

The regular meeting of the Lake Wales City Commission was held on March 6, 2012 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 at 6:04 p.m.

INVOCATION

The invocation was given by Dr. Jim Moyer.

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

CONSENT AGENDA

Agenda Item 5. **Approval of Minutes: February 21, 2012, Workshop Meeting
February 21, 2012, Regular Meeting**

Agenda Item 6. **Appointment of Election Officials**

[Begin agenda memo]

SYNOPSIS

It is necessary that the City Commission appoint inspectors and a clerk of election to keep the polling places open from 7:00 a.m. to 7:00 p.m. for the City Election to be held on Tuesday, April 3, 2012.

RECOMMENDATION

It is recommended that the City Commission appoint the persons listed to serve as election workers for the City Election to be held on April 3, 2012.

BACKGROUND

On February 3, 2004, the City Commission approved the consolidation of 7 polling locations into 1 polling location in the Municipal Administration Building for City elections only.

It is necessary that the City Commission appoint inspectors and a clerk of election to keep the polling places open from 7:00 a.m. to 7:00 p.m. for the City Election to be held on Tuesday, April 3, 2012.

The following registered voters have indicated they are available to serve as election workers:

Patricia "Tish" Pike – Precinct Clerk
Susan Giacherio, Voter Information Specialist
Kenneth Anderson, Ballot Box Inspector
Marietta Burbank, Audio Book Inspector
Gary Wiesing - Deputy

Doris Powell, Book Inspector
Sandra Salgado, Book Inspector
Peggy Ann White, Alternate
William Rapp, Alternate

OTHER OPTIONS

None. These persons will receive all the necessary training for the April 3 Municipal Election.

FISCAL IMPACT

The money has been budgeted to pay the cost of election workers for the April 3 Municipal Election.

ATTACHMENTS

None.

[End agenda memo]

Agenda Item 7. Fourth of July Fireworks

[Begin agenda memo]

SYNOPSIS

Acceptance of bid for 4th of July Fireworks for \$10,000

RECOMMENDATION

Staff recommends acceptance of the proposal from East Coast Pyrotechnics, Inc of \$10,000 to conduct the 4th of July fireworks on Wednesday July 4th at 9:15pm.

BACKGROUND

The City of Lake Wales budgeted in the 11-12 Fiscal year budget \$10,000 for fireworks on the 4th of July. East Coast Pyrotechnics, Inc has done our event the past few years and has done a good job. The show will be approximately 20 minutes. Two other companies also submitted bids. East Coast Pyrotechnics is recommended by staff as they have performed an excellent job in the past and because they provide a greater variety of fireworks of different sizes including a lot of large ones as opposed to a high number of smaller fireworks.

OTHER OPTIONS

Accept the proposal from one of the other companies

Do not accept the proposal.

FISCAL IMPACT

Cost of the fireworks is \$10,000

[End agenda memo]

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

By Voice Vote:

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

The motion carried 5-0.

OLD BUSINESS

Agenda Item 8. Ordinance 2012-01, FY11'12 Budget Amendment #1 – 2nd Reading & Public Hearing

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

The City Commission will consider approval of the first Amendment of FY 11'12 Budget that was adopted on September 20, 2011.

RECOMMENDATION

It is recommended that the City Commission adopt Ordinance 2012-01 after second reading and public hearing.

The City Commission approved first reading of Ordinance 2012-01 on February 21, 2012.

BACKGROUND

Ordinance 2011-16 estimating revenues and appropriating funds for Fiscal Year 2010-11 was adopted by the City Commission September 20, 2011. We are presenting for first reading an amendment of Ordinance 2011-16 to modify the estimates of revenues and appropriations budgeted in various funds. Exhibits A and B and supporting attachments provide the detail for the proposed amendment.

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

Revenues & Balances Fwd	Increase(Reduction)
General Fund	103,338
Transportation Fund	(37,116)
Street Lighting Fund	15,597
CRA Fund	(66,872)
Police Forfeiture Fund	746
Library Fund	46,852
Debt Service Fund	23,999
Capital Projects Fund	(48,768)
Utility System Fund	1,373,986
Airport Fund	-
Total Increase(Reduction) of Revenues & Balances Fwd	1,411,762
Appropriated Expenditures & Reserves	
General Fund	86,662
Street Lighting Fund	14,567
Debt Service Fund	-
Capital Projects Fund	-
Utility System Fund	625,174
Airport Fund	-
Reserves	685,359
Total Increase(Reductions) of Appropriated Expenditures & Reserves	1,411,762

The proposed budget amendment increases the City's total budgeted expenditures by \$726,403 and increased reserves by \$685,359 for a net increase in appropriated expenditures and reserves of \$1,411,762 (from \$38,299,611 to \$39,711,373).

Reasons for this amendment include:

Estimated Revenues and Reserve Balances:

- Balances forward must be adjusted to conform to the unaudited fund balances at 9/30/11. This amendment resulted in a net increase of \$927,277:
 - Increase of \$98,671 in the General Fund. Increase is mainly as timing difference due to carryover items relating to ballistic vests for \$6,351, Kirkland Gym repairs for \$66,383 and a ladder for \$690.
 - Decrease of \$37,116 in the Transportation Fund.
 - Increase of \$1,030 in the Street Lighting Fund. Increase is due to the timing of the invoice payment.
 - Decrease of \$66,872 in CRA Fund. Decrease is mainly due to \$89,704 transferred from the CRA to the Utility Fund for the C Street Project.
 - Increase of \$746 in Police Forfeiture Fund.
 - Increase of \$46,852 in Library Fund. Increase mainly due to impact fees above budgetary expectations.
 - Increase of \$23,999 in Debt Service Fund.
 - Decrease of \$48,768 in Capital Project Fund.
 - Increase of \$908,735 in the Utility System Fund. Increase mainly due to carryover cost of capital projects to be completed.

- Revenues projected within the General Fund must be adjusted to reflect a net increase of \$4,667 for revenue changes realized/expected within several revenue accounts:
 - increase of \$3,175 for grant reimbursement of bullet proof vests,
 - increase of \$1,490 from the cemetery trust account for cemetery capital improvements relating to markers and additional burial spaces,
 - increase of \$2 in miscellaneous revenue for rounding purposes,
- Revenues projected within the Street Lighting Fund must be adjusted to reflect an increase of \$14,567 for revenue expected from the Brookshire Street Lighting District.
- Revenues projected within the Utility System Fund must be adjusted to reflect an increase of \$465,251 due to sale of scrap metal for \$2,019, sale of old meters for \$15,044 and additional SRF fund for the wastewater treatment plant for \$448,188.

Estimated Expenditures & Revenues Balances:

- Expenditures projected within the General Fund must be adjusted to reflect a net increase of \$86,662 for expenditure changes realized/expected within several accounts:
 - Support Services – increase of \$1,300 for fleet service cost relating to City car used by the administrative staff at the Municipal Building. The funding source for this appropriation is the reduction of the fleet cost previously appropriated within the City Clerk's Department.
 - Facilities Maintenance – increase of \$690 for ladder ordered in FY 10'11 but not received until FY 11'12. The funding source for this appropriation is fund balance carryover from FY 10'11.
 - Police – increase of \$9,525 for ballistic vests. The funding source for this appropriation is \$6,350 carryover from FY 10'11 and \$3,175 for grant reimbursement received during FY 11'12.
 - Cemetery – increase of \$1,490 for markers and additional burial spaces. The funding source for these appropriations is a draw down from the cemetery trust fund.
 - Recreation Facilities – increase of \$74,957 for Kirkland Gym repairs. The funding source for this appropriation is \$66,383 carryover from FY 10'11 and \$8,574 from FY 11'12.
- Expenditures projected within the Street Lighting Fund must be adjusted to reflect a net increase of \$14,567 for expenditure charges realized/expected within several accounts. The funding source for these appropriations shall be from the special assessments received from the Brookshire Street Lighting District.
- Expenditures projected within the Utility System Fund must be adjusted to reflect a net increase of \$625,174 for expenditure changes realized/expected within several accounts:
 - Increase of \$17,063 for roof repair needed at the high school water tank pump station. The funding source for this appropriation shall be the \$17,063 received from the sale of scrap metal and old meters.
 - Increase of 165,910 for generator capital outlay. The funding source for this appropriation is \$159,923 carryover from FY 10'11 and a reduction in M&R treatment plant of \$5,987.
 - Increase of \$448,188 for wastewater treatment plant. The funding source for this appropriation shall be additional funding provided by SRF.

OTHER OPTIONS

With the exception of the additional revenue and expenditures for the Street Lighting Fund this is primarily a housekeeping ordinance to conform the budget to items approved by the City Commission.

FISCAL IMPACT

See Exhibit A and Exhibit B attached to Ordinance 2012-01

[End agenda memo]

City Clerk Clara VanBlargan read Ordinance 2012-01 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING ORDINANCE 2011-16 TO MODIFY THE ESTIMATES OF EXPENDITURES FOR THE OPERATION OF THE SEVERAL DEPARTMENTS OF SAID CITY FOR THE 2011-2012 FISCAL YEAR AND TO MODIFY THE APPROPRIATION OF FUNDS RAISED AND COLLECTED FROM ALL SOURCES SET FORTH IN THE ESTIMATE OF REVENUES FOR SAID FISCAL YEAR; REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

Finance Director Dorothy Pendergrass reviewed Agenda Item 8.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

Commissioner Thornhill made a motion to adopt Ordinance 2012-01 after second reading and public hearing. The motion was seconded by Commissioner Howell.

By Roll Call Vote:

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

The motion carried 5-0.

Agenda Item 9. Ordinance 2012-04, Amendments to Zoning Regulations for Special Sales and Events – 2nd Reading and Public Hearing

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

The purpose of the proposed amendments is to reduce the cost and simplify the process for allowing short-term and temporary outdoor sales and events at existing businesses. All outdoor sales and events now require a special permit from the Planning and Zoning Board, which costs several hundred dollars and requires over a month's wait. The amendments will allow short-term (3-day) outdoor sales with administrative approval and temporary outdoor sales for up to a year with planning board approval. Standards and review criteria are also proposed.

RECOMMENDATION

The Planning and Zoning Board held a public hearing on January 24, 2012 on outdoor sales and events and recommended amendments to the zoning regulations as set forth in Ordinance 2012-04.

A first reading of the ordinance was approved at the February 21, 2012 City Commission meeting.

BACKGROUND

Under current regulations, the process for approving an outdoor sale or event is cumbersome and costly for a small business. A special exception use permit from the Planning and Zoning Board (P&Z) is required, costing in the range of \$650 and taking over a month because of public notice requirements. The special permit is really designed for the review of permanent land uses, and is not well suited for temporary or short-term events.

In order to reduce costs and red tape, amendments are proposed to allow administrative approval of short-term (3-day) events and a simple P&Z review with no public hearing for temporary events of longer duration (up to a year). The administrative approval will cost \$34, and the P&Z approval, \$55 under the current fee schedule.

A banner or similar display may be approved by P&Z for up to 2 weeks on 4 occasions in a year, provided it meets certain conditions for size, placement, and safety. A special permit will still be required for events on a long-term basis, for multiple or recurring events, or events on vacant lots, such as those held on out-parcels at the Mall.

Sales and events on vacant lots will require a special permit from P&Z and will be restricted to events lasting 30 days or less on out-parcels in commercial subdivisions. The reason for these restrictions is to prohibit people from setting up tents or carts on vacant parcels and competing with established business owners who have made costly improvements to their property and pay taxes. The regulations do not, however, prohibit an existing business owner from renting space on his property for a business such as a snack bar, subject to the special permit process.

Following are the details of the proposed changes:

SECTION 1 - Amend review fees for special sales and events

Table 23-242 “Land Use Applications – Required Fees”

Amendments to the table will set fees for administrative approvals of short-term events/sales and planning board approvals of temporary outdoor sales/events. Fees for similar types of approvals will be used. Currently, an administrative approval is \$34 and a planning board approval \$55.

SECTION 2 - Conditional use regulations for outdoor sales and events

Sec. 23-343 “Auctions, sales, and events, temporary”

This section establishes a tiered system for approvals of outdoor sales and events on non-residential properties. Currently, events are either exempt or require a special permit from the Planning and Zoning Board (P&Z).

SUMMARY OF TIERED SYSTEM

<p>Exempt from zoning approval Same as current regulations</p>	<p><i>NEW</i> Admin. approval (Proposed fee: \$32)</p>	<p><i>NEW</i> P&Z Approval (Proposed fee: \$50) No public hearing</p>	<p>P&Z Special Permit (Fee: \$500-600 and \$150 pub. notice) Public hearing req'd</p>
--	---	---	--

<p><u>Auction – property</u> 1 day 9 a.m.-8 p.m.</p> <p><u>School or church</u> special event/sale</p> <p><u>Public park/property</u> Special event/sale (City approval req'd under Chapter 18)</p> <p><u>Yard sale residential</u> (See sec. 23-355)</p>	<p><u>Short-term sale/event</u> Limit – 4 times/yr. Max. 3 days each</p> <p><i>Regulations:</i> --No use of required parking spaces. --Temp. sign allowed. --No vacant property.</p> <p><i>Example:</i> Weekend sale with goods displayed in front of store</p>	<p><u>Temporary sale/event</u> Limit – 1 yr. Renewals allowed</p> <p><i>Regulations</i> --Use of parking area limited to short-term. --Temp. sign allowed 2 wks. – 4 X per yr. --No vacant property</p> <p><i>Example:</i> Display of goods in front of store on daily basis or outdoor display for temporary event or sale</p>	<p><u>Long-term, multiple or periodic sales and events</u></p> <p><i>Regulations</i> --Required if periodic or permanent sale. --Required if on vacant property (limited to outparcels in shopping plazas) --Required if using parking areas in large plazas (over 20,000 sf.). <i>Example:</i> Periodic events outside of Mall.</p>
---	--	--	--

SECTION 3 - Special sales and events allowed as accessory use

Table 23-541 Accessory Uses –Non-residential Properties

This section amends the table on accessory uses to note that sec. 23-343 contains exceptions to the requirements for a special exception use permit for special sales or events.

OTHER OPTIONS

Make no revisions to existing regulations on special sales and events or table for changes to ordinance.

FISCAL IMPACT

The changes may increase the number of applications for outdoor sales and events because of the reduced cost and length of process. Thus, revenue from review fees may increase modestly.

[End agenda memo]

City Clerk Clara VanBlargan read Ordinance 2012-04 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES CHAPTER 23, ZONING, LAND USE AND DEVELOPMENT REGULATIONS AS IT PERTAINS TO APPROVALS OF SPECIAL SALES AND EVENTS ON NON-RESIDENTIAL PROPERTIES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

Commissioner Rogers made a motion to adopt Ordinance 2012-04 after second reading and public hearing. The motion was seconded by Commissioner Howell.

By Roll Call Vote:

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

The motion carried 5-0.

NEW BUSINESS

Agenda Item 10. Ordinance 2012-05, Accepting the Report and Recommendation of the 2012 Districting Commission - 1st Reading

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

RECOMMENDATION

It is recommended that the City Commission take the following action: Adopt Ordinance 2012-05 accepting the Report and Recommendation of the 2012 Districting Commission.

BACKGROUND

Within a year of the release of each decennial census, the City Commission is required by Charter to appoint a districting commission to provide a recommended plan for adjustment of the allocation of commission seats within each commission district or adjustment of commission district boundaries. The purpose of these adjustments is to equalize population within the areas represented by each commission seat if population growth has occurred over the previous decade. Members of the 2012 Districting Commission were appointed in September of 2011 to develop a districting plan and recommendation utilizing data from the 2010 Census.

In accordance with charter amendments approved by voters in April 2011, five commissioners will be elected from four geographical districts as equal as possible in population effective with the 2013 election. Seat 1 will be elected at-large and this commissioner will serve as mayor.

The recommended districting plan adjusts the commission district boundaries and reallocates the commission seats as follows:

- Seat 2 Commission District 19
- Seat 3 Commission District 122
- Seat 4 Commission District 27
- Seat 5 Commission District 28

The allocation of population to the four seats is as follows:

Seat 2 - District 19	3,519	25.01%
Seat 3 - District 122	3,477	24.72%
Seat 4 - District 27	3,564	25.33%

Seat 5 - District 28	3,508	24.94%
Total	14,068	100.0%

Each of the four commission seats will represent nearly the same number of citizens, with a difference of 87 persons between the largest commission district or area represented and the smallest. This difference equals 2.5% of the population residing in the smallest area represented.

OPTIONS

Regarding the adjustment of commission district boundaries, there are no other options as Federal law requires that elected officials represent as nearly as possible an equal number of citizens.

Regarding the actual lines, changes could be recommended to the redistricting commission to consider.

FISCAL IMPACT

None.

[End agenda memo]

City Clerk Clara VanBlargan read Ordinance 2012-05 by title only.

AN ORDINANCE ACCEPTING THE REPORT AND RECOMMENDATION OF THE 2012 DISTRICTING COMMISSION; ADJUSTING COMMISSION DISTRICT BOUNDARIES AND ADJUSTING THE ALLOCATION OF COMMISSION SEATS WITHIN COMMISSION DISTRICTS TO COMPLY WITH THE CHARTER OF THE CITY OF LAKE WALES AND APPLICABLE FEDERAL LAWS; PROVIDING FOR AN EFFECTIVE DATE.

Special Projects Manager Jennifer Nanek reviewed Agenda Item 10.

Commissioner Howell said she understood that two districts were combined. Ms. Nanek said that two districts were combined into what is now Seat 3.

Commissioner Rogers thanked Ed Bowlin because even though he was not on the committee, he worked up the figures with Ms. Nanek to present to the committee, who then adopted their recommendation. Ms. Nanek added that he helped solve a few problems that they were having and he did a good job.

Mayor Carter said it looked like demographics were not taken into consideration. Ms. Nanek said it was divided my population alone, which is what the law requires. Some cities may consider demographics for things like diversity on the commission, but it is not required.

Commissioner Wojcik noted that the districting map they received was cut off and all of Seat 4 is not shown, though everything north of that, a lot of which is commercial area, is part of that district. She said she assumed that the paper was not big enough to show the complete northern portion. Ms. Nanek concurred and explained that everything north of Vanguard School and Tower Lakes is in Seat 4, including Lake Ashton, Brookshire, and Dinner Lake Shores. She said she did not put that on the map because she thought it was obvious that everything north of that would be part of district 4. She explained how Mr. Bowlin solved the problem of evening out Seat 4, which was too large, without cutting out Tower Lakes and Tower Point Apartments, both with 500 people, and without dividing the communities between two districts. By removing Vanguard from Seat 4, which has only 120 people, and drawing it into the boundary for district 3 there is only about a 2% difference between the largest and smallest district.

OPENED TO PUBLIC COMMENTS

There were no comments from the public.

CLOSED TO PUBLIC COMMENTS

Commissioner Thornhill made a motion to approve ordinance 2012-05 after first reading. 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 11. Resolution 2012-06, FDOT Resolution and Utility Work Agreement

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Staff requests commission to give approval for the signing of the Resolution and Utility Work Agreement for DOT Project ID #425240-1-52-01 SR 60 from SR 17 to West of CR 17B

RECOMMENDATION

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

1. Approve Resolution 2012-06 and Utility Work Agreement for DOT Project ID #425240-1-52-01 SR 60 from SR 17 to West of CR 17B.
2. Authorize the Mayor to execute the appropriate documents, on the City's behalf.

BACKGROUND

The Department of Transportation (DOT) is proposing to install sidewalks, replace poles and roadway milling for the above stated locations. As a result of this construction, city staff will be faced with the task of relocating a small section of water main, performing field adjustments to manholes and water valves in the road way. The attached documents were sent to the City attorney for review. He has approved the document. Staff is seeking commission approval for the signing of the Resolution and Utility Work Agreement for DOT Project ID #425240-1-52-01 SR 60 from SR 17 to West of CR 17B.

OTHER OPTION

Choose not to approve the Resolution and Utility Work Agreement and be in danger of being charged with holding up DOT's project.

FISCAL IMPACT

\$96,000.00 was placed in the M & R Water Lines line item. To date there is a remaining balance of 79,150.84 in this account to fund the necessary system adjustments as required.

[End agenda memo]

City Clerk Clara VanBlargan read Resolution 2012-06 by title only.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION RESOLUTION 2012-06 UTILITY AGREEMENT

Utility Projects Administrator Sarah Kirkland reviewed Agenda Item 11.

Mayor Carter asked if city staff was doing the work and if it was budgeted. Ms. Kirkland said staff was doing the work and it was budgeted in M & R because it will be a small project.

Commissioner Howell made a motion to adopt Resolution 2012-06 and Utility Work Agreement SR 60 from SR 17 to West of CR 17B and authorize the Mayor to execute the appropriate documents, on the City's behalf. The motion was seconded by Commissioner Rogers.

By Roll Call Vote:

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

The motion carried 5-0.

Agenda Item 12. Resolution 2012-08, Highway Lighting Maintenance

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

The Commission will consider approving Resolution 2012-08 authorizing the mayor to execute on behalf of the City an agreement between the City of Lake Wales and the State of Florida Department of Transportation to maintain (5) five additional state highway lights in the jurisdictional boundaries of the City.

RECOMMENDATION

Staff recommends that the City Commission approve the following action:

1. Approve Resolution 2012-08, highway lighting maintenance agreement.
2. Authorize the mayor to execute on behalf of the city an agreement with the Florida Department of Transportation to maintain (5) additional state highway lights in the jurisdictional boundaries of the city.

BACKGROUND

In May 2005 the City Commission approved Resolution 2005-15, a resolution authorizing the mayor to execute on behalf of the City an agreement between the City of Lake Wales and the State of Florida Department of Transportation to maintain state highway lighting in the jurisdictional boundaries of the City.

Resolution 2012-08, increases the current highway lighting agreement with the Florida Department of Transportation from 317 to 322.

FISCAL IMPACT

The city currently has a maintenance agreement with the Florida Department of Transportation for 317 highway lights in the jurisdictional boundaries of the city.

OTHER OPTIONS

Do not accept the agreement.

[End agenda memo]

City Clerk Clara VanBlargan read Resolution 2012-08 by title only.

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY AN AGREEMENT BETWEEN THE CITY OF LAKE WALES AND THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE MAINTENANCE OF STATE HIGHWAY LIGHTING WITHIN THE JURISDICTIONAL BOUNDARIES OF THE CITY.

Mayor Carter asked how much money the city receives for light maintenance and Public Services Administrator Teresa Allen said we get \$195.71 per light or \$55,836.06 for the 317 lights, not including the five additional lights that will be figured in after the lights are installed. She added that FDOT only compensates 90% of the cost to help us out with the maintenance, the percentage of which is figured annually by FDOT. She is notified of the percentage, it is approved by the City Commission, and then she invoices FDOT.

Mayor Carter asked if that covered the cost of maintaining the lights or if we were making money. Ms. Allen said we usually come out ahead, but during the hurricanes, when there was so much damage to the lights, we spent more than we received.

Commissioner Wojcik asked if we had to pay for the five new lights and Ms. Allen said FDOT pays to put them in, but we have to pay for maintaining them, fixing them if damaged, or for replacing them. Commissioner Wojcik asked where the five new lights would be installed and Ms. Allen said they would be installed around the intersection of SR 60 West and Central Avenue because that area is very dark. Mayor Carter asked who decided more light was needed there and Margaret Swanson, Planning Director, said FDOT is resurfacing SR 60 West between the Peace Creek Canal and US 27 and as part of that project they asked the City if they wanted any safety improvements. Staff asked them to look at the intersection for lighting because it is pitch-black there at night, and to look at the turn-lane at the railroad tracks. They will be extending the turn-lane, improving the median, and adding the five lights.

OPENED TO PUBLIC COMMENTS

There were no public comments.

CLOSED TO PUBLIC COMMENTS

Commissioner Thornhill made a motion to adopt Resolution 2012-08, highway lighting maintenance agreement, and authorize the mayor to execute on behalf of the city an agreement with the Florida Department of Transportation to maintain (5) additional state highway lights in the jurisdictional boundaries of the city. The motion was seconded by Commissioner Howell.

By Roll Call Vote:

Commissioner Howell

"YES"

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

The motion carried 5-0.

Agenda Item 13. Award of Bid for the Lake Wales Country Club Reuse Line Extension to Killebrew Construction

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Staff requests commission to give approval for the award of bid to Killebrew Construction in the amount of \$846,500.00

RECOMMENDATION

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

1. Approve the award of bid to Killebrew Construction in the amount of \$846,500.00
2. Authorize the City Manager 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. The Commission at its December 6, 2011 City Commission meeting approval was given for the signing of the Cooperative Funding Agreement with the SWFWMD. Staff is

now ready to proceed to the construction phase of this project. The project was put out to bid for which there were nine responsive bidders.

The option of owner direct purchase was written into the project bid specifications so that the City could evaluate whether or not it would be advantageous to exercise its tax exempt status. The bidders each provided a materials list so that the City could estimate the tax savings. Utilizing the lowest and most response bidder's materials list, it is estimated that at most \$28,450.00 could be recovered from the cost of the project. The bid specifications express that the City may or may not choose to exercise the owner direct purchase option. After evaluating the materials list, and speaking with the contractor that is presented for bid award, the public works department recommends not utilizing the owner direct purchase option for this particular project for the following reasons:

- 1) The City is responsible for the warranty of the materials when the City purchases the materials. Should any materials arrive defective or develop a defect within the 12-month warranty period, it is the City's responsibility to repair/replace the defective materials at the City's expense then the City must deal with the materials manufacturer to recuperate the City's expense. If the Contractor buys the materials, this liability stays with the Contractor.
- 2) For this particular project any defects in materials would likely not be found until after the pipe was installed. Defects or faulty installation causing leaks could be pronounced during the pressure test/leak test. The defect would need to be located which can prove costly then it is possible that it would be difficult to determine between faulty installation vs. a materials defect.
- 3) Should any materials be stolen or damaged prior to installation and at no fault of the Contractor, then the City is responsible for replacement of the stolen or damaged materials. If such an event occurs, and the materials are not procured in a timely manner for the Contractor's installation without delay, then a delay claim issue may arise.
- 4) The price of petroleum-based materials (i.e., pipe) with this project is very fluid. The Contractor stated that its supplier has only a 24-hour guarantee on the price. If the price increases, then the City may potentially have liability exposure for the increase; whereas, if the Contractor buys the materials, the Contractor retains this liability.
- 5) Extra pipe and fittings must be purchased for construction. This is normal, routine pipe construction practices because pipes get cut for short segments of pipe connecting to fittings rendering the unused portion of pipe to be waste; and extra pipe, fittings, restraints, and valves are needed for temporary use to test the piping system. This would reduce the City's potential savings stated above.
- 6) Added expense to the City will be incurred to administer, coordinate, and manage the materials. When shipments arrive, the City will have to check each load to ensure the shipment matches the bill of lading and that all materials order are ultimately received. Additionally, as the Contractor utilizes materials from the stored materials inventory, the City will have to keep track of these materials to ensure the inventory of stored materials and the materials installed by the Contractor match the total materials purchased by the City. It is estimated that up to \$5000 cost may be required for this administration and management given that this project involves many pieces of pipe, many fittings, valves, and restraints.
- 7) This project is partially funded by a third party that does not enjoy tax exempt status. This matter could potentially complicate or even eliminate the Owner Direct Purchase opportunity on this project.
- 8) Owner Direct Purchase is more easily administered, coordinated, and managed on larger "package" items, such as pumps, blowers, specialty equipment, etc. As an example, the tax saving for the wastewater treatment plant could have reached \$120,000, however the savings would have occurred with approximately only 7-10 purchases of large ticket (package) items.

Staff is seeking approval of the award of bid to Killebrew Construction in the amount of \$846,500.00.

OTHER OPTION

Chose not to award the bid to Killebrew Construction, re-advertise, and possibly delay the start of construction for this project.

FISCAL IMPACT

\$750,000.00 was placed in the 5-YR CIP for this line item. A budget amendment will be required to allocate the additional finds for this project.

[End agenda memo]

Utility Projects Administrator Sarah Kirkland reviewed Agenda Item 13.

Ms. Kirkland explained that only \$750,000 had been budgeted for the project but the lowest bid was above that, so they asked SWFWMD if they would fund a portion that was not included, which they are considering and staff expects it to be approved; and they asked the Country Club if they would fund a portion, which they considered and agreed to. City Attorney Chuck Galloway said the Country Club agreed to pay 2/3 leaving 1/3 for the City. Ms. Kirkland said they now have the funding.

Mayor Carter said he appreciated the requested documentation because it was totally understandable why direct purchases were not done. He agreed that it was not the right time to take advantage of the sales tax exemption. He commented that he has brought his questions to many commission meetings and he was determined to find the answers so he called Representative John Wood's office and the Department of Revenue to find out why it is so difficult for them to take advantage of the sales tax exemption. He was told that basically the State Legislature in Tallahassee decided they needed the money more than the cities do, so they purposely make cities jump through so many hoops that it is almost impossible for them to take advantage of the exemption. He said the Department of Revenue said that tens of millions are being collected from cities that they shouldn't have to pay. He said he was sure the problem would not be resolved any time soon, if at all, though some cities have found strategies to get around them and he is working with the Department of Revenue to find what those strategies are.

Commissioner Wojcik made a motion to approve the award of bid to Killebrew Construction in the amount of \$846,500.00 and authorize the City Manager to execute the appropriate documents, on the City's behalf. The motion was seconded by Commissioner Howell.

By Voice Vote:

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

The motion carried 5-0.

Agenda Item 14. Appointments – Boards, Commissions & Committees

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

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

RECOMMENDATION

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

BACKGROUND

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

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

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

1 vacancy: partial term expires 07/01/12

Applying for appointment: Charles Keniston, resident & owns property in City

The vacancy is due to the vacated seat of Steve Wildmon due to lack of attendance.

Mr. Frank Gioscia, Chairman of the Airport Authority Board, said the Board recommended Mr. Keniston for the position.

Commissioner Howell made a motion to appoint Charles Keniston to the Airport Authority Board with a term to end 07/01/12. The motion was seconded by Commissioner Rogers.

By Voice Vote:

Commissioner Howell	“YES”
Commissioner Rogers	“YES”
Commissioner Thornhill	“YES”
Commissioner Wojcik	“YES”
Mayor Carter	“YES”

The motion carried 5-0.

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

An interview process is necessary for new applicants only. The recommendation of the Chairman of the Code Enforcement Board, William Follett, and the Building Official, Clifton Smith, is to appoint Leon Weech to serve as a member to the Board. It is not mandatory that the Commission follow this recommendation.

1 vacancy: partial term expires 07/01/13

Applying for appointment: Leon Weech, resident

Applying for re-appointment: None

The vacancy is due to the resignation of Roderick T. Parker, Sr.

Commissioner Howell made a motion to appoint Leon Weech to the Code Enforcement Board with a term to end 07/01/13. The motion was seconded by Commissioner Rogers.

By Voice Vote:

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

The motion carried 5-0.

OTHER VACANCIES

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

Bicycle/Pedestrian Advisory Commission (2 vacancies)
Board of Zoning Adjustments and Appeals (2 vacancies)
Depot Advisory Commission (2 vacancies)
Drug & Prostitution-Related Nuisance Abatement Board (2 vacancies)
Historic District Regulatory Board (2 vacancies)
Historic Preservation Board (6 vacancies)
Housing Authority Board (1 vacancy)
Lakes Advisory Commission (1 vacancy)
Police Officers' Pension Board (1 vacancy)
Recreation Commission (1 citizen vacancy)

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

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

FISCAL IMPACT

None. These are volunteer citizen boards.

OTHER OPTIONS

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

[End agenda memo]

Mayor Carter noted the number of vacancies and City Manager Terry Leary said they were going to try some different strategies with the city's website to give more exposure to the vacancies. She added that they received a couple of applications but the City Clerk has not had time to process them due to a death in her family.

City Clerk Clara VanBlargan thanked the Lake Wales News for running two advertisements for them. Mayor Carter said maybe they will do that again to help get some of the many vacancies filled because a lot of work needs to be done.

Agenda Item 15. Scheduled Canvassing Board Meetings

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

In accordance with Section 8-26 of the City Code of Ordinances, the City Commission shall be the Canvassing Board for the 2012 Municipal Election.

RECOMMENDATION

It is recommended that the City Commission appoint the City Clerk to represent the Canvassing Board at the Logic and Accuracy (L&A) testing if at least one member is unable to attend.

In either case, the City Clerk is required by the Supervisor of Elections to attend.

SCHEDULE OF CANVASSING BOARD EVENTS

Pursuant to Section 8-26 of the City Code of Ordinances, the City Commission shall be the canvassing board for any City election, except that any commissioner who is the subject of a recall pursuant to F.S. 100.361 shall not participate in the canvassing of that issue. Canvassing Board meetings are open to the public and noticed accordingly.

In accordance with F.S. 101.5612 (1), on Tuesday, March 27, 3:30 p.m. at the Election Headquarters in Bartow, the Elections Supervisor shall conduct the testing of the automatic tabulating equipment to be used for the April 3rd Municipal Election to make sure the equipment will correctly count the votes cast in the Election. If at least one member of the Canvassing Board is unable to witness the L&A testing the City Clerk should be appointed to represent the Board in their absence. In either case, the City Clerk is required by the Supervisor of Elections to attend.

On April 3, 2012, the Canvassing Board shall meet at the Election Headquarters to canvass absentee ballot envelopes and precinct returns. The meeting time has not yet been scheduled by the Election Headquarters, which will be at 5:00 p.m. or later. A majority of the members of the Canvassing Board must be present.

A Canvassing Board meeting has been scheduled for Friday, April 6, 2012 at 1:30 p.m. in the Lake Wales Commission Chambers for the purpose of certifying the results of the April 3, 2012 Municipal Election. The Board shall also meet to randomly select a race that appeared on the Ballot for the purpose of conducting a manual audit (post election audit) of voting systems used in the April 3, 2012 Municipal Election. A majority of the members of the Canvassing Board must be present.

The Canvassing Board shall meet at the Election Headquarters on Friday, April 13, 2012 at 1:30 p.m., to conduct the Post Election Audit. A majority of the members of the Canvassing Board must be present.

Election Headquarters
Supervisor of Elections
250 South Broadway Avenue
Bartow, Florida 33830

OPTIONS

None.

FISCAL IMPACT

None.

[End agenda memo]

City Clerk Clara VanBlargan reviewed Agenda Item 15.

The consensus of the City Commission was the following schedule:

- March 27, 3:30 p.m: the City Clerk will represent the Canvassing Board at the Logic and Accuracy (L&A) testing.
- Monday, April 2, 2012: the City Commission and Workshop and Regular meeting will be at regular times, moved from April 3rd due to the elections.
- April 3, 2012, Election Night, at 5:00 p.m. or later: the Canvassing Board will meet at Election Headquarters to canvass absentee ballot envelopes and precinct returns.
- Thursday, April 5, 2012, at 5:00 p.m.: the Canvassing Board will meet in the City Commission Chamber for the purpose of certifying the results of the April 3, 2012 Municipal Election; and to draw from a hat to decide if the audit will be for the Charter Amendment or for Seat 5.
- April 13, 2012 at 1:30: the Canvassing Board will meet at Election Headquarters to conduct the Post Election Audit as selected at its meeting on April 5th.

Agenda Item 16. Regal Summer Movie Program

There is no staff memo for Agenda Item 16.

Special Projects Administrator Jennifer Nanek reported on Agenda Item 16.

Commissioner Rogers, for the record, commented that he was opposed to spending \$3,500 of taxpayer funds to allow people to go to the movies, when taxpayers will soon be asked to pay more on their water bills, when there are potholes that need filling in our streets and alleys, and when city employees have not received a raise in four years.

City Manager Terry Leary said that funds were budgeted for the program and it will serve a broad range of children in the city, filling the summer lull and giving them something to do. She said she realizes that there are many things to do in the city and the Commission can choose not to fund the program. It was brought before them to make sure this is what they want to do.

Ms. Nanek said that statistics will be gathered this year to determine the number of users and who the users are so next year a determination can be made as to whether they should continue sponsoring the program.

Commissioner Howell said the program was worthwhile and will give kids and adults something to do in Lake Wales as there are no beaches or pools here and users of these activities will have to go outside of Lake Wales to do them. She added that last year the entrance to the movie was free, but this year there is a one dollar admission charge and she asked who would get that money. Ms. Nanek said the movie theatre gets the money but most of that will be donated to charity.

Mayor Carter said he thought it was a good program.

Commissioner Howell made a motion to approve the Regal Summer Movie Program. The motion was seconded by Commissioner Wojcik.

By Voice Vote:

Commissioner Howell

“YES”

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

The motion carried 5-0.

CITY MANAGER'S REPORT

- City Commission Tracking Report:

Mayor Carter said the Country Club budget on the report was incorrect and then asked the following:

- Mayor Carter asked what the completion date was for the C Street Project and Public Works Director Tom Moran said they don't have a completion date because they don't have a starting date. They are still in the process of acquiring and negotiating easements. Commissioner Wojcik added that we cannot get a definite response for the SRF loan until all the easements are obtained.
- Mayor Carter asked where we were with getting the easements and City Attorney Chuck Galloway said he was still examining titles. He said to date he only has four or five that clearly will have to be done by eminent domain but there are many that require finding certificates of death, which entails finding out from family members the approximate date of death so they can locate the record. He couldn't give a definite date but said they are hoping to be finished by August so they can meet the CDBG Grant deadline.
- Mayor Carter said the Kirkland Gym is listed on the completed projects but he thought the \$7,000 was going to be used to resurface the gym floor, and he wanted to make sure that will still be done. Mr. Leary said it will be. Commissioner Wojcik said the \$7,000 was infomercial money and that she saw the two infomercials filmed in the gym and Hardman Hall, which were interesting, though unless you knew where they were taped you wouldn't know they were done there.

COMMUNICATIONS AND PETITIONS

Jack Van Sickle, 4060 Ashton Club Drive, announced that \$44,800 was raised at Lake Ashton's Senior Night, which will be donated to Lake Wales' elementary schools.

Christopher Lutton, 437 9th Street, commented that the City is likely to get resistance if the water rate is increased because homes built after twenty years ago, like Lake Ashton and Whispering Ridge, which outnumber those built before, paid impact fees and will not get any benefit from the increase. The increase will affect every new home plus the one thousand plus proposed homes that have been approved by the Planning Board. He believes it will cause a problem and those residents will fight back.

But he added that Mr. Moran was absolutely right. The whole country has put off redoing the infrastructure for so long that it can't be put off anymore. The reserve needs to be built up in a sensible manner because it may take fifteen years to get all the projects completed. If folks realize that they will be investing in infrastructure for the next fifty years, it may be a little easier to swallow.

CITY COMMISSION COMMENTS

Commissioner Wojcik said that when she asked when the City would be hosting their next Ridge League Dinner, she was told that because of their new ethics ordinance the city is unable to solicit sponsors to help offset the cost of the dinner, and so will not be able to host them anymore. She had asked the City Attorney if that ordinance applied in this case because she saw it as a necessary, normal activity that other cities do as well. She asked Mr. Galloway to respond for the record. City Attorney Chuck Galloway said the ordinance applies to gifts given to commissioners or employees. The solicitation of assistance to

accomplish this meeting flows to whoever the vendor is that puts it on and not to a commissioner or employee and therefore does not apply.

Commissioner Wojcik said that because staff, the city attorney, and the Economic Development Partnership are in the process of reworking its sign ordinance, and because we want to be pro business, staff had been directed not to enforce regulations against snipe signs. Several of the businesses had one or two up in the area where sandwich boards are allowed by ordinance in the downtown area. But she said she has noticed that now there are six snipe signs in a row, and then around the corner on First Street there are now four snipe signs. She said if commissioners ride through the downtown area they will see that these type signs are springing up everywhere causing an unsightly situation. She asked that Commissioners check it out so they can talk about this issue at the next meeting and maybe give staff direction to enforce what is on the books until legitimate changes can be made. She commented that she hates to have to make that suggestion because she works with businesses, but a few businesses are making it difficult for the others.

Commissioner Howell asked for clarification if Commissioners are allowed to approach city staff with a request for them to do a job. She gave an example of requesting the Code Enforcement Officer to do something about a code violation. City Attorney Chuck Galloway said the Charter prohibits commissioners from going directly to an employee and they are obligated to go through the City Manager. He said if a commissioner were to ask Ms. Leary if they could request a certain thing from a department head or anyone else and she said yes, then that commissioner could do it because, in essence, they would be working through her. Commissioner Wojcik asked if you could ask a question of an employee and Mr. Galloway said you could because you would not be requesting them to do anything. Mayor Carter asked if they could ask an employee to provide information for them for a report and Mr. Galloway said they should go through the City Manager for that because they would be asking an employee to do something, gather information. Commissioner Wojcik asked if that type of request, directing staff to do a report, should come before the City Commission as a body instead of coming from an individual Commissioner. Mr. Galloway said they as a body should agree to it to make sure that they have some understanding of the issue. The City Manager then would be the one to direct the staff person responsible for doing it.

Commissioner Howell said that as a citizen of Lake Wales, she can call Code Enforcement and report an abandoned house that has issues, but because she is also a Commissioner, she can't. Mr. Galloway said there is a fine line between when you are directing an employee and when you are reporting a health, safety or welfare issue. He said Commissioners should be able to report a health, safety or welfare issue directly to Code Enforcement because they need to become aware of it, but in other instances Commissioners need to go through the City Manager. Commissioner Wojcik said they could report to Code Enforcement a violation, but would not be allowed to ask the Code Enforcement officer, for example, to give them a list of how many abandoned properties there are in the City. Commissioner Howell said she believed that type of thing was happening, knowingly or unknowingly, and that was the reason she wanted clarification.


Ms. Leary thanked City Clerk Clara VanBlargan for being present in light of her situation with her loss this week.

There being no further business, the meeting was adjourned at 6:59 p.m.



Mayor/Commissioner

ATTEST:



City Clerk