

The regular meeting of the Lake Wales City Commission was held on March 5, 2013 at 6:17 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: 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. Tom Phillips, Executive Director of Citrus Connection & Polk Transit, to give presentation on the state of public transit for Polk County

The presentation was cancelled and will be rescheduled for the next City Commission meeting on March 19, 2013.

CONSENT AGENDA

Mayor Carter pulled Agenda Items 8 and 9 for further discussion and separate vote.

Agenda Item 6. Approval of Minutes:
February 5, 2013, Workshop Meeting
February 19, 2013, Workshop Meeting
February 19, 2013, Regular Meeting

Agenda Item 7. Appointment of Election Officials

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

It is necessary that the City Commission appoint inspectors and a clerk of election to keep the polling places open from 7:00 a.m. to 7:00 p.m. for the City Election to be held on Tuesday, April 2, 2013.

RECOMMENDATION

It is recommended that the City Commission appoint the persons listed to serve as election workers for the City Election to be held on April 2, 2013.

BACKGROUND

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

It is necessary that the City Commission appoint inspectors and a clerk of election to keep the polling places open from 7:00 a.m. to 7:00 p.m. for the City Election to be held on Tuesday, April 2, 2013.

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

Patricia "Tish" Pike, Precinct Clerk
Susan Giacherio, Voter Information Specialist
Robert Lansford, Voting Equipment Operator
Gary Wiesing, Deputy
Doris Powell, Book Inspector
Michael Cavender, Book Inspector
Gabiella Sabrer, Book Inspector
Rebecca Towns, Alternate
William Rapp, Alternate

OTHER OPTIONS

None. These persons will receive all the necessary training for the April 2nd Municipal Election.

FISCAL IMPACT

The money has been budgeted to pay the cost of election workers for the April 2nd Municipal Election.

Agenda Item 10. Escheated Property to be Conveyed to the City of Lake Wales

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

This is a request for approval of the City Commission to accept an offered conveyance from Polk County of a small parcel of real property in which City utilities are located. Polk County makes the offer in accordance with statutory authority.

RECOMMENDATION

That the City Commission approve the acceptance of a conveyance of a parcel of real property in the City from Polk County

BACKGROUND

There is a small parcel of land within the City which escheated to Polk County for non-payment of *ad valorem* taxes. The parcel is described and depicted in documents and photos attached to this memorandum. Some City utility infrastructure lies within the parcel. The County is required to offer escheated property for which it has no use to the City in accordance with §197.592, Florida Statutes. I have discussed this offer with Tom Moran and he affirms that the City should accept the conveyance.

FISCAL IMPACT

None. The County will pay for recording the Deed.

ALTERNATIVES

None. If the property is sold by Tax Deed, such a conveyance might possibly create a problem as to the utility infrastructure lying within the parcel.

[End agenda memo]

Commissioner Howell made a motion to approve Consent Agenda Items 6, 7 and 10. 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.

Agenda Item 8. 4th of July Fireworks

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

This is an acceptance of a bid for 4th of July Fireworks for \$15,000.

RECOMMENDATION

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

BACKGROUND

The City of Lake Wales budgeted in the 12-13 Fiscal year budget \$15,000 for fireworks on the 4th of July. East Coast Pyrotechnics, Inc has done our event the past few years and has done a good job. The show will be approximately 20 minutes. Two other companies also submitted bids. East Coast Pyrotechnics is recommended by staff as they have performed an excellent job in the past and because they provide a greater variety of fireworks of different sizes including a lot more of large ones as opposed to a high number of smaller fireworks.

OTHER OPTIONS

Accept the proposal from one of the other companies

Do not accept the proposal.

FISCAL IMPACT

Cost of the fireworks is \$15,000

[End agenda memo]

Special Projects Manager Jennifer Nanek reviewed Agenda Item 8.

Mayor Carter said that last year the 4th of July event was held at both the Eagle Ridge Mall and Lake Wailes Park. The Commission discussion afterwards had supported doing that again this year, yet the contract says it will only be at the lake. Ms. Nanek said the contract is with the same company as last year and this agenda item just sets the contract for their purposes, and encumbers the money for ours. The company is flexible and will split it up between the two locations if we decide to do that. So far, because the Mall is in a transition process, they have shown minimal interest. They want to do something, though not exactly like last year's event, and have no definite plans as of yet. Ms. Nanek said both events turned out very well last year and if the Mall decides to do something, we are ready to do it. If we end up only having the one at the lake there is a possibility that \$5,000 of the funds can be used for other purposes, unless we want to use it to have a bigger display at the lake.

Commissioner Wojcik said if the Mall does decide to participate, she would like further Commission discussion.

Commissioner Lutton said East Coast Pyrotechnics had a very thorough proposal and that we know exactly what we are getting.

Commissioner Howell said she attended both events last year but the crowds did not come until the time for the concert that night, probably because it was too hot during the day on the asphalt. She suggested not having it start so early if they have one there again. Ms. Nanek said it was a brand new event last year and a learning curve for both the Mall and the City. She said the starting time is just one thing she would like discussed. Another is that the vendors were strung out further than necessary.

Mayor Carter said that because the firework shows were at different times in the two places, many people attended both events. Ms. Nanek said the Mall wanted the 9:30 firework display slot because they needed time to clear out the music act along with their crew before the firework show began.

Commissioner Lutton made a motion to approve the \$15,000 for the East Coast Pyrotechnics, Inc. 4th of July fireworks proposal. The motion was seconded by Commissioner Howell.

By Roll Call Vote:

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

The motion carried 5-0.

Agenda Item 9. Agreement with Kimley-Horn and Associates for Professional 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 Professional services for the Fire Department Sub-station at 600 Chalet Suzanne Road for the amount of \$24,000.

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 \$24,000.
2. Authorize the City Manager to execute the appropriate documents, on the City's behalf.
3. Approval an interfund loan of \$24,000 from the General Fund – Emergency Sinking Account for fire substation design development, drawings and bid assistance. The interfund loan shall be repayable from north fire impact fees and shall accumulate 3% interest until reimbursement is received.

BACKGROUND

On January 02, 2013 the City Commission approved an agreement with Kimley-Horn and Associates for engineering services for the purpose of constructing a fire department sub-station on Chalet Suzanne Road. The amount of this agreement was \$28,450. The next phase of the project includes design development, drawings (architectural, structural, mechanical, electrical & plumbing), and bid assistance. These items are needed in order for staff to develop a total project cost estimate.

Staff will come back to the City Commission for direction regarding grants and funding once the total cost of the project is available.

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.

FISCAL IMPACT

- As of 09/30/2012, an interfund loan in the amount of \$70,000 had been disbursed relating to the purchase of land located at 600 Chalet Suzanne Road.
- On 01/02/2013, additional funding of \$28,450 was approved for engineering costs. The City currently has \$7,165 in north fire impact fees which can be applied towards these costs. ($\$28,450 - 7,165 = \$21,285$)
- The additional \$24,000, requested above, will bring the total interfund loan balance to \$115,285. The interfund loan borrowing is from the General Fund – Emergency Sinking Account.

[End agenda memo]

Mayor Carter was concerned that the architectural bid was not awarded to a local company. He said Kimley-Horn apparently did not get a satisfactory bid so went outside the city. This created a concern that we were not dealing with local companies.

City Attorney Chuck Galloway informed the Commission that this particular contract was not subject to the CCNA (Consultants Competitive Negotiation Act) and does not apply to this negotiation for these architectural services. The threshold for this contract was \$35,000 and the bid came in at \$24,000.

Fire Chief Jerry Brown said the City negotiated with Kimley-Horn to determine the scope of services the City needed, and what services could be done in-house. Kimley-Horn found out that a firm they previously worked with, and is doing Haines City's fire station, was available. Kimley-Horn asked if the City wanted them to check with that firm for a price, which they did, and the price was \$13,000 less than the local bid. Chief Brown said the firm is highly respected and the City has worked with them before. He said, if

approved, he would come back in two weeks with a contract. They could use the local company if the Commission wanted to pay the extra \$13,275.

Commissioner Wojcik said she had called the local architect that bid on the project to find out his concerns. She was told that he only has liability insurance because, being a small firm, that is all the insurance he needs. He does not have all the insurance the City requires. He had asked if he could piggy-back on the insurance the engineer had, but was told he could not. The extra \$13,000 on his bid was to cover the extra cost for that additional insurance, insurance that he would only need for this one project. Larger architectural firms do more projects and therefore can use the insurance to cover all of them.

Commissioner Wojcik said the Commission always wants to do as much business locally as it can. She suggested that there might be ways they can work more effectively to get the word out to smaller local firms when a project comes up. She said she knows the City posts them online and in the newspaper but the local firms may not have enough staff to search for them and may miss the opportunity, or they may find out too late to be qualified. She said one way would be to email a notification to local businesses that are registered with the City, which would not take that much of an effort, and even if local businesses couldn't participate, we would feel good that local companies were asked. Commissioner Thornhill said it could even be a postcard sent, though email would be faster.

Mayor Carter asked if the Commission would like staff to look into the feasibility of developing some kind of notification system. Support Services Director James Slaton said they certainly can do that but can't do that for everybody for every type of business. They currently have an approved vendor's list on a data base that can be sorted for different types of businesses. Mayor Carter said the first step would be to find out what local businesses are not on the approved list so they can be part of the database. Commissioner Wojcik said the city should have that information on their business license database but apparently those two databases don't speak to each other. Mr. Slaton said he would look into that.

Commissioner Howell said that giving the 2% edge for local businesses was set up five or six years ago and she thought contacting them was something the City should be doing anyway. City Attorney Chuck Galloway confirmed that the city already adopted the 2% preference. Mayor Carter said they get the preference but we need to make sure everyone on the approved vendor list that deals with an upcoming project is notified. Commissioner Wojcik asked if the approved vendor list is only made up of vendors the city previously did business with and Mr. Slaton said the majority of them are, but the city website provides a way for any business to apply online.

Chief Brown said he certainly was a proponent of using local businesses anytime. He took note of the insurance requirement question that the local firm had and asked Human Resources Director Sandra Davis to contact the city's liability insurance company to see if something could be done. The insurance company did not recommend lowering the limits. The cost of those additional insurances for the local firm was \$5,215.00 out of the total \$13,000 over the lowest bid.

Commissioner Lutton said \$5,000 was significant and if the professional liability insurance is valued higher than the product, it would be insane to do it. He understood that the consulting engineer needs that extra insurance because they are a conglomerate of professionals dealing with millions and millions of dollars a year. He asked if Kimley-Horn's level of insurance is the exact level the City requires, or if it is at a higher level. Ms. Davis said it was the same.

Commissioner Thornhill added that they probably have different levels and guidelines for different projects. He said it is understood that the City wants to use local vendors but in this situation it just didn't work out.

Commissioner Lutton asked for confirmation that the local company provided initial sketches before the property was even purchased. Chief Brown said he believed so, and said they have been very helpful for many years.

Commissioner Wojcik asked if we pre-qualify architects. Public Works Director Tom Moran said they don't though they could if the Commission chooses. The city uses some firms only once in maybe three years and putting together a proposal is not only a burden to the architect for time and money, but also for city staff.

Commissioner Lutton said it was just a question and not a direction. Typically, a construction project would have the lead time to go out for bids and proposals. It is different in this case because the substation has just so many days to get off the property.

Commissioner Wojcik said it is a shame we can't use the local company because he has done pro-bono services for a lot of local organizations.

Chief Brown said their goal will be to come back to the Commission with a total project cost after getting a set of drawings and designs.

Commissioner Howell made a motion to approve the agreement with Kimley-Horn and Associates for Professional services for the Fire Department Sub-station at 600 Chalet Suzanne Road for the amount of \$24,000. 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.

OLD BUSINESS

NEW BUSINESS

Agenda Item 11. Appointments – Bicycle/Pedestrian Advisory Commission; Library Board

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

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

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

RECOMMENDATION

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

BACKGROUND

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

Bicycle/Pedestrian Advisory Commission – Members are appointed by the City Commission. The Board consists of seven (7) regular members and three (3) alternate members. At least five (5) regular members and two (2) alternate members must reside within the City limits. Members who are not City residents must reside within the City's utilities service area in a residence served by the City's utilities system, receiving either water or sewer service. (3-year term)

- *There is no interview process requirement for applicants applying for appointment to this board.*
- *Members are not required to file an annual Form 1, Statement of Financial Interests*
Current Vacancies: 2 resident alternates & 1 alternate meeting other requirement

This appointment is for a resident alternate.

2 resident alternates: terms expire 07/01/13

1 alternate meeting other requirements term expires 07/01/15

Applying for re-appointment: None

Applying for appointment: Jaime Rivera, resident

Commissioner Howell made a motion to appoint Jaime Rivera as resident alternate to the Bicycle/Pedestrian Advisory Commission for a term expiring on 7/1/13. 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.

Library Board – Members are appointed by the City Commission. The Board consists of five (5) members. Four members must reside in the City, own property in the City or hold a valid occupational license issued by the City. One member shall be a resident of the unincorporated Greater Lake Wales area having a Lake Wales address or a resident of the City of Lake Wales if the Lake Wales Public Library is a member of the Polk County Cooperative and receives operating funds from Polk County Board of County Commissioners (Ordinance 2008-07; 02/19/08). (5-year term)

- *There is no interview process requirement for applicants applying for appointment to this board.*
- *Members are not required to file an annual Form 1, Statement of Financial Interests*
- *Current Vacancies: 1 - must reside in the city, own property in the City or hold a valid occupational license issued by the city.*

1 regular vacancy: terms expire 07/01/13

Applying for re-appointment: None

Applying for appointment: Cheryl Garnett, owns property in the City

Commissioner Howell made a motion to appoint Cheryl Garnett to serve as a member to the Library Board for a term expiring on 7/1/13. 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.

OTHER INFORMATION

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

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

FISCAL IMPACT

None. These are volunteer citizen boards.

OTHER OPTIONS

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

[End agenda memo]

Agenda Item 12. Logic and Accuracy (L & A) Testing

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

The City Commission will consider appointing the City Clerk to represent the City Commission at the Logic and Accuracy (L&A) Testing for the 2013 Municipal Election.

RECOMMENDATION

It is recommended that the City Commission appoint the City Clerk to represent the Canvassing Board at the Logic and Accuracy (L&A) Testing at the Election Headquarters in Bartow on Tuesday, March 26th if at least one member is unable to attend.

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 revised this section to appoint additional members to serve on that board if necessary. This was not necessary for the 2013 election. Canvassing Board meetings are open to the public and noticed accordingly.

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 2nd 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.

OPTIONS

Although it is mandatory for the City Clerk to be present, a City Commissioner can choose to attend the L&A Testing on March 26th and not appoint the City Clerk to represent the Commission.

FISCAL IMPACT

None

[End agenda memo]

Commissioner Howell made a motion appoint the City Clerk to represent the City Commission at the Logic and Accuracy (L&A) Testing. The motion was seconded by Commissioner Wojcik.

By Roll Call Vote:

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

The motion carried 5-0.

Agenda Item 13. Draft City Manager Evaluation Form

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

The Commission will discuss the Draft Evaluation Form they were provided on February 11, 2013.

RECOMMENDATION

Direct staff to implement the new City Manager Evaluation Template.

BACKGROUND

Following the completion of City Manager Terry Leary's 2012 evaluation utilizing the current "City Manager Performance Evaluation" template, the Commission expressed the desire to have it changed for 2013.

After performing research on other City Manager evaluation templates and taking into consideration comments already made regarding ideal performance measurement criteria, the draft Performance

Evaluation template you received on February 11, 2013 is the result of this effort. The new City Manager Performance Evaluation template is presented for your feedback.

FISCAL IMPACT

None

OTHER OPTIONS

Continue to use the current form.

[End agenda memo]

Human Resource Director Sandra Davis was available to answer questions.

After discussions, the following directions were given to Ms. Davis for changes, which she said she would make. She asked them to email her any changes if not already on the list below.

- The following three items were listed under 'Management of the Organization' and need to be pulled and put under a new category called "Management of Staff"
 1. "Creates a collaborative, team building, environment for staff".
 2. "Recognizes the accomplishments of staff and other agencies working on behalf of the City."
 3. "Supports professional growth and opportunity within the organization."
- Add a category for "Goal Accomplishments"
- Add a category for "General Commentary"

CITY COMMISSION TRACKING REPORT

City Manager Terry Leary said she added two new categories on the tracking report: "Completed Items" as the Commission requested, and "Strategic Plans". She reviewed each item on the Strategic Plan list.

Requests for additions to the Tracking Report:

- **Cemetery Project:** Mayor Carter asked that the Cemetery project be added to the Tracking Report so they can get an update on the status. Commissioner Lutton said he received contact information from one of the funeral home directors for a company that x-rays unmarked gravesites. Public Services Director Teresa Allen said they tried to contact that University but she was told that the director Commissioner Lutton was talking about no longer works in Florida. They are researching for someone else.
- **Digital Sign:** Mayor Carter said the digital informational sign at City Hall has been in the budget for two years and he would like it added to the status report. Commissioner Lutton said that Polk State College had wanted to put up a digital sign and they were told they could not because of our sign ordinance. He said it therefore is not allowed for the City to do so. Commissioner Wojcik said if the city were to put up a digital sign we would be doing something that we don't allow anyone else to do. Mayor Carter said it did not have to be digital, but staff didn't want to have to manually change the letters. He said the project has been bogged down for two years, we have the money to do it, and yet nothing gets done.
- **Kiwanis Parking Lot:** Mayor Carter said he would like the parking lot at Kiwanis Park added to the status report because money was budgeted a year or so ago. Commissioner Lutton said that project is included in the grant to repave the Lake Wailes Bike Path and is listed under Recreation on the first page of the Tracking Report.

CITY COMMISSION COMMENTS

Hard Copies: Mayor Carter said he received a hard copy of a utility report that could very well have been online. He said he thought the City was "going green" by eliminating this type of copying. He asked if there was a legal requirement that this type of report be physically produced. City Attorney Chuck Galloway said he was not aware of such a requirement. Commissioner Lutton requested that this would not apply to the budget process as he needed to have a hard copy.

Extended Voting: Commissioner Howell asked if it would be possible to allow citizens living outside the city limits to vote in city elections. City Attorney Chuck Galloway said that by State Statute you have to reside in the City to vote in a city election, just as you have to reside in the county to vote in county elections. Commissioner Lutton said they want their representation WITH their taxation.

The Commission consensus was for staff to look into ways they can reduce copying cost.

Commission Reports: Commissioner Thornhill said he represents the Commission on the Ridge League as well as the TPO and asked if in the new Charter those responsibilities would be delegated to the Mayor. City Attorney Chuck Galloway said he felt confident that whoever serves as Mayor may want to assign some of those types of responsibilities to others. Commissioner Thornhill said that whoever takes on those responsibilities needs to be more communicative by providing information to the Commission that will keep them updated as to what is going on. Commissioner Wojcik suggested having a section on the Agenda titled, "Commission Reports".

Commissioner Lutton had an item to discuss but said he would add it as an agenda item at the next meeting to save time, as a Shade Meeting was scheduled to follow the City Commission meeting.

COMMUNICATIONS AND PETITIONS

Deputy Chief Troy Schulze reported that the canine teams have been certified, will graduate next week with the hours required by FDLE and by next weekend four dogs will be out on the streets.


The City Commission recessed for the litigation strategy meeting under Section 286.011 (of the Florida Statute). It did not meet in the Sunshine because it was a special exception. Those present were the members of the City Commission, the City Attorney, City Manager, and Mr. Bruce Stanley who is the Attorney supplied by the City's insurance company for defense of the Lake Belle litigation.

The City Commission meeting recessed at 7:04 p.m., and following the litigation strategy meeting, the Mayor reopened the City Commission meeting at 8:01 p.m. and adjourned.



Mayor/Commissioner

ATTEST:



City Clerk