

The regular meeting of the Lake Wales City Commission was held on August 16, 2011 at 6:00 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

COMMISSIONERS PRESENT: Michael S. Carter, Terrye Y. Howell; Jonathan Thornhill; John Paul Rogers; Betty Wojcik.

COMMISSIONERS ABSENT:

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

[Minutes are recorded but are not transcribed verbatim.]

MAYOR

APPROVAL OF MINUTES

Agenda Item 5. Approval of Minutes: August 2, 2011, Workshop Meeting; August 2, 2011, Regular Meeting; August 8, 2011, Workshop Meeting (City Manager Candidate Phone Interviews)

Commissioner Howell made a motion to approve the minutes for the August 2, 2011 workshop meeting; August 2, 2011 regular meeting; and the August 8, 2011 workshop meeting. The motion was seconded by Commissioner Rogers.

By Voice Vote:

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

The motion carried 5-0.

NEW BUSINESS:

Agenda Item 6. Ordinance 2011-13, Operating of radios or other mechanical sound making devices or instruments in vehicles – 2nd Reading & Public Hearing

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Staff is recommending a change to the Code of Ordinances to allow Police Officers to exercise the City's police powers as they relate to regulating sound making devices and motor vehicles.

RECOMMENDATION

Staff recommends that the Mayor and the City Commission adopt Ordinance 2011-13 after second reading and public hearing.

The City Commission approved Ordinance 2011-13 after reading on August 2, 2011.

BACKGROUND

A recent decision of the Second District Court of Appeal in the case of State of Florida vs. Richard Catalano et.al. (2nd DCA, Case No. 2D1-973) has ruled that the Florida Statute concerning loud music from motor vehicles is unconstitutionally vague and thus unenforceable. The current city ordinance which deals with sound making devices in vehicles mirrors the provisions of State Statute and as such suffers from the same infirmities as the statute. The critical failures of the Statute, as the Court saw them, are that it seeks to prohibit content-based speech which is in violation of the First Amendment of the Constitution of the United States and that the term "Plainly Audible" as used in the statute was not sufficiently defined to prevent an arbitrary enforcement of the law. The Court reasoned that by providing exemptions to the statute for Political or Business related purposes, the statute had the effect of encouraging a subjective standard to be placed on the noise rather than a uniform restriction of the noise.

The proposed ordinance moves the restriction of noise from vehicles from the nuisance chapter of the Lake Wales Code of Ordinances and places it in the Traffic section of the Code of Ordinances for the purpose of narrowly defining the conduct we seek to prohibit, and providing clear direction as to the standards which enforcement personnel will use to uniformly enforce the provisions of the ordinance.

Staff Recommends approval.

OTHER OPTIONS

The Commission may choose not to make any changes; this will result in a situation where the Police Officers have few options to provide redress of noise disturbances from motor vehicles.

FISCAL IMPACTS

None

[End agenda memo]

Ms. VanBlargan read Ordinance 2011-13 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING LAKE WALES CODE OF ORDINANCES CHAPTER 12, HEALTH, SANITATION, NUISANCES, DIVISION 3, NOISE CONTROL, BY ELIMINATING PROVISIONS RELATING TO NOISE EMANATING FROM MOTOR VEHICLES; AMENDING CHAPTER 20, TRAFFIC AND MOTOR VEHICLES BY ADDING PROVISIONS RELATING TO NOISE EMANATING FROM MOTOR VEHICLES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ANY CONFLICTING ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE.

Police Chief Chris Velasquez reviewed Agenda Item 6.

Mayor Carter, for confirmation, reviewed a few things that were discussed at the workshop as follows:

- For it to be a violation it has to be audible at 50 feet
- It covers both moving and non-moving vehicles
- Fines, no matter what dollar amount in our ordinance, are set at the County Judge's discretion. Chief Velasquez said the fine is at this time set at \$100 for the first offence, \$150 for the second offence, \$200 for the third offence, and \$500 for each additional offence.

OPENED PUBLIC HEARING

There was no public comment.

CLOSED PUBLIC HEARING

Commissioner Howell made a motion to adopt Ordinance 2011-13 after second reading and public hearing. The motion was seconded by Commissioner Thornhill.

By Roll Call Vote:

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

The motion carried 5-0.

Agenda Item 7. Ordinance 2011-14, FY10'11 Budget Amendment #4 - 1st Reading

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

The City Commission will consider approval of the fourth Amendment to FY 10'11 Budget that was adopted on September 21, 2010.

RECOMMENDATION

It is recommended that the City Commission approve Ordinance 2011-14 after first reading.

BACKGROUND

Ordinance 2010-19 estimating revenues and appropriating funds for Fiscal Year 2010-11 was adopted by the City Commission September 21, 2010 and amended on December 21, 2010, March 15, 2011 and April 19, 2011. We are presenting for first reading a fourth amendment of Ordinance 2010-19 to modify the estimates of revenues and appropriations budgeted in various funds. Exhibits A and B and supporting attachments provide the detail for the proposed amendment.

This budget amendment is based on unaudited financial reports for the accounting period ending on 6/30/11. The following is a summary of changes included in the proposed amendment:

Revenues & Balances Fwd	Increase(Reduction)
General Fund	107,017
Special Revenue Fund	(2,389)
Debt Service Fund	4,418
Capital Projects Fund	-
Utility System Fund	6,798
Airport Fund	-
Total Increase(Reduction) of Revenues & Balances Fwd	115,844
Appropriated Expenditures & Reserves	
General Fund	121,981
Special Revenue Fund	117,763
Debt Service Fund	-
Capital Projects Fund	121,961
Utility System Fund	98,028
Airport Fund	-
Reserves	(343,889)
Total Increase(Reductions) of Appropriated Expenditures & Reserves	115,844

The proposed budget amendment increases the City's total budgeted expenditures by \$459,733 and decreases reserves by \$343,889 for a net increase in appropriated expenditures and reserves of \$115,844 (from \$42,445,864 to \$42,561,708).

The decrease in reserves of \$343,889 is essentially due to the following items:

Summary Listing of Changes in Reserves:

<u>Fund</u>	<u>Description</u>	<u>Funding Source</u>	<u>Inc. (Dec.) Reserves</u>	<u>Agenda Item</u>
Beginning Fund Balance Adjustment:				
Utility	Audited Fund Balance, 09/30/10		(82,906)	04/06/11, item #7
Increase (Decrease) in Expenditures:				
General	Land Lease - Substation		(21,000)	6/21/11, item #11
General	(2) Police Cars		(28,749)	12/07/10, item #16
General	Hurricane Reimbursement		(18,092)	Discussed 08/02/11, item #12
General	Generator Transfer Switch		(10,000)	
General	Settlement - Sims Vs. City		(55,000)	7/19/11, item #11
General	Sidewalk Repair/Replacement	Impact Fees - \$20,000	(23,897)	
Cap. Proj.	Soccer Parking Lot	Impact Fees - \$10,000	(10,000)	1/18/11, item #14
Various	Impact Fee Study	Impact Fees - \$24,972	(24,972)	1/18/11, item #15
Utility	C Street Project	Seres 2007 Bond Proceeds	(89,704)	
Increase (Decrease) in Revenues:				
General	PILOT - Water's Edge		37,526	6/21/11, item #10
CRA	County Tax Increment		(18,530)	Discussed 06/21/11, item #19
Transfers:				
General	Transfer from Cap. Proj.		99,475	
Cap. Proj.	Transfer to General		(99,475)	
Utility	Transfer from CRA	Seres 2007 Bond Proceeds	89,704	
CRA	Transfer to Utility	Seres 2007 Bond Proceeds	(89,704)	
			<u>(345,324)</u>	

* The summary listing includes budget adjustments for \$10,000 or more which are expected to affect reserve levels. A detailed listing of all budget adjustments is provided within this agenda item.

Estimated Revenues and Reserve Balances:

- Balances forward must be adjusted to conform to the audited fund balances at 9/30/10. This amendment resulted in a net decrease of \$80,801:
 - decrease of \$2,313 in the General Fund,
 - increase of \$4,418 in Debt Service Fund,
 - decrease of \$82,906 in the Utility System Fund.
- Revenues projected within the General Fund must be adjusted to reflect a net increase of \$107,017 for revenue changes realized/expected within several revenue accounts:

Transfer (\$99,475)

- increase of \$99,475 to the General Fund due to a transfer from the Capital Projects Fund. Between 2002 & 2003 the Capital Project Fund owed \$99,475 to the General Fund. This transaction will transfer those funds into the General Fund.

Increased Revenues (\$148,355)

- increase of \$2,358 in bullet proof vest grant,
- increase of \$37,526 in payment in lieu of taxes for Water's Edge,

- increase of \$2,500 from deferred revenues received in prior years for tree replacement fee,
- increase of \$4,971 from deferred revenues received in prior years for cemetery capital,
- increase of \$26,000 in gain on sale of capital assets,
- increase of \$45,000 in utility service tax – electric due to expectation of year ending balance,
- increase of \$15,000 in utility service tax – water due to expectation of year ending balance,
- increase of \$15,000 in ad valorem taxes due to expectation of year ending balance.

Decreased Revenues (-\$138,500)

- decrease of \$37,500 in communication service tax due to expectation of year ending balance,
 - decrease of \$75,000 in franchise fee – electric due to expectation of year ending balance,
 - decrease of \$26,000 in site development fee due to expectation of year ending balance.
- Revenues projected within the Special Revenue Fund must be adjusted to reflect a net decrease of \$2,389 for revenue changes realized/expected within several revenue accounts:

Increased Revenues - Transportation Fund (\$20,000)

- increase of \$20,000 from deferred revenues received in prior years for sidewalk fees. This revenue is proposed to be allocated towards sidewalk projects costs \$23,897. (\$3,603 for Seminole & 3rd Street, \$5,231 for MLK & Central (corner), \$10,887 for MKL & Central (New Harvest Church) and \$4,176 for 4th Street)).

Decreased Revenues - CRA Fund (-\$22,389)

- decrease of \$3,859 in CRA ad valorem taxes due to expectation of year ending balances,
- decrease of \$18,530 in county tax increment revenues due to expectation of year ending balances.

Estimated Expenditures & Reserve Balances:

- Expenditures projected within the General Fund must be adjusted to reflect a net increase of \$126,143 for expenditure changes realized/expected within several accounts:
 - Fleet Maintenance - increase of \$2,490 for ground water test required by DEP at fleet building,
 - Municipal Administrative Building – increase of \$10,000 in capital outlay relating to installation/equipment for a generator transfer switch.
 - Non-Departmental - increase of \$73,092 due to settlement agreement for \$55,000 (Sims V.s City) and reimbursement to the Department of Community Affairs relating to Hurricane Jeanne for \$18,092,
 - Police – increase of \$2,358 for operating safety supplies,
 - Police – increase of \$28,749 for two police cars,
 - Fire - increase of \$21,000 for substation land lease rental,
 - Waste Disposal - decrease of (\$27,029) due to expectation of year ending balance,
 - Cemetery - increase of \$4,971 due to capital outlay fencing for \$4,567 and capital outlay security system for \$404,
 - Library - increase of \$4,162 in professional service due to impact fee study,
 - Recreation Facilities – increase of \$2,850 to Boys & Girls Club for foam termite treatment.
 - Recreation Facilities – increase of \$2,500 for additional trees at the soccer park.
 - Special Events – increase of \$1,000 due to contract services for 4th of July DJ for \$750 and porta potty rentals for \$250.

- Expenditures projected within the Special Revenue Fund must be adjusted to reflect a net increase of \$113,601 for expenditure charges realized/expected within several accounts:
 - Transportation Fund - increase of \$23,897. This increase is requested for sidewalk repair/replacement for the following locations:
 - \$3,603 for Seminole & 3rd Street,
 - \$5,231 for MLK & Central (corner),
 - \$10,887 for MKL & Central (New Harvest Church), and
 - \$4,176 for 4th Street.
 - CRA Fund – increase of \$89,704 in transfers to utility fund. This transfer appropriates the remaining bond proceeds, from Series 2007, from the CRA Fund into the Utility Fund to be used for eligible capital projects. These funds will be appropriated towards the C Street Project until the City is able to obtain SRF funding.
- Expenditures projected within the Capital Project Fund must be adjusted to reflect a net increase of \$121,961 for expenditure changes realized/expected within several accounts:
 - increase of \$99,475 for transfer to the General Fund
 - increase of \$10,000 for soccer field parking lot,
 - increase of \$12,486 for professional services relating to the impact fee study.
- Expenditures projected within the Utility System Fund must be adjusted to reflect a net increase of \$98,028 for expenditure changes realized/expected within several accounts:
 - increase of \$89,704 for C Street Project,
 - increase of \$8,324 for professional service relating to the impact fee study.

OTHER OPTIONS

With the exception of the request for the generator transfer switch for \$10,000 for the administrative building, the sidewalk repair/replacement for \$23,897, the transfer from the Capital Projects Fund to the General Fund of \$99,475 for funds owed to the General Fund, and a transfer from the CRA to Utility Fund of \$89,704 to be used for eligible capital project funding, this is primarily a housekeeping ordinance to conform the budget to items approved by the City Commission.

FISCAL IMPACT

See Exhibit A and Exhibit B attached to Ordinance 2011-14

[End agenda memo]

Ms. VanBlargan read Ordinance 2011-14 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING ORDINANCE 2010-19 AS AMENDED BY ORDINANCE 2010-32, 2011-05 and 2011-07 TO MODIFY THE ESTIMATES OF EXPENDITURES FOR THE OPERATION OF THE SEVERAL DEPARTMENTS OF SAID CITY FOR THE 2010-2011 FISCAL YEAR AND TO MODIFY THE APPROPRIATION OF FUNDS RAISED AND COLLECTED FROM ALL SOURCES SET FORTH IN THE ESTIMATE OF REVENUES FOR SAID FISCAL YEAR; REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

Finance Director Dorothy Pendergrass reviewed Agenda Item 7.

Commissioner Wojcik asked for confirmation that at all times, within reason, a balanced budget has to be presented to the Commission. When revenues are below what was originally approved, or when unexpected expenditures occur, an adjustment has to be made so the budget remains balanced. Ms. Pendergrass confirmed. City Manager Judith Delmar added that it is a Charter requirement that the Commission be notified of shortfalls in revenue and that the budget must be amended so as to balance it accordingly. This is not done line-item by line-item, but if the total revenues are less than expected and budgeted, then an amendment is done.

Commissioner Thornhill made a motion to approve Ordinance 2011-14 after first reading. The motion was seconded by Commissioner Rogers.

By Roll Call Vote:

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

The motion carried 5-0.

Agenda Item 8. Ordinance 2011-15, Cross Connection Control/Backflow Prevention Program – 1st Reading

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

The Commission will consider adopting an ordinance to establish a cross connection control and backflow prevention program that complies with the current requirements of FDEP. The ordinance establishes a requirement for in-house backflow prevention device inspections and a fee to reimburse the City for costs associated with the program.

RECOMMENDATION

It is recommended that the City Commission approve Ordinance 2011-15 after first reading.

BACKGROUND

In order to comply with regulations promulgated by the Florida Department of Environmental Protection (FDEP), Ordinance 96-06 adopted on May 21, 1996 revised the city code as it relates to the water system. The ordinance established prohibitions against cross connection, required the installation of backflow prevention devices on commercial and irrigation meters, and established the requirement for annual inspection of backflow prevention devices.

These regulations were promulgated to protect the public drinking water supply from the possibility of contamination from pollutants or other contaminants that could backflow from the customer's internal system into the public water supply system. Over the last several years, the FDEP has become more proactive in ensuring that the regulations are enforced by all providers of potable water, among whom are municipal utility departments. Accordingly, the utility must maintain annual reports to ensure that every backflow prevention device installed at a connection to the system receives a certified inspection and

operational test at least once per year. Failure to do so subjects the utility to fines for non-compliance with FDEP regulations.

Subsequent to discussion between citizens and the City Commission at the June 7, 2011 meeting pertaining to the cost of inspection of the devices, Commissioners asked staff to look into bringing the inspection program in-house.

At a workshop held on June 21 for the purpose of discussing the feasibility of an in-house inspection program, staff explained that the Water Division had begun enforcing a commercial backflow program about two years earlier. Implementation had been very difficult and had consumed many man-hours because it had been necessary to issue repeated reminders to the applicable customers to comply both in getting inspected and in forwarding the required inspection report to the city. Staff indicated that implementing an in-house backflow inspection program for commercial businesses and for residential customers who have irrigation meters would eliminate the administrative problems previously experienced and could reduce the cost to the public for the annual inspections. It was the consensus of the Commission that staff should prepare an ordinance to implement an in-house inspection program.

After the workshop, the City Manager and some Commissioners received concerns relating to an in-house backflow inspection program. Some of the concerns included the proposed cost of the program and the fact that the city would be competing against private business if staff performed repair services on backflow devices. A follow-up workshop was held on August 2nd.

At the workshop, staff outlined the proposed in-house backflow inspection program as follows

- The in-house backflow inspection program will be implemented 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 utility billing statement from the city.
- 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 prevention device has failed inspection, he or she will contact the customer by letter and provide the customer with the option of water termination or calling a plumber for repairs. No repairs or replacements of backflow prevention devices will be performed by the backflow specialist. All repairs and replacements will be the responsibility of the customer.
- The backflow specialist will be responsible for coordination of utility accounts which require termination due to non-compliant backflow prevention devices.

Following discussion with a local plumbing contractor, it was again the consensus of the Commission that staff should prepare an ordinance to implement an in-house inspection program.

Proposed Ordinance 2011-15 was prepared for this purpose. In addition, the ordinance adopts a cross connection control and backflow prevention program that mirrors the model programs recommended by the FDEP and the American Water Works Association.

OTHER OPTIONS

Do not adopt Ordinance 2011-15 or modify the proposed language.

FISCAL IMPACT

Cost to implement the program will be reimbursed by a \$2.50/month fee applied to each utility service account for commercial and irrigation meters.

[End agenda memo]

Ms. VanBlargan read Ordinance 2011-15 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA AMENDING CHAPTER 21, UTILITIES, ARTICLE III. WATER SYSTEM, TO ESTABLISH A CROSS CONNECTION CONTROL AND BACKFLOW PREVENTION PROGRAM; REVISING CURRENT RULES PERTAINING TO CROSS CONNECTION CONTROL AND BACKFLOW PREVENTION; AMENDING ARTICLE VI. CHARGES FOR SERVICES, TO ESTABLISH FEE FOR ANNUAL BACKFLOW PREVENTION DEVICE INSPECTION; PROVIDING FOR AN EFFECTIVE DATE.

City Manager Judith Delmar reviewed Agenda Item 8.

Commissioner Rogers said the equipment needed to do the actual inspection can fit into a briefcase and he did not think the inspector would need a fancy truck. He asked if the employee would be driving a used car or truck the city already owns and Ms. Pendergrass, Finance Director, said that the budget model included the cost of a leased vehicle, but if they decided not to lease one, it would cover the cost of maintenance and fuel for an existing vehicle. Ms. Delmar said if it ends up we are budgeting too much or too little, adjustments can be made at the end of the fiscal year.

Commissioner Howell was concerned that the truck to be used by the back-flow employee would be getting only ten miles to the gallon. Ms. Pendergrass explained that, based on experience and history, the average fuel consumption for all city vehicles was used when calculating the figure. Commissioner Howell said a smaller truck should be used, one that is not a gas eater, or maybe more vehicles should be shared. She said there needed to be a discussion in the future concerning the gas mileage of city vehicles. Mayor Carter said it did seem a bit outrageous and Ms. Delmar said we have vehicles that get worse mileage than that.

Public Works Director Tom Moran said one thing that needed to be considered is the fact that there will be around 2,000 back-flow devices needing to be tested annually. The employee will need to have a vehicle because he will be doing a lot of driving and there is no way he can get the job done if he has to share a vehicle. Commissioner Howell said other employees who don't drive all day can do the sharing. Commissioner Rogers said the back-flow tester's truck could be a smaller more economical one and not a Ford F-150 or F-250 with dual wheels. Mr. Moran said some employees need to have 4-wheel vehicles but many could use smaller trucks, and they may consider using diesel trucks for those who do need the larger ones. Commissioner Howell commented that diesel gas costs too much. Mr. Moran said it lasts forever. Commissioner Howell said we have to do something about the outrageous gas mileage of City vehicles.

Ms. Delmar said this was a discussion they could have at the budget workshop because there were many concerns about fuel consumption.

Commissioner Howell made a motion to approve Ordinance 2011-15 after first reading. The motion was seconded by Commissioner Rogers.

By Roll Call Vote:

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

The motion carried 5-0.

Agenda Item 9. Award of Bid for the Wastewater Treatment Facility Rehabilitation

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Staff is seeking commission approval for the award of bid for the waste water treatment plant to Encore Construction in the amount of \$3,705,000 and approve the Construction Services Contract with Kimley Horn in the amount of \$448,188.

RECOMMENDATION

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

1. Approve the award of bid for the waste water treatment plant rehab to Encore Construction in the amount of \$3,705,000.
2. Approve the construction services contract to Kimley Horn and Associates in the amount of \$448,188.
3. Authorize the City Manager to execute the appropriate documents, on the City's behalf.

BACKGROUND

Commission approval was granted at the May 19, 2009 commission meeting for staff to submit a State Revolving Funds (SRF) application in the June 1, 2009 funding cycle. The application was submitted to the Florida Department of Environmental Protection (FDEP) State Revolving Fund (SRF) for financing to rehabilitate the 23-year old waste water treatment facility and to expand capacity from 1.90 million gallons per day (mgd) to 2.19 mgd. The WWTF expansion/rehabilitation was tied to the Crooked Lake Lift station and Force main extension. This is what gained the city favorable action for the anticipation of funding. Since the Crooked Lake project did not have all of its permits, for the initial funding cycle, neither project could be funded at that time. The Florida Department of Environmental Protection's plan then became to sell more bonds and have another funding cycle for construction loan funds. Preliminary plans for improvements were prepared by Murchkey Engineering, Inc. to meet the requirements of the SRF application. Both plans and specifications were approximately 60% complete when submitted and required additional work before the project could be sent out for bidding.

Staff received notification on August 10, 2009 from FDEP that both the Waste Water Treatment Facility Improvements and the Crooked Lake Pump Station and Force main Construction were approved for funding once funds became available. Since that time, staff received direction from the commission not to go forward with the Crooked Lake Forcemain and Pump station project. In addition, the treatment plant project was scaled back to a rehabilitation project only inasmuch as an expansion is not warranted in the current economic climate. After forwarding these decisions to the applicable contacts at FDEP, the City

was assured that the modifications made to the original project would in no way jeopardize the City's chances on obtaining funding for the waste water treatment plant rehabilitation.

Before the project could go out to bid the plans for the WWTP rehabilitation had to be reviewed and brought up to a biddable status. The city commission at it's July 20, 2010 City Commission meeting approved entering into a contract with Kimley Horn and Associates to provide a revised opinion of probable construction cost (OPC) incorporating the proposed modifications. KHA prepared revised construction plans and specifications reflecting modifications, value engineering opportunities, and design modifications identified and agreed upon by the city.

Accordingly, a Request for Bid (RFB) was advertised on July 29, 2011 with a bid open date of August 1, 2011, to which there were ten responsive bidders as shown on the attached listing. Encore was the low responsive bidder at \$3,705,000. Staff is seeking commission approval for the award of bid to Encore Construction for the amount stated above. Staff is also seeking commission approval to enter into a contract for construction management services with Kimley Horn and Associates (KHA) in the amount of \$448,188. The construction management services contract would require KHA to perform all the services listed in the attached contract.

OTHER OPTION

Choose not to award the bid to Encore Construction and delay the start of construction. Choosing not to approve the construction services contract with Kimley Horn and Associates would put the city in the position of lacking the necessary inspections and construction management required by FDEP.

FISCAL IMPACT

This project will be funded by State Revolving Fund loan proceeds.

[End agenda memo]

Utilities Project Manager Sarah Kirkland reviewed Agenda Item 9.

Commissioner Howell commented that it seemed to her that nearly one half a million dollars was a whole lot of money for Kimley-Horn to be doing nothing but stand around watching other people do the work. Mayor Carter said he would like an explanation because the City can hire a lot of personnel for half a million dollars.

Mr. Moran, Public Works Director, gave the following explanation and Commissioner's commented as follows:

- Kimley-Horn would be acting as the City's eyes all day long to assure quality control on complex fundamentals of the project and for our peace of mind.
- The half million dollars covers the project manager, the engineer and the interim, all making sure the project is done right. Commissioner Wojcik said the fee also includes more than someone making sure the City is getting its money's worth, things like consultants and software upgrading. Mr. Moran added running the AUTOCAD program.
- Staff does not have the time to monitor the project and still perform their regular duties.
- Staff has the education and expertise to do some of the work, though they do not have the time, but the only one that could monitor the structural work is the Building Official who also does not have the time. Ms. Delmar said there is a lot of technical specialization needed for a project like this and employees cannot be expected to have that level of education.

Mayor Carter said that they may have to determine if this is the best way to spend a half million dollars. With the amount of capital improvement projects the City has lined up, we might want to consider hiring and then training some employees to do the work. Mr. Moran

said it would be worth the cost analysis to find out how much it would cost to hire someone to run the AUTOCAD computer programs, and an engineer intern.

- Kimley-Horn won the bid for engineering services for the city based on their ability to provide the service.
- Kimley-Horn has to sign off that the project was done properly, following code and guidelines, and therefore the liability would fall on them and they will be held accountable if something goes wrong. Ms. Delmar reminded them of the problems they had with the elevated storage tank when responsibility could not be determined because we did not have a cohesive contract for consumption management.
- The Building Official will be involved in the project as much as he can and though he will be called in to inspect such things as the mechanical, electrical, plumbing, and structural portions, he does not have the time to monitor the project eight hours a day.
- The project is expected to take a year to complete.

Ms. Kirkland relayed to the Commission that the entire \$448,188 was not all for the construction management services. This fee also includes the upgrade to the SCADA system and the CDBG administration services.

Commissioner Thornhill made a motion to take the following action:

1. Approve the award of bid for the waste water treatment plant rehab to Encore Construction in the amount of \$3,705,000.
2. Approve the construction services contract to Kimley Horn and Associates in the amount of \$448,188.
3. Authorize the City Manager to execute the appropriate documents, on the City's behalf.

The motion was seconded by Commissioner Howell.

By Voice Vote:

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

The motion carried 5-0.

Agenda Item 10. Well Pump Repair for Water Treatment Plant #1

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Staff is seeking commission approval for the expenditure of funds for the well pump repair at Water Treatment Plant #1.

RECOMMENDATION

It is recommended that the City Commission approve the expenditure of \$16,170.07 for the repair of the well pump at Water Treatment Plant #1.

BACKGROUND

On Sunday, June 5, 2011 upon the water plant operator's arrival at the WTP #1 Well #2 was making a loud noise. The operator turned it off and on Monday, June 6, 2011 called out Dunham Well Drilling Company. Dunham representatives pulled the pump from the well for further examination. This was required to determine what was making the loud noise previously heard by the water plant operator. Upon further examination, it was discovered that the pump, the shaft, the stuffing box, bowl assembly and spider bearings have to be replaced. This was a result of normal wear and tear. This pump was installed over 25 years ago and has well served its purpose.

RECOMMENDATION

Staff is seeking commission approval for the expenditure of funds in the amount of \$16,170.07 to repair this pump. I have attached a detailed report of what Dunham Well Drilling Inc proposes for this repair.

OTHER OPTION

None. Without this repair to WTP #1, additional stress is placed on the other two water plants for treatment.

FISCAL IMPACT

There is \$11,118.00 remaining in the FY10'11 M & R Treatment Plants line item. An additional \$5,052.07 will be transferred from M & R Water lines which has a current balance of \$24,459.00.

[End agenda memo]

Utilities Project Administrator Sarah Kirkland reviewed Agenda Item 10.

Mayor Carter asked if this had gone out to bid and Ms. Kirkland said it had not. She explained that companies charge for giving a quote and because Dunham Well Drilling Company did satisfactory work on the plant pumps and wells in the past, and because they are familiar with the plant, they were chosen. Mayor Carter said he preferred that the business was given to a local company.

Commissioner Howell made a motion to approve the expenditure of \$16,170.07 to repair the well pump at Water Treatment Plan #1. The motion was seconded by Commissioner Rogers.

By Voice Vote:

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

The motion carried 5-0.

Commissioner Wojcik asked for information about the lightning strike that occurred at Water Plan #3 and Ms. Kirkland explained.

Agenda Item 11. Contract for Services with the Eagle Ridge Mall

Agenda Item 11 was pulled and will be added to the September 7th agenda.

Agenda Item 12. Appointment - Depot Advisory Commission

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

The appointment will fill a vacancy due to resignations, expirations of terms, newly established boards, etc.

RECOMMENDATION

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

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.

3 vacancies: 1 term expires 7/1/12
 2 terms expire 7/1/14

Applying for appointment: Sharon L. Kurschner, resident

Applying for Re-appointment: None

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

OTHER VACANCIES

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

Bicycle/Pedestrian Advisory Commission	Historic Preservation Board
Board of Zoning Adjustments & Appeals	Lakes Advisory Commission
Code Enforcement	Parks & Community Appearance Adv. Board
Drug & Prostitution-Related Nuisance Abatement Bd	Recreation Commission
Historic District Regulatory Board	

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.

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.

[End agenda memo]

Commissioner Howell made a motion to appoint Sharon L. Kurschner to serve as a member on the Depot Advisory Commission for a term expiring 7/1/14. The motion was seconded by Commissioner 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 13. Discussion of Preliminary Financial Statements for July 31, 2011

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

The preliminary financial statements report revenues received and expenditures made through the end of July 2011.

The unaudited financial statements for the City of Lake Wales for the Period Ending July 31, 2011 are presented to the City Commission for review. At the end of July 31, 2011 the City was 83.3% into the fiscal year. Twenty-two of twenty-six payrolls (84.6%) have been expensed through July 31st. 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*	3,367,576	2,340,633	100,945	5,809,154
Cash & investments YTD 2010-2011*	2,412,931	1,619,404	448,761	4,481,096
CHANGE	-954,645	-721,229	+347,816	-1,328,058

General Fund cash and investments in comparison to prior year showed a reduction of \$954,645. Essentially, 902,856 (94.6%) of this reduction is due to the following items:

- Reduction in ad valorem tax receipts compared to prior year of \$377,247.
- The "Due from CDBG Fund" receivable increased by \$368,904. This money will be returned to the General Fund once the CDGB grant money is received.
- The "Due from the Airport Fund" receivable increased by \$156,705. This money will be returned to the General Fund once grant funding is received.

Special Revenue Fund cash and investment in comparison to prior year showed a reduction of \$721,229. Essentially, \$690,313 (95.7%) of this reduction is due to the following items:

- Reductions in CRA ad valorem tax receipts compared to prior year of \$426,907.
- Reduction in CRA County Tax Increment receipts compared to prior year of \$339,846.
- 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.
- Offsetting these revenue reductions are reductions in Community Policing expenditures compared to prior year of \$169,556 mainly due to reductions in personal services and capital outlay, reduction in Code Enforcement expenditures compared to prior year of \$51,470 mainly due to reductions in personal services, reduction in Community Redevelopment compared to prior year of \$104,087 mainly due to various items (elimination of the Main Street Contract for \$70,000, capital outlay for \$21,535 and various administrative allocations), reduction to debt service transfer compared to prior year of \$84,311 within the Transportation fund.

Utility Fund cash and investments in comparison to prior year showed an increase of \$347,816 mainly due to the following:

- Charges for services (86.2%) and interest income (85.7%) are slightly above budget expectations.
- Operating expenditures are slightly below budget expectations, which include Utility Operations Payroll (81.7%), Water Division Operations (75.7%), and Wastewater Division Operations (65.7%).

Effective July 29, 2011, the City Commission established rules for administration and use of funds in emergency sinking accounts.

Revenue & Expenditures Summary:

General Fund (page F-4):

Some General Fund revenues appear to be slightly below budgetary target expectations. Due to concerns relating to under-performance of some revenue sources (net negative effect equal to \$93,500) the following accounts will be watched over the next several months. (note: percentages shown below are comparisons to budget)

- Utility Service Tax of \$628,739 (76.3%) compared to prior year \$655,970 (69.2%) appears higher than expected. Estimated over performance compared to budgetary expectation is \$60,000.

- Communication Service Tax of \$479,432 (78.4%) compared to prior year \$490,954 (83.5%) appears lower than expected. Estimated under-performance compared to budgetary expectation is (\$37,500).
- Franchise Fees of \$628,222 (67.6%) compared to prior year \$849,680 (76.3%) appears lower than expected. Estimated under-performance compared to budgetary expectation is (\$90,000). This is mostly related to the Electric Franchise Fee.
- Site Development Permit & Inspections appear lower than expected. Estimated under-performance is (\$26,000).

Some General Fund departmental expenditures are above percentile expectation for both prior year comparison and budgetary comparison purposes. The City Manager, the Finance Director and department Directors are analyzing expenditures accounts which might require budget transfers or budgetary amendments.

Special Revenue Funds (page F-6):

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 \$22,389) 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. In the August Financials, an additional \$65,311 has been recognized as CRA ad valorem taxes. Estimated under-performance compared to budgetary expectation is \$3,859. 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.

Debt Service Fund (page F - 7):

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

Capital Project Fund (page F - 8):

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

Airport Fund (page F - 9):

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

Utility System Funds (page F - 11):

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

[End agenda memo]

Finance Director Dorothy Pendergrass reviewed Agenda Item 13.

CITY MANAGER'S REPORT

City Commission Tracking Report:

Ms. Delmar reported that the reuse project for the Country Club Golf Course has been approved by SWFWMD and is expected to be completed next year; and that the FlexNet project is complete.

Ms. Delmar asked that each Commissioner submit to Ms. Nanek, before the September 7th City Commission meeting, the name of their nominee for appointment to the Redistricting Committee, at which time the formal appointments will be made. The City will have 18 months in which to complete the redistricting process, which will take 30-45 days of extensive work.

Assistant Planning and Development Director Kathy Bangley announced that Habitat for Humanity pulled a permit for the property on C Street that the Commission gave to them. The ground breaking should commence soon.

Police Chief Chris Velasquez reported that staff responded to the complaint made by Greg Massey at the last City Commission Meeting, that R & L Pub also had a door that did not meet code because it did not open out. He said the owner immediately removed the door and took corrective action to fix it so it is no longer in violation.

COMMUNICATIONS AND PETITIONS

Kenneth Harding, Hesperides Road, presented each Commissioner with a packet of information and pictures of code violations in the city asking them to see what can be done to address them.

CITY COMMISSION COMMENTS

Commissioner Howell asked Economic Development Director Harold Gallup if he was still trying to get more restaurants into Lake Wales. He said yes.

Commissioner Wojcik said that, as a follow-up to the Economic Plan, a subcommittee of the Economic Development Partnership has been having meetings with the City Planner to discuss possible changes to the business sign and banner ordinance, which was the first on their priority list. They hope to be presenting their recommendations to the Commission but in the meantime the Commissioners should have received a copy of the new brochure they put together to give to new businesses or business prospects to welcome them and give them pertinent information. A digital version is on the City's website and the Chamber of Commerce website.

Mayor Carter commented on the following:

- Mayor Carter said he was not comfortable with a millage rate of 7.3 % if it meant burdening city employees with too much responsibility in balancing the budget as it is a citywide problem and not that of the employees. Employees have not had a raise in years and they have lost some benefits. Ms. Delmar, Ms. Pendergrass, and staff should be congratulated for the work they have done on reducing the budget but he asked that when staff looks at each line up in their budget, they should decide what is absolutely needed now, remembering that they are spending taxpayer money, and decide if they would choose to keep that line item or keep their job.
- Mayor Carter said that though he was not in favor of raising the taxes, increasing the millage rate to 7.9% would mean that residents would be paying very close to what they paid last year.
- Mayor Carter noted that, after looking around at the problems other counties are faced with, he thinks Lake Wales is blessed and though there is work to be done, he knows we would get through this.

- He announced that the City Commission Workshop is scheduled for August 22nd and invited the public to attend.

Jack Van Sickle, 4060 Ashton Club Road, spoke against the 3% salary pay-cut in the form of furloughs.

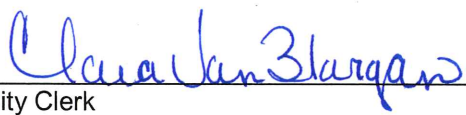
Commissioner Rogers commented that staff has done all it can to reduce the budget and he was in favor of cutting donations to organizations, especially those not operating in the City, because he felt their first duty is to the employees.

There being no further business, the meeting was adjourned at 6:48 p.m.



Mayor/Commissioner

ATTEST:



City Clerk