

The meeting of the Lake Wales City Commission was held on October 6, 2015 in the Commission Chambers at the Municipal Administration Building. The meeting was called to order by Mayor Fultz at 6:00p.m. following the invocation and the Pledge of Allegiance.

#### **INVOCATION**

The invocation was given by Dr Jim Moyer.

#### **PLEDGE OF ALLEGIANCE**

**COMMISSIONERS PRESENT:** Terrye Howell; Eugene Fultz, Mayor; Jonathan Thornhill, Pete Perez, Christopher Lutton

#### **COMMISSIONERS ABSENT:**

**CITY REPRESENTATIVES PRESENT:** Kenneth Fields, City Manager; Clara VanBlargan, City Clerk; Jennifer Nanek, Deputy City Clerk; Albert C. Galloway, Jr., City Attorney

**Agenda Item 5.            MAYOR**

**Agenda Item 6.            ANNUAL REPORT**

**Agenda Item 7.            PRESENTATIONS**

**Agenda Item 7.1        EDC Quarterly Evaluation Report on the Progress of Economic Development Programs and Activities**

Kevin Kieft, Lake Wales Area Chamber of Commerce and Economic Development Director, shared a presentation with the Commission. He reviewed what economic development is that it is to generate wealth by creating jobs and retaining jobs. They work with partners to help develop the workforce needed to attract the good jobs. They network with regional broker groups to let them know we are here. Mr. Kieft described some of their marketing and outreach efforts. Investment in our infrastructure is important such as the Utilities extension along HWY 60 is very important to attracting business. He reported on some of the accomplishments including Merlin Entertainment at Longleaf Business Park and how they came about to meet the needs of that company. Intrepid Precast was another company that is coming into Longleaf with 50 new jobs. Mr. Kieft reported on other businesses that are expanding such as Oakley Transport. Increased efforts to market Lake Wales and to retain businesses were also described. The new Visitor's Guide was completed and distributed to the Commission. There is a new monthly column and quarterly newsletter that goes out to keep the community apprised of their progress. Mr. Kieft shared economic indicators about Polk County and Florida including that unemployment has decreased.

Commissioner Perez asked about efforts to improve downtown. He also expressed concern about all the property owned by the Care Center. Mr. Kieft explained that they are working with the Main Street organization to help them rebrand and that he has conferred with the Care Center and they will work with any prospective buyer who is interested in downtown. Commissioner Perez asked about the difference between Longleaf Business Park and the downtown and why the Chamber does not take the lead in both. Mr. Kieft explained that there is a difference between Economic Development and Community Redevelopment. Main Street needs to take an active role and the Chamber will be active in helping them with what they need. Commissioner Perez asked if the City will have to help with their budget to become more innovative. Mr. Kieft said they would support that and explained that clear achievable goals need to be established for the downtown to improve that area.

Kenneth Fields explained that there is a new effort by Main Street to become more active and innovative and the City is working with them on strategies to become more viable. They will become part of the EDC

like other groups. Mr. Fields said he will suggest to the Main Street that when they are ready they can come to the Commission with an update on their progress.

Commissioner Lutton asked if there are studies on what works downtown and what they should have. Mr. Kieft said it starts with mid to upper scale restaurants and mixed use with retail.

Commissioner Howell asked about restaurants in Lake Wales in US HWY 27 and elsewhere in Lake Wales. Mr. Kieft explained that they are making a big push for restaurants, but most are targeting Winter Haven. Lake Wales does not meet many of their demographic or income requirements. Mr. Fields says the city is building relationships with various restaurant chains to draw them in. They are getting a lot of interest in the Cypress Gardens corridor as well as S HWY 27.

Mayor Fultz thanked Mr. Kieft and said he is looking forward to all the new growth coming in to Lake Wales and around Lake Wales.

### **Agenda Item 7.II. Walesbilt Hotel Project Status Report**

Reid Hardman, resident, said they are here as a courtesy and out of an obligation to the community to show that this project is important to the future of Lake Wales. They are willing to come as often as the Commission wishes. They will review the timeline of events and Kevin Kieft will brief the commission on some of the finance discussions we have had and other observations. Mr. Hardman said that work on the exterior continues and the tower restoration has passed the 50% mark. This is the first work on the facade in 30 years. He shared photos of the work being done. He reviewed some of the steps completed over the past year including hiring an architect who mapped the interior of the structure and a conceptual design was completed. A consultant was hired to do a hotel study on the project. Mr. Hardman introduced some of those in attendance who they are working with on the project. Rusty Ingley, county resident, explained that structural and electrical permits were approved by the City and the Hotel Grand letters were removed from the West face and work on the chimney and elevator shaft began. The work was more difficult as it was a challenge to get into the corners but those problems were resolved. It took 4.5 months to complete this portion. The south chimney took 2.5 months. The remaining section of the exterior fire escape was removed, completed in one day. The north side restoration was completed in one month. They are now working on the east side which should be completed by the spring of 2016. Some photos of the level of the detail of the restoration were shown. The different avenues of financing have been reviewed. They are looking into foreign investment which is out there for these types of projects. They are investigating historic grants. Mr. Ingley asked for a letter of support from the commission which will accelerate the development process through these scenarios. He asked Mr. Kieft to explain the details of this funding source. Mr. Kevin Kieft, Lake Wales Economic Development Council, said they are excited about the progress that has been made including the financial side. ED5 is an effective tool for these types of projects. He recommended the Commission fully support the project and provide a resolution or letter for their application process. The chamber fully supports the project and the progress made. He has been in regular communication with the development team which provides updates regularly.

Kenneth Fields, City Manager, asked Mr. Kieft to explain the ED5 tool. Mr. Kieft said that ED5 is a foreign investment tool to invite outside investors to get permanent status in the US if they invest \$500,000 for 2 years that creates 10 jobs. This is a hugely vetted process by the Customs Department. A widely used tool in Florida, an incentive to create jobs and a well run program. It is a way to raise funds for this type of project.

Commissioner Perez said he is not optimistic about the hotel as the ED5 process is extremely difficult. Outside investors really want to be sure of their projects. As that building has rarely made progress over 10 years he would like to see some kind of information on an end date. He sees no point in the letter and is unsure where the project is going. He promised to follow up on every step to be sure progress is made. Reid Hardman invited Commissioner Perez to tour the building. Mr. Hardman said they expected some concerns on this project as no work has been done on the exterior in years. Some work has been done on the interior that he would like Commissioner Perez to see. As the community was concerned about the building's

appearance they decided to address that concern. The hotel will not be done next year but they are moving forward. Commissioner Perez would like more detailed charts on when the project will be complete. Mr. Hardman said that more is going on than is made public. Mr. Kieft said that their position has changed as they have seen the progress made over the hotel since the last presentation.

Deputy Mayor Thornhill said that he would like to remain positive as he appreciates the historic significance of the building. He supports a letter of support as this does not cost the City anything. He wants to remain optimistic on this project. We want downtown to be prosperous and be revitalized.

Commissioner Perez said this is wishful thinking and is more realistic. This process has taken a long time. We should not rubber stamp everything as it comes.

Commissioner Lutton encouraged everyone to drive Central Avenue at night and see how it is lit up and the potential. It is not the fault of Ray Brown that the building has sat for 30-40 years. That is more the City's fault. This is a difficult project to make work. It will be more costly to tear down. This effort could fail but this group is doing this out of a love for their community not profit. This will go a long way.

Mayor Fultz said that he is an eternal optimist and is in support of the project. This will help the downtown if completed. He said that he is in favor of the letter as it is not costing the City anything.

Deputy Mayor Thornhill moved to approve a letter of support for the Walesbilt Hotel project. Commissioner Lutton seconded the motion.

Nick Smith, resident, said that it would be too costly to bring the building up to code. The windows need to be replaced, a lot of investment required.

Betty Wojcik, resident, said that she was frustrated with this project in the past as others have been. She said we need to support this effort as they have done what they said they would do. She is glad of the progress made and understands some of the problems they are facing. They cannot move forward without financing and that letter is needed. She asked that they give them a chance to move forward.

Mimi Hardman, resident, shared her past efforts to restore downtown. She said we need a catalyst to encourage others to come downtown. We need to encourage the young people in their efforts to help downtown. We have to start somewhere and this is wonderful place. A lot of work has been put into this place.

Sue Smith, resident, said that the hotel group does have an obligation to the public because the contract is in effect 20 years after it is signed. She is glad to see work going on at the hotel. The ED5 program would be good for Lake Wales. She suggested that the Commission get something back for the letter such as the timeline or critical path schedule. The project costs the city tax revenues and all the other fees which can make a difference in the City's budget.

By Roll Call Vote:

Deputy Mayor Thornhill "YES"  
Commissioner Howell "YES"  
Commissioner Perez "NO"  
Commissioner Lutton "YES"  
Mayor Fultz "YES"

The motion carried 4-1.

Commissioner Lutton asked for an update in six months that includes a better schedule or game plan of what will happen with the project over the next few years. Mr. Hardman said they would do that.

**Agenda Item 8.            COMMUNICATIONS AND PETITIONS**

Manuel Crespo, resident, read a statement and provided a copy to the Commission. He asked the Commission to remove the City Clerk from probationary status and commended Ms. VanBlargan's work ethic.

Gary Gose, VFW 2420, said that they will submit a permit application for a Veterans Day Parade. On December 5, they will have an open house celebrating 70 years of their post. On October 20 is the east Polk County Veterans Commission meeting and invited the commission to attend.

David Smith, county resident, asked about the \$1million for the pool if it was still available. Ms. Ecklund, Finance Director, said she will review the past minutes and provide documentation to Mr. Smith where the fund for the pool was dissolved and the money transferred to the sinking fund. Mr. Smith asked about the building owned by the Walker family on Lincoln and C Street that was taken over by the City. It has been gutted out now. He asked about the status on that property. Ms. Ecklund said that she would pull those records and provide copies to Mr. Smith and the Commission.

Sue Smith, resident, said she has made several records requests from Ms. VanBlargan and they were responded to in a professional manner. She said she wanted to apply to a citizen board but was told not to bother as she would not be approved. She said she agrees with Mr. Crespo's request to remove the City Clerk from probation.

John Paul Rogers, resident, expressed support for the City Clerk and agreed with the request to remove her from probation.

Jack Van Sickle, resident, expressed support for the two proposed ballot measures and opposed legal action against them.

Nick Smith, resident, distributed copies of the State Attorney's report concerning public records and read through the report. He said he agrees with the comments in the report.

Charlene Bennett, resident, reported on a recent planning session of the Main Street organization and said they have recently approached the EDC for help on downtown issues and are trying to get support from the City Commission. She recommended that the City Commission take responsibility for what's going on regarding the State Attorney's report and asked if it will be discussed later tonight. Mayor Fultz said that it would.

Curtis Gibson, resident, announced an event at B Street Community Center on October 20 where families can register for a Thanksgiving basket.

**Agenda Item 9.            CONSENT AGENDA**

Commissioner Lutton asked to pull Agenda Items #8 from the Consent Agenda.

Deputy Mayor Thornhill made a motion to approve the Consent Agenda except #8. Commissioner Howell seconded the motion.

By Voice Vote:

Deputy Mayor Thornhill "YES"  
Commissioner Howell "YES"

Commissioner Lutton "YES"  
Commissioner Perez "YES"  
Mayor Fultz "YES"

The motion carried 5-0.

**Agenda Item 9.1 APPROVAL OF MINUTES: September 15, 2015 Regular Meeting**

**Agenda Item 9.II. Award of Bid Sludge Transporting & Disposal**

[Begin Agenda Memo]

**SYNOPSIS**

The City's Utilities Department made a request for bid for the transportation and disposal of sludge. Commission approval is being sought for the award of bid for this service.

**STAFF RECOMMENDATION**

It is recommended that the City Commission:

1. Award the bid to Appalachian Material Service, Inc. to provide the transportation and disposal of sludge services.
2. Authorize the City Manager to execute the appropriate documents, on the City's behalf in regards to this service.

**BACKGROUND**

The Florida Department of Environmental Protection (FDEP) and the Environmental Protection Agency (EPA) require a system of accountability for proper disposal of all wastewater sludge by the generating wastewater treatment facility. The sludge produced at the Sam P. Robinson Reclaimed Water Treatment Plant, as an end product is dried to a consistency of approximately 14 percent solids.

Continuous monitoring of the City's Wastewater Treatment Plant sludge is required. An annual sludge report must be submitted to EPA and FDEP. The City must maintain a record of all sludge produced, treated and applied to the approved disposal land site. The City is responsible for how much sludge is applied to the site, chemical analysis of the sludge on the site, location and size of the sludge application areas and the water levels at the time of application. This level of accountability makes it absolutely necessary for the City to have a qualified hauler transporting and disposing of the sludge.

Staff made a request for bid for a qualified bidder to provide sludge transporting and disposal services, with a bid open date of September 17, 2015. There were three responsive bidders. Of the three responsive bidders, Appalachian Material Services, Inc. was the apparent low bidder. Staff has done work with Appalachian Material Services, Inc. in the past and has been pleased with the transporting and disposal service the company provides. Therefore, staff requests commission approval to award the bid for sludge transporting and disposal to Appalachian Material Services, Inc. The initial contract terms as stated in the attached agreement calls for the initial contract period to begin on October 1, 2015 and expire on September 30, 2016, if approved by the Commission. The agreement will renew annually on October 1 of each year for up to two (2) additional one (1) year periods. It is also stated in the original agreement, that if either party elects not to renew the agreement that party will endeavor to provide thirty (30) days written notice.

**FISCAL IMPACT**

\$65,000 is placed in the FY 15-16 Operating Budget for Wastewater Contract Services – Sludge.

#### **OTHER OPTIONS**

None at this time. The City must maintain a record of all sludge produced, treated and applied to the approved disposal land site. This level of accountability makes it absolutely necessary for the City to have a qualified hauler transporting and disposing of the sludge.

[End Agenda Memo]

#### **Agenda Item 9.III. Award of Bid to Mid-Florida Diesel for Generator Repair, Preventative Maintenance, and Load Bank Testing**

[Begin Agenda Memo]

#### **SYNOPSIS**

The City's Utilities Department made a request for bid for the repair, preventative maintenance and load bank testing of all the city's portable and stationary generators. Commission approval is being sought for the award of bid for this service.

#### **STAFF RECOMMENDATION**

It is recommended that the City Commission:

1. Award the bid to Mid-Florida Diesel for the Allied repair, preventative maintenance and load bank testing of all the city's portable and stationary generators.
2. Authorize the City Manager to execute the appropriate documents, on the City's behalf in regards to this purchase.

#### **BACKGROUND**

City staff issued a Request for Proposals for Generator Repair, preventative maintenance and load banking on August 13, 2015. Proposals were due on September 10, 2015, to which a total of seven interested parties submitted a proposal. Items staff took into consideration, as main factors during the review process were cost, response time and parts mark-up.

Five sealed bids and two no-bid letters were received; with Mid-Florida Diesel located in Bartow, Florida, being the lowest bidder over all for the above referenced services. City staff makes this recommendation based on the factors listed above and on past experience with Mid-Florida Diesel.

#### **OPTIONS**

None. Preventative maintenance is necessary for the varied sized generators that operate city facilities in the event of an emergency.

#### **FISCAL IMPACT**

Monies for generator maintenance are budgeted in the 15-16 operating budgets for the many different departments for which these generators service (water, wastewater, fire and police).

[End Agenda Memo]

**Agenda Item 9.IV. Award of Quote to Fort Bend Services Inc. for the Purchase of Polymer**

[Begin Agenda Memo]

**SYNOPSIS**

The City's Utilities Department made a request for quotes for the purchase of polymer, which is a necessary chemical to aid in the waste water treatment process. Commission approval is being sought for the award of quote for this purchase.

**STAFF RECOMMENDATION**

It is recommended that the City Commission:

1. Award the quote to Fort Bend Services Inc. for the purchase of Polymer.
2. Authorize the City Manager to execute the appropriate documents, on the City's behalf in regards to this Purchase.

**BACKGROUND**

The use of polymers optimizes the treatment process; thus yielding better quality sludge that could not be obtained otherwise. The proper selection and use of a polymer will often significantly reduce the overall treatment costs of producing public access reuse. Sometimes these savings are hidden through less obvious concerns, such as sludge disposal costs, labor costs, or reduced backwash costs. The use of a polymer, in lieu of an inorganic coagulant such as alum, significantly reduces the amount of sludge that is generated in the treatment process. The cost of disposing of these sludges in landfills has steadily increased. Consequently, it is a significant economic benefit when polymer is employed. The proper selection and use of a polymer often results in extended filter runs, reduced backwash times, and lower energy costs, resulting in significant savings as well. The proper selection and application of a polymer can simplify operations by improving overall performance of the treatment process; thus reducing the probability of treatment plant upsets.

Staff made a request for quote for the purchase of polymer, with a bid open date of September 23, 2015. There were three quotes, two out of the three of these quotes submitting letters of no quote, resulting in Fort Bend Services, Inc, being the only responsive bidder. Staff has done work with Fort Bend Services, Inc, in the past and has been pleased with the product the company provides and professionalism this company exhibits. The quote Fort Bend submitted is less than what was quoted the last time staff went out for quotes for this purchase. Therefore, staff requests commission approval to award the quote for purchase of bulk polymer to Fort Bend Services, Inc. The initial contract terms as stated in the attached agreement calls for the initial contract period to begin on October 1, 2015 and expire on September 30, 2016, if approved by the Commission. The agreement will renew annually on October 1 of each year for up to two (2) additional one (1) year periods. It is also stated in the original agreement, that if either party elects not to renew the agreement that party will endeavor to provide thirty (30) days written notice.

**OPTIONS**

None at this time. This chemical is necessary in the wastewater treatment process.

**FISCAL IMPACT**

\$65,000 is placed in the FY '15-'16 Operating Budget for Wastewater Operating Supplies – Chemicals. The portion of the budget set aside for this chemical purchase is \$20,000.00.

[End Agenda Memo]

**Agenda Item 9.V. Manhole and Lift Station Rehabilitation Annual Contract**

[Begin Agenda Memo]

**SYNOPSIS**

Staff requests commission approval to piggyback the annual contract the City of West Palm Beach has with T.V. Diversified, Inc for the rehabilitation of several manholes and lift stations in the City's wastewater collections system.

**STAFF RECOMMENDATION**

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

1. Approve staff to enter into an agreement to piggyback an annual contact with T.V. Diversified, Inc based on the prices obtained through the competitive bid process of the City of West Palm Beach.
2. Approve the expenditure of \$29,835.00 to T. V. Diversified, Inc to perform the repairs to lift stations 1 & 3.
3. Approve the expenditure of \$36,744.00 to T.V. Diversified, Inc to perform the repairs to the attached listing of manholes.
4. Authorize the City Manager to execute the appropriate documents, on the City's behalf.

**BACKGROUND**

It becomes necessary from time to time to perform routine maintenance on necessary components of the collections system. The City, as part of its collection system owns, operates, and maintains 115 miles of 8 to 16 inch gravity sewer line, 75 miles of 2 to 16 inch force mains, and 39 lift stations. The collection system is connected by a series of manholes and pump stations which aid in the transportation of the collected waste to the waste water treatment plant for processing. Due to the corrosive nature of raw sewage gases, it becomes necessary to perform periodic maintenance on the manholes and lift stations to ensure they continue to function as intended. The Utilities staff has worked with the purchasing department to acquire all the necessary documents and ensure that all purchasing procedures are followed as it relates to piggybacking another municipality's competitive bid document.

Staff is seeking commission approval to enter into an annual contract with T.V. Diversified, Inc for these much needed system repairs using prices obtained through the competitive bid process performed by the City of West Palm Beach. Staff is also seeking commission approved for the expenditure of funds in the amount of \$29,835 for the lift station 1 and 3 repairs and the expenditure of funds in the amount of \$36,744 for the repair of the 17 manholes listed in the attachment.

**OPTIONS**

Chose not to enter into a piggyback annual contract with T.V. Diversified, Inc for the above referenced manhole and lift station repairs and have staff perform its own competitive bid process. This would involve retaining one of the consulting engineers to create the bid specifications and delay repairs.

**FISCAL IMPACT**

\$50,000 is placed in the FY 15'-16' Operating Budget for Wastewater M & R Systems Misc.  
\$30,000 is placed in the FY 15'-16' Operating Budget for M & R Systems-Manholes  
\$250,000 is placed in the FY 15'-16' Capital Improvements Budget.

**Agenda Item 9.VI. Lift Station 16 Sewer Improvements-Phases 2 & 3**



[Begin Agenda Memo]

## **SYNOPSIS**

Staff requests commission approval to enter into a contract with Envisors, a Pennoni Company, to provide engineering technical services, construction administration services, and funding program coordination services for the Lift Station 16 Sewer Improvements –Phases 2 & 3 in the amount of \$229,000.

## **RECOMMENDATION**

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

1. Approve staff to enter into an agreement with Envisors, a Pennoni Company, to perform the Engineering support for the Phase 2 & 3 Lift Station 16 Sewer Improvements project in the amount of \$229,000.
2. Authorize the City Manager to execute the appropriate documents, on the City's behalf.

## **BACKGROUND**

As a result of sewer system back-ups and historical operation and maintenance difficulties experienced by City staff, the City of Lake Wales commissioned an engineering study conducted by Envisors (EVI) in 2010. The study was to evaluate the suspected substandard sanitary sewer system contributing to Lift Station No. 16, which is located near the center of the City's utility service area. EVI's engineering study determined that the sewer system for this defined area was substandard due to substandard pipe slopes, pipe materials, and pipe cover. It was also suspected that a significant amount of inflow and infiltration (I/I) was also occurring throughout the system due to the substandard pipe materials and deteriorating manholes. In August 2010, a City Commission approved, contract with Envisors was executed to design and permit the project area in order to come into compliance with existing directives. In December 2010, the commission approved the preparation of a Community Development Block Grant (CDBG) application, which was subsequently awarded, to start work on the project. The CDBG phase comprised approximately 15% of the total project area. This phase was started by Killebrew Inc. in August 2013, and was completed in the first half of 2015.

Staff is now at a point and ready to begin the construction portion of phase 2. Staff has obtained a Florida Department of Environmental Protection (FDEP) State Revolving Fund (SRF) loan to fund phase 2 of the project area as delineated on the attached Exhibit A. A request for bid was posted with a bid open date of October 7, 2015 for the phase 2 portion of the project. Staff is seeking commission approval to enter into a contract with Envisors with a task order to provide engineering services and funding program coordination during the remaining phase 2 & 3 of the project construction. A more detailed list of services to be provided by EVI is outline in the attached contract document.

## **FISCAL IMPACT**

This contract is for a total of \$229,000.00. There is a total of \$4 million budgeted in the Wastewater Division's FY 15'-16' Capital Improvements Plan with another \$2.8 million in the FY 16'-17'Capital Improvements Plan. The budgeted amount is to cover the construction and engineering cost associated with the completion of the project.

## **OTHER OPTIONS**

Chose not to complete these much needed repairs at this time and experience further deterioration of the materials currently serving the delineated phase 2 & 3 areas.

[End Agenda Memo]

**Agenda Item 9.VII. Force Main Cleaning**

[Begin Agenda Memo]

**RECOMMENDATION**

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

1. Approve staff to enter into an agreement to piggyback an annual contract with Professional Piping, Inc based on the prices obtained through the competitive bid process of the Pinellas County Board of County Commissioners.
2. Authorize the City Manager to execute the appropriate documents, on the City's behalf.

**BACKGROUND**

There are several portions of the city's force main that requires annual cleaning due to the distance these lines must travel to reach the wastewater treatment plant and the low flow conditions that exist due to the lack of development in selected areas. Sediment such as sand, plastics and paper tend to settle to the bottom of the pipe due to the low velocities of the liquid pushing the sediment. The method proposed for the cleaning of these sections of force main is called the progressive poly pig procedure.

Staff is seeking commission approval to enter into an annual contract with Professional Piping, Inc for the cleaning of the low flow force mains within several locations of the city's service area.

**FISCAL IMPACT**

Although there is \$65,000 budgeted in the Wastewater Division's FY 15'-16 M&R Lines and Mains operating budget for this purpose, no request for the expenditure of funds is being brought before you at this time. When staff is ready and has quotes for the expenditure of funds it will come back to the commission for approval for such expenditures.

**OTHER OPTIONS**

None. Without this required annual cleaning, the low flow force main would become plugged and become inoperable. This in turn would cut off the sewer service for the areas of the city being serviced by the affected force main.

[End Agenda Memo]

**Agenda Item 9.IX. Special Event Application: Go & Glow 5K**

[Begin Agenda Memo]

**SYNOPSIS**

The approval of the special event permit application will allow Compelled by Christ Ministries to hold a "Go & Glow 5K" on October 24, 2015 and allow for the temporary closing of a portion of several city streets.

**RECOMMENDATION**

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

1. Approve the special event permit application from Compelled by Christ Ministries to hold the "Go & Glow 5K" on October 24, 2015 between the hours of 6:00 p.m. and 10:00 p.m.

2. Approve the temporary closing of several intersections and streets along the route as the runners approach and the route as follows:

From the First Baptist Church parking lot at South 4th Street and Central Avenue the runners will go north on South 4th Street to Park Avenue, west to North 3rd Street, north to Sessoms Avenue, east to N. Wales Drive, to Springer Drive, crossing Lake Shore Blvd onto the Lake Wailes Trail, to the parking area at Kiwanis Park where the runners will turn around back on Lake Wailes Trail to the horseshoe drive area of Lake Wailes Park, then going through Lake Wailes Park, west on Park Avenue, south on 4th Street and ending at the First Baptist Church parking lot at Central Avenue and 4th Street.

## **BACKGROUND**

Compelled by Christ Ministries has submitted a Special Event Application for a "Go and Glow 5K" event to be held Saturday evening October 24, 2015. The event will be held in the parking lot of the First Baptist Church at 4th Street and Central Avenue where the race will begin and end. The hours of the event are 6:00 p.m. - 10:00 p.m. with the race itself beginning at 7:00 p.m., set up beginning at 5:00 p.m. The event will include a DJ and black lights in the First Baptist Church parking lot.

The sponsor will have volunteers at many of these intersections and will coordinate with Streets and Police Departments regarding closing of the streets as needed.

City departments have reviewed the permit application and approved the event. There will be no cost to the City for in-kind services. The sponsor will be responsible for all costs associated with this event and providing sanitary facilities and clean up services along the route. A certificate of Liability Insurance is provided as required.

## **OTHER OPTION**

Do not approve this special event permit application or the temporary intersection closings

## **FISCAL IMPACT**

There will be no cost to the City for in-kind services associated with this event. The sponsor will pay 100% of the cost for city services and provide all clean up services.

[End Agenda Memo]

## **Agenda Item 9.X. Special Event Application: Wine Walk & Shop**

[Begin Agenda Memo]

## **SYNOPSIS**

Approval of the Special Event Permit application will allow The Grand Cru that Wales Built to hold a "Wine Walk & Shop" networking event in the Marketplace Parking lot.

## **RECOMMENDATION**

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

1. Approve the Special Event Permit application from The Grand Cru that Wales Built to hold a "Wine Walk and Shop" on Saturday October 24, between the hours of 4:00 p.m. to 11:00 p.m. in conjunction with Main Street's monthly Car Show.

2. Approve the use of the Marketplace Parking lot as shown on the map as a designated area for alcohol use.

### **BACKGROUND**

The Grand Cru that Wales Built has submitted a special event permit application to hold a "Wine Walk & Shop" in the downtown area on Saturday October 24, 2015. The event would be held between the hours of 4:00 p.m. and 11:00 p.m. They have requested the use of the Marketplace Parking lot as a designated area to serve alcohol.

Main street has an ongoing approved Permit for a Car Show on the 4th Saturday of the month in Downtown Lake Wales from 4:00 p.m. - 8:00pm. Previous Wine, Walk & Shop events have been co-sponsored by the Lake Wales Main Street and fallen under the umbrella of this permit. Because this event will include a networking event in the Marketplace parking lot in which alcohol will be served, it must be approved by the City Commission.

City departments have reviewed the application and find no issues or concerns with recommending approval of this event. The Grand Cru that Wales Built will be responsible for coordinating with City Staff to assist with setup of the event and for meeting all requirements for sanitary facilities, site clean-up, and alcohol license. Insurance will be provided from the sponsor as required.

### **OTHER OPTION**

Do not approve this special event permit application for the temporary closing of the Marketplace parking lot or for a designated area for alcohol sales.

### **FISCAL IMPACT**

The sponsor is responsible for all costs associated with this event.

[End Agenda Memo]

### **Agenda Item 9.VIII.**

[Begin Agenda Memo]

### **SYNOPSIS**

This is a Special Event Permit Application from the Lake Wales Charter Schools - Edward Bok Academy to host a fundraising event for the Replication of Bok Academy at the Albert Kirkland Sr. Gymnasium. The event will take place Friday November 13, 2015 from 5:30pm-9pm. The event will include alcohol.

### **RECOMMENDATION**

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

- Approve the Special Event Permit application for the Lake Wales Charter School event to take place on Friday November 13, 2015 from 5:30pm-9pm.
- Approve the request to serve and consume alcohol in the Albert Kirkland Sr. Gymnasium only during the event.

### **BACKGROUND**

The Lake Wales Charter Schools is organizing a Fundraising Event for the replication of Edward W. Bok Academy in the Kirkland Gymnasium on Friday November 13, 2015 from 5:30pm - 9pm.

The sponsor will be required to bring in a mat to protect the new gym floor and to hire off-duty officers for the event. The sponsor will coordinate with the Citrus Center Boys & Girls Club and City Staff on issues regarding set-up, clean-up and parking as needed.

**OTHER OPTIONS**

Do not approve the Special Event Permit.

**FISCAL IMPACT**

None. All costs will be the responsibility of the sponsor.

[End Agenda Memo]

Commissioner Lutton asked about the parking areas designated on the map if they are City owned. Jennifer Nanek, Assistant to the City Manager, said those lots are City owned. Commissioner Lutton asked if Seminole Avenue would be closed. Ms. Nanek explained that a tent will be set up across the street near the 1919 school for attendees to check-in and look into, not enter in, the school building but the event will be in the Kirkland Gym. Deputy Mayor Thornhill asked about parking conflicts with the Lake Wales Little Theater. Ms. Nanek said that the organizers of the event are coordinating with the Lake Wales Little Theater regarding the parking and that is why the other sites for parking are needed. Commissioner Lutton asked about the apartment complex. Ms. Nanek said she will remind the organizers to be mindful of the apartment complex.

Commissioner Howell made a motion to approve Consent Agenda Item #8. Deputy Mayor Thornhill seconded the motion.

By Voice Vote:

Commissioner Howell "YES"  
Deputy Mayor Thornhill "YES"  
Commissioner Lutton "YES"  
Commissioner Perez "YES"  
Mayor Fultz "YES"

The motion carried 5-0.

**Agenda Item 10. OLD BUSINESS**

**Agenda Item 10.1 Further Discussion of the Airport Fixed Based Operator Agreement**

[Begin Agenda Memo]

**SYNOPSIS**

The City Commission will consider initiating a Request For Proposal for a Fixed Based Operator in addition to renegotiating the current Fixed Based Operator lease.

**RECOMMENDATION**

Staff recommends that the City Commission initiate a Request For Proposal for a Fixed Based Operator in addition to renegotiating the current Fixed Based Operator lease agreement based on the strong recommendation from the Federal Aviation Administration (FAA).

## **BACKGROUND**

On August 19, 2015 the City Manager sent notification to the Fixed Based Operator that the agreement would terminate on October 31, 2015 due to lack of notification of a desire to renew in accordance with the terms of the agreement.

At the September 16, 2015 City Commission meeting the commission voted to extend the current Fixed Based Operator lease agreement by ninety (90) days in an effort to renegotiate the terms of the lease.

To ensure that the city is not violating state or federal guidelines for competitive bidding, city staff conferred with the FAA. Although the FAA does not require the city to initiate a request for proposal, they do feel that it would be in the best interest of the city to see what interest there might be and so far three other entities have indicated an interest in becoming the fixed based operator. They also strongly suggest that if the city renegotiate the terms of the current lease we do so with terms that are more favorable to the city.

## **FISCAL IMPACT**

Implementation of a new agreement could allow greater economic development of the airport property.

## **OTHER OPTIONS**

Funding for the city's airport projects are funded 90% by the FAA and 5% by FDOT and in some cases 80% by FDOT.

[End Agenda Memo]

Teresa Allen, Assistant Director of Public Services, reviewed this item. Commissioner Perez asked if this recommendation was in writing. Ms. Allen confirmed it was written in an email. Kenneth Fields, City Manager, said a copy will be provided for review.

Dale Marks, resident on the Airport Authority, said he concurs with Teresa's report and hopes the Commission will follow through as this is a great thing that is happening. He is a pilot and owner of a plane. He said that the commission is on the right track.

Robin Gibson, resident and attorney for FBO, distributed to the commission the FAA compliance manual. He said that there is no vacancy for an FBO and so there is no reason for an RFP. The current lease was approved by the FAA and has had no request from the FAA to change it. The lease complies with all FAA requirements. A 30-year lease is acceptable to the FAA. The City still owes \$100,000 to the FBO for past renovations that were done which will have to be paid out if there is a new FBO instead of paying rent credits. He asked the Commission to continue with the plan as voted on last time to renegotiate the current lease. Mr. Fields explained that the FAA recommended the lease be renegotiated back in 2008 but it wasn't done. Mr. Gibson explained that the buildings had not been rebuilt from the 2004 hurricanes yet in 2008. There were no buildings and no rent credits.

Commissioner Howell asked our City Attorney his opinion. Albert Galloway Jr., City Attorney, said that the document presented is from 2009. Rules may have changed since the lease was implemented in 1995.

Ms. Allen shared a letter from the FAA in 2008 expressing concern about the lease and recommending a renegotiation of the lease. In 2010 she was out on medical leave and the lease was renewed with no renegotiation. Ms. Allen said that it was her responsibility to make sure the Commission is aware of any

possible impacts concerning grants if we are investigated for not going out for an RFP. Mr. Fields stated that the City has received notice from interested parties who would like the opportunity to submit a proposal.

Mayor Fultz asked if we can have more than one FBO at the airport. Ms. Allen said there is no stated limit. Mr. Fields said that our Airport could not support more than one.

Dale Marks, Airport Authority, said that our Airport is essentially a skydiving airport and we need a general Aviation Airport. This is a Crown Jewel that the City can take advantage of.

#### **OPENED FOR PUBLIC COMMENT**

Eric Farewell, resident, agreed that the airport is a Crown Jewel but currently it has less economic impact to Lake Wales than other airports. Not much has changed at the Airport in 20 years. There is only one primary business at the Airport. Many pilots have had poor experience at the Airport. Many companies keep their planes at the Bartow Airport.

Lee Turnquist, resident, says that many companies don't keep their planes at Lake Wales because the runway is too short and the insurance companies won't allow it.

Commissioner Howell asked if we could do an RFP now or do we have to wait 90 days? Mr. Fields said we can do an RFP and put it out right away. Commissioner Howell asked if we have to abide by earlier vote. Mr. Fields said that new information has come to light so the Commission can change direction if they choose. Commissioner Lutton asked if we are renegotiating the lease or getting RFPs from the current operator and other interested parties. Mr. Fields said we can get proposals current operator and other interested parties. Mayor Fultz asked if we are opening ourselves to litigation if we go back on the earlier vote. Mr. Fields said the lease was extended for 90 days after the contract was terminated. The commission has the power to modify the past decision to go out for an RFP. Mayor Fultz asked Ms. Allen if our funding might be affected if we don't go out for an RFP. Ms. Allen says it opens the door to an active investigation which would affect future funding. Mr. Fields said that we could miss a funding cycle. Mayor Fultz asked what would trigger an investigation. Mr. Fields said a protest letter being sent to the FAA. Mayor Fultz asked what the likelihood is of this happening. Mr. Galloway said because of the interest expressed there is a strong likelihood of this happening.

Dale Marks a pilot reporting to the FAA could trigger an investigation. Pilots carry a lot of weight with the FAA.

Betty Hill, resident and FBO, said that she has put in 20 years and that the City Manager waited for her to miss the deadline. She has always been willing to help. She asked the Commission to stay as FBO and to renegotiate the lease to be more favorable to the City. The skydiving business has brought in a lot of economic impact to Lake Wales. They have been very hospitable to pilots who come in. She should get her 90 days to give the City a better lease as voted on last meeting.

Deputy Mayor Thornhill said that we should honor our agreement from the last meeting. We should give Mr. Fields the opportunity to negotiate with the FBO. The City should honor its word. If it doesn't work than we go out for an RFP.

Roger Hill, resident, explained that Betty has worked hard for the City and has sacrificed for the City. He reviewed some of the past efforts during the aftermath of the hurricanes.

Mayor Fultz said the contract now is lousy and needs to be redone. He asked if we could not do the renegotiation first to establish new criteria and then the RFP. Mr. Fields said new criteria must be established for both but the issue is whether only Betty Hill should have the opportunity to meet the criteria as other people could surpass those criteria. The FAA does not like the idea of not opening up the opportunity to competition.

Lee Turnquist, resident, said that he is not proud that the City would renege on what they said they would do. They should get FAA and FDOT to come to a commission and share their concerns directly and not trust staff.

Mike Carter, resident, suggested we could do the renegotiation and go out for an RFP at the same time. Mr. Fields agreed that could be done. Mr. Carter asked Mr. Galloway if there would be a legal situation if we do one or the other. Mr. Galloway said that doing both is a prudent choice. Mayor Fultz said this looks like a good option.

Deputy Mayor Thornhill asked why would someone do both, what is the benefit to the bidder? Mr. Galloway said that this would be 2 different tracks. Mr. Fields said that this can be beneficial to the FBO as she will start the process earlier. If someone offers something better then that choice is up to the Commission.

Catherine Price, resident, an RFP is just a request for proposals and then make a decision based on what they receive. They need to go through a fair process to show that grant moneys are being spent fairly. She suggested they approve the RFP before it is sent out and review the correspondence between staff and the FAA and FDOT. An RFP is reasonable and can be setup to be favorable to the current FBO.

Sue Smith, resident, recounts her experience at the Airport and said there are no charter flights from the Airport. We have to go to Bartow or Winter Haven for charter flights. We need a plan to grow.

#### **CLOSED FOR PUBLIC COMMENT**

Commissioner Lutton said we need to have parallel tracks to renegotiate the contract and go out for an RFP. Mayor Fultz asked for a motion.

Commissioner Lutton made a motion to direct staff to bring pack points to renegotiate a contract and go out for an RFP. Commissioner Howell seconded the motion.

By Roll Call Vote:

Commissioner Lutton	"YES"
Commissioner Howell	"YES"
Commissioner Perez	"YES"
Deputy Mayor Thornhill	"NO"
Mayor Fultz	"YES"

The motion carried 4-1.

The commission recessed for a break at 9:01 p.m. and reconvened at 9:09 p.m.

#### **Agenda Item 11.        NEW BUSINESS**

**Agenda Item 11.I**        Ordinance 2015-11 1st Reading - Amendment to Chapter 6, Animals

[Begin Agenda Memo]

#### **SYNOPSIS**

In May 2014 City Commission authorized a pilot program for urban chicken ownership in the city. The program ran from September 1, 2014 to August 31, 2015 without incident of complaint or non-compliance. A permanent Urban Chicken Program is proposed.

#### **RECOMMENDATION**

Staff recommends approval of Ordinance 2015-11 after first reading. A public hearing is not



required.

## **BACKGROUND**

In September 2014 the City Commission authorized an Urban Chicken Pilot Program with an end date of August 31, 2015. The program included up to eight participants. We actually had two participants fully execute the application process and participate. We fielded approximately a dozen inquiries.

For the duration of the pilot program we received no complaints from neighbors of the participating residences. We also had no incidents of non-compliance of the conditions set forth by the City.

Ordinance 2015-11 provides for a permanent program to be an exception from *Sec. 6-4- Fowl and livestock, prohibited; exceptions, penalties* of the Lake Wales Code of Ordinances.

Staff will present a resolution to enact the program at the October 15, 2015 meeting to coincide with the second reading and public hearing for the ordinance.

Staff has included for informational purposes the program description and the application form.

## **FISCAL IMPACT**

Impact should be minimal.

## **OTHER OPTIONS**

Commission could decide not to approve the ordinance and or the program.

[End Agenda Memo]

City Clerk Clara VanBlargan read **ORDINANCE 2015-11** by title only.

## **AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING LAKE WALES CODE OF ORDINANCES, CHAPTER 6 ANIMALS TO ALLOW FOR AN EXCEPTION FOR AN URBAN CHICKEN PROGRAM; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Kathy Bangley, Planning Director, reviewed this agenda item.

Commissioner Lutton asked what the procedure will be. Ms. Bangley explained that a resolution brought back to the commission that will lay out the procedures for participating. They will start with a program to allow 10 participants allowing for 4 chickens but no rooster. Commissioner Howell expressed concern about illegal chickens. Ms. Bangley said illegal chickens will still be addressed through Code Enforcement.

## **OPENED FOR PUBLIC COMMENT**

Catherine Price, resident, said that two or three families have participated and she appreciates the commission for doing the right thing on this.

## **CLOSED FOR PUBLIC COMMENT**

Deputy Mayor Thornhill made a motion to approve **ORDINANCE 2015-11** after first reading. Commissioner Howell seconded the motion.

By Roll Call Vote:

Deputy Mayor Thornhill "YES"  
Commissioner Howell "YES"  
Commissioner Lutton "YES"  
Commissioner Perez "YES"  
Mayor Fultz "YES"

The motion carried 5-0.

**Agenda Item 11.II RESOLUTION 2015-18, 2015 Polk County Multi-jurisdictional Local Mitigation Strategy**

**[Begin Agenda Memo]**

**SYNOPSIS**

The City Commission will consider adoption of **RESOLUTION 2015-18**, the Polk County Multi-jurisdictional Local Mitigation Strategy.

**RECOMMENDATION**

It is recommended that the City Commission adopt **RESOLUTION 2015-18**

**BACKGROUND**

The Polk County Local Mitigation Strategy is a multi-jurisdictional plan that must be updated and adopted by all local governments every 5 years. The City of Lake Wales last adopted a similar resolution in 2010. The Disaster Mitigation Act of 2000 requires that such document exists in order for local governments to apply for Hazard Mitigation Grants and Pre-Disaster Mitigation Grants. The purpose of the Local Mitigation Strategy is to develop an ongoing strategy for reducing a community's vulnerability to identified natural, technological and human-caused hazards. All jurisdictions covered by this plan must actively participate in the creation of the document.

**OTHER OPTIONS**

Do not adopt Resolution

**FISCAL IMPACT**

No fiscal impact

[End Agenda Memo]

City Clerk Clara VanBlargan read **RESOLUTION 2015-18** by title only.

**A RESOLUTION OF THE CITY OF LAKE WALES APPROVING THE POLK COUNTY MULTI-JURISDICTIONAL LOCAL MITIGATION STRATEGY PLAN, SPECIFICALLY THE PORTION IDENTIFIED AS THE RESPONSIBILITY OF OUR CITY, BY PURSUING AVAILABLE FUNDING FOR IMPLEMENTATION OF SAID PLAN AND CONTINUING TO SUPPORT THIS PLAN BY COMMITTING PARTICIPATION OF KEY CITY STAFF TO FUTURE EXPANSIONS AND UPDATES OF THE POLK COUNTY LOCAL MITIGATION STRATEGY PLAN, RECOGNIZING THAT THE CITY OF LAKE WALES IS RESPONSIBLE TO ITS RESIDENTS, BUSINESSES AND INSTITUTIONS IN THE AFTERMATH OF EMERGENCIES AND DISASTERS; AND PROVIDING FOR AND EFFECTIVE DATE.**

Joe Jenkins, Fire Chief, reviewed this item.

Deputy Mayor Thornhill asked if their recent training is part of this. Chief Jenkins said no, this gives us a chance at funding if an emergency is declared. The emergency management training was a requirement for FEMA.

Deputy Mayor Thornhill made a motion to approve **RESOLUTION 2015-18**. Commissioner Howell seconded the motion.

By Roll Call Vote:

Deputy Mayor Thornhill	"YES"
Commissioner Howell	"YES"
Commissioner Lutton	"YES"
Commissioner Perez	"YES"
Mayor Fultz	"YES"

The motion carried 5-0.

### **Agenda Item 11.III Appointment - Historic District Regulatory Board**

[Begin Agenda Memo]

#### **SYNOPSIS**

Appointments fill vacancies due to resignations, expiration of terms, newly established boards, etc.

#### **RECOMMENDATION**

The Mayor makes appointments to various citizen advisory and regulatory boards, commissions, committees, and authorities with the advice and consent of the City Commission (City Charter, Sec. 3.06). The Mayor is asked to make the appointments as deemed appropriate.

#### **BACKGROUND**

Vacancies exist on various Boards, Commissions, and Committees due to resignations, expirations of terms, newly established boards, etc.

Lake Wales Code of Ordinances Sec. 2-26 (3). Limit on Consecutive Terms:

(a) Except as provided in paragraph (b) below, no person shall serve more than three (3) consecutive terms on a single board, commission or committee except that a person appointed to a partial term that is less than one-half ( $\frac{1}{2}$ ) of the normal term for that particular board, commission or committee shall be permitted to serve three (3) consecutive terms in addition to the partial term. Members appointed before July 1, 1989, may be permitted to serve three (3) additional consecutive terms. This limit on consecutive terms may be waived for members of regulatory boards (i.e., planning and zoning board, board of appeals, code enforcement, etc.) with the recommendation of the city manager where, in the sole discretion of the city manager, special circumstances exist which warrant the appointment of a particular member to an additional term.

(b) There shall be no limit to consecutive terms served by an elected or appointed trustee on a board established for the purpose of administering an employee retirement plan.

**Historic District Regulatory Board (City Code Sec. 23-208.2)** – The board consists of five (5) regular members (appointed in accordance with section 2-26). At least 50% of the members shall reside or own property within the City. Members shall be chosen to provide expertise in the following disciplines to the extent such professionals are available in the community: historic preservation, architecture, architectural

history, curation, conservation, anthropology, building construction, landscape architecture, planning, urban design, and regulatory procedures. (3-year term)

- An interview process is necessary for new applicants only.
- Members are required to file an annual Form 1, Statement of Financial Interests
- Current Vacancies: 2 vacancies, resident or own property within the City; 1 expired term

**Current Members:** Lawrence (Larry) Bossarte, business owner 11/01/11 – 07/01/17, 2  
Leah Bartholomay, resident 05/06/14 – 07/01/15, P  
Diane Armington, owns property in the City 03/15/11 – 07/01/16, 2  
\*\*\*Vacant\*\*\* – 07/01/18  
\*\*\*Vacant\*\*\* – 07/01/18

Applying for Appointment, term expiring on 7/1/2018: Erika Schindler, owns property within the City

Applying for Reappointment, term expiring on 7/1/2018: Leah Bartholomay, resident

Erika Schindler has been interviewed and the appointment is recommended.

**Meetings (City Code Sec. 23-208.3(c))** – The historic board shall hold regular meetings at the call of the chairman and at such other times as the board may determine. Special meetings may be called by the chairman or vice-chairman with twelve (12) hours of notice. No less than four (4) meetings shall be held each year.

**Current Meeting Schedule:** 3<sup>rd</sup> Thursday @ 5:30 PM; Commission Chamber

**Functions, powers, and duties (City Code Sec. 23-208.4)**

1. To hear and decide upon applications for certificates of appropriateness as required under this chapter;
2. To adopt guidelines for the review and issuance of certificates of appropriateness consistent with the purposes of this chapter, the historic preservation element of the comprehensive plan, and the Secretary of the Interior's standards for historic properties;
3. To make recommendations to the city commission on matters relating to the establishment of historic districts and regulation of such districts;
4. To make recommendations to the planning board and the city commission for amendments to the code of ordinances and the comprehensive plan on matters relating to historic preservation;
5. To make recommendations to the planning board and city commission regarding special permits for properties within an historic district in cases in which the special permit involves work requiring a certificate of appropriateness;
6. To perform any other duties which are lawfully assigned to it by the city commission

**OPTIONS**

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

**FISCAL IMPACT**

None.

[End Agenda Memo]

Mayor Fultz appointed Erika Schindler to the Historic District Regulatory Board for a term expiring 7/1/2018.

Commissioner Howell made a motion to approve the appointment Erika Schindler to the Historic District Regulatory Board for a term expiring 7/1/2018. Deputy Mayor Thornhill seconded the motion.

By Voice Vote:

Commissioner Howell "YES"

Deputy Mayor Thornhill "YES"  
Commissioner Lutton "YES"  
Commissioner Perez "YES"  
Mayor Fultz "YES"

The motion carried 5-0.

**Agenda Item 12.        CITY ATTORNEY**

**Agenda Item 12.1        RESOLUTION 2015-17, Former Adult Day Care Property Resolution**

[Begin Agenda Memo]

**SYNOPSIS**

The City has previously approved the sale of property owned by the City to assist in facilitating the sale of the former Adult Day Care facility to CFHC We Care, Inc. A title problem has been found which can be cured by approval of Resolution 2015-17 which vacates a portion of an easement which encroaches on the property.

**RECOMMENDATION**

That the City Commission approve the adoption of Resolution 2015-07 which vacates a portion of Westend Blvd., which encroaches on the premises.

**BACKGROUND**

Subsequent to the approval of the transfer of a portion of the former Adult Day Care facility site to Polk County in order to allow for the sale and purchase of the property, the title examination and survey revealed an encroachment which precludes closing of the transaction until the encroachment is resolved. The subject Resolution will resolve the title issue and allow for the transaction to be finalized.

**FISCAL IMPACT**

The City will receive payment in the amount of \$58,000.00 when the transaction is consummated by Polk County and CFHC We Care, Inc.

**ALTERNATIVES**

There are no alternatives to this action which will facilitate closing of the contemplated sale and purchase.

[End Agenda Memo]

City Clerk Clara VanBlargan read **RESOLUTION 2015-17** by title only.

**A RESOLUTION CLOSING, VACATING, RENOUNCING AND DISCLAIMING ANY RIGHTS OF THE CITY AND THE PUBLIC IN AND TO A PORTION OF WESTEND BOULEVARD.**

Albert Galloway Jr, City Attorney, reviewed this item.

**OPENED FOR PUBLIC COMMENT**

None

**CLOSED FOR PUBLIC COMMENT**

Deputy Mayor Thornhill made a motion to adopt **RESOLUTION 2015-17**. Commissioner Howell seconded the motion.

By Roll Call Vote:

Deputy Mayor Thornhill	"YES"
Commissioner Howell	"YES"
Commissioner Lutton	"YES"
Commissioner Perez	"YES"
Mayor Fultz	"YES"

The motion carried 5-0.

## **Agenda Item 12.II Discussion of Charter Amendment Petitions**

[Begin Agenda Memo]

### **RECOMMENDATION**

That the City Commission consider authorizing the City Attorney to file an action in the Circuit Court of the 10th Judicial Circuit, in and for Polk County, seeking a judicial determination as to the legal efficacy of the Charter Amendment Petition authored and circulated by Ed Bowlin and the separate Charter Amendment Petition authored by Ed Bowlin and Leon Weech and circulated by Ed Bowlin.

### **BACKGROUND**

Two Petitions have been prepared and circulated in accordance with the provisions of Section 166.031, Florida Statutes. The cited provision authorizes amendment to a municipal Charter when 10 percent of the registered electors sign a Petition to allow it to be put on the ballot of the next upcoming election. The Polk County Supervisor of Elections has certified that a sufficient number of electors have signed the Petition which seeks to limit the salaries of the City Manager and other City employees.

Mr. Bowlin continues to submit additional signatures to the Supervisor of Elections pertaining to the Petition which seeks to limit new taxes, fire protection assessments, and stormwater and utility runoff fees. According to the Office of the Supervisor of Elections, the number of required signatures for the second Petition had not been met at the time this Memorandum was prepared as shown above.

There are additional legal requirements related to these Petitions which do not appear to have been met. The Circuit Court has jurisdiction to determine whether the Petitions are appropriate for submission to the electorate.

### **FISCAL IMPACT**

The filing fee for the action will be \$400.00 and there will be legal fees related to prosecution of the action.

### **ALTERNATIVES**

A determination that the Petitions do not create enforceable provisions of the City's Charter could be made after submission to the electorate. A determination prior to the election forestalls the necessity of a later determination and the confusion which might arise related to the enforceability of the proposed amendments should they be approved. Such a determination would also avoid the cost related to the necessity of having the Petitions translated to Spanish for ballot purposes pursuant to the requirements of the Section 203 of the Federal Voting Rights Act.

[End Agenda Memo]

Albert Galloway Jr, City Attorney, reviewed this item.

#### **OPENED FOR PUBLIC COMMENT**

Ed Bowlin, resident, explained that the statute Mr. Galloway refers to is about Constitutional Amendments to the Florida Constitution. The provision does not apply to City or County Amendments. He said he authored the language in the amendment. Leon Weech only helped gather signatures he did not author it or circulate it. All the signatures have been gathered for the second petition. The City has no legal recourse to prevent these amendments to go on the ballot unless they are completely unconstitutional. He said this City is most undemocratic. Other cities have tried these tactics and they didn't work. Whether or not the issues can be enforced or not is not relevant. All things were done in accordance with Florida Statute and City Ordinance. A political committee is only necessary to advocate in favor or against an issue which is not necessary when advocating for a measure to go on the ballot. He did all this as an individual which is allowed. He can spend \$5000 without submitting any reports and other people can help gather signatures. He authored both petitions and circulated them. He did not spend over \$500 on either petition. He did not accept any contributions for this effort. They did not advocate anything. He said he believed that the Commission felt they were doing the right thing for the City by voting in the fire fee but many in the City are against it. Despite health issues he still collected over 260 signatures himself. The Commission should not interfere with the democratic process.

Sue Smith, resident, said she backs up what Ed Bowlin has said. She used a box of envelopes that she already had for this. She said we are a small city and we have to live within our means and should not spend so much for administration. Mr. Fields should not try to squelch the vote in this City.

David Smith, county resident, said he collected 200 signatures in the northwest area as many cannot afford the fire fee.

Catherine Price, resident, said she is concerned about this issue. She recommended getting a salary survey from the League of Cities of salaries of top officials in Lake Wales to see if we are in line with those salaries. Our salaries need to be competitive with other cities. This community needs to have a discussion about these issues. We need to have department heads that know their jobs. She asked where the Chamber of Commerce and the EDC are on this issue.

Charlene Bennett, resident, said she doesn't support the petition but the group has done what they need to do and it needs to go on the ballot.

Mike Carter, resident, said we should let the citizens decide on these issues. These issues should be on the ballot.

#### **CLOSED FOR PUBLIC COMMENT**

Mayor Fultz concurred and said that they are not trying to stop the measures from going on the ballot they are just trying to decide whether or not to look into whether or not these are legal.

Commissioner Perez said that he got a list of salaries of cities within a population of 5000 of Lake Wales from the League of Cities. He said everyone would be surprised at the salaries of Polk County.

Mayor Fultz asked Mr. Galloway what he needed consensus on. Mr. Galloway said he needed a consensus to prepare a resolution that identifies why the law was not complied with as needed for the Clerk to certify to this body that it can consider a Resolution for adoption. Commissioner Perez asked if to the best of his knowledge they are not compliant. Mr. Galloway said yes. Commissioner Howell asked if both are reading from the same Statute. Mr. Galloway said yes. Commissioner Lutton said he couldn't follow all that legalese without reading it. He needed to study this before giving consensus. Commissioner Howell said that she

has no problem with the initiative process, but doesn't want to do something illegal and have to change something later. She asked if this might cost something. Mr. Galloway said the Resolution would say that we cannot transmit these to the Supervisor of Elections and there is no cost. Commissioner Perez asked if there is a deadline.

Ed Bowlin said January is the deadline. Mr. Bowlin said that he is being penalized for bringing this to the City. He says that everything has been followed to the letter.

Mayor Fultz said that there is no consensus among the Commission. Mr. Galloway said then that a Resolution needs to be adopted and sent to the Supervisor of Elections and the City Clerk will have to certify that he complied with the law when, in his opinion, he did not comply and she cannot do that. Ed Bowlin says that section is not for a charter amendment it is for an ordinance. Mayor Fultz said there is no consensus. Mr. Galloway said that he will prepare information about all the discrepancies.

**Agenda Item 13.        CITY MANAGER**

**Agenda Item 13.1      City Commission Tracking Report:**

Kenneth Fields, City Manager, reported that the city has filled 190 requests since the beginning of the year. In response to his discussion with the State Attorney's office a new policy has been put in place to be sure all documents with a portion of the information requested are provided. A formal tracking system has been put in place and reviewed each week to be sure it has been responded to and that the correct department is handling it. Public Records training will be provided for all employees.

**Agenda Item 13.2.     City Commission Calendar**

**Agenda Item 13.3.     Other Meetings & Events Calendar**

**Agenda Item 13.4.     Annual Reporting – Boards, Commissions, and Committees**

**Agenda Item 14.       CITY COMMISSION COMMENTS**

Mayor Fultz asked for consensus from the Commission to terminate the City Clerk's probation. Mr. Fields said if the Commission directs him to end the probation he will do so. Commissioner Lutton said he didn't feel they should interfere with the operation of staff. Deputy Mayor Thornhill said that this issue about the City Clerk be clarified in the Charter as he is unsure what the phrase "serves at the pleasure of the commission means". This gap needs to be closed. He also suggested that the City Manager no longer be the gatekeeper for public records requests. He said we will not have issues with public records no matter who asks. We should be sure it is done right with no question. All employees should know what they are supposed to do.

Commissioner Perez said that we cannot ignore report and asked what should we do about it and we need to address the issue. Mayor Fultz said that the public records issues have been addressed.

Everyone agreed to ask the City Manager to terminate the probationary period of the City Clerk.

Commissioner Perez suggested we do something about the comments in the State Attorney's report regarding some of the things Mr. Fields has done that may have been appropriate. Mayor Fultz said that the issues regarding Mr. Fields should be addressed in his evaluation in February.

Commissioner Howell said that she was embarrassed by the report. She said that there needs to be a different tone an atmosphere in this building. This is not acceptable from any employee. We should not treat citizens as though it is personal. We are serving the citizens of Lake Wales. We have to have the right climate in this building. Some of these things should not have gone on. We need to be a citizen friendly place. The three employees they supervise we should be sure they do a good job.

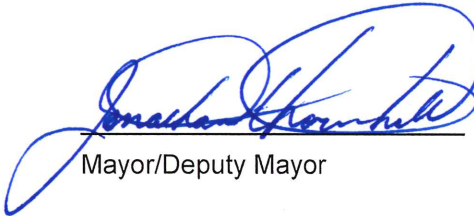


**Agenda Item 15.      MAYOR COMMENTS**

Mayor Fultz said that he has come to understand that the City Commission makes the decision to fire the City Clerk or not. The City Manager can make a recommendation on that but the decision is the Commission. Some of that ambiguity should be cleared up. He says that he and the Commission are doing the best they can and that the citizens can vote him out if they want. He wants the City to grow and not be a bedroom community.

Commissioner Lutton asked for a copy of the revised Public Records policy. Mr. Fields confirmed that he could get that to him.

The meeting was adjourned at 10:25 P.M.



Mayor/Deputy Mayor

ATTEST:



City Clerk Clara VanBlargan, MMC