

The regular meeting of the Lake Wales City Commission was held on April 2, 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 6:02 p.m.

INVOCATION

The invocation was given by Fire Chief Jerry Brown.

PLEDGE OF ALLEGIANCE

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

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

Agenda Item 5. PROCLAMATION: Donate Life Month; April 2012

CONSENT AGENDA

Agenda Item 6. Approval of Minutes: March 20, 2012, Regular Meeting

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

By Voice Vote:

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

The motion carried 5-0.

OLD BUSINESS

**Agenda Item 7. Ordinance 2012-06 General Employees' Pension Plan Amendment –
2nd Reading & Public Hearing.**

[Begin agenda memo]

SYNOPSIS

The City Commission will consider proposed amendments to the General Employees' Pension Plan.

RECOMMENDATION

Staff recommends that the City Commission approve Ordinance 2012-06 after second reading and public hearing.

The City Commission approved first reading of Ordinance 2012-06 on March 20, 2012.

BACKGROUND

On May 4, 2010, the City Commission approved amendments to both the fire fighters and police officers pension plans, which included providing for:

- Four years terms of office,
- Allow retirees to select replacement beneficiaries and joint annuitants,
- Plan termination provisions of Chapter 2009-97, Laws of Florida,
- Allow retirees to make various allowable deductions from their monthly pension benefits.

At its February meeting the General Employees' Pension Board asked staff to bring forward Ordinance 2012-06 for adoption. The proposed plan amendment contains several changes to the retirement plan, which are addressed by ordinance sections as follows:

Section 1: 16-41 Definitions and rules of construction

The proposed ordinance would provide a narrower definition of compensation to comply with Chapter 2011-216, Law of Florida. Compensation shall exclude the following: 1) overtime in excess of 300 hours and 2) accrued unused annual or sick leave in excess of the hours accrued as of June 30, 2011. The number of hours of accumulated leave used to calculate pension benefits shall be the lesser of the number of hours of accumulated leave on the effective date and the member's retirement date.

Section 2: 16-43(b) Board of Trustees

The proposed ordinance would amend Section 16-43(b), related to the make-up of the board of trustees, to increase the terms of board members from 2 to 4 years. The pension board recognizes the value of allowing municipal pension plans to provide for four (4) year terms of office for pension trustees. The City, on May 4, 2010, amended the Firefighters and Police Officers' Pension Plans to allow for four year terms of office.

Section 3: Sec. 16-44 Finances and fund management; establishment and operation of fund

The proposed ordinance would amend Section 16-44, by clarifying the board's ability to invest up to twenty-five percent (25%) of the portfolio in foreign securities.

Section 4: 16-48(f). Optional Forms of Benefits

Section 16-48(f) will clarify that a retired general employee may change his or her designation of a joint annuitant or beneficiary up to two times without the approval of the pension board or without the approval of the prior joint annuitant or beneficiary. The ability to change a joint pensioner is contingent on the retiree agreeing to an actuarial recalculation of the benefit to avoid any actuarial impact to the plan. Further, the retiree may not be required to furnish proof of good health of the annuitant or beneficiary being removed, and the annuitant or beneficiary being removed need not be living. The City, on May 4, 2010, amended the Firefighters and Police Officers' Pension Plans to allow for this provision. The plan actuarial, Foster & Foster, for the general pension plan have provided a statement that this change will have no impact on the assumptions used in determining the funding requirement of the plan.

Section 3: Sec. 16-55. Repeal or Termination of Plan

This amendment will incorporate into section 16-55 revisions to the distribution of plan assets upon plan termination. These revisions would provide the General Employee Pension Plan with repeal and termination rights similar to those provided to the Firefighters' and Police Officers' Pension Plans, as amended on May 4, 2010. In essence, this revision provided that if this or any subsequent ordinance shall be amended or repealed in its application to any person benefiting hereunder, the amount of benefits which at the time of any such alteration, amendment, or repeal shall have accrued to the member or beneficiary shall be non-forfeitable. This amendment also includes revision to the distribution procedures.

Section 4: Sec. 16-56. Exemption from execution; non-assignability

The proposed amendment will authorize the board of trustees to withhold funds from retirement benefits to pay for child support, alimony, and insurance premiums, i.e. health, dental, vision or long term care. The City, on May 4, 2010, amended the Firefighters and Police Officers' Pension Plans to allow this benefit.

OPTIONS

Do not approve the amendments.

FISCAL IMPACT

According to the attached letter from Foster & Foster Inc., Plan Actuary, they have determined that adoption of Ordinance 2012-06 is projected to provide a reduction in the City's contribution amount for Fiscal Year 2012'13 from 10.6% to 10.0%. The projected reductions is due to amending the definition of compensation to comply with the regulations set forth in Senate Bill 1128.

[End agenda memo]

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

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE WALES AMENDING THE CITY OF LAKE WALES GENERAL EMPLOYEES' PENSION PLAN AND TRUST; AMENDING SECTION 16-41 TO REVISE THE DEFINITION OF COMPENSATION TO COMPLY WITH CHAPTER 2011-216, LAWS OF FLORIDA; AMENDING SECTION 16-43(b) TO PROVIDE FOR FOUR YEAR TERMS OF OFFICE FOR TRUSTEES; AMENDING SECTION 16-44(f)(2)e TO PERMIT BUT NOT REQUIRE UP TO TWENTY-FIVE PERCENT OF THE PORTFOLIO TO BE INVESTED IN FOREIGN SECURITIES; AMENDING SECTION 16-48(f) TO ALLOW RETIREES TO SELECT REPLACEMENT BENEFICIARIES AND JOINT ANNUITANTS ON AN ACTUARIALLY EQUIVALENT MANNER; AMENDING SECTION 16-55 TO COMPLY WITH THE PLAN TERMINATION PROVISIONS OF CHAPTER 2009-97, LAWS OF FLORIDA; AMENDING SECTION 16-56(a) TO ALLOW RETIREES TO MAKE VARIOUS ALLOWABLE DEDUCTIONS FROM THEIR MONTHLY PENSION BENEFIT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no public comments.

CLOSED PUBLIC HEARING

Commissioner Rogers made a motion to adopt Ordinance 2012-06 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 8. Ordinance 2012-07, Amending Chapter 10, Fire Prevention, Lake Wales Code of Ordinances – 1st Reading

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

The amendment will update Section 1 of Chapter 10 to achieve compliance with State Statute.

STAFF RECOMMENDATION

It is recommended that the City Commission approve Ordinance 2012-07 after first reading.

BACKGROUND

Section 10-1 adopted the 2007 edition of the Standard Fire Prevention Code as the minimum fire safety standard for the city in 2009. Pursuant to Florida Statute 633.025 and Florida Administrative Code 69A-60.002, the Florida Fire Prevention Code is the minimum fire prevention code deemed adopted by each municipality, county, and special district with fire safety responsibilities. The 2010 Florida Fire Prevention Code has an effective date of January 1, 2012, which is triennial pursuant to F.S. 633.215. Therefore, Section 10-1 needs to reflect the statewide adoption to remove conflict and to allow for enforcement locally. Without local enforcement, any citations for non-compliance would require adjudication through the county court system.

OPTIONS

None. Approval of Ordinance 2012-07 will bring the City into compliance with Florida Statute.

[End agenda memo]

City Clerk Clara VanBlargan read Ordinance 2012-07 by title only.

AN ORDINANCE AMENDING CHAPTER 10, FIRE PREVENTION, LAKE WALES CODE OF ORDINANCES, TO ADOPT STANDARDS OF SEC. 10-1 MINIMUM FIRE SAFETY STANDARDS; PROVIDING AN EFFECTIVE DATE.

Fire Chief Jerry Brown reviewed Agenda Item 8.

OPENED TO PUBLIC COMMENT

There were no public comments.

CLOSED TO PUBLIC COMMENT

Commissioner Howell made a motion to approve Ordinance 2012-07 after first reading. 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 9. Bill Allen Property Lease Agreement

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Staff requests commission to give approval to enter into a three year lease renewal agreement with Billy Allen for the cultivation of the orange groves located on Ray Martin Road.

STAFF RECOMMENDATION

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

1. Approve the lease agreement with Billy Allen in the amount of \$40,000.00 annually.
2. Authorize the City Manager to execute the appropriate documents, on the City's behalf.

BACKGROUND

The City purchased this land in January 2007 with the following addendum included; "As additional consideration, the Seller shall retain possession and continued use of the real property for agricultural uses after the closing date for no additional rent. The Seller shall be allowed to cultivate, harvest and sell the citrus crop located on the subject property, commencing with the crop expected in July 2007 and continuing for six (6) years through and including the crop expected in July 2012. Subsequent to the harvesting of the 2012 crop in or about July of 2012, the Seller shall relinquish possession of the real property to the Buyer." Mr. Billy Allen desires to enter into a three (3) year, renewable, lease agreement with the City of Lake Wales to cultivate, harvest and sell the citrus crop of approximately forty-five (45) acres of orange grove.

Mr. Allen approached the City of Lake Wales Public Works Director, Tom Moran, with his desires and a meeting was scheduled with the City Manager, Terry Leary, to determine the feasibility of such an agreement. The meeting started with an overview of the previous sale, review of the addendum associated with the sale and the City Commission Meeting minutes germane to the property acquisition. Below are the reasons Mr. Allen expressed his reasons for the lease agreement:

- In order to have a beneficial harvest, a citrus grove must be fertilized and maintained to produce a quality crop.
- For a July harvest, the fertilization should start in the preceding January.
- To produce a good crop, he would like to start fertilization and continue to "work the grove".

The City Manager and Mr. Allen negotiated a price for lease at Forty Thousand dollars and no cents for forty five acres per year (\$40,000.00 / 45 acres / year; this equates to \approx \$888.89 / acre / year). The "rent" would be paid at the beginning of the year @ July.

Further discussion between Mr. Allen and city staff yielded the following considerations:

- Any renewable agreements would be negotiated the January before expiration of the existing agreement.
- Mr. Allen will continue to maintain liability insurance in the amount of not less than one million dollars (\$1,000,000.00) per occurrence with the City of Lake Wales shown as additional insured.

- Mr. Allen will continue to use the existing irrigation well and be responsible for any repair or maintenance to the irrigation well and system.
- Should Mr. Allen expire, the remaining portion of the lease and renewability of the same would be transferred to the Billy Allen Estate.

The City Commission meeting minutes indicate that some or all of this property may be used by the City as a cemetery. Mr. Allen expressed a desire that those lands proposed for a cemetery be identified to him in January so he would not expend monies on fertilizer and other measures for that area and that any land to be used as a cemetery not be cleared until the crop on that land had been harvested (approximately July). Additionally, if the land is cleared during a lease period, the pro-rata land value would be returned to Mr. Allen.

The agreement attached was drafted by the City attorney, reviewed by the City Manager and Public Works Director, and has been accepted by Mr. Allen. Staff is seeking approval to enter into the lease agreement with Mr. Billy Allen for a sum of \$40,000.00 to be paid to the City annually on July 1.

OPTION

Chose not to lease the property to Mr. Allen and receive no useful benefit from the ownership of this property until such time the City is ready to build the new cemetery.

FISCAL IMPACT

\$40,000.00 will be paid annually on the 1st of July each year during the initial term of this Lease. In the event the City exercises its option to remove a portion or portions of the Premises from the lease for its contemplated use for cemetery purposes, the rental shall be prorated and reduced by the proportionate reduction in acreage.

[End agenda memo]

Utility Projects Administrator Sarah Kirkland reviewed Agenda Item 9.

Mayor Carter asked if \$40,000 was an appropriate amount for the City to receive for the lease and Ms. Kirkland said it actually was more than they expected.

Commissioner Rogers explained how much fruit could be produced per acre, how much the proceeds might be and said that no city employee has the expertise to take care of the groves or the equipment needed, so he thought the lease agreement was a good deal for both the City and Billy Allen. He recommended approval.

Commissioner Howell said it was a three-year lease and asked what they would do if the existing cemeteries were filled before that. Ms. Kirkland said that the agreement is written so that either party can opt out of the lease with a six month notice. If the City removes a portion of property for a cemetery, the lease will decrease proportionately to reflect that loss. Commissioner Wojcik added that Mr. Allen would need to be notified by January so he knows whether or not to fertilize.

City Attorney Chuck Galloway reminded them that just the platting phase takes two years, not accounting for the construction, giving the Commission a two-year window before they have to decide how much of a parcel will be needed.

Commissioner Thornhill made a motion approve the lease agreement with Billy Allen in the amount of \$40,000.00 annually and authorize the City Manager to execute the appropriate documents, on the City's behalf. Commissioner Howell seconded the motion.

By Roll Call Vote:

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

The motion carried 5-0.

CITY MANAGER'S REPORT

- City Commission Tracking Report

The City Manager reported no changes to the Tracking Report.

COMMUNICATIONS AND PETITIONS

Ken Barfield, 407 E. Polk, had two requests:

Do Not Enter sign:

- Mr. Barfield, 470 Polk Avenue, asked that the DO NOT ENTER sign be removed from 4th Street and E. Polk Avenue under the bridge because when you exit SR 60, he and others living in the area have to go all the way to downtown Lake Wales and then backtrack to get home.

Police Chief Chris Velasquez said he pulled the memo to research what the rationale had been for placing the sign closing off left turn-hand traffic at that location, and to see if the sign served its intended purpose. He believed the placement of that sign stemmed from preventing large trucks from taking that route and getting stuck under the low bridge. He said the DO NOT ENTER sign has not kept trucks from going under the bridge. He said there have been no major issues at that location that he knows of and because he was all for reducing the number of signs in Lake Wales, he was initially in favor of it. He said he will bring it back to the Commission when he finishes his research.

Commissioner Howell said she thought it was a safety issue.

Commissioner Rogers said he asked the City Clerk to research when that sign had been authorized but Ms. VanBlargan told him she could not find the authorization but is still looking. Ms. VanBlargan said she found where it had been discussed, but though she pulled the modifications to the traffic map and Ordinance 2009-06 where several intersection changes were made, she could not find the approval of that sign. City Attorney Chuck Galloway said changes to the traffic map had been made and he remembers it being approved by the Commission along with the sign on 8th Street. Ms. VanBlargan said she is still looking into that. The time period provided by staff may not be correct.

Ms. VanBlargan said she located a 2006 email from the manager of the Atlantic Driving School across the street from that location. He had sent it to, then, Commissioner Linda Kimbrough. He said there had never been an accident in that location in the 59 years he has been there. Chief Velasquez said there is potential for an accident at that location because there is traffic coming from several directions, but the speed limit is low and drivers just have to pay attention. Mr. Barfield suggested putting a RIGHT TURN ONLY sign coming off SR 60. Chief Velasquez said he would research both issues and bring it back to the Commission with a recommendation.

Commissioner Howell said the sign was put there during a time when signs were being put everywhere. She asked if staff could just remove the sign without it coming before the

Commission again, if it is found that the sign had not been approved properly and was therefore not in the ordinance. Mr. Galloway said the traffic map would need to be changed, which requires Commission approval.

- Mr. Barfield asked that the poles placed in the city right-of-way at the Mayor's residence be removed as it is in violation of city code and is unsightly. He suggested putting NO PARKING signs there instead. He said the code makes no exceptions and none should be given even to the Mayor.

Mayor Carter said he was unaware he was in violation and that he had unsuccessfully tried other avenues to get people from parking on his lawn. He said at one time he came home to find someone charging \$5 to park there during a game and another time a school bus was parked on his front lawn. He said that though the poles are on the City right-of-way, he is the one that has to maintain it, but if it is found to be a violation of the law, he will remove them. He expects no special treatment but he hopes staff can give him an alternative so he can keep people off his property.

Commissioner Wojcik recommended having the Code Enforcement and Planning departments check into it and bring back a recommendation so the City Commission can discuss it again after knowing the facts. Cliff Smith, building official, said he would check into it. City Attorney Chuck Galloway said he would look into the title and easements.

Jack Neal, resident, said parking was a problem at the games and he has seen people driving over the sidewalk, and the fire truck parked on the sidewalk.

CITY COMMISSION COMMENTS

Commissioner Wojcik made the following comments:

- Commissioner Wojcik suggested that Mike Horner, the State Representative covering about 80% of Lake Wales for economic development and transportation issues, might be someone to help them with the FDOT problems. She said she would give the Mayor and City Manager the contact information.
- Commissioner Wojcik announced that Fire Chief Jerry Brown was selected to receive this year's "Public Servant of the Year" award.

Mayor Carter led a discussion on the dispatch system. The following concerns were addressed by Commissioners and staff as follows:

- Mayor Carter expressed his concerns with using the county dispatch system, especially with non-emergency calls. He said he called the dispatch a few days ago and hung up after 10 rings because there was no answer, which was not an isolated case and was totally unacceptable. Another time he called about a situation at Lake Wailes Park and the dispatcher didn't know where the park was and asked for an address. He recommended researching to find out the cost of bringing the dispatch service for both police and fire back to Lake Wales. He said the price of the county service keeps going up and the service received goes down. He asked that staff review the contract because he did not think they were living up to it.
- Commissioner Wojcik suggested that staff first talk with the County to see if they can make the present system work.
- Police Chief Chris Velasquez said two or three weeks ago he had a problem with unanswered calls and he discussed it with the Sheriff's Office who explained some of the problems they were having and said they were working on them. The Chief said, for the record, he believed the County was trying their best and doing all they could. Whenever he has had a problem, they were able to resolve it. He said the 911 emergency service calls have not suffered one bit, which is the highest priority. He said he is open to a discussion on moving the dispatch back to Lake Wales

but "you get what you pay for" and safety is not cheap. He said he would work up the numbers and bring the item back for discussion. He said they would follow whatever course the Commission directs.

- Mayor Carter said at some point you have to weigh service quality against the cost. He also said someone needs to be at the police department 24/7 because if someone goes there at night no one is there. The Police Chief said there are a number of pros including improved teamwork between the Lake Wales Police Department and the County Sheriff's Department, resulting in safer streets. He said another improvement has been to have a live person answering the phone at PD during working hours instead of the automatic system, though there still is a problem when the call is transferred and no one is there to answer so the resident gets bounced back and forth.
- Mayor Carter asked Chief Brown if the Fire Department also has problems with the dispatch system. He said they have but they have tried to work through the issues. Commissioner Rogers asked if the dispatch from both the Fire Department and Police Department could be combined to save money. Chief Brown said the biggest cost will be personnel and benefits, between the police and fire about a quarter million dollars a year. He said he would get with the IT Department to study the cost for service versus the value of the service but he is quite sure it will cost a lot more for the City to provide better service. He said, even if the dispatchers are returned, the 911 calls would still have to go through the county first before being transferred to Lake Wales dispatchers. There's no way around it.
- Commissioner Howell complained that what is in the contract is not happening and staff needs to look into that. She said that when you call the dispatch, you get someone who knows nothing about Lake Wales, doesn't know where the landmarks are and calls get sent to the wrong places, or the dispatcher has to ask the resident, who is already in a state of panic due to the emergency situation, to give directions!
- City Manager Terry Leary pulled up the contract on her computer and said that either side has to give six months notice to terminate. She read where it said four tele-communicators would be dedicated to handle just Lake Wales' calls, and she said that never happened.

Mayor Carter complained about the continued noise from loud music after DeCosey closes. He said the other night he was awakened at 1 AM to music blasting from Lincoln Ave. between C and D Streets, two to three miles away from his house, by people who have no respect for other people in the city and he is fed up. He said he had no idea how people living in that area got any sleep. He said the city has been dealing with the loud music issue for twelve years and even with the new noise ordinance, there is no clout. He thinks it is time to give the police the tools they need to stop it. If a fine of \$250 is not enough, make it \$1,000, or take them to jail, or impound their car. The hammer needs to come down on the noise ordinance in Lake Wales.

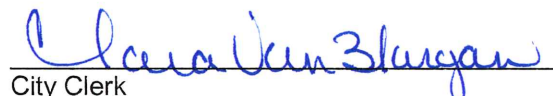
City Manager Terry Leary thanked Commissioner Rogers and staff that assisted with the VFW Welcome Home Viet Nam celebration.

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



Mayor/Commissioner

ATTEST:



City Clerk