified policy would be brought back to the Commission to determine whether or not it adequately addressed their concerns.

Commissioner Rogers made a motion to approve Ordinance 2011-06 after first reading and instructed the City Attorney to add the modifications. The motion was seconded by Commissioner Thornhill.

By Roll Call Vote:

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

The motion carried 3-2.

#### **Agenda Item 14. Communications Site Lease with LWRA**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by James Slaton, IT Director]

#### **SYNOPSIS**

Staff recommends the lease of space on the High School Water Tower to LWRA, Inc. for a communications site.

#### **RECOMMENDATION**

Staff recommends that the Commission approve the lease of tower space to LWRA, Inc. for a radio communications site and authorize the city manager to execute the lease.

#### **BACKGROUND**

LWRA, Inc. is a local amateur radio group that is seeking to occupy space on the city's High School Water tower. Staff recognizes that amateur radio communication can be of some benefit when other forms of communication fail, particularly during a disaster situation. LWRA, Inc. has agreed to assist the City of Lake Wales' Emergency Operations Center with emergency communications during a disaster event when needed in return for the usage of space at the water tower site. Additionally, LWRA, Inc. will reimburse the City for any electric utility costs associated with their presence at the site.

This same radio group previously occupied space at the High School Water tower site for approximately three years with only verbal authorization from former city staff and without meeting the city's mandatory minimum insurance requirements. After current staff was made aware of their presence on the tower, the



radio group was denied access to the site. LWRA, Inc. has since met all of the requirements of the City and is ready to enter into a lease agreement.

### **OTHER OPTIONS**

The Commission may choose not to approve the lease agreement with LWRA, Inc.

### **FISCAL IMPACT**

None.

[End agenda memo]

Public Works Director Tom Moran reviewed Agenda Item 14.

City Attorney Chuck Galloway commented that the Commission should be aware that LWRA, Inc. reestablished its corporate status and provided staff with proof of insurance.

Mayor Van Sickle said this communication site has been very helpful in getting information out during bad weather, so he thought it was a good idea.

Commissioner Howell made a motion to approve the lease with LWRA, Inc for a communications site. The motion was seconded by Commissioner Rogers.

By Voice Vote:

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

The motion carried 5-0.

### **Agenda Item 15. Award of Contract for Storefront Façade Improvements under the CDBG Commercial Revitalization Grant**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Harold Gallup]

### **SYNOPSIS**

Staff is recommending approval of a contract with Watts Construction, Inc. for façade improvements to three buildings located on Lincoln Avenue, as provided in the CDBG Commercial Revitalization Grant.

### **RECOMMENDATION**

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

1. Approve the award of a contract to Watts Construction, Inc. of Haines City, FL, a certified minority business enterprise, for Storefront Façade Improvements as approved by CDBG.
2. 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 \$66,000 for façade improvements. This funding was applied to three qualified facades in an amount not to exceed \$22,000 per façade project.

The Storefront Façade Improvements project is a commercial rehabilitation that includes replacing the roof, as pre-qualified by CDBG, demolishing, replacing, repairing, reconstructing and rehabilitating the facade on 218 Lincoln Avenue and demolishing, replacing, repairing, reconstructing and rehabilitating the facades on 340 Lincoln Avenue and 344 Lincoln Avenue.

Contract and engineering authorization issues that resulted in a resubmittal to CDBG and a lengthy review process to ensure grant compliance resulted in delays in bidding the project. On January 16, 2011 staff advertised an Invitation to Bid for Storefront Façade Improvements on the three buildings. Ten firms attended the mandatory pre-bid meeting held on January 25, 2011 with four (4) firms finally responding.

Base Bids were opened on February 9, 2011 at 2:00 p.m. and proposals were received from the following firms:

Henkelman Construction, Inc.	\$107,226
Hodge Management, LLC	\$80,329
Semco, Co.	\$100,905
Watts Construction	\$65,440

The bid invitation also requested an alternate bid for supplemental work: façade prep and painting, removing and installing new windows, prep and painting of stairs and installing 5/8" exterior plywood covers as per FB Code Section 1609 for 340 Lincoln Avenue. This is the work described as not included in the approved CDBG Commercial Revitalization Grant. This alternate bid work would need to be funded from the property owner. The cost estimates for this work is \$6,200.00 as shown in the table below.

In a future action staff is going to recommend approval of the alternate bid work to the CRA Advisory Board and the CRA. This façade work is limited to the **exterior** of the building only. The funding is from existing funds allocated for improvements in the Lincoln Avenue area. There will be **NO** interior work done on this or any other structures.

Alternate bids received were as follows:

Contractor	Painting	Windows	Stair	Plywood Covers
Henkleman Construction, Inc	\$1768	\$6786	\$3000	\$400
Hodge Management LLC	\$2702	\$2967	\$1535	\$565
Semco Construction	N/A	N/A	\$1500	N/A
Watts Construction, Inc	\$1500	\$3000	\$1700	\$900

Mr. Gareth Eich of Renker Eich Parks Architects, the architect for this project, has certified that the bid meets the entire invitation to bid requirements and that no irregularities exist in the documents. He further recommends the award of the contract to the lowest, qualified, responsive bidder, Watts Construction, Inc., Haines City, FL.

## FISCAL IMPACT

\$66,000 is budgeted in the 2010/2011 fiscal year.

[End agenda memo]

Mr. Gallup reviewed Agenda Item 15.

Commissioner Carter said he was confused and asked Mr. Gallup to clarify the statement, "The alternate bid work would need to be funded by the property owner." Mr. Gallup explained that with \$22,000 per facade, they were able to aggregate \$44,000 on the face of a building occupied by two tenants. The problem is the scope of work addresses only the face of the building and not the side. But, the side of the building has a window and other things that need to be repaired and as that side of the building is in the line-of-sight from Lincoln Avenue, a less beautified side of the building will be visible. That second bid was an alternate one so if there was surplus money from the \$45,000 after the facade work was completed, they could request for the additional work on the side of the building to be included. Interior improvements, plumbing or code compliant requirements, or structure modification will not be done. This is for facade and exterior work only.

Commissioner Thornhill said he thought this would be a great improvement.

Commissioner Howell asked if there was more money available in the budget that could be used on other facade projects. Mr. Gallup said all the funds for this grant will be expended.

Commissioner Rogers said anything they can do to enhance Lincoln Avenue should be done.

Commissioner Thornhill made a motion to approve the contract with Watts Construction Inc. for facade improvements provided in the CDBG Commercial Revitalization Grant. The motion was seconded by Commissioner Rogers.

By Voice Vote:

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

The motion carried 5-0.

#### **Agenda Item 16. Safe Routes to School Grant Application**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Jennifer Nanek, Special Projects Manager]

#### **SYNOPSIS**

The City of Lake Wales would like to partner with Polk Avenue Elementary to apply for a Safe Routes to Schools Grant Application from the Florida Department of Transportation (FDOT). This application requests funding for new sidewalks on 2<sup>nd</sup> and 3<sup>rd</sup> Streets from HWY 60 to Polk Avenue and upgraded crosswalks at Polk Avenue and First Ave.

#### **RECOMMENDATION**

City staff recommends that the City Commission approve the Safe Routes to School grant application to the Florida Department of Transportation and authorize the City Manager to sign all grant related documents.

## **BACKGROUND**

City staff in conjunction with Ms. Gail Quam and Polk Avenue Elementary Staff have developed a proposal to request funding for a sidewalk on the east side of 2<sup>nd</sup> Street from SR 60 to Polk Avenue, sidewalks on both sides of 3rd Street from SR 60 to Polk Avenue and upgraded crosswalks on all four corners of Polk Avenue and First Street. This will make it safer for students walking or biking to school.

Upon approval, design and construction will be handled by FDOT. Maintenance will be handled by the City of Lake Wales. Polk Avenue Elementary staff will assist with evaluation of the project upon completion. The pre-application has been submitted. The final application is due on March 31<sup>st</sup>. This project has been endorsed by the Bicycle and Pedestrian Advisory Committee and approved by the Lake Wales Charter School Board.

## **OTHER OPTIONS**

Do not approve the grant application.

## **FISCAL IMPACT**

Maintenance of sidewalks

[End agenda memo]

Ms. Nanek reviewed Agenda Item 16.

Commissioner Thornhill commented that a crossing guard was needed at SR 60 and 3<sup>rd</sup> Street because on several occasions he almost hit a young child who was trying to cross there. He asked that the county be contacted for that recommendation. Ms. Nanek said the Safe Routes to School Committee and BPAC have expressed concerns for a need of a crossing guard there and they will certainly see what can be done. Commissioner Thornhill said his only other concern was in maintaining the sidewalks as they have had issues with not doing so in the past. He added that the off-set would be the safety benefit for Lake Wales' children. He supported this project as long as the city has the right-of-way and the project is done properly. He asked who would do the engineering and Ms. Nanek said FDOT would contract that out.

Mayor VanSickle asked if the sidewalk on 2<sup>nd</sup> Street would go to SR 60 and it was confirmed. The Mayor said his concern was that a sidewalk would lead the children to SR 60 where they may attempt to cross even though there is not even a light to assist them. Commissioner Howell said they cross SR 60 there now and from all other streets crossing SR 60. Ms. Nanek said the FDOT work planned in the next couple of years includes sidewalks along SR 60 in that area and hopefully they will address some of those concerns.

Commissioner Howell said she was happy with the project and thought every school should be included because children are walking sometimes down the middle of the street, and it is hard for drivers to see them, especially in the mornings.

Commissioner Rogers reported that a property owner on 2<sup>nd</sup> Street contacted him to say she did not want the sidewalk put on the east side because of her concern for children trying to cross SR 60 with no crossing guard or light. The lady said if they were going to put a sidewalk in, she would recommend putting it only on the west side, which would be beneficial to the children coming out of the school. Ms. Nanek said that the sidewalk would be needed for children living, for example, on Steedly Avenue so they could walk north and cross with the crossing guard at Polk Avenue. Commissioner Rogers did not think that was a valid argument and asked the City Attorney if the city could be held liable if a student was hit while crossing on 2<sup>nd</sup> Street where there was no crossing guard or light. Mr. Galloway said he did not think there would be more liability than what already exists. He said that adding a sidewalk would make it safer than having the children walking in the street.

Ms. Delmar asked if middle school children crossed SR 60 at 2<sup>nd</sup> to get to McLaughlin and Ms. Nanek said it could be that they are crossing there but they should cross at 3<sup>rd</sup> Street because there is a light and the street is a straight shot to McLaughlin Middle School. She said by crossing at 2<sup>nd</sup> Street they would have to weave through the neighborhoods a bit more to get to the school.

Commissioner Thornhill suggested putting the sidewalk on the east side of 2<sup>nd</sup> Street only from Steedly to Polk Avenue in order to discourage children from crossing SR 60. Commissioner Rogers said he nearly hit a child who darted out from behind a bush to cross SR 60 from 2<sup>nd</sup> Street. They should go either to 3<sup>rd</sup> Street or 1<sup>st</sup> Street to cross but they do not, which is the school's responsibility. Ms. Nanek said it was a Safe Routes to School requirement once the sidewalks are in place, for schools to encourage and educate their students as to the safe route to walk or bike to school. The school also has to determine how many more or less students are walking or biking to school once the sidewalks are in place.

Commissioner Carter said he was very much in favor of the Safe Routes to School project and he wished all five schools could have been involved. But, he said it was a good start and other schools can be included with the next opened grant. He asked if the county had been asked to put a crossing guard at SR 60 and 2<sup>nd</sup> and if the request should come from the city or the school. Ms. Nanek said they have not asked but she was sure the request could come from either. The Mayor said he doubted they would approve a crossing guard at 2<sup>nd</sup> Street because there is no light there.

Ms. Delmar asked when the funds would be available and Ms. Nanek said 2016. Commissioner Carter said that would be after the FDOT work on SR 60 was complete and Ms. Nanek confirmed.

Commissioner Thornhill made a motion to approve the Safe Routes to School Grant application. 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 17. Interlocal Agreements with Polk County Property Appraiser and Polk County Tax Collector relating to Brookshire Street Lighting District.**

The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

Recommendation for approval of interlocal agreements with the Property Appraiser and Tax Collector for annual billing and collection of Brookshire street lighting special assessment.

**RECOMMENDATION**

It is recommended that City Commission take the following action:

1. Approve the interlocal agreement with Polk County Property Appraiser and authorize the City Manager to sign the contract.
2. Approve the interlocal agreement with Polk County Tax Collector's Office and authorize the City Manager to sign the contract.

## **BACKGROUND**

On September 10, 2010, the City Commission approved the creation of the Brookshire Street Lighting District. The street lighting district requires an annual non-ad valorem special assessment relating to street lighting costs for services, facilities and programs. Cost incurred from these interlocal agreements would be included within the annual assessment.

Section 197.3632 Florida Statutes, provide that special assessments of non-ad valorem assessments levied by the City may be included in the assessment rolls of the County and collected in conjunction with ad valorem taxes as assessed by the Property Appraiser. The Property Appraiser shall be compensated by the City for the administrative cost incurred in carrying out this agreement at the rate of 1% of the amount levied on the TRIM notice.

In exchange for collection and enforcement of the collection of the non-ad valorem special assessments, the Tax Collector shall be compensated by the City for actual costs of collection and reimbursement by the City for necessary administrative costs.

Due to the efficiency of billing by the Property Appraiser and the enforcement ability of the Tax Collector, staff recommends approval of the interlocal agreements as presented to handle billing in 2011-2012 and the future. Due to statutory deadlines, the City needed to perform internal billing for this assessment for fiscal year 2010-2011.

As of February 2010, only \$5,215.36 has been collected of the \$14,179.26 billed to the residents of the Brookshire Street Lighting District. Staff has sent out two notices of the assessment to the owners of the fifty-five properties who have not paid. Kensington Lakeside, LLC owes thirty-nine of these properties and numerous unsuccessful attempts have been made to collect the \$6,356.22 due from this entity.

Progress Energy has been notified that the City will not pay the Brookshire power bill if funds are not available due to non-payment of the assessment by property owners.

The interlocal agreements with the County are expected to improve future collection results because the assessments will be included on the tax bills for the properties.

## **FISCAL IMPACT**

Annual assessment costs associated with these interlocal agreements shall be included within the non-ad valorem assessment calculation for the Brookshire Street Lighting District.

[End agenda memo]

Ms. Pendergrass reviewed Agenda Item 17.

City Attorney Chuck Galloway explained that when a tax certificate is sold, everything owed us would be paid. Ms. Delmar said the City exhausted all other options. Mayor Van Sickle asked if they planned on going after the properties and Ms. Pendergrass said they can't put a lien on the properties. Mr. Galloway explained that the city can only put a lien on property for expended funds. Ms. Delmar said if we don't spend the money, there would be no reason to place a lien. Ms. Pendergrass said it won't be a problem in the future because the tax collector will be able to collect the funds. She said she had asked Rick Rhodes from the Tax Collector's Office if there were other recourses and he said there were none.

Ms. Pendergrass said it will be up to Progress Energy whether or not they turn off the lights once our collected funds are exhausted and we can no longer send them a check. Commissioner Howell said she thought it would be wrong to punish the people in Brookshire by turning off the lights when Kensington

Lakeside, LLC is the one to blame. She asked if Kensington Lakeside has other property in Lake Wales. Mr. Galloway said they made Kensington Lakeside, LLC specifically for this subdivision.

Commissioner Carter said potentially the city may not see the money for quite some time. Just because it is on the tax bill does not mean it will be paid. Mr. Gallup said that was correct unless it goes into receivership and someone buys it. They would have to pay what is due in order to clear the title. But, given the economy, no one is running out to buy lots. Mr. Galloway said for clarification, that not this year but next when the interlocal agreements kicks in and it goes on the ad valorem tax bill, if not paid by March the tax certificate gets sold and we would get the income because there will be certificate purchasers.

Commissioner Thornhill made a motion to approve the interlocal agreement with Polk County Property Appraiser and Polk County Tax Collector relating to Brookshire Street Lighting District. The motion was seconded by Commissioner Howell.

By Voice Vote:

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

The motion carried 4-1.

**Agenda Item 18. Reschedule 1<sup>st</sup> Regular Commission Meeting in April**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Clara VanBlargan, City Clerk]

**SYNOPSIS**

It is necessary for the City Commission to reschedule its first regular commission meeting in April to allow for the City Canvassing Board (City Commission) to canvass absentee envelopes and precinct returns on April 5 at the Election Headquarters in Bartow.

**RECOMMENDATION**

It is recommended that the City Commission reschedule its first regular Commission meeting in April from Tuesday, April 5 to Monday, April 4, Wednesday, April 6 or Thursday, April 7 so the City Canvassing Board may canvass the election on Tuesday, April 5.

**BACKGROUND**

The County Elections Office will be mailing and receiving each city's absentee ballots. The City Charter requires that the canvassing board meet no later than 12:00 noon on the day following the election. As part of the City's Administrative Agreement with the Supervisor of Elections, the canvassing board will meet in Bartow on April 5 at Election Headquarters, 250 South Broadway Avenue, to begin the canvass of the absentee ballots and precinct returns. The Canvassing Board will remain until unofficial results are documented. The meeting time has not yet been scheduled.

This will require rescheduling the April 5 Commission meeting to either Monday, April 4, Wednesday, April 6 or to Thursday, April 7.

**OPTIONS**

None.

**FISCAL IMPACT**

None.

[End agenda memo]

Commissioner Carter made a motion to move the first City Commission meeting in April 2011 from Tuesday, April 5, 2011 to Wednesday, April 6, 2011. The motion was seconded by Commissioner Howell.

By Voice Vote:

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

The motion carried 5-0.

**Agenda Item 19. Discussion of Preliminary Financial Statements for January 31, 2011, Fiscal Year to Date**

The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

The preliminary financial statements report revenues received and expenditures made through the end of January 2011. Revenues were slightly below target in the General Fund and on 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 January 31, 2011 are presented to the City Commission for review. At the end of January the City was 33.3% into the fiscal year. Nine of Twenty-six Payrolls (34.6%) have been expensed through January 31.

**SUMMARY**

The following chart gives a brief summary of overall operating revenue and expenditure performance as of January 31, 2011. Capital expense funded by CRA bond or loan proceeds is excluded from the analysis.

Fund	Budgeted	Actual at 01/31	at Target at 01/31	Actual at 01/31 Over (Under) Target	Over (Under) as percentage of target
General Revenues <sup>1</sup>	\$10,249,626	\$4,780,216	\$4,799,048	(\$18,832)	-0.2%
Expenditures <sub>3</sub>	\$10,693,437	\$3,645,402	\$3,564,479	\$80,923	+0.8%



Special Revenue					
Revenues <sup>1</sup>	\$2,109,369	\$1,238,190	\$1,512,783	(\$274,593)	-13.0%
Expenditures <sub>3</sub>	\$4,578,987	\$874,007	\$1,526,329	(\$652,322)	-14.2%
Debt Service					
Revenues <sup>3</sup>	\$2,224,126	\$755,590	\$741,375	\$14,215	+0.6%
Expenditures <sub>2</sub>	\$2,279,722	\$1,988,606	\$1,988,564	\$42	+0.0%
Utilities					
Revenues <sup>1</sup>	\$6,372,500	\$2,206,731	\$2,206,164	\$567	+0.0%
Expenditures <sub>3</sub>	\$5,825,762	\$2,987,847	\$1,941,921	\$1,045,927	+18.0%
Airport					
Revenues <sup>3</sup>	\$105,683	\$25,432	\$35,228	(\$9,796)	-9.3%
Expenditures <sub>3</sub>	\$105,683	\$34,489	\$35,228	(\$739)	-0.7%

<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 January we are 4/12 or 33.3% into the fiscal year. This method assumes a relatively even distribution of expense or revenue from month to month.

In general, most operating revenues are about where we would expect them to be at this point in the fiscal year.

Revenues from water and sewer charges at the end of January 2011 were \$29,254 behind where they were in January, 2010 (water, -36,945; sewer, 7,691). If we use 33.3% of the fiscal year as the target level, however, water revenues were \$57,036 over target and sewer revenues were \$16,461 over target. This is a combined surplus of \$73,438 compared to the budget. Operating expenditures were running over target at the end of January. Excluding capital outlay and debt service, Utility Fund expenditures were 18.0% or \$1,045,927 above the target level.

Operating expenditures in the General Fund are running .8% above target (\$80,923). 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	01/31/2011	Difference
Pool/Tax Anticipation Account	\$1,037,822	\$1,060,903	\$23,081

The City's overall cash position at the end of January 2011 decreased over the cash position at the end of January 2010 (-791,330) In order to make a more accurate comparison, the following adjustments are made:

	prior year	current year	Difference
Total Cash & Investments	7,410,844	6,619,514	-791,330
Due to Other Governments	-102,380	-5,139	
Insurance Proceeds & Other Airport Cash	0	0	

Deferred Revenues*	-399,756	-391,051	
Cash & Investments Net of Adjustments	6,908,708	6,223,324	-685,384

\*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 January 2011 was \$685,384 lower than its January 2010 level.

In comparison to total cash and investments at December 31 of \$6,594,913 the January cash and investments position increased by \$24,601. We received \$387,740 in ad valorem tax revenue during the month of January.

[End agenda memo]

Ms. Pendergrass reviewed Agenda Item 19.

Commissioner Howell asked how the Fund Balance looked. Ms. Pendergrass said the audit, currently in draft form, was being reviewed by the auditors committee and City Manager and would come before the Commission during the first City Commission meeting in April. But the unrestricted portion of the Fund Balance, \$3,398,152.00, is 29% of general fund operating costs. The reserves are not only within the appropriate limits, but actually slightly ahead. There are sufficient funds for budgeted restricted projects.

Commissioner Howell asked how Lake Wales compared to other cities. Ms. Pendergrass said for the two years she has been working with the city, the Directors and City Manager were always able to balance the budget. Yet, in the newspaper you read of cities that are struggling to do so. We have had to cut back services and many departments are short staffed but we are able to maintain a balanced budget and have sufficient recommended levels of emergency reserves. They are waiting for the property appraiser to tell them what to expect for next year with the downturn of the economy. It will be a struggle but she said she felt they were doing well for the conditions they are working under.

Commissioner Rogers asked if she heard anything from the insurance company about the missing money. Ms. Pendergrass said she and the H.R. Director talk to insurance representatives every Monday. They have a forensic accountant who is wrapping up the review of our account and will send her findings to the insurance company, though she did not get a specific timeline.

Commissioner Carter said he knew that accountants recommend a 16%-18% reserve fund and asked if, in her opinion, that was enough in reserve or should the City be aiming higher than that. Ms. Pendergrass said that as the Finance Director she would not make a recommendation to target a higher amount in the emergency reserve fund at this point. We know there will be additional reductions in ad valorem taxes and cutbacks in state revenues. Though we don't know the percentage yet, we expect those projections in July. She said she knows the electric franchise fee is coming in less than we expected but we will give it another two months to see if it picks up. City departments have been cutting back in operating costs every way they can over the last few years, so to try to build a reserve during a recession period would be very difficult unless the Commission wished to raise taxes or raise significantly the user fees. She added that doing so would be difficult because the public is having such a difficult time at the moment. She did not recommend going above the guidelines for the recommended fund balance though they may want to start looking at capital reserves and repair and replacement reserves. She did not recommend building full-fledged reserves over a short period of time but implementing the reserves slowly.

Mayor Van Sickle said he agreed that they needed to build up capital reserves, and though it would be nice to do, he knew it was not going to happen. He also commented that he thought the recommended reserve fund was 11%.

**Agenda Item 20. CDBG Grant Application Household Survey – Report**

Jennifer Nanek, Special Projects Manager, gave an informational report letting the Commission know that the CDBG grant application requires Andy Easton, the city grant administrator, to do a demographic survey in the C Street neighborhood where the C Street Project will take place. He therefore needs a letter from the Mayor explaining the purpose for him being in that area and giving him permission to do the survey.

Commissioner Carter asked if the purpose of the grant application was to help finance the C Street and when it might be available. Ms. Nanek said it could possibly be to finance the C Street project and would be available late in the summer. Ms. Delmar said the application window runs somewhere between July and August and this was preparatory work for that. The funds would be available during the next fiscal year at the earliest. Mayor Van Sickle said the present CDBG grant must be closed out before we can apply for a new one. Ms. Delmar said they were working against that deadline to get that project finished.

Commissioner Howell asked what a demographic survey was and Ms. Nanek said it was similar to the census, gathering information on the number of people living in a house, age, gender, race etc. Ms. Delmar said certain guidelines had to be met to receive CDBG grants and this was in preparation for that.

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

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

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

Commissioner Carter asked if the apron lights were completed at the airport as scheduled. Public Services Administrator Teresa Allen said she was waiting on a report from Hoyle Tanner.

Commissioner Carter said he thought they were looking at a different alternative than repaving the tennis courts. Ms. Delmar said the RFP approved earlier was for repairing the cracks, sealing and painting. Commissioner Carter asked if it was still expected to be within the \$30,000 range and Ms. Allen said it was.

Commissioner Thornhill asked if the work at the cemetery was moving along and Ms. Allen said there was a scheduled preconstruction meeting the following day. Ms. Delmar said their goal is to finish before Memorial Day.

### **COMMUNICATIONS AND PETITIONS**

There were no comments from the public.

### **CITY COMMISSION COMMENT**

Commissioner Howell asked for an update on the Grand Hotel. Economic Development Director Harold Gallup reported that the area has been fenced off to prepare for the scaffolding. The first story has been installed and the OSHA engineer will be inspecting the footings to make sure they meet all the guidelines. There are issues with staying off the face of the building and with the shrouding due to wind factor. Once we get the green light, the scaffolding will start to go up and the preparatory work will begin. He said someone told him they didn't need scaffolding on the first floor because that should be done by ladder. Mr. Gallup said it could not be done with a ladder because they would be doing some sandblasting, material removing, replacement, and working with cement type material. He said using a ladder would be like trying to paint your house with an airplane model paintbrush. The scaffolding is an intricate and necessary part of the project in order to enclose the envelope. The ground floor has about 50% of the 17,000 sq. ft. for commercial purposes. A number of issues are being worked out with the Fire Marshall and Building Inspector.

Commissioner Howell asked if they would be hiring Lake Wales' residents and if so who would interested parties go to. Mr. Gallup said the general contractor will have a few positions available but because we are

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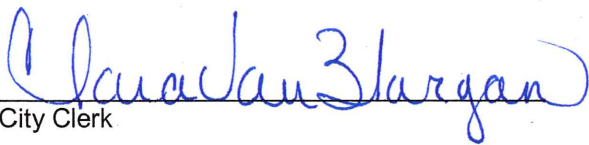
dealing with specialty trades they will be hiring qualified workers, most likely from places outside of Lake Wales. He said he would leave phone numbers for the various subcontractors at the front desk in the City Manager's Department.

Commissioner Thornhill thanked those who were able to come out to help with the Liberty Tree dedication and invited people to go look at the plaque.

There being no further business, the meeting was adjourned.

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

ATTEST:

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