

A workshop meeting of the City Commission was held on August 2, 2011 at 5:00 p.m. in the Commission Chambers at the Municipal Administration Building. The meeting was called to order by Mayor Michael S. Carter.

COMMISSIONERS PRESENT: Jonathan Thornhill; Terrye Y. Howell; John Paul Rogers; Betty Wojcik; 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; Jacquie Hawkins, Deputy City Clerk

[The minutes are recorded, but are not transcribed verbatim.]

Agenda Item 1. Roll Call

Agenda Item 2. Pain Clinic Moratorium, "Pill Mills"

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

Two substance abuse prevention organizations, Inner Act Alliance and Stand-Up Polk, have asked the City to enact a moratorium on the approval of pain management clinics in order to help prevent "pill mills" from locating in the area.

This memo provides information to assist the Commission in discussing a possible moratorium. If the Commission wishes to consider a moratorium, staff will draft an ordinance and bring it forward for first reading.

Angela Ellison, representing the Boards of Directors of the organizations, has provided a Lakeland ordinance declaring a moratorium on the approval of pain management clinics until such time as regulations for these types of uses can be put in place. Auburndale, Haines City, and Winter Haven have passed similar ordinances. Polk County has adopted an ordinance requiring registration and oversight of pain management clinics.

The Lakeland ordinance states that:

"No permits or approvals of any kind, including, without limitation, a business tax receipt, shall be issued and no applications or business taxes shall be accepted or received for any new Pain Management Clinics within the incorporated limits of the City of Lakeland for a period of one hundred twenty (120) days from the effective date of this Ordinance, or until such time as the City Commission adopts new regulations governing Pain Management Clinics and expressly lifts the moratorium imposed herein, whichever occurs first."

Several types of pain management facilities are exempted from the moratorium, (See Sec. 2b definition of "pain management clinic.") including hospitals, surgical physicians, large publicly held corporations, clinics associated with accredited medical schools, clinics that do not prescribe or dispense controlled substances for pain treatment, and tax exempt clinics.

Responsibility for administering the moratorium would fall to the Department of Planning and Development. Under a procedure already in place, any change of use on a property must receive zoning approval prior to the processing of any permits or application to pay a business tax. Verification would be required if an exemption from the moratorium were claimed.

Research would be necessary to craft any regulations to allow lifting the moratorium.

[End agenda memo]

Planning & Development Director Margaret Swanson reviewed Agenda Item 2 and whether the City Commission wants staff to bring forth for their consideration an ordinance declaring a moratorium on pain management clinics until such time as regulations for this type clinic can be put in place.

There were no comments by the public.

The City Commission, commenting in favor of the moratorium, instructed staff to go forward.

Agenda Item 3. Further Discussion of Backflow Inspection Program

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

June 7, 2011, City Commission Meeting:

Under "Communications and Petitions" the following comments were provided:

John Castelli, 4131 Muirfield Loop, and Charles Porter, 4227 Burwick Drive, spoke about their following concerns with the new requirement for the back-flow device annual inspection:

- Repairs not needed: Mr. Porter said he has had his for ten years and it hasn't needed repairs yet.
- The charge is \$50 for a five minute check which amounts to \$10 a minute
- The money would be going to a contractor instead of to the City of Lake Wales
- To keep track of the permits and inspections would be costly to the City

Their recommendations were:

- Change it to an every five year inspection
- Let City staff do the inspections and add the fee to their water bill

Mayor Carter said he was not sure this was a city decision because he thought the state made some requirements that they had no choice but to follow.

Utilities Project Administrator Sarah Kirkland said it was a state DEP requirement and that the ones that would have to be replaced were those that could not be tested. Mr. Castelli said he had the kind that could be tested and Ms. Kirkland said then his did not need to be replaced but it would still have to be tested for DEP.

City Manger Judith Delmar said that if the DEP does not get the report on an annual basis, they can fine the city. Commissioner Howell asked if it was the state who charged the \$50 a year and Ms. Kirkland said the owner would have to hire a certified back-flow tester to do the inspection and the money would go to him. They may be able to find a certified back-flow tester who would charge less if they look around. Commissioner Howell said it would be whatever the plumber charges.

Mr. Castelli said that was the reason they suggested that the back-flow inspections be done by city employees because they could do the inspections for a lot less and the money would be going to the City.

Commissioner Howell asked about the suggestion to have the Water Division do the inspection of the devices. She asked if the City had a certified back-flow employee and Ms. Kirkland said there were four employees that are back-flow certified.

Ms. Delmar said that if we were going to go that route we would need to hire someone who was dedicated to only that and there would plenty to keep him busy. It was something staff contemplated in the past but it was not mandatory at that time. It was definitely something they could consider and the Finance Director could do a cost analysis and see if we could actually fund a position in that manner.

Mayor Carter said he thought the fee could be significantly reduced going that route.

June 21, 2011, City Commission Workshop:

Holly Britt and Jose Perez from the Water Division talked about the possibility of an in-house backflow inspection program. Staff explained that a couple years ago, the Water Division started enforcing a commercial backflow program, which has been very difficult and has taken a lot of man hours in getting everybody to comply.

Staff recommended implementing an in-house backflow inspection program for commercial businesses and for residential customers who have irrigation meters. The recommendation included City staff repairing backflow devices.

The proposed benefits of the in-house program included saving customers time and money, and save the City a lot of hassle and man hours. The proposed rate at this meeting was \$3 per month per customer who is required to have a backflow device to cover the cost of an employee to track and test the backflows for all commercial customers and residential irrigation customers, and do all the reporting. Installation and repair would be performed at the cost to the customer.

After Meeting Concerns:

The City Manager and some Commissioners received concerns relating to the City backflow inspection program. Some of the concerns included the proposed cost of the program and the City competing against private business if the City performed repair services on backflow devices. Staff was asked to provide a follow up workshop on this topic for July 19, 2011. Due to time constraints this item was postponed until August 2nd.

August 2, 2011, City Commission Workshop:

Staff recommends an in-house backflow inspection program as follows:

- The in-house backflow inspection program will be for commercial businesses and for residential customers who have irrigation meters.
- Meters requiring annual in-house backflow inspections will be billed \$2.50 per month per meter to cover the cost of the program. The fee will be included on the monthly City utility billing statement.
- The program will require one full-time backflow specialist on City staff.
- The backflow specialist will be responsible for annual inspections, certifications in compliance with DEP standards, and notification to property owners of backflow devices which fail inspection.
- If the backflow specialist finds that a backflow has failed inspection, they will contact the customer by letter and provide the customer with the option of water termination or calling a plumber for repairs. The backflow specialist will be responsible for coordination of utility accounts which require termination due to non-compliant backflow devices.

FISCAL IMPACT

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Preliminary fiscal impact projection:

<u>Revenues</u>	<u>Number of Meters</u>	<u>Monthly Fee</u>	<u>Annual Revenue</u>
Commercial	630	\$ 2.50	\$ 18,900
Irrigation	1300	\$ 2.50	39,000
			<u>\$ 57,900</u>
<u>Expenditures</u>			
Personnel:			
Backflow Specialist			\$ 21,000
Payroll Taxes			1,607
Health Insurance			6,150
Retirement			1,215
Life Insurance			71
Work Comp.			468
			<u>30,511</u>
Allocation of Admin. Personnel (5% of \$70,000)			3,500
Allocation for Utility Billing (9% of \$210,933 - based on meter count)			18,983
			<u>22,483</u>
Uniform			100
Training & Education			800
Fuel (Est. 1,300 miles/10 mpg *\$4.00=)			520
M & R - Fleet Contract			1,300
Truck Lease (F-150)			1,700
Office Supplies			300
			<u>4,720</u>
			<u>\$ 57,714</u>

[End agenda memo]

Holly Britt, Utilities Division, reviewed Agenda Item 3 and made the following comments:

- City staff would only be inspecting the backflow devices and not doing any installation, replacement or repairing of the devices.
- The program will require a full-time backflow specialist on City staff who will be responsible for annual inspections, certifications in compliance with DEP standards, and notification to property owners if backflow devices fail inspection. It would be a benefit if the person hired is already trained.
- If a backflow device is found in need of repair, the backflow specialist will send the customer a letter notifying them of such, and providing them with the option to either have the device repaired by a certified plumber, or have their water terminated. If they choose to get it repaired they will be given a specific period of time to have it done and report back to the City.
- The backflow specialist will be responsible for the coordination of utility accounts requiring termination due to non-compliant backflow devices.
- All customers with backflow devices will be billed the \$2.50 per meter monthly inspection fee.

Commissioner Rogers asked if the fee would cover such things as salary, benefits, necessary equipment etc. Ms. Britt said yes. Ms. Delmar said the fee would also include some additional administrative cost.

Ms. Pendergrass reviewed the fiscal impact of the agenda memo provided to the City Commission in their agenda packets and explained how she arrived at the \$2.50 monthly inspection fee per meter.

Mayor Carter asked the projected revenue. Ms. Pendergrass explained that the projected revenue is \$57,900 and the projected cost is \$57,714.

Mayor Carter said he received a number of emails regarding software that is available to do the tracking for this type of program. Ms. Britt explained that she currently uses Microsoft Excel to do the tracking, and that she did check with software tracking vendors and their responses have been that a software program is the most organized route to take. Mayor Carter asked if staff had checked to see if the software would be cost effective. Ms. Pendergrass said if the software cost less than her projected annual \$300 for office supplies, it could be purchased. There is a \$200 slight variance in the projection. She said it would also depend on how sophisticated the software is considering the number of meters the City has and without knowing anything about the software she could not speak to that. Mayor Carter said he could guess that it would be hard to find software that cost under \$200.

Commissioner Thornhill said he thought the proposed program would be the best method in preventing the City from being fined by DEP because if it is not properly done the City would be responsible. This method also gives business to the local vendors.

Commissioner Wojcik said it is great that the inspections would be done by the City because it would relieve staff of the responsibility for juggling paperwork and trying to get people to comply. At the same time, customers can still use approved private contractors to do the repairs etc. She asked if the City would be providing customers with a list of approved contractors. Ms. Britt said they did that a couple of years ago but was told it was against the law to do so because it was an advertisement for certain contractors. Some contractors became irate because they were not on the list. Ms. Delmar said we have to be objective and fair, but not make recommendations on whom to use. Staff can provide a list of who pays a business tax to the City in that category, point them to the phone book or refer them to the Chamber of Commerce.

Mayor Carter said we could save the customer the expense and hassle of trying to find someone to repair the device if the problem is obvious to the technician. It could be a simple fix. Ms. Britt said it could be a common sense thing like dumping the filter to make it work, which would not be considered a repair. We can discuss it if that needs to be in black and white. Mayor Carter said he hoped the person hired would have enough common sense to differentiate that. Ms. Delmar said that would be part of the person's training.

Commissioner Rogers said he understands that backflow preventers belong to the customers and the City is not allowed to work on private property. Mayor Carter said he saw some of them on public property. Ms. Britt said staff could get customers to sign service agreements. City Attorney Chuck Galloway said it still depended on where the backflow device is located. Anything beyond the meter once it is installed belongs to the individual regardless of where it is located. Commissioner Rogers said a City technician cannot work on stuff that belongs to the public. Although, most of the backflow preventers are located in the right-of-way, they belong to the user and not the City.

Commissioner Howell asked if new businesses will also be charged the monthly \$2.50 inspection fee if they are required to have a backflow device. Ms. Britt said yes.

Mayor Carter expressed concern that the City is taking a fair amount of revenue from the business community. He recommended going through a bidding process to determine if the charge would be less for the customer if a plumber does the inspection. If the bids turn out not to be in an appropriate range, then the City can hire someone.

Commissioner Howell said the City will only be doing the inspections. The customers will be responsible for hiring a plumber to do installations and repairs. The plumbers who want the business can advertise for themselves by possibly putting out flyers.

Danny Baynard, Baynard Plumbing Co., said he spends countless hours trying to explain to customers what backflow devices are and why they are necessary. He said that leaving the repair work to the private sector is a wonderful thing. The comment about some backflow devices being located on public property is true when it comes to the commercial property because most residential customers have their backflow devices installed next to their homes. He explained that it is not always a one-stop service repair for the customer because some devices have to be disassembled two or three times before working properly, which further complicates the customer because the City would have to perform several tests.

Ms. Delmar asked Mr. Baynard if from a practical standpoint retesting was part of his service repair to make sure the device is working. Mr. Baynard said yes for an additional charge. Ms. Delmar said the City could do the final test at no charge to the customer. He said it is possible for a device to fail the next day if it is located in older parts of the City where the water lines are old like in the downtown.

Mr. Baynard said he understands that the only reason the City would want to do the testing is because of the paperwork. City employees would have no idea if the device had been repaired and retested if the device is not tagged and they don't have the paperwork. He said that he submits all the necessary paperwork to the City after performing a test.

Mayor Carter said he was unsure of being in favor of bringing the program in house until taking it out to bid to see what the responses are.

Mr. Baynard said he gets all the testing done within a couple of months. He would guess that the City tends on having an employee stretch the testing over a long period of time during a year cycle testing a few per day.

Ms. Delmar said in addition to paperwork the customers are not taking the inspection seriously and are not calling the plumber. The recourse is to disconnect their water service until they comply. Mr. Baynard said the customer may not know what they need to do to comply if the tester does not explain it to them. Ms. Delmar said the details would need to be worked out as to who would be responsible for the final test, the City or the plumber as part of the repair service.

Commissioner Wojcik asked if something would be placed on the door if the customer is not home when the inspection is made to inform them that the device had been inspected and that they need to contact a plumber for repair, and then contact the City for final testing. Ms. Britt said yes. Commissioner Wojcik asked if the technician would go out and retest the device after a period of time if no one contacts the City to let them know that the device had been repaired. Ms. Delmar said she did not know. Ms. Britt would have to make that part of the procedure.

Mr. Baynard said he knew of some homeowners that had their unlicensed lawn person do the installation and repair. He asked if homeowners are allowed to do that since they are allowed to pull their own permits. Development Director Margaret Swanson said that under the City's ordinance it would have to be done by a licensed plumber. Homeowners are not allowed to pull their own plumbing or electrical permits in the City of Lake Wales. Anything that requires a plumbing permit would also require an inspection by a City inspector such as backflow devices installed or reinstalled. Commissioner Howell received confirmation that the City could require an endorsement from a certified plumber to prove that the device was legally repaired.

PUBLIC COMMENT

Jim Murphy, Tower Lakes community, said he has a retired backflow license from the State of New York, and that 98% of the backflow devices in the City would fail even though they have a pressure vacuum breaker on them. He said he thinks that this program needs more discussion because what is being discussed and what goes on in the field, are two different things and people have been given the wrong information.

David Smith, Babson Park, said Danny Baynard installed his backflow device at the old Epps Funeral Home five years ago and this was the first time he heard that it required an annual inspection.

Greg Massey, business owner located at 344 Lincoln Avenue, made the following comments:

- He thought the direction the City was heading was inappropriate although the fees were appropriate.
- He did not feel that a permit should have to be pulled the minute an inspector comes out.
- He was sure a certified inspector would know whether it is a minor thing that can be corrected or if the whole device needed to be replaced. If it does have to be repaired by a plumber the plumber should be able to say whether it is working before he leaves.
- The backflow inspection program takes business away from the community.
- Mr. Massey said if his water gets turned off on a Friday afternoon that could mean he loses business for the weekend. Ms. Delmar said water is not disconnected on Fridays.

Mayor Carter said it looks like the City is leaving a fair amount of revenue in the business community.

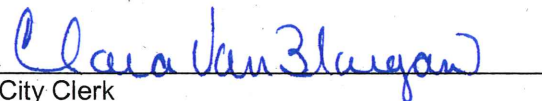
The consensus of the City Commission was for staff to move forward with the implementation of a backflow inspection program. Ms. Delmar said she would bring forward an ordinance at the next meeting. Commissioner Howell asked that the City Manager get some ideas from plumbers. Ms. Delmar said she could ask Mr. Baynard to review the ordinance before bringing it forward and Mr. Baynard said he would.

There being no further business, the meeting was adjourned at approximately 5:55 p.m.



Mayor/Commissioner

ATTEST:



City Clerk