

The regular meeting of the Lake Wales City Commission was held on June 21, 2011 at 6:09 p.m. in the Commission Chambers at the Municipal Administration Building. The meeting was called to order by Mayor Michael S. Carter following the Invocation and Pledge of Allegiance.

#### **INVOCATION**

The invocation was given by Dr. Jim Moyer.

#### **PLEDGE OF ALLEGIANCE**

**CALL TO ORDER:** Michael S. Carter, Mayor

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

**COMMISSIONERS ABSENT:** None

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

#### **MAYOR**

#### **APPROVAL OF MINUTES**

#### **Agenda Item 5. Approval of Minutes:**

#### **June 7, 2011, Regular Meeting**

Commissioner Wojcik made a motion to approve the minutes for the June 7, 2011 workshop meeting. The motion was seconded by Commissioner Howell.

By Voice Vote:

Commissioner Wojcik	"YES"
Commissioner Howell	"YES"
Commissioner Rogers	"YES"
Commissioner Thornhill	"YES"
Mayor Carter	"YES"

The motion carried 5-0.

#### **June 11, 2011, Budget Workshop Meeting**

Commissioner Wojcik made a correction to the minutes. In the June 11<sup>th</sup> workshop meeting, the minutes read that she said "they should do only those projects that are critical and the rest put off till next year." She said instead, "they **cannot** only do those projects that are critical and the rest put off till next year."

Commissioner Wojcik made a motion to approve the minutes for the June 11, 2011 Commission Workshop. The motion was seconded by Commissioner Thornhill.

By Voice Vote:

Commissioner Wojcik	"YES"
Commissioner Thornhill	"YES"
Commissioner Rogers	"YES"

Commissioner Howell  
Mayor Van Sickle

"YES"  
"YES"

The motion carried 5-0.

**NEW BUSINESS:**

**Agenda Item 6. Ordinance D2011-01 CPA/Zoning, Sunset Development Group, 41 acres east side of Buck Moore Rd. – 2nd Reading & Public Hearing**

The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

An increase in maximum residential density from 3 to 6 units per acre is recommended for 41 acres on the east side of Buck Moore Rd. south of Bel Ombre Circle. The ordinance was approved on first reading in March, and the state's Department of Community Affairs has issued a report listing no objections to the change. The ordinance will change the classification of the property on both the Future Land Use (Comprehensive Plan) and Zoning Maps.

**RECOMMENDATION**

Staff recommends adoption of Ordinance D2011-01 following a second reading and public hearing. Notice requirements have been met for a public hearing.

The "Objections, Recommendations and Comments Report" (ORC) from the state's Department of Community Affairs, received on June 6, 2011, listed no objections to the change. The ORC report is attached.

The ordinance was approved on first reading in March 2011 and transmitted to the state's Department of Community Affairs (DCA) for review. At the City Commission hearing there were no public comments.

The Planning and Zoning Board held a public hearing on February 22, 2011 and recommended a Future Land Use Map designation of MDR-Medium Density Residential for the subject property, as requested by the applicant.

**BACKGROUND**

**Request:**

Future Land Use Map (Comprehensive Plan) change from LDR-Low Density Residential to MDR-Medium Density Residential, increasing the maximum allowable density from 3 units per acre to 6 units per acre. Zoning Map change from R-1B to R-1C Single-family Residential, decreasing the minimum single-family lot size from 9,000 to 8,000 square feet. Both R-1B and R-1C zoning are appropriate for the medium density designation.

See "Attachment A" of Ordinance for location map.

**Proposal:**

A PDP-Planned Development Project Plan for a 123-unit assisted living facility is being presented to the Commission for approval concurrently. The facility will use all of the allowable density on the property under the current land use classification (LDR-3 units per acre maximum). The requested MDR-Medium Density Residential (6 units per acre maximum) will allow for the proposed construction of a second assisted living facility on the property.

However, the owner is not bound to the proposal for a second facility. A single-family subdivision could be constructed by right. Clustered housing, smaller lot sizes, duplex and multi-family housing could be approved by the City Commission under the planned development process, provided the maximum allowable density is not exceeded. Smaller lots can be approved under the PDP process only with commensurate increases in parks and common open space.

The land was annexed into the City in 2005. A preliminary plan for a single-family subdivision with 102 units was approved by the City Commission for the property in 2007.

Surrounding land uses and designations:

	Current Land Use	Land Use Designation
North	Bel Ombre subdivision	22 lots in the 14,000 sf range – City
East	Florida Rock	LDR/ R1-A – City (min. lot 12,000 sf)
South	Two churches. Further south, proposed single-family subdivision (Estates of Lake Wales).	LDR/ R1-A – City (min. lot 12,000 sf)
West	Vacant land	LDR/ R1-B – City (min. lot 9,000 sf)

#### **OTHER OPTIONS**

Approve the Future Land Use change to MDR, but retain the R-1B zoning, requiring a minimum lot size of 9,000 sf.

#### **FISCAL IMPACT**

[End agenda memo]

Ms. VanBlargan read Resolution D2011-01 by title only.

**AN ORDINANCE OF THE CITY OF LAKE WALES, FLORIDA, AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN AND THE ZONING MAP TO CHANGE LAND USE DESIGNATIONS ON 41.27 ACRES OF LAND LOCATED ON EAST SIDE OF BUCK MOORE ROAD, FROM CITY OF LAKE WALES FUTURE LAND USE DESIGNATION LDR - LOW DENSITY RESIDENTIAL TO MDR - MEDIUM DENSITY RESIDENTIAL AND ZONING DESIGNATION R-1B SINGLE FAMILY TO R-1C SINGLE FAMILY RESIDENTIAL; PROVIDING FOR AN EFFECTIVE DATE.**

The density change will increase potential taxable value upon development of the property.

Ms. Swanson reviewed Agenda Item 6.

Commissioner Howell said she thought it was a good idea, something that was needed, and that she believed the questions brought forward from residents living in the area have been satisfied.

Commissioner Rogers asked if this was a 'for profit' or a 'non-profit' organization and Ms. Swanson explained that it is proposed as a 'for profit' under the PDP but this agenda item is only for the land use change.

Commissioner Thornhill said his only objection would be if nothing happens because they have been given promises before.

Commissioner Wojcik said she was in favor of leaving the lot size at 9,000 sq ft just in case the project falls through, as long as it would not prohibit the project from moving forward. Ms. Swanson said that

would not affect the assisted living project, but if the project falls through, and the developer either sells the property to someone else, or decides to put in a single family subdivision, the proposed ordinance would make the minimum lot size 8,000 sq ft instead of 9,000 sq ft. Commissioner Wojcik asked if there was a reason for proposing the change to 8,000 sq ft and Ms. Swanson said that was usual for medium density residential in the R-1C but it was legal to retain the 9,000 sq ft if they wished.

Commissioner Rogers asked if the numbers would still work and Ms. Swanson said she was not sure how they would do the heading on the ordinance, but that the State does not care about the zoning. City Attorney Chuck Galloway said that if it requires a title change, it would have to come back again for another reading and public hearing. Mayor Carter said it would just delay the project for a couple of weeks. Commissioner Wojcik said that the project has already had to go through so many steps and still has many more to go, so she said it might be better to leave it as it is. Mayor Carter asked for the procedure if they want to change it back to 9,000 sq ft in the future if the project falls through. Ms. Swanson said it would have to be advertised again for first reading and second reading.

Mayor Carter said the project is completely surrounded by neighborhoods that have a minimum of 12,000 sq ft and asked what changing it would do to their property values. Ms. Swanson said some of the properties are 9,000 sq ft but there would not be much difference between 8,000 sq ft and 9,000 sq ft. She added that Bel Ombre has oversized lots, more in the range of 12,000 sq ft to 14,000 sq ft. but that was not a requirement. They chose to do that. She explained that some of the single family developments now ask for 6,000 sq ft lots but then they have to have more common open space. The maximum density rarely can be reached, though, because of the configuration of the land and the layout of the roads.

#### **OPENED PUBLIC HEARING**

Jackie Williams, 2054 Bel Ombre Circle, said she was all for the assisted living project and felt that it was needed in the area, but she still was afraid of what it would do to their property value if the project fell through and they put in small lots, because she and her neighbors have huge lots. She said that, if the project does not go to completion, she requests that the lot size go back to low density residential. Ms. Swanson said the zoning can be changed with two readings of the ordinance. If the project falls through, it can be changed back to R-1B. The land use classification is not all that relevant to the lot sizes because the zoning will rule. To change the future land use classification back to LDR it would have to go through the State again, but you can change the zoning with a couple of readings. Commissioner Wojcik said Ms. Williams was keeping up with it, so if the project fails she can bring it back.

Earl Huff, 2057 Bel Ombre Circle, said the concern of the residents living there was that if the project fails, the zoning for lower size lots would already be in place. He wanted to know what could go in there besides single family houses, and he wanted to be guaranteed that apartment or a 55-up park would not be built there. Ms. Swanson said it was only permitted now for single family homes with lot size minimum of 8,000 sq ft., or things like churches. Townhouses, patio homes, and apartments would have to go through the Planned Development Project process for approval, the neighbors would have to be notified so they could look at the alternative plans, and the City Commission would decide if it were appropriate for the area. Mayor Carter said they could not guarantee that it would not happen in the future but the developers would have to go through the application and permitting process and then it would have to come to the City Commission with two public hearings. Ms. Swanson said that under the PDP, creative styled house can be built but would have to go through the same PDP approval process. A single-family subdivision would require a subdivision plat to be approved by City Commission, but is allowed by right.

Albert Bustamente, owner and legal counsel for the developer, thanked the Commission for bearing with them over the past five years and through the economic crises. He said it was a beautiful project, and that they have a completely negotiated contract ready, including an option for phase 2, which they expected to be executed the following day. The project developer will then move forward with the engineering for phase 1 and hopefully construction will start the end of the year or the beginning of 2012.

#### **CLOSED PUBLIC HEARING**

Commissioner Thornhill made a motion to adopt Ordinance D2011-01 after second reading and public hearing. The motion was seconded by Commissioner Howell.

By Roll Call Vote:

Commissioner Thornhill	"YES"
Commissioner Howell	"YES"
Commissioner Wojcik	"YES"
Commissioner Rogers	"YES"
Mayor Carter	"YES"

The motion carried 5-0.

**Agenda Item 7. Ordinance 2011-09, Provision Solid Waste Collection, Recycling and Disposal Services – 1st 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 contractual service relating to solid waste collection, recycling and disposal services to Republic Services of Florida, L.P. d/b/a Florida Refuse.

**RECOMMENDATION**

It is recommended that the City Commission approve Ordinance 2011-09 after first reading.

**BACKGROUND**

On May 17, 2011, the City Commission direct staff to bring forward a renewal contract with Republic Services of Florida, L.P. d/b/a Florida Refuse for provision of solid waste collection, recycling and disposal services.

Significant changes with the renewal contract consist of the following:

**Residential Contract Fee:** The contract fee for residential curbside service with alley pickup eliminated where possible and recycling picked up on a weekly basis will be \$12.07 solid waste and \$1.00 recycling service, effective for fiscal year 2011'12.

**Commercial Contract Fee:** Commercial customer's rates will \$6.50, per cubic yard, effective for FY 2011'12.

Florida Refuse will not collect commercial or residential customers prior to 6:00 a.m.

Florida Refuse will provide compost bins upon request.

Florida Refuse continued support of City events.

Contract service fees will only apply to actual services rendered per residence ("actual service" will be linked to the status of utility service at the residence; i.e., utility service on "vacation status" or disconnected for any reason are not considered to be "active;" solid waste collection service will not be considered to have been rendered while the utility account is not on active status.)

Florida Refuse has requested a seven-year renewal. Staff recommends a seven-year contract.

Florida Refuse will provide access and training on "InfoPro" software which will allow City staff to directly enter customer complaints into the Florida Refuse computer system. This system will also allow staff the ability to track the progress and results of customer complaints.

## FISCAL IMPACT

### Negotiated Options - Fiscal Impact

		Pass Thru Monthly Customer Saving	Pass Thru Annual Customer Saving	
1)	Residential	2.62	31.44	Elimination of use of alleyways. Every week recycling. Anticipated customer complaints.
2)	Commercial Franchise Fee Reduction			

A reduction from \$8.75 to \$6.50 per cubic yard is expected to result in an annual loss of recurring revenue in the amount of \$34,700 for fiscal year 2011'12. This reduction is expected to result in a cumulative annual savings to commercial customers during FY 2011'12 of \$289,082, based on historical data.

3) Florida Refuse not beginning collection services prior to 6 a.m. does not have a measurable fiscal impact.

Florida Refuse provision of compost bin upon request does not have a measurable fiscal impact.

Florida Refuse continued support of City events has a fiscal impact equal to the market value of the services provided.

Clarification of the contract fee being only applicable to actual services rendered per residence has a fiscal impact savings equivalent to \$45,000 per year.

Florida Refuse request for a seven-year contract does not have a measurable fiscal impact.

Access and training on "InfoPro" software to assist in processing customer complaints does not have a measurable fiscal impact.

[End agenda memo]

Ms. VanBlargan read Resolution 2011-09 by title only.

**~~AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING THE FRANCHISE GRANTED BY ORDINANCE 2008-25 ON JULY 15, 2008, AS AMENDED BY ORDINANCE 2002-21 ON OCTOBER 1, 2002, ORDINANCE 2004-23 ON AUGUST 3, 2004 AND ORDINANCE 2006-01 ON FEBRUARY 7, 2006 GRANTING A FRANCHISE FOR THE PROVISION OF SOLID WASTE COLLECTION, RECYCLING AND DISPOSAL SERVICES TO REPUBLIC SERVICES OF FLORIDA, L.P. D/B/A FLORIDA REFUSE, ITS LEGAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS; IMPOSING CERTAIN CONDITIONS RELATING THERETO; AND PROVIDING FOR AN~~**

## EFFECTIVE DATE.

Ms. Pendergrass reviewed Agenda Item 7. She discussed two items that had been added to the contract after the discussion with the Commission:

1. Page 2, Extension of this Agreement: There was a request by Florida Refuse to extend the contract for two additional three-year terms. The wording was added, but does not need to be in the contract. Florida Refuse has agreed that if the Commission is not interested in the capability of an extension, then the wording can be taken out. Ms. Pendergrass confirmed with the City attorney that without this wording, the City would have to go back through the bid process. She said that the wording currently in the contract that talks about the 60 days of good faith negotiation has been taken out. So, with the new wording, in seven years if the Commission wanted to negotiate, they could. If not, they would not have to and would have to go back through the bid process.
2. Ms. Pendergrass said that on Page 13 the wording in D2 was added, which addresses the issue of complaints. She explained that the first time any staff member receives a complaint about Florida Refuse they will ask that customer if they called Florida Refuse and if they say "no," then they will provide the phone number to call. If that customer says "yes," then we start billing staff time back to Florida Refuse as we handle those issues and we bill every staff member that is involved in that issue. Ms. Pendergrass provided examples. She said that we do get reimbursement from Florida Refuse. We do the calculation in-house and the amount is deducted from the next payment to Florida Refuse. If Florida Refuse disagrees with the calculation, they must come before the City Commission to work out any type of settlement issue. This is in direct response to problems with reoccurring complaints received that seem to not get resolved. So, hopefully, if Florida Refuse is paying for that cost then maybe those issues will get resolved easier in the future.

Commissioner Wojcik asked if disagreements could be dealt with like they would elsewhere in the contract, where it is decided by the City Manager. If they disagree with her decision, they can come before the Commission. Ms. Pendergrass said that would be the procedure and the City Manager's time and other staff time involved would be billed to Florida Refuse.

Commissioner Rogers said he did not like not having the option of going out to bid. Commissioner Wojcik asked for confirmation that this wording gives the option of going out to bid or to renew the contract. Ms. Pendergrass said yes.

Commissioner Thornhill said everything is fine except for a typo on Page 13, D2, in the fourth line where it said city personnel to become "involving." That should be "involved."

Ms. Wojcik said in Article 2, Section 2.1, [line 6] the word "decrease" should be "decreases."

Commissioner Howell asked what happens in a situation where there is a pile of furniture in the yard left by a resident who moved out and the utilities have been cut off; and if there is a pile of cut branches in the yard at a house that is for sale and the utilities have been cut off. She said the contract said that it had to be a person with utilities to be picked up. Ms. Pendergrass said she thinks that when they have a special service, Florida Refuse bills the home owner directly. If somebody did a whole lot of work to a yard and moved out there would not be any customer to bill. But, at the same time the City would not pick up that bill either. There is a place in the contract that allows the city manager to call Florida Refuse if it is a health issue and Florida Refuse must pick it up. City Manager Judith Delmar said there may be some issues we have to work out in the implementation of this. But, the City has been at a disadvantage when a customer's account is on vacation status, their water and sewer has been turned off and there is no trash being put out. The general public is paying the cost because the customer is not billed. Therefore, an effort is being made to eliminate that problem.

Commissioner Howell asked if staff was going to check each alleyway to determine which ones the trucks could not get through. Ms. Pendergrass explained that the process would start in October to look at the alleyways and determine which ones can be eliminated. There are those that are just impossible to eliminate. Those will be marked off the list and alleyway pickup will continue as is. For those deemed for elimination, we will talk to residents along the alleyways so they are aware of the changes and in the process determine which residents may be unable to take their trash to the road and so would qualify for back-door service.

Commissioner Thornhill asked what they were supposed to do with things like mercury lights that are not supposed to be put in the garbage totes or recycle bins. Ms. Pendergrass said she would have to research that.

Mayor Carter asked for the procedure they would follow in determining which alleyways would be cut, for example, he asked how they would deal with one person out of five living on the alleyway that cannot get their tote to the road. Ms. Pendergrass said they would pick up the four in the front of the houses and the one individual would get back-door service. She explained the provision in the contract. Mayor Carter asked for verification that the truck would then go down the alley to pick up the one and leave the other four for front door service. Ms. Delmar explained that the truck would not go down the alley at all. The driver would get out of the truck and walk around the house to get the tote, empty it and return the tote to the back of the house. The Mayor asked if they were going to be proactive and talk to all five residents to determine who would need back-door pickup. Ms. Pendergrass said it was her understanding from talking to Jean Bedbenner from Florida Refuse that they planned to get in touch with the residents in the affected areas to see what the needs would be. Beverly Pennington along with other City staff members will also be involved.

Mayor Carter asked if they knew how many residents get alleyway pickup that might be affected by the change. Ms. Pendergrass said Florida Refuse was going to give her maps that identify all the alleyways and when the truck routes will be in those areas.

Commissioner Wojcik asked for confirmation that all residents would receive notification whether the alleyway pickup is eliminated or not, so they will know. Ms. Pendergrass said Florida Refuse staff will be doing that before the change is made.

Commissioner Howell asked if residents would be told where their garbage tote had to be placed on non-pickup days while they were talking to them about their pick up. Ms. Pendergrass said they could make that part of the process.

Mayor Carter complained that, though he asked for this before, the complaint log he receives does not list half the number of incidents he knows of, does not identify the residents by name, or give a phone number. Commissioner Thornhill asked if giving that information was a privacy issue and Ms. Pendergrass said it was not.

Mayor Carter asked if staff was briefed on the new software product Florida Refuse was going to put in. Ms. Pendergrass said city staff has not been trained on it yet.

Mayor Carter said there was room for improvements in the contract and listed the following concerns he had:

- Seven years was too long
- He did not agree with the automatic 2.5% rate increase because it would amount to over 16% by the end of seven-year contract and it was too much under the present circumstances. He recommended sticking with the COLA adjustment. The reasons being as follows.
  - Retirees did not get a COLA adjustment in 2010 and will not get one for 2011
  - Teachers are effectively getting a 3% decrease in pay
  - City employees have not gotten a raise since 2009 and then it was only 1%
  - Record unemployment



- Record foreclosures
- The City does not appear to have control over the contract and he explained why.
- The CEO at Florida Refuse has an annual compensation package of \$3.8 million per year, which is roughly the budget of the entire Lake Wales Police Department.

Commissioner Howell said that every year their utility bill automatically goes up about 2.5% and asked if it was a state statute. Ms. Delmar said it was not a state statute but a city ordinance.

Commissioner Rogers said he did not agree with being locked into a seven-year contract because you never know what will happen that far in advance. He thought it should be no longer than five years. He asked if there was an escape clause in the contract, and if not, he would want one in there. Ms. Pendergrass said there wasn't a clause but the contract could be broken for things like if they don't correct a problem directed to them within a reasonable time period or they don't perform their job. But as long as they are abiding by the terms of the contract, it would be for seven years.

Commissioner Wojcik said they discussed in the workshop the reasons for the seven-year period in order to reduce the amount of the fee for both commercial and resident customers. If we shorten the length of the contract, the fee would likely go up to the present level or at least to a higher level than is in the proposed contract.

Dave Kutschinski, Assistant General Manager of Florida Refuse, addressed Commission concerns as follows:

- Mr. Kutschinski explained how the depreciation of assets and the length of a contract can affect the price. Commissioner Wojcik said one of the reasons they could charge less under the proposed contract is because they will be using trucks that use natural gas. He agreed and explained.
- Mr. Kutschinski explained how the new tracking system will work and why it will make it easier to address complaints.
- Mr. Kutschinski said they realize there are some issues with closing the alleys and they are working closely with the City to solve them.
- Mr. Kutschinski explained the back-door service and how one qualifies.

Mayor Carter recommended a four-year contract with two two-year renewals.

#### **OPENED TO PUBLIC COMMENT**

Dick Davis, owner of Woody's Barbecue in Lake Wales, talked about the ongoing problem he has had with Florida Refuse with continued missed pickups, poor service and a customer service department with an attitude. He said that at the workshop concerning Florida Refuse the representative told the Commission the problem had been taken care of and he was there to say it had not. They tried to throw a lot of money at him and offered extra service to appease him but he does not want money, or more services than what he pays for. He asked the Commission to consider allowing commercial customers to arrange their own garbage pickup.

Mayor Carter asked how this could be solved. Mr. Kutschinski said he does not deal with that aspect of the business but he said he took notes and he will get with those responsible for the commercial service. He promised to look into it and find a way to make it right.

Commissioner Thornhill noted that McDonald's was nearby and said he has seen the garbage truck picking up there quite often.

#### **CLOSED TO PUBLIC COMMENT**

Commissioner Thornhill made a motion to approve Ordinance 2011-09 after first reading. The motion was seconded by Commissioner Howell.

Roll Call Vote:

Commissioner Thornhill	"YES"
Commissioner Howell	"YES"
Commissioner Wojcik	"YES"
Commissioner Rogers	"NO"
Mayor Carter	"NO"

The motion carried 3-2.

**Agenda Item 8. Ordinance 2011-10, Recreation Commission – 1st Reading**

The full staff memo is incorporated into the minutes.

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

The Commission will consider adopting an ordinance to restructure the Recreation Commission to serve as a steering committee that will coordinate community-run recreation programs and serve as a liaison between those organizations and the city.

**RECOMMENDATION**

It is recommended that the City Commission approve Ordinance 2011-10 after first reading.

**BACKGROUND**

Lake Wales Code section 2-162 defines the role of the Recreation Commission as one of supporting a recreation director and promoting the City's recreation program in the community. Since 2004, the City has not employed a full-time recreation director and has not had the resources to fund a fully operational recreation program. As a result, the Recreation Commission has not been able to function in the capacity for which it was created.

Impressed by the quality and success of parent-run recreation programs (Little League, soccer, football, pram fleet) and YMCA-run programs (basketball) in Lake Wales, the prior city manager felt that the City should not be competing with these well-run recreation programs for participants. He believed the public would be best served by allocating its limited resources to the maintenance of parks, ball fields, and other recreation facilities instead. Accordingly, after some turnover in the position, the parks & recreation director position was eliminated in July 2004.

Supervisory and administrative duties previously assigned to the parks & recreation director were absorbed by staff in the Public Services Department and the City Manager's office. In July of 2005, a recreation manager position was created with responsibility for youth recreation programs and assigned to a police officer with expertise in this area. There were problems with the implementation of this arrangement, and it was subsequently eliminated after a few years.

It is unlikely that the City will be able to fund a recreation director and a municipal recreation program for the next several years, but there is a real need for coordination of the various programs run by parent, church, and other community organizations.

Ordinance 2011-10 proposes to restructure the Recreation Commission to serve as a steering committee that will, in the absence of a recreation director, coordinate the various recreation programs that are being run by community groups and serve as a liaison between these groups and city staff. The Recreation Commission will consist of members representing each of these community groups plus three citizens who reside in the city.

If the ordinance is adopted by the City Commission, the following groups will be granted a seat on the Recreation Commission and each group will appoint one delegate who will serve a 3-year term:

- Green & Gold Foundation
- Lake Wales Boys & Girls Club
- Lake Wales Charter Schools
- Lake Wales Little League
- Lake Wales PAL
- Lake Wales Pram Fleet
- Lake Wales Soccer Club
- Lake Wales YMCA
- Steelers Football & Cheerleading
- Webber International University

Duties of the Recreation Commission will be as follows:

- Serve as a steering committee to:
  - coordinate publication of and participation in recreation programs currently run by various parent, church, or other community organizations;
  - identify recreation needs that are not currently being met; and
  - facilitate development of programs by various parent, church, or other community organizations to meet those unmet needs.
- Serve as liaison between the various parent, church, and other community organizations that provide recreation programs and city staff for the maintenance and improvement of the city's recreation facilities.
- Make recommendations to city staff for recreation improvements to be included in the city's capital improvement plan.
- Make recommendations to city staff for program funding assistance to be included in the city's operating budget.

Proposed Ordinance 2011-10 was presented to the current members of the Recreation Commission for review and discussion at a special meeting held on June 16, 2011. The members unanimously voted to recommend that the City Commission adopt this ordinance.

#### **OTHER OPTIONS**

Do not adopt Ordinance 2011-10 or modify the proposed language.

#### **FISCAL IMPACT**

None.

[End agenda memo]

Ms. VanBlargan read Ordinance 2011-10 by title only.

#### **AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING LAKE WALES CODE OF ORDINANCES CHAPTER 2, ADMINISTRATION, ARTICLE II, BOARDS, COMMITTEES, AND COMMISSIONS BY AMENDING THE DUTIES OF THE RECREATION COMMISSION; PROVIDING FOR AN EFFECTIVE DATE.**

Ms. Delmar reviewed Agenda Item 8.

Mayor Carter said that as part of Webber University's sports management program, the curriculum includes an MBA practicum. The representative from Webber University who attended the recreation

meeting suggested that part of that practicum would include helping to facilitate the City's recreation program to make sure that it moves along. He said it was a good answer for what they need in the absence of having a recreation director.

### **OPENED TO PUBLIC COMMENTS**

Mimi Hardman, 300 South Lakeshore Drive, asked that a Historic Lake Wales Society representative be included on the Commission because that organization was responsible for getting the grants for the Recreation Complex and the Rails-to-Trails. She also recommended not excluding the schools in Lake Wales that were not in the Charter School system, but have a representative to include all the schools.

City Manger Judith Delmar said that when the Recreation Committee discussed who should be on the board, they wanted to keep it from getting too unwieldy. If cultural and art organizations are added, they would need to add the library and arts council as well because they offer leisure programs. This Committee was intended to be formed by representatives of actual, traditional recreation programs but if the Commission wishes to expand it, it can be expanded. Mayor Carter said the committee's purpose is to focus on recreation, particularly youth recreation during the summer, to take advantage of all the programs that volunteers have made work over the past six or seven years. He said if we go too far astray from the purpose it will send the committee in all different directions. Ms. Delmar added that any expansion of the Recreation Commission can be done by the current members at any time without having to go to the City Commission for approval of another ordinance. Any organization that is providing recreational programs in the community is eligible.

Art Falconer wanted the public schools and the Lake Wales Historic Society included on the Recreation Commission. Commissioner Wojcik agreed that the public schools should be included. She said she also agreed that the Recreation Commission should be designed to include all those bodies that provide programs on an ongoing basis for children, not those who provide facilities, though Ms. Hardman provided some wonderful service to the city by preserving our historic buildings, and getting grants for the recreation complex so the programs can operate in those facilities. The thought behind the forming of this Commission was to bring together the representatives of those who provide the programs for children of the community so they can better coordinate those programs on behalf of the whole community, but not arts and culture. She agreed that the Polk County schools needed to be included but they should combine the two by calling it Lake Wales Schools, which would include both the Charter and Polk County Schools.

### **CLOSED TO PUBLIC COMMENTS**

Mayor Carter said he hoped to be able to try out this concept with the number of representatives they already had and expand it later on. He said he did not know where to draw the line because the library has Yoga classes. The following were added to the list:

- o The Lake Wales Historic Society, Inc.
- o All Lake Wales Schools
- o The library

Commissioner Howell suggested that if they find the group too large and unwieldy, they could branch off into smaller groups according to interests such as education, cultural and athletics, or even branch out by age bracket such as youth, adult or college. She said Webber was included and the committee can add others if it wants.

Commissioner Thornhill did not want them to leave out adult sports.

Commissioner Howell asked what was meant by only having three citizens on the board. Ms. Delmar explained that it was three interested citizens not associated with a recreation program. Mayor Carter said

they chose three because there are three citizens that come to the present recreation meetings on a regular basis.

Commissioner Wojcik said that if, instead of delineating all this, it read, "This Commission will invite representatives of Lake Wales area recreation programs," all this discussion could have been avoided.

Commissioner Howell made a motion to approve Ordinance 2011-10 after first reading with the three additional board members. The motion was seconded by Commissioner Rogers.

By Voice Vote:

Commissioner Howell	"YES"
Commissioner Rogers	"YES"
Commissioner Thornhill	"YES"
Commissioner Wojcik	"YES"
Mayor Carter	"YES"

The motion carried 4-0.

**Agenda Item 9. Preliminary PDP Plan, Assisted Living Facility Buck Moore Rd. – Sunset Development Group – Public Hearing**

The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

The request is for a preliminary planned development project (PDP) on approximately 14 acres of a 41.27 acre site located on the east side of Buck Moore Road south of Bel Ombre Circle. Proposed is a 123-unit, three-story assisted living facility. A conceptual master plan for the entire property, showing a second assisted living facility is included in the request.

**RECOMMENDATION**

Staff recommends approval with conditions of a planned development project (PDP) plan (dated April 14, 2011) for an assisted living facility.

The Planning Board held a public hearing on the request April 26, 2011 and voted to recommend approval with conditions.

A public hearing is required. Notice requirements have been met.

**BACKGROUND**

The request is for a preliminary planned development project (PDP) on approximately 14 acres of a 41.27-acre site located on the east side of Buck Moore Road south of Bel Ombre Circle. Proposed is a 123-unit, three-story assisted living facility. A conceptual master plan for the entire property, showing a second assisted living facility, is included in the request.

Approval of the land use change that is being presented concurrently to change the classification from LDR Low Density Residential to MDR Medium Density Residential would be required to allow any development on the site beyond Phase 1 (123-unit assisted living facility).

The plan for the project underwent several revisions at the request of the Planning Board. The building was reoriented and the layout of entrances and parking areas was revised. The Board was very supportive of the revised plan and voted unanimously to recommend that the City Commission approve the PDP.

A rendering of the type of building proposed is attached. The building will face Buck Moore Rd. at an angle. The entrance will be from a side street which will be extended with the construction of the second phase. The emergency entrance will be on the north side of the parking lot.

The PDP process allows the granting of waivers of zoning code requirements for special circumstances and for design flexibility. The Planning Board found that the multi-family parking requirements are excessive for an assisted living facility and recommends a reduction in the required number of parking spaces and a waiver of the paving requirement for overflow spaces. Also recommended is a waiver of the requirement for a second entrance for Phase 1 with the stipulation of an emergency entrance off Buck Moore Road to be designed and built to Fire Department specifications. A second entrance will be required for Phase 2.

The property was formerly grove and is now an open field with a number of "volunteer" trees. The site drops in elevation from the south to the north.

Conditions as recommended by the Planning Board:  
Waivers are granted as follows:

Housing type – a multi-unit assisted living facility is allowed in lieu of a single-family subdivision.

Number of parking spaces – waiver to allow 100 regular paved spaces (including 10 handicapped spaces) with 72 unpaved overflow spaces where 185 spaces is required.

Paving of parking spaces – waiver to allow 72 unpaved parking spaces as shown on plan.

Entrance distance – waiver to allow an entrance to the parking area located on the entrance road 200 feet from Buck Moore Rd. where 350 feet is required for 246 units (including the second phase). Note: 200 feet is adequate for Phase 1, 123 units.

Second entrance – waiver to allow one entrance to the Phase 1 building, provided an emergency entrance is constructed from Buck Moore Rd. as shown on plan. The emergency entrance shall be designed to the specifications of the Fire Department.

Entrance road – waiver of prohibition for a multi-family building to have direct access to a major collector road provided that if and when the Phase 2 building is built, the entrance road is extended to serve the building and loops back to Buck Moore Rd. south of the existing churches as shown on the Overall Site Plan.

Overall site plan is approved subject to change in land use designation from LDR-Low Density Residential to MDR-Medium Density Residential. Otherwise, the 123 units in Phase 1 represents the maximum number of units allowed on the property under LDR.

Building rendering – A significant change in the style or massing of the building will require review and approval by the Planning Board and City Commission.

## **OTHER OPTIONS**

The City Commission can deny a PDP plan with specific reference to the land development regulations.

## **FISCAL IMPACT**

The assisted living facility will add to the City's tax base and provide

[End agenda memo]

Ms. Swanson reviewed Agenda Item 9.

Commissioner Rogers said the City already has many non-profit organizations and said we need those that will add dollars to the City's tax roll. Ms. Swanson said this is proposed as a for-profit, but the non-profit PILOT program was added just in case sometime in the future it changes hands or they become non-profit.

#### **OPENED PUBLIC HEARING**

City Attorney Chuck Galloway explained that the opened public hearing must be officially closed before it can be considered for a motion.

#### **CLOSED PUBLIC HEARING**

Commissioner Howell made a motion to approve with conditions of a planned development project (PDP) plan for an assisted living facility with the addition of the PILOT agreement. The motion was seconded by Commissioner Thornhill.

By Voice Vote:

Commissioner Howell	"YES"
Commissioner Thornhill	"YES"
Commissioner Rogers	"YES"
Commissioner Carter	"YES"
Commissioner Wojcik	"YES"

The motion carried 5-0.

#### **Agenda Item 10. Revised PILOT Agreement – Water's Edge**

The full staff memo is incorporated into the minutes.

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

#### **SYNOPSIS**

The Commission will consider approval of a revised payment in lieu of taxes (PILOT) agreement for municipal services provided to Water's Edge.

#### **RECOMMENDATION**

It is recommended that City Commission take the following action:

Approve the revised PILOT agreement between the City and Water's Edge,  
Approve a 5% discount for FY 2010'11, equal to \$1,975.06,  
Authorize a payment plan to be completed by September 30th and waive any penalties,  
Authorize the Mayor to execute all applicable documents.

#### **BACKGROUND**

On November 16, 2010, the City Commission approved a PILOT Agreement with Water's Edge of Lake Wales (Water's Edge). George Chandley, Chief Manager for Water's Edge, approved and signed the agreement on behalf of Water's Edge of Lake Wales LLC.

On January 20, 2011, the annual PILOT billing was issued for \$58,439.32 with a due date of March 30th. Jerry Jaques, a management company representative for Water's Edge, provided additional documentation which reduced the billing to \$58,038.83. Mr. Chandley, Mr. Jaques and the Finance Director had several discussions relating to the calculation of the PILOT payment.

On March 30, 2011, the City Commission approved a time extension for remittance of Water's Edge 2010'11 annual PILOT. The Commission was informed of the intention of a revised PILOT agreement.

The Commission has no obligation to revise the original PILOT Agreement. A PILOT is a payment in lieu of taxes, made to compensate a local government for some or all of the tax revenue that it loses because of the nature of the ownership or use of a particular piece of real property. The revised Water's Edge PILOT agreement would serve to compensate the City for some of the tax revenue that it loses due to the nature of the use of the real property as exempt property.

Staff acknowledges that the proposed revisions would result in an estimated annual reduction of \$21,000 relating to the PILOT payments for Water's Edge. However, the revised agreement would provide a more equitable compromise. The revised Water's Edge PILOT payment for FY 2010'11 would be \$39,501.25 whereas the unadjusted payment currently due is \$58,038.83.

Compared to the Lake Wales Housing Authority PILOT agreement, created in 1969, the Water's Edge revised agreement provides considerably more equity to the City. The Lake Wales Housing Authority PILOT payment for fiscal year 2009'10 was \$3,650.

City staff recommends the following changes relating to Water's Edge PILOT agreement:

Revision of the membership information of the Water's Edge Lake Wales, LLC. There will be no fiscal impact relating to this proposed change.

Revision of the PILOT Formula relating to exclusion of certain exemptions. The revised draft allows for exclusion of seven authorized exemptions if these exemptions are applied by the Property Appraiser. In essence, this change allows the PILOT calculation to exclude certain exemptions which would be excluded from normal taxable assessed value. This change prevents the PILOT agreement from imposing a "PILOT Payment" which would provide a fee greater than similar property subject to normal taxable value as it related to the seven exemptions specifically noted within the agreement. This change will result in a reduction of \$5,031.74 for FY 2010'11.

Revision of the PILOT Formula relating to percentage allocation of total exempt living units between independent and non-independent living units. Staff supports this revision as the methodology incorporates annual fluctuation recognized by the Property Appraiser. This change will result in a reduction of \$1,071.99 for FY 2010'11.

Revision of the PILOT Formula relating to "general fund expenditures less charges for services." This change would result in a reduction of \$4,618.07 for FY 2010'11. This methodology is a compromise from the original PILOT agreement which specified "general fund operating fund budget" within the calculation. This revision is an intentional reduction in the annual PILOT payment calculation. Mr. Chandley requested a reduction based on the assumption that individuals living within the independent living units have a limited impact on the resources of the general government. Staff proposed a reduction of "charges for services" to the cost associated with "general fund expenditures" based on a methodology that functions within the general fund are compensated whole or partly by "charges for services". Staff acknowledges this is a compromise within the PILOT agreement to compensate the City for some of the tax revenue it loses because of the nature of the use of this property.



Revision of the PILOT Formula relating to "general fund – public safety." This change would result in a reduction of \$8,216.27 for fiscal year 2010'11. This methodology is a compromise from the original PILOT agreement which specified "basic city services" within the calculation. This revision is an intentional reduction in the annual PILOT payment calculation. Mr. Chandley requested a reduction based on the assumption that individuals living within the non-independent living units have a limited impact on resources of the general government. However, he did agree with the methodology that the allocation relating to the non-independent living units would be equitable to 100% of the resources necessary for public safety. Staff acknowledges this is a compromise within the PILOT agreement to compensate the City for some of the tax revenue it loses because of the nature of the use of this property.

Revision of the PILOT due date to allow for a 5% discount if paid in full prior to February 1st, would result in a reduction of \$1,975.06. This revision was added as an additional compromise to provide a mechanism to lower the fee but also encourage early payment.

### **FISCAL IMPACT**

The revisions listed above excluding the 5% early discount, if approved, will result in a reduction of \$18,938.07 for fiscal year 2010'11. The amended Water's Edge PILOT payment for 2010'11 would be \$39,501.25. If the Commission decided to approve a 5% discount for fiscal year 2010'11, the PILOT payment due would be \$37,526.19.

[End agenda memo]

Ms. Pendergrass reviewed Agenda Item 10.

Commissioner Wojcik said that the 5% discount was proposed if they make the payment by February 1<sup>st</sup> and they have missed the deadline. Ms. Pendergrass said she put in the request even though they missed the deadline because the contract was not in place before that time, so there was no opportunity for them to get the discount. It is up to the Commission to accept all, some, or none of the five impact fee recommendations.

Commissioner Wojcik said that because of continued negotiations, there was no opportunity to take advantage of that discount. Ms. Pendergrass said that if Water's Edge had realized the extent of the original contract when negotiations began in November 2010, it might have been something they would have asked for. She said there were some aspects of the contract that were unfair because if they were a normal entity, the exemptions they would get would be more, so they are being charged more with this contract. She gave the Homestead Exemption as an example because they get no credit for that. She added that staff realizes that any reduction will affect the General Fund, but this component will only be about \$5,000.

Ms. Delmar added that if this was a regular commercial property, they would be paying more taxes. She said that the reason the Housing Authority agreement paid so much less was because it was a cooperative agreement entered into by the City and the Federal Government. She said they thought the Water's Edge Agreement could be used for all future pilot agreements. Ms. Pendergrass said their intention was to give Water's Edge a break by lowering their cost, knowing we would only recoup part, and not all, of the City's cost. Ms. Wojcik wanted confirmation that the recommendation was based on sound practice during these kinds of situations. Ms. Pendergrass said it meets the definition of a pilot agreement, which means some of the operating cost of servicing that property from the General Fund is compensated.

Commissioner Howell made a motion to approve the revised PILOT agreement between the City and Water's Edge; approve a 5% discount for FY 2010'11 equal to \$1,975.06; authorize a payment plan to be completed by September 30th and waive any penalties; and authorize the Mayor to execute all applicable documents. The motion was seconded by Commissioner Rogers.

By Voice Vote:

Commissioner Howell	"YES"
Commissioner Rogers	"YES"
Commissioner Thornhill	"YES"
Commissioner Wojcik	"YES"
Mayor Carter	"YES"

The motion carried 5-0.

**Agenda Item 11. Fire Substation- Land Lease Agreement**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Fire Chief Jerry Brown and Finance Director Dorothy Pendergrass]

**SYNOPSIS**

Lease agreement for the land use relating to the fire substation located at 1965 Thompson Nursery Road Lake Wales Florida.

**RECOMMENDATION**

It is recommended that City Commission approve the land use lease agreement relating to the fire substation located at 1965 Thompson Nursery Road Lake Wales Florida.

**BACKGROUND**

After the hurricane season of 2004, many insurance underwriters changed their premium schedules as they relate to fire coverage and distances to staffed fire stations. This created the need for a fire station to provide coverage to the northern area of the city. In May of 2005, Florida Food Tankers, Inc. ("FFT") agreed to allow the placement of a trailer on their property at 1965 Thompson Nursery Road to be utilized as a fire substation until a permanent location could be established. A verbal agreement with prior staff was reached that included the use of the location rent free in exchange for consideration in connecting FFT to the City's water and waste water services.

One of the financial benefits of the substation at this location is its ability to provide coverage to adjacent areas of the unincorporated county. As of result, the City receives over \$100,000 from Polk County directly related to services provided by this northern substation. If the City lost this northern location, the City would lose \$100,000 in general fund revenue per year. Another financial benefit realized is that citizens and businesses within the area around Thompson Nursery Road/Chalet Suzanne Road have lower annual fire insurance premiums than they would have if the northern substation did not exist.

On March 31, 2011, the City received notification from FFT that rent would be required in the amount of \$3,000 or the Fire Department would have to vacate the site within three days. The City Manager, under city code section 2-417, enacted emergency purchasing procedures for the issuance of lease payments, in the sum of \$3,000 per month, until an acceptable lease agreement could be presented to the City Commission for approval. Approval of the proposed lease agreement would insure a temporary site location until contractual commitments and construction relating to a proposed permanent site on Eagle Ridge Mall property can be finalized.

Currently the proposed permanent site at Eagle Ridge Mall is part of the mall development's overall review for SWFWMD Permit Modification. Although no formal design has yet been prepared, the conceptual site layout has been prepared by the Fire Department and reviewed preliminarily with

appropriate city departments. The engineering field work has been done, and the analysis should be close to being completed at this time. The overall evaluation of the environmental systems will need to be reviewed with the appropriate agencies and the findings forwarded. It is not clear at this time, but it is possible there may be a requirement for storm water offset in the overall system for this piece of property. There is also the probable revision to the last update of the DRI for the Mall. It is anticipated that the finished project with approvals through all agencies will consume a twelve month period.

#### **FISCAL IMPACT**

From July 1, 2011 through June 30, 2012, lease rental cost of \$36,000.

[End agenda memo]

Ms. Pendergrass reviewed Agenda Item 11.

Mayor Carter asked if something happened to make them start charging, only giving the City five days to do it. Fire Chief Jerry Brown explained that Florida Food Tankers was very gracious in letting the City use the property as a temporary station, at no charge, since May of 2005 in exchange for hooking up to the City's utilities, and that never happened. Between that and the economy they came to this decision.

Mayor Carter asked for an update on the mall property proposed for this use. Chief Brown said that Economic Development Director Harold Gallup was in the process of working with the Mall for use of a small piece of property, but that will probably take a year to finalize and we need a place in the meantime. He explained that grant opportunities are drying up so they need to act quickly, and you can't apply for a grant if you don't have a lease or own property to put it on.

Commissioner Rogers asked why they never were able to get on the City Utilities and Ms. Delmar said their affluent required a good deal of retreatment that they thought was cost prohibitive and the City could not accept it without the retreatment as it would damage the plant. Commissioner Rogers asked if it was similar to the problems we had with Oakley and Ms. Delmar concurred. Chief Brown said the Utility Department is responsible for the integrity of the wastewater sewer plant.

Commissioner Thornhill made a motion to approve the land use lease agreement for the fire substation located at 1965 Thompson Nursery Road Lake Wales Florida. The motion was seconded by Commissioner Howell.

By Voice Vote:

Commissioner Thornhill	"YES"
Commissioner Howell	"YES"
Commissioner Rogers	"YES"
Commissioner Wojcik	"YES"
Mayor Carter	"YES"

The motion carried 5-0.

#### **Agenda Item 12. Lease Agreement with PAL (Police Athletic League, Inc) at the James P. Austin, Jr. Community Center**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Sandra Davis, Human Resources Director]

#### **SYNOPSIS**

The Commission will consider approving a Lease Agreement with PAL (Police Athletic League, Inc.) to operate at the James P. Austin, Jr. Community Center.

### **STAFF RECOMMENDATION**

Staff recommends that the City Commission take the following action:

Approve the lease agreement with PAL (Police Athletic League, Inc.) to operate at the James P. Austin, Jr. Community Center and

Authorize the City Manager to execute the agreement.

### **BACKGROUND**

The City has entered into several partnerships with local organizations to provide recreation programs that the City is unable to provide. PAL provides year-round and seasonal sports programs to children in Lake Wales.

The Lake Wales PAL association is need of office space. Ms. Linda Kimbrough, PAL president, has been in discussions with City staff for possible use of an office at the James P. Austin Center. We have discussed a ten-year lease Agreement, and, if approved, it will begin on July 1, 2011 and expire on June 30, 2021. They have agreed to use the property for the sole purpose of operating the PAL program Mondays through Fridays. Designated office space shall be utilized from 8:00 a.m. until 5:00 p.m. Any request for hours other than the normal operating hours must be made to and approved by the City Manager. There is no usage fee required.

### **FISCAL IMPACT**

There is no cost to the City if this lease is approved.

### **OTHER OPTIONS**

Deny approval of the lease agreement.

[End agenda memo]

Ms. Davis reviewed Agenda Item 12.

Mayor Carter asked if the lease was for office space or if it included running programs and Ms. Davis said it did include programs.

Mayor Carter pointed out that on the Lease Agreement he received, the dates were missing. Ms. Davis said she would revise the Lease to include the dates.

Commissioner Howell made a motion to approve the lease agreement with PAL (Police Athletic League, Inc.) to operate at the James P. Austin, Jr. Community Center and authorize the City Manager to execute the agreement. The motion was seconded by Commissioner Wojcik.

By Voice Vote:

Commissioner Howell	"YES"
Commissioner Wojcik	"YES"
Commissioner Thornhill	"YES"
Commissioner Rogers	"YES"
Mayor Carter	"YES"

The motion carried 5-0.

**Agenda Item 13. Encroachment Agreement with Florida Gas Transmission Company**

The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

The City Commission will consider entering into an agreement with Florida Gas Transmission Company to utilize a portion of their easement for the Lake Wales Municipal Airport Perimeter Fencing project.

**RECOMMENDATION**

Staff recommends that the City Commission take the following actions:

Make a finding to waive the prohibition against contracts with indemnification clauses as outlined in the City Code of Ordinances Section 1-17(b).

Approve entering into an agreement with Florida Gas Transmission Company to utilize a portion of their easement on the Lake Wales Municipal Airport property and authorize the Mayor to execute the document.

**BACKGROUND**

At its regular commission meeting on October 19, 2010 the City Commission awarded Aabot Fence, Inc. the contract to install perimeter fencing at the Lake Wales Municipal Airport.

The project utilizes a portion of Florida Gas Transmission Company's easement, thus the need for the agreement. Section E (3) of the agreement has an indemnity clause that states the City will assume all risks for damages, injuries, or loss to either property or persons, caused by, or arising out of, or resulting from, or in any way associated with the installation, construction use, maintenance, repair or replacement of the Encroachment.

Section 1-17 (a) of the City's Code of Ordinances states that no contract entered into by or on behalf of the city shall contain any provision by which the city agrees to indemnify any other party to the contract. Section 1-17 (b) states that in the event the city is unable to negotiate the removal of an indemnification provision, the City Commission may waive the prohibition if it is deemed to be in the best interest of the public to do so.

**FISCAL IMPACT**

There is no monetary impact to the City.

**OTHER OPTIONS**

None

[End agenda memo]

Ms. Allen reviewed Agenda Item 13.

City Attorney Chuck Galloway said that one requirement of that ordinance provision is that we inquire whether or not they would be willing to waive the indemnification provision for gas transmission. Florida Gas Transmission Company said they could not do that, understandably so since it is natural gas and has unbelievable ramifications. It was therefore necessary to request removal of that provision before this could be brought forward.

Mayor Carter asked for confirmation that this agenda item deals only with this very specific instance at the airport for the fencing and it was confirmed.

Commissioner Howell said the bottom line is: If it's our fault we pay and if not, they pay.

Commissioner Howell made a motion to waive the prohibition against contracts with indemnification clauses as outlined in the City Code of Ordinances Section 1-17(b); approve entering into an agreement with Florida Gas Transmission Company to utilize a portion of their easement on the Lake Wales Municipal Airport property; and authorize the Mayor to execute the document. The motion was seconded by Commissioner Wojcik.

By Voice Vote:

Commissioner Howell	"YES"
Commissioner Wojcik	"YES"
Commissioner Rogers	"YES"
Commissioner Thornhill	"YES"
Mayor Carter	"YES"

The motion carried 5-0.

**Agenda Item 14. Action to release an Administrative Lien on Property Located at 532 Scenic Highway**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Kathy Bangle, Assistant Planning & Development Director]

**SYNOPSIS**

This item is coming before Commission for action because the Code Enforcement Board has failed to seat a quorum for the past 3 months and as a result has been unable to take action. The property owner has a viable buyer for the property and cannot move forward until the lien has been satisfied.

**RECOMMENDATION**

Staff recommends that Commission release the Administrative Lien placed against the subject property on November 16, 2006 with consideration that the owner pays a one day's fine in the amount of \$250.00 plus \$86.11 for cost incurred to prepare the case for a total of \$336.11. This is in keeping with the precedent set by the Code Enforcement Board.

**BACKGROUND**

The subject property was owned by Faye Thompson in 2006. It has subsequently passed to her sons through her estate. The sons were not aware of the ownership or the lien on the property until recently. Upon learning of the situation they have endeavored to bring the property into compliance and put it up for sale. The property was cited for violation of Sections 12-36 and 12-37 for an unsafe structure and high grass and weeds. They have worked closely with staff to achieve compliance.

Application for reduction and release of lien was made to the Code Enforcement Board in March 2011. They were first scheduled to appear before the Board in April. They were present at the meeting which was unable to move forward due to lack of quorum. They again appeared in May and again there was not a quorum.

Staff believes that the Thompsons have acted in good faith to meet all the requirements to satisfy the code violations that existed on the subject property. The Code Board's inability to seat a quorum has created an undue hardship on the property owner.

#### **FISCAL IMPACT**

Release of the lien will bring a small amount to the City. However, the subsequent sale and rehabilitation of the property will have long term positive effect on the city's tax roll.

#### **OTHER OPTIONS**

Refuse to release the lien and send it back to the Code Enforcement Board for action.

[End agenda memo]

Ms. Bangley reviewed Agenda Item 14.

Mayor Carter commented that with all the hoops they have had to jump through and because they are now compliant, he would be in favor of waiving all the fees. City Attorney Chuck Galloway said the Commission may not want to do that because it would set a precedent lower than presently set. Right now for similar liens they charge one day's fine plus administrative cost.

Commissioner Wojcik said she talked with Ms. Delmar and Ms. Bangley about having a mechanism in place for when people have to wait for action because there is no quorum on the Board charged with the approval. Commissioner Howell asked that the City Manager appoint someone to be an alternate. Ms. Bangley said the board is set up to have two alternates, but there are presently alternate vacancies plus three regular vacancies on the board itself. She added that the lack of a quorum by the Code Enforcement Board is very unusual. She said it was her understanding that this board rarely failed to have a quorum. She agreed that they need to work harder to fill the vacant positions, but there were unusual circumstances in this instance and it has not been a problem in the past. City Attorney Chuck Galloway said that he was a Code Enforcement Board member for three years before representing the City and this was the first time there was a quorum problem. He said there are communities in the area who are now paying people to be hearing officers. Because they have always had a full board, and they faithfully attend, it is far better for the people coming before that board to be judged by people living in the community. He said he did not think it would be a problem once the vacancies are filled.

Mayor Carter asked that the Commission be made aware of the problem before three months pass without a quorum.

Commissioner Wojcik made a motion to release the Administrative Lien placed against the subject property on November 16, 2006 with consideration that the owner pays a one day's fine in the amount of \$250.00 plus \$86.11 for cost incurred to prepare the case for a total of \$336.11. The motion was seconded by Commissioner Howell.

By Voice Vote:

Commissioner Wojcik	"YES"
Commissioner Howell	"YES"
Commissioner Rogers	"YES"
Commissioner Thornhill	"YES"

Mayor Carter

"YES"

The motion carried 5-0.

**Agenda Item 15. Approve Road Repairs Located at Bel Ombre Cul-de-sac, 11th Street North of Sunset, and Wetmore Street South of SR 60**

The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

The Commission will consider approving a contract to complete road repairs at Bel Ombre cul-de-sac, 11th Street north of Sunset, and Wetmore Street south of SR 60.

**RECOMMENDATION**

Staff recommends that the City Commission approve awarding the contract for road repairs located at Bel Ombre cul-de-sac, 11th Street north of Sunset, and Wetmore Street south of SR 60 to the low bidder, Excavation Point, Inc.

**BACKGROUND**

The Bel Ombre sub-division has been flooding for some time, and the water pools in the road. Staff has constantly repaired the area but the asphalt level is only one-half inch thick and some areas are eroded down to the base. Adding to the problem is that garbage trucks must turn around in the cul-de-sac, causing further damage to the asphalt.

11th Street north of Sunset provides access to the outfall at Lake Wailes Lake and two homes. Water erosion over the years has damaged the asphalt and caused yard erosion to the homes.

Wetmore Street south of SR 60 provides access to one of the City's lift stations and has very large pot holes and thin asphalt.

In accordance with the requirements and specifications, staff obtained prices through written quotes. The results were as follows:

Excavation Point, Inc.	\$12,412.00
Seminole Asphalt Paving, Inc.	\$16,975.00
Better Roads, Inc.	\$19,665.00

**OTHER OPTIONS**

Do not approve the repairs at this time

**FISCAL IMPACT**

Funds to repair these roads are included in the current FY 10/11 budget.

[End agenda memo]

Ms. Allen reviewed Agenda Item 15.



Mayor Carter asked if any local companies were able to bid because it would be nice to give a Lake Wales company the business. Ms. Allen said it was not a bid. Because of the small amount, it only needed quotes, but she did not know what companies were eligible. Commissioner Wojcik asked if there was a list of local companies. Ms. Allen said the Purchasing Agent has a list but she did not recall if it included a Lake Wales Company. She explained that the process is to contact the Purchasing Agent with a request and Ms. Hodge provides the list of companies. They chose Excavation Point because they use their own equipment, which the City does not have, their own employees, and their own insurance. Commissioner Rogers said he believed the closest company was Frostproof.

Commissioner Howell made a motion to award the contract for road repairs located at Bel Ombre cul-de-sac, 11th Street north of Sunset, and Wetmore Street south of SR 60 to the low bidder, Excavation Point, Inc. The motion was seconded by Rogers.

By Voice Vote:

Commissioner Howell	"YES"
Commissioner Rogers	"YES"
Commissioner Wojcik	"YES"
Commissioner Thornhill	"YES"
Mayor Carter	"YES"

The motion carried 5-0.

**Agenda Item 16. Special Event Permit – 4th of July Festival**

The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

Staff is requesting that the City Commission approve a Special Event Permit for the 4th of July Festival on the shores of Lake Wailes.

**RECOMMENDATION**

Staff recommends approval of the permit for the 4th of July Festival. The event will be held on Monday July 4th from 2pm –9pm.

**BACKGROUND**

The 4th of July Festival will include music and games from Parties by Robert, there will be food and craft vendors, and staff is in the process of arranging additional attractions and events. These might include some bounce houses, the bloodmobile, pony rides and others. The festival will end at 9pm with the fireworks. Commission approved the fireworks with East Coast Pyrotechnics on February 1, 2011.

**OTHER OPTIONS**

Do not approve the event permit.

**FISCAL IMPACT**

Fireworks - \$10,000;  
Other expenses (Parties by Robert, Portolets) - approximately \$1000  
in-kind allocation costs for staff, police, and field operations - \$3,663

[End agenda memo]

Ms. Nanek reviewed Agenda Item 16.

Commissioner Howell asked if it was true that the governor put a ban on fireworks this year because of the fire hazard with all the dry weather. City Attorney Chuck Galloway said that the burn ban was for personal fireworks but was lifted by Polk County for organized companies that know what they are doing and who provide shows for cities like ours.

Commissioner Howell made a motion to approve the 4th of July Festival permit on Monday July 4th from 2pm –9pm. The motion was seconded by Rogers.

By Voice Vote:

Commissioner Howell	"YES"
Commissioner Rogers	"YES"
Commissioner Wojcik	"YES"
Commissioner Thornhill	"YES"
Mayor Carter	"YES"

The motion carried 5-0.

**Agenda Item 17.                      Appointments – Boards, Commissions & Committees Boards**

The full staff memo is incorporated into the minutes.

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

**SYNOPSIS**

The appointments will fill vacancies due to resignations, expirations of terms, newly established boards, etc.

**RECOMMENDATION**

It is recommended that the City Commission make the appointments as deemed appropriate.

**BACKGROUND**

Vacancies exist on various Boards, Commissions, and Committees due to resignations, expirations of terms, newly established boards, etc. The City Commission is asked to make the appointments as deemed appropriate.

Board Applications are considered for appointment by the City Commission at various times of the year. Regulatory Boards require an interview process for all new applicants before being considered for appointment by the City Commission.

Applications are available from the City Clerk, Municipal Administration Bldg., 201 W. Central Avenue or can be obtained on the City's website at [www.cityoflakewales.com](http://www.cityoflakewales.com).

**FISCAL IMPACT**

None. These are volunteer citizen boards.

## OTHER OPTIONS

Do not appoint the applicants named above and seek other applicants; however, it may be difficult for the board to obtain a quorum until vacancies are filled.

**Airport Authority Board**– Members are appointed by the City Commission. The Board consists of seven (7) members. At least four (4) members must be qualified electors of the City, and one member is a City Commissioner who is a non-voting member. (3-year term)

There is no interview process requirement for applicants applying for appointment to this board.

2 vacancies: Terms expire 07/01/14

Applying for appointment: None

Applying for re-appointment: Francesco (Frank) Gioscia, non-resident; own property in City

Vacancies are due to the expiring terms of Frank Gioscia and Dale Marks.

Commissioner Howell made a motion to re-appoint Frank Gioscia to the Airport Authority Board with a term to expire 7/1/14. The motion was seconded by Rogers.

By Voice Vote:

Commissioner Howell	"YES"
Commissioner Rogers	"YES"
Commissioner Wojcik	"YES"
Commissioner Thornhill	"YES"
Mayor Carter	"YES"

The motion carried 5-0.

**Bicycle/Pedestrian Advisory Commission** – Members are appointed by the City Commission. The Board consists of seven (7) regular members and three (3) alternate members. At least five (5) regular members and two (2) alternate members must reside within the City limits. Members who are not City residents must reside within the City's utilities service area in a residence served by the City's utilities system, receiving either water or sewer service. (3-year term)

There is no interview process requirement for applicants applying for appointment to this board.

4 regular vacancies: 3 terms expire 07/01/14  
1 term expires 07/01/13

3 alternate vacancies: 1 term expires 07/01/12  
2 terms expire 07/01/13

Applying for appointment: None

Applying for re-appointment: Jose F. Joglar-Gaya, resident

Current vacancies are due to the expiring terms of Noel Phetteplace, Robert Dioguardi, and Jose Joglar-Gaya.

Commissioner Howell made a motion to re-appoint Jose Joglar-Gaya to the Bicycle/Pedestrian Advisory Commission with a term to expire 7/1/14. The motion was seconded by Thornhill.

By Voice Vote:

Commissioner Howell	"YES"
Commissioner Thornhill	"YES"
Commissioner Rogers	"YES"
Commissioner Wojcik	"YES"
Mayor Carter	"YES"

The motion carried 5-0.

**Board of Zoning Adjustments and Appeals** – Members are appointed by the City Commission. The board consists of five (5) members. Members must be residents. (3 year term)

An interview process is necessary for new applicants only.

2 vacancies:                      1 term expires 07/01/13  
   1 term expires 07/01/14

Applying for appointment:      None

Applying for re-appointment:    Harold M. Weigand, resident

Vacancies are due to the resignation of Sylvia Rogers and the expiring term of Harold M. Weigand.

Commissioner Howell made a motion to re-appoint Harold Weigand to the Board of Zoning Adjustments and Appeals with a term to expire 7/1/14. The motion was seconded by Rogers.

By Voice Vote:

Commissioner Howell	"YES"
Commissioner Rogers	"YES"
Commissioner Wojcik	"YES"
Commissioner Thornhill	"YES"
Mayor Carter	"YES"

The motion carried 5-0.

**CRA Citizen Advisory Committee** – Members are appointed by the City Commission. The Board consists of five (5) members. Members must own property or operate a business within the voting district provided that the residence or business of the nominee is within the boundaries of the CRA. (2 year term)

There is no interview process requirement for applicants applying for appointment to this board.

2 vacancies:                      Terms expire 07/01/13

Applying for appointment:      None

Applying for re-appointment    Murray Zacharia, residence within CRA boundaries  
   John Adkinson, business of employment within CRA boundaries

Vacancies are due to expiring terms of Murray Zacharia and John Adkinson.

Commissioner Howell made a motion to re-appoint Murray Zacharia and John Adkinson to the CRA Citizen Advisory Committee with a term to expire 7/1/13. The motion was seconded by Rogers.

By Voice Vote:

Commissioner Howell	"YES"
Commissioner Rogers	"YES"
Commissioner Wojcik	"YES"
Commissioner Thornhill	"YES"
Mayor Carter	"YES"

The motion carried 5-0.

**Code Enforcement Board** – Members are appointed by the City Commission. The board consists of seven (7) members. Whenever possible, membership shall include an architect, a businessperson, a realtor, an engineer, a general contractor, and a subcontractor. Members must be residents. (3-year term)

An interview process is necessary for new applicants only.

3 vacancies:                      1 term expires 07/01/12  
   1 term expires 07/01/13  
   1 term expires 07/01/14

Applying for appointment:      None

Applying for re-appointment:    M. Jean K. Scott, resident

Vacancies are due to the expiring terms of Jean K. Scott, and Juanita Branch who did not wish to be re-appointed, and the passing of Ted Manley.

Commissioner Howell made a motion to re-appoint Jean Scott to the Code Enforcement Board with a term to expire 7/1/14. The motion was seconded by Rogers.

By Voice Vote:

Commissioner Howell	"YES"
Commissioner Rogers	"YES"
Commissioner Wojcik	"YES"
Commissioner Thornhill	"YES"
Mayor Carter	"YES"

The motion carried 5-0.

**Depot Advisory Commission** – Members are appointed by the City Commission. The Depot Advisory Commission consists of ten (10) members. At least six (6) members must reside in the City, and no more than four (4) members may reside outside the City. (3-year term)

There is no interview process requirement for applicants applying for appointment to this board.

2 non-city resident vacancies:    Terms expire 7/1/14

3 resident vacancies:              1 term expires 7/1/12

2 terms expire 7/1/14

Applying for appointment:      None

Applying for re-appointment: Jake Rowe, resident

Current vacancies are due to the expiring terms of Jake Rowe, Mollie Cooper, Cynthia Robinson, and Deming Cowles, who has served three terms and is not eligible to serve four consecutive terms.

Commissioner Howell made a motion to re-appoint Jake Rowe to the Depot Advisory Commission with a term to expire 7/1/14. The motion was seconded by Rogers.

By Voice Vote:

Commissioner Howell	"YES"
Commissioner Rogers	"YES"
Commissioner Wojcik	"YES"
Commissioner Thornhill	"YES"
Mayor Carter	"YES"

The motion carried 5-0.

**Housing Authority** – Members are appointed by the Mayor and confirmed by the City Commission. The Housing Authority consists of five (5) members. Members must reside in the City, own property in the City, or hold a valid occupational license issued by the City. One (1) member must be a resident of the housing project who is current in rent payment or a person of low income who is receiving a rent subsidy through a program administered by the Authority. No member may be an officer or employee of the City. (4-year term)

Member appointed does not need to be a resident of the housing project who is current in rent payment or a person of low income who is receiving a rent subsidy through a program administered by the Authority. Current member Octavia D. Johnson meets this requirement.

Member appointed must reside in the City, own property in the City, or hold a valid occupational license issued by the City.

There is no interview process requirement for applicants applying for appointment to this board.

1 vacancy: Term expires 07/01/13

Applying for appointment: Lisa L. Montgomery, resident  
Helen L. Walters, resident

Applying for re-appointment: None

A vacancy is due to the resignation of Michael Williams.

Mayor Carter appointed Lisa Montgomery to the Housing Authority Board with a term to expire 7/1/13. The City Commission confirmed the appointment made by the Mayor.

By Voice Vote:

Mayor Carter	"YES"
Commissioner Howell	"YES"
Commissioner Thornhill	"YES"
Commissioner Rogers	"YES"
Commissioner Wojcik	"YES"

The motion carried 5-0.

**Lakes Advisory Commission** - Members are appointed by the Mayor and confirmed by the City Commission. The Lakes Advisory Commission consists of seven (7) members. At least six (6) members must reside in the City, and no more than one (1) member may reside outside the City. (3-year term)

There is no interview process requirement for applicants applying for appointment to this board.

3 vacancies:                      1 term expires 07/01/13  
    2 terms expire 07/01/14

Applying for appointment:      None

Applying for re-appointment:    Debbie Allen, resident

Current vacancies are due to the expiring terms of Debbie Allen and Nancy Kahler, who has served three terms and is not eligible to serve four consecutive terms.

Mayor Carter re-appointed Debbie Allen to the Lakes Advisory Commission with a term to expire 7/1/14. The City Commission confirmed the appointment made by the Mayor.

By Voice Vote:

Mayor Carter	"YES"
Commissioner Howell	"YES"
Commissioner Thornhill	"YES"
Commissioner Rogers	"YES"
Commissioner Wojcik	"YES"

The motion carried 5-0.

**Library Board** – Members are appointed by the City Commission. The Board consists of five (5) members. Four members must reside in the City, own property in the City or hold a valid occupational license issued by the City. One member shall be a resident of the unincorporated Greater Lake Wales area having a Lake Wales address or a resident of the City of Lake Wales if the Lake Wales Public Library is a member of the Polk County Cooperative and receives operating funds from Polk County Board of County Commissioners (Ordinance 2008-07; 02/19/08). (5-year term)

There is no interview process requirement for applicants applying for appointment to this board.

Appointments are for an inside resident and an outside resident of the unincorporated Greater Lake Wales area having a Lake Wales address.

2 vacancies:                      Terms expire 07/01/16

Applying for appointment:      None

Applying for re-appointment:    Glenda G. Morgan, outside resident meeting requirement  
    Jack P. Brandon, resident

Current vacancies are due to the expiring terms of Jack P. Brandon and Glenda G. Morgan.

Commissioner Thornhill made a motion to re-appoint Glenda Morgan and Jack Brandon to the Library Board with a term to expire 7/1/16. The motion was seconded by Howell.

By Voice Vote:

Commissioner Thornhill	"YES"
Commissioner Howell	"YES"
Commissioner Rogers	"YES"
Commissioner Wojcik	"YES"
Mayor Carter	"YES"

The motion carried 5-0.

**Parks and Community Appearance Advisory Board** - Members are appointed by the Mayor and confirmed by the City Commission. The Board consists of seven (7) members. A majority of the members shall reside or own property within the city limits. The Director of Planning or designee and Public Services Director or designee shall serve as ex-officio members. Members are appointed for terms of three (3) years, except that the initial terms of the members shall be staggered so as to provide two (2) vacancies at the end of each year. The board shall elect a chairman at its first meeting after the first day of July in each year. (3-year term)

There is no interview process requirement for applicants applying for appointment to this board.

3 vacancies:                      1 term expires 07/01/13  
    2 terms expire 07/01/14

Applying for appointment:      None

Applying for re-appointment:    Jean Kincaid Scott, resident  
    Thomas Aron Gammons, outside resident

Current vacancies are due to the expiring term of Jean Kincaid Scott and Thomas Aron Gammons.

Mayor Carter re-appointed Jean Scott and Thomas Gammons to the Parks and Community Appearance Advisory Board with a term to expire 7/1/14. The City Commission confirmed the appointment made by the Mayor.

By Voice Vote:

Mayor Carter	"YES"
Commissioner Howell	"YES"
Commissioner Thornhill	"YES"
Commissioner Rogers	"YES"
Commissioner Wojcik	"YES"

The motion carried 5-0.

**Planning & Zoning Board** – Members are appointed by the City Commission. The Board consists of seven (7) members. Members must reside in the city, own property in the city or hold a valid occupational license issued by the city. (3 year term)

An interview process is required for new applicants only. The recommendation of the Chairman of the Planning and Zoning Board, Christopher Lutton, and the Director of Planning and Development, Margaret Swanson, is to appoint Lloyd Van Sickle to serve as a member to the Board. It is not mandatory that the Commission follow this recommendation.

2 vacancies:                      Terms expire 07/01/14

Applying for appointment:      Lloyd Van Sickle, resident



Applying for re-appointment: Sharon Becker Allen, resident

Vacancies are due to the expiring term of Sharon Becker and the resignation of Michael Williams.

Commissioner Howell made a motion to appoint Loyd Van Sickle and to re-appoint Sharon Becker Allen to the Planning & Zoning Board with a term to expire 7/1/14. The motion was seconded by Rogers.

By Voice Vote:

Commissioner Howell	"YES"
Commissioner Rogers	"YES"
Commissioner Wojcik	"YES"
Commissioner Thornhill	"YES"
Mayor Carter	"YES"

The motion carried 5-0.

### **OTHER VACANCIES**

Staff received no applications to fill the vacancies on the following boards, committees & commissions:

Drug & Prostitution-Related Nuisance Abatement Board  
Historic District Regulatory Board  
Historic Preservation Board  
Recreation Commission

[End agenda memo]

### **Agenda Item 18. Florida League of Cities 85th Annual Conference and Appointment of Delegate**

The full staff memo is incorporated into the minutes.

[Begin agenda memo, prepared by Katie Kinloch, Administrative Assistant to the City Manager]

### **SYNOPSIS**

The Commission is asked to appoint one City Commissioner to serve as a voting delegate at the Florida League of Cities Conference August 11 – 13, 2011 in Orlando

### **RECOMMENDATION**

It is recommended that the City Commission appoint one Commissioner to serve as a voting delegate at the 85th Annual Florida League of Cities Conference to be held August 11 through August 13, 2011 in Orlando.

### **BACKGROUND**

Michael Sittig, Executive Director for the Florida League of Cities notified the City that the League's 85th Annual Conference is to be held August 11 through August 13, 2011 at the World Center Marriott in Orlando. Each municipality is requested to provide an official to serve as the voting delegate during the conference. This year the Florida League of Cities is celebrating Cities Work which will provide valuable educational opportunities to help Florida's municipal officials serve their citizenry more effectively.

It is important that the City Commission appoint one Commissioner to be the voting delegate from the City of Lake Wales. Our delegate will be voting on matters concerning election of the League leadership, adoption of resolutions and making decisions that will determine the direction of the League for the next year.

#### **OTHER OPTION**

Do not appoint a delegate to represent the City of Lake Wales.

#### **FISCAL IMPACT**

Two commissioners have indicated an interest in attending this conference, and the City will incur cost for mileage expense and conference registration fees for each attendee. Because the location of the conference is less than 50 miles from Lake Wales (i.e., the distance measured from the Municipal Admin Building is 37 miles), the City will not reimburse the cost of hotel lodging. Appointing one of these commissioners as the voting delegate will create no additional cost for the City.

[End agenda memo]

Commissioner Wojcik made a motion to appoint Mayor Carter to serve as a voting delegate at the 85th Annual Florida League of Cities Conference to be held August 11 through August 13, 2011 in Orlando. The motion was seconded by Thornhill.

By Voice Vote:

Commissioner Wojcik	"YES"
Commissioner Thornhill	"YES"
Commissioner Rogers	"YES"
Commissioner Howell	"YES"
Mayor Carter	"YES"

The motion carried 5-0.

#### **Agenda Item 19. Discussion of Preliminary Financial Statements for April 30, 2011**

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 April 2011.

The unaudited financial statements for the City of Lake Wales for the Period Ending April 30, 2011 are presented to the City Commission for review. At the end of April 30, 2011 the City was 58.3% into the fiscal year. Fifteen of twenty-six payrolls (57.7%) have been expensed through April 30. Revenue and expenditure budgets have been adjusted to reflect changes through Budget Amendment #3.

Effective June 2, 2011, all department directors received notice of a freeze on spending and hiring from the City Manager. No purchases are to be made unless department operations cannot continue without the purchase. No vacant positions are to be filled unless department operations will cease to function or the safety of the public or other department employees will be placed in jeopardy. It is necessary to bring spending to a minimum for the remainder of this fiscal year.

Analysis of Cash & Investment Changes:

	GENERAL	SPECIAL REVENUE	UTILITY SYSTEM	TOTAL
Cash & investments YTD 2009-2010*	3,712,836	3,202,793	40,752	6,956,381
Cash & investments YTD 2010-2011*	3,612,700	1,697,848	151,912	5,462,460
CHANGE	-100,136	-1,504,945	+111,160	-1,493,921

Special Revenue Fund cash and investment in comparison to prior year shows a reduction of \$1,504,945. Essentially, \$1,414,458 (93.9%) of this reduction is due to the following items:

- Reductions in ad valorem tax receipts compared to prior year of \$426,907.
- A transfer from the CRA fund to the Utility Fund of \$332,984 in surplus 2008'09 revenues designated by the City Commission to be used on the C Street Project.
- A timing difference relating to the transfers from the CRA fund to the Debt Service Fund of \$406,503.
- A timing delay in receipt of payment for Library - County PCLC & Books By Mail of \$248,064 due to the County changing their payment schedule from prior year.
- Pool/Tax Anticipation Account:

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	3/31/2011	Difference
Pool/Tax Anticipation Account	1,037,822	1,063,518	25,696

Revenue & Expenditures Summary:

General Fund (page 3):

Some General Fund revenues appear to be slightly below budgetary target expectations. Expenditures appear reasonable compared to prior year and budgetary expectations.

Due to concerns relating to under-performance of some revenue sources (net negative effect equal to \$100,000) the following accounts will be watched over the next several months: (note: percentages shown below are comparisons to budget)

- Utility Service Tax of \$419,120 (50.9%) compared to prior year \$447,401 (47.2%) appears higher than expected. Estimated over performance compared to budgetary expectation is \$100,000.
- Communication Service Tax of \$338,911 (55.4%) compared to prior year \$341,538 (58.1%) appears lower than expected. Estimated under-performance compared to budgetary expectation is (\$30,000).
- Bldg Permit/Dev. Fees of \$158,509 (68.8%) compared to prior year \$229,704 (65.4%) appears lower than expected. Estimated under-performance compared to budgetary expectations is (\$70,000).
- Franchise Fees of \$427,755 (46%) compared to prior year \$611,036 (54.9%) appears lower than expected. Estimated under-performance compared to budgetary expectation is (\$100,000). This is mostly related to the Electric Franchise Fee.

Special Revenue Funds (page 5):

Some Special Revenue Fund revenues appear to be slightly below budgetary target expectations. Expenditures appear reasonable compared to prior year and budgetary expectations.

Due to concerns relating to under-performance of some revenue sources (net negative effect equal to \$87,700) the following accounts will be watched over the next several months:

- CRA – Actual Ad Valorem Taxes revenues of \$649,629 compared to budgetary appropriations of \$718,799 are lower than expected. Estimated under-performance compared to budgetary expectation is \$69,170. A budget amendment reduction will be prepared for this revenue source.
- CRA – Actual County Tax Increment revenues of \$655,029 compared to budgetary appropriations of \$673,559 are lower than expected. Estimated under-performance compared to budgetary expectation is \$18,530. A budget amendment reduction will be prepared for this revenue source.
- Library - County PCLC & Books By Mail revenue of \$248,064 (49.1%) compared to prior year \$531,975 (100.0) has been explained by Tina Peak, Library Director, as a timing difference relating to payment. In the past, these revenues were paid by the County in December and February and this year they are being paid in February and May.

Debt Service Fund (page 7):

Revenue sources appear reasonable compared to budgetary expectations. Expenditures appear reasonable compared to budgetary expectations.

Capital Project Fund (page 8):

Revenue sources appear reasonable compared to budgetary expectations. Expenditures appear reasonable compared to budgetary expectations.

Airport Fund (page 9):

Revenue sources appear reasonable compared to budgetary expectations. Expenditures appear reasonable compared to budgetary expectations.

Utility System Funds (page 10):

Revenue sources appear reasonable compared to budgetary expectations. Expenditures appear reasonable compared to budgetary expectations.

Ms. Pendergrass and City Manager Judith Delmar reviewed Agenda Item 19

Commissioner Howell asked if the new position for inspecting and installing irrigation water meters was in the budget and Ms. Delmar said they would add a revenue source to cover the cost.

**CITY MANAGER'S REPORT**

**Tracking Report:**

Ms. Delmar reported that the elevated storage tank was now on line and would be removed from the tracking report.

**COMMUNICATIONS AND PETITIONS**

Jean Scott, 307 Townsend Avenue, complimented the beautiful flowers in the planters outside City Hall.

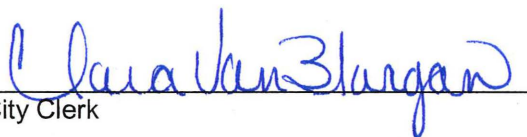
**CITY COMMISSION COMMENTS**

Commissioner Howell asked Ms. Bangley as the new supervisor of Code Enforcement to make sure residents put their garbage totes behind their homes except on pickup day. Ms. Bangley said they currently are strategizing on how to take care of that problem. She said she has a map on her desk showing when the various areas have pickup, and they plan on doing some courtesy notices working up to asking them to move them.

There being no further business, the meeting was adjourned at 8:29.

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

ATTEST:

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