

The meeting of the Lake Wales City Commission was held on February 21, 2017 in the Commission Chambers at the Municipal Administration Building. Mayor Eugene Fultz called the meeting to order at approximately 6:02 p.m. following the Invocation and the Pledge of Allegiance.

**INVOCATION**

Deputy Mayor Thornhill gave the invocation.

**PLEDGE OF ALLEGIANCE**

**COMMISSIONERS PRESENT:** Pete Perez; Terrye Y. Howell; Jonathan Thornhill, Deputy Mayor; Eugene Fultz, Mayor

**COMMISSIONERS ABSENT:** Robin Gibson

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

**5. CITY CLERK**

**Agenda Item 5.I. 2017 Qualified Commission Candidates**

[Begin agenda memo]

**2017 MUNICIPAL ELECTION INFORMATION**

The regular Municipal Election of the City of Lake Wales is Tuesday, April 4, 2017 to elect a Mayor for Seat 1 (At-Large), a Commissioner for Seat 2 (District 19), and a Commissioner for Seat 4 (District 27) to serve a term of two (2) years beginning May 2, 2017.

The following is a list of persons qualified as a candidate for the 2017 Municipal Election during the City's qualifying period, noon, Monday, February 13, 2017 through noon, Friday, February 17, 2017. These names will be listed on the April 4, 2017 ballot.

**MAYOR Seat 1, At-Large (Seat currently held by Mayor Eugene Fultz)**

Ed Bowlin  
Eugene Fultz

**COMMISSIONER - Seat 2, District 19 (Seat currently held by Commissioner Jonathan Thornhill)**

Jacob Clifton  
Curtis Gibson

**COMMISSIONER - Seat 4, District 27 (Seat currently held by Commissioner Pete Perez)**

Flora "Tonya" Stewart  
Lloyd J Van Sickle

[End agenda memo]

City Clerk Clara VanBlargan read the memo for Agenda Item 5.I. into the record.

**6. MAYOR**

**7. PRESENTATION/REPORT**

## **8. COMMUNICATIONS AND PETITIONS**

Nicolas Smith, resident, read a section of the Constitution of the United States, the Bill of Rights, Article I and from Article IX, and stated a quote attributed to Josef Goebbels, Propaganda Minister, German Nazi Party; 1933-1945. He said he was hand-delivering correspondence to Commissioner Gibson who is not present requesting identification of two individuals whose names appeared on a City Attorney generated email dated May 20, 2015 at 2:17 p.m., a public record document discussing City legal business. These individuals were Sandi Melgarejo and Camille Tharpe.

Nicolas Smith said he was continuing his reading on his letter from February 7 to Commissioner Gibson. He said that in the fall and winter of 2013/14, he presented a number of concerns he had about the ability of the hotel developer to fulfill all requirements of the agreement they had with the City, such as bankruptcy, inability to bond the job, and apparent lack of adequate financial resources. The latter confirmed by the City's EDC President and acting as an agent of the developer. A particular concern was the failure of the developer to pay the specified \$50,000 to City escrow for hardscape improvements, failure to pay the specified \$30,000 to the Historic Society for operating expenses, and failure to provide proof of Insurance certificates to the City annually during construction. He had explained how the latter issue put the City and taxpayers at financial risk if there was an accident. In late January or early February 2014, the City Attorney announced to this Chamber from the dais, without direction or prompting from the Commission, that he had received verbal assurances from Ray Brown that he had all require insurance policies. There was no comment from the Commission event though the City Attorney clearly had a conflict of interest and was acting as an agent for the developer instead of the City and taxpayers. If Ray Brown had the specified insurance policies, where was the proof of insurance certificates? Why didn't the City Attorney demand the certificates required in the agreement that he executed to protect the City and the taxpayers. Why was the City Attorney acting against the financial interests of the City? Why was the City Attorney discussing City legal business with a contract counter party and holding a secret meeting without obtaining permission from the Commission? This would be contrary to the declaration of the Bar, which is a conflict of interest, and a violation of the code of ethics of the Bar. Mr. Smith said since the City Attorney is the City's sole client he must assume that the Commission was aware of these facts and of the City Attorney's unethical acts, and that the Commission gave approval in secret in violation of the Sunshine Law. He said it was at that point he came to believe the City Attorney was polluted and could not be trusted to conduct the City's legal affairs in a professional and legal manner. After additional investigation, he filed a formal complaint against the City Attorney with the Florida Bar Association in September 2014. Over the course of fall and winter 2014, a review committee at the Bar determined there was sufficient cause to open an investigation of the City Attorney's professional conduct. A synopsis of his allegations from his letter of September 8 is that the attorney failed to obtain the specified monies before hotel title transfer, misled the Commission about monies spent on the hotel by the developer and issues with the Society. On February 3, 2015, after an illegal Commission vote, the City closed and padlocked the Museum, a clear civil violation of the contract between the City and the Historic Society. The contract required a sixty-day notice of termination period. He noted that the failure to secure the \$30,000 due the Society led directly to the financial demise of the Society. It was not Mimi's management, it was the Commission's utter failure as the people's representative that as at fault. He had contacted Mr. Gibson that evening as he may recall confirming the closer.

## **9. CONSENT AGENDA**

### **Agenda Item 9.I. Annual Contract for Chlorine System Repair**

[Begin Agenda Memo]

#### **SYNOPSIS**

The commission will consider approving an annual contract for the repair of the chlorine chemical feeding system.

## **BACKGROUND**

Due to the corrosive nature of various chemicals involved in the water and waste water treatment process, it becomes necessary for these chemical systems to require periodic maintenance. The main chemical used in the disinfection of the water and waste water treatment is chlorine. The tubing and various transmission systems tend to corrode over time just due to the nature of the chemical.

Staff is recommending the commission approve entering into an annual contract for the repair of the chlorine chemical system feed for maintenance located at the various city treatment facilities.

## **FISCAL IMPACT**

There is no fiscal impact at this time. When repairs are needed, they will be evaluated on a case-by-case basis and brought before the commission if necessary.

## **OTHER OPTIONS**

None. Without the repair of this much needed disinfection system, all treatment facilities become crippled and proper operation becomes impaired.

[End Agenda Memo]

**Agenda Item 9.II. Chastain-Skillman, Inc Engineering Services Contract for the design, permitting, and construction phase services for water treatment plant #3 ground storage tank**

[Begin Agenda Memo]

## **SYNOPSIS**

Engineering contract for the design, permitting, and construction phase services to add an additional ground storage tank at the Water Treatment Plant #3 located near Lake Wales High School.

## **RECOMMENDATION**

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

1. Approve an engineering services contract with Chastain-Skillman Inc for the design, permitting, and construction of an additional ground storage tank located at water treatment plant #3 in the amount of \$104,000.

## **BACKGROUND**

The City owns and operates three water treatment plants that provide quality drinking water to its citizens. An integral part of the system is to provide sufficient storage capacity, to include redundancy if necessary, of the treated water for use on an as needed basis. Currently water treatment plant #3 has the capacity to hold and store 400,000 gallons of treated water. This treated water is then sent throughout the distribution lines to service city residents in the northern part of the city. It is the utilities department intent to ensure that there is always a sufficient amount of treated water for use. Currently there is only one storage facility at water treatment plant #3. This contract will allow the utilities department to be able to design, permit, and construct an additional 400,000-gallon ground storage tank for the purpose of redundancy and storage.

Staff recommends the commission take the following action; approve the engineering services contract from Chastain-Skillman, Inc. in the amount of \$104,000 for the design, permitting, and construction phase services.

## **OPTIONS**

Choose not to approve this engineering services contract and continue to have storage deficiencies that exist in the water system.

#### **FISCAL IMPACT**

The amount budgeted for this project is \$1,000,000. Monies for the engineering are to be covered through impact fees.

[End agenda memo]

#### **Agenda Item 9.III. Lower Floridian Exploratory Well Land Lease Easement and License Agreement Approval**

[Begin Agenda Memo]

#### **SYNOPSIS**

The Lake Wales Museum and the Lake Wales Museum Association are sponsoring a fundraiser event at the Lake Wales Museum called "Beers with Pioneers" on March 18, 2017. This event will include alcohol.

#### **RECOMMENDATION**

Staff recommends approval of the special event application for the "Beers with Pioneers" event at the Lake Wales Depot Museum on March 18, 2017 from 4:00 p.m.-8:00 p.m.

#### **BACKGROUND**

The special event "Beers with Pioneers" will be held on the grounds of the Depot Museum and will be a ticketed event. As this event will include alcohol a temporary alcohol permit will be required and 2 off-duty police officers will be hired for the event. The Lake Wales Museum Association will also be required to get liability insurance in the amount of \$1,000,000 and must name the City of Lake Wales as additionally insured. They will also be required to designate the boundaries where the alcohol will be served.

#### **OTHER OPTIONS**

Do not approve the permit.

#### **FISCAL IMPACT**

None - the cost of the 2 off-duty police officers will be borne by the Lake Wales Museum Association.

[End Agenda Memo]

#### **Agenda Item 9.IV. Modification and Ratification of Airport Ground Lease**

[Begin Agenda Memo]

#### **SYNOPSIS**

The City Commission will consider modifying the lease agreement with Terry Short Aircraft Services, LLC for ground space at the Lake Wales Municipal Airport.

#### **RECOMMENDATION**

Staff recommends that the City Commission approve the following action:

1. Authorize the Mayor to execute the Modification and Ratification of the ground lease between the City of Lake Wales and Terry Short Aircraft Services, LLC.

### **BACKGROUND**

The City and the tenant, Aircraft Services, LLC, previously entered into a ground lease agreement dated July 21, 2015. The tenant desires that the ground lease be modified to include a 25 X 60 foot addition, an addition of 1,500 square feet to the Tenant's existing 60 X 60 structure.

All other terms of the lease agreement remain the same.

### **FISCAL IMPACT**

Approval of the modification/ratification adds an additional \$375.00 in annual revenues for airport ground leases.

### **OTHER OPTIONS**

The Commission may choose not to authorize the modification of the lease agreement at this time.

[End Agenda Memo]

### **Agenda Item 9.V. Purchase Authorization – SEMCO Construction, Inc.**

[Begin Agenda Memo]

### **SYNOPSIS**

The City Commission will consider authorizing staff to expend funds for capital facility repairs of various City facilities.

### **RECOMMENDATION**

It is recommended that the City Commission take the following action(s):

1. Authorize staff to expend funds in the amount of \$148,147 for the repair of multiple City facilities.
2. Authorize SEMCO Construction, Inc. to complete the work.
3. Authorize a budget amendment in the amount of \$33,147.

### **BACKGROUND**

The City Commission appropriated \$115,000 in the FY17 adopted CIP budget for repairs to the Lake Wales Park Pier, the CSX Facility, the Fleet Operations Facility and the Depot Museum.

The cost of the facility repairs is \$33,147 higher than the estimates staff submitted during FY17 budget process and staff is requesting a budget amendment to cover the funding deficit. Funding sources have already been identified within the current FY17 budget to cover the deficit, a large portion of which will come from savings from other capital projects that are already completed and were under budget.

Attached to this memo are detailed condition assessments of each facility along with cost proposals for the repair of each.

The Lake Wailes Park Pier has been deteriorating for several years and is in dire need of repair. The rehabilitation of the pier was deferred for a number of years and cannot be deferred any longer as it used by the public on a daily basis. Much of the wood is deteriorating and the handrails have become loose.

The roofs of both the CSX and Fleet Facilities have been leaking for a number of years and the water intrusion has caused substantial damage to the roof structures.

The soffit and fascia around the Depot Museum is in need of repair to prevent further water intrusion into the facility. Additionally, the wood decking outside the south entrance of the Depot is deteriorating and has become unsafe.

SEMCO Construction, Inc. was awarded a contract for Licensed General/Building Contractor Services by the City commission during the December 20, 2016 regular City Commission meeting (RFP 16-423).

In accordance with Sec. 2-417(d)(3) of the City's Code of Ordinances, all purchases in excess of Category 1 (\$20,000) require City Commission approval before funds can be expended.

#### **OTHER OPTIONS**

- 1) The City Commission may elect to approve any combination of the proposed projects rather than approve them all.
- 2) The City Commission may elect to defer the proposed projects

#### **FISCAL IMPACT**

The total cost of the proposed projects is \$148,147, of which, \$115,000 is appropriated in the FY17 CIP budget. The remainder will be funded through a budget amendment.

[End agenda memo]

#### **END CONSENT AGENDA**

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

By Voice Vote:

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

The motion carried 4-0.

#### **10. OLD BUSINESS**

#### **11. NEW BUSINESS**

#### **12. CITY CLERK**

#### **Agenda Item 12.I. 2017 Municipal Election & Canvassing Board Information**

[Begin Agenda Memo]

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Flora "Tonya" Stewart  
Lloyd J Van Sickle

## CANVASSING BOARD INFORMATION

While the Supervisor of Elections and the City Clerk may perform many of the tasks necessary to conduct the election, the City Commission serves as the Municipal Canvassing Board and has legal responsibilities related to the conduct of the Municipal Election. It is necessary to review the responsibilities well in advance to prevent calendar conflicts because a quorum must be present at all Canvassing Board meetings.

The following rules apply to all members of the Canvassing Board:

No member can serve if he or she is a candidate with opposition in the election being canvassed or is *actively participating* in the campaign or the candidacy of any candidate who has opposition in the election being canvassed. Actively participating means undertaking an intentional effort to demonstrate or generate public support for a candidate beyond merely making a campaign contribution. Refer to DE 8-10; 09-07.

If a lack of a quorum is created on the Canvassing Board due to this rule or any other unavoidable cause, the City Commission may appoint the city manager, city attorney, or resident/s to serve in the absence of that commission member/s to serve on the Canvassing Board to avoid a possible lack of quorum (Sec. 8-26, Lake Wales Code of Ordinances). The City Clerk will prepare an agenda item for the first meeting in March for the City Commission to appoint additional people to serve on the Canvassing Board if deemed necessary.

Per Florida Statute, Canvassing Board members are required to attend the following meetings.

### **Pre-election Logic and Accuracy Testing of Tabulating Equipment (L&A)**

Tuesday, March 28, 2017; 4:00 p.m.

Elections Operations Center, 70 Florida Citrus Blvd. Winter Haven, FL 33880  
(behind the Auburndale Speedway).

-At least member of the Canvassing Board must attend the L&A Testing.

**Election Night Canvassing of Ballots**

Tuesday, April 4, 2017, time to be scheduled by SOE (5:00 p.m. or later)  
Elections Operations Center, 70 Florida Citrus Blvd. Winter Haven, FL 33880  
*-A quorum must be present and must remain until all ballots are tabulated.*

**Certification of Election**

City of Lake Wales Municipal Administration Building  
Thursday, April 6, 2017; 5:00 p.m.  
*-A Quorum must be present.*

**Post-Election Manual Audit**

Date & Time to be determined – April 10, 2017 through April 13, 2017  
Elections Operations Center, 70 Florida Citrus Blvd. Winter Haven, FL 33880  
*-A quorum must be present.*

[End Agenda Memo]

City Clerk Clara VanBalgan read Agenda Item 12.I into the record.

**13. CITY MANAGER**

The City Attorney said that in response to Mr. Smith, he did indeed file a complaint against him, which was dismissed by the Bar and it was never referred to the Committee or anything else. It was dismissed and it is no longer a record because it is more than a year old. It is the same hash that we have been through before about the Depot and about the Grand Hotel.

Mr. Fields reported the following:

- The City is joining with the YMCA to start a middle school girls' volleyball program and the registration ends on Thursday, February 23<sup>rd</sup>. About 120 kids have registered so far. It is a cooperative effort and the YMCA is helping to organize that. They will be using the City's gymnasium. This is a way to grow our recreation program without growing our staff.
- Beginning with the March 7 Commission meeting, we will be live streaming the Commission meetings over the internet. This is in addition to the normal live broadcast that takes place on Comcast. The rebroadcast will take place on Comcast, Direct TV, Bright House, and Verizon. It will live on the internet as the meeting takes place and on the City's website, people will be able to see past commission meetings and the agendas because we will be archiving them.

**Agenda Item 13.I. City Commission Tracking Report**

**Agenda Item 13.II. Social Media Report**

**Agenda Item 13.III City Commission Meeting Calendar**

**Agenda Item 13.IV. Other Meetings & Events Calendar**

**14. CITY COMMISSION COMMENTS**

Deputy Mayor Thornhill said he would not be able to be attend the Canvassing Board meeting to be held during the day because he has to give advance notice to his employer. Mr. Fields said that at the next meeting the Commission would be appointing alternates so we have a quorum.

**15. MAYOR COMMENTS**

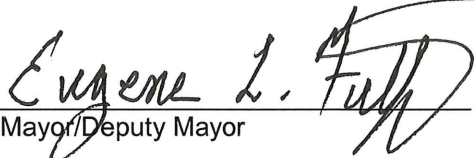


The Mayor thanked everyone who came to the meeting and thanked the two candidates that attended the meeting. He attended a meeting today with the Polk County School Board and staff at Roosevelt Academy and learned that the Roosevelt will not be closing. They will be adding new programs down the line, students will still have an option to obtain certifications for occupational things, and they can continue with the vocational things that are already there at the school under an umbrella. It will be expanded so there will be more opportunities to step out and to seek jobs elsewhere.

Mr. Fields commented on the success of the Lake Wales Arts Festival held over the weekend and announced the upcoming Mardi Gras event.

**16. ADJOURNMENT**

The meeting was adjourned at 6:18 p.m.

  
\_\_\_\_\_  
Mayor/Deputy Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk Clara VanBlargan, MMC

