

A meeting of the Lake Wales City Commission was held on May 21, 2013 at 6:04 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; Jonathan Thornhill; Mayor Elect Eugene Fultz

COMMISSIONERS ABSENT:

CITY REPRESENTATIVES PRESENT: Dorothy Ecklund, Interim City Manager; Clara VanBlargan, City Clerk; Jacquie Hawkins, Deputy City Clerk; Albert C. Galloway, Jr., City Attorney;

[Meetings are recorded but not transcribed verbatim]

PROCLAMATIONS

Agenda Item 5. National Safe Boating Week; May 18-24

Mayor Fultz read a proclamation proclaiming May 18-24 as "National Safe Boating Week." No one was present to accept the proclamation.

PRESENTATION

Agenda Item 6. Range Riders, a retired city and county managers association that assists cities and counties in the placement of a new city manager

Range Rider Kurt Bressner, a retired City Manager, gave a presentation outlining the free, volunteer program the Florida Manager's Association and the ICMA (International City Manager's Association) offers to cities and counties in search of a manager. He said this was probably one of the most difficult decisions the Commissioners would have to make as elected officials and that the City was making good progress. He discussed the following possible ways the Range Riders can be of assistance:

- Mr. Bressner said he was happy to see that the Commission plans to review all of the submitted resumes and said the Rangers can also look through them, providing a parallel review, and give their recommendations on which ones might be a good match for the City.
- Mr. Bressner said they could assist in writing the interview questions.
- Mr. Bressner said they can observe or provide assistance in the interview process.
- Mr. Bressner said they can be a resource to answer questions.
- Mr. Bressner said they DO NOT do background checks.

Mr. Bressner remarked that the city procedure was well planned and healthy and he gave the following recommendations.

- Mr. Bressner commented that the timeline was very aggressive and he advised them not cut corners on the background checking process even if it takes longer than planned.
- Mr. Bressner recommended that they narrow the applicants down to five... plus two, just in case a background check eliminates one of the applicants, or one drops out.
- Mr. Bressner recommended bringing up the salary constraints early on in the process to make sure the applicants can "live within those means".

- Mr. Bressner advised them to read the available ICMA's "Recruitment Guideline Do's and Don'ts."
- Mr. Bressner advised them to have the finalists fill out an application even though they sent in a resume so that the applicants can be compared on the same basis.
- Mr. Bressner advised them to have the finalists sign a disclosure for background checks.

Range Rider Services:

Commissioner Thornhill recommended that the Commission take advantage of the free Range Rider service, and it was the consensus of the Commission to do so.

Applicants:

Commissioner Lutton asked if hiring someone from a different state would be a hindrance even if coming from a same size town because of differences in laws and how things operate. Mr. Bressner said he did not think it would be a hindrance because the person would know he needs to find out what the procedures are. Because he came from outside Florida and had no trouble, he recommended not letting that be the reason for an applicant to be discounted, for example, if one finalist lives outside the state but is actually a better match than the other finalist, he recommended going with the outsider because 'it's not that hard to follow the rules'.

Applications:

Commissioner Thornhill agreed that the applicants should have to fill out an application and asked Interim City Manager Dorothy Ecklund if it was too late to do so. She said she could send applications to those on the short list and Mr. Bressner said that would be fine.

Commissioner Wojcik asked if they should give Mr. Bressner the applications they have received so far, or wait until the deadline and send them all at one time. Mr. Bressner said he would work with staff but it would be helpful to them if they could receive them on a weekly basis.

Interview Questions:

Commissioner Carter said they should accept Mr. Bressner's offer to help with interview questions. He asked Mr. Bressner if he could give staff the three most asked questions. Mr. Bressner said there were generic questions but also questions specific to a community and he agreed to send them within a week or so.

Semi-Finalists

Ms. Ecklund asked how many applicants Mr. Bressner recommended for semi-finalists. Mr. Bressner said 10-12, to be narrowed down to the 5 + 2.

Reviewing Process:

Commissioner Wojcik asked if all seven Range Riders would be involved in the reviewing process. Mr. Bressner said he and probably one other would be involved. He explained the process and how the Sunshine Law, open meetings and public records play a part in the process.

Mr. Bressner said they would probably be getting around 60 applicants but that would depend on the size of the city and the particular place. Ms. Ecklund said they now have 34 and the deadline is May 28th.

- The Range Rider process is as follows:
 - The Applications are sent to the participating Range Riders
 - The Range Riders participate in the phone call interviews at a public meeting.
 - The Range Riders will then give the Commission their list of recommendations for semi-finalists, which the Commission will receive at the approximate time they are doing their own evaluations.
- The Commission Timeline is as follows:
 - Ms. Ecklund said the review and ranking by the City Commission is due on June 7th.
 - H.R has one week for background checks.
 - Discussion with Range Riders will need to take place during the week of June 10th.

- o Human Resource will provide the complete ranking sheets to the City Commission by June 14th
- o The Commission looks at the ranking as a unit on June 14th.

Mr. Bressner said the schedule they set forth is very tight and reiterated that they should not short-cut the background check process. He recommended that they move the interview process a couple of weeks into July if needed in order to allow the background checks to be completed.

CONSENT AGENDA

Mayor Fultz asked the Lake Wales Girls' Softball team to stand and be recognized for their achievement in winning the state championship. Those in attendance stood and gave them a rousing applause.

It was announced that there will be a parade in their honor on Thursday night at 6 PM. The route the parade will take was announced.

Item numbers 11, 12, and 13 were pulled from the consent agenda for further questions.

**Agenda Item 7. Approval of Minutes: May 7, 2013, Workshop Meeting
May 7, 2013, Regular Meeting**

Agenda Item 8. Lake Wales High School Parade to Honor the Girls' Softball Champions

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

The approval of the special event permit application and the street closing request will allow the Lake Wales High School to hold a special parade honoring the LWHS Girls' Softball Champions.

RECOMMENDATION

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

1. Approve the special event permit application from Lake Wales High School for a Special Parade to be held on Thursday, May 23, 2013 from 6:00 pm to 6:30 pm. to honor the Lake Wales High School Girls' Softball Champions.
2. Approve the request for the road closing of First Street from SR60 to Central Avenue, Central Avenue from First Street to Dr. Martin Luther King Jr. Blvd, from Dr. Martin Luther King Jr. Blvd. to the James P. Austin Center.

BACKGROUND

Ms. Donna Dunson, Principal of Lake Wales High School, submitted a special event permit application for a special Parade to be held on Thursday, May 23, 2013 at 6:00 p.m. to honor the High School Girls' Softball Team who has won the Class 5A state championship on May 9, 2013 in Vero Beach at the Sports Village. They were playing St. Johns Creek-side in this championship game. This is the second time to win the state championship in school history.

The parade would line up at the Polk Avenue Elementary School at 5:30 p.m. with the parade beginning at 6:00 p.m. Depending on the number of entries the parade should end around 6:30 p.m. The parade route and requested temporary street closings will involve the following streets:

First Street from State Road 60 to Polk Avenue, Polk Avenue north to Central Avenue, west on Central Avenue to Dr. Martin Luther King Jr. Blvd. where the parade will end

Lake Wales Police Department and VOICE will be providing officers for the parade and for pedestrian and vehicular traffic control. The Streets Department will be providing assistance with the street closings.

OTHER OPTIONS

Do not approve the request for the parade and road closings.

FISCAL IMPACT

This parade is not a budgeted event in the FY12/13 budget. In-kind services provided by the City would be a total cost of \$526.68. Lake Wales High School has been made aware that they will be responsible for 25% or \$131.67.

[End agenda memo]

Agenda Item 9. Lease Agreement with Pitney Bowes, Inc.

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Staff is requesting Commission approval to lease one (1) postage machine.

RECOMMENDATION

Staff recommends the Commission approval of the forty-eight (48) month lease of one postage machine from Pitney Bowes, Inc. and to authorize the Interim City Manager to execute the lease.

BACKGROUND

Our current postage machine lease has reached expiration and staff is requesting Commission approval to enter into a lease agreement with Pitney Bowes, Inc. to replace the machine. The postage machine is utilized by multiple departments within the organization to mail a variety of packages, letters, and other correspondents.

Staff obtained a State of Florida Contract quote (Contract# 600-760-11-1) from Pitney Bowes, Inc. for a replacement postage machine. The proposed lease obligation to Pitney Bowes, Inc. is \$3,240.00 annually. Purchases made from State of Florida Contracts allow the City to capitalize on the State's economy of scale and reduces the timeline of acquisition.

Product support, including software upgrades and hardware maintenance, is included in the proposed lease agreement for the entire term of the lease.

Pitney Bowes, Inc. has been our postage machine vendor for the last eight years and has provided a reliable product with excellent customer support.

OTHER OPTIONS

Do not approve the State Contract purchase and direct staff to utilize a competitive bid process.

FISCAL IMPACT

Within the FY 2012'13 annual budget, the City Commission approved \$3,478.00 for a postage machine lease. The proposed annual lease obligation to Pitney Bowes, Inc is \$3,240.00, which is \$238.00 under the current budgetary appropriations.

[End agenda memo]

Agenda Item 10. Demolition of 143 D Street, a two story building that has been declared unsafe and not fit for human habitation.

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

The demolition of this building will ensure life and limb will be protected before a future collapse occurs.

RECOMMENDATION

Staff recommends that the City Commission approve the quote with Joseph M. Miranda for the demolition of 143 D Street in the amount of 10,900 to be paid for with CRA funds.

BACKGROUND

In 2007, 143 D Street was first posted as unsafe and the occupants relocated. For the past six years the Building Department has tried to work with the owner to bring the building into compliance, but all attempts have failed. Sometime last year the Building Department received a report of work without a permit at this address. After a site visit it was discovered that the owner had removed the first and second floor decking, further compromising the building.

The building was condemned and the owner was ordered to demolish the structure and remove all debris. To date, he has failed to do so.

The quotes received for the demolition are as follows:

SRD Construction	\$12,650
Carl Davis Enterprise	\$12,450
Johnson's Excavation & Services, Inc.	\$11,475
Joseph F. Miranda, Inc.	\$10,900

Staff recommends approval of the lowest bid by Joseph F. Miranda.

OTHER OPTIONS

Choose not to approve the demolition and run the risk of a future building collapse and possible loss of life.

FISCAL IMPACT

The money for this demolition will be coming from the CRA. A tax lien will be placed on the property to recuperate expenditure of the funds.

[End agenda memo]

Commissioner Carter made a motion to approve Items 7, 8, 9 and 10 of the consent agenda. The motion was seconded by Commissioner Thornhill.

By Voice Call Vote:

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

The motion carried 5-0.

Agenda Item 11. Consulting Services Authorization for AMEC Environment & Infrastructure, Inc. – Lake Wailes Trail Improvement Projects

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Staff requests authorization for AMEC Environment & Infrastructure, Inc. to provide engineering services for the Lake Wailes Trail Improvements grant project for the amount of \$27,120.

RECOMMENDATION

1. Approval of a Consulting Services Authorization under the Master Consulting Agreement #12-348 with AMEC Environment & Infrastructure, Inc. for engineering services for the Lake Wailes Trail improvements grant project in the amount of \$27,120.
2. Authorization for the Mayor to execute the Consulting Services Authorization on the City's behalf.

BACKGROUND

The proposed CSA – Consulting Services Authorization (attached) authorizes engineering services for the Lake Wailes Trail improvement project. It includes a scope of work, negotiated price, and project schedule as required in the Master Consulting Services Agreement with AMEC, approved by the Commission last September. AMEC is located in Lakeland.

The project is funded by the Recreational Trails Program of the Florida Department of Environmental Protection (FDEP). The grant is \$160,000 with \$40,000 in City funds and in-kind services for a total of \$200,000. Under the city's agreement with the state agency, up to 15% of the project costs can be spent on engineering. The proposed agreement is 13.5% of total project costs.

The overall scope of work for the proposed project includes expansion and improvement of the trailhead parking lot at Kiwanis Park (lakeside), the renovation/resurfacing of the Lake Wailes Trail (2.5 miles), improvements to the trail entrance, and the installation of 5 (or more) exercise stations along the trail.

Engineering services will include an assessment of the existing trail and parking lot conditions, surveying, construction plan preparation, permitting services, and construction phase services consistent with the city's agreement with the granting agency.

The scope of work and terms of the proposed CSA were worked out jointly by staff and AMEC. The contract amount of \$27,120 is based upon lump-sum prices for the various services requested by the city; a breakdown is shown in the Proposed Budget on p. 3 of the CSA.

The project schedule is 120 days from notice to proceed for project design and preparation of agency application packages. The construction completion date will depend upon the length of time necessary for review and approval by the granting and permitting agencies. Under the grant agreement, the project must be complete by February 2015.

FISCAL IMPACT

Engineering consulting costs were included in the grant agreement with FDEP. No additional funds are requested. In the event that additional unanticipated engineering expenditures are necessary, there is contingency money budgeted under the grant.

[End agenda memo]

Commissioner Carter said he thought there was to be eight exercise stations, not five as stated in the memo. He also questioned that it was not mentioned in the proposal. Planning and Development Director Margaret Swanson explained that \$15,000 was budgeted from the grant for exercise stations. They feel confident they can get five stations for that amount but they may be able to get more. If the construction doesn't utilize all the funds budgeted, they could possibly move funds around a little. Therefore, the number of stations will have to be worked out with the bid. We may have some flexibility on that.

Ms. Swanson said she didn't know how much the consultant would be involved in the installation and construction of the equipment because the City will be choosing which pieces of equipment it wants, and whoever wins the bid will actually be installing it. The engineer will have very little involvement except maybe helping with site issues.

Commissioner Carter said at one time they discussed putting two stations side-by-side to save on signage because the directions for one station could be on one side and the directions for the second station could be on the back. Ms. Swanson said the signs come with the equipment but the stands cost \$500 each. By having them back to back we would be saving on the cost.

Commissioner Wojcik made a motion to approve the Master Consulting Agreement for engineering services for the Lake Wailes Trail improvement grant project and authorize the mayor to execute the document on the city's behalf. The motion was seconded by Commissioner Thornhill.

By Voice Call Vote:

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

The motion carried 5-0.

Agenda Item 12. Consulting Services Authorization for AMEC Environment & Infrastructure, Inc – GIS Maps for 2035 Comprehensive Plan

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Staff requests authorization for AMEC Environment & Infrastructure, Inc. to provide computer mapping services in the amount of \$8,415 for the 2035 Comprehensive Plan.

RECOMMENDATION

1. Approval of a Consulting Services Authorization under the Master Consulting Agreement #12-348 with AMEC Environment & Infrastructure, Inc. preparation of computer-based maps for the 2035 Comprehensive Plan for a fee of \$8,415.
2. Authorization for the Mayor to execute the Consulting Services Authorization on the City's behalf.

BACKGROUND

The proposed CSA – Consulting Services Authorization (attached) authorizes AMEC Environment & Infrastructure, Inc. (Lakeland) to prepare the computer-based maps required by the state for the update of the Comprehensive Plan.

The fee of \$8,415 was negotiated by staff, as required under the Master Consulting Agreement with AMEC, approved by the City Commission last September. Funds were included in the Planning & Development Department's FY 12/13 budget for this purpose.

The CSA includes a scope of work, negotiated price, and project schedule as required in the Master Consulting Services Agreement with AMEC.

The Planning Board is in the process of updating the Comprehensive Plan. The plan will look toward the year 2035. The state's Growth Management Act requires that certain maps be included in the plan, showing future land use, natural features and resources, transportation systems, historic properties, etc. Approximately a dozen maps are required in both hard copy and digital format.

AMEC will collect the information needed for the maps from various sources, create the maps, and provide hard copy and digital files which can be installed on the Planning Department's Geographic Information System and other systems in the city if so desired. Installation of the mapping layers will allow staff to pull up wetlands, zoning, and parcel lines, etc. on the computer mapping system for various projects.

The Planning Dept. has a GIS system but does not have the capability of creating the computer layers for installation. A consultant is needed to create layers and to update mapping data.

Work on the update of the Comprehensive Plan has fallen behind schedule, partly because of the inadequacy of the information in the last plan (completed in 2000). For many of the plan's elements, information must be updated from 1990 to meet the requirements of the Growth Management Act. The maps to be prepared under this project will provide data for analysis as a basis for policies under the new plan. Staff anticipates the plan will be ready for adoption in about six months. A delay in preparing the maps will delay the plan further.

OTHER OPTIONS

Negotiate with another consulting firm for the services.

FISCAL IMPACT

The funds are budgeted for this project, with about \$1,500 remaining for additional mapping work if necessary.

[End agenda memo]

Commissioner Carter asked the following questions:

- **The Need for the System:** Commissioner Carter said we already have a GIS System. He wanted to know why we would want to spend more money to add a mapping capability. Planning

and Development Director Margaret Swanson explained that very specific maps are required by state for the comprehensive plan. They will be putting information received from SWFWMD and other sources onto digital maps which then can be installed onto our system. Gathering all the information for Lake Wales, labeling it, and putting it into a digital format take a great deal of work. They will also be doing paper maps.

Commissioner Carter asked when the GIS system was last updated. Ms. Swanson said it gets updated every year with the county's base map information, without the need of a consultant.

- **Employee Capability:** Commissioner Carter asked for and received confirmation that we do not have the capability for creating the computer layers for installation, which is why we need the consultant. Ms. Swanson said the zoning and future land-use maps were done by a consultant because that was beyond city staff's capability.

Commissioner Carter asked if it would be worthwhile spending the money to get city staff in a position so it can do that in the future and not have to hire someone. Ms. Swanson said that large cities and counties have GIS Departments that do this type of work, such as Polk County, but, not a city our size. We only need it done on occasions. We wouldn't be able to keep a full-time employee busy and the present staff doesn't have that capability. City staff can make maps and analyze data but the layers needed would have to be imported from other sources and put into our system. She said we annexed two pieces of property since it was last done and those properties need to be added. There are mineral maps, natural resources, lakes, historic resources, transportation, roadway systems, bus routes, utilities and conservation information including the flood zones that are on the FEMA maps. She said it was the cheapest way to stay in compliance with the state and in her opinion it was a good price for the amount of work to be done.

- **Tasks:** Commissioner Carter said that tasks #1-9 under 'Tasks for AMEC' says they are already available from the City. Ms. Swanson explained that when it says 'provided by the City' it means the data will be provided by the City.

Commissioner Thornhill made a motion to approve the Consulting Services with AMEC Environment & Infrastructure and authorize the mayor to execute the documents. The motion was seconded by Commissioner Wojcik.

By Voice Call Vote:

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

The motion carried 5-0.

Agenda Item 13. Audit Engagement Letter, Fiscal Year Ending September 30, 2013

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

The City Commission will consider approval of the Audit Engagement Letter submitted by Purvis, Gray & Company for auditing services for fiscal year ending September 30, 2013.

RECOMMENDATION

It is recommended that the City Commission authorize the City Manager to execute the Audit Engagement Letter submitted by Purvis, Gray & Company for the audit of the City's financial statements for Fiscal Year Ending September 30, 2013.

BACKGROUND

On September 9 2009, the City Commission selected the accounting firm Purvis, Gray & Company to audit the City's financial statements for the fiscal year ending September 30, 2009 with an optional renewal for the four subsequent fiscal years.

Mr. Joseph Welch of Purvis, Gray & Company has provided an Audit Engagement Letter for the fiscal year ending September 30, 2013. The letter provides a detailed description of the services that will be provided through the audit process. The audit will be conducted in accordance with generally accepted auditing standards.

FISCAL IMPACT

The audit fee, including expenses, will not exceed \$71,100. Based on efficiencies achieved, Purvis Gray & Company is leaving the fee unchanged from 2011.

[End agenda memo]

Commissioner Carter asked the following questions:

- Commissioner Carter asked why the City would spend \$7,500 every year to audit an Authority that has no authority when it costs \$6,600 to audit both the fire and police pension plans. Interim City Manager Dorothy Ecklund explained that the Airport Authority requires an independent audit under state statute. If the airport falls under the umbrella of the City, the two audits can be combined, which lowers the airport portion. When the airport was audited separately, it was \$15,000. She said combining the two is the cheapest way she can stay in compliance.
- Commissioner Carter asked if the airport keeps records and Ms. Ecklund said absolutely. All their revenue and expenses are processed through the Finance Department. The Airport Authority does not handle any of its cash. It is handled the exact same way other city money is handled, through the cashiers in the city bank account and paid through accounts payable, though in a separate fund. The airport is an independent unit of the city. Commissioner Carter said the City has lost a million dollars over the last ten years and it is to the point that we may want to revisit this. Ms. Ecklund said the transfer from the city to the Airport is \$42,000. The Airport Authority can't afford its own staff so \$32,000 of that is allocation for time spent by Teresa Allen, herself and a small portion for Harold Gallup.
- Commissioner Carter asked the City Attorney if we still need the Airport Authority. Mr. Galloway said he wouldn't be able to answer that question until he looks into whether there was a long-term provision in the agreement that caused it to continue in existence. If there is not, then the Commission can decide to take those responsibilities back, as it was at one point in time.

Public Service Administrator Teresa Allen explained that forming the Airport Authority gave the City the power to get the three million dollar OTTED grant, of which we used two million, eight hundred thousand dollars. The Authority will have to remain in place if we want the possibility of securing future OTTED grants.

Commissioner Wojcik made a motion to authorize the City Manager to execute the Audit Engagement Letter submitted by Purvis, Gray & Company for the audit of the City's financial statements. The motion

was seconded by Commissioner Thornhill.

By Voice Vote:

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

The motion carried 5-0.

OLD BUSINESS

Agenda Item 14. Ordinance 2013-08, General Employees' Pension Plan Amendment – 2nd Reading & Public Hearing

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

The City Commission will consider adopting the proposed amendments to the General Employees' Pension Plan for compliance purposes of a "qualified plan" under IRS Code Section 401(a).

RECOMMENDATION

Staff recommends adoption of Ordinance 2013-08, providing for amendments to the General Employees' Pension Plan for compliance purposes of a "qualified plan" under IRS Code Section 401(a), after second reading and public hearing.

The City Commission approved first reading of Ordinance 2013-08 on May 7th. Public Notice for second reading and public hearing was advertised on Saturday, May 4th in the Lake Wales News.

BACKGROUND

The pension board of the General Employee Pension Plan has received notice from their pension attorney, Adam Levinson with Klausner & Kaufman, P.A., of updates needed in order for the General Pension Plan to remain in compliance with requirements of Section 401(a) of the Internal Revenue Code.

Foster & Foster, actuarial consultants for the General Employees' Pension Plan, have reviewed the proposed Ordinance amending the Plan to incorporate recent changes in the Internal Revenue Code. They have determined that its adoption will have no impact on the assumptions used in determining the funding requirement of the program.

FISCAL IMPACT

This is primarily a housekeeping ordinance to allow the General Pension Plan to remain in compliance with Section 401(a) of the Internal Revenue Code. Foster & Foster, actuarial consultants for the General Employees' Pension Plan have determined that its adoption will have no impact on the assumptions used in determining the funding requirement of the program.

[End agenda memo]

Ms. VanBlargan read Ordinance 2013-08 by title only.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE WALES AMENDING THE CITY OF LAKE WALES GENERAL EMPLOYEES' PENSION PLAN AND TRUST; AMENDING SECTION 16-53 REGARDING IRS LIMITATIONS ON BENEFITS; AMENDING SECTION 16-54 REGARDING THE LATEST DATE TO BEGIN DISTRIBUTION OF BENEFITS UNDER THE IRS CODE; AMENDING SECTION 16-61 REGARDING ELIGIBLE ROLLOVER DISTRIBUTIONS; AMENDING SECTION 16-62 REGARDING SEPARATION FROM SERVICE FROM EMPLOYMENT FOR MILITARY SERVICE

OPENED PUBLIC HEARING

There were no public comments.

CLOSED PUBLIC HEARING

Commissioner Thornhill made a motion to adopt Ordinance 2013-08 after second reading and public hearing. The motion was seconded by Commissioner Lutton.

By Roll Call Vote:

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

The motion carried 5-0.

NEW BUSINESS

Agenda Item 15. Ordinance 2013-05, Amendments to Sign Regulations – Chapter 23 Zoning, Land Use and Development Regulations – 1st Reading

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Extensive code amendments are recommended to the sign regulations. The amendments are of two types: amendments to strengthen the regulations to withstand legal challenges and adjustments to regulations on the types and dimensions of signs to assist businesses and improve community appearance.

RECOMMENDATION

Staff recommends approval of Ordinance 2013-05 upon first reading. No public hearing is required for a first reading of the ordinance.

The Planning and Zoning Board held a public hearing at their January 22, 2013 meeting and recommended amendments to the dimensional and placement provisions of the regulations pertaining to signs. The board is familiar with the full extent of the proposed amendments, but made no specific recommendation on the legal aspects of the code changes.

BACKGROUND

Revisions to the sign regulations are proposed for two purposes:

- Strengthen regulations to withstand legal challenges. (Staff recommendations)
- Adjust regulations on the types and dimensions of signs to assist businesses and improve community appearance. (Planning Board recommendations)

The draft ordinance and staff report were distributed to the Mayor and City Commission early in April in order to provide ample time for review prior to first reading. Staff contacted the Mayor and each Commissioner to answer any questions and receive feedback.

No substantive changes have been made to the draft ordinance since the distribution in April. Section 7 (definitions) of the ordinance was reformatted for clarity. Two typos were corrected, one a cross-reference to another code section and the other correction of "single-family" to "multi-family."

Legal challenges

Sign regulations are vulnerable to legal challenges because messages on signs are a form of speech protected by the U. S. Constitution. In preparing the amendments, staff has worked closely with the City Attorney and has done extensive research on legal challenges to sign code provisions and recommendations from the legal profession on legally defensible sign ordinances.

However, no revision can render the ordinance immune to successful challenge; there could always be an instance where a court interprets the First Amendment in such a way as to declare a portion of the code in conflict.

Intent of regulations

The purpose and intent of the sign regulations are listed at the beginning of both the residential (sec. 23-526) and non-residential (sec. 23.545) sections of the ordinance. The points state legitimate public purposes for the regulations and that promoting free expression is a priority.

Commercial and non-commercial messages

The amendments will not regulate the wording on a sign except that commercial messages will not be allowed on residential properties.

Courts have consistently upheld sign regulations that limit the manner, placement and dimensions of signs, but have invalidated provisions that are "content based," meaning that they regulate, directly or indirectly, the wording on a sign. Examples of content-based regulations: special provisions for "real estate," "political," or "yard sale" signs.

The amendments differentiate between "commercial" and "non-commercial" messages. The courts have held that the Constitution accords a "lesser protection" to commercial speech than to other constitutionally guaranteed expression. Restriction of commercial speech through signage regulation is a legitimate exercise of the government's power when it advances a substantial government interest. Restricting non-commercial speech is much more difficult to justify. The proposed statements of intent at the beginning of sections 23-526 and 23-545 make it clear that the city intends to allow free expression.

The proposed definition of "commercial message" specifically states the types of messages that are not considered commercial (underlined):

Commercial message means a sign, wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service or other commercial activity or to an institution or other non-residential activity or use. For the purposes of sign regulation, the following are not considered commercial activities: proposed sale, rental or lease of the real estate where the message is displayed; the incidental and occasional sale of personal property on site; residential yard sales held in compliance with the provisions of this chapter; and construction/renovation on site.

Proposed provisions:

- Businesses may use their sign allowance for display of either a commercial or non-commercial message. In addition, they are allowed one sign per frontage for a non-commercial message. A real estate sign, for example, could be displayed on the non-commercial sign or on any of the commercial signs allowed on the property. (See sec. 23-545.6.b. Temporary Signs)
- Residential properties are allowed up to four small signs (4 sq.ft.) for the display of non-commercial messages. These signs could display a "for sale" or political message, or any other non-commercial message. Commercial messages are prohibited on residential properties except where there is an approved bed and breakfast establishment or day care home (no change from current ordinance). (See sec. 23-526.3.)
- On vacant properties, only non-commercial messages may be displayed. This provision effectively prohibits off-site commercial signage and billboards, but allows signs for the sale of the property and other non-commercial messages. Maximum sizes proposed for the signs are in proportion to the size and frontage of the property. (See sec. 23-526.c. and sec. 23-545.6.b)

Changes to dimensional and placement requirements:

Roof signs

Currently, signs above roof line are prohibited. Proposed: prohibit any kind of roof sign.

Sandwich board signs/A-frame sidewalk signs

These signs are the only exception to the ban on private signs in the public right-of-way. The purpose is to attract the attention of people walking along the sidewalk in the pedestrian (downtown) districts. The signs are not meant to be read by persons in vehicles.

Proposed amendments:

- Change name to A-frame sidewalk sign to clarify type of sign allowed. (Sandwich board can mean a sign carried by a person with shoulder straps.)
- Now allowed only downtown and on Lincoln Ave. Proposed: allow at shopping plazas with sidewalks greater than 5-ft. in width in front of building.
- Reduce size allowed from 5' high to 4' high and from 30" wide to 24" wide to better fit on sidewalk.
- Emphasize ban on signs with prongs or solid bases (already banned by definition).
- Prohibit placement in landscaping except grass directly adjacent to sidewalk.
- Provisions to remain: permit required; no blocking ADA access; no balloons, streamers, etc.; allowed only while business is open.

Lighting of sign in PF-Professional district

Propose to eliminate prohibition on lighting a sign on a PF property abutting a residential district.

Ground signs in downtown districts

A special permit from the Planning Board is now required for a ground sign in downtown districts because there is no required front setback; properties are eligible only if the building is set back at least 20 feet. Proposed: allowing ground signs by right on properties with at least a 20-ft. front yard setback.

Electronic signs

Electronic signs are now allowed only in the C-3 Highway Commercial districts. All C-3 districts are on either SR 60 or US 27. Proposed: allow electronic signs in LCI-Limited Commercial-Industrial zones on US Highway 27. LCI areas on US 27 include Secured Storage (near Hunter's Glen), Lee's furniture and adjacent properties, and the car dealerships at Mt. Lake Cutoff. There are LCI districts on the Scenic Highway where electronic signs will continue to be prohibited. (Staff recommendation)

Yard sales

Define yard sale to exclude the occasional sale of individual items on a property. Move permitting from Police to Planning & Development (at request of former City Manager).

Special events – community (Sec. 23-545.5.b (1))

Temporary signs are allowed on public property and in the right-of-way of city streets for community-wide special events at the discretion of the Planning Director. The provision currently states that "community civic and fraternal organizations sponsoring public service or special events shall be allowed a reasonable number of temporary signs or banners designed to inform the public of such event," but gives no guidance to staff on placement, size or what a "reasonable" number might be. Proposed: city manager or city commission may establish policies for these types of signs regarding types and placement. The policies could be changed as necessary without the necessity of an ordinance amendment. The Planning Dept. would administer the policies.

Dimensional requirements for non-residential signs (Table 23-545)

- Decrease allowance for wall signs in C-1A (historic) district to 1 sq. ft./1 linear ft. of building frontage (recommended by Historic District Regulatory Board).
- Increase base size* of a "business complex" sign from 30 sq. ft. to 36 sq. ft.
- Adjust required minimum lettering sizes and tenant band widths.
- Increase base size* of a ground sign from 24 sq. ft. to 30 sq. ft. and base height in commercial districts from 14 to 15 ft.
- Reduce the minimum distance between right angle signs from 30 to 20 ft.

*Base size is the size allowed for a property with up to 20,000 sq. ft. in floor area. Larger businesses are allowed larger signs according to a formula up to a maximum square footage.

Provisions to be retained

Most of the regulations in the code will remain in place. Some notable provisions have been relocated, but will remain in the code:

- No private signs in the road right-of-way or on public property (except A-frame signs in pedestrian areas).
- No internally lit signs downtown or along the Scenic Highway
- Maintenance, non-conforming, and enforcement sections – no changes
- Wind-actuated signs – spinners, streamers, etc. are prohibited

Summary of sections to be amended:

- Sec. 23-212. *Verification of zoning compliance*
This section requires that zoning requirements must be verified prior to development activity, including the placement of a sign. A building permit is also required for signs except those painted on a building or window. Amendments: improve clarity of the permitting process.
- Sec. 23-343. *Auctions, sales, and events, temporary (non-residential properties)*
This section was revised in 2012 to allow temporary signage, such as banners, at special sales and events at businesses. Amendments: add statements that commercial messages may be displayed for special sales and events.
- Sec. 23-355. *Yard sales (residential properties)*
This section contains regulations for yard sale signs. Amendments: change permitting authority from Police to Planning (at request of former City Manager); cross-reference sign regulations.
- Sec. 23-526. *Signs – Regulations for signs on residential properties*
Residential properties are those with a single-family, two-family, or multi-family building or a vacant property zoned for residential use. Amendments: only major change is to allow up to 4 temporary signs for non-commercial messages (political, real estate, personal opinion, etc.)
- Sec. 23-545. *Signs – Regulations for signs on non-residential properties*
Table 23-545 sets forth the types of signs and the dimensions allowed for non-residential signs. Sign types and dimensional requirements vary with the zoning district where the property is located. Amendments: Numerous amendments are proposed as noted above.

- *Sec. 23-802 Definitions* – All definitions pertaining to signs are grouped under “Sign.” Several definitions will be revised or removed. A definition of “Yard sale” is added.

OTHER OPTIONS

Staff is ready to move forward with critical amendments to protect the code from challenges. If the Commission would like to discuss further amendments to the types and sizes of signs, staff suggests following up with a separate ordinance.

FISCAL IMPACT

The amendments could protect the city from costly law suits.

[End agenda memo]

Ms. VanBlargan read Ordinance 2013-05 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING THE SIGN REGULATIONS IN THE CODE OF ORDINANCES, CHAPTER 23, ZONING, LAND USE AND DEVELOPMENT REGULATIONS BY ADDING STATEMENTS OF INTENT AND SEVERABILITY CLAUSES; AMENDING PROHIBITIONS AND PERMIT EXEMPTIONS; DEFINING “COMMERCIAL MESSAGE” AND REVISING DEFINITIONS OF VARIOUS TERMS PERTAINING TO SIGNS; LIMITING THE DISPLAY OF COMMERCIAL MESSAGES TO DEVELOPED NON-RESIDENTIAL PROPERTIES; ALLOWING NON-COMMERCIAL MESSAGES ON ALL PROPERTIES; AMENDING REGULATIONS FOR SIDEWALK SIGNS; AMENDING LOCATIONAL AND DIMENSIONAL REQUIREMENTS FOR SIGNS; AMENDING MISCELLANEOUS PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

Planning and Development Director Margaret Swanson reviewed Agenda Item 15.

Commissioner Wojcik asked the following questions:

- **A-frame Signs:** Commissioner Wojcik asked if the downtown A-frame signs that are bigger than the new regulations would be grandfathered in. Ms. Swanson said there are no signs that are bigger than the new dimensions and no one has been permitted for a larger sign. People will have to get a sign permit so staff can make sure it is the right type of sign, that it will be placed in an appropriate place, and it is the right dimension.
- **Window Signs:** Referring to window signs being limited to no more than 25% of the window, Commissioner Wojcik asked about those going out of business that have signs all over the windows that stay up for months. Ms. Swanson said that was a code enforcement issue because the paper signs in windows are supposed to be temporary and only 25% of the window can be covered.

Commissioner Carter asked the following questions and made the following comments:

- **Internally lit signs:** Commissioner Carter asked for a definition of an internally lit sign. Ms. Swanson said it was basically a box with a light inside. They are prohibited in certain parts of the city including downtown, the Scenic Highway, and professional zones. Commissioner Carter asked if the message could change and Ms. Swanson said no.

Commissioner Carter said the City therefore would be prohibited from putting up an internally lit sign in front of City Hall with messages that change, even though it has no beacons or rotating messages. Ms. Swanson said he was talking about two different signs and defined both:

- **Electronic or digital signs:** These are computerized signs. The letters might move, or stay for an hour or day before changing. What he described would be an electronic sign.

- **Internally lit signs:** are like the old 1950's box with a light inside like you find for example at gas stations. Internally lit signs are static and the message does not change.

Commissioner Lutton said you could have a sign in which you manually change the letters and have lights shining on it.

Commissioner Carter asked why the prohibition on internally lit signs. He gave examples of the state college and the churches where internally lit signs would be helpful so the messages could be seen at night. Ms. Swanson said it was a matter of community preference and that the Commission has the authority and responsibility to enact ordinances to reflect taste. The Planning Board had recommended in 2005 that internally lit signs be allowed only in the highway commercial zones. The feeling in 2005 was that it was inappropriate for the historic district and Scenic Highway and they felt that spotlights would be more appropriate for professional zones but the Commission can revisit that at any time. Commissioner Carter said he thought the beacon lights or spotlights were more unattractive than the softer, more subdued lighting of the internally lit signs.

- **Temporary Signs:**

Commissioner Carter said he would like having temporary signs related to special events removed within 24 hours of the end of the event.

- **Abandoned Signs:**

Commissioner Carter said six months was too long to get rid of an abandoned sign.

- **Enforcement:**

- Commissioner Carter asked who was going to enforce the ordinance. Ms. Swanson said the Planning Director, one she assigns, or code enforcement.
- Commissioner Carter asked why they thought they would be able to enforce the new ordinance when they have had so much difficulty enforcing the present one.

City Attorney Chuck Galloway said this ordinance will be less subject to legal challenge, which is why the amendments were being made. There is no guarantee that it won't be challenged but this ordinance makes it more defensible.

- Commissioner Carter asked if the present sign ordinance was being enforced because of a manpower shortage or because the city feared it would get sued.

Commissioner Wojcik said the Commission voted to hold off enforcing the ordinance until the changes were completed.

Mr. Galloway said that the template for the existing ordinance was pretty much consistent throughout the state. He gave an example of a case in the Jacksonville area where that template was challenged and the Federal Court did away with the entire sign ordinance. He said the City did not want to risk that. The new ordinance has severability clauses in it so that if a portion is challenged we wouldn't lose the whole thing.

- **Input:**

- Commissioner Carter said he thought they needed to get input from the Chamber of Commerce, the EDC, Main Street, and businesses.

Commissioner Wojcik explained that neither the EDC nor the Chamber as a body can comment as an advisory group to the Commission otherwise they become an advisory committee subject to the Sunshine Law, making it impossible for them to do the job that was approved that they do. Issues can be discussed separately with the members, but

not as a body and she was confident that when the EDC Director comes on board he most likely will want to meet individually with the Commissioners to give an opinion.

- Commissioner Carter said the businesses whose pocketbooks are going to be most affected by whatever changes are made to the sign ordinance, should have the opportunity to be heard. Commissioner Wojcik said most likely all the businesses will not agree and some businesses will want to publicize their business at the detriment of the community that keeps them in business. She said we all have to work together for the good of all.

OPENED PUBLIC HEARING

Jack Neal, 435 E. Central Avenue, asked if he could get a copy of the new ordinance. Ms. Swanson said it was on the city's website and she would get him a copy.

Jim Brow, Longs Dry Cleaners, asked the following questions and made the following comments:

- Mr. Brow asked how many of the commissioners owned a business. There were none.
- Mr. Brow asked that this item be tabled until a committee can be formed of local businesses to work out the issues and accommodate the small business owners. He said he has formed a group of small business people and they are interested in bringing a class action suit against the city because of the double standard shown to small business owners. He gave examples such as that car dealerships are allowed to have illegal signs. He said his business has been specifically attacked.

Commissioner Wojcik responded that the enforcement for flags and signs that don't meet code was put on hold and basically ignored giving free reign to small businesses for a year and a half to two years until the ordinance could be completed. It has been a difficult time without that enforcement. She said there is no difference between a flag put up inappropriately, or a sign placed inappropriately in the right-of-way. They both are in violation of the code ordinance. Once the ordinance is passed they will be equally enforced. She said no commissioner has individually attacked any business in Lake Wales.

Mayor Fultz said that once we have stringent sign regulations, code enforcement can enforce them with less legal challenges.

- Mr. Brow commented that the A-frame signs get blown about by the wind.

Mr. Brow became very accusatory and was asked by the Mayor to leave the podium.

- Mr. Brow returned to the podium to request that all the small business owners affected by the changes to the sign ordinance be notified of meetings concerning them because not everyone checks the City's website or reads the newspaper. Mayor Fultz explained that this was only the first reading and was advertised as required. Ms. Swanson said the second meeting will also be advertised.

CLOSED PUBLIC HEARING

Commissioner Thornhill asked the following questions and made the following comments:

- **Tenants:** Commissioner Thornhill asked if there was recourse for tenants if it is the owner that is out of compliance. He gave an example of the building having a roof sign above the roofline. He said that when the sign was put up they may have gone through the planning and zoning process which was approved at that time. Ms. Swanson said they can't overlook illegally placed signs, but if a permanent sign was already there before the ordinance, it would be grandfathered in.

- **Walking with signs:** Commissioner Thornhill asked if the ordinance covers people walking with a sign. Ms. Swanson said there currently is nothing in the ordinance that prohibits that.
- **Pronged signs:** Commissioner Thornhill commented that he agreed with not having those cheap snipe signs that blow in the wind but Mr. Brow has a thicker one that cannot blow in the wind. He added that on Central Avenue there is no room on the sidewalk to put A-frame type signs so they have to put snipe signs in the right-of-way.

Commissioner Wojcik said she saw no difference between having an A-frame sign, a sturdily built pronged sign, or one with a strong base because they are designed for that type location.

Ms. Swanson said it was up to the Commission what they will allow. The A-frame signs are meant to be on the sidewalk; pronged signs have been placed in the bushes downtown. She said the ordinance is geared to the downtown where you have a menu board so pedestrians can see the sign as they pass by. The signs are brought in at night.

Commissioner Thornhill said he thought the Commission should take another look at the use of pronged signs along Central Avenue. There is no issue on Park Ave. and Stuart Avenue with A-framed signs because there is plenty of room for them. Ms. Swanson said she thought the A-framed signs were inappropriate for Central Avenue because it is not a pedestrian district like Park and Stuart Avenues, but the ordinance allows them. The signs on Central Avenue are being placed so vehicle traffic can view them from the street.

Commissioner Wojcik said she thought the problem stemmed from having an inappropriate number of signs. No one wants to see a community junked up with signs. She thought well-made pronged signs, appropriate for the location, should be allowed. Ms. Swanson said there is a difference between having no setback where there is just a sidewalk along the building, but along Central Avenue there is some setback.

Mayor Fultz said he could see that this item will take more discussion because of inconsistencies in the document and should be brought back to the Commission.

Motion to Table the Item: Commissioner Carter said he thought the item should be tabled until a task force could be formed. He thought they should make sure business owners are notified because the small businesses are the economic engine for the future of downtown Lake Wailes and they should be involved in the process. He made a motion to table the item.

Commissioner Wojcik said the first reading is an opportunity for the Commission to discuss the issues. If a certain area needs further discussion between now and the second reading there will be time to get input without slowing down a process that has already been delayed two years. She agreed that they needed input from individual businesses, but the first reading was noticed to the newspaper by Wednesday so it could be in the newspaper and give people the opportunity to be present.

Mr. Galloway recommended considering the ordinance on first reading. Then they can decide if they want a workshop before the second reading. Ms. Swanson suggested voting on the legal aspect of the ordinance and to continue with what they now have as far as the dimensional aspects until after the workshop. She said the issue has been in the newspaper to make it known that they were working on the ordinance and yet she has had very little interest on it and has not had any phone calls or business people coming in to ask about it.

Commissioner Lutton said that setting the standard for the City is the Commission's responsibility, to make uniform and fair rules for everyone. Central Avenue is part of the historic downtown area and needs to look as clean as possible for businesses to draw in customers. If it looks tacky people are not going to stop. He gave some examples of other cities.

First Motion: The motion Commissioner Carter made was to table the item but there was no second.

Commissioner Carter said they needed to get this right even if it takes an extra thirty days. We need the input of the small businesses and we need to do a better job of trying to get their input.

Mayor Fultz agreed that it needed to be done right even if it takes a little more time. He said having a workshop was the best idea to allow businesses to come in and participate.

Ms. Ecklund said June 4th was open for a workshop.

Second Motion: Commissioner Carter made a motion to table the item and have a workshop on June 4th to provide an opportunity to allow for the input of the businesses.

There was no second.

Commissioner Wojcik made a motion to approve Ordinance 2013-05 on first reading and schedule a workshop on June 4th prior to a second reading to be held later than June 4th. The motion was seconded by Commissioner Lutton.

By Roll Call Vote:

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

The motion carried 4-1.

Mayor Fultz said Ordinance 2013-05 was approved on first reading. There will be a workshop on June 4th. They will proceed with the second reading on June 18th or extend the second reading if necessary.

Mayor Carter said we know who the business owners are in town because we have their business licenses. Meeting information needs to be mailed to them so they are aware of the workshop. Commissioner Wojcik said the Chamber and Main Street will notify them.

Mimi Hardman, 300 S Lake Shore Drive, asked that the historic aspect of the City be considered when decisions were being made.

Agenda Item 16. Resolution 2013-06, Authorizing Access to a Pool Car and Office Space for the Mayor

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

RECOMMENDATION

That the City Commission approves Resolution 2013-06

BACKGROUND

The City Charter was amended by the electorate in 2011 to provide, among other things, for enhanced duties and responsibilities of its Mayor. The first Mayor elected to serve under the revised Charter has requested that he be provided with office space within the City Administration Building and use of a City pool vehicle in order to better serve the citizens of Lake Wales. At the regular meeting of the City

Commission on May 7, 2013, the members of the Commission indicated their approval of preparation of the subject Resolution to be subsequently considered by the Commission.

FISCAL IMPACT

The requested office space exists within the City's Administration Building and there are pool vehicles within the City's vehicle fleet. Additional costs may be incurred for the maintenance and fuel for a pool vehicle to be used for the contemplated purpose.

ALTERNATIVES

The City Commission may decline to approve the Resolution, or may elect to modify it in some fashion.

[End agenda memo]

Ms. VanBlargan read Resolution 2013-06 by title only.

A RESOLUTION OF THE CITY OF LAKE WALES, FLORIDA, AUTHORIZING USE OF OFFICE SPACE WITHIN THE CITY ADMINISTRATION BUILDING BY THE MAYOR AND FURTHER AUTHORIZING THE MAYOR TO UTILIZE A CITY POOL VEHICLE IN THE PERFORMANCE OF THE MAYOR'S DUTIES; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Chuck Galloway said that according to the Ethics Ordinance, because this involves a monetary flow to the Mayor, the Mayor needs to recuse himself and pass the gavel to the Deputy Mayor.

Mayor Fultz asked if he would be able to make a statement when he returned and was told he could not.

Mayor Fultz recused himself because of the monetary benefit associated with this resolution and left the room.

Mr. Galloway reviewed Agenda Item 16. He explained the monetary value associated with the pool car as follows. He said each one who served on the Commission has had to pay for their own transportation and gas for whatever they have been required to do as part of carrying out their duty of office. The Mayor was requesting a pool car for travel he has to do in support of the duties delineated for him to do. Therefore there is a monetary value.

Commissioner Thornhill said the office space was no problem but he received a few calls about the car. He said he thought there was only one pool car available and Ms. Ecklund said she talked to James Slaton who is over the fleet and he told her there were currently two pool cars available that have been retired from another function. But he said that next fiscal year there will be more cars going into the pool. She said there therefore was a car available if the Commission wanted it to be used for that purpose.

Commissioner Thornhill said the memo states this car would be used only by the Mayor. Mr. Galloway said the Commission could always say they thought the same benefit should be offered to the other commissioners. He said the intent of this Resolution was specifically for the enhanced duties delineated to the Mayor in the 2011 Charter Revision.

Commissioner Carter said that option was available to Commissioners in the past. He said a car was provided when he had to take a trip to Tallahassee. Commissioner Lutton said it was available for trips but the Mayor's request is more for day to day use.

Commissioner Lutton said he was not sure how much travel would be required with the enhanced duties of the mayor and if they approve the resolution they can't take it back. Mr. Galloway said they have the authority to rescind the resolution.

Commissioner Wojcik said that in the beginning the Mayor may have to travel more in order to touch base with a lot of folks. She said she saw nothing wrong with making a pool car available to him.

Commissioner Lutton asked if there would be a sheet he'd have to fill out after every trip. Ms. Ecklund said that for accountability purposes the trips will be tracked and because the Mayor will have exclusive availability to one pool car, it will be easy to track how much gas he has used.

Mayor Carter asked if someone else could use the car if it was available. Ms. Ecklund said typically pool cars are not used that often, just for trainings out of town, and daily to go to the post office. She said if the cars were used by other people it would be hard to track which part was the Mayor's.

Commissioner Carter made a motion to approve Resolution 2013-06. The motion was seconded by Commissioner Wojcik.

By Roll Call Vote:

Commissioner Carter	"YES"
Commissioner Wojcik	"YES"
Commissioner Thornhill	"YES"
Commissioner Lutton	"YES" for the office, NO for the pool car.

The motion carried 4-0 to adopt Resolution 2013-06 (4-0 office space & 3-1 pool car)

Agenda Item 17. Purchase of Commercial Mowers

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

The approval will allow staff to purchase four (4) commercial mowers.

RECOMMENDATION

It is recommended the City Commission consider the following action.

1. Approve the expenditure of funds in the amount of \$58,504.60 to purchase four (4) commercial mowers from John Deere Company via Fields Equipment Company.
2. Authorized a budgetary amendment for \$27,504.60 from the General Fund – Emergency Sinking Account and authorize a budgetary amendment for \$31,000.00 from various departments as outlines in the fiscal impact statement listed below.
3. Authorize the Interim City Manager to execute the appropriate documents, on the City's behalf.

BACKGROUND

The Field Services Division is responsible for mowing approximately one hundred and thirty-two (132) miles of right-of-ways and approximately one hundred and fifty (150) square acres of public property within the city of Lake Wales. Currently, the Field Services Division does not have an adequate quantity of commercial mowers to effectively maintain public property. Over the last three years their Division has lost a total of five commercial mowers and these mowers were not replaced. The average age and condition of their current commercial mower fleet exacerbates the issue as these mowers' maintenance requirements are steadily increasing. Purchasing these four mowers would provide the Field Services

Division an adequate amount of mowers to meet their mowing needs, but would not allow for any spare mowers should one be in the shop for repairs. The Field Services Division is comprised of both the Streets and Parks Departments. The Streets Department has three staff members dedicated to right-of-way mowing, but has only two commercial mowers for this purpose at this time. The Parks Department has six staff members dedicated to mowing parks and public facilities, but has only three commercial mowers for this purpose at this time.

Staff obtained a State of Florida Contract quote (Contract# 760-000-10-1) from Fields Equipment Company on quantity four (4) John Deere 997 mowers for a total purchase price of \$58,504.60 (4 x \$14,626.15). Purchases made from State of Florida Contracts are exempted from the competitive sealed bid requirement outlined in our Purchasing Ordinance, Sec. 2-418, which allows us to capitalize on the State's economy of scale and reduces the timeline of acquisition.

OTHER OPTIONS

1. Do not approve the State Contract purchase and direct staff to utilize a competitive sealed bid process.
2. Purchase a quantity less than the four commercial mowers proposed.
3. Postpone the purchase.

FISCAL IMPACT

The cost of four new mowers would be \$58,504.60. The City Commission would need to authorize \$27,504.60 from the General Fund – Emergency Sinking Account and authorize budget amendments totaling \$31,000 from the following accounts:

001-515-000-331-500	Planning & Zoning	Prof. Services – Planning	(7,000.00)
001-519-200-452-291	Facility Maintenance	Fuel	(1,500.00)
001-524-200-331-320	Code Enforcement	Prof. Service – Legal	(5,000.00)
001-524-200-334-600	Code Enforcement	Mowing	(2,000.00)
001-559-200-348-000	Economic Dev.	Advertising	(10,500.00)
001-572-900-334-903	Special Events	4 th of July – Fireworks	(5,000.00)
			<u>31,000.00</u>
	General Fund – Emergency Sinking Account		<u>27,504.60</u>
			\$58,504.60

If approved by the City Commission, the appropriate budgetary adjustments would be included with the next budget amendment.

[End agenda memo]

Public Services Administrator Teresa Allen reviewed Agenda Item 17.

Commissioner Carter asked if this item was to replace four mowers that will be retired. Ms. Allen said they will use the retired ones to pull parts from if needed. Interim City Manager Dorothy Ecklund explained that over the past three years the department has lost five mowers, and yet they had the same amount of ground to mow. The five mowers have been scavenged to make the remaining seven mowers work. Mayor Fultz said he has seen the mowers and they have been jerry rigged until they are a safety hazard to the drivers.

Commissioner Wojcik said they will be getting four new mowers but she said she thought they really needed five. Ms. Allen said they really need six but the Finance Director only found the money for four so they will be asking for more in the next budget.

Commissioner Lutton said this was a procedure that he definitely does not recommend because the four mowers will die about the same time and the department will have to replace them around the same time instead of having to replace one mower each year, which they haven't been doing the last couple years. He said if they had known about the dire need, something could have been pushed off the budget to get at least two of them. But now, in the middle of the year, we have to find money for four. Ms. Allen said they always said they were putting band aids on them, but they did what they could in order to help the budget. She agreed that this was not the best way to do it and hopefully in the future that can change. But they need the mowers now.

Commissioner Thornhill said James was working on a replacement schedule and he said part of the Strategic Plan was to stop doing these type things. He said the Commission needs to be told if something is needed.

Commissioner Lutton said the Commissioners will not be going out and checking on the equipment. They have to take the department heads' word. If something is really needed, they need to say so.

Commissioner Lutton asked if some of the \$65,000 that was going to be used to convert the water tank could be used for the mowers. Ms. Ecklund said the \$65,000 is utility money and it can't be used for other purchases.

Commissioner Thornhill said they were dipping into the sinking fund. Ms. Ecklund agreed that this money would be coming from the Sinking Fund but said there are areas within the budget which all of the expenditures might not be spent but it wouldn't be prudent at this time to depend on that. If extra funds are found at the end, the money will not come from the sinking fund but that, at this time, is not known.

Commissioner Carter made a motion to approve the four commercial mowers. The motion was seconded by Commissioner Thornhill.

By Voice Call Vote:

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

The motion carried 5-0.

Agenda Item 18. COPS Grant Application – FY2013'14

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

This application requests partial funding for one full-time police officer from the U.S. Department of Justice, Office of Community Oriented Policing Services (COPS Office), to be effective October 1 2013 (FY 2013'14). The application deadline is May 22nd.

RECOMMENDATION

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

1. Approve a grant application to the U.S. Department of Justice, Office of Community Oriented Policing Services for partial funding of an entry-level police officer for the next four years.
2. Authorize the Mayor to execute the appropriate documents on the City's behalf.

BACKGROUND

COPS is a federal program under the US Department of Justice designed to help fund new police officer positions during the economic downturn. The goals of the program are to enhance local community policing programs, reduce crime and provide employment.

The City of Lake Wales is requesting funding of one new entry level police officer. This person would fill a position left vacant by recent budget cuts. The grant, if awarded, will fund 75% of the salary for three years after which the City would be required to pay 100% of the salary for the 4th year.

[End agenda memo]

Special Projects Manager Jennifer Nanek reviewed Agenda Item 18.

Commissioner Lutton asked if it had to be a new police officer and Ms. Nanek said it did. He asked where that would place the officers in the organizational chart and he was told they would come in at an entry level.

Police Chief Chris Velasquez explained that this was a way for them to recover the officer position that he had to freeze. Because it affected his department adversely, he had planned to budget an officer regardless to bring the number back up to 44. This is just a way to get the position through a grant and not have to pay 100% out of the General Fund.

Benefits:

- Commissioner Carter asked if the new officer would get 5% increases that no one else does. Ms. Nanek said they will get the same increases other employees receive.
- Commissioner Lutton said a 5% raise automatically kicks in after the probation period. It is a step-increase in the Union contract.
- Commissioner Wojcik asked if the \$227,721 covered things like pension and a car. Ms. Ecklund said it does not cover cars and uniforms but it does cover salary, workers comp, health and life insurance, social security and pension.

Community Policing:

- Commissioner Carter asked that the Chief give them a definition of Community Policing in writing so they can discuss it and get input. He would like to know what it means to the police department, what it means to the Commission and what it means to the community so there is a common understanding.
- Chief Velasquez said he previously wrote that up and provided it to Ms. Leary but would send it again to Ms. Ecklund.
- Commissioner Wojcik said the Chief just gave an excellent description of what community policing is at the Swearing in Ceremony and explained the officers' responsibility.
- Commissioner Carter said some of the responsibilities in the police department have changed. He gave a few examples and said it would be helpful for everyone to know what the department is responsible for.

Commissioner Thornhill made a motion to approve the applying for the COPS grant and authorize the Mayor to execute the appropriate documents. The motion was seconded by Commissioner Wojcik.

By Voice Vote:

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

Agenda Item 19. Preliminary Financial Statements for April 30, 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 April 30, 2013.

The unaudited financial statements for the City of Lake Wales for the period ending April 30, 2013 are presented to the City Commission for review. At the end of April 30, 2013 the City was 59% into the fiscal year.

General Fund (001), page 1:

The General Fund appears to be materially on target with revenue and expenditure expectations. A mid-year analysis has been completed on both revenues and expenditures with no unusual items noted.

Transportation Fund (102), page 7:

The Transportation Fund expenditures appears to be materially on target with budgetary expectations, however gas tax revenues are lower than expected. Staff will continue to monitor revenues and will causally review expenditures within this fund.

CRA Fund (105), page 10:

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

The Finance Department has concerns over the CRA's funding ability during FY 2014'15 and 2015'16.

Library Fund (110), page 17:

The Library Fund appears to be materially on target with revenue and expenditure expectations. A mid-year analysis has been completed on both revenues and expenditures with no unusual items noted.

Utility System Fund (403), page 27:

The Utility System Fund appears to be materially on target with revenue and expenditure expectations. A mid-year analysis has been completed on both revenues and expenditures with no unusual items noted.

Airport Authority (404), page 29:

The Airport Authority appears to be materially on target with revenue and expenditure expectations. A mid-year analysis has been completed on both revenues and expenditures with no unusual items noted.

[End agenda memo]

Finance Director Dorothy Ecklund reviewed Agenda Item 19.

Commissioner Lutton asked if Ms. Ecklund was sure we were getting our fair share of the gas tax because we have twice the number of gas stations on the main arteries now. Ms. Ecklund said they get the projections from the State of what we expect to get for the year. She said we are about \$3,000 short of what we got this time last year, but with the summer coming up, kids out of school, and people

traveling, that might pick up. She said she has to be very cautious and doesn't want to ignore the changes on the transportation fund because if she is off at all, it will have to come from the General Fund.

Commissioner Carter noted that in some areas we were doing quite well and gave some examples.

Commissioner Thornhill asked about the CRA Funds. Ms. Ecklund said it will pretty much break even. She said the operating cost will go to a minimal amount and the city economic development salary will no longer come out. She said the \$400,000 in reserves will be enough, if nothing unusual happens, but if the Commission wants large, capital items from the CRA such as entryway signs, the funds won't make it. She will not know for sure though until they get through the budget process. After the next two years the CRA will be okay because the debt service goes from \$964,000 to about \$660,000, leaving an extra \$200,000 a year that can be spent for capital and things of that nature.

CITY MANAGER

- **City Commission Tracking Report**

Ms. Ecklund reported that the tracking report has been updated.

COMMUNICATIONS AND PETITIONS

Jack Van Sickle, 460 Ashton Club Drive, asked the following questions:

- **CRA Fund:** Mr. Van Sickle asked if the CRA advertisement costs proposed for a budget amendment for the purchase of the new mowers would come out of CRA Funds. Ms. Ecklund said no, it would come from the General Fund.
- **Sinking Fund:** Mr. Van Sickle asked how close we were to having the required 15% in the sinking fund. Ms. Ecklund said the fund was at 15% until the approval of \$100,000 for the fire substation, which is a loan that will be paid back. The \$21,000 that she asked for will take it below the 15% unless there are extra funds left over at the end of the year that can bring it back up.

Mr. Van Sickle asked if that would impact the city's ability to borrow money and Ms. Ecklund said she did not think so and explained why. She added that if the fund drops below the 15%, the City Manager is required to provide the Commission with a plan for getting it back to the 15%.

Mimi Hardman, Lake Shore Blvd., asked for verification that CRA Funds are supposed to be spent in the area they were generated and various businesses downtown are interested in that. She asked that Ms. Ecklund check on it.

Becky Afonso, Director of Bike Florida, reported on the Orange Blossom Bike Tour that came through Lake Wales the end of March. She said that the City of Lake Wales, The Chamber of Commerce and Main Street made them feel more than welcomed with message boards along the route and the street party hosted in their honor. The bikers noted on a survey that Lake Wales was a fun stop and 80% of the bikers said they would come back to Lake Wales. Bike Florida presented the three organizations a token of their appreciation. The Mayor accepted it for the City, Brian Marbutt accepted it for the Chamber of Commerce, and Larry Bossarte accepted it for Main Street. Ms. Afonso gave the city two copies of their economic impact report and copies of their CD preview of the tour.

Brian Marbutt, President of the Chamber of Commerce, gave an update on their search for an economic development director.

CITY COMMISSION COMMENTS

Commissioner Lutton asked for an update on the \$55,000 bond the city is to receive for serving as the conduit for the Assisted Living Facility to be constructed on Buck Moore Drive. City Attorney Chuck Galloway said it was not closed yet though they are still anticipating doing so and the city is following up to make sure there is either \$750,000 in cash, possibly in an interest bearing account at his firm in trust

for them, or guarantees that \$750,000 is there in case they don't meet their job requirements and the city is forced to pay the funds. Commissioner Lutton said we spent that money already and it was confirmed. Ms. Ecklund said the money was already calculated into the budget and if the money does not come in, it will have to come out of the sinking fund. She reminded the Commission that she had provided them notice of this possibility at the time the budget amendment was requested in December of 2012 that this might come out of the Sinking Fund.

Commissioner Lutton said that the concept of having a workshop at 5:00 p.m. before the scheduled City Commission Meeting at 6:00 p.m. is ineffectual because an hour is not enough time to get through a discussion. He recommended moving them to a different day, possibly alternate Tuesday nights so they can take whatever amount of time is required. Mayor Fultz agreed that it needed to be on a separate day because of the complexity of the topics being dealt with and because they want input from the community.

Commissioner Wojcik said they also need to limit the discussion at the workshop to the one specific item, such as A-frame signs. Commissioner Lutton said he wanted them to have time to get the entire concept out, such as the whole sign ordinance, instead of dividing up the topic.

Because the sign workshop was already scheduled for June 4th, and because alternate dates discussed were not good for all the Commissioners, they decided to keep that date but will consider having future workshops on an alternate night than the regular meetings.

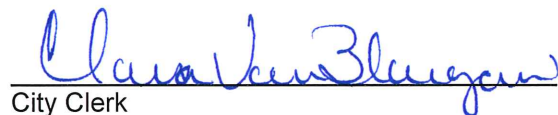
Commissioner Carter asked if the City was ready for hurricane season and both Chief Velasquez and Chief Brown said it was.

Commissioner Carter asked about the promised blue recycle bins that we never got. Ms. Ecklund said she would check the minutes of that meeting and look into it.

There being no further business the meeting was adjourned at 8:47 p.m.


Mayor/Commissioner

ATTEST:


City Clerk

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

NAME—FIRST NAME—MIDDLE NAME <i>Fultz, Eugene L.</i>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Lake Wales City Commission</i>	
MAILING ADDRESS <i>1269 E. Grove Ave.</i>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY	
CITY <i>Lake Wales</i>	COUNTY <i>Polk</i>	NAME OF POLITICAL SUBDIVISION:	
DATE ON WHICH VOTE OCCURRED <i>5/21/13</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

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures 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.

DO 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, Eugene L. Fultz, hereby disclose that on May 31, 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 _____, 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:

Gain of possible income for mayor in the form of office space and use of a city car.

5/22/13
Date Filed

Eugene L. Fultz
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, CIVIL PENALTY NOT TO EXCEED \$10,000.