

The regular meeting of the Lake Wales City Commission was held on February 19, 2013 at 6:13 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 Dr. Jim Moyer

#### **PLEDGE OF ALLEGIANCE**

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

**COMMISSIONERS ABSENT:**

**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. Tom Phillips, Executive Director of Citrus Connection & Polk Transit, to give presentation on the state of public transit for Polk County**

Because the Commission workshop went over time and the commission meeting was starting late, and because Agenda Item 12 was expected to be lengthy, the presentation was postponed to another meeting.

#### **CONSENT AGENDA**

**Agenda Item 6. Approval of Minutes  
February 5, 2013, Regular Meeting**

**Agenda Item 7. Certifying the Official Ballot**

The full staff memo is incorporated into the minutes.

It is necessary for the City Commission to certify the official ballot for the April 2, 2013 City Election. The Ballot to be certified will be distributed after the qualifying period ends on February 15.

[Begin agenda memo]

**Agenda Item 8. Lake Wales Art Show March 22,23 and 24, 2013 at Lake Wailes Park Special Event Permit Application**

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

#### **SYNOPSIS**

This approval of this request will allow the 42<sup>nd</sup> Annual Lake Wales Art Show to be held in Lake Wailes Park March 22 to the 24, 2013 and allow artists to set up on Friday, March 22, 2013.

### **RECOMMENDATION**

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

1. Approve the Special Event Permit Application for the 42<sup>nd</sup> Annual Lake Wales Art Show to be held March 22 – 24, 2013 in Lake Wailes Park
2. Approve the hours as follows; March 22 – set up at noon and evening festivities beginning at 5:00 p.m. and ending at 9:00 p.m.; March 23 – 8:00 a.m. to 6:00 p.m.; March 24 – 8:00 a.m. to 4:00 p.m.
3. Approve the request for set up by the artists on March 22, 2013 at noon
4. Approve the request of the Art Council for a 70 foot tall hot air balloon to be located on the grassy area north of the bike path and northeast of the basketball court (This is for static display only.)

### **BACKGROUND**

Ms. Barbara Conner, President of the Lake Wales Art Council, Inc. submitted a Special Event Permit Application for the 42<sup>nd</sup> Annual Lake Wales Art Show to be held March 22 to March 24, 2013 in Lake Wailes Park. This event would begin on Friday evening at 5:00 p.m. with a barbeque and musical entertainment for the entire family. It will conclude at 9:00 p.m. On Saturday, March 23, 2013 the day's activities will begin at 8:00 a.m. and end at 6:00 p.m. while Sunday's activities will open at 8:00 a.m. and conclude at 4:00 p.m.

The Special Event Permit Application includes a request for the artists to set up on Friday, March 22 at noon. Approximately 95 artists will be participating in this event this year. A feature this year will be a 70 foot tall hot air balloon which will be on static display in the grassy area northeast of the basketball court in the park. In prior years the artists have been given permission to park RV's for overnight camping on the south side of the park near the retention areas. This year the RV's will be parked across the street on a private parking lot belonging to the First Methodist Church.

The Art Council will be using the services of the Lake Wales Police Department for private security from 6:00 p.m. to 6:00 a.m. during the entire event. This will be paid at 100% by the Art Council. The Field Operations Division will be providing clean up services on Saturday and Sunday with the Art Council paying 25% of those costs. They will also be responsible for site set up, obtaining tent permits, providing licensing for food vendors, acquiring sanitary facilities and dumpsters and providing liability insurance for the event. Ms. Jean Donaldson of the Art Council met with Beverly Pennington, Field Operations Manager on February 12, 2013 at the park to discuss the lay out, site set up and location of dumpsters, sanitary facilities, public, VIP and artist parking. The RV's will be using a private parking lot belonging to the First Methodist Church.

### **OTHER OPTIONS**

Do not approve the event

### **FISCAL IMPACT**

In-kind services provided by the City were budgeted for FY12-13 in the amount of \$1,024.00. The Art Council will be responsible for 25% of those cost estimated at \$256.00. Private security will be provided by the Lake Wales Police Department and will be paid at 100% by the Art Council.

[End agenda memo]

Commissioner Howell made a motion to approve the consent agenda. The motion was seconded by Commissioner Lutton.

By Voice Vote:

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

The motion carried 5-0.

### **OLD BUSINESS**

#### **Agenda Item 9. Ordinance 2013-04, Abatement and Violation Correction Assessment Uniform Collection Agreement "Municipality" – Polk County Tax Collector Contract Agreement – Polk County Property Appraiser - 2<sup>nd</sup> Reading & Public Hearing**

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

### **SYNOPSIS**

Ordinance 2013-04 Abatement and Violation Correction Assessment, is an amendment to the Lake Wales Code of Ordinances Chapter 17.5 Special Assessments. This amendment allows for the collection of unpaid code enforcement service fees through the Uniform Method for the Levy, Collection, and Enforcement of Non-ad valorem assessments.

Uniform Collection Agreement "Municipality" from the County Tax Collector is the enabling document between the City and the Tax Collector for this alternative method of collection.

Contract Agreement from the Polk County Property Appraiser is the enabling document between the City and the Property Appraiser for this alternative method of collection.

### **RECOMMENDATION**

Staff recommends approval of Ordinance 2013-04 after second reading and public hearing and authorization for the City Manager to execute the Uniform Collection Agreement with the Polk County Tax Collector's office and the Contract Agreement with the Polk County Property Appraiser's office.

A public hearing is required. The notice requirements have been met.

On January 15<sup>th</sup> the Commission approved Resolution 2012-20. This resolution declared the city's intent to utilize the alternative method of collection and was transmitted to Polk County Tax Collector, Polk County Property Appraiser and the Department of Revenue. The Tax Collector's office has forwarded their Uniform Collection Agreement to the City for execution.

### **BACKGROUND**

In September 2012 City Commission adopted Ordinance 2012-17 to incorporate the International Property Maintenance Code as a tool for code enforcement. It was also Commission's desire to

implement an alternative collection method for abatement and violation correction costs incurred by the City.

It is the City's intent to use this method for service fee collection. Service fees are those that result from services provided by the City to clean properties, repair buildings and the like. When a service fee is left unpaid it is recorded as a service lien against the real property where the service was performed. This does not include fines or administrative liens.

Ordinance 2013-04 lays out the policy and procedure in the City's code for applying the assessment method in the City of Lake Wales.

#### **OTHER OPTIONS**

None with the approval of Resolution 2012-20 at the last meeting the Commission declared its intent to use this method. Therefore its specific inclusion in the city's code is required.

#### **FISCAL IMPACT**

This method of collection should result in an increase in reimbursement to the City for costs incurred in the abatement and violation correction process.

[End agenda memo]

City Clerk Clara VanBlargan read Ordinance 2013-04 by title only.

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING LAKE WALES CODE OF ORDINANCES, CHAPTER 17.5, "SPECIAL ASSESSMENTS" TO ADD ARTICLE II. "ABATEMENT AND VIOLATION CORRECTION ASSESSMENT" FOR THE PURPOSE OF AUTHORIZING AND REQUIRING THE CITY TO UTILIZE THE "UNIFORM METHOD FOR THE LEVY, COLLECTION, AND ENFORCEMENT OF NON-AD VALOREM ASSESSMENTS" AS SET FORTH IN SECTION 197.3632 F.S. TO COLLECT UNPAID CODE ENFORCEMENT SERVICE FEES IMPOSED ON PRIVATE PROPERTY AND PROVIDING FOR AN EFFECTIVE DATE.**

Assistant Planning Director Kathy Bangley reviewed Agenda Item 9.

#### **OPENED PUBLIC HEARING**

There were no comments made from the public.

#### **CLOSED PUBLIC HEARING**

Commissioner Howell made a motion to adopt Ordinance 2013-04 after second reading and public hearing. The motion was seconded by Commissioner Lutton.

By Roll Call Vote:

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

The motion carried 5-0.

Commissioner Howell made a motion to authorize the City Manager to execute the Uniform Collection

Agreement. 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.

### **NEW BUSINESS**

#### **Agenda Item 10. Resolution 2013-04, Highway Maintenance Agreement with the Florida Department of Transportation**

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

#### **SYNOPSIS**

The City Commission will consider approving Resolution 2013-04, to continue the highway maintenance for certain State Road Rights of Ways with the Florida Department of Transportation for an additional three (3) year period for an annual compensation of \$23,606.26.

#### **RECOMMENDATION**

1. Approve Resolution 2013-04, authorizing an agreement between the City of Lake Wales and the Florida Department of Transportation for maintenance of certain State Road Rights-of-Way.
2. Authorize the Mayor to execute the agreement.

#### **BACKGROUND**

The City of Lake Wales and the State of Florida Department of Transportation have entered into agreements to maintain rights-of-way on portions of US27, SR60 and SR17 (Alt. 27) within the jurisdictional limits of the City since the early nineties.

Resolution 2013-04, authorizes the mayor to renew the agreement for an additional three (3) years with an annual compensation of \$23,606.26.

#### **FISCAL IMPACT**

If we do not renew the agreement, the maintenance budget will be funded by City funds and we will lose annual compensation of \$23,606.26.

#### **OTHER OPTIONS**

Do not enter into the agreement.

[End agenda memo]

City Clerk Clara VanBlargan read Resolution 2013-04 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 CERTAIN STATE ROAD RIGHTS OF WAY.**

Public Services Administrator Teresa Allen reviewed Agenda Item 10.

Mayor Carter asked Ms. Allen if she knew exactly what this would cost the City in time, machinery and materials, because the money the City receives for performing these tasks is quite low; \$4.00 an acre to mow and \$.43 an acre for litter removal. Ms. Allen said she did not know the exact amount offhand.

Commissioner Howell asked if the \$23,606 covers what the City does for the maintenance of the right-of-ways. Ms. Allen said it does not cover SR 60 but overall, it does help fund all our right-of-way maintenance by adding that amount to the budget. She added that if the City doesn't approve the agreement, the State will find someone else to do the maintenance, but at their schedule, which is normally once a month. The city normally does the mowing once a week so it will not look as nice as when the City does it and if citizens complain there will be nothing the city can do about it.

Commissioner Thornhill said he had talked with FDOT about that last year and was basically told "we were getting what we are getting". Ms. Allen said what they pay us is actually lower than it was. FDOT re-evaluated and cut the amount to all the cities. Mayor Carter said it was another example of unfunded mandates. Commissioner Thornhill said he had also complained that the grass would get high and FDOT basically said they only mow once a month and that is their schedule. Mayor Carter said maybe they need to talk to our county representative to let them know what is going on.

Commissioner Wojcik said that basically if we get the dollars we have more control. Ms. Allen concurred.

Commissioner Thornhill made a motion to adopt Resolution 2013-04. The motion was seconded by Commissioner Howell.

By Roll Call Vote:

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

The motion carried 5-0.

**Agenda Item 11. Resolution 2012-05, Resolution providing for Approval of a Right-of-Way Agreement and Partial Settlement of Eminent Domain Litigation**

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

The following information is submitted for consideration by the Lake Wales City Commission regarding approval of a resolution relating to a Right-of-Way agreement and the partial settlement of certain eminent domain litigation filed on behalf of the City and pertaining to the "C" street- L.S. 16 are (i.e. *City of Lake Wales, Florida v. The Estate of Willie Jenkins et al*; case no. 2013-CA-000548) The resolution provides for: the acceptance by the City of a "Disclosure of Beneficial Interest" provided on behalf of B&S Land Development, LLC (hereinafter "B&S"); the approval of a Right-of-Way Agreement and a proposed

Stipulated Settlement Agreement; the authorization and direction to the City's special eminent domain counsel concerning the proposed Stipulated Settlement Agreement; and direction to the City's financial director regarding the funding of the proposed Stipulated Settlement Agreement.

A. **Disclosure of Beneficial Interest:** A Disclosure of Beneficial Interest is required pursuant to Section 286.23 Florida Statutes <sup>1</sup> where an entity holding property in a representative capacity seeks to sell its property to a governmental unit. B&S is such an entity and its Disclosure is attached as "Exhibit A".

B. **Right of Way Agreement and Stipulated Settlement Agreement.** Attached as "Exhibit B" and "Exhibit C" are a Right-of-Way Agreement and a proposed Stipulated Settlement Agreement between the City and B&S (the "Settlement Agreements") providing for the acquisition by the City of an easement interest in the property of B&S identified as parcel 1190. The Right-of-Way Agreement was negotiated between the City's special eminent domain counsel and the attorney representing B&S and is subject to the approval of the Lake Wales City Commission. The Stipulated Settlement Agreement reflects the terms of the Right of Way Agreement and will be filed in the court case. The monetary considerations include a payment of Seven Thousand Five Hundred Dollars (\$7,500) for the easement and the attorney's fees of B&S in the amount of \$1,650.00. There are no costs chargeable to the City.

In eminent domain proceedings, the City, as the condemning authority, is required not only to pay reasonable value of the property being acquired, but also attorney's fees and reasonable cost incurred by the property owner in the defense of the proceedings in Court. Reasonable costs include appraisal fees and the fees of other experts that may assist the property owner in valuing the property. In this particular case the fees of experts would probably have been more than double than the \$2,500 amount that our appraiser valued the property.

Although the consideration for the easement and severance damages is more than the \$2,500 originally offered, settlement of this matter is recommended because the costs that could be incurred from the reimbursement of possible experts employed by B&S and the cost of more protracted litigation would far exceed the amount of the proposed settlement.

C. **Authorization and Direction to Special Eminent Domain Counsel.** Special eminent domain counsel requires authorization from the City Commission to execute the Stipulated Settlement Agreement on behalf of the City and direction concerning the payment to B&S, upon the Court's entry of a Stipulated Final Judgment.

D. **Direction to Finance Director.** Direction to the City's finance director, Dorothy Ecklund, is required to make funds available through City Attorney, Albert C. Galloway Jr., to the City's special eminent domain counsel to pay B&S upon the entry of a Stipulated Final Judgment..

## **RECOMMENDATION**

It is the recommendation of the City's eminent domain special counsel that the Lake Wales City Commission to adopt the proposed Resolution.

[End agenda memo]

City Clerk Clara VanBlargan read Resolution 2013-05 by title only.

**A RESOLUTION OF THE CITY OF LAKE WALES, FLORIDA, RELATING TO THE PARTIAL SETTLEMENT OF CERTAIN EMINENT DOMAIN LITIGATION APPLICABLE TO THE "C" STREET L.S. 16 AREA SEWER REPLACEMENT PROJECT; PROVIDING FOR ACCEPTANCE BY THE LAKE**

**WALES CITY COMMISSION OF A “DISCLOSURE OF BENEFICIAL INTEREST”; PROVIDING FOR THE APPROVAL BY THE LAKE WALES CITY COMMISSION OF THE TERMS AND CONDITIONS OF A RIGHT OF WAY AGREEMENT AND A STIPULATED SETTLEMENT AGREEMENT; PROVIDING FOR AUTHORIZATION AND DIRECTION BY THE LAKE WALES CITY COMMISSION TO THE CITY’S SPECIAL EMINENT DOMAIN COUNSEL CONCERNING EXECUTION OF THE STIPULATED SETTLEMENT AGREEMENT AND PERFORMANCE THEREUNDER; PROVIDING FOR DIRECTION BY THE LAKE WALES CITY COMMISSION TO THE CITY’S FINANCE DIRECTOR CONCERNING THE PROVISION OF FUNDS REQUIRED PURSUANT TO THE STIPULATED SETTLEMENT AGREEMENT.**

City Attorney Chuck Galloway reviewed Agenda Item 11.

**OPENED TO PUBLIC COMMENT**

There were no public comments

**CLOSED TO PUBLIC COMMENT**

Commissioner Howell made a motion to adopt Resolution 2013-05. The motion was seconded by Commissioner Thornhill.

By Roll Call Vote:

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

The motion carried 5-0.

Mayor Carter asked that Agenda Item 12 be moved to the end.

**Agenda Item 13. Reschedule 1<sup>st</sup> Commission Meetings in April for the 2013 Municipal Election**

The full staff memo is incorporated into the minutes.

[Begin agenda memo]\

**SYNOPSIS**

It is necessary for the City Commission to reschedule its first commission meetings in April to allow for the City Canvassing Board to canvass absentee envelopes and precinct returns on April 2 at the Election Headquarters in Bartow.

**RECOMMENDATION**

It is recommended that the City Commission reschedule its first workshop meeting and regular Commission meeting in April from Tuesday, April 2 to Monday, April 1 so the City Canvassing Board may canvass the election on Tuesday, April 2.

**BACKGROUND**



The County Elections Office will be mailing and receiving each city's absentee ballots. As part of the City's Administrative Agreement with the Supervisor of Elections, the canvassing board will meet in Bartow on April 2 at Election Headquarters, 250 South Broadway Avenue, to begin the canvass of the absentee ballots and precinct returns. The Canvassing Board will remain until unofficial results are documented. The meeting time has not yet been scheduled.

This will require rescheduling the April 2 Commission meetings.

**OPTIONS**

None

**FISCAL IMPACT**

None

[End agenda memo]

Commissioner Howell made a motion to reschedule the first City Commission meetings in April from Tuesday, April 2<sup>nd</sup> to Wednesday, April 3<sup>rd</sup>. The motion was seconded by Commissioner Thornhill.

By Voice Vote:

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

The motion carried 5-0.

**Agenda Item 14. Appointments to Canvassing Board**

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

**SYNOPSIS**

The Commission is asked to appoint an additional member to serve on the Canvassing Board and to appointment the City Clerk to represent the Canvassing Board at the Logic and Accuracy (L&A) testing if necessary.

**RECOMMENDATION**

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

1. Appoint at least one additional member to serve on the Canvassing Board for 2013, to be called to serve if needed. This appointment could be the City Manager, City Attorney or resident/residents.
2. 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 his or her absence. In either case, the City Clerk is required by the Supervisor of Elections to attend.

The deadline for providing the Supervisor of Elections office a list of who will be serving on the Canvassing Board for 2013 is February 22<sup>nd</sup> and therefore Commissioners need to have possible new members in mind when they attend the February 19<sup>th</sup> City Commission Meeting.

## BACKGROUND

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. On February 5, 2013, the City Commission amended this section by adopting Ordinance 2013-01 to allow the appointment of additional members to serve if necessary.

In accordance with charter amendments approved by voters in April 2011, five commissioners will be elected from four geographical districts. This combined Seat 2 & Seat 3 making it Seat 3. Seat 1 became an at large seat for the commissioner serving as mayor. This change created at least three possible vacancies on the Canvassing Board for 2013 and therefore, it might be necessary to appoint up to three new temporary members to serve on the Canvassing Board for this election year, to be called if needed.

In accordance with a charter amendment approved by voters in April 2012, Commission members shall serve two-year terms beginning with the 2013 election. As a result of this change, three seats will expire in odd years beginning with the 2015 election and because those Commissioners with an expiring term might wish to campaign on Election Day, it may be necessary to appointment additional members at that time.

Terms are due to expire as follows:

### CURRENTLY

SEAT	SERVED BY	(2013)	(2014)	(2015)	(2016)	(2017)	(2018)	(2019)	(2020)
Seat 1/At-Large -----			2015	2015	2017	2017	2019	2019	2021
Seat 2/District 19	Thornhill	2013	2015	2015	2017	2017	2019	2019	2021
Seat 3/District 122	Carter/Howell (2013)	2014	2014	2016	2016	2018	2018	2020	2020
Seat 4/District 27	Wojcik	2015	2015	2015	2017	2017	2019	2019	2021
Seat 5/District 28	Lutton	2016	2016	2016	2016	2018	2018	2020	2020

*(Two seats expire in even years & three seats expire in odd years)*

Per Florida Statue, Canvassing Board members are required to attend the following meetings and at least a quorum must be present except for the L&A Testing:

### Pre-election Logic & Accuracy (L&A) Testing of tabulating equipment

In accordance with F.S. 101.5612 (1), on Tuesday, March 26, 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 2<sup>nd</sup> 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.

### Election night canvassing of ballots

On April 2, 2013, 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 5:30 p.m. or later. A majority of the members of the Canvassing Board must be present.

### Certification of Election

A Canvassing Board meeting has been scheduled for Thursday, April 4, 2013 at 5:00 p.m. in the Lake Wales Commission Chambers for the purpose of certifying the results of the April 2, 2013 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 2, 2013 Municipal Election. A majority of the members of the Canvassing Board must be present.

#### **Post-election Manual Audit**

The Canvassing Board shall meet at the Election Headquarters on Monday, April 8, 2013 at 1:30 p.m. (no comma) to conduct the Post Election Audit. A majority of the members of the Canvassing Board must be present.

#### **OTHER OPTIONS**

The City Commission could choose not to appoint additional members to serve on the Canvassing Board and take the risk of not having a quorum to serve on the Board for the mandatory statutory meetings.

[End agenda memo]

City Clerk Clara VanBlargan explained that there was no longer a need to appoint additional members to serve on the Canvassing Board for the 2013 election because Commissioner Thornhill is running unopposed, which leaves four commissioners that can serve when only three are required.

#### **Agenda Item 15. Banking Services**

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

#### **SYNOPSIS:**

The City Commission is asked to consider a Contract with CenterState Bank for Bank Services.

#### **STAFF RECOMMENDATION**

It is recommended that the City Commission approve the selection of CenterState Bank for the City's banking services and authorizes the City Manager to execute the necessary agreement and documents. The initial term of this contract will be from October 1, 2013 through September 30, 2014 with an option for extension for two (2) additional (1) one-year terms, provided both parties can annual negotiate mutually acceptable terms.

#### **BACKGROUND**

On July 7, 2009, City Commission selected CenterState Bank for the City's banking services. The initial term of the contract was for one year and three months (July 2009 thru September 2010) with three (3) additional one-year terms, provided both parties could annually negotiate mutually acceptable terms. The City's current contract for banking services is set to expire on September 30, 2013.

A proposal for banking services was initiated August 1, 2012, with a due date of October 16, 2012. The bid documents were posted on the City website.

The City received proposals from two banks (listed in alphabetical order):

1. CenterState Bank
2. TD Bank

Existing banking services included:  
Positive Pay/Control Pay

ACH Fraud Control  
Online Banking Services

Products and Services desired included:

Checking Accounts  
ACH Debits and Credits  
Payroll Access Accounts/Cards  
On-line Banking  
Electronic Check Reconciliation, Payment Verifications

Analysis was completed on the fee schedules provided, interest rate offered and services provided. The following items were considered:

**CenterState Bank:**

Estimated annual fees \$5,646 and estimated annual interest income \$20,000 (Interest rate offered for first term is 0.25%).

**TD Bank:**

Estimated annual fees \$10,028 and estimated annual interest income \$13,500 (Option I terms; 1) the first one million does not earn any interest, 2) excess balance (after the first one million) up to \$1 million will earn a managed rate of 0.15% and excess balances (after the first one million) over \$1 million (balances over two million) will earn a managed rate of 0.20%). For a three year contract, TD Bank offered to waive the first three months of Service Charges, estimated cost of \$2,489.55 (\$829.85 x 3 months).

The proposals were reviewed by the Finance Director on the following criteria:

- Special Requirements (Statutory and Location)
- Costs/Gains (Up-front costs, recurring costs, interest income)
- Qualifications and Experience
- Asset Safety
- Reuse of Existing Investment
- Stability

**FISCAL IMPACT**

Estimated annual bank service fees are \$5,646.

[End agenda memo]

Finance Director Dorothy Ecklund reviewed Agenda Item 15.

Commissioner Lutton asked if changing banks to get a better deal is a nightmare. Ms. Ecklund explained that the City has several bank accounts. If staff had found a bank that offered better terms and interest rates she would have recommended the change but CenterState offered the best interest rate and also the lowest fees.

Commissioner Howell, in reference to the City's previous problem with fraudulent removal of City funds, said they needed to make sure the City funds are secure. Ms. Ecklund said the two forensic auditors; the FBI, plus the city's internal auditor agreed that it was not an internal control issue or the fault of the bank. She said it was a much bigger organization that committed the fraud and as far as she knows the FBI took over the case and she has not heard anymore about it.

Mayor Carter asked Ms. Ecklund if she was okay with the service she has been getting from CenterState and she said she was.

**PUBLIC COMMENT**

There were no comments from the public.

Commissioner Thornhill made a motion to approve the banking services from CenterState Bank. The motion was seconded by Commissioner Howell.

By Voice Vote:

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

The motion carried 4-0.

**Agenda Item 16. Preliminary Financial Statements for January 31, 2013**

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

**SYNOPSIS**

The preliminary financial statements report revenues received and expenditures made through the end of January 31, 2013.

The unaudited financial statements for the City of Lake Wales for the Period Ending January 31, 2013 are presented to the City Commission for review. At the end of January 31, 2013 the City was 33% into the fiscal year.

**General Fund (001), page 1:**

The General Fund appears to be materially on target with revenue and expenditure expectations.

**Transportation Fund (102), page 7:**

The Transportation Fund appears to be materially on target with revenue and expenditure expectations.

Beginning cash expectations had a slight deficit of \$9,861. During the second budget amendment, expected in March of 2013, a reduction in appropriations of \$10,000 will be proposed by staff to cover the expected short-fall in the transportation fund. Teresa Allan, the Public Services Administrator, has recommended the following budgetary adjustments:

	<u>Current Budget</u>	<u>Proposed Adjustment</u>	<u>Proposed Budget</u>
102-541-100-346-320 M&R – Traffic Controls	39,000	(2,500)	36,500
102-541-100-346-330 M&R – Street Lights	15,000	(2,500)	12,500
102-541-100-353-100 M&R - Road Repairs*	19,500	(5,000)	14,500

The account "M&R – Road Repairs" is NOT used for major road repairs but for fixing pot-holes as needed. Ms. Allen currently feels there are sufficient appropriations for the necessary pot-hole repairs needed at the proposed budgetary level of \$14,500

**CRA Fund (105), page 10:**

The CRA fund appears to be materially on target with revenue and expenditure expectations.

Revenue collections are lower than prior year collections. This is due to the reduction in ad valorem taxes associated with the CRA. Expenditures, excluding transfers, are slightly higher compared to the prior year at this time.

The Finance Department has concerns relating to the CRA's funding ability during FY 2013'14 if capital expenditures scheduled during FY 2013'13 are completed.

The Finance Department also has concerns over the CRA's funding ability during FY 2014'15 and 2015'16, even if capital expenditures scheduled during FY 2013'13 are not completed.

**Library Fund (110), page 17:**

The Library Fund appears to be materially on target with revenue and expenditure expectations.

**Utility System Fund (403), page 27:**

The Utility System Fund appears to be materially on target with revenue and expenditure expectations.

**Airport Authority (404), page 29:**

The Airport Authority appears to be materially on target with revenue and expenditure expectations

[End agenda memo]

Finance Director Dorothy Ecklund reviewed Agenda Item 16.

**CITY COMMISSION TRACKING REPORT**

There were no updates to the tracking report.

**Agenda Item 12. Memorandum of Understanding between the Lake Wales Chamber of Commerce and the Lake Wales City Commission –Formation of an Economic Development Council. (EDC)**

The full staff memo is incorporated into the minutes.

Commissioner Wojcik said to the Mayor that she needed to recuse herself. The Mayor said okay and Commissioner Wojcik left the room.

[Begin agenda memo]

**SYNOPSIS**

The LW Chamber of Commerce asked to make a presentation in order to consider a proposal whereby the Chamber and the City will join forces to establish an Economic Development Council (EDC) to promote Economic Development throughout the City of Lake Wales. The Chamber is also including a Job Description for an Executive Director/Economic Development Professional.

**RECOMMENDATION**

Now that the workshop has concluded, the Commission will consider adoption of the proposal.

**OTHER OPTIONS**

Do not approve the proposal as is or continue to study and have further discussion.

**FISCAL IMPACT**

If this proposal is adopted, the new Executive Director called for in the agreement, will most likely come aboard by June, 2013. This will be  $\frac{3}{4}$  into the City's fiscal year. We will need to insert a prorated amount until September 30, 2013.

The City will have to contribute \$100,000 from the General Fund. At the present time, the Economic Development budget is \$129,409 which includes salaries for the Director and other operating costs. \$51,109 is absorbed by the CRA. Since CRA monies cannot be used for this joint venture, the entire \$100,000 will need to come from the General Fund. In addition, the Economic Development position with the City will need to be eliminated in order to make up this expense. Other duties assigned to the present Director will have to be assigned to other staff members if possible.

[End agenda memo]

**The following citizens and Chamber Board members commented in favor of the proposed plan:** Steve Sorensen, 1145 N. Lake Shore Blvd.; Ellis Hunt Jr.; Kevin Respress, 41 Seminole Avenue; Barbara Conner, 116 S. Lake Shore Blvd.; Brian Marbutt, 1078 Country Lake Circle; David Price, 813 Campbell Ave.; Dave Conner, 116 S Lake Shore Blvd.

**The following citizens commented in opposition to the proposed plan:** Ed Bowling, Circle drive; David Smith, NAACP; Ann Fuller, resident; John Paul Rogers; Murray Zacharia at 4004 Dunmore Drive; Linda Kimbrough, 307 Florida Ave.

**Discussion Topics, questions and comments made by citizens are as Follows:**

• **Topic 1: Board Members**

**Comments and Questions In Opposition to the Plan:**

- Commissioner Thornhill had alluded to a business that did not want to come into the City during the workshop preceding the Commission meeting and a citizen said it was Florida Natural. He said Florida Natural has been sitting on Lake Wales' border for many years and because they don't want to be inside the city, an enclave has been made around them. How can the Chamber say they will get businesses into the City if people associated with Florida Natural, which fights to stay out of the city, are on their Board of Trustees or Board of Directors?

**Rebuttal in Favor of the Plan:** It doesn't matter if the business volunteers live inside or outside the city limits; they all consider Lake Wales their city. Florida Nature is made up of many grove owners, many who do not live or have a business in Lake Wales. There is no way to know if those that live in or near Lake Wales voted not to be in the City.

- Will there be black representation on the EDC Board?

That can't be guaranteed but both the Mayor and City Manager will be on the Board so it will depend on who is assigned those positions. Hopefully minority business leaders will be interested in economic development and want to be on the Board.

• **Topic 2: Business Leaders and Chamber of Commerce Expertise**

**Comments and Questions In Favor of the Plan:**

- It has been difficult for the business community to work with the City because of the way it is constructed. The Plan provides a way for the City and business people to work together for the good of the community.
- The Economic Development Director does not always return phone calls or answer emails. The City Manager said if she had known that Mr. Gallup was not returning calls

etc she certainly would have done something about it. She said if it happened again with any city employee to let her know.

**Rebuttal in opposition to the Plan:**

Hardly any of the business people in the audience claiming to want to work together with the City ever come to a City Commission meeting unless it has something to do with them personally. How many have come to the City to talk to Mr. Gallup about their ideas? How many who now say they are willing to talk to businesses about coming into Lake Wales did it before now? City employees are approachable. No one told them they couldn't talk to businesses and the City does not have a "Do Not Enter" sign at the front door.

- The business community should have the opportunity to use their expertise to tackle the problems. The successful business people of the community want to contribute and give their input because they want to help their community.
- It's time to put the trust in the business leaders of Lake Wales.

• **Topic 3: Chamber History**

**Comments In Opposition to the Plan:**

- The Main Street Program was taken over by the Chamber and was a dismal failure with thousands of dollars wasted.

**Rebuttal in Favor of the Plan:** The Chamber has operated in the black for the last three or four months.

- The Chamber should worry more about keeping the businesses we have operating than getting new businesses.
- If the Chamber worked with the City, more could be accomplished.

• **Topic 4.: Employees:**

**Comments In Favor of the Plan:**

- The Chamber Board found out their Director will be retiring in May. They decided if they were going to have to do something anyway, it was an opportunity to combine with the City to utilize the talents of Chamber businesses.
- The Chamber will require the newly hired economic director to live in Lake Wales or at least in the County so that the director can build relationships by knowing the businesses and non-profit players here as well as the knowing the town itself, because that is how you get a big business to move to Lake Wales.

**Comments in Opposition to the Plan:**

- Employees haven't gotten a raise in years, don't have the equipment needed to do their jobs, and now they have a private organization snapping their fingers to dismiss a long-term employee.

**Rebuttal in Favor of the Plan:** Nothing in the proposal asks that the City Economic Director Harold Gallup be terminated. That is a decision the City Manager has to make. But if the present Economic Director is the best man for the job he could apply for that position.



**Rebuttal in Opposition to the Plan:** If the money spent right now for an Economic Director's salary is given to the Chamber it is the same as firing him. It may be up to the City Manager, but she would have no other option because there would no longer be money to pay him.

- Employee morale is already not good. Employees know that if this can be done to one employee, it can be done to them as well, which will not improve the morale.
  - If in six months the City decides the Partnership is not working and pulls the plug, the City will have to go through the process of hiring another Economic Development Director.
  - There is a negative message being sent to the other employees
- **Topic 5: Funding**

**Comments made in Favor of the Plan:**

- Neither the City nor the Chamber has the funds to tackle the problem alone but if they pool their resources, they do.
- The City presently spends about \$129,000 and the Chamber is only asking for \$100,000. They are not asking for extra money, but less than what the City is already spending on economic development.
- The funding received from the City will go in a separate fund to be used only for economic development and not for Chamber business.

**Comments made in Opposition to the Plan:**

- The Chamber wants \$100,000 this year but there is nothing in the Plan that says they won't want more then that next year.
- The source of the \$100,000 is muddled and not clearly identified.
- Even pooling our money, we will not have the money to entice businesses by rolling out the red carpet and wining and dining them to get new businesses.

**Rebuttal in Favor of the Plan:** If a good candidate comes along the business community would wine and dine them at their own expense.

- **CRA Funds:**

- The proposed plan won't save the City money.
- Most of the CRA money goes toward the debt service, and to pay operating expenses in city departments for economic development related costs such as salaries, benefits and interdepartmental allocations. There will be nothing left for redevelopment unless there are major reallocations of charges.

- **Topic 6: Marketing our Assets**

**Comments made in Favor of the Plan:**

The City has tremendous assets such as the Charter School system which is a model for the whole country; the Arts Council, the Care Center which is a state of the art social service agency that is a model for the world; Polk State College; Bok Tower Gardens; a beautiful lake with a bike path all around; and a great downtown, but we don't show it off very well. We need to tell people but it is not happening.

- **Topic 7: The Present System:**

**Comments made in Favor of the Plan:**

- What is being done now is not working.
- The economy is terrible. The car dealerships say that 70% of their sales come from the county because city residents can't afford to buy a car.
- We need jobs.
- It's time to try something different by using the businesses' talents to move forward.

**Comments made in Opposition to the Plan:**

- The present system has worked and the City is already moving in the right direction. The present director is doing his job. Just along US 27 there are two new chain hotels, the ABC store, Walgreens, and Kohls.

**Rebuttal in Favor of the Plan:**

There is no way of judging whether these businesses came to Lake Wales because of economic development efforts or if they would have come anyway because of Lego Land.

- The Chamber needs to come up with a way they can do economic development in a **better** way than it is already being done.
- Harold Gallup has done an extraordinary job getting jobs to Lake Wales and working with government officials. He is sincere and honest.
- If the City and Chamber work together in the present system a lot could be accomplished.

• **Topic 8.: The Proposed Plan**

**Comments made in Favor of the Plan:**

- The Chamber came up with their proposal by taking the best parts of partnerships in existence like that of Ocala. They did their research and talked to other EDC's to decide on the best practices for Lake Wales.
- Winter Haven, Lakeland, and Haines City have already done it.
- Give the Chamber two years and if the City is not happy, well at least they tried.
- The Plan is a positive, creative idea and will move the City in the right direction.
- You have to spend money to make money
- If some of the points in the Memorandum of Understanding are not to the City's liking, they can be adjusted; they are not set in stone.

**Comments made in Opposition to the Plan:**

- The proposed plan is a monopoly and siege, not a partnership.
- The provision in Article 8 says the City recognized the Chamber as the **ONLY** not for profit corporation that represents the economic interests of the City, thereby giving them a monopoly.
- One of the job descriptions for the new Executive Director is to improve the gateways of the City. In the Plan it state's that the Chamber will take the lead, thereby giving the Chamber the authority over the city's infrastructure, yet the taxpayers have to pay for it.

- The Memorandum of Understanding says that the Chamber will conduct all economic activities for the City. That goes against Charter Amendment 3.06 g. which states that the Mayor is to take the leadership role in economic development. Before the Plan can take effect, the Charter would have to be amended.
- The proposed plan does not afford city staff and the City Commission an opportunity to perform due diligence.
- Those opposed to the Plan are not against working with the Chamber or the business community but it shouldn't cost the taxpayers.
- The Commission needs time to read and digest the plan before making a decision. They shouldn't be rushed. They should not have to make a decision right after a workshop where they hear it for the first time. It is not fair to Mr. Gallup or to the other city employees.
- **Topic 9: Negative Reputation:**
  - We need to collectively work together to change the City's image of being unfriendly to businesses.
  - It is more of a perception problem than image problem.
- **Topic 10: Reports:**

**Comments made in Favor of the Plan:**

  - Quarterly reports will include contacts, how many people were called, how many responded, how many follow-ups, who actually visited the City and their comments, pro and con.
  - The Chamber and EDC will work with Permitting and the Planning and Zoning departments of the City to identify obstacles and walk potential businesses through the process to let them know we are open for business and are serious.
- **Topic 11: Sunshine Law:**

**Comments made in Opposition to the Plan:**

  - Secret Meetings are where policies are made and it goes against the Sunshine Law.

**Rebuttal in Favor of the Plan:**

EDC meetings are also not open to the public and yet they take public funds. Their meeting won't be open to the public because they are committee meetings, and not because they are trying to hide anything.

  - They will be exempt from the Public Records Law and therefore citizens that contributed \$100,000 of tax money to pay for the partnership can't find out what the money is being spent on.

## **COMMISSION COMMENTS**

### **Commissioner Lutton's comments and questions:**

- **Topic 1: CRA Funds:**

Commissioner Lutton asked if it was correct that CRA funds cannot be used at the Chamber of Commerce. City Attorney Chuck Galloway answered that there is nothing in the CRA Plan as it

now exists that allows funds to be used in that fashion. To do so, the CRA Board would have to amend the CRA Plan, which it has the power to do.

Mr. Marbutt said that right now some of the CRA money is being used to pay for the Economic Development Director's salary and he saw no reason why that should change because the CRA money is for economic development. In his opinion, it shouldn't matter if it is used to pay for a city Economic Development Director's salary or for the EDC Director.

City Manager Terry Leary said there is no provision in the agreement as presented that talks about CRA projects, though that could be inserted. We would probably have to do some kind of contract or agreement to even be able to try to use the CRA money. Mr. Galloway said, using that scenario, the CRA would be relinquishing control, and he was not sure they would want to do that. If money was reprogrammed from the CRA to fund the new position, plus whatever else the plan provides for, the CRA Board would be relinquishing control of those dollars.

Commissioner Lutton asked if the \$53,000 that is charged back to the CRA is part of that \$129,000 under the Economic Development division or in addition to it. Finance Director Dorothy Ecklund said the General Fund pays \$81,000 and \$51,000 is charged to the CRA, therefore reducing what the General Fund has to pay. Commissioner Lutton said he sees a money-trail problem that needs to be fixed before even considering approving the Plan because there will be no leftover money.

- **Topic 2: The Economic Development Plan (EDP):**

- Commissioner Lutton said he has not seen any improvement on the Economic Development Plan in the last year-and-a-half since the Chamber created it. The Chamber made a point that they need a lead person to push the Plan, yet in the Plan there were some things city staff had to do, some things the Chamber had to do, and some things committees had to do.

Brian Marbutt said that the Chamber has accomplished about as much as it can do. He said it was like a partnership with only one partner. If they have one person over economic development and the Chamber those goals can be accomplished because one person is responsible for both.

Kevin Respress said the Economic Development Plan was a result of an Economic Development Partnership, which was the first step in building a relationship between the City, the business community and the Chamber. The Partnership was and is a good group, and though incomplete, is what got so many business people in the room on a Tuesday night. The EDP is just a starting point and just needs leadership to be able to move forward. It is a step in the right direction and though we made mistakes and may not do it all right, we have to do something because we are struggling as a community.

- Commissioner Lutton said, without placing blame, the Chamber, city staff and City Commission did not keep the Plan alive. To keep it alive it will take work and there needs to be consistent meetings and updates during City Commission meetings. It's like the participants were stuck in bubbles of their own and didn't get around to talking to each other much. Mr. Respress agreed and said the key is measurement, because without it changes won't come. We need a specific target with key performance indicators, and monthly or quarterly measurement. The lack is due to lack of ownership and someone in charge.
- Commissioner Lutton asked if there had been communication between the City, Main Street and the Chamber. Mr. Respress said there was communication during the

meetings, but outside of the meetings there was only communication between the Chamber and Main Street.

- **Topic 3: Marketing:**

- Commissioner Lutton asked how Economic Development Council (EDC) marketing efforts would be different than what is done now with the City and Chamber. Mr. Marbutt said right now the Chamber is mainly about retention. They aren't marketing economic development growth because they are strapped financially from using budgeted dollars, but with the combined dollars, plus money from business partners who will pay to have the privilege of being on the EDC, they will have the funds to call on businesses and market Lake Wales.
- Commissioner Lutton said Lake Wales has been passed by for the last twenty years, unlike towns like Haines City and Frostproof but they spent a lot of money on infrastructure. Mr. Marbutt said the City has infrastructure that should be a draw and listed the Longleaf Business Park, the Charter School System, and the Universities as examples but said the City doesn't have the funding right now to bring in the big businesses.

- **Topic 4: Our Image:**

- Commissioner Lutton said despite all that the City has to offer, Lake Wales seems to have a disconnect or image problem, and he asked if the Chamber had any idea why there was that misconception.

Mr. Marbutt said the City has had that bad image as long as he has been here and though everyone is trying to change it, it won't happen overnight because we can never get an exact complaint from the one dissatisfied.

- Commissioner Lutton said it seemed to be an old reputation because the City is doing all it can to speed up things like the time it takes to get building permits. He said the gateways into the City are problems, and one that has been on the economic development plan. But it is going to cost a fortune to fix.

City Manager Terry Leary said she has pushed staff to do some beautification things they hadn't done before and has tried to upgrade our image. The Planning and Building Departments do everything they can to accommodate people and she gave Heartland Development as an example. She said during the past Strategic Planning Session a lot of these economic development issues were included. She said we have a very good City and a very good staff and if communication is a problem, we need to work on it. She said her job is to do all she can to make Lake Wales a better place, and she does.

- Commissioner Lutton said when he first moved to Lake Wales he got the impression they didn't want to grow. But now we know we have to grow or we will wither away. He said Lake Wales is the wrong size town. We are too big to be called a small town and too small to be a medium size town.

Mr. Marbutt said it will take the Chamber, the City and business community to change our image into a positive one.

**Mayor Carter's comments and questions:**

- **Topic 1: The Proposed Plan:**

- Mayor Carter asked City Manager Terry Leary what she thought of the proposal.

Ms. Leary said she thought it had some flaws. She said right now there is not a tremendous amount happening with the CRA but she said she couldn't imagine one person, no matter who they hire, able to do it all. The City is going to have to be involved. She did see the Plan as an opportunity to join forces and communicate better.

Mr. Marbutt said in the Plan the City would have the Chamber and twenty plus volunteer business leaders to help.

- Mayor Carter said the Economic Development effort hasn't worked in some time and we need to make a change. This partnership gives us the foundation to put the strategies in place to put Lake Wales on the economic map.
- **Topic 2: EDC Board:**
  - Mayor Carter asked if hiring a director would be the first priority of the EDC Board if the Plan is approved.

Mr. Marbutt said it would because the Chamber has to hire someone by June when the present executive director leaves, which is the reason they are pressed for time.

- Mayor Carter asked if the EDC Board would be the hiring committee. Mr. Marbutt said the Board will be made up initially of seven members (the five current members that pay the Chamber \$5,000 a year, plus a City Commissioner and the City Manager). That seven member board plus the Chamber board will join efforts 50/50 to find a director.

#### **Commissioner Thornhill's comments and questions:**

- **Topic 1: Economic Director:**
  - Commissioner Thornhill said the Commission had some of the blame to bear because it has not set a clear policy with the City Manager on what economic development the Commission expects. Therefore, she has not been able to pass it on to the Economic Development Director.
  - Commissioner Howell and Mayor Carter are always talking about wanting to do things "in house", such as our engineering and now they want to take something out of house and out of Commission control and direction.
  - Commissioner Thornhill said he is all for Lake Wales' businesses. If the business community wants to help, nothing is stopping them. He said he wants their expertise. If employees are not returning calls, he said to call him. He said he should have been told about that. But Mr. Gallup has a stellar record, he received the highest ratings on his evaluations, and every time he came to Mr. Gallup with a possible business opportunity Mr. Gallup took it, looked into it and got back to him with the information. If Mr. Gallup had bad evaluations or wasn't doing his job, he would expect the City Manager to fire him. It makes no sense to terminate an employee willing to give up money to help the City and give the job to someone else.
- **Topic 2: Marketing:** Commissioner Thornhill said he was in favor of working on that.
- **Topic 3: Negative Image:** Commissioner Thornhill said no one can give him an example of something they are doing wrong so they can fix it. Whenever he asks someone about a negative comment he hears, it turns out to be hearsay.
- **Topic 4: Funding:** Commissioner Thornhill said the City has money issues with things like pensions, and our budget will be less next year. He can't see getting rid of an employee and give

that money as well as money that could be used for other things, to someone else especially when staff has given up so much out of their own pockets.

- **Topic: The Proposed Plan:** Commissioner Thornhill said he is 100% for working together but he did not think the current proposed Plan was right for the City. It was pushed on them, and though it may have been great timing for the Chamber with them losing their Director in June, it isn't for the City. He asked that the City Commission work together to come up with a plan, with the Chamber's help. If we need a leader that we expect something from, then the Commission needs to set that up and get it done.

## **CONSENSUS**

Commissioner Lutton said he was taken aback that the workshop and the agenda item up for a decision would be on the same night because he thought making decisions so quickly was not a good practice. He said he needed time to find out exactly where the \$100,000 would come from and if part can come from CRA funds because we have already tapped the reserves three times this fiscal year and there is none left to tap. He recommended putting it on the agenda for the next meeting for a vote.

Commissioner Howell said she wanted to go ahead and vote. She said she thinks it is something positive that Lake Wales needs and can make Lake Wales better. If the plan isn't exactly what the Commission wants they can tweak it at the next meeting, but no later than that. On the other hand, if there are only one or two things that need tweaking, they should not wait.

Mayor Carter said he had a few things that needed to be changed but it wouldn't change the substance so he was ready to vote.

Commissioner Thornhill said he was ready to vote.

Commissioner Lutton said there still was the matter of the money and whether or not they can use CRA funds.

City Attorney Chuck Galloway said there would have to be an amendment to the CRA Plan to accomplish that. They might be able to decide if funds can be used within the two week timeframe but they do not have the availability of the funds at present.

Mayor Carter asked if it would be legal to vote for the Plan in principle and if so, he asked how their concerns would get addressed. Mr. Galloway said they could agree in principle if they wish and ask staff to pursue a way to accomplish it, but whether or not that can happen within a two-week timeframe he couldn't guess.

The following changes to the plan and issues to be addressed were listed and they were asked to email others they may have to the City Manager:

- Find out whether or not CRA Funds can be used.
- If CRA funds can't be used, find where the CRA part of the \$100,000 would come from.
- Under the revised Charter it would be the Mayor and not a Commissioner that served as liaison on the EDC Board so that needs to be changed.
- Change the word "only" in Article 8 where it says that the City recognizes the Chamber as the "only" non-for-profit provider, to "primary" non-for-profit provider.
- Change in Article 1 where it says "coordinating with the staff of the City", to the City Manager.
- The Chamber is asking for an initial two years and that needs to be in the document.

Their options were as follows:

- They could vote on the proposal as it was put before them and if approved it means they approve the language that is there. If it has at least a tie vote it will have to come back anyway.
- Table it tonight with provisions to come forward.

- Vote in principal now and then vote for the changed document at the next meeting.

Commissioner Howell made a motion to approve the Chamber's Memorandum of Understanding. The motion was seconded by Mayor Carter to include the mentioned changes.

Mr. Galloway said that with the number of changes that need to be made, it would be prudent to get the changes made and bring the item back. His concerns for bringing it forward so quickly were as follows:

- He said the Memorandum of Understanding needed to rise to the level of a contract.
- Whether the six month provision means that either side can back out after six months, or it means that either side can back out with a six month notice, needs to be clarified. But in his opinion, he said it isn't a contract if it includes that provision. Anyone looking to fill that position would not want the job if there is a possibility of losing the job in six months.
- If a contractual relationship is going to be entered into, it will have to be an enforceable agreement.

Mr. Galloway recommended tabling it with the expectation that all the recommendations from the Commission and from the Chamber will come together. It will take time and energy but if it is necessary, it is necessary, if that is what the Commission's desire. If tabled, the Commission would need to provide the City Manager tomorrow with concerns they have so she can get moving on it.

Commissioner Howell withdrew her motion.

Commissioner Howell made a motion to table the Memorandum of Understanding so some tweaking can be done and they can move forward. The motion was seconded by Mayor Carter.

By Voice Vote:

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

The motion carried 3-1.

#### COMMUNICATIONS AND PETITIONS

There were no comments from the public.

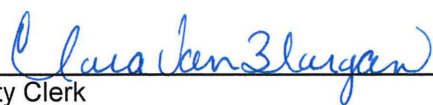
#### CITY COMMISSION COMMENTS

City Attorney Chuck Galloway announced that there will be a shade meeting at the close of the next City Commission meeting on March 5<sup>th</sup> concerning the Lake Belle litigation.

The meeting was adjourned at 8:28 p.m.

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

ATTEST:

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



2/19/2013 Regular meeting

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

NAME—FIRST NAME—MIDDLE NAME <i>Wojcik Betty</i>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>City Commission - Lake Wales, FL</i>	
MAILING ADDRESS <i>4005 Dunmore Drive</i>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY <i>Lake Wales</i>	COUNTY <i>Polk</i>	<input checked="" type="checkbox"/> CITY	<input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
DATE ON WHICH VOTE OCCURRED <i>2/19/2013</i>		NAME OF POLITICAL SUBDIVISION: <i>City of Lake Wales</i>	
		MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE	

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

Person holding elective or appointive county, municipal, or other local public office MUST ABSTAIN from voting on a measure which is to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

\* \* \* \* \*

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

**APPOINTED OFFICERS (continued)**

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, Betty Wojcik, hereby disclose that on 2/19, 20 13:

(a) A measure came or will come before my agency which (check one)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, \_\_\_\_\_;
- inured to the special gain or loss of my relative, \_\_\_\_\_;
- inured to the special gain or loss of Lake Wales Area Chamber of Commerce, by whom I am retained; or
- inured to the special gain or loss of \_\_\_\_\_, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

2/19/13  
Date Filed

Betty Wojcik  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR CIVIL PENALTY NOT TO EXCEED \$10,000.