

A meeting of the Lake Wales City Commission was held on June 4, 2013 at 6:13 p.m. following the invocation and the Pledge of Allegiance in Commission Chambers at the Municipal Administration Building. The meeting was called to order by Mayor Eugene Fultz.

INVOCATION

The invocation was given by Dr. Jim Moyer.

PLEDGE OF ALLEGIANCE

COMMISSIONERS PRESENT: Michael S. Carter; Christopher Lutton; Betty Wojcik; Jonathan Thornhill; Mayor 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]

MAYOR

PRESENTATIONS

Resident Leon Weech presented the Mayor with two banners on behalf of two departments at the Lake Wales High School: for the 1999-2000 softball State Championship and the 2012-2013 softball State Championship. The banners will be hung in the Albert Kirkland Gymnasium.

CONSENT AGENDA

Commissioner Lutton pulled Agenda Item 7 from the Consent Agenda for further discussion.

Agenda Item 5. Special Event Permit – 4th of July Festival

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Approval of the special event permit will allow the 4th of July Festival to take place on Thursday, July 4, 2013 from 2pm – 9pm on the shores of Lake Wailes.

RECOMMENDATION

Staff recommends that the City Commission approve the special event permit for the 4th of July Festival. The event will be held on Thursday July 4th from 2pm –9pm.

BACKGROUND

The 4th of July Festival will include music and games from Parties by Robert, there will be food and craft vendors, and staff is in the process of arranging additional attractions and events. These might include some bounce houses, the bloodmobile, pony rides and others. The festival will end at 9pm with the fireworks. Commission approved the fireworks with East Coast Pyrotechnics on March 5, 2013.

OTHER OPTIONS

Do not approve the event permit.

FISCAL IMPACT

Fireworks - \$10,000;

Other expenses (Parties by Robert, Portolets) - approximately \$1000 in-kind allocation costs for staff, police and field operations - \$2,643

[End agenda memo]

Agenda Item 6. Approval of Contract for Law Enforcement Services: Lake Wales Housing Authority

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Commissioners will consider approving a contract with the Lake Wales Housing Authority for providing supplemental law enforcement services at the Grove Manor public housing complex.

RECOMMENDATION

It is recommended that the City Commission:

1. Authorize the Mayor to execute a Contract for Services with the Lake Wales Housing Authority for Fiscal Year 2013-2014.

BACKGROUND

Community policing originated in Lake Wales when law enforcement officers were partnered with the Lake Wales Housing Authority to remove crime and disorder from the Grove Manor and Sunrise Park public housing complexes. Working with the Lake Wales Housing Authority and residents, officers not only removed crime and disorder, they forged a partnership that has evolved into the current community policing philosophy of the Lake Wales Police Department. Funding from the Lake Wales Housing Authority for a community policing officer was eliminated some years ago; however, the CRA Board of Commissioners approved funding an additional law enforcement officer position during the 2010/2011 year to provide supplemental law enforcement services to the Lake Wales Housing Authority. In 2011/2012 and 2012/2013 the CRA Board of Commissioners approved funding a law enforcement officer position to direct patrol toward designated CRA areas as well as the Lake Wales Housing Authority, Grove Manor Complex.

In an effort to continue providing dedicated law enforcement services to the Lake Wales Housing Authority, Grove Manor Complex residents, the Lake Wales Police Department seeks approval to enter into a contract for services between the City of Lake Wales and the Lake Wales Housing Authority. The contract for law enforcement services provides for a monthly payment due the City in the amount of \$2,380.00 from the Housing Authority.

[End agenda memo]

Commissioner Wojcik made a motion to approve Consent Agenda numbers 5 and 6. The motion was

seconded by Commissioner Lutton.

By Voice Vote:

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

The motion carried 5-0.

Agenda Item 7. Grant Agreement for CDBG-ED Grant for Heartland

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

Staff is seeking approval of a sub-grant agreement with the Department of Economic Opportunity (DEO) for acceptance of the grant award of \$750,000 and the participating party agreement (PPA) with One HC – Lake Wales, LLC.

RECOMMENDATION

Staff recommends approval of the Grant Agreement with DEO and the Participating Party Agreement with One HC – Lake Wales, LLC.

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BACKGROUND

On November 6, 2012, the Commission authorized the City to submit an application to the Florida Department of Economic Opportunity in the Economic Development CDBG grant categories for \$750,000 towards infrastructure improvements in the public right-of-way on Buck Moore Road for the proposed Heartland Assisted Living Facility project on the east side of Buck Moore Road South of Bel Ombre.

On April 23, 2013, the City of Lake Wales was notified that our grant was awarded. The City must return two original grant contracts and two Original Participating Party Agreements (PPAs), each with original signatures, along with all required documentation and forms, no later than 5:00 PM EST on June 23, 2013. In addition, the Participating Party must provide evidence that it has obtained financing for development of the ALF by the June 23, 2013 deadline. If the deadline is missed the grant will be withdrawn by DEO and it will not be awarded to the City.

Item 38 of the PPA requires a security instrument from the Participating Party prior to the start of construction so that funds will be available to pay back the grant in the event of default. This instrument must be signed and approved by the City and Participating Party after the signed grant agreement and PPA is sent in to DEO, but before the project goes to construction.

CDBG funds will specifically be used for the construction of 575 LF of road that will be a Minor Collector Road as defined by the City of Lake Wales Development Standards, 1,150 LF of water line extension, 1,912 LF of looped water line and 3,600 LF of sewer line extension to include a lift station and relocation of electrical power poles that are in the path of the sewer line. The project will also involve the acquisition of land from OHC by the City for a small section of the water/sewer lines. This land that will be owned by Heartland and it will need to be conveyed (donated) to the City. Acquisition costs will include surveys, appraisals and a title search. Other project costs include engineering and grant administration. The public infrastructure will serve a proposed Assisted Living Facility (ALF) called ViaVita on the Ridge, which

requires the infrastructure so that it can begin operations. The ALF will be owned and managed by One HC – Lake Wales, LLC (“OHC”) which is a Florida limited liability company.

The ALF will create at least 46 jobs within 24 months of grant award. At least 51% of the jobs created will be made available to low and moderate income persons. The private investment cost to develop the ALF is approximately \$28,000,000. The cost of CDBG funded public facilities needed to serve the site is estimated at \$750,000.

OTHER OPTIONS

None that will allow the contemplated project to proceed.

FISCAL IMPACT

The City has applied for a grant in the amount of \$750,000 for the infrastructure improvements. There will be no additional costs to the City.

Expenditure or release of the subject grant funds by the City is conditioned on: 1) payment to the City for its service as conduit issuer in the amount of \$55,000 as agreed; and 2) deposit of \$750,000 to be held in trust by the City Attorney with interest accruing to the benefit of OHC or alternatively, provision of an Irrevocable Letter of Credit in favor of and acceptable to the City in its sole discretion in the amount of \$750,000 to comply with the terms of the PPA.

[End agenda memo]

Special Projects Manager Jennifer Nanek reviewed Agenda Item 7.

Buck Moore Project:

Commissioner Lutton asked what they would be agreeing to. Ms. Nanek said they would be agreeing to accept the \$750,000 grant money for public infrastructure improvements on Buck Moore Road for the proposed Heartland Assisted Living facility project. Grant Consultant Andy Easton said the City will be the owner of the infrastructure and will maintain it and therefore the City will bid it out just like with the “C” Street project. When it’s completed Heartland gets to use the infrastructure but they have no role in the process whatsoever.

Commissioner Lutton asked if the \$750,000 project was ready to go. Ms. Nanek said the signed agreements have to be submitted by June 23rd.

Commissioner Lutton asked for an update on the 28 million dollar part of the project. City Attorney Chuck Galloway said the closing date on that was not known, but the assumption is that it will close sometime during the month of June.

Liability:

\$55,000 issuer conduit

Mr. Galloway said if the closing does not take place the \$750,000 will just be returned to the state but the City will be entitled to keep the \$55,000.

Commissioner Carter asked if there would be circumstances that the City would have to return the \$55,000, for example if they don’t complete the project. Mr. Galloway said there would be no circumstance for that. The money will come out of closing proceeds so it is money that belongs to the City of Lake Wales even if they don’t complete the project.

Commissioner Lutton said we would not get that money until they close on the bond. Mr. Galloway said until the bond closing occurs we will not know if we get it or not.

Commissioner Lutton said the \$55,000 was not “free money”. It is an administrative overhead fee for the time and energy spent by the city to process the \$750,000 plus cutting a check to the developer, and we will spend time administrating the construction. Mr. Galloway concurred and said a significant amount of time has been spent by city staff.

\$750,000 Grant

Mr. Galloway said the money will never come out of the City’s coffers if the closing does not take place. \$750,000 will either be held in trust or a letter of credit will be submitted so if Heartland doesn’t meet the specified job requirements, the City of Lake Wales does not have to pay that money back.

Ms. Ecklund explained that we wanted to make sure there is a line of credit so that if Heartland gets halfway through building and doesn’t meet all the requirements, the City has the ability to pay back CDBG. We will never risk the citizen’s money on the project.

Commissioner Carter asked where the grant administrator’s fee would come from and he was told it would come from the \$750,000 grant.

Commissioner Wojcik asked if there was a set time for the bond closing. Mr. Galloway said he did not know if there was a day certain on that submittal or not. But, even if they fund it, it will sit in the City’s coffers until the closing. If it doesn’t close, the money will be sent back to the state.

Commissioner Carter asked if the City can accrue interest on the money. Interim City Manager Dorothy Ecklund explained that CDBG grants are typically reimbursed so there is no interest earned. The money would be delivered as a reimbursement to the City for funds expended by the City. The ability to do the draw-downs will be awarded **if** the CEBG grant is approved. There is no liability on the CDGB part or the City’s part if the bond closing does not go through. Once the bond closing happens the City is paid up front and the \$55,000 comes out first.

Commissioner Lutton made a motion to approve the Grant Agreement with DEO and the Participating Party Agreement. The motion was seconded by Commissioner Wojcik.

By Voice Vote:

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

OLD BUSINESS

NEW BUSINESS

Agenda Item 8. Appointment – Lake Wales Housing Authority Board

The full staff memo is incorporated into the minutes.

[Begin agenda memo]

SYNOPSIS

The appointment will replace a former city commissioner who represented the City on the Lake Wales Housing Authority Board.

RECOMMENDATION

It is recommended that the Mayor appoint a City Commissioner to serve as the City's representative on the Lake Wales Housing Authority Board for the duration of his or her term as a Commissioner.

BACKGROUND

A City Commissioner represents the City Commission on the Lake Wales Housing Authority Board. Former City Commissioner Terrye Howell served as the representative on the Board for the last eight years and now that she is no longer a Commissioner, the Mayor will need to appoint a new representative.

The Board currently meets monthly at the Lake Wales Housing Authority on the third Wednesday at 6:00 p.m.

OTHER OPTION

The Mayor could choose not to have a representative on the Board.

FISCAL IMPACT

City Commission members appointed to serve could incur travel expense to attend meetings. This expense is reimbursable at the state-mandated mileage reimbursement rate if an expense report is filed with the City Clerk.

[End agenda memo]

City Attorney Chuck Galloway explained that this was not an appointment to the Housing Authority Board. The Mayor would be appointing a liaison to the Board under Statute Chapter 4.21, who will not be a voting member. Mayor Fultz asked for a volunteer and Commissioner Thornhill did so.

Appointment: Mayor Fultz appointed Commissioner Thornhill as liaison to the Housing Authority Board.

Commissioner Lutton said that, at the past City Commission meeting, the Mayor was supposed to have received a list of all the present commission positions on various boards so he could reappoint or choose a different representative for those boards.

Mayor Fultz asked if they had a problem with continuing to serve where they presently were. Commissioner Carter said he had a time conflict with his appointments to the Airport Authority and BPAC and could not continue.

Commissioner Carter said, according to their last meeting, everyone was technically supposed to resign so the Mayor could begin the reappointment process.

Mayor Fultz recalled that Commissioner Thornhill said he had a meeting coming up that week and wanted to know if he was to attend it or not. Mayor Fultz therefore had asked everyone to stay where they were for the time being if they could. He said he will bring the list of positions to the next meeting so they can discuss it because, for example, Commissioner Thornhill was on three boards and just volunteered for a fourth, which the Mayor thought was quite a few.

Commissioner Wojcik said she presently represents the City on the Charter School Board but if the Mayor wants to serve on that board instead, she needed to know because they will have an all-day retreat on June 17th, which she doesn't need to attend if she is not to remain on the board. She said she only has one more year in that term so if the Mayor wished, she could finish out the year and then he can decide if that is something he would want to do. Mayor Fultz agreed to do so.

Mr. Galloway said it would not be problematic for the Commissioners to serve in the capacity they are presently in until a formal appointment is done.

Mayor Fultz said he will reassign members to the two boards that Commissioner Carter can no longer serve on at the June 18th meeting and he would go to the meetings for those boards in the meantime.

CITY MANAGER

- **City Commission Tracking Report:** Ms. Ecklund said the Tracking Report was updated.

Fire Substation: Commissioner Lutton asked for an update.

Fire Chief Jerry Brown said they were excited that so many contractors showed for the pre-bid meeting for the fire substation construction. He announced that the bid opening is scheduled for July 20th. He said he had not been happy about the projected cost, but with so many bidders, he thought the competition would lower that price.

Finance Director Dorothy Ecklund explained that an engagement letter for financing the project will be presented to the Commission at the June 18th Commission meeting. We will be running parallel the bid and construction process, so that when the bills come in, if the Commission decides to do the financing, the funds will be there. She said she thought the construction would begin in September. Chief Brown said he expected the ground breaking to be sooner than that.

Commissioner Lutton asked who would be doing the final plan review. Chief Brown said the Planning, Building and Utilities Departments.

Commissioner Thornhill asked if they got the differential for being local. Ms. Ecklund said she wasn't sure and would have to research it in the ordinance.

Cemetery: Commissioner Lutton asked for an update on the cemetery issue.

Finance Director Dorothy Ecklund said that at the next commission meeting on the 18th she will be presenting the financing and engagement letter. Mr. Moran and Ms. Allen will get together the cost of the construction, the recommended area to be developed and the cost structure to include a perpetual fund so the commission can decide if it wants to move forward or not. She said they are aware of how many lots are left and it is coming to the point that if the Commission chooses not to move forward, they need to be prepared to run out of cemetery plots.

Commissioner Carter asked if building the cemetery would be revenue neutral. Ms. Ecklund said she didn't think it could ever be revenue neutral because the current fee structure. There will be an annual cost close to \$100,000 for the two cemeteries and a construction cost of around \$480,000 for the five acres.

Commissioner Carter said one option would be to turn it over to a private company. Ms. Ecklund said that was an option and they were trying to get information on the cost. Public Service Administrator Teresa Allen said that Polk County only has two private cemeteries, both in Lakeland, and both owned by a funeral home. She said she would have to check her notes to find out the cost.

Commissioner Carter said for the Commission to make a decision they will need all the information for all the options including how much people would have to pay if it was privatized.

Commissioner Lutton said staff needed to find out what the private cemeteries in Lakeland charge so the Commission can compare that to how much we would have to charge. To find out how much a particular company would charge to put in a private cemetery would require an RFP. Ms. Allen reminded them that if the cemetery goes to a private company the city would have no say in what they could charge.

CITY COMMISSION COMMENTS

Tent Sale Complaints: Commissioner Wojcik said she received two basic types of complaints arising from transient car tent sales located at Eagle Ridge Mall.

- **Customers complains:**

Commissioner Wojcik said Customers that have been ill-served and have no contact information to resolve their issues because the tents and cars are packed up and gone in a week or weekend end up complaining at the Chamber of Commerce or to the local car sale businesses for resolution when they have nothing to do with it, She gave some examples of this type complaint.

Commissioner Lutton said he did not see how the City could stop that. Commissioner Thornhill said he thought the City could get some basic information so customers know who to go after. Mayor Fultz said we could look into getting more information so the people who get taken will have avenues to pursue. Commissioner Lutton said that information is probably in the sales contract with the Mall.

Commissioner Wojcik said one of her concerns was for the City's reputation. When they are here today and gone tomorrow, it makes it very difficult when a complaint comes in to help them.

- **Local Business Complaints:** Commissioner Wojcik said the second complaint is that tent sales take business away from major businesses in town that pay property taxes, generate sales tax for the City and support the community. She explained that Eagle Ridge Mall has a permit that allows them to have a certain number of special events annually. She asked if the Planning Department could find out what other communities are doing to deal with the problem.

Assistant Planner Kathy Banglely said the Mall, along with other large businesses, have gone through the Special Exception Use Permit process for a certain amount of special events and outdoor displays in a year. The permit is for specified areas of their parking lot or on outparcels not yet developed, and for a certain amount of days per event. To this point, the City does not dictate the type of sale, or get involved in the business of the sale, but we do prohibit it from being put up on vacant property where there is no primary business. Outparcels at the Mall are not vacant pieces of property by definition because they own it and pay taxes on it.

Commissioner Thornhill asked if the car sales companies who set up at the Mall had to get a permit with the City and Ms. Banglely said a business that is not physically located in Lake Wales does not need a business tax receipt from the City or from where their home base is. They deal directly with the Mall because the Mall already received city approval.

Commissioner Carter said the city needs to do something for people who are getting a raw deal. Commissioner Lutton said we can't be responsible for fixing it because it would put the City in a bad position. That was the consensus of the others but they thought the City could at least provide the needed information so the customer can get it fixed.

Possible Solutions:

- **Restrictions:** Ms. Banglely said they could see if the Mall owner would be willing to put restrictions on who they rent to, but she was not sure if that would be a zoning issue.

- **Prohibition:** Ms. Bangley said the Commission could prohibit auto sales by dealerships not in the county and can decide whether they want to prohibit outdoor displays and sales.

Commissioner Lutton said he was concerned with the constitutionality of telling the Mall what it can and cannot do on its own parcel. He said the City could tell them they can't have an event, but not specifically what events they can have.

- **Information:** Commissioner Thornhill suggested amending the process so that the City must receive contact information. Commissioner Wojcik said that would be a step in the right direction to require the business to register with the City so we have things like their name, address and business license number so those with complaints can contact them.

- **Permit:**

Commissioner Wojcik said they could make it cost prohibitive by requiring a \$500 permit. Ms. Bangley said she was not sure a \$500 permit fee would deter them. Commissioner Wojcik said maybe a \$10,000 permit would. Ms. Bangley said requiring a permit would not protect the public or affect the complaints from local car dealerships. City Attorney Chuck Galloway said the City doesn't have the ability to do that anyway.

Ms. Bangley said the Highland's ordinance requires a permit so the city is getting some form of reimbursement. They also allow them on vacant property if they sign a lease for at least six months. Ms. Bangley said staff was looking for direction from the Commission.

Commissioner Wojcik asked that staff research the issue and bring back several alternatives. Ms. Bangley said they can bring back a copy of the existing approval for the Mall so they can look at the parameters, and how it reads currently in code. They wouldn't want to change the whole code but may possibly want to change a specific area.

Reclaimed Water Line: Commissioner Lutton asked if the altitude valve was fixed. Public Works Director Tom Moran said it was not fixed and explained that they had called and cancelled the order for the 18" valve after the last meeting because the commission had wanted him to look into changing the valve to a smaller, more compatible size. They tried an 8" valve but it wouldn't handle the flow. The 10 inch turned out to be cost prohibitive so they ended up reordering the 18" valve and he expected the line to be fixed within a month.

Commissioner Thornhill said they received a BOIL WATER ORDER twice within two weeks and asked if there was a pipe issue. Mr. Moran said sending out the notice was precautionary. Any time a line breaks and pressure gets low, those orders are sent out automatically for the safety of residents, and DEP is notified. They are still working on the line.

Code Enforcement Property on SR60 and Central: Commissioner Carter asked for an update on the triangular piece of property that has been out of compliance by the railroad tracks at the intersection of SR60 and Central Avenue that the City was looking into purchasing about a year ago. Assistant City Planner Kathy Bangley explained that the owner claimed she was not living there but only storing things at that location, and yet multiple fans were running, she was barefoot, and she had her dog with her. The Code Enforcement Officer placed a door hanger on the property listing the violations and telling her she had ten days to clean it up. She said Mr. Gallup left her all the information regarding the purchase proposal about a year ago. She hasn't had a chance to brief Ms. Ecklund and discuss whether or not to continue to pursue a possible purchase.

Dental Clinic on Lincoln Avenue: Commissioner Carter said he read in the newspaper that the dental clinic on Lincoln Avenue was in jeopardy of closing. He asked why the Commission had to find out about these things by reading the Ledger.

Mayor Fultz said that was not the first time it was in the papers. It found out five or six months ago that they were having financial issues because people from all over the county and some even out of the county were coming there for dental care, most of them with no insurance to pay for it. So they do not have the money to run the business. He said he switched to that dental provider hoping it would help because he had the funds to pay. He said he is hoping others who can pay or have dental insurance will also switch because it is very important that the clinic stays open.

Commissioner Carter said the lack of funding stemmed from a rift between Governor Scott and former Senator Alexander. He requested that the Mayor, in his new capacity, try to meet with Senator Grimsley about how important the clinic is to our community. Mayor Fultz said he has a meeting with him on the 21st and agreed to bring it up. Commissioner Wojcik recommended that he also meet with Representative La Rosa.

Assistant Planner Kathy Bangley said the Adult Day Care next to the fire station on Central is also in jeopardy of closing.

Linda Kimbrough from Kimbrough and Associates said she has had some success in getting people with dental insurance to change their provider and go to the dental clinic, which she herself has done. She said the Clinic charges for services on a sliding scale according to what can be paid but the problem is that the majority of their clients don't have any type of insurance and so get free services. They were supposed to have gotten a million dollars to fund the clinic last year but that was cut. This year they were supposed to have gotten \$200,000 but that also was cut. That is why she thought it was so important to get more people that can pay to go to the clinic, or raise funds to keep the doors open. She said the clinic serves a great deal of people and that people are already lined up waiting to get in at six in the morning.

City Manager Search Update: Human Resource Director Sandra Davis gave the following schedule:

- June 7th - The Commissioner's short lists are due back.
- June 11th – The Range Rider meeting at 3 PM with Ms. Davis and Ms. Ecklund for them to supply their short list. It has been posted, the newspaper received notice today, and minutes will be taken.
- June 18th City Commission Meeting – the commission collectively will decide on a short list. The packet will include the Range Rider's short list.

Sign Complaint: Commissioner Thornhill explained that he received a complaint from a tenant that said he put a sign up and was told to remove it. The tenant was told that the landlord was supposed to put up a large sign that tenants could advertise on but the landlord never put the sign up. The tenants are mad at the city because we won't let them put their sign up.

Commissioner Lutton said their problem is with the landlord and not the city.

Assistant Planner Kathy Bangley said, for clarification, that the property owner requested that he put up one sign for his building and he would allow tenants to have slats on the sign. For whatever reason, the owner did not put the sign up. Apparently the tenants had gone to the landlord and he told them they could not put a sign up until he put his up. They put one up anyway but they never came to City Hall for a sign permit. The sign they put up did not meet code and they were contacted to take it down. Ms. Bangley said it was kind of a dicey situation because staff was between a rock and a hard place. The tenants qualify to put a sign on the side of the building but the owner will not allow it. She added that the property since then has changed hands so that particular situation resolved itself.

COMMUNICATIONS AND PETITIONS

There were no comments from the public.

There being no further business the meeting was adjourned at 7:12 PM.

City Commission Meeting
June 4, 2013


Mayor/Commissioner

ATTEST:


City Clerk