

The regular meeting of the Lake Wales City Commission was held on December 6, 2011 at 6:20 p.m. in 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.

The preceding workshop was longer than expected and the mayor called for a ten minute break. The City Commission meeting was called to order at 6:20 p.m.

INVOCATION

The invocation was given by Chief Jerry Brown.

PLEDGE OF ALLEGIANCE

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

COMMISSIONERS ABSENT: None.

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

[Meetings are recorded but not transcribed verbatim]

MAYOR

Clinton Horne, representing Unity in Community, and Jeff Kantz, Pastor of First Methodist Church, presented the City Commission with a check for one thousand dollars from a fundraiser effort initiated by Reverend Kantz to jumpstart the desperately needed C Street sewer project.

Mayor Carter requested that Agenda Item 13 be discussed first.

Agenda Item 13. Request for Approval to Develop a Dog Park at 9th Street Park

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Conversion of the 9th Street Park for use as a dog park is proposed as an Eagle Scout project by Ian Galloway. The project will include planning, fund raising, and development of the site. Additional fencing, two watering stations, a waste station, and picnic tables are proposed.

BACKGROUND

Improving the 9th Street Park for use as a dog park has been discussed by the Parks and Community Appearance Advisory Board at several meetings. Some citizens have expressed an interest in and support for the project, but have not made headway. Ian Galloway has now stepped forward with a proposal to plan, raise funds for, and develop the dog park as an Eagle Scout project. A rough sketch of the proposal is attached. Final details can be worked out with the Planning and Public Works Departments.

Ninth Street Park is a 3.8-acre site located on 9th St. south of SR 60 just south of the Catholic Church. At one time, there was playground equipment at the site. Currently, the site is a large field with several large

oak trees and chain link fencing along the frontage and two sides. Maintenance is limited to mowing. Very few people use the park or know that it is a City park.

The Commission's approval to move forward with the project is requested. Proposed is the addition of fencing and gates to define areas for large and small dogs, two watering stations with concrete pads, a waste station, and four picnic tables. There is a water line to the park, but no taps. An area outside of the fence off 9th St. will provide adequate parking. Grading and entrance improvements, not part of the proposed project, are desirable, but not vital to the project.

Existing fencing is in good condition along the north side, fair condition on the east side (along 9th St.), but is in poor condition along the south side. In some places, vegetation is holding up the fence. Some fence may need to be replaced.

Factors that the Commission might consider in making its decision:

- A public dog park will be an asset to the community and will provide a place for dog owners to go to let their dogs off the leash.
- The project will improve an underutilized City park in a beautiful setting.
- Maintenance costs will increase with the addition of facilities
- There is insufficient staffing to provide any supervision at the site; dog owners will be on the honor system in regard to adhering to the rules.
- Signage will be needed for the posting of rules for use of the dog park.
- Rules to be formulated by the Parks Board will cover minimum age for puppies, procedure for leashing and unleashing dogs, requirement for collars and ID tags, requirement for dogs to have inoculations, removal of dogs showing aggression, prohibition of leaving dogs unattended, hours of operation, etc.
- Increasing the size of the 15'x15' entrance area could provide some shady seating for people who wish to use the park but who may not want to be in the dog exercise area. This change would allow the park to have general usage to residents rather than be exclusively for use by dogs and owners.
- The tree planting project at the Soccer Park was accomplished as an Eagle Scout project and has been very successful.
- Additional improvements, such as parking lot and entrance work may be necessary in the future if the park becomes popular.

Staff suggests that if the Commission decides to authorize the project, a detailed plan be submitted for staff review and the approval of the Parks and Community Appearance Advisory Board prior to commencement of any site work.

FISCAL IMPACT

See Fiscal Impact Statement

OTHER OPTIONS

Decline to authorize the project.

[End agenda memo]

Mayor Carter commended Eagle Scout Ian Galloway, who was present at the meeting, for volunteering to take on a project to convert the unused 9th Street city property into a dog park and who plans to do the legwork and organize fundraisers.

Planning and Development Director Margaret Swanson reviewed Agenda Item 13.

Mayor Carter asked if any grant opportunities had been pursued and Ms. Swanson said a FRDAP grant is the only recreational grant program at this point, but it has not been funded. She said she would explore other possibilities.

Commissioner Howell said it was a wonderful idea because this type of park was needed by owners who would like to let their dogs run free from their leashes.

In response to a question from the audience, City Attorney Chuck Galloway, father of the Eagle Scout, explained that the Gulf Ridge Council of the Boy Scouts of America does not provide funds for Eagle Scout projects and so his son will be doing some community fundraisers. Before he can move forward with the project he has to get approval from the City Commission, and then from the District Advancement Chairman out of Winter Haven. He said the project is estimated to take about six months to complete.

Ms. Swanson said the Parks and Community Appearance Board members have discussed developing a dog park at this site and talked with interested citizens. However, there was no forward movement on the project until Ian Galloway proposed it as a Scout project. Staff would be happy to work with Ian, and will develop the rules that will need to be posted at the park.

Commissioner Wojcik asked Ian if the portion of the fence that was in disrepair would be fixed and he said it would.

Commissioner Howell made a motion to approve the Eagle Scout proposal to develop a dog park at 9th Street Park. The motion was seconded by Commissioner Thornhill.

By Voice Vote:

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

The motion carried 5-0.

CONSENT AGENDA

Commissioner Wojcik requested that Consent Agenda Items 8 and 9 be pulled for further discussion and vote.

Agenda Item 5. Approval of Minutes: November 15, 2011 Regular Meeting

Agenda Item 6. Approval of Plat for New Cemetery Lots (Lake Wales Cemetery Eighth Addition)

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Commission will consider approving the plat for new cemetery lots at the Lake Wales Cemetery.

RECOMMENDATION

Staff recommends that the City Commission take the following action:

1. Approve plat for Lake Wales Cemetery Eighth Addition.

BACKGROUND

In November 2009 the City Commission approved services provided by Rapid Surveying, Inc. for mapping of the Lake Wales Cemetery that is required for re-platting existing areas in the cemetery in order to gain additional burial spaces. This work was completed in January 2010.

Kimley-Horn utilized the topographic survey provided by Rapid Surveying, Inc. to prepare a grading and erosion control plan to accommodate the proposed burial spaces and a 5 foot walking path. In September 2010 McKenzie Construction was awarded the contract to do the grading and erosion control for the additional burial spaces. This work has been completed.

This new area is designated as the Eighth Addition and will add an additional 311 burial spaces to the Lake Wales Cemetery; (168) adult spaces, (83) children/infant spaces, and (60) cremation spaces.

At this time the Lake Wales Cemetery has approximately 100 burial spaces remaining for sale in the previously platted sections. Preparation for the new cemetery (surveying) on Hunt Brothers Road is scheduled in the fiscal year 12/13 budget. It is hard, therefore, to predict whether new lots will be available before or after all the old lots are sold.

FISCAL IMPACT

The plat fee is estimated to be around \$75.00.

OTHER OPTIONS

None: If the plat for the additional burial spaces is not approved, the City may run out of spaces before the new cemetery is built.

[End agenda memo]

Agenda Item 7. Cooperative Funding Agreement between the Southwest Florida Water Management District (SWFWMD) and the City of Lake Wales for the Lake Wales Country Club Reuse Project (N335)

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Staff requests commission approval to authorize the signing of the Cooperative Funding Agreement between the Southwest Florida Water Management District and the City of Lake Wales for the Lake Wales Country Club Reuse Project (N335)

STAFF RECOMMENDATION

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

1. Approve the signing of the SWFWMD Cooperative Funding agreement for the Reuse Water main Extension to the Lake Wales Country Club.
2. Authorize the Mayor to execute the appropriate documents, on the City's behalf.

BACKGROUND

The primary function of the reuse system was to provide residential, commercial and agricultural customers with properly treated wastewater for irrigation thus directly offsetting fresh water pumpage traditionally used for this purpose. The city's system, when constructed, was initially intended to serve the Whispering Ridge and Mayfair subdivisions, City owned and adjacent privately owned citrus groves, Lake Wales Cemetery, City owned multi-purpose sports complex, the Longleaf Business Park and ultimately the Lake Wales Country Club. Operating under this premise the City was approved and entered into a Cooperative Funding Agreement with the Southwest Florida Water Management District (SWFWMD). As the project progressed and construction cost rose, the City and Ben Hill Griffin (BHG) had a difficult time reaching an agreement for the financial portion that BHG was to contribute to the construction of the reuse line. It was at this time staff approached SWFWMD and requested for the Cooperative Funding agreement to be amended to the extent of having the BHG Country Club removed from the scope of the project, thus relieving the city of the obligation to extend the line to that location.

Although, this request was approved and the Cooperative Funding Agreement was amended, SWFWMD still wanted the city to give serious thought to extending the reuse line to the BHG County Club. Staff continued on with the project and fulfilled the remainder of the agreement, minus the BHG extension.

Staff and BHG representatives, have since come together, to create an amended agreement that would serve both parties well. The City Commission approved said agreement at its May 17, 2010 City Commission meeting. The Commission at its November 16, 2010 City Commission meeting approved for staff to submit an application to SWFWMD requesting grant funds to complete the extension of the reuse water main to the Lake Wales Country Club. The grant request was to cover the cost of the construction only, with the City being responsible for all costs associated with the engineering phase of the project. The Commission at its December 7, 2010 City Commission meeting approval was given to enter into a contract with Kimley Horn & Associates to provide engineering services for this project. Staff is now ready to proceed with the next phase of this project by seeking commission approval for the signing of the Cooperative Funding Agreement between the Southwest Florida Water Management District and the City of Lake Wales for the Lake Wales Country Club Reuse Project (N335).

OTHER OPTION

Choose not to approve the signing of the cooperative funding agreement and the City would have to cover 2/3 of the project cost instead of the 1/3 that the city is currently obligated to cover.

FISCAL IMPACT

\$750,000 has been allocated in the FY 2010-2011 budget for the construction of this project. The funding source for these funds is Wastewater Impact Fees. Reimbursement of costs is broken down as follows \$250,000 to be received from Ben Hill Griffin (Lake Wales Country Club), \$250,000 to be received from SWFWMD, and \$250,000 from the City of Lake Wales

[End agenda memo]

Commissioner Howell made a motion to approve Consent Agenda Items 5, 6, and 7. The motion was seconded by Commissioner Thornhill.

By Voice Vote:

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

The motion carried 5-0.

**Agenda Item 8. Dr. Martin Luther King Jr. Parade and Celebration January 12-16, 2012
Special Event Permit Application and Temporary Road Closings**

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Approval of the special event permit application will allow the Dr. Martin Luther King Jr. Celebration to take place between January 12, 2012 and January 16, 2012 and allow the temporary street closings for the parade on January 16, 2012

RECOMMENDATION

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

1. Approve the special event permit application for the Dr. Martin Luther King Jr. Celebration to be held January 12, 2012 to January 16, 2012
2. Approve the temporary street closings for the Dr. Martin Luther King Jr. Celebration and Parade to be held Monday, January 16, 2012. The time frame requested for the street closings for the parade is from 2:30 p.m. to 5:00 p.m. and for after parade activities on Lincoln Avenue from approximately 4:30 p.m. to 8:00 p.m.
3. Approve the temporary closing of the city parking lots on Lincoln Avenue for vendors and/or parking.

BACKGROUND

Mr. Narvell Peterson, President of the Dr. Martin Luther King Jr. Scholarship Fund of Lake Wales Inc. submitted a Special Event Permit application for the Annual Dr. Martin Luther King Jr. Celebration and Parade to take place beginning on Thursday, January 12, 2012 and ending on January 16, 2012 with the parade and after parade activities on Lincoln Avenue.

The Celebration will include the following activities:

January 12, 2012, 6:00 p.m., Unity in Community Pot Luck Dinner, Austin Center

January 13, 2012, 6:30 p.m., Oratorical Contest, Allen Temple Church

January 14, 2012, 9:00 a.m. to noon, Unity Walk from Kiwanis Park to Stuart Park

January 14, 2012, 10:00 a.m., Health Fair at the B Street Center

January 14, 2012, 6:30 p.m., Celebration Banquet, at the James P. Austin Community Center

January 16, 2012, 9:00 a.m. to noon, Celebration breakfast and Program, James P. Austin Community Center

January 16, 2012, 3:00 p.m. to 5:00 p.m., Dr. Martin Luther King Jr. Parade.

Parade will line up at the Austin Center by 2:30 p.m. and will begin on Dr. Martin Luther King Jr. Boulevard. They will head north to Dr. J.A. Wilshire Avenue, turning left and continuing to E Street. They will turn right and continue to Lincoln Avenue turning right on A Street and continuing to Dr. J.A. Wilshire Avenue. The parade will turn left and continue to First Street. The parade will then turn right and continue until Park Avenue and turn right continuing until Dr. Martin Luther King Jr. Boulevard. At this point the parade will turn right on Dr. Martin Luther King Jr. Boulevard and continue to the Austin Center where the parade ends.

After the parade the celebration will continue with food and craft vendors, music and entertainment along Lincoln Avenue and in the city parking lots along Lincoln Avenue. The activities are to conclude at 8:00 p.m.

The Dr. Martin Luther King Jr. Committee will be responsible for requiring the vendors to close promptly at 8:00 p.m. They will also be responsible for site set up, sanitary facilities and clean up after the event concludes. All departments have reviewed the application and have approved the event. Lake Wales Police Department and VOICE will be assisting with pedestrian traffic and vehicular traffic control. The Streets Division will be assisting with the street closings, setting out trash containers and the normal trash clean up on Tuesday.

OTHER OPTIONS

Not to approve this event and road closings.

FISCAL IMPACT

In-kind services for the City were budgeted for FY11/12 in the amount of \$1,696.00. The MLK Scholarship Fund of Lake Wales Inc. would be responsible for 25% (\$565.00) of in-kind services. The City Commission can choose to co-sponsor this event at no cost. The James P. Austin Community Center is being provided for use at no cost to the sponsor.

[End agenda memo]

City Manager's office Administrative Assistant Katie Kinloch reviewed Agenda Item 8.

The following comments were made:

- The 25% they are asked to pay is consistent with what other organizations, including nonprofit groups, have to pay, and during the last year every other organization paid their share.
- Reducing the fee by reducing staff would have to come from the Streets or Police Departments.
- Reducing the fee or covering the entire fee by being a co-sponsor of the event would be difficult because of the tight budget.
- If the City co-sponsored this organization it would have to do likewise for all other organizations.
- The rental fee for the three days use of the community center is already being waived.
- The City is presently paying 75% of the cost.

Commissioner Thornhill pledged \$100 to go toward the 25% cost to the organization and encouraged others to do likewise.

Commissioner Wojcik made a motion to:

- Approve the special event permit application for the Dr. Martin Luther King Jr. Celebration;
- Approve the temporary closing of streets and the city parking lots;
- Approve the waiving of rental fees for use of the community center;
- Approve the 25% match.

The motion was seconded by Commissioner Rogers.

By Voice Vote:

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

The motion carried 5-0.

Agenda Item 9. Lake Wales Mardi Gras Celebration for 2012 Special Event Permit Application

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Approval of the Special Event Permit Application will allow the Lake Wales Mardi Gras to hold pre-parade activities on Friday evening, February 17, 2012 in the downtown area, will allow the Mardi Gras parade to be held on Saturday, February 18, 2012 and allow the temporary closing of several streets for the parade and after parade activities

RECOMMENDATION

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

- Approve the Special Event Permit application for the Lake Wales Mardi Gras Celebration to take place on Friday evening, February 17, 2012 and on Saturday, February 18, 2012.
- Approve the request for the closing of the Marketplace and the Marketplace parking lot on Friday evening, February 17, 2012 between the hours of 6:00 p.m. and 10:00 p.m. for a beer tent along with music and entertainment, approve set-up time to begin at approximately 3:00 p.m., and approve for vendors to be set up in the Marketplace
- Approve the request for the temporary street closing on Saturday, February 18, 2012 between the hours of 6:00 a.m. and 10:00 p.m. of the following; Park and Stuart Avenues, a portion of S. Market Street and N. Market Street, the Marketplace and the Marketplace parking lot to allow for food and craft vendors and to continue the beer tent on the Marketplace parking lot along with music and entertainment between 10:00 a.m. and conclude at 9:00 p.m.
- Approve the request for the temporary closing of the two city lots located on West Stuart Avenue on Saturday, February 18, 2012 between the hours of 10:00 a.m. and 9:00 p.m. for vendors and kids activities.
- Approve the temporary street closings on Saturday, February 18, 2012 between the hours of 2:00 p.m. and 5:00 p.m. for the Mardi Gras parade. Street closings would be Martin Luther King Jr. Blvd. to Central, Central Avenue to SR17, SR17 to Stuart Avenue, Stuart Avenue to First Street, First Street north to Park Avenue, Park Avenue east to Third Street crossing SR 17, Temporary closing of Martin Luther King Jr. Blvd. at Bullard beginning at 10:30 a. m. for parade line up to begin.

BACKGROUND

On September 7, 2011 Mr. Bill Ouellette, President of Lake Wales Mardi Gras appeared before the city commission at a workshop to discuss a proposed parade route change and a relocation of the activities to Lake Wailes Park. With the commission's concern for this change in route, Mr. Ouellette agreed to keep the traditional route and location of the activities in the downtown area. He also asked the commission to consider allowing a two day event in 2012 as a compromise for not changing the route.

Mr. Ouelette has submitted a Special Event Permit Application for the 2012 Lake Wales Mardi Gras Celebration and Parade to be held Friday, February 17, 2012 and Saturday, February 18, 2012. The proposed two day event would begin on Friday evening, February 17, 2012 at 6:00 p.m. to 10:00 p.m. using the Marketplace parking lot for a beer tent, music and entertainment. There would also be food and craft vendors set up in the Marketplace during the evening's activities.

On Saturday, February 18, 2012 the day's activities will kick off at 10:00 a.m. in the downtown area with food and craft vendors in the Marketplace and on S. Market Street between Stuart Avenue and Central Avenue. Kid's activities will be set up on the two city parking lots on East Stuart. The beer tent will still be set up on the Marketplace parking lot along with music and entertainment. The main event will begin at 3:00 p.m. with the Mardi Gras Parade which will start on the east side of the City Administration Building and make its way through the downtown area concluding at Park Avenue and Third Street at approximately 5:00 p.m. After the parade the activities will continue with food vendors, craft vendors, music and entertainment in downtown Lake Wales until 9:00 p.m.

The parade route involves the following streets:

Central Avenue from Dr. Martin Luther King Jr. Blvd. to SR17 (Scenic Hwy), SR17 from Central Avenue to Stuart Avenue, , East Stuart Avenue from SR17 to North First Street, North First Street to Park Avenue, East on Park Avenue from North First Street to Third Street.

The Police Department, VOICE and the Streets Department will coordinate control of vehicular and pedestrian traffic for the parade. Trash barrels with bags will be placed along the parade route and in the areas of the pre-parade and after parade activities in the Marketplace. Sanitary facilities, site set-up and clean-up will be the responsibility of the Mardi Gras Committee. Porta-potties and dumpsters will be set up on North Market Street between Park Avenue and Orange Avenue and will be the responsibility of the sponsor.

The Lake Wales Mardi Gras Executive Committee is required to meet the following conditions prior to the start of the event.

- The Florida Department of Transportation (FDOT) issues a road closing permit for the closing of SR 17 (Scenic Highway) between Park Avenue and Central Avenue.
- The event sponsor obtains tent permits from the Building Department for tents 10 X 10 or larger.
- The event sponsor obtains an alcoholic beverage permit from the Division of Alcoholic Beverages & Tobacco.
- The City is provided with proof of liability insurance

OTHER OPTION

Do not approve the two day event

FISCAL IMPACT

In-Kind services provided by the City for the Saturday parade and activities were budgeted for FY11/12 in the amount of \$4,020.00. The Mardi Gras Committee is responsible for 25% of the total cost or \$1,340.00. The Friday night addition to the event was not a part of the budget and will have an estimated additional cost to the City of approximately \$420.00 and the sponsor will be responsible for 25% or

\$140.00. The City Commission can choose to absorb all the costs for the additional Friday event, only a portion or none at all.

[End agenda memo]

City Manager's office Administrative Assistant Katie Kinloch reviewed Agenda Item 9.

The following comments were made:

- The addition of Mardi Gras' Friday night activities are not in the budget.
- The addition was made so the organization could make more money so the organization was asked to split the unbudgeted amount 50/50, which would be \$210.
- As this is the first time for Friday night activities, the organization does not know how much will be made, but if they do very well, they are asked to share the wealth by making a charitable donation to the City to cover all or more of the unbudgeted portion that staff in those departments will have to come up with.

Bill Ouellette, President of Lake Wales Mardi Gras, concurred with the proposed arrangement.

PUBLIC COMMENT

Jack Van Sickle, 4060 Ashton Club Drive, said he thought the extra day was great but asked how the police department planned to come up with the \$210 that was not budgeted and asked that the Police Chief be allowed to tell them how passing this would impact the Police Department. He said he thought the Mardi Gras organization should cover the total amount for the added day. Police Chief Velasquez said the department wants the event to go off without a hitch and they will do everything they can to make sure it does. He said he was very meticulous when he did the department budget so he does not have money to spare, but they will carry out the Commission's wishes. He said he will not over-populate the event with police officers, but will assign what is needed to do the job well. He said it will be a good event and he looks forward to working with them.

Commissioner Rogers made a motion to:

- Approve the Special Event Permit application for the two day Lake Wales Mardi Gras Celebration
- Approve the temporary closing of all indicated streets and parking lots for food and craft vendors, the beer tent, the entertainment, and the parade
- Approve the organization's 25% contribution for Saturday activities and 50% for the Friday night activities with the possibility that the organization could make a charitable contribution to reimburse the departments for the extra cost.

The motion was seconded by Commissioner Wojcik.

By Roll Call Vote:

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

The motion carried 5-0.

OLD BUSINESS

NEW BUSINESS

Agenda Item 10. Ordinance 2011-57, Single-member Districts – 1st Reading

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Approval of ordinance 2011-27 will place a charter amendment on the April 3, 2012 Commission Election ballot establishing single-member districts.

RECOMMENDATION

If the Commission wishes the proposed charter amendment to be considered by the voters, it is recommended that the City Commission reconsider past action and approve Ordinance 2011-27 after a second first reading.

BACKGROUND

At the request of Commissioner Rogers three proposed charter amendments, Ordinance 2011-25, prohibiting expenditures on private entities; Ordinance 2011-26, reducing length of commission terms; and Ordinance 2011-27 establishing single-member districts, were prepared for consideration by the Commission. However, the first reading of each of these ordinances was not approved by a 3-2 vote of the Commission on October 4, 2011.

Since then, a petition was circulated by a group of citizens who obtained the required amount of signatures needed to place a charter amendment on the 2012 Commission Election ballot establishing two-year terms for all members of the City Commission. Commission members elected prior to April 2013 shall still complete their four-year term if approved by the voters, unless they choose to run for mayor.

During circulation of the petitions, a majority of the Lake Ashton petition signers said they were in favor of single-member districts and would like the opportunity to vote on it. Therefore, at the November 15, 2011 City Commission meeting, Lake Ashton resident Jack Van Sickle, who circulated the petitions in Lake Ashton, asked the Commission to reconsider Ordinance 2011-27 and allow voters to decide whether or not they want single-member districts in their City.

If Ordinance 2011-27 is adopted by the City Commission, the proposed amendment will be placed on the April 3, 2012 ballot for consideration and ratification by the voters. If approved by the voters, only voters residing in the geographical district represented by a specific commission seat will be entitled to vote in an election to fill that seat. Currently, all voters are eligible to elect commissioners to fill all five commission seats. If this amendment is adopted, commission districts represented by seats two through five will be single-member districts. Seat one is the mayor's seat and will remain an at large district.

OTHER OPTIONS

Do not reconsider adoption of the proposed charter amendment ordinance.

Supporters of the charter amendment may utilize the charter amendment process provided in Florida Statutes Section 166.031 to place it on the ballot for consideration by the voters. This process has specific rules that must be followed which include the requirement for the signatures of 10% of registered voters at the last city election. In April 2011, there were 7,538 voters; 10% of this number is 754. The petition process and verification of signatures must be completed by early February 2012 in order for it to be placed as an amendment on the April 2012 ballot.

FISCAL IMPACT

None.

[End agenda memo]

Ms. VanBlargan read Ordinance 2011-31 by title only.

AN ORDINANCE AMENDING THE CHARTER OF THE CITY OF LAKE WALES TO ESTABLISH SINGLE MEMBER DISTRICTS; SPECIFICALLY, AMENDING CHARTER SECTION 3.01 TO DELETE LANGUAGE RELATING TO ELECTION AT LARGE; AMENDING SECTION 8.03 TO PROVIDE THAT CANDIDATES FOR CITY COMMISSIONER SEATS TWO THROUGH FIVE SHALL BE ELECTED ONLY BY VOTERS RESIDING IN THE DISTRICT REPRESENTED BY THE SEAT TO WHICH THE CANDIDATE SEEKS ELECTION; AMENDING SECTION 8.06 TO PROVIDE THAT, IN ADDITION TO VOTING FOR A COMMISSION MEMBER TO FILL SEAT ONE, ALSO KNOWN AS "THE AT LARGE SEAT," EACH ELECTOR SHALL BE ENTITLED ONLY TO VOTE FOR ELECTION OF A COMMISSIONER TO THE SEAT REPRESENTING THE DISTRICT OR AREA IN WHICH THE ELECTOR RESIDES; AMENDING CHAPTER 8, LAKE WALES CODE OF ORDINANCES TO IMPLEMENT CHARTER AMENDMENTS PROVIDED BY THIS ORDINANCE, TO WIT, AMENDING SECTION 8-36(b) ELECTION TO COMMISSION SEATS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN ELECTION IN WHICH QUALIFIED ELECTORS OF THE CITY MAY VOTE FOR OR AGAINST THESE CHARTER AMENDMENTS; PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Wojcik said she believed that amendments to the City Charter were important, but that as single-member districting had gone before the voters and had been resoundingly defeated four or five years ago, she would like those who requested that the Commission bypass the process, to go through the petition process to make sure a few are not speaking for the majority. She would therefore not vote to put this on the ballot.

Commissioner Thornhill was in favor of allowing the public to make the decision.

Commissioner Howell said a Charter Review Committee had been formed and the chance was given at that time to vote on it. As the district lines have not even been drawn up yet, she did not see the need for it to be put on the ballot.

Commissioner Rogers said he was in favor of putting it on the ballot to let the people decide as it would not cost the City anything to do so. He said the petition for the change in term length was finished in a short period of time and the gatherers had indicated that residents would also like to vote on single-member districting. He saw no problem with letting them.

Mayor Carter said he thought single-member districting was a bad idea before, is still a bad idea, and not what Lake Wales needs. He said it should go through the petition process.

OPENED TO PUBLIC COMMENT

Ed Bowlin, Circle Drive, explained that a referendum and petition was intended to be the last resort the public could make if their elected officials refused to do what they wanted done. He said the Commission should listen to the people that elected them and it was their duty to put this on the ballot. He disagreed with Commissioner Wojcik's statement that only a few wanted this.

Commissioner Wojcik responded that all districts are part of a total community and she believes that having a single-member district would not only isolate the Lake Aston community but they would lose the power they have right now to vote for the entire Commission. She said she is not trying to hinder the process by asking for the petition process but because the process will indicate to them that more than a few people, those who may not have the right motives in mind, want it on the ballot.

Commissioner Thornhill gave an example of Polk County, which has an at large system, and Lakeland determining the election outcome for all other cities in Polk County because of its size. He therefore would vote to put it on the ballot.

Jack Van Sickle, 4060 Aston Club Drive, disagreed with Commissioner Wojcik. He said it was not the wish of only a few people because many Lake Ashton residents told him they would like to vote on single-member districting. He also disagreed that by doing so would isolate Lake Ashton. Mayor Carter commented that the calls he received were against single-member districting.

CLOSED PUBLIC HEARING

Commissioner Thornhill made a motion to approve Ordinance 2011-27 after a first reading. The motion was seconded by Commissioner Rogers.

By Roll Call Vote:

Commissioner Thornhill	“YES”
Commissioner Rogers	“YES”
Commissioner Howell	“NO”
Commissioner Wojcik	“NO”
Mayor Carter	“NO”

The motion failed 3-2.

Agenda Item 11. Ordinance 2011-32, Procurement – 1st Reading

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Purchasing Ordinance 2000-16 would be amended to revise the thresholds for purchasing categories and establishing procedures for direct purchase of materials to avoid sales tax to conform to Florida Statutes.

RECOMMENDATION

It is recommended that the City Commission adopt Ordinance 2011-32.

BACKGROUND

In September of 2000, the City Commission adopted Ordinance 2000-16. This ordinance was adopted to update language in our existing procurement code sections to comply with statutory requirements governing municipal procurement and to incorporate all laws, rules and procedures for procurement by City staff into a single comprehensive document. Ordinance 2011-32 amends Ordinance 2000-16 in order to keep our ordinance current as compared to Florida Statutes.

Ordinance 2011-32 is basically a housekeeping ordinance proposed to conform language in our existing procurement code sections to revisions in Florida law that occurred after 2000. Substantive changes are summarized below:

Threshold amounts for purchasing categories established by Chapter 287, F.S., are revised as follows:

- Category One - from \$15,000 to \$20,000
- Category Two - from \$25,000 to \$35,000
- Category Three - from \$50,000 to \$65,000
- Category Four - from \$150,000 to \$195,000
- Category Five - from \$250,000 to \$325,000

Changes in threshold amounts raise the level where certain statutory provisions are required and include the following which will modify our current procedural requirements:

- the cost of commodities or contract services that requires competitive sealed bidding is increased from \$25,000 to \$35,000
- the cost where a selection committee is required to review submittals for a Request for Proposal (RFP) is increased from \$150,000 to \$195,000
- the statutory requirements of the "Consultant's Competitive Negotiation Act" (CCNA) are triggered at \$320,000 instead of \$250,000 for professional services on a construction project and at \$35,000 instead of \$25,000 for planning services
- the statutory requirements for procurement of Design-Build Services are triggered at \$195,000 instead of \$150,000
- the requirement for notice in the legal section of a newspaper for a municipal public works project is increased from \$25,000 to \$35,000

It should be emphasized that these changes in threshold amounts change the point at which certain statutory procedures are required. The goal is that of expediting the public purchasing process in view of increasing costs for labor and commodities as well as other changes in the market for construction and professional services. Wherever lower thresholds are advisable for a particular project, however, the City has the discretion to act accordingly.

Ordinance 2011-32 also establishes procedures conforming to Florida Statute 212.08 (6) for direct purchase of materials to avoid sales tax. This statute allows governmental entities to structure contracts to avoid sales tax on public works project materials by purchasing the materials directly from the supplier. However the City must follow the basic requirements provided by the Department of Revenue to qualify for the direct purchase exemption. Accordingly, Ordinance 2011-32 includes the following requirements:

- the City must issue its own purchase order directly to the supplier;
- the City must provide the supplier with a copy of the government's exemption certificate;
- payment must be made by the City directly to the supplier;
- the City must take title directly from the supplier upon delivery rather than from the contractor after the job is completed; and
- the City rather than the contractor must bear the risk of loss of the materials, which is generally established through the contract provisions concerning casualty insurance.

It should be emphasized that the Department of Revenue stipulates that the government rather than the contractor must bear the risk of loss of the materials, which is generally established through the contract provisions concerning casualty insurance. This means that if the City utilizes the direct purchase program, the City will bear the responsibility of the materials used versus the contractor being responsible through their product insurance if the contractor had ordered the materials.

If the Commission should decide to adopt this amendment, whenever applicable the Purchasing department will include in the invitation to bid documents a requirement that bidders must submit two bids: one bid that will include labor and materials and one bid that will be a labor-only bid itemizing the materials needed to complete the project. This will allow the City to purchase the materials using the direct purchase program if it appears to be in the best interest of the public for a particular project.

FISCAL IMPACT

None

OTHER OPTIONS

The Commission can elect not to update the City's Ordinance and retain the lower thresholds or utilize the direct purchase program.

[End agenda memo]

Ms. VanBlargan read Ordinance 2011-32 by title only.

AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, LAKE WALES CODE OF ORDINANCES, AMENDING RULES AND PROCEDURES FOR THE PROCUREMENT OF PROPERTY AND SERVICES TO CONFORM TO THRESHOLD AMOUNTS ESTABLISHED BY FLORIDA STATUTES FOR PURCHASING CATEGORIES; CONFORMING LANGUAGE IN VARIOUS SECTIONS TO PROVISIONS OF FLORIDA STATUTES; ESTABLISHING PROCEDURES CONFORMING TO FLORIDA STATUTES FOR DIRECT PURCHASE OF MATERIALS TO AVOID SALES TAX. PROVIDING FOR AN EFFECTIVE DATE

Commissioner Wojcik asked if this ordinance was to bring the city into compliance with Florida Statute and Purchasing Director Bonnie Hodge concurred. Ms. Wojcik asked that she continue bringing bids before the Commission and Ms. Hodge said she would.

Commissioner Rogers said the City contracts need to be specific so the contractors know who bears the responsibility. Ms. Hodge said that the Florida Statute states that if a city uses direct purchasing, the city and not the contractor will bear the responsibility. Commissioner Rogers said the City will save the cost of sales tax by using direct purchasing but then would have to assume the liability if something goes wrong with those items purchased. He said if we adopt the ordinance we don't have to use the direct purchase option all the time but if we do, the Commission needs to know that the contractor will not be responsible.

Mayor Carter said he still believes there should be a way to contractually obligate the contractor to bear the liability if they give the city a bill of materials and those are purchased. Commissioner Thornhill said he did not think the City would get bids if that was required. Ms. Hodge gave an example of the city purchasing the generator for a project. If something went wrong with the generator, the City would have to go back to the vendor for compensation, whereas if the contractor purchased the generator, they would be responsible. She said when a bid goes out, they will have to bid two ways; one for if the contractor purchases the materials and one for if the City purchases them. Then we would have to decide if it is a product the City wants to take responsibility for. Mayor Carter said that the City needs to look at any way it can to save money and that thousands of dollars have been spent needlessly in the past by not using direct purchasing. Ms. Hodge said this ordinance will give the City the option to do that.

City Attorney Chuck Galloway said the bid outcome is determined by who is bearing the risk. If a contractor buys the part, he bears the risk, which will be reflected in the bid with that factored in. If the City buys the parts, the City would bear the risk, which will be reflected in a lower bid price from the contractor because he will not have to bear the responsibility if it fails. Mayor Carter asked if they can contractually obligate the contractor to bear the responsibility if the City buys it. Commissioner Thornhill said he doubts we would get bids if that was required. He said that personally, he would not take the responsibility for something he did not buy because his insurance wouldn't cover it.

Ms. Hodge explained the way the City of Lakeland does it:

- They ask for a bid both ways;
- If the City decides to purchase the materials, it would not go out for bid.

- Staff gives their sales tax exemption number to the contractor who does a requisition with the city's name on it;
- A purchase order is issued to the supplier;
- The bidder has to include the cost of insurance in their bid and if selected, has to add the city as the insurer, though the deductible has to be paid by the city in the event of a loss.

Mayor Carter asked if it was illegal for Lakeland to get around the bid process and Mr. Galloway said it depended on what was stated in their ordinance. Our ordinance requires items over a certain amount to go out for bid. Ms. Hodge said the Florida Department of Revenue lists the procedures to follow in order to save on sales tax. She said once we get both bids, it will be up to the department to tell her which way is best for the City.

Mayor Carter said the majority of the time the equipment will not fail and he thought we needed to look at a proactive way to amend our contract so we can minimize some of the liability.

Commissioner Rogers asked that they have staff look further into how other cities handle direct purchasing and bring it back for a later vote.

City Manager Terry Leary explained that this ordinance simply gives them the direct purchasing option and if it is not in the best interest of the City to do so, we would choose to go the other way. It is also updating us on the Florida Statute. Once we go out to bid and decide it is not in our best interest, we would have them purchase the items. Commissioner Wojcik said that city staff would look at how complex the project is and would then give the Commission their recommendation so it knows if the purchase would be a high risk item. Ms. Leary said staff has that expertise and would take each on a case-by-case basis.

There was a discussion about the higher limits proposed in the ordinance, which Ms. Hodge said was in the Florida Statute. The consensus of the Commission was to not go with the higher limits but leave them the way there were. The City Attorney was asked if that was legal and Mr. Galloway said you can always go back to a lower threshold.

OPENED TO PUBLIC COMMENT

Ed Bowlin, Circle Drive, said the City should save money any way it can by using the provision given them in the Florida Statute.

CLOSED PUBLIC HEARING

Commissioner Howell made a motion to add the language for the portion of Ordinance 2011-32 after first reading that deals with the direct purchase option, but not the portion changing the purchasing threshold amounts for categories established by Chapter 287, F.S. The motion was seconded by Commissioner Rogers.

By Roll Call Vote:

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

The motion carried 5-0.

Agenda Item 12. Resolution 2011-16, Updating Designation of Administrative Responsibilities

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

This resolution is proposed for the purpose of updating the designation of administrative responsibilities to reflect the change in city administration.

RECOMMENDATION

It is recommended that the City Commission approve and pass Resolution 2011-16 updating the designation of administrative responsibilities during the temporary absence of the city manager.

BACKGROUND

The City Commission is empowered by the City's Charter to approve the designation of an acting city manager during the temporary absence of the city manager. The term *temporary absence* for this purpose means "not available to come to the Municipal Administration Building to perform the duties of City Manager for a period longer than twenty-four hours."

In order to avoid any potential conflicts with dual office-holding provisions of Article II, Section 5 of the Florida Constitution, this designation is made by resolution of the City Commission. Resolution 2009-09 made the last such designation and reflects the organization that was current at the time.

Due to the change in city manager, it is necessary to update the designation of administrative responsibilities. Resolution 2011-16 is proposed for this purpose.

OTHER OPTIONS

None.

FISCAL IMPACT

None.

[End agenda memo]

Ms. VanBlargan read Resolution 2011-16 by title only.

A RESOLUTION OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, UPDATING THE DESIGNATION OF INDIVIDUALS TO SERVE IN THE CAPACITY OF ACTING CITY MANAGER AND ACTING CITY CLERK DURING THE TEMPORARY ABSENCE OF THESE APPOINTED OFFICIALS.

Commissioner Rogers said he would like to table this ordinance because he was concerned there may be problems with the City's current contract procedures, which may require additional corrective measures to be taken. He said he needed additional time to assess his suspicions, and will request a workshop if his suspicions prove to be correct.

The consensus of the City Commission was to table this item until the next scheduled City Commission meeting.

Agenda Item 14. Enter into a License Agreement with Harmsco Filtration, Inc.

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

Synopsis: The City Commission will consider approving a license agreement with Harmsco Filtration, Inc. to maintain the City property that borders Harmsco's property to the East on Dr. MLK Jr. Blvd. and to the North on Dr. J.A. Wiltshire Avenue.

RECOMMENDATION

Staff recommends that the City Commission approve the following actions:

1. Approve a license agreement between the City of Lake Wales and Harmsco Filtration, Inc. to maintain the City property that borders Harmsco's property to the East on Dr. MLK Jr. Blvd. and to the North of Dr. J.A. Wiltshire Avenue.
2. Authorize the City Attorney to prepare the license agreement.

BACKGROUND

On Tuesday, November 29, 2011 City staff met with Ryan Houmard of Harmsco Filtration, Inc. to discuss the possibility of the City of Lake Wales and Harmsco Filtration, Inc. entering into an agreement to maintain City property that borders on Harmsco property to the East of Dr. MLK Jr. Blvd. and to the North of Dr. J.A. Wiltshire.

Harmsco is requesting to take care of the mowing, weeding, and maintenance of this property and to pay for pavers to finish the corner of Dr. MLK Jr. Blvd. They also are requesting to put their company's logo in the bricks to spell out "HARMSCO"

The right-of-way under discussion was originally Harmsco's property and it was donated to the City in 2001 to allow for the Wiltshire and MLK intersection improvements. The City was supposed to have done the brick work at the intersection, but didn't have the money at the time and have never budgeted funds to finish the job.

Harmsco's proposal would improve the appearance of the intersection and functionality.

FISCAL IMPACT

There is no cost to the City to enter into this agreement.

OTHER OPTIONS

Do not enter into the agreement with Harmsco Filtration, Inc.

[End agenda memo]

Teresa Allen, Public Services Administrator, reviewed Agenda Item 14. Mr. Houmard, Harmsco Filtration Manager, made comment.

Commissioner Rogers made a motion to approve the license agreement between the City of Lake Wales and Harmsco Filtration, Inc. to maintain the City property that borders Harmsco's property to the East on Dr. MLK Jr. Blvd. and to the North of Dr. J.A. Wiltshire Avenue and authorize the City Attorney to prepare the license agreement. The motion was seconded by Commissioner Howell.

By Voice Vote:

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

The motion carried 5-0.

CITY MANAGER'S REPORT

- City Commission Tracking Report:

Mayor Carter asked if they could get an update on the airport even though they were still in litigation. Economic Development Director Harold Gallup said they are moving forward outside of the litigation. He updated them on possible advance FAA funding for extending the runway to 54,000 feet to accommodate larger planes. They are acquiring letters of support, and moving forward with a total Master Plan evaluation.

- Discussion on Pavilion Project – Engineering Expenditure

Economic Development Director Harold Gallup reviewed the progress of the downtown pavilion project, as well as the problems with the pond modification and its impact on the lake. They are to the point of getting geotechnical permitting engineering services to get a SWFWMD permit application, which will cost \$7,400.

Commissioner Rogers asked that grants be sought because there is no money budgeted for the study or for the construction of the pavilion. He said the City already has enough city facilities needing repairs and it did not need to add something he thought was not needed. He asked that the project be put on hold.

Mayor Carter said he thought the project would be a plus for the downtown area, but the project is not budgeted and there is no money to build it. He asked that it be put on hold until we find the appropriate grants. Commissioner Wojcik concurred.

CITY COMMISSION COMMENTS

Spook Hill: Commissioner Rogers said he was asked by David Smith to bring up the Spook Hill sign project because there were residents who would like to go back to the original design. Drawings were distributed among the Commissioners. Commissioner Wojcik said it was her understanding that there would be a public hearing on the matter.

David Smith explained what the original legend was and said he did not know where the Indian and alligator came from that is on the proposed monument. Mayor Carter responded that this was Mr. Hahn's interpretation of the legend, which was the artist's prerogative, and that Mr. Hahn did not wish to change it.

City Manager Terry Leary said there needed to be discussion and public input before making any determination. She distributed a draft survey that she had intended to propose putting in the monthly water bill to get public input, but it only asked how they felt about Mr. Hahn's spook hill sign design. Now that there was an alternate design to consider she said she would have to go back and do more work on it.

Economic Development Director Harold Gallup asked that because Mr. Hahn has been out raising funds, a letter needed to be issued to him asking that he put the project on hold.

ADDENDUM - Rescheduling the First Tuesday City Commission Meetings in January 2012

City Manager Terry Leary asked that the January 3rd City Commission Workshop and regular City Commission meeting be moved because of the New Year's holiday. Following discussion, the consensus of the Commission was to change the January 3rd meetings to January 10th.

Housing Authority: Commissioner Wojcik said she received a copy of the Housing Authority Audit and asked why the Commissioners would get a copy of that when the Housing Authority is not under their jurisdiction. Finance Director Dorothy Pendergrass said the Housing Authority is under the umbrella of the Commission so they were sent a copy as a courtesy. City Attorney Chuck Galloway said the only authority the Commission has is in the appointment or removal of its members. Commissioner Howell said the Housing Authority had to get Commission approval before it was established and asked if they had the authority to dissolve it. Mr. Galloway said they did not.

COMMUNICATIONS AND PETITIONS

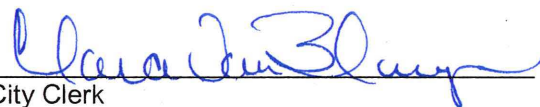
Jack Neal, 435 E. Central Avenue, reported that half of the newly strung Christmas lights do not light up and for what the City had to pay for the service, they should. He said someone should have checked to see if they were working after they were put up. Public Services Administrator Teresa Allen said that Clark Sales Company put them up and Beverly Pennington, Streets Division Manager, said she would look at them on her way home following the meeting.

There being no further business, the meeting was adjourned at 8:08 p.m.



Mayor/Commissioner

ATTEST:



City Clerk