

The regular meeting of the Lake Wales City Commission was held on January 2, 2013 at 6:02 p.m. following the invocation and the Pledge of Allegiance in Commission Chambers at the Municipal Administration Building. The meeting was called to order by Mayor Michael S. Carter.

INVOCATION

The invocation was given by Fire Chief Jerry Brown

PLEDGE OF ALLEGIANCE

COMMISSIONERS PRESENT: Michael S. Carter; Christopher Lutton; Jonathan Thornhill; Betty Wojcik; Terrye Y. Howell

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. Commendation Presented by the Lake Wales Police Department

Police Chief Chris Velasquez presented resident Joyce Carter a "Certificate of Appreciation" for donating \$15,000 so the Police Department could secure two new police dogs, Badge and Edge, after the department unexpectedly had to retire their two canine work-dogs due to medical reasons with no funds in the budget to replace them. Because canine work-dogs are needed for the safety of officers and to use for drug raids and finding lost people, it was imperative that they be replaced. The Police Department wanted to thank and honor Ms. Carter for her outstanding dedication to public safety.

OLD BUSINESS

NEW BUSINESS

Agenda Item 6. Agreement with Kimley-Horn and Associates for Engineering Services

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Staff requests commission to give approval for the agreement with Kimley-Horn and Associates for engineering services for the Fire Department Sub-station at 600 Chalet Suzanne Road for the amount of \$28,450.

STAFF RECOMMENDATION

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

1. Approval of the agreement with Kimley-Horn and Associates in the amount of \$28,450.
2. Authorize the City Manager to execute the appropriate documents, on the City's behalf.
3. Approval of \$28,450 to be funded through internal borrowing, bearing an interest rate of 3%, from the Emergency Sinking Account.

BACKGROUND

On June 19, 2012 the City Commission approved the purchase of 3.76 Acres on Chalet Suzanne Road for the purpose of constructing a fire department sub-station. Engineering and Architectural services are required in order to determine the best location on the site for construction and to determine a project cost estimate. The attached agreement is the first step in the process.

On September 10, 2012, through RFP 12-348, the City Commission authorized the City Manager to execute continuous consulting and engineering agreements with five firms. Kimley-Horn and Associates is one of the five firms.

Staff including Public Works Director Tom Moran, Fire Marshal Chuck Croley, and Fire Chief Jerry Brown, have met several times to discuss the scope of work and services required to move forward with the project. The goal is to come up with a site suitable for construction and a total project cost estimate. Research for grant funding and financing cannot take place until the construction site has been chosen and the total cost of the project is known.

FISCAL IMPACT

On June 19, 2012, the City Commission approved an internal loan from the Emergency Sinking Account (ESA) for the purchase of the fire sub-station land costs, up to \$100,000. The Commission authorized the loan for acquisition and pre-engineering costs relating to environmental and other closing activities. As of November 30, 2012, \$70,000 has been borrowed from the ESA for this purpose. Staff is requesting the City Commission authorize \$28,450, of the remaining loan allocation, to be used for the consulting and engineering services listed above.

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3. Approval of \$28,450 to be funded through internal borrowing, bearing an interest rate of 3%, from the Emergency Sinking Account.

[End agenda memo]

Fire Chief Jerry Brown reviewed Agenda Item 6.

Mayor Carter asked the following:

- Mayor Carter said they talked with a consultant about a month ago about a proposal for grant opportunities to use to build the substation and asked for an update. Fire Chief Brown explained that two steps have to proceed applying for grants because they need to know how much it will cost and have it 'shovel ready' before they can apply. This is the first of those two steps.
- Mayor Carter asked if everything on the project is going according to plan with no surprises. Chief Brown said he didn't expect any surprises, but it is very early in the process and there is always the possibility that through the boring and engineering process they discover that the station can't be built in the location they chose.

Commissioner Lutton made the following comments:

- Commissioner Lutton said that with this Task Order, they will be getting a site permit so the trailer can be relocated with water, electric and sewer hookups. Chief Brown explained that they are hoping to enter into an agreement with the current landlord to stay at their present location rent-free for 12 months after their present lease ends in July so they do not have to spend the substantial cost of moving the trailer, hooking it up to services and putting in a temporary road.
- Commissioner Lutton asked if they had considered future expansion for a second fire truck at the new station. Chief Brown said that the substation will be adequate for the City's needs well into the future, but if development occurs outside of the five-mile radius they would have to build a

new substation. The design does include a bay for a small rescue vehicle to be added down the road but not an additional fire engine. Until then, the fire engine at the substation will cover fires, vehicle accidents, and rescue. He explained that both fire stations always respond to things like fires, though the closest station arrives about five minutes earlier.

- Commissioner Lutton asked if Chief Brown expected the next substation to be built along the commercial corridor of SR60. Chief Brown said there won't be a need for a substation along SR60, or north to Dundee, or if there is southern expansion because it will be within the five-mile radius of the two stations. But there may be a future need in the northeastern section of Lake Wales along the area of Masterpiece Road and Fox Run Road if significant growth occurs in that direction.
- Commissioner Lutton commented that the substation will only take up a portion of the property and asked how much would be left. Chief Brown said if they can build the substation on the east side of the property as planned, it will take a little more than half the property leaving the west side for future development.

Commissioner Wojcik made the following comments:

- Commissioner Wojcik said that when the engineering is finished they will know where to put the road so the City won't have to pay to put in an entryway twice. Chief Brown said they will not know until after the engineering is finished whether or not the construction site on the east side of the property, where they would like the building to be, can be used, which they need to know before they can determine where the entryway will be placed.
- Commissioner Wojcik said the environmental studies are not included and asked how detailed the study was when they first purchased the property. Economic Director Harold Gallup stated that the Phase I Report had been completed. A Limited Phase II Report was conducted with a call-out of a specific condition that was specific to the area. The Environmental Reports satisfied title requirements for the purchase. Commissioner Wojcik said there probably will not be much need for environmental work in the second submitted request for engineering/design services for the fire station site.

Commissioner Howell asked the following questions:

- Commissioner Howell was concerned that in the work order the engineer will only attend two meetings and one site visit. More than that will be additional cost. She asked City Attorney Chuck Galloway if that was normal. Mr. Galloway said it was normal because they listed what they were going to provide when they bid on the project.
- Commissioner Howell said a resident asked her if things like the fire-flow design could be done in-house by Public Works Director Tom Moran, or Fire Marshall Henry Crowley to save money. Chief Brown said staff could not do that and explained that those services are included in the second task order and will cost \$25,000, which he will be bringing before the Commission for approval. He added that though they can't do the engineering work, they are saving money because the Building Department and Fire Marshall did most of the design in-house.

Commissioner Howell made a motion to approve the agreement with Kimley-Horn and Associates, approve the \$28,450 through internal borrowing at an interest rate of 3%, and authorize the City Manager to execute the documents. The motion was seconded by Commissioner Wojcik.

By Roll Call Vote:

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

The motion carried 5-0.

Agenda Item 7. Code Enforcement Progress Report

The Commissioners had been provided a copy of the 2012 Code Enforcement Annual Report, attached. Building Official Cliff Smith reviewed the report as follows:

- Out of 479 cases 367 or 77% came into compliance with just a door hanger.
- 54 are currently active, working with staff, and are in the process of getting permits to bring them into compliance
- 17 are on hold because permits have been secured and they have 180 days to come into compliance
- 6 vehicles were impounded
- Administration liens were secured on 9 properties, a service lien was placed on one, and both liens were placed on one.
- 17 went before the Board and are now in compliance. Four others went before the Board but are still not in compliance and will go back before the Board.
- Three foreclosure approvals
- \$7,983.97 was brought in through releases of liens and \$1,070 for title searches for a total of \$9,053.97.

Commissioner Howell asked where the three foreclosures were located and Mr. Smith said he would get back to her with that information.

Mayor Carter asked if the new ordinance for code enforcement was working or if it needed to be tweaked or modified in any way. Mr. Smith said the ordinance was working very well at this time. He said staff is working with residents in a diplomatic way and they are in no way picking on anyone. Having that tool in their box does not mean they have to use it, it just means they can if they need to.

Mayor Carter asked how the Code Enforcement provision, allowing them to attach to the resident's property tax bill any money the city spent servicing their property, was going. Mr. Smith explained that they have two weeks of advertising left to meet the public notice intent requirement. Then he will be ready to come before the City Commission on January 15th. Mayor Carter asked if that tool had to be used very often and Mr. Smith said they haven't had the ability to use that tool yet because the public notice requirement has not yet been met.

Commissioner Wojcik asked if the approximately \$9000 they got from the liens and title searches went into a fund to help cover the cost for things like boarding condemned buildings or cutting grass. City Manager Terry Leary said she knew that they had talked about setting aside the funds to use for code enforcement purposes but the money went into the General Fund because right now the City's cash-flow is such that every source of revenue it can find is needed. In the future it may be possible to put some away and they will. Commissioner Lutton said that if work is done on a person's property the City can secure a service lien. Mr. Smith said that was correct. And once they get the ability to attach that money on their tax bill, they will be able to recoup the City's losses sooner.

CITY MANAGER'S REPORT

CITY COMMISSION TRACKING REPORT

Computers: City Manager Terry Leary reported that the desperately needed computers were purchased and are in the process of being installed.

Lake Wales Trail Grant: Commissioner Lutton asked for an update and Special Projects Manger Jennifer Nanek said they are waiting for the contract.

Country Club Reuse: Commissioner Lutton asked how much reuse water has been sold to the Country Club and Public Works Director Tom Moran said about 350,000 gallons a day.

New Wastewater Treatment Plant: Commissioner Lutton asked if the plant was finished. Mr. Moran said it was and they are making sure everything is working well before they sign off on the project. Commissioner Lutton said it is his understanding that water can only be put in the reuse line when an operator is at the plant and asked how many gallons of reuse water was not being used because of this. Mr. Moran said 300,000 gallons, though it varies day to day. The Country Club uses about half of the distribution of 600,000 gallons a day. Commissioner Lutton said we therefore have about 300,000 gallons a day for someone else to use if we can man the station. Mr. Moran said we would be losing money if we did that because at thirty cents per 1,000 gallons we would be getting less than it would cost for the employee to man the station. Mayor Carter asked if we were selling it for less than it costs. Mr. Moran said right now we are making a little money but if we manned the plant 24 hours a day we would lose money.

C Street Project: Commissioner Howell asked City Attorney Chuck Galloway if all the residents have been notified now and he said they secured everything within the CDBG area that they can get, and those that will need eminent domain action will probably be filed in the next two weeks. Two of them may not need action because the necessary documentation for the easement is supposed to be brought to him. If not, that will go into eminent domain. He explained the estate problems they were having in determining what family member is entitled to the dollars that will be paid in the registry of court. Within the next 60 days they will certify site control and proceed with the CDBG portion. Following the statutory guidelines and timeframes, they will look at the rest of the lots and pursue easements within the larger parcels.

CITY COMMISSION COMMENTS

City Managers Evaluation: Discussion is scheduled for the City Commission Workshop on January 15th at 5 PM.

Pension Reform: The consultant had requested that the City Commission look over the material given to them at the last City Commission meeting to decide if they want to pass the proposed pension reform resolution or some other version of it. They have a deadline of March 5, 2013 and Mayor Carter asked that it be put on the agenda for discussion.

City Clerk Clara VanBlargan: Mayor Carter congratulated Ms. VanBlargan for the work she does. He said the City Commission can give work direction to three city employees; the City Manager, the City Clerk, and the City Attorney. He said he was not clear on who the city clerk worked for because if the city clerk works for the city commission, then he thought the City Commission should be the body to evaluate her work.

City Attorney Chuck Galloway said the Charter provision states that the city clerk is **appointed** by the city commission, but her duties are assigned by the Charter, the city commission and the city manager. Those duties assigned by the commission are assigned by the entire body. Her duties are supervised by the city manager and not the city commission.

Mayor Carter asked who has control over her salary and Mr. Galloway said the city manager has that control because the city clerk is considered an employee like all other employees and is subject to the same salary adjustments. The city commission cannot give the city clerk a raise, a promotion or demotion. It has to come through the budgetary process. Mayor Carter said if the city commission hires the city clerk, is it the commission that can fire her. Mr. Galloway said the city manager would have to come before the city commission with a request that the city clerk be fired. They would then have the opportunity to respond to that request.

Piggybacking on Government Contracts: Mayor Carter said that, according to the piggybacking procedure set up in the purchasing ordinance, the city is obligated to verify that we are getting the lowest price when piggybacking on a contract by getting three estimates or bids, and yet it appeared to him that this was not done for the wastewater lift station rehabilitation and manhole rehabilitation contracts approved at the last City Commission meeting. He said if it wasn't followed we need to review and discuss that.

City Attorney Chuck Galloway said he hadn't looked at it in detail but what the City Commission approved was a policy. It is not part of the ordinance. Staff followed the ordinance and not the policy in the last contracts in not getting three informal quotes. But the reason they didn't was because they would have had to spend money for the engineering in order to get the bids, when the two entities already did that in order to get their bids. He said if those policy procedures are to be incorporated into the ordinance there needs to be a caveat to provide for instances like that so it does not have to be followed to the letter. Without it staff will be hamstrung to the point that it can't function.

Commissioner Lutton said piggybacking saves the city time in not having to get three bids. Pinellas Park got competitive bids for a long list of items and picked a contractor to do their routine maintenance. We are just piggybacking off their contract, saving us the time of having to get the same thing.

Commissioner Wojcik said it was the lowest bid for that particular service. Mayor Carter said that might be the lowest bid in Pinellas Park but may not be the lowest bid in Lake Wales, and we are just taking their word that it is the lowest price. Support Services Director James Slaton said we were not just taking their word for it. Documented Bid tabulations were received and reviewed so it was almost like we had gone out to bid ourselves.

Commissioner Lutton said if we didn't piggyback we would have had to spend \$15,000 to get engineering drawings and then spend a couple months getting the bids, when he did not know of any contractors within fifty-miles that could even do the work. He said that the contractor did not have to let us piggyback off that contract, and he was actually surprised that they would charge us the same when they will have to come from such a long distance.

Commissioner Howell said we need to have something in the ordinance so we can piggyback without having to pay for engineering every time. She was in favor of saving that money if we can piggyback more cheaply. Commissioner Wojcik said it would be nice if the policy matched up with the ordinance, but that it includes a caveat allowing for cases recommended by staff where significant money for engineering can be saved. She also said it would be helpful if staff gave an explanation when making a recommendation to the commission that doesn't follow the written policy.

Water Testing: Commissioner Thornhill asked when city water is tested for water quality because residents have told them they think we have a large amount of calcium in our water in different parts of the city. Public Works Director Tom Moran said they test daily in different parts of the city for bacteria and he will check to see if the other is done. Commissioner Thornhill said he would give him the addresses for the concerned citizens.

COMMUNICATIONS AND PETITIONS

Spook Hill Sign:

David Smith, Lake Wales NAACP, spoke against the spook hill sign design that was approved at the last City Commission meeting. He passed around a picture of what he said was the original sign saying it was proof that the version about the black man and his truck was the original version. Commissioner Wojcik pointed out that the vehicle next to the sign in the picture he submitted was a late model vehicle. She said she had a picture of the Indian version of the sign with an earlier model vehicle in the picture which therefore predates the picture he submitted. There was a long discussion of the merits of both versions and which version was the earliest.

Mr. Smith said the version of the Indian and alligator on the proposed sign was not historically correct. He asked who verified the history of that story. Mayor Carter said there was no proof that the Indian account or the black man and his truck account were historical. There was a discussion about the origins of both accounts and whether they were historical, legends based on history, or simply legends and whether both legends should be incorporated into the sign. Commissioner Lutton said Mr. Hahn is pretty set in his ways. He suggested that an organization might be willing to put up a remake of the old sign. Mr. Smith said the NAACP was not interested in putting up a sign. They were concerned only with the history.

Mr. Smith questioned if the city would have to get permission from the Seminole tribe to use Seminoles on the sign. City Attorney Galloway said that in his opinion the city does not have to get permission and explained his reasons. He suggested that Mr. Hahn may wish to pursue the question for himself.

Commissioner Howell made a motion to revisit the sign issue with the artist. The motion was seconded by Mayor Carter.

Mr. Galloway said Mr. Hahn may have contractual issues based upon the actions taken by the City Commission at their last meeting and he may have relied on that approval in soliciting money etc.

Greg Massey, Lincoln Avenue, said no one knows which account came first and to stop the escalating division in the city over the topic he suggested canceling the monument and having two signs put up, one for each account.

By Roll Call Vote:

Commissioner Howell	"YES"
Mayor Carter	"YES"
Commissioner Wojcik	"NO"
Commissioner Lutton	"NO"
Commissioner Thornhill "	"NO"

The motion carried 5-0.

Commissioner Lutton said he voted no because the city commission already gave its word to Mr. Hahn that he could go ahead with his project.

Moving a Bar:

Greg Massey, Lincoln Avenue, said he had come before the City Commission earlier with a request to move his establishment and he has not heard since then. He asked that his request be brought back before the Commission this month so he can get some direction.

Parking on Dr. Wiltshire Ave.

Greg Massey, Lincoln Avenue, was concerned because 'no parking' signs have been put up on both sides of the road and people living there have no place to park. He requested that the ordinance be revisited to allow people to park in front of their homes.

Public Services Administrator Teresa Allen explained that there always has been parking problems in that area. The parking ordinance clearly states that there should not be parking there but when city staff first attempted to put signage there, the signs were taken down. The city did not do anything about it but lately with the safety issue it creates due to the congestion, they put the signs back up. She explained that according to the postal service requirement, you can't park within thirty feet of a mailbox so even if the city changes its ordinance, you still could not park there because of the PO requirement.

David Smith, NAACP, said that they were the ones several years ago who requested that 'no parking' signs be put there because the school busses could not get through.

Mr. Massey said that according to the parking ordinance Section 20-14, there is to be no parking on all public streets, not just Wiltshire. Therefore if the ordinance is to be enforced on Wiltshire it needs to be enforced on every street in Lake Wales. He said people have been parking there and the mail has still been delivered.

Commissioner Howell said ordinance Section 20-14 says that no parking is allowed on any city street **IF** it obstructs the free, convenient, and normal use of the public street, highway, or road by impeding,

hindering, stifling, retarding, or endangering the safe movements of traffic or pedestrians. She said that did not apply to every street in Lake Wales but is the reason it applies to Wiltshire Avenue. She said not only does the parking impede the traffic but many times people stop to talk to someone for five minutes with a line of traffic waiting to get through. She said the police should fine **anyone** on **any** street in **any** place in Lake Wales where parking impedes traffic or causes a safety issue. But it is not like that everywhere.

Pamela McClain, Wiltshire Ave., asked where she is to park. She said she has a large family that likes to visit and they have no place to park without getting a ticket. She suggested using speed bumps to control the traffic instead.

Resident, gave a statement about parking in front of the Baptist Church.

Beverly Pennington, Operations Manager, gave the background going back to 2008 in regards to parking and the requests they received for putting up the no parking signs. The signs were put up twice and taken down. The last time staff was told to leave it alone or it would become a political problem. The problem has become worse and they are enforcing the ordinance. She said they put in overflow parking spaces on A Street.

Police Chief Velasquez said this stretch of Wiltshire Avenue is very dangerous and challenging when cars park along the street because of the high traffic, intersections, number of driveways, fire hydrant and mail boxes. There are not only city ordinances that have to be followed but state statutes. He said he will do everything he can to work with the community and staff to try and find a solution because the lack of parking areas could be a problem. But ultimately the road has to be open for the free flow of traffic.

Commissioner Howell asked if where the residents were going to park was ever discussed before they put the signs up. She said the road was never made to accommodate cars because of the narrowing. She asked if one parking space could be allowed in front of each residence. All other vehicles would have to park on A Street. Commissioner Wojcik suggested having no parking from 7 AM to 5 PM. Chief Velasquez said that cities can make their ordinances stricter than State Statutes but not less and therefore nothing can be done about the restrictions around certain areas.

Mayor Carter said there are multiple concerns and he would like staff to address the issues and try to come up with solutions and then bring their recommendations back to at a future meeting.

Commissioner Howell asked if no parking on Wiltshire can be waived until staff comes up with a solution or to at least give residents two weeks to adjust. Chief Velasquez said they would use discretion but he would not tell his officers to write or not write tickets. The statute is a law and officers have the ability and the right to enforce it.

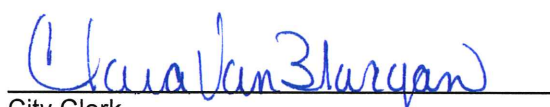
A resident spoke against having to park at A Street instead of in front of their homes.

The meeting was adjourned at 8:25.



Mayor/Commissioner

ATTEST:



City Clerk