

The regular meeting of the Lake Wales City Commission was held on December 20, 2011 at 6:00 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.

#### **INVOCATION**

The invocation was given by Chief Jerry Brown.

#### **PLEDGE OF ALLEGIANCE**

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

**COMMISSIONERS ABSENT:** Commissioner Howell arrived at 6:04 p.m.

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

[Meetings are recorded but not transcribed verbatim.]

#### **MAYOR**

#### **CONSENT AGENDA**

**Agenda Item 5.                      Approval of Minutes:**  
    **December 6, 2011 Workshop Meeting**  
    **December 6, 2011 Regular Meeting**

**Agenda Item 6.                      Lake Wales Car Show**

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 Car Cruise" to continue to hold their event on the fourth Saturday of each month in the downtown area for the next twelve months.

#### **RECOMMENDATION**

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

1.        Approve the Special Event Permit application from Main Street for the "Lake Wales Classic Car Show" to take place the fourth Saturday of each month between the hours of 3:30 p.m. and 8:30 p.m. beginning January 31, 2012 and ending January 31, 2013.
2.        Approve the temporary closing of Stuart Avenue from First Street to Scenic Highway, partial closure of S. Market Street from Stuart Avenue to the alley directly north of Central Avenue and the temporary closing of the parking lot at the intersection of SR17 and Stuart Avenue (west side of SR17)

## **BACKGROUND**

Mr. Larry Bossarte, Vice President of Lake Wales Main Street Inc. submitted a Special Event Permit Application to continue holding the "Lake Wales Classic Car Show " in the downtown area the fourth Saturday of each month beginning on January 31, 2012 and ending on January 31, 2013. The event hours would be from 3:00 p.m. to 8:30 p.m. which includes set up and take down. This event will showcase custom, classic and antique cars which will be located along Stuart Avenue. Musical entertainment and food vendors will be set up on a portion of S. Market Street at Stuart Avenue and directly adjacent to the alley north of Central Avenue. They are requesting the temporary closing of the parking lot at the intersection of SR17 and Stuart Avenue, closing of Stuart Avenue from First Street to SR17 and a portion of S. Market Street from Central Avenue to Stuart Avenue.

City departments have reviewed the Special Permit Application and have approved the event. The sponsor is responsible for all requirements for site preparation, site cleanup, food vendor licensing, and sanitary facilities. Proof of liability insurance will be provided to the City.

## **OTHER OPTION**

Do not approve this special event permit application.

## **FISCAL IMPACT**

There will be no cost to the city associated with this event.

[End agenda memo]

## **Agenda Item 7. First Assembly of God "Kids Zone"**

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

## **SYNOPSIS**

Approval of the Special Event Permit application will allow the First Assembly of God to set up the Kids Zone and other activities on the fourth Saturday of each month between the hours of 3:00 p.m. and 9:00 p.m. for the next twelve months

## **RECOMMENDATION**

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

1. Approve the Special Event Permit application from the First Assembly of God for their "Kids Zone" and other family activities on the fourth Saturday of each month between the hours of 3:00 p.m. and 9:00 p.m.
2. Approve the permit for the Kids Zone beginning on January 31, 2012 to January 31, 2013

## **BACKGROUND**

Pastor Walter Nelson of the First Assembly of God submitted a Special Event Permit application to continue holding the Kids Zone and other family activities on the fourth Saturday of each month between the hours of 3:00 p.m. and 9:00 p.m. The renewal permit would begin on January 31, 2012 and end on January 31, 2013. The Kids Zone includes a bounce house, face painting, balloons, stories and games. They will be using the parking lot on the east side of SR17 at Stuart Avenue which belongs to the First Presbyterian Church located at 16 N. Third Street.

The First Assembly of God would be responsible for meeting all requirements for site set up, site cleanup, sanitary facilities and insurance of which they have provided to the City. They are required to notify the City at any time the event would be canceled during a given month. If at any time during the twelve month period changes or modifications are made to the event activities, a new special event permit application will be required.

#### **OTHER OPTION**

Do not approve this special Event Permit application.

#### **FISCAL IMPACT**

There will be no cost to the City associated with the Kids Zone event.

[End agenda memo]

#### **Agenda Item 8. Disposal of Scrap Meters and Valueless Metal**

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

#### **SYNOPSIS**

Staff is seeking Commission approval to sell scrap water meters to Allied Scrap Processors and allow staff to dispose of additional scrap metal that holds no value.

#### **RECOMMENDATION**

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

1. Accept the proposal from allied Scrap Processors, to buy the City's scrap water meters for \$1.88 per pound.
2. Authorize the disposal of the remaining scrap metal.

#### **BACKGROUND**

Staff is trying to sell old meters that have been changed-out due to the change in the program. Out of the three companies providing quotes, Allied Scrap Processors offered \$1.88 per pound, per meter, which was the highest bid. The scrap meters will range in weight from approximately 10 to 25 lbs with the city receiving \$18.80 to \$47.00 per meter. The bid includes Allied Scrap Processors coming to the city's location to pick the meters up. The only City staff time required would be to help load the meters onto the truck, which city staff would have to do anyway if they had to dispose of these old meters at the landfill themselves.

Additional scrap metal awaiting disposal is presently occupying a large area at the Wastewater Treatment Plant so Allied Scrap Processors has agreed to provide a roll-off container for the material. This material holds no value and may cost the City \$75.00 for disposal if the material is less than 10,000 lbs. This scrap metal consists of all the waterlines, service lines and hydrant repairs city staff performs on a day to day basis, which has to be removed due to material failure. The storage of this unsightly scrap metal at the Wastewater Treatment Plant could potentially result in a written violation from the Health Department during the next Sanitation Survey.

## **OTHER OPTION**

None. If the old meters and scrap metal are not disposed of or sold to a scrap yard, staff would have to take the metal and old meters to the landfill, thus paying a charge for disposal based on weight. It has become necessary to dispose of these materials in order to create additional storage space in the inventory warehouse and the clearing of the stockyard at the Wastewater Treatment Plant.

## **FISCAL IMPACT**

There is no fiscal expense to the city. The City would benefit from the sale of the scrap meters. The proceeds would come back to the city as utilities miscellaneous revenue. If this scrap material has to be taken to the landfill, there would be a per-pound charge for disposal.

[End agenda memo]

## **END CONSENT AGENDA**

Mayor Carter asked where the Kids Zone was being held and Katie Kinloch, City Manager's Administrative Assistant, said it was in the private parking lot of First Presbyterian Church.

Commissioner Wojcik noted that the recommendation was to change the six month permit to a one year permit. Ms. Kinloch said that the two organizations requested the change but it would be up to the Commission to approve it.

Commissioner Howell made a motion to approve the Consent Agenda. The motion was seconded by Commissioner Thornhill.

By Voice Vote:

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

The motion carried 5-0.

## **OLD BUSINESS**

### **Agenda Item 9. Ordinance 2011-32, Procurement – 2<sup>nd</sup> Reading & Public Hearing**

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

## **SYNOPSIS**

Amending Purchasing Ordinance 2000-16 to establish 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.

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

Ordinance 2011-32 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 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**

None

[End agenda memo]

Deputy City Clerk Jacquie Hawkins 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  
ESTABLISHING PROCEDURES CONFORMING TO FLORIDA STATUTES FOR DIRECT PURCHASE OF  
MATERIALS TO AVOID SALES TAX. PROVIDING FOR AN EFFECTIVE DATE.**

Agenda Item 9 was reviewed by Purchasing Director Bonnie Hodge.

Commissioner Rogers said he liked the idea of saving the city money any way it can but we have to be careful when we use this option for some of the bigger projects and it should not be with a blanket contract. He said he would vote in favor of this ordinance as long as it is done project by project and the Commission makes the ultimate decision.

Mayor Carter had the following concerns:

- **Loss of Materials:** Mayor Carter asked for an example of "the risk of loss of materials." Bonnie Hodge, Purchasing Director, said the city will be responsible for accepting the material so someone would have to be responsible for knowing what exactly we are supposed to get and sign off that everything is there upon delivery. If the contractor installs, for example, a valve or computer and it fails, the contractor might say it was because of a faulty part. The City would then have to deal with the vendor who might say the part was fine and the fault was with how it was installed; each blaming the other and making it difficult to get resolution.

Commissioner Wojcik added that if the part had to be stored for a time before used and someone stole it, the City would be responsible and not the contractor, but she asked if the contractor would be responsible if the City bought it, stored it and then turned it over to them. City Attorney Chuck Galloway said that contractor responsibility would depend on the contract and whether it was stolen or failed to work.

- **Guidelines:** Mayor Carter asked who would be deciding if the project qualifies and what guidelines would be followed. Ms. Hodge said that would be the responsibility of the department head for the project. That person will be the best person to know if it is worth the risk to the City in order to save on sales tax. Mayor Carter asked how the department head would know unless there were guidelines to follow. Ms. Hodge said that on small projects the department head and staff would know and for larger projects like the wastewater treatment plant, the engineer and contractor would know. But all proposals have specifications to go by.

Commissioner Wojcik added that ultimately it would come before the Commission to decide after reviewing the bids submitted both ways and city staff's recommendation.

Mayor Carter asked City Manager Terry Leary if she thought guidelines would be helpful and Ms. Leary said that staff would be familiar with the project because they are knowledgeable and conscious of the risk to the City, but having guidelines is not a bad idea and she would be happy to work with staff to develop some.

- **Fiscal Impact:** Mayor Carter said the memo states that there is no fiscal impact, but he thought the impact would be significant in tax savings.
- **Liability:** Mayor Carter said there seems to be some hesitancy by the City in purchasing this way due to the liability but he spoke with a representative from Kimley-Horn who seemed to think there would be no problem with the liability issue as long as the contract is worded right. Kimley-Horn is willing to work with the City and understands that this is an effort on the City's part to save money.

Commissioner Thornhill said the bids would include both options and it will be up to the Commission to decide if it is worth taking the risk.

## OPENED PUBLIC HEARING

There was no public comment.

## CLOSED PUBLIC HEARING

Commissioner Thornhill made a motion to adopt Ordinance 2011-32 after second reading and public hearing. The motion was seconded by Commissioner Wojcik.

By Voice Vote:

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

The motion carried 5-0.

## NEW BUSINESS

**Agenda Item 10      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]

Deputy City Clerk Jacquie Hawkins 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.**

Agenda Item 10 was reviewed by Human Resources Director Sandra Davis.

Commissioner Rogers asked why Harold Gallup, the acting City Manager last year, was not considered for this year's list as he thought him quite capable for the job. Ms. Leary explained that retired City Manager Judith Delmar thought that Mr. Gallup was too busy to take on the additional responsibility and because he is out of the building a lot of the time, whereas Dorothy Pendergrass, Finance Director, is here all the time and is quite capable to handle the responsibility. Mr. Gallup said he had agreed with the City Manager at that time.

Ms. Davis said that the resolution states the effective date as being December 6<sup>th</sup> and it needs to be changed to December 20<sup>th</sup>.

PUBLIC COMMENT: There was no public comment.

Commissioner Howell made a motion to approve and adopt Resolution 2011-16 with the change of date. The motion was seconded by Commissioner Wojcik.

By Roll Call Vote:

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

The motion carried 5-0.

#### **Agenda Item 11. Resolution 2011-17, Resolution for an Enterprise Zone to the Florida Legislature**

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

#### **SYNOPSIS**

This Resolution is part of a package that will be forwarded to the State Legislature requesting the creation of an Enterprise Zone Designation for the City of Lake Wales under Chapter 290, Florida Statutes, for the purpose of increasing opportunity for commerce and employment.



## RECOMMENDATION

The City Staff recommends the City Commission take the following actions:

Approve and authorize the City Manager to execute the Resolution requesting authorization from the Florida Legislature to commence the application process for a Florida Enterprise Zone in Lake Wales.

## BACKGROUND

The City of Lake Wales had in late 2004 made application and was not able to complete the process due to technical deficiencies in the application. The City has been working with CFDC on the concept of a County CRA, a portion of which comes to the current Western Boundary of the City. The City of Lake Wales can qualify for approximately 3 square miles. The cities of Fort Meade and Bartow have taken action on this and the cities of Mulberry, Eagle Lake, Polk BOCC and the Bartow CRA will be taking action on this within the next several weeks. This is only the beginning of the process.

## CURRENT / FUTURE FISCAL IMPACT

There is no fiscal impact at this time, but positive effects could be in the future.

## OTHER OPTIONS

Not to participate.

[End agenda memo]

Deputy City Clerk Jacquie Hawkins read Resolution 2011-17 by title only.

## **A RESOLUTION OF THE CITY OF LAKE WALES, FLORIDA, REQUESTING AUTHORIZATION FROM THE FLORIDA LEGISLATURE TO START THE APPLICATION PROCESS TO ESTABLISH A FLORIDA ENTERPRISE ZONE; AND PROVIDING AN EFFECTIVE DATE**

Agenda Item 11 was reviewed by Economic Development Director Harold Gallup.

Commissioner Howell asked the following questions:

- Commissioner Howell commented that it would only be three square miles and Mr. Gallup said it goes by population so we would be limited to three miles. He explained that carving out the enterprise zone needed to be done with care to meet the thresholds such as population, employment, and poverty and once the enterprise zone is accepted staff would start the process of determining where our zone would be.
- Commissioner Howell asked if all the cities listed would get just three miles and Mr. Gallup said that it goes by population, for example, the county is eligible for 20 square miles. It is just a tool to level the playing field and allow us to compete with other areas that have enterprise zones across state lines.
- Commissioner Howell asked if the tax rate could be changed to draw businesses to Lake Wales rather than to other cities and Mr. Gallup said no, but this would enable us to modify and offer incentives that could not be used outside the enterprise zone, such as refunding or deferring impact fees.

Mayor Carter asked the following questions:

- Mayor Carter asked for examples of economic incentives. Mr. Gallup said job tax credits, real estate tax credits, and job training credits not available unless in an enterprise zone. He explained that enterprise zones were originally created as a jobs stimulus act for urban cores with high unemployment, low skill sets, and other social economic problems. It now is a federal

legislative tool available for rural centers of the country and it made sense to take advantage of it. Mayor Carter said he thought it went through the state legislation and Mr. Gallup explained that it started out as a federal empowerment zone but it now is a state enterprise zone.

- Mayor Carter asked if it would be similar to the CRA District and Mr. Gallup said it would be a well defined, legal district with the same process of qualifying and will be inside the Lake Wales CRA District.
- Mayor Carter asked who defines the district boundaries and Mr. Gallup said the package will have to come back to the Commission to be endorsed and then forwarded. The boundaries can be shifted, contracted, depressed and expanded as long as they meet the statutory requirements.
- Mayor Carter asked what the disadvantages would be and Mr. Gallup explained that a low skills level workforce, certain socioeconomic problems, slow economic growth, high unemployment rates, and high criminal activity, the general characteristics found in an urban enterprise zone.
- Mayor Carter asked if incentives would be for new businesses alone or if existing businesses would be included. Mr. Gallup explained that the enterprise zone is basically for attracting new businesses, new capital investment and new development. But parts of legislation may apply to the expansion of an existing business if it creates new jobs, though that would be only for the portion needed to expand the workforce and would be on a case-by-case basis.

Commissioner Wojcik asked the following questions:

- Commissioner Wojcik asked if sales tax incentives on machinery and other purchases would be included and Mr. Gallup said yes.
- Commissioner Wojcik asked if the incentives would be limited to a particular type of business such as manufacturing. Mr. Gallup said the target is manufacturing and distribution but also high tech industry but commercial businesses would not generally benefit from it.

Commissioner Rogers asked if the zone would be contiguous or could it be moved around and Mr. Gallup said it had to be contiguous, though not a uniform blocked kind of designation. A zone can be cut, carved and created to meet the economic test and still provide us with land mass that can be developed for businesses and give them the benefit of an enterprise zone.

**PUBLIC COMMENT:** There was no public comment.

Commissioner Thornhill made a motion to adopt Resolution 2011-17. The motion was seconded by Commissioner Howell.

By Roll Call Vote:

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

The motion carried 5-0.

## **Agenda Item 12. Citizen's Transit Advisory Committee**

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

### **SYNOPSIS**

It is necessary for the City Commission to appoint a citizen to the Citizen's Transit Advisory Committee to represent the City.

## RECOMMENDATION

The Commission is asked to be prepared with nominations for the Citizen's Transit Advisory Committee so the City Commission can appoint a citizen to serve as its representative with a term expiring December 31, 2014.

## BACKGROUND

The Polk Transit Authority formed a Citizens' Transit Advisory Committee to advise Staff and Board Members during the development of a county-wide transit system to meet citizen needs. The Committee is expected to provide the Polk Transit Authority (PTA) with the needed input and feedback to effectively structure and coordinate its planning, public communications, and public workshops.

The Committee is comprised of 23 members: one citizen from each of the 17 Polk County Municipalities; a citizen from Winter Haven who rides the fixed route system using a wheelchair; a citizen from Lakeland who is visually impaired and uses the system; and four citizens appointed "at-large" by the Board of County Commissioners.

## OTHER OPTIONS

Do not appoint a citizen to represent the City on the Citizen's Transit Advisory Committee

## FISCAL IMPACT

None

[End agenda memo]

Agenda Item 12 was reviewed by City Manager Terry Leary.

Mayor Carter asked if the representative was appointed by the Mayor or City Commission. City Attorney Chuck Galloway said the Mayor appoints with the consent of the Commission.

Commissioner Thornhill commented that he is presently the commission representative for the City of Lake Wales on the TPO Board but the term ends in February. He explained the term is based on a three year rotation between Lake Wales and Haines City, so in February Lake Wales loses that seat and the representative will come from Haines City for the next three years.

Commissioner Howell asked viewers to contact Mayor Carter if interested in representing the City on the Citizen's Transit Advisory Committee.

Mayor Carter said he needed time before making that decision and asked that this agenda item be tabled.

## **Agenda Item 13. Access Agreement for Comcast Cable Communications for Longleaf Business Park**

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

## SYNOPSIS

The ability to provide high speed internet and other information technology support infrastructure to Longleaf Business Park is essential to the growth of the business park, retention of businesses, and in

maintaining a competitive position for attracting companies needing this type and level of technological service.

## **RECOMMENDATION**

The City Staff recommends the City Commission take the following actions:

Approve and authorize the City Manager to execute the nonexclusive Comcast Access Agreement for the installation of business class technology infrastructure and to provide technology services to the Longleaf Business Park and to the businesses located now and in the future for the expansion of the economic base of the City.

## **BACKGROUND**

The Longleaf Business Park is designated as a Verizon Smart Park and is currently served by fiber optic service. The ability to bring in Comcast as a second provider of technology service to current and future businesses enables us to provide a redundancy of service and an expanded bundling of services for companies in a competitive price structure. The question of redundancy or alternate service provider enables us to market the park with a higher level of technology service and be service price competitive. The Department of Information Technology, Mr. James Slaton, has been instrumental in working through the requirements to get the Comcast Agreement to the Park and for other areas of the City like our Main Street area. The Access Agreement has been reviewed by the City Attorney and is acceptable to form. The contract is for an initial 10 year period with renewals for 5 years in each successive period.

## **CURRENT / FUTURE FISCAL IMPACT**

NO FUNDING REQUIREMENTS.

## **OTHER OPTIONS**

Not to authorize the execution of the Agreement.

[End agenda memo]

Agenda Item 13 was reviewed by Economic Development Director Harold Gallup.

Mayor Carter conveyed his concerns with the lack of quality service the City receives from Comcast in both the downtown and residential areas. He said that before entering into an additional relationship with them, we should make sure the quality of service is as it should be for the businesses and downtown merchants. Mr. Gallup said Comcast is trying to correct those failures.

Mayor Carter said that fixing the technical problems downtown needs to be part of the relationship going forward and that he would like the Longleaf Business Park and the downtown area tied together as a package deal because if downtown service is not improved, and Longleaf Business Park gets the better part of the deal, there will be very unhappy people downtown. Mr. Gallup agreed that they needed good quality service no matter where the business centers are and said that staff will focus on not letting correction of service deficiencies downtown fall to the back burner. Mayor Carter suggested making the contract contingent on correcting downtown service.

Commissioner Wojcik said that it does no good for Comcast to bring the higher broadband service at a much better price if the service is not up to par.

Mr. Gallup commented that failure to move forward would cause new businesses he has been working with to rethink coming to Lake Wales and he doubted that Verizon could provide the service within the next decade. There is also an existing business that is greatly impacted by the low quality of service by

Verizon and they could be a loss to the City without the upgraded service. The Longleaf Business Park is competing with other smart-parks in other parts of the state and if we can't provide them the service they need at a cost as low as what they can get elsewhere, they won't be coming to Lake Wales. He said this is the new FIOS construction, not part of the old residential construction. He said he has taken Commission comments to heart and has discussed the problems with the business representatives. He said he will stay on them to make sure the quality of service mirrors up to the new construction.

Mayor Carter said he thought there was already infrastructure in place at the Verizon building and he heard talk that they might use that to improve the situation downtown. Mr. Gallup said Verizon's business platform is changing to other parts of communication network that will yield a higher profit return. Mayor Carter said Verizon was spending a lot of money for advertisements trying to get people to change to FIOS. Mr. Gallup said that is for those already in the FIOS network and Lake Wales is not.

Commissioner Wojcik commented on her experience with a new company that built a network to her house. She said it took way longer than they anticipated and the quality of service was not great. Because the City does not have a whole lot of options, she asked Mr. Gallup to stay on top of that. He said they meet on a weekly basis.

Commissioner Howell said to make sure they are doing what they are supposed to do.

PUBLIC COMMENT: There was no public comment.

Commissioner Wojcik made a motion to approve and authorize the City Manager to execute the nonexclusive Comcast Access Agreement to the Longleaf Business Park and to the businesses located now and in the future for the expansion of the economic base of the City. The motion was seconded by Commissioner Howell.

By Voice Vote:

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

The motion carried 5-0.

**Agenda Item 14. Ridge Fertilizer Environmental Engineering Services for Site Assessment Activities**

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

**SYNOPSIS**

The City of Lake Wales owns the subject property. It was the focus of an environmental remediation action that involved the demolition of the Ridge Fertilizer Facility on the property. Certain actions were required for monitoring of the assessment report of the early 2003-2004 action. Due to the incomplete monitoring tasks at that time we need to complete the process now and move the project to close-out so the property can be placed on the market for sale or used for a designated municipal purpose.

**RECOMMENDATION**

The City Staff recommends the City Commission take the following actions:

Approve and authorize the City Manager to execute the Consulting Services Agreement with Kimley –Horn and Associates for Environmental Engineering Services for Site Assessment Activities, 62-780 FAC, in the amount of Fifteen Thousand Dollars (\$15,000.00)

## **BACKGROUND**

The history of this property is long and over the last 24 months in working with Kimley–Horn we were able to capitalize on some grant funding identified by the firm for preparing reports required by the Florida Department of Environmental Protection (FDEP) on this property. That work was completed and reviewed with the appropriate environmental offices. The FDEP laid out the scope of work required to move the property into compliance. The Scope of work is as specified by the FDEP. As with any agency they may require additional work effort that is not included in this contract. The extent of the work, if any, was not known at the time for budget preparation and was referenced a possible future cost that would need to come from the General Fund Balance.

## **CURRENT / FUTURE FISCAL IMPACT**

Funding for this will need to be a fund transfer from the General Fund.

## **OTHER OPTIONS**

Not to authorize the execution of the contract but expose the property to action by the FDEP.

[End agenda memo]

Agenda Item 14 was reviewed by Economic Development Director Harold Gallup.

Mayor Carter asked if the City owned the property and Mr. Gallup concurred. Mayor Carter asked who was responsible for the incomplete monitoring reports and Mr. Gallup said past administration.

Commissioner Rogers said the fertilizer plant property was CRA property. He asked if the \$15,000 would come out of the General Fund or the CRA fund and Mr. Gallup said the CRA Fund, most of it being for lab sample tests and chemical profiles. Commissioner Rogers said if it would come out of CRA Funds it would have to go before the CRA Board. Mr. Gallup said it came back to the City Commission because of past city action on this issue, but when they get ready to dispose of the property it will have to go before the CRA Advisory for their recommendation.

Commissioner Thornhill said it was his understanding that the property had to sit for ten years. Mr. Gallup said that was not needed because the City went with another type mediation plan. This plan is the most inexpensive and most expeditious way to get to where we need to be.

**PUBLIC COMMENT:** There were no comments from the public.

Commissioner Wojcik made a motion to approve and authorize the City Manager to execute the Consulting Services Agreement with Kimley–Horn and Associates for Environmental Engineering Services in the amount of Fifteen Thousand Dollars. 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 15. Perpetual Channel Improvement and Maintenance Easement with SWFWMD, City of Lake Wales Airport**

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

**SYNOPSIS**

The MOU is the result of actions of the Florida Legislature which caused the transfer of the maintenance of the Peace Creek Canal to the Southwest Water Management District; this document and individual easements between abutting property owners are needed for access from abutting property for maintenance activities. The benefit to the City is the improved maintenance of the Peace Creek Canal and better flood control.

**RECOMMENDATION**

Staff recommends that the City Commission authorize the Mayor to execute the Memorandum of Understanding between the City and Southwest Florida Water Management District for the maintenance of the Peace Creek Canal with the following provisos:

- There are no costs to the City or property owners for any required documents either recorded or not for any easement participation;
- This is a voluntary program with no powers of taking of property by the District;
- All easements are individually negotiated that will include easement areas and access easement areas;
- No permits for any projects shall be withheld by the District if no agreement can be reached on an easement;
- The program will not produce diminished property values or reduced development area;

**BACKGROUND**

The MOU provided with this agenda item has gone through a number of iterations and has been reviewed by a number of cities and respective staffs and legal advisors. Correspondence of September 2010 raised a number of questions and has resulted in a meeting with representatives from SWFWMD that produced clarification on a number of issues and provided the basis for the provisions recommended in the Staff Recommendation. The document and the referenced easements provide for a cooperative approach to providing access for canal maintenance without the highly charged environment of property being taken by some government action.

**CURRENT FISCAL IMPACT**

There is no current fiscal impact for this action.

**OTHER ALTERNATIVES**

Commission could reject the proposal and provide other directions for action.

[End agenda memo]

Agenda Item 15 was reviewed by Economic Development Director Harold Gallup.

Mr. Galloway noted that the execution date should be December 20<sup>th</sup> instead of October 4<sup>th</sup> as was originally stated in the memo.

Commissioner Thornhill made a motion to authorize the Mayor to execute the Memorandum of Understanding between the City and Southwest Florida Water Management District for the maintenance of the Peace Creek Canal with the stated provisions. The motion was seconded by Commissioner Rogers.

By Voice Vote:

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

The motion carried 5-0.

**Agenda Item 16. Discussion of Utility Rate Increase and 5-year CIP-Nov. 1<sup>st</sup> Workshop**

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

Attached is a memo from Dorothy Pendergrass concerning the November 1<sup>st</sup> Workshop where the Commission received a presentation to consider a Utility rate increase and the 5-year CIP. I am attaching the minutes of that workshop for your review.

Staff is requesting that the Commission provide direction as to how and if you would like to proceed. As indicated, staff will need a minimum of 45 days in order to prepare the necessary paperwork.

Please review the minutes and be prepared to comment. If the Commission feels that it needs more time or further information, please let us know.

[End agenda memo]

Agenda Item 16 was reviewed by Finance Director Dorothy Pendergrass.

Mayor Carter said he thought this was premature and any further discussion on the utility rate increase should be deferred until they have an opportunity to discuss the 5-year CIP to give them a broader understanding on how they were going to pay for not only the utility CIP but the General CIP and what form they would use to do that.

Commissioner Wojcik said the utility system needs to be able to pay for its CIP and they previously talked about charging \$5 a meter. Staff will have to come up with something for the General Fund CIP but she believed they should at least go forward with the utility part so the money is being set aside for those water and sewer improvements.

Ms. Pendergrass clarified that the current rate structure will support the existing utility debt and utility department operating expenses, and the projected debt for the wastewater treatment plant and the C Street project. She added that the topic rests with the Commission but that there will be time to address the issue when they get to the budget process and start looking at all the projects that are not fundable in the 5-year CIP. She had provided them with data for the option to fund those unfunded projects over a five year period and included the price increase needed to do that. She also provided data for the debt service option with the rate increase needed for that. She said staff was not pushing addressing this now.



It had been the request of the Commission to supply them with the data and she didn't want them to think she had dropped the ball.

Commissioner Wojcik asked for confirmation that the current rate structure will not support all of the current five-year CIP related to utility and Ms. Pendergrass concurred. Commissioner Wojcik recommended having a workshop to cover both sides of the CIP.

Mayor Carter said the upcoming workshop will cover long-range financial planning and they need to talk about not only the 5-year plan but also the 10-year and 15-year plans. Ms. Pendergrass said she listed all the 5-year CIP projects in their notebooks, giving them options much like a menu where they can pick and choose what option they prefer.

Commissioner Thornhill agreed to wait until the February workshop before making a decision on how they plan to pay for the necessary projects. He added that, hopefully in the future, we will take care of the maintenance of what we have. We don't have the money to do it all, and though no one wants utility fees to go up, including him, it may be necessary in order to take care of future projects.

Commissioner Rogers said that the people he spoke with were very upset about the proposed \$5 added to their water bills. He said he knows something has to be done but there is a recession going on right now. He agreed to the workshop after the first of the year to look at the economy at that time, though he admitted that they may have to bite the bullet and pass the increase.

Commissioner Howell said they needed to look at how they will pay for projects not covered by present rates such as maintenance for aging equipment.

Ms. Pendergrass clarified that the \$5 increase would cover all the utility CIP projects. It will be up to the Commission to decide what projects they wish to fund and if they don't want to cover all of them that would decrease the rate hike. She also wanted to remind them that in about six years the existing debt will expire, freeing up an extra million dollars in the utility fund that can be used to cover some of those future projects.

Mayor Carter said the following questions need to be addressed at the workshop:

- What is our policy on debt? All debt is not bad but when is it too much and when is it not enough?
- What is our policy on leasing, which is another form of debt?
- What is our policy on grants, how aggressively should we go after them and what are the good and bad things about them?
- What is our policy on asset purchases? If the asset declines in value as soon as it is purchased, such as a car, it is not a candidate for debt.
- How aggressively do we want to go after the "Christmas Club" plan, which is a "pay as you go" plan?
- The uncertainty of the economy in the year ahead. He said as we don't know when the recession will end so we need to be very conservative in the next year or two because decisions they make will greatly affect the City's finances five to ten years down the road. We need to stay focused, be realistic, and get it right.

There was a discussion about when that workshop will be. As the Long Term Financial Planning Workshop and Economic Development Workshop dates were swapped, the discussion on the utility fee will be in February.

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

- City Commission Tracking Report: Ms. Leary said they would be adding a couple of items to the tracking report in the next couple of months.

**Eagle Ride Mall Contract:** Ms. Leary updated them on the policing contract with Eagle Ridge Mall and said she doubted it would happen as there were too many lawyers involved. Commissioner Howell expressed how important it is to have the officer there for the safety of the children.

In response to a question on the status of the fire sub-station parcel Mr. Gallup explained that the mall lawyer already looked at the contract, but that each anchor store has the legal right to review and potentially reject any deal made by the mall. Each anchor store has its own lawyers so the mall lawyer is waiting for a response from them and it is now in their court.

- **Estes Building:** Mayor Carter asked for an update on the Estes building because it appeared to him that the east wall shifted. Building Official Cliff Smith reported that though there appears to be no progress from the outside, it is moving forward. They have a stabilize/demolish permit to stabilize the building and remove the collapsed debris by March 16<sup>th</sup> so workers can be brought in to start the construction. If by March 16<sup>th</sup> the work is not completed, the building will be condemned, probably through a judicial order. Once completed, an analysis can be done. They will have to go through the permitting process before construction can begin.

Mayor Carter said he thought they went down that road before. Mr. Smith said they went through the whole process before and it has been a thorn for a long time but they are trying to work with Mr. Estes because he wants very much to restore the building. It is not as bad as it appears from the outside. Mayor Carter asked if they planned on waiting to March 16<sup>th</sup> or were there milestones they have to reach along the way. Mr. Smith said the permit is good for 180 days and as long as there is activity, the City can't take any action as no further inspections are warranted. If the guidelines are not met and the permitting not in place by March 16<sup>th</sup> no other choices and no other recourse will be available to Mr. Estes and the building will have to come down. Mayor Carter asked if extensions were given to him in the past and Mr. Smith said yes, in 2005 pertaining to the metal roofing but the permit has expired.

Commissioner Wojcik asked if they were required to keep the public out for safety reasons and Mr. Smith said they were taking reasonable precautions by installing the 35 ft. pole, a guard and the support anchors on the wall so if it should collapse, although he did not think so, it would collapse to the inside of the building. Mr. Estes has hired his third engineer because the other could not devise a plan to stabilize the building that was agreeable to him. He said although caution tape has been put around the area many times, either the wind or kids remove it. The building is corded off to attempt to keep people out.

- **Kirkland Gym:** Commissioner Thornhill said that Kirkland Gym needs security cameras installed, and even though it is not budgeted he would like to get some prices. Harold Gallup said a proper surveillance program will cost \$15,000 plus the monthly monitoring fees. Mayor Carter said they received \$6,000 for use of the Hardman complex and asked if that money could be used. Mr. Gallup said yes.

Mr. Gallup said a lot of money was spent refurbishing the gym and within five days of finishing it there was graffiti on the south wall. In response to the hanger to windows he said that when the new windows are installed, lexan panels will be put over them to slow down the amount of damage. Commissioner Howell said the important thing is to change the attitudes of the people who use the gym because it makes no sense to tear up where you play. They need the cameras at the gym and facing the Hardman Complex to prevent damage at both buildings. Mayor Carter suggested a reward system because he believed someone knows who is doing the vandalism. Mr. Gallup said the size of the reward the City could offer does not make that option valid at this time.

Commissioner Howell said she had discussed with Mr. Gallup the need to put a coating on the gym floor and Commissioner Rogers said he had received complaints that the floor was too slick

and players were falling. Mr. Gallup explained that the coating on the floor has worn thin, which might make it a bit slippery, but it may also be the type of shoe they are wearing. It will cost approximately \$6,000 to fix but the gym will have to be closed from 5 to 7 days because if each layer is not allowed to dry completely, we'll have the problem again. They plan to start in February subject to confirmation of funding availability.

Ms. Leary reported that City Clerk Clara VanBlargan was not present because her father died early in the morning and she was attending to funeral arrangements. Ms. Leary said this week Ms. VanBlargan received notification that she earned the designation of Master Municipal Clerk. There will be a presentation next month.

### **CITY COMMISSION COMMENTS**

Commissioner Rogers reported that he attended the fresh produce market on Market Street and was very impressed. The vegetables were of very good quality, reasonably priced, the merchants had a positive attitude and made people feel welcome and appreciated. He said it proves to him that pouring money into something may not always solve the problem but by pulling people together can sometimes make something positive happen. He invited the public to go to the next one. Mayor Carter said it was nicely done and everything was locally grown. Commissioner Wojcik said it was her understanding that they are planning to have the market twice a month.

### **COMMUNICATIONS AND PETITIONS**

Utility Director Tom Moran asked if, because of the passage of the ordinance permitting direct purchasing, he would be able to use it for purchasing equipment now being ordered for the wastewater treatment plant, if that can be arranged with the contractor. Commissioner Wojcik said there would be quite a bit of liability on that project and Mr. Moran said that would exist for any project but things like a new digester would be hard to mess up. There would be three inspectors looking at it. Commissioner Wojcik asked about the terms in the contract and the insurance. City Attorney Chuck Galloway said it would have to be looked into because there may be an issue with those who bid but did not get the project. Realistically speaking you could renegotiate some of those items in order to save sales tax. Mr. Moran said many items such as the generator have to be ordered six months in advance so those are already ordered. Ms. Leary said it would need to be discussed with the city attorney and contractor because we don't want those who bid on the project thinking that this contractor got an unfair advantage. Mr. Moran said he has a meeting with the contractor in two days and that this would be like a Christmas present for Lake Wales. Mr. Galloway said it might be okay to do but they needed to look into it.

Ms. Leary wished everyone a Merry Christmas and said that Deputy City Clerk Jacquie Hawkins was prepared to present a Christmas cheer in song, which she did.

Commissioner Wojcik complimented Katie Kinloch for the Christmas decorations in the Chamber.

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

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

ATTEST:

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