

RESOLUTION NO. 13-08

A RESOLUTION OF THE CITY OF LAKE WALES, FLORIDA, AUTHORIZING THE ISSUANCE OF THE NOT TO EXCEED \$1,700,000 CITY OF LAKE WALES, FLORIDA ASCENDING LIEN CAPITAL IMPROVEMENT REVENUE NOTE, SERIES 2013, TO FINANCE THE CITY'S FIRE SUBSTATION AND CEMETERY PROJECT; PLEDGING CERTAIN FRANCHISE FEES, PUBLIC SERVICE TAX REVENUES AND COMMUNICATION SERVICE TAX REVENUES ON A SUBORDINATE BASIS TO SECURE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SUCH NOTE; DESIGNATING THE NOTE FOR THE EXCEPTION FOR CERTAIN TAX-EXEMPT OBLIGATIONS CONTAINED IN SECTION 265 OF THE INTERNAL REVENUE CODE OF 1986; AUTHORIZING THE NEGOTIATED SALE OF THE NOTE; ACCEPTING THE COMMITMENT OF STI INSTITUTIONAL & GOVERNMENT, INC. TO PURCHASE SUCH NOTE; PROVIDING FOR THE RIGHTS OF HOLDERS OF SUCH NOTE; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WALES, FLORIDA, that:

SECTION 1. *Definitions.* Unless the context otherwise requires, terms used in this Resolution shall have the meanings specified in this section.

"Act" means the Constitution of the State of Florida, Chapter 166, Florida Statutes, the Charter of the Issuer, and other applicable provisions of law.

"Additional Obligations" shall mean additional obligations issued or incurred in compliance with the terms, conditions and limitations contained herein and which (i) shall have a lien on and be payable from the Pledged Revenues and the Franchise Fees (until they are released as provided herein) equal to that of the outstanding Notes, and (ii) shall rank equally in all other respects with the Series 2013 Note.

"Authorized Denominations" means \$100,000 and \$1,000 increments in excess thereof.

"Business Day" means any day except any Saturday or Sunday or day on which the Original Purchaser is closed.

"City Attorney" shall mean the City Attorney of the Issuer.

"City Commission" shall mean the City Commission of the City of Lake Wales, Florida.

"City Manager" shall mean the City Manager or assistant City Manager of the Issuer.

"Clerk" shall mean the City Clerk or assistant or deputy City Clerk of the Issuer, or such other person as may be duly authorized by the City Commission to act on his or her behalf.

"Code" means the Internal Revenue Code of 1986, as amended, and any Treasury Regulations, whether temporary, proposed or final, promulgated thereunder or applicable thereto.

"Communications Services Tax Revenues" means 87% of the revenues and taxes received by the Issuer pursuant to Chapter 202, Florida Statutes, and Section 13, Chapter 2000-140, Laws of Florida, except the tax levied pursuant to Section 202.12, Florida Statutes.

"Franchise Fees" shall mean the fees levied and collected by the Issuer from Florida Power Corporation pursuant to Ordinance No. 92-21 duly enacted by the Issuer on November 17, 1992 with a term of thirty (30) years from the date thereof, by reason of having granted to said company the right to supply electricity to the Issuer and its inhabitants.

"Issuer" means the City of Lake Wales, Florida, a municipal corporation of the State of Florida.

"Maturity Date" means October 1, 2028, or such other earlier date as may be agreed to in a resolution supplemental hereto.

"Mayor" means the Mayor of the Issuer, or in his or her absence or inability to act, the Vice Mayor of the Issuer or such other person as may be duly authorized by the City Commission to act on his or her behalf.

"Notes" shall mean the Series 2013 Notes and any Additional Obligations issued hereunder.

"Original Purchaser" means STI Institutional & Government, Inc., Orlando, Florida, a Delaware general business corporation.

"Owner" or "Owners" means the Person or Persons in whose name or names the Series 2013 Note shall be registered on the books of the Issuer kept for that purpose in accordance with provisions of this Resolution.

"Paying Agent" and/or "Registrar" as it relates to the Series 2013 Note shall mean the City Manager.

"Person" or "Persons" means natural persons, firms, trusts, estates, associations, corporations, partnerships and public bodies.

"Pledged Revenues" means the Public Service Tax Revenues and the Communications Services Tax Revenues.

"Project" means the acquisition and construction of a fire substation and cemetery and certain improvements thereto and certain other capital projects, as may be amended from time to time.

"Project Fund" shall mean the Project Fund established with respect to the Note pursuant to Section 13 hereof.

"Public Service Tax Ordinance" means Ordinance No. 96-20 enacted by the City Commission of the Issuer on November 5, 1996, as amended from time to time, and as particularly amended by Ordinance No. 2001-19 enacted by the City Commission of the Issuer on November 20, 2001.

"Public Service Tax Revenues" means the revenues which derived from taxes levied and collected by the Issuer under the authority of Section 166.231, Florida Statutes and the Public Service Tax Ordinance on purchases of electricity, water, and metered or bottled gas (natural liquefied petroleum gas or manufactured) within the Issuer.

"Resolution" means this Resolution, pursuant to which the Series 2013 Note is authorized to be issued, including any supplemental resolutions.

"Series 2013 Note" means the City of Lake Wales, Florida Ascending Lien Capital Improvement Revenue Note, Series 2013 authorized herein.

"State" means the State of Florida.

"Term Sheet" means the Term Sheet of the Original Purchaser.

SECTION 2. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of the Act.

SECTION 3. Findings. It is hereby ascertained, determined and declared that:

(A) For the benefit of its inhabitants, the Issuer finds, determines and declares that it is necessary for the continued preservation of the health, welfare, convenience and safety of the Issuer and its inhabitants to acquire and construct the Project. Issuance of the Note to finance the Project satisfies a paramount public purpose.

(B) The Pledged Revenues are currently pledged to secure the repayment of the Issuer's Capital Improvement Refunding Revenue Note, Series 2003 (the "Series 2003 Note") on a first lien basis and the Franchise Fees are currently pledged to secure the repayment of the Issuer's Refunding Revenue Note, Series 2009 (the "Series 2009 Note", and together with the Series 2003 Note, the "Senior Lien Debt") on a first lien basis. Prior to the issuance of the Series 2013 Note, SunTrust Bank, as holder of the Senior Lien Debt, will acknowledge and consent to the terms of this Resolution.

(C) At such time as the debt service coverage test related to the Pledged Revenues included in Section 8 hereof is satisfied, the lien on the Franchise Fees of the Series 2013 Note will be released; provided, however, such lien on the Franchise Fees may not be released prior to October 1, 2018.

(D) Upon the repayment in full of the Series 2003 Note, which is expected to occur on about October 1, 2016, the lien on the Pledged Revenues of the Series 2013 Note will become a

first lien. Upon the repayment in full of the Series 2009 Note, which is expected to occur on about October 1, 2014, the lien on the Franchise Fees of the Series 2013 Note will become a first lien.

(E) The costs associated with the issuance of the Series 2013 Note shall be deemed to include legal fees and expenses, expenses for estimates of costs and of revenues, accounting expenses, attorney fees of the Original Purchaser of the Series 2013 Note, and such other fees and expenses as may be necessary or incidental for the financing herein authorized.

(F) The principal of and interest and redemption premium on the Series 2013 Note and all other payments shall be payable solely from the Pledged Revenues and the Franchise Fees. The Issuer shall never be required to levy ad valorem taxes on any real or personal property therein to: (1) pay the principal of and interest on the Series 2013 Note herein authorized; or (2) make any other payments provided for herein. The Series 2013 Note shall not constitute a lien upon any properties owned by or located within the boundaries of the Issuer or upon any property other than a lien on the Pledged Revenues and the Franchise Fees.

(G) The Issuer desires to qualify the Series 2013 Note for the exception contained in Section 265(b)(3) of the Code to the provisions contained in Section 265(b) of the Code which deny financial institutions any deduction for interest expense allocable to tax-exempt obligations acquired after August 7, 1986, and to designate the Series 2013 Note for the purpose of qualifying for such exception.

(H) Because of the characteristics of the Series 2013 Note and prevailing market conditions, it is in the best interest of the Issuer to accept the Term Sheet of the Original Purchaser attached hereto as Exhibit A to purchase the Series 2013 Note at a private negotiated sale. Prior to the issuance of the Series 2013 Note, the Issuer shall receive from the Original Purchaser a Purchaser's Certificate, the form which is attached hereto as Exhibit B and a Disclosure Letter containing the information required by Section 218.385, Florida Statutes, the form of which is attached hereto as Exhibit C.

(I) In consideration of the purchase and acceptance of the Series 2013 Note authorized to be issued hereunder by those who shall be the Owners thereof from time to time, this Resolution shall constitute a contract between the Issuer and the Owners.

SECTION 4. Authorization of Project. There is hereby authorized the acquisition and construction of the Project.

SECTION 5. Authorization of the Note. Subject and pursuant to the provisions hereof, an obligation of the Issuer to be known as the "City of Lake Wales, Florida Ascending Lien Capital Improvement Revenue Note, Series 2013" in the principal amount of not to exceed \$1,700,000 is authorized to be issued.

SECTION 6. Description of the Series 2013 Note. The Series 2013 Note shall be dated the date of its execution and delivery, which shall be a date agreed upon by the Issuer and the Original Purchaser, and shall have such other terms and provisions, including an interest rate not exceeding the maximum interest rates permitted by the Act, interest rate adjustment provisions, principal and interest payment terms, maturity date, and prepayment provisions as stated herein and in the form of the Series 2013 Note contained herein. The Series 2013 Note is

to be in substantially the form set forth in Exhibit D hereof, together with such changes as shall be approved by the Mayor, such approval to be conclusively evidenced by the execution thereof by the Mayor. The Series 2013 Note shall be executed on behalf of the Issuer with the manual signature of the Mayor and shall be attested with the manual signature of the City Clerk. In case any one or more of the officers who shall have signed or sealed the Series 2013 Note shall cease to be such officer of the Issuer before the Series 2013 Note so signed and sealed has been actually sold and delivered, such Series 2013 Note may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Series 2013 Note had not ceased to hold such office. The Series 2013 Note may be signed and sealed on behalf of the Issuer by such person who at the actual time of the execution of the Series 2013 Note shall hold the proper office of the Issuer, although, at the date of the Series 2013 Note, such person may not have held such office or may not have been so authorized.

SECTION 7. *Registration and Exchange of the Series 2013 Note; Persons Treated as Owners.* The Series 2013 Note will initially be registered to the Original Purchaser. So long as the Series 2013 Note shall remain unpaid, the Registrar will keep books for the registration and transfer of the Series 2013 Note. The Series 2013 Note shall be transferable only upon such registration books and in Authorized Denominations.

The Person in whose name a Series 2013 Note shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of principal and interest on such Series 2013 Note shall be made only to or upon the written order of the Owner. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Series 2013 Note to the extent of the sum or sums so paid.

SECTION 8. *Payment of Principal and Interest; Limited Obligation.* (A) The Issuer promises that it will promptly pay the principal of and interest on the Series 2013 Note at the place, on the dates and in the manner provided therein. The Series 2013 Note shall not be or constitute a general obligation or indebtedness of the Issuer as "bonds" within the meaning of Article VII, Section 12 of the Constitution of Florida, but shall be payable solely from the Pledged Revenues and Franchise Fees in accordance with the terms of the Resolution. No holder of any Series 2013 Note issued hereunder shall ever have the right to compel the exercise of any ad valorem taxing power to pay such Series 2013 Note, or be entitled to payment of such Series 2013 Note from any funds of the Issuer except from the Pledged Revenues and the Franchise Fees on a subordinate basis as described herein.

(B) On or after October 1, 2018, the lien on the Franchise Fees shall be released upon filing of a certificate of the Finance Director to the Paying Agent and Owner (1) stating that the books and records of the Issuer relating to the Pledged Revenues have been examined by him or her, (2) setting forth the amount of the Pledged Revenues which have been received by the Issuer during the most recently audited fiscal year, and (3) stating that the Pledged Revenues for such year equals at least 1.50 times the maximum annual debt service on the outstanding Notes.

(C) Upon the repayment in full of the Series 2003 Note, which is expected to occur on about October 1, 2016, the lien on the Pledged Revenues of the Series 2013 Note shall immediately and automatically become a first lien and the Issuer shall promptly provide a certificate of the Finance Director to that effect to the Owner of the Series 2013 Note.

(D) Upon the repayment in full of the Series 2009 Note, which is expected to occur on about October 1, 2014, the lien on the Franchise Fees of the Series 2013 Note shall immediately and automatically become a first lien and the Issuer shall promptly provide a certificate of the Finance Director to that effect to the Owner of the Series 2013 Note.

SECTION 9. Terms of the Series 2013 Note.

(A) The Series 2013 Note shall bear interest from its date at an annual rate of 2.91%, payable semi-annually on the first day of April and the first day of October of each year, commencing on April 1, 2014, calculated on the basis of twelve 30-day months and a 360-day year.

(B) Amortization payments of principal on the Series 2013 Note will be as specified in the Series 2013 Note.

(C) The Series 2013 Note may not be prepaid for the first two years following its issuance. The Series 2013 Note may be prepaid in whole on any date after such two years at a price equal to the principal amount then outstanding plus accrued interest to the date fixed for prepayment upon seven days notice to the holder of the Series 2013 Note.

(D) All payments by the Issuer pursuant to the Series 2013 Note shall apply first to accrued interest and the balance thereof shall apply to principal.

(E) The Series 2013 Note may be transferred in Authorized Denominations not less than \$100,000 to an "accredited investor" within the meaning of the Securities Act of 1933, as amended, and Regulation D thereunder.

SECTION 10. Covenants of the Issuer.

(A) The Issuer will provide the holder of the Series 2013 Note with (i) annual audited statements within 210 days of fiscal year end, (ii) an annual budget within 30 days of adoption, and (iii) with any other information the Original Purchaser may reasonably request.

(B) The Issuer will timely make all payments due on the Senior Lien Debt.

(C) The Issuer will take all actions required to be eligible to receive and to continue to receive all Pledged Revenues and, so long as pledged hereunder, all Franchise Fees.

(D) The Issuer will maintain compliance with all federal, state and local regulations regarding the purpose of the Series 2013 Note.

SECTION 11. Issuance of Additional Obligations. No Additional Obligation payable from the Pledged Revenues and the Franchise Fees (until they are released as provided herein) on a parity with the Series 2013 Note then outstanding pursuant to this Resolution shall be issued except upon the conditions and in the manner herein provided. The Issuer may issue one or more series of Additional Obligations upon compliance with the following conditions:

(A) The Issuer's Finance Director shall deliver a certificate to the Owners of the outstanding Notes (1) stating that the books and records of the Issuer relating to the Pledged Revenues have been examined by him or her, (2) setting forth the amount of the Pledged Revenues which have been received by the Issuer during the two most recently audited fiscal years, and (3) stating that the average amount of the Pledged Revenues for such two years equals at least 1.50 times the maximum annual debt service on the Notes outstanding at that time and the to be issued Additional Obligations.

(B) The supplemental resolution authorizing the issuance of the Additional Obligations shall recite that all of the covenants contained herein will be applicable to such Additional Obligations.

SECTION 12. *Events of Default; Remedies of Noteholder.* The following shall constitute Events of Default: (i) if the Issuer fails to timely pay any payment of principal or interest on the Series 2013 Note; (ii) if the Issuer defaults in the performance or observance of any covenant or agreement contained in this Resolution or the Series 2013 Note (other than set forth in (i) above) and fails to cure the same within thirty (30) days following written notice or an event of default occurs with respect to the Senior Lien Debt; or (iii) filing of a petition by or against the Issuer relating to bankruptcy, reorganization, arrangement or readjustment of debt of the Issuer or for any other relief relating to the Issuer under the United States Bankruptcy Code, as amended, or any other insolvency act or law now or hereafter existing, or the involuntary appointment of a receiver or trustee for the Issuer, and the continuance of any such event for 90 days undismissed or undischarged.

Upon the occurrence and during the continuation of any Event of Default, the Owner of the Series 2013 Note may, in addition to any other remedies set forth in this Resolution or the Series 2013 Note, by written notice to the Issuer declare the principal of the Series 2013 Note to be due and payable immediately, and upon such declaration the same shall become and be due and payable immediately from the Pledged Revenues and the Franchise Fees (until such time as they are released hereunder), and upon such declaration the same shall become and be due and payable from the Pledged Revenues and the Franchise Fees (until such time as they are released hereunder) notwithstanding any other terms hereof or of the Series 2013 Note, and the Owner of the Series 2013 Note may further, either at law or in equity, by suit, action, mandamus or other proceeding (including specific performance) in any court of competent jurisdiction, protect and enforce any and all rights under the laws of the State, or granted or contained in this Resolution, and may enforce and compel the performance of all duties required by this Resolution, or by any applicable statutes to be performed by the Issuer or by any officer thereof. In any such default, the Issuer shall also be obligated to pay as part of the indebtedness evidenced by the Series 2013 Note, all costs of collection and enforcement hereof, including such reasonable attorneys' fees as may be incurred, including on appeal or incurred in any proceeding under bankruptcy laws as they now or hereafter exist.

Notice of Defaults. The City Issuer shall within five (5) business days after it acquires knowledge thereof, notify the Owner of the Series 2013 Note in writing at its notice address included in the registration books related to the Series 2013 Note (a) of any change in any material fact or circumstance represented or warranted by the Issuer in this Resolution or in connection with the issuance of the Series 2013 Note; (b) upon the happening, occurrence, or existence of any Event of Default, and (c) any event or condition which with the passage of

time or giving of notice, or both, would constitute an Event of Default, and shall provide the Owner, with such written notice, a detailed statement by a responsible officer of the Issuer of all relevant facts and the action being taken or proposed to be taken by the Issuer with respect thereto. Regardless of the date of receipt of such notice by the Owner, such date shall not in any way modify the date of occurrence of the actual Event of Default.

SECTION 13. Application of the Series 2013 Note Proceeds. The proceeds from the sale of the Series 2013 Note shall be used to reimburse and fund the Project and associated costs of issuance (including but not limited to legal fees and expenses) in accordance with the provisions in this Section.

The Issuer hereby covenants that it will establish with a depository in the State of Florida, which is a member of the Federal Deposit Insurance Corporation and which is eligible under the laws of the State of Florida to receive municipal funds, one fund to be known as the "City of Lake Wales, Florida, Ascending Lien Capital Improvement Revenue Note, Series 2013, Project Fund" (the "Project Fund").

Proceeds from the sale of the Series 2013 Note herein authorized shall be deposited into the Project Fund and shall be used as described above. When the acquisition of the Project has been completed and all acquisition-related costs and other costs of issuance have been paid in full, all funds remaining in the Project Fund shall be used to redeem the outstanding balance of the Series 2013 Note and the Project Fund shall be closed. All moneys deposited in said Project Fund shall be and constitute a trust fund created for the purposes herein stated, and there is hereby created a lien upon such fund in favor of the Owners of the Series 2013 Note until the moneys thereof shall have been applied in accordance with this Resolution.

The Project Fund shall constitute a trust fund and shall be continuously secured in the same manner as municipal deposits of funds are required to be secured by the laws of the State of Florida. Moneys on deposit in the Project Fund may be invested pursuant to applicable law and the Issuer's investment policy and shall mature not later than the dates on which such moneys shall be needed to make payments in the manner herein provided. The securities so purchased as an investment of the Project Fund shall be deemed at all times to be a part of the Project Fund, and the interest accruing thereon and any profit realized therefrom shall be credited to such Project Fund and any loss resulting from such investment shall likewise be charged to said fund or account.

SECTION 14. Designation of the Series 2013 Note. The Issuer hereby designates the Series 2013 Note as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code. The Issuer and any subordinate entities of the Issuer and any issuer of "tax-exempt" debt that issues "on behalf of" the Issuer do not reasonably expect during the calendar year 2013 to issue more than \$10,000,000 of "tax-exempt" obligations including the Series 2013 Note, exclusive of any private activity bonds as defined in Section 141(a) of the Code (other than qualified 501(c)(3) bonds as defined in Section 145 of the Code).

SECTION 15. Adjustments to Interest Rate on the Series 2013 Note.

The interest rate on the Series 2013 Note may be adjusted by the Original Purchaser in accordance with the adjustment provisions attached to Series 2013 Note as Schedule I thereto.

SECTION 16. General Authority. The members of the City Commission of the Issuer and the Issuer's officers, attorneys and other agents and employees are hereby authorized to perform all acts and things required of them by this Resolution or desirable or consistent with the requirements hereof for the full, punctual and complete performance of all of the terms, covenants and agreements contained in the Series 2013 Note and this Resolution, and they are hereby authorized to execute and deliver all documents which shall be required by Bond Counsel or the initial purchasers of the Series 2013 Note to effectuate the sale of the Series 2013 Note to said initial purchasers.

SECTION 17. Paying Agent and Registrar. The City Manager is hereby appointed as Paying Agent and Registrar with respect to the Series 2013 Note.

SECTION 18. Tax Covenant. The Issuer covenants with the Owners of the Series 2013 Note that the Issuer will not make any use of the proceeds of the Series 2013 Note at any time during the term of the Series 2013 Note which, if such use had been reasonably expected on the date the Series 2013 Note were issued, would have caused such Series 2013 Note to be "arbitrage bonds" within the meaning of the Code. The Issuer will comply with the requirements of the Code and any valid and applicable rules and regulations promulgated thereunder necessary to ensure the exclusion of interest on the Series 2013 Note from the gross income of the Owners thereof for purposes of federal income taxation.

SECTION 19. Series 2013 Note Mutilated, Destroyed, Stolen or Lost. In case the Series 2013 Note shall become mutilated, or be destroyed, stolen or lost, the Issuer shall issue and deliver a new note of like tenor as the note so mutilated, destroyed, stolen or lost, in exchange and in substitution for such mutilated note, or in lieu of and in substitution for the note destroyed, stolen or lost and upon the Owner furnishing the Issuer proof of ownership thereof and indemnity reasonably satisfactory to the Issuer and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur. The note so surrendered shall be canceled.

SECTION 20. Impairment of Contract. The Issuer covenants with the Owners of the Series 2013 Note that it will not, without the written consent of the Owners of the Series 2013 Note, enact any ordinance or adopt any resolution which repeals, impairs or amends in any manner adverse to the Owners the rights granted to the Owners of the Series 2013 Note hereunder.

SECTION 21. Waiver of Jury Trial. The Issuer knowingly, voluntarily, and intentionally waives any right it may have to a trial by jury, with respect to any litigation or legal proceedings based on or arising out of this Resolution or the Series 2013 Note, including any course of conduct, course of dealings, verbal or written statement or actions or omissions of any party which in any way relates to the Series 2013 Note, or this Resolution.

SECTION 22. Applicable Law and Venue. The Series 2013 Note shall be governed by applicable federal law and the internal laws of the state of Florida. The Issuer agrees that certain material events and occurrences relating to this Series 2013 Note bear a reasonable relationship to the laws of Florida and the validity, terms, performance and enforcement of this Resolution and of the Series 2013 Note shall be governed by the internal laws of Florida which

are applicable to agreements which are negotiated, executed, delivered and performed solely in Florida. Unless applicable law provides otherwise, in the event of any legal proceeding arising out of or related to this Note, Issuer consents to the jurisdiction and venue of any court located in the Polk County in the state of Florida.

SECTION 23. Personal Liability Exemption. No recourse under or upon any obligation, covenant or agreement of this Resolution or the Series 2013 Note or for any claim based thereon or otherwise in respect thereof, shall be had against any City Commission Members, the Mayor, the City Manager, the Clerk and the City Attorney, as such, of the Issuer, past, present or future, either directly or through the Issuer it being expressly understood (a) that no personal liability whatsoever shall attach to, or is or shall be incurred by, the City Commission Members, the Mayor, the City Manager, the Clerk and the City Attorney, as such, of the Issuer, under or by reason of the obligations, covenants or agreements contained in this Resolution or implied therefrom, and (b) that any and all such personal liability, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such City Commission Member, the Mayor, the City Manager, the Clerk and the City Attorney, as such, are waived and released as a condition of, and as a consideration for, the execution of this Resolution and the issuance of the Series 2013 Note, on the part of the Issuer.

SECTION 24. Severability. If any provision of this Resolution shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable in any context, the same shall not affect any other provision herein or render any other provision (or such provision in any other context) invalid, inoperative or unenforceable to any extent whatever.

SECTION 25. Rules of Interpretation. Unless expressly indicated otherwise, references to sections or articles are to be construed as references to sections or articles of this instrument as originally executed. Use of the words "herein," "hereby," "hereunder," "hereof," "hereinbefore," "hereinafter" and other equivalent words refer to this Resolution and not solely to the particular portion in which any such word is used.

SECTION 26. Captions. The captions and headings in this Resolution are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Resolution.

SECTION 27. No Third Party Beneficiaries. Except such other persons as may be expressly described in this Resolution or in the Series 2013 Note, nothing in this Resolution or in the Series 2013 Note, expressed or implied, is intended or shall be construed to confer upon any person, other than the Issuer and the Owner, any right, remedy or claim, legal or equitable, under and by reason of this Resolution, or any provision thereof, or of the Series 2013 Note, all provisions thereof being intended to be and being for the sole and exclusive benefit of the Issuer and the persons who shall from time to time be the holders.

SECTION 28. Applicable Provisions of Law. This Resolution shall be governed by and construed in accordance with the laws of the State of Florida.

SECTION 29. Repealer. All resolutions or parts thereof in conflict herewith are hereby repealed.

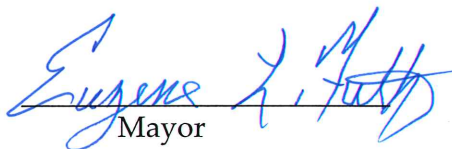
SECTION 30. Effective Date. This Resolution shall be effective immediately upon its adoption.

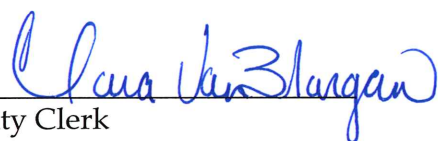
DULY RESOLVED this 17th day of September, 2013.

CITY COMMISSION OF THE CITY OF
LAKE WALES, FLORIDA

(SEAL)

ATTEST:


Mayor


City Clerk

**CERTIFICATE AS TO PUBLIC MEETINGS
AND NO CONFLICT OF INTEREST**

Each of the undersigned members of the City Commission (the "Commission") of the City of Lake Wales, Florida (the "City"), recognizing that the purchaser of the not to exceed \$1,700,000 in aggregate principal amount of Ascending Lien Capital Improvement Revenue Note, Series 2013 (the "Note"), will have purchased said Note in reliance upon this Certificate, DOES HEREBY CERTIFY:

(1) that he or she has no personal knowledge that any two or more members of the Commission, meeting together, reached any prior conclusion as to whether the actions taken by the Commission, with respect to said Note, the security therefor and the application of the proceeds thereof, should or should not be taken by the Commission or should or should not be recommended as an action to be taken or not to be taken by the Commission, except at public meetings of the Commission held after due notice to the public was given in the ordinary manner required by law and custom of the Commission;

(2) that he or she does not have or hold any employment or contractual relationship with STI Institutional & Government, Inc., which is purchasing the Note from the Issuer.

IN WITNESS WHEREOF, we have hereunto affixed our official signatures as of this 19th day of September, 2013.

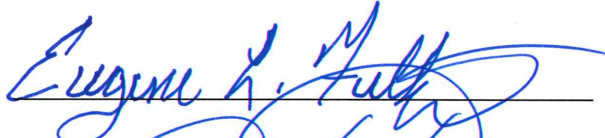
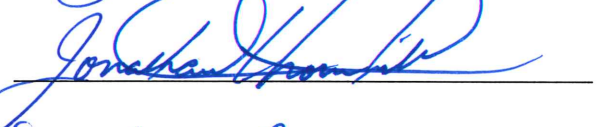
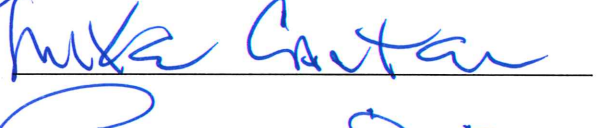

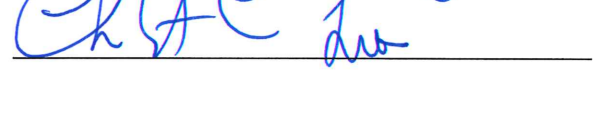






EXHIBIT A

TERM SHEET OF ORIGINAL PURCHASER

EXHIBIT B

FORM OF PURCHASER'S CERTIFICATE

This is to certify that STI Institutional & Government, Inc. (the "Purchaser") has not required the City of Lake Wales, Florida (the "Issuer") to deliver any offering document and has conducted its own investigation, to the extent it deems satisfactory or sufficient, into matters relating to business affairs or conditions (either financial or otherwise) of the Issuer in connection with the issuance of the \$1,700,000 City of Lake Wales, Florida Ascending Lien Capital Improvement Revenue Note, Series 2013 (the "Note"), and no inference should be drawn that the Purchaser, in the acceptance of said Note, is relying on Bryant Miller Olive P.A. ("Note Counsel") or Albert C. Galloway, Jr., P.A. ("City Attorney") as to any such matters other than the legal opinions rendered by Note Counsel and by the City Attorney. Any capitalized undefined terms used herein not otherwise defined shall have the meaning set forth in Resolution No. 13-08 adopted by the City Commission of the Issuer on September 17, 2013 (the "Resolution").

We acknowledge and understand that the Issuer has determined that the Resolution is not required to be qualified under the Trust Indenture Act of 1939, as amended (the "1939 Act"), and that the Note is not required to be registered in reliance upon the exemption from registration under Section 3(a)(2) of the Securities Act of 1933, Section 517.051(1), Florida Statutes, and/or Section 517.061(7), Florida Statutes, and that the Issuer has further determined that neither the Issuer, Note Counsel nor the City Attorney shall have any obligation to effect any such registration or qualification.

We are not acting as a broker or other intermediary, and are purchasing the Note as an investment for our own account and not with a present view to a resale or other distribution to the public. We understand that the Note may not be transferred except to an "accredited investor" as described below, in minimum denominations of \$100,000 and other restrictions set forth in the Note.

We are a bank, trust company, savings institution, insurance company, dealer, investment company, pension or profit-sharing trust, or qualified institutional buyer as contemplated by Section 517.061(7), Florida Statutes. We are not purchasing the Note for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of Chapter 517, Florida Statutes.

We are an "accredited investor" as such term is defined in the Securities Act of 1933, as amended, and Regulation D thereunder.

DATED this 19th day of September, 2013.

STI Institutional & Government, Inc.

By: _____
Name:
Title:

EXHIBIT C

FORM OF DISCLOSURE LETTER

The undersigned, as purchaser, proposes to negotiate with the City of Lake Wales, Florida (the "Issuer") for the private purchase of the \$1,700,000 City of Lake Wales, Florida Ascending Lien Capital Improvement Revenue Note, Series 2013 (the "Note"), as authorized by Resolution No. 13-08 adopted by the City Commission of the Issuer on September 17, 2013 (the "Resolution"). Prior to the award of the Note, the following information is hereby furnished to the Issuer:

1. Set forth is an itemized list of the nature and estimated amounts of expenses to be incurred for services rendered to us (the "Bank") in connection with the issuance of the Note (such fees and expenses to be paid by the Issuer):

Holland & Knight LLP
Bank Counsel Fees -- \$3,500

2. (a) No fee, bonus or other compensation is estimated to be paid by the Bank in connection with the issuance of the Note to any person not regularly employed or retained by the Bank (including any "finder" as defined in Section 218.386(1)(a), Florida Statutes).

(b) No person has entered into an understanding with the Bank, or to the knowledge of the Bank, with the Issuer, for any paid or promised compensation or valuable consideration, directly or indirectly, expressly or implied, to act solely as an intermediary between the Issuer and the Bank or to exercise or attempt to exercise any influence to effect any transaction in the purchase of the Note.

3. The amount of the underwriting spread expected to be realized by the Bank is \$0.

4. The management fee to be charged by the Bank is \$0.

5. Truth-in-Bonding Statement:

The City of Lake Wales, Florida is proposing to issue \$1,700,000 of debt or obligation for the primary purpose of financing the acquisition and construction of a fire substation and cemetery. The Note is expected to be repaid over a period of approximately 15 years. At a fixed interest rate of 2.91%, total interest paid over the life of the Note will be approximately \$449,813.

The source of repayment or security for this proposal is the Public Service Tax, the Communication Service Tax and the Electric Franchise Fees of the Issuer.

6. The name and address of the Bank is as follows:

STI Institutional & Government, Inc.
200 S. Orange Avenue, SOAB 6
Orlando, FL 32801

DATED this 19th day of September, 2013.

STI Institutional & Government, Inc.

By: _____
Name:
Title:

EXHIBIT D
Form of Note

ANY HOLDER SHALL, PRIOR TO BECOMING A HOLDER, EXECUTE A PURCHASER'S CERTIFICATE IN THE FORM ATTACHED TO THE RESOLUTION (HEREIN DEFINED) CERTIFYING, AMONG OTHER THINGS, THAT SUCH HOLDER IS AN "ACCREDITED INVESTOR" AS SUCH TERM IS DEFINED IN THE SECURITIES ACT OF 1933, AS AMENDED, AND REGULATION D THEREUNDER.

September 19, 2013

\$1,700,000

CITY OF LAKE WALES, FLORIDA
ASCENDING LIEN CAPITAL IMPROVEMENT REVENUE NOTE, SERIES 2013

Maturity Date: October 1, 2028

KNOW ALL MEN BY THESE PRESENTS that the City of Lake Wales, Florida (the "Issuer"), for value received, promises to pay from the sources hereinafter provided, to the order of STI Institutional & Government, Inc., or registered assigns (hereinafter, the "Owner"), the principal sum of \$1,700,000 in the amount and on the date described below, together with interest on the principal balance at a rate of 2.91% multiplied by the Margin Rate Factor (as defined in Schedule I hereto), such interest to be paid semi-annually on each April 1st and October 1st, commencing April 1, 2014. Interest shall be calculated on the basis of twelve 30-day months and a 360-day year. The interest rate hereon shall be subject to adjustment and this Note shall be subject to certain other terms as provided in Schedule I hereto.

Principal on this Note is payable annually in lawful money of the United States of America at such place as the Owner may designate to the Issuer in writing pursuant to the following schedule:

Payment Date (October 1)	Principal Amount
2015	\$100,103
2016	103,016
2017	106,014
2018	109,099
2019	112,274
2020	115,541
2021	118,903
2022	122,363
2023	125,923
2024	129,588
2025	133,359
2026	137,240
2027	141,233
2028	145,344

This Note may not be prepaid for the first two years following its issuance. This Note may be prepaid in whole on any date after such two years at a price equal to the principal amount then outstanding plus accrued interest to the date fixed for prepayment upon seven days' written notice to the Owner.

If any date for the payment of principal and interest hereon or the taking of any action hereunder shall fall on a day which is not a Business Day, the payment due or action to be taken on such date shall be due on the next succeeding day which is a Business Day, but the Issuer shall not receive credit for the payment until it is actually received by the Owner.

All payments by the Issuer pursuant to this Note shall apply first to accrued interest, then to other charges due the Owner, and the balance thereof shall apply to principal.

This Note is issued to finance capital improvements pursuant to the Constitution of the State of Florida, Chapter 166, Florida Statutes, and other applicable provisions of law (the "Act"), the Charter of the Issuer, as amended, Resolution No. 2013-__ adopted by the City Commission of the Issuer on September 17, 2013, (the "Resolution"), and is subject to all the terms and conditions of the Act and the Resolution. All terms, conditions and provisions of the Resolution are by this reference thereto incorporated herein as a part of this Note. Terms used herein in capitalized form and not otherwise defined herein shall have the meanings ascribed thereto in the Resolution.

THIS NOTE SHALL NOT BE OR CONSTITUTE A GENERAL OBLIGATION OR INDEBTEDNESS OF THE ISSUER AS "BONDS" WITHIN THE MEANING OF ARTICLE VII, SECTION 12 OF THE CONSTITUTION OF FLORIDA, BUT SHALL BE PAYABLE SOLELY FROM THE PLEDGED REVENUES IN ACCORDANCE WITH THE TERMS OF THE RESOLUTION. NO HOLDER OF THE NOTE ISSUED HEREUNDER SHALL EVER HAVE THE RIGHT TO COMPEL THE EXERCISE OF ANY AD VALOREM TAXING POWER TO PAY SUCH NOTE, OR BE ENTITLED TO PAYMENT OF SUCH NOTE FROM ANY FUNDS OF THE ISSUER EXCEPT FROM THE PLEDGED REVENUES AS DESCRIBED IN THE RESOLUTION.

This Note is payable solely from and secured by a pledge of the Pledged Revenues and the Franchise Fees received by the Issuer, on a subordinate basis to the Senior Debt Obligations, in the manner provided in the Resolution. The Pledged Revenues are currently pledged to secure the repayment of the Issuer's Capital Improvement Refunding Revenue Note, Series 2003 (the "Series 2003 Note") on a first lien basis and the Franchise Fees are currently pledged to secure the repayment of the Issuer's Refunding Revenue Note, Series 2009 (the "Series 2009 Note", and together with the Series 2003 Note, the "Senior Lien Debt") on a first lien basis. At such time as expressly provided for by the terms of the Resolution, the lien on the Franchise Fees will be released. Upon the repayment in full of the Series 2003 Note, which is expected to occur on about October 1, 2016, the lien on the Pledged Revenues of this Note will become a first lien. Upon the repayment in full of the Series 2009 Note, which is expected to occur on about October 1, 2014, the lien on the Franchise Fees of this Note will become a first lien.

This Note may be exchanged or transferred by the Owner hereof but only upon the registration books maintained by the Issuer and in the manner provided in the Resolution.

This Note does not constitute a general indebtedness of the Issuer within the meaning of any constitutional, statutory or charter provision or limitation, and it is expressly agreed by the Holder of this Note that such Holder shall never have the right to require or compel the exercise of the ad valorem taxing power of the Issuer or taxation of any real or personal property therein for the payment of the principal of and interest on this Note or the making of any debt service fund, reserve or other payments provided for in the Resolution.

The Issuer has entered into certain further covenants with the Holders of this Note for the terms of which reference is made to the Resolution and Schedule I hereto.

It is certified that this Note is authorized by and is issued in conformity with the requirements of the Act.

IN WITNESS WHEREOF, the City of Lake Wales, Florida, has issued this Note and has caused the same to be signed by the Mayor and countersigned and attested to by the City Clerk and its seal to be affixed, impressed, imprinted, lithographed or reproduced hereon, all as of the 19th day of September, 2013.

CITY OF LAKE WALES, FLORIDA

(SEAL)

Mayor

ATTESTED AND COUNTERSIGNED:

City Clerk

SCHEDULE "I"

Adjustments to Rate of Interest

The Note is subject to the additional terms set forth in this Schedule "I", including, without limitation, adjustments to the interest rate on the Note:

Determination of Taxability. Upon the occurrence of a Determination of Taxability and for as long as the Note remains outstanding, the interest rate on the Note shall be converted to the Taxable Rate. In addition, upon a Determination of Taxability, the Issuer shall pay to the Owner (i) an additional amount equal to the difference between (A) the amount of interest actually paid on the Note during the Taxable Period and (B) the amount of interest that would have been paid during the Taxable Period had the Note borne interest at the Taxable Rate, and (ii) an amount equal to any interest, penalties on overdue interest and additions to tax (as referred to in Subchapter A of Chapter 68 of the Code) owed by the Owner as a result of the Determination of Taxability. This adjustment shall survive payment of the Note until such time as the federal statute of limitations under which the interest on the Note could be declared taxable under the Code shall have expired.

Loss of BQ Status. So long as no Determination of Taxability shall have occurred, upon the occurrence of a Loss of BQ Status and for as long as the Note remains outstanding, the Interest Rate on the Note shall be converted to the Adjusted BQ Rate. In addition, upon a Loss of BQ Status, the Issuer shall pay to the Owner (i) an additional amount equal to the difference between (A) the amount of interest actually paid on the Note during the period of time from the date of issuance of the Note to the next succeeding interest payment date after the Loss of BQ Status, and (B) the amount of interest that would have been paid during the period in clause (A) had the Note borne interest at the Adjusted BQ Rate, and (ii) an amount equal to any interest, penalties on overdue interest and additions to tax (as referred to in Subchapter A of Chapter 68 of the Code) owed by the Owner as a result of the Loss of BQ Status.

Definitions

"Adjusted BQ Rate" shall mean, upon a Loss of BQ Status, the interest rate per annum that shall provide the Owner with the same after tax yield that the Owner would have otherwise received had the Loss of BQ Status not occurred, taking into account the Margin Rate Factor and the increased taxable income of the Owner as a result of such Loss of BQ Status. The Owner shall provide the Issuer with a written statement explaining the calculation of the Adjusted BQ Rate, which statement shall, in the absence of manifest error, be conclusive and binding on the Issuer.

"Determination of Taxability" means the occurrence after the date hereof of the adoption or taking effect of any law, rule or regulation that changes the ability of the Holder to exclude all or a portion of the interest on the Note from gross income for Federal income tax purposes, or a final decree or judgment of any Federal court or a final action of the Internal Revenue Service determining that interest paid or payable on all or a portion of any Note is or was includable in the gross income of a Owner for Federal income tax purposes; provided, that no such decree, judgment, or action will be considered final for this purpose, however, unless the Issuer has been given written notice and, if it is so desired and is legally allowed, has been afforded the opportunity to contest the same, either directly or in the name of any Owner, and

until the conclusion of any appellate review, if sought.

"Loss of BQ Status" shall mean a determination by the Owner that the Note is not a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code (or any successor provision).

"Margin Rate Factor" shall mean the fraction the numerator of which is equal to one (1) minus the Maximum Federal Corporate Tax Rate on the date of calculation and the denominator of which is 0.65. The Margin Rate Factor shall be 0.65/0.65 or 1.0 so long as the Maximum Federal Corporate Tax Rate shall be 35%, and thereafter shall increase from time to time effective as of the effective date of any decrease in the Maximum Federal Corporate Tax Rate. On the date of execution of the Note, the Margin Rate Factor equals 1.0.

"Maximum Federal Corporate Tax Rate" shall mean the maximum rate of income taxation imposed on corporations pursuant to Section 11(b) of the Code, determined without regard to tax rate or tax benefit make-up provisions such as the last two sentences of Section 11(b)(1) of the Code, as in effect from time to time (or, if as a result of a change in the Code the rate of income taxation imposed on corporations shall not be applicable to the Noteholder, the maximum statutory rate of federal income taxation which could apply to the Noteholder). The Maximum Federal Corporate Tax Rate on the date of execution of the Note is 35%.

"Taxable Period" shall mean the period of time between (a) the date that interest on the Note is deemed to be includable in the gross income of the owner thereof for federal income tax purposes as a result of a Determination of Taxability, and (b) the date of the Determination of Taxability and after which interest on the Note is accruing and being paid at the Taxable Rate.

"Taxable Rate" shall mean, upon a Determination of Taxability, the interest rate per annum that shall provide the Owner with the same after tax yield that the Owner would have otherwise received had the Determination of Taxability not occurred, taking into account the increased taxable income of the Owner as a result of such Determination of Taxability. The Owner shall provide the Issuer with a written statement explaining the calculation of the Taxable Rate, which statement shall, in the absence of manifest error, be conclusive and binding on the Issuer.

AN ORDINANCE GRANTING TO FLORIDA POWER CORPORATION, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC UTILITY FRANCHISE, AND IMPOSING CERTAIN CONDITIONS RELATING THERETO:

County, Florida

Section 1. That for a period of 30 years from the effective date of this ordinance, the City of Lake Wales, a municipal corporation created and existing pursuant to the laws of the State of Florida, its successors and assigns, (herein referred to as Grantor) does hereby give and grant to Florida Power Corporation, a corporation organized and existing pursuant to the laws of the State of Florida, its successors and assigns (herein referred to as Grantee), the right, privilege and franchise to construct, operate and maintain within the corporate limits of Grantor, all electric utility facilities required by the Grantee to supply electricity to Grantor, its inhabitants and the places of business located within Grantor's corporate limits and other customers and areas now or hereafter supplied, or to be supplied, electricity by Grantee.

Section 2. That with respect to the right, privilege and franchise granted to Grantee in Section 1 above, Grantee shall have the right, privilege, franchise, power and authority to use the streets, avenues, alleys, easements, wharves, bridges, public thoroughfares, public grounds and other public places of Grantor as they now exist or may hereafter be constructed, opened, laid out or extended during the term of this franchise.

Section 3. That the rates to be charged by the Grantee for electric service within the corporate limits of Grantor during the term of this franchise shall be as provided in the Grantee's tariffs now or hereafter approved by the Florida Public Service Commission, or such other agency of the State of Florida as may have proper jurisdiction over such rates and charges of Grantee under the general laws of the State of Florida.

Section 4. That effective the first day of the second month beginning after the effective date of this franchise and ordinance, Grantor shall be entitled to receive from Grantee a monthly franchise fee which when added to one-twelfth (1/12) of all taxes, licenses and other impositions levied or imposed by Grantor upon Grantee's electric utility facilities and property and Grantee's business and operation for the preceding year will equal six percent (6%) of Grantee's revenues from the sale of electrical energy to residential and commercial customers plus six percent (6%) of Grantee's revenue from Grantor for public street lighting all within the corporate limits of the Grantor. The franchise fee for each month shall be payable on or before the 15th day of the following month.

Section 5. That Grantor shall in no way be liable or responsible for any accident or damage that may occur in the construction, operation or maintenance by Grantee of its facilities hereunder, and the acceptance of this franchise by Grantee shall be deemed an agreement on the part of the Grantee to indemnify Grantor and hold it harmless against any and all liability, loss, cost, damage or expense which Grantor may incur by reason of the neglect, default, or misconduct of Grantee in the construction, operation or maintenance of its electric utility facilities hereunder.

Section 6. That in the event of the annexation of any territory to the present corporate limits of Grantor, such annexed territory and all portions of the electric system of Grantee located therein shall become subject to all of the terms and conditions of this franchise and ordinance as of the time such annexation becomes effective. It shall be the responsibility of Grantor to notify Grantee in writing within thirty (30) days after the effective date of every such annexation.

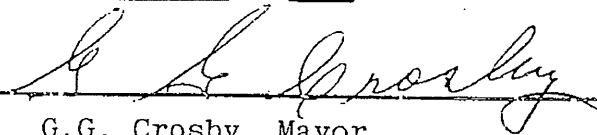
Section 7. That in the event Grantee shall hereafter accept an electric utility franchise ordinance from any municipality providing for the payment of franchise fees in excess of the amount provided for in Section 4 above, then Grantee shall be obligated to accept from Grantor: 1) an amendment of Grantor's existing franchise ordinance providing for the payment of the same increased franchise fees for the remaining term of this existing franchise ordinance if Grantee accepts another franchise ordinance providing for the payment of the increased fees within the first fifteen years of the term of Grantor's franchise ordinance or 2) a new franchise ordinance providing for the payment of the same increased franchise fees for a term of thirty years if Grantee accepts another franchise ordinance providing for the payment of the increased fees during the second fifteen years of the term of Grantor's existing franchise ordinance.

Section 8. That all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.


Section 9. This ordinance shall become effective on the 17th day of November, 1992.

Passed first reading this 20th day of October, 1992.

Passed second reading this 17th day of November, 1992.



G.G. Crosby, Mayor

Attest: 

Judith H. Delmar, City Clerk/Asst. City Manager

ORDINANCE 96-05

AN ORDINANCE AMENDING AN ORDINANCE GRANTING AN ELECTRIC FRANCHISE TO FLORIDA POWER CORPORATION, ITS LEGAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS, BY AMENDING THE FRANCHISE FEE FORMULA; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Lake Wales ("City") has previously granted to Florida Power Corporation an electric franchise which applies to certain areas of the City as defined and set out in the electric franchise; and

WHEREAS, the electric franchise included a franchise fee payment formula that specified its application to certain customers and allowed the deduction of certain costs and expenses from the sum total to be paid to the City; and

WHEREAS, the electric franchise provided that if Florida Power Corporation accepted an electric utility franchise ordinance from any municipality providing for the payment of franchise fees in excess of the amounts provided for in the City electric franchise, that Florida Power Corporation would be obligated to accept an amendment of the City electric franchise ordinance providing for the payment of the same increased franchise fees for the remaining term of the City franchise ordinance if Grantee accepts another franchise ordinance providing for the payment of the increased fees within the first fifteen (15) years of the term of the City franchise; and

WHEREAS, the City of Clearwater, Florida granted and Florida Power Corporation accepted on December 7, 1995, an electric franchise that provided for the payment of franchise fees to the City of Clearwater that exceeded the amounts agreed to be paid to the City of Lake Wales under its electric franchise; and

WHEREAS, Florida Power Corporation notified the City of this matter;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WALES, FLORIDA:

SECTION ONE: Section 4 of Ordinance #92-21, passed by the City Commission on November 17, 1992, is hereby amended to read as follows:

Section 4. That effective the first day of the second month beginning after the effective date of the franchise and ordinance, Grantor shall be entitled to receive from Grantee a monthly franchise fee which when added to one twelfth (1/12) of all taxes, licenses and other impositions levied or imposed by Grantor upon Grantee's electric utility facilities and property and Grantee's business and operation for the preceding year will equal six percent (6%) of Grantee's revenues from the sale of electrical energy, net of customer credits, to residential, and commercial and industrial customers plus six percent (6%) of Grantee's revenue from Grantor for public street lighting all within the corporate limits of the Grantor,

which amount shall be the total compensation due Grantor for the rights, authority and privileges granted by this Franchise. The franchise fee for each month shall be payable on or before the 15th day of the following month.

SECTION TWO: All other sections of the electric franchise and their terms and conditions not otherwise specifically amended above shall remain the same and in full force and effect.

SECTION THREE: This ordinance shall take effect immediately upon adoption.

ADVERTISED

April 5, 1996.

PASSED ON FIRST READING

March 19, 1996.

PASSED ON SECOND AND FINAL
READING AND ADOPTED.

April 16, 1996.

Dixon F. Armstrong
Dixon F. Armstrong, Mayor/Commissioner
City of Lake Wales, Florida

ATTEST:

Theresa B. Hadden
Theresa B. Hadden
City Clerk

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

Albert C. Galloway, Jr.
Albert C. Galloway, Jr., City Attorney

ORDINANCE 96-20

AN ORDINANCE AMENDING CHAPTER 19, TAXATION, BY INCORPORATING INTO THE LAKE WALES CODE OF ORDINANCES DEFINITIONS, RULES AND PROCEDURES FOR ADMINISTRATION OF THE PUBLIC SERVICE TAX AS PROVIDED BY FLORIDA STATUTES; SPECIFYING EXEMPTIONS AS REQUIRED BY FLORIDA STATUTES; DEFINING RESPONSIBILITIES OF TAX COLLECTING AGENCIES AND ESTABLISHING PROCEDURES FOR REMITTANCE OF TAXES COLLECTED; ESTABLISHING INTEREST PAYMENT FOR LATE REMITTANCE OF TAXES COLLECTED; ESTABLISHING PENALTIES FOR NON-COMPLIANCE; DEFINING RESPONSIBILITIES OF THE CITY CLERK IN RESPECT TO ADMINISTRATION OF THE PUBLIC SERVICE TAX; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 166, Florida Statutes, authorizes municipalities to levy a public service tax on the purchase of electricity, metered or bottled gas (natural liquified petroleum gas or manufactured), water service and telecommunications service within the municipal limits and upon services competitive with those enumerated; and

WHEREAS, Ordinances of 1/21/42 and 1/16/51, Ordinance 74-3 and Ordinance 86-13 of the City of Lake Wales, Polk County, Florida authorized the levy of a public service tax on the purchase of electricity, gas, fuel oil, water service and telecommunications service to premises located within the municipal limits; and

WHEREAS, the City is desirous of improving its procedures for collecting said public service tax;

NOW THEREFORE, BE IT ENACTED by the City Commission of the City of Lake Wales, Polk County, Florida:

SECTION 1. Chapter 19, TAXATION, Lake Wales Code of Ordinances, is amended to read as follows:

ARTICLE I. IN GENERAL

Secs. 19-1—19-23. Reserved.

ARTICLE II. PUBLIC SERVICE TAX

Sec. 19-24. Definitions and rules of construction.

(a) When used in this chapter, the following words, terms or phrases shall have the meanings ascribed to them in this section unless the context clearly indicates otherwise:

- (1) *City* means the City of Lake Wales.
- (2) *City clerk* means the city clerk of the City of Lake Wales or his/her designee.
- (3) *City manager* means the city manager of the City of Lake Wales or his/her designee.
- (4) *Electronic transfer* means the use of the Automated Clearing House (ACH), or other electronic transfer system approved on a case by case basis, to send the public

service taxes collected directly from the seller's bank to the bank so designated to receive such transfer.

(5) *Finance director* means the finance director of the City of Lake Wales or his/her designee.

(6) *F.S.* means the most recently published edition of Florida Statutes.

(7) *Fuel oil*, for the purpose of this article, means an oil, including kerosene (coal oil), that is burned to supply light, heat or power; oil purchased for use in internal combustion engines is not taxable under this article.

(8) *Interstate*, as applied to telecommunications services, means originating in the state of Florida but not terminating in this state, or terminating in this state but not originating in this state.

(9) *Intrastate*, as applied to telecommunications services, means originating and terminating in the state of Florida.

(10) *Local telephone services* means:

(i) The access to a local telephone system and the privilege of telephonic-quality communication with substantially all persons having telephone or radio telephone stations constituting a part of such local telephone system; or

(ii) Any facility or service provided in connection with a service described in paragraph (i).

The term *local telephone service* does not include any service which is a toll telephone service, private communication service, cellular mobile telephone or telecommunications service, specialized mobile radio, or pagers and paging service, including but not limited to beepers and any other form of mobile and portable one-way or two-way communication, or teletypewriter or computer exchange service.

(11) *Private communication service* means:

(i) A communication service furnished to a subscriber or user that entitles the subscriber or user to exclusive or priority use of a communication channel or groups of channels, or to the use of an intercommunications system for the subscriber's stations, regardless of whether such channel, groups of channels, or intercommunication system may be connected through switching with a service described in subsection (10), subsection (16), or subsection (17);

(ii) Switching capacity, extension lines and stations, or other associated services which are provided in connection with, and which are necessary or unique to the use of channels or systems described in paragraph(i); or

(iii) The channel mileage which connects a telephone station located outside a local telephone system area with a central office in such local telephone system.

(12) *Purchaser* means a person, firm, corporation or other legal entity who purchases a service directly from a seller.

(13) *Remit* and *remittance* means the sending by the seller and the receipt by the city of all taxes levied and collected pursuant to this article.

(14) *Seller* means a person, firm, corporation, or other legal entity who sells directly to the purchaser; for purposes of this article, the seller acts as the tax-collecting agency of the city.

(15) *Telecommunications service* means:

(i) Local telephone service, toll telephone service, telegram or telegraph service, teletypewriter or computer exchange service, or private communication service; or

(ii) Cellular mobile telephone or telecommunications service, specialized mobile radio, and pagers and paging service, including but not limited to beepers and any other form of mobile and portable one-way or two-way communication, but does not include services or equipment incidental to telecommunications services enumerated in this paragraph such as maintenance of customer premises equipment, whether owned by the customer or not, or equipment sales or rental for which charges are separately stated, itemized, or described on the bill, invoice, or other tangible evidence of the provision of such service.

(16) *Teletypewriter or computer exchange service* means the access from a teletypewriter, telephone, computer, or other data station of which such station is a part, and the privilege of intercommunication by such station with substantially all persons having teletypewriter, telephone, computer, or other data stations, constituting a part of the same teletypewriter or computer exchange system, to which the subscriber or user is entitled upon payment of a charge or charges, whether such charge or charges are determined as a flat periodic amount, on the basis of distance and elapsed transmission time, or some other method. The term *teletypewriter or computer exchange service* does not include local telephone service or toll telephone service.

(17) *Toll telephone service* means:

(i) A telephonic-quality communication for which there is a toll charge which varies in amount with the distance and elapsed transmission time of each individual communication; or

(ii) A service which entitles the subscriber or user, upon payment of a periodic charge which is determined as a flat amount or upon the basis of total elapsed transmission time, to the privilege of an unlimited number of telephonic communications to or from all or a substantial portion of the persons having telephone or radio telephone stations in a specified area which is outside the local telephone system area in which the station provided with this service is located.

The term *toll telephone service* includes interstate and intrastate wide-area telephone service charges.

(18) *Utility service* for the purpose of this article means electricity for light, heat or power; natural and manufactured gas, fuel oil or kerosene (coal oil) for light, heat or power; water service; or telecommunications services.

(b) For the purposes of administration and enforcement of this chapter, unless otherwise stated in this chapter, the following rules of construction shall apply:

(1) The word "*shall*" is always mandatory and not discretionary; the word "*may*" is permissive.

(2) The words "*he*," "*his*," and other words denoting the masculine gender shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

(3) Words used in the present tense shall include the future, and words used in the singular number shall include the plural and plural the singular, unless the context clearly indicates the contrary.

(4) Unless the context clearly indicates the contrary, where a regulation involves

two or more items, conditions, provisions, or events connected by the conjunction "and," "or" or "either...or," the conjunction shall be interpreted as follows:

- (i) "And" indicates that all the connected terms, conditions, provisions or events shall apply.
- (ii) "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
- (iii) "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- (iv) The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

Sec. 19-25. Applicability.

(a) The tax hereby levied shall apply to all sales of electricity, gas, fuel oil, or water service, whether delivered through the medium of a meter or other measuring device or otherwise, to premises located in the city.

(b) The tax hereby levied shall be applied to the amount billed for telecommunications service as defined in F.S. § 203.012 originating and terminating within the state of Florida to premises located in the city or, if the location of the telecommunications service provided cannot be determined, the tax shall be applied to the total amount billed for such telecommunications service to a telephone or telephone number, a telecommunications number or device, or customer's billing address located within the city. The tax hereby levied shall not apply to public telephone charges collected on site, charges for any foreign exchange service or any private line service except when such services are used or sold as a substitute for any telephone company switched service or dedicated facility by which a telephone company provides a communication path, access charges, and any customer access line charges paid to a local telephone company.

Sec. 19-26. Public service tax levied.

(a) There is levied by the city on every purchase in the city of electricity, water service and metered or bottled gas (natural liquified petroleum gas or manufactured) a public service tax based upon the charge made by the seller in the amount of ten (10) percent on each sale, which tax shall in every case be paid by the purchaser for the use of the city to the seller at the time of paying the charge therefor, but not less often than monthly. The tax hereby imposed shall not be applied against any fuel adjustment charge, and such charge shall be separately stated on each bill rendered by the seller to the purchaser for the purchase of a utility service. The term *fuel adjustment charge* shall mean all increases in the cost of utility services to the purchaser resulting from an increase in the cost of fuel to the seller subsequent to October 1, 1973.

(b) There is levied by the city on each and every sale in the city of local telecommunications services and intrastate telecommunications toll services, as defined by F.S. § 203.012, and to the full extent permitted by F.S. § 166.231, a tax based upon the charge made by the seller of seven (7) percent of such charge, which tax shall, in every case, be paid by the purchaser for the use of the city, to the seller of such local telecommunications services or intrastate telecommunications services at the time of paying the charge therefor to the seller thereof, but not less often than monthly. Telecommunications service as defined in F.S. § 203.012(5)(b) shall be taxed only on the monthly recurring customer service charges excluding variable usage charges.

(c) There is levied by the city a tax of four cents (\$0.04) per gallon on every purchase of

fuel oil and a tax of one-half of one cent (\$0.005) per gallon on every purchase of kerosene (coal oil) within the city which tax shall in every case be paid by the purchaser for the use of the city to the seller of such fuel oil or kerosene at the time of paying the charge by the seller therefor. The bulk station or dealer of such fuel oil or kerosene shall collect the tax from the retailer and report and pay the same to the city as provided in section 19-28. In the event any retail dealer shall purchase such fuel oil or kerosene from any dealer not operating a bulk station within the city, such retail dealer shall collect the tax and report and pay the tax to the city. The dealer responsible to the city for the payment of the tax, whether bulk, wholesale dealer or retailer, shall make a report to the city of the number of gallons of fuel oil or kerosene sold in the city subject to the tax as provided in section 19-28.

Sec. 19-27. Exemptions.

(a) The purchase of natural gas or fuel oil by a public or private utility, either for resale or for use as fuel in the generation of electricity, is exempt from taxation.

(b) The purchase of fuel oil or kerosene for use as an aircraft engine fuel or propellant or for use in internal combustion engines is exempt from taxation.

(c) The tax imposed by this article shall not apply to purchases in the city of electricity, gas, fuel oil, water service or telecommunications services by the following entities which are exempt from municipal taxation:

- (1) the United States government
- (2) the state of Florida, its agencies and departments
- (3) Polk County, its agencies and departments
- (4) Polk County School Board
- (5) Lake Wales Housing Authority

(d) The tax imposed by this article shall not apply to purchases of electricity, gas, fuel oil, water service or telecommunications services by the city of Lake Wales.

(e) The tax imposed by this article shall not apply to purchases in the city of electricity, gas, fuel oil, water service or telecommunications services by any church which is recognized by the state and whose purchases are used exclusively for church purposes.

(f) The tax imposed by this article shall not apply to purchases in the city of telecommunications services by any federally-chartered or state-chartered credit union.

(g) The tax imposed by this article shall not apply to any purchase which is specifically exempted by federal or state law.

Sec. 19-28. Collection of tax; responsibility of seller.

(a) It shall be the duty of every seller of electricity, gas, water, fuel oil or telecommunications service in acting as the tax-collecting agency of the city to collect from the purchaser, for the use of the city, the tax hereby imposed and levied at the time of collecting the purchase price charged for each transaction, and to report on forms prescribed by the city and pay over to the city all such taxes.

(b) It shall be unlawful for any seller to collect the price of any sale of electricity, gas, water, fuel oil or telecommunications service in the city without, at the same time, collecting the tax hereby levied in respect to such sales, unless such seller shall elect to assume and pay such tax without collecting the tax thereby levied from the purchaser; and it shall be unlawful for any seller of a utility service to fail to state a fuel adjustment charge upon which no tax is levied separately from all other charges upon which the tax is levied at the time the seller collects the charges and tax from the purchaser.

(c) Any seller failing to collect the tax at the time of collecting the price of any sale, where the seller has not elected to assume and pay such tax, shall be liable to the city for the amount of such tax in like manner as if the same had actually been paid to the seller; and a seller failing to show separately the amount of the fuel adjustment charge upon which no tax is levied at the time of collecting the charge shall be liable to the city for the amount of tax which would have been collected on the charge if the tax had been levied thereon. The city manager and city commission of the city shall bring or cause to be brought all such suits and actions and take all such proceedings as may be necessary for the recovery of such tax.

(d) Sellers shall remit to the city by hand-delivery, U.S. postal service or electronic transfer, on or before the twentieth day of each calendar month, all such taxes collected during the preceding calendar month except as provided in subsection (e) herein. In the event the twentieth day falls on a Saturday, Sunday or holiday, the time shall be extended additionally to the next business day following the Saturday, Sunday or holiday. The date of receipt of such taxes by the city will be the date postmarked by the U.S. postal service, or, if hand-delivered, the day received by the city clerk. If taxes are remitted by electronic transfer, the date of receipt will be the date received by the bank so designated to receive electronic transfers as indicated on the bank statement. Prior to making the initial remittance by electronic transfer, authorization to do so must be obtained from the city's finance director. If a seller elects to remit by electronic transfer, that seller shall thereafter always remit by electronic transfer unless approval is given by the finance director to discontinue the electronic transfer; a seller remitting by electronic transfer shall also forward to the city a monthly report of public service taxes collected as required in subsection (a).

(e) Sellers collecting less than twenty-five dollars (\$25.00) of tax during the calendar month may remit such tax to the city on a quarterly or fiscal year basis at the discretion of the finance director. All such taxes imposed, levied and collected during the preceding calendar quarter or fiscal year shall be remitted to the city by hand-delivery or U.S. postal service on or before the twentieth day of the calendar month following the end of the calendar quarter or fiscal year. In the event the twentieth day falls on a Saturday, Sunday or holiday, the time shall be extended additionally to the next business day following the Saturday, Sunday or holiday. The date of receipt of such taxes by the city will be the date postmarked by the U.S. postal service, or, if hand-delivered, the day received by the city clerk. Sellers remitting on a quarterly or fiscal year basis shall not remit by electronic transfer.

(f) Effective January 1, 1997, when a seller fails to make a report or fails to pay the tax within the time required hereunder, interest will accumulate on the outstanding tax due on a daily basis at a rate of .0328767% (12%/365) from the delinquent date until paid in full; said interest shall be payable and collectible in the same manner as if it were a part of the tax imposed. The city manager and city commission of the city shall bring or cause to be brought all such suits and actions and take all such proceedings as may be necessary for the recovery of such tax and interest; provided that the seller shall not be liable for the payment of tax upon uncollected charges.

(g) If any purchaser shall fail, neglect or refuse to pay to the seller the seller's charge and the tax hereby imposed and as hereby required on account of the sale for which such charge is made, or either, the seller shall have and is hereby invested with the right, power and authority immediately to discontinue further service to such purchaser until the tax and the seller's bill have been paid in full.

(h) For the purpose of compensating the seller of telecommunications service in accordance with the provisions of F.S. § 166.231(9)(b), the seller shall be allowed one (1) percent of the amount of the tax collected and due to the city in the form of a deduction from the amount collected for remittance. The deduction shall be allowed as compensation for the keeping of the records and for the collection and remitting of the tax.

Sec. 19-29. Records of purchases; inspections.

(a) Each and every seller of electricity, gas, water, fuel oil and telecommunications service, in respect to sales on which a tax is hereby levied, shall keep complete records showing all sales in the city of such electricity, gas, water, fuel oil and telecommunications service, which records shall show the price charged upon each purchase (showing as separate amounts the fuel adjustment charge upon which no tax is collected and all other charges upon which the tax levied hereby is collected), the date thereof and the date of payment thereof, and shall during business hours on all business days be open for inspection by the duly authorized agents of the city, who shall have the right, power and authority to audit, examine, and make such transcripts of any and all business and/or sales records including those records stored on computer software or otherwise kept by electronic means, in any way pertaining to the sales, within the city limits during such times as they may desire. It shall be the duty of the finance director or his designee to inspect the records at least once every three years in order to determine that the tax hereby imposed and levied is being properly reported and paid to the city by each seller of the service, except for telecommunications services whose records shall be inspected when determined to be necessary by the finance director on a case by case basis.

(b) Providers of telecommunications services taxable in accordance with the provisions of this article shall provide to the city, upon sixty (60) days notice, access to all applicable records for such telecommunications service. However, any information received by the city in connection with such audit is confidential and is not subject to the provisions of F.S. § 119.07(1) in accordance with the provisions of F.S. § 166.231(9)(e).

(c) Records not located within the municipal limits of the city must be furnished by the seller to the city within fourteen (14) days of written demand except for telecommunications service which must be forwarded to the city within sixty (60) days of written demand. Should the seller fail to comply with the written demand or notice, the city may authorize an agent or officer of the city to conduct an audit at the location where said records are maintained at the seller's expense.

Sec. 19-30. Penalty for non-compliance.

(a) It shall be unlawful and an offense for a purchaser to willfully fail, refuse or neglect to pay the tax hereby imposed and levied and for a seller, or an officer, agent or employee of a seller, to willfully make a false report, fail to make a report or fail to pay the tax, or violate any other provision hereof. The person shall, upon conviction, be guilty of a class D offense or a civil fine not to exceed ten thousand dollars.

(b) In addition to the penalty imposed by subsection (a), a person who willfully obtains an exemption number with the intent to avoid paying the tax hereby imposed and levied when the tax would otherwise be payable, or uses an exemption number to avoid paying the tax hereby imposed and levied when the tax would otherwise be payable, or procures or permits either of the foregoing shall upon conviction be liable to the city in an amount not to exceed three times the amount of the tax that would have been payable in respect to the purchase or purchases for which the exemption number was used contrary to the provisions of this chapter. *Conviction* as used in this paragraph shall mean a finding of guilty by a court of competent jurisdiction whether or not adjudication of guilt is withheld; the term shall also include a plea of *nolo contendere* by such person.

(c) Additional fees may be assessed against sellers not complying with any provision of this chapter, said fee being based upon the actual cost incurred by the city in collecting the public service tax or obtaining any information or reports due.

Sec. 19-31. Duties and responsibilities of city clerk.

(a) The city clerk shall perform the duties of tax collector in respect to collection of the public service tax.

(b) The city clerk shall maintain records of all known sellers of items taxable hereunder which records shall include the reports required to be filed by the sellers with the remittance of taxes due the city.

(c) The city clerk shall maintain, provide, update and make available to sellers an alphabetical listing of all street names within the city. Said listing shall meet all criteria established in F.S. § 166.231(9)(d).

(d) The city clerk shall notify in writing by certified mail any known seller of items taxable hereunder of any change in the city boundaries or in the rate of taxation. Said notification shall occur within seven (7) days of the adoption of an ordinance authorizing such change.

(e) The city clerk shall develop and implement procedures for the collection of public service taxes due the city which shall include notification of delinquent status and billing for interest due on late payments. A billing for interest due shall not be required when said interest is less than ten (10) dollars.

(f) The city clerk is authorized to refuse issuance or renewal of an occupational license if the public service tax of the applicable business has become delinquent or remains unpaid.

Sec. 19-32. Deposit and use of public service taxes.

(a) All public service taxes received by the city shall upon receipt thereof be deposited in the general fund. Revenues derived from taxes levied on each separate service taxable hereunder shall be recorded in separate revenue accounts within the general fund for purposes of accounting therefor, but shall be authorized to pay any and all operating and nonoperating expenses of the city.

(b) Nothing contained in this article shall impair or affect the validity of pledges of revenues derived from public service taxes heretofore made by the city for the debt service requirements of obligations issued by the city.

Secs. 19-33—19-45. Reserved.

SECTION 2. If any clause, section or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

SECTION 3. This ordinance shall become effective immediately upon its passage by the City Commission.

CERTIFIED AS TO PASSAGE this 5th day of November, 1996.

BY: Dixon F. Armstrong
Mayor/Commissioner
City of Lake Wales, Polk County, Florida

ATTEST:

Theresa B. Nadd
City Clerk

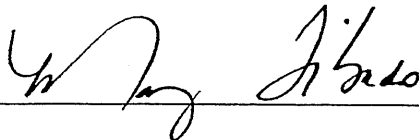
AFFIDAVIT OF PUBLICATION
Winter Haven News Chief
Published Daily

STATE OF FLORIDA
COUNTY OF POLK

Before the undersigned personally appeared **Mary Tibado** who on oath says that she is **Business Manager** of the **Winter Haven News Chief**, a newspaper published at Winter Haven, in Polk County, Florida; that the attached copy of advertisement, being **Notice of Public Hearings**, in the matter of **City of Lake Wales**, in the Circuit Court, was published in said newspaper in the issues of **October 26, 1996**.

Affiant further says that the **Winter Haven News Chief** is a newspaper published at Winter Haven, in said Polk County, Florida, and that said newspaper has heretofore been continuously published in said Polk County, Florida, daily, and has been entered as second class matter at the post office in Winter Haven, in said Polk County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission, or refund for the purpose of securing this advertisement for publication in said newspaper.

Signed



Sworn to and subscribed before me this **30th** day of **October** A.D. 1996 by **Mary Tibado** who is personally known to me or who has produced () as identification.

Notary Public

My Commission Expires:



CAROLINE B. NIXON
MY COMMISSION # CC314039 EXPIRES
September 14, 1997
BONDED THRU TROY FAIR INSURANCE, INC.

NOTICE OF
PUBLIC HEARINGS

PUBLIC HEARINGS will be held on the following proposed ordinances at 7:30 p.m. or soon thereafter on November 5, 1996 in Commission Chambers at City Hall, Lake Wales, at which time the City Commission will consider their adoption into law. The ordinances in their entirety may be inspected at the office of the City Clerk during regular working hours. All interested parties may appear at the meeting and be heard with respect to these proposed ordinances.

ORDINANCE 96-14
AN ORDINANCE OF THE CITY OF LAKE WALES, FLORIDA, ADOPTING AN AMENDMENT TO THE CITY OF LAKE COMPREHENSIVE PLAN PURSUANT TO THE LOCAL GOVERNMENT COMPREHENSIVE PLANNING AND LAND DEVELOPMENT REGULATION ACT (CHAPTER 163, PART II, FLORIDA STATUTES); PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE 96-20
AN ORDINANCE AMENDING CHAPTER 19, TAXATION, BY INCORPORATING INTO THE LAKE WALES CODE OF ORDINANCES DEFINITIONS, RULES AND PROCEDURES FOR ADMINISTRATION OF THE PUBLIC SERVICE TAX AS PROVIDED BY FLORIDA STATUTES; SPECIFYING EXEMPTIONS AS REQUIRED BY FLORIDA STATUTES; DEFINING RESPONSIBILITIES OF TAX COLLECTING AGENCIES AND ESTABLISHING PROCEDURES FOR REMITTANCE OF TAXES COLLECTED; ESTABLISHING INTEREST PAYMENTS FOR LATE REMITTANCE OF TAXES COLLECTED; ESTABLISHING PENALTIES FOR NON-COMPLIANCE; DEFINING RESPONSIBILITIES OF THE CITY CLERK IN RESPECT TO ADMINISTRATION OF THE PUBLIC SERVICE TAX; PROVIDING FOR AN EFFECTIVE DATE.

If any person decides to appeal any decision made by the above City Commission with respect to any matter considered at such hearing, he will need a record of the proceeding made, which record includes the testimony and evidence upon which the appeal is to be based.

/s/ Theresa B. Hadden
City Clerk

City of Lake Wales

October 26, 1996 #9437

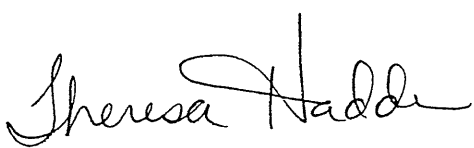
City of Lake Wales
P.O. Box 1320
Lake Wales, FL 33859-1320

INSERTION
ORDER

PURCHASE ORDER # 1202
PLEASE PROVIDE TWO (2) TEARSHEETS
AND ATTACH COPY OF INSERTION ORDER
TO INVOICE FOR PAYMENT

TO: Lake Wales Newschief

START	END	CAPTION OR KEY WORDS	SIZE	SECTION
10-25-96	10-25-96	NOTICE OF PUBLIC HEARINGS ORDINANCE 96-14 1996 COMPREHENSIVE PLAN TEXT AMENDMENTS ORDINANCE 96-20 PUBLIC SERVICE TAXES	AS NEEDED	LEGAL

SIGNATURE OF CITY CLERK 	PLACED BY THERESA B HADDEN	DEPARTMENT CITY CLERK
	AFFIDAVIT: <input checked="" type="checkbox"/> PROVIDE <input type="checkbox"/> DO NOT PROVIDE	
	SIGNATURE OF EMPLOYEE PLACING AD PLACED WITH THIS VENDOR:	

678-4191

NOTICE OF PUBLIC HEARINGS

PUBLIC HEARINGS will be held on the following proposed Ordinances at 7:30 p.m. or soon thereafter on November 5, 1996 in Commission Chambers at City Hall, Lake Wales, at which time the City Commission will consider their adoption into law. The ordinances in their entirety may be inspected at the office of the City Clerk during regular working hours. All interested parties may appear at the meeting and be heard with respect to these proposed ordinances.

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If any person decides to appeal any decision made by the above City Commission with respect to any matter considered at such hearing, he will need a record of the proceedings, and for such purpose he may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based.

/s/ Theresa B. Hadden
City Clerk
City of Lake Wales

PUBLISH 10-18-96 PROVIDE AFFIDAVIT

The regular meeting of the Lake Wales City Commission was held on October 15, 1996 at 7:30 p.m. in the Commission Chambers at City Hall. The meeting was called to order by Mayor Dixon F. Armstrong.

INVOCATION.

Invocation was given by Reverend Donald Koon of the Walker Street Church of God.

PLEDGE OF ALLEGIANCE.

COMMISSIONERS PRESENT: Richard D. Howell; Linda Kimbrough; Clifford L. Tonjes; Albert Kirkland, Sr.; Dixon F. Armstrong, Mayor.

COMMISSIONERS ABSENT: None.

CITY REPRESENTATIVES PRESENT: David L. Greene, City Manager; Judith H. Delmar, Assistant City Manager; Albert C. Galloway, Jr., City Attorney; Theresa B. Hadden, City Clerk/Administrative Assistant.

Agenda Item 4.

APPROVAL OF MINUTES

A motion was made by Commissioner Howell to approve the minutes of the October 1, 1996 regular meeting. The motion was seconded by Commissioner Kimbrough.

VOTE: All "AYE", none "NAY".

Commissioner Kirkland expressed his thanks to Reverend Koon for his 30 years of faithful service to the community.

Mayor Armstrong expressed his heartfelt sympathy to the Edwards family and said the City is doing everything possible to resolve the problem at the cemetery.

Agenda Item 5.

ORDINANCE 96-14 - 1996 COMPREHENSIVE PLAN TEXT AMENDMENTS, FIRST READING AND PUBLIC HEARING

Mr. Greene reported that the Lake Wales Comprehensive Plan, Policy 2.02 Regional Activity Centers (RAC), states that the primary function of RAC's is to accommodate regional shopping needs in the form of regional shopping malls or other regional attractors. Typical uses/intensity includes regional mall and associated out parcel commercial. Prior to the Eagle Ridge Mall annexation Lake Wales had no land classified as RAC. After the annexation and land use adoption, two hundred seventy-eight (278) acres are designated as RAC. Furthermore, the Masterpiece Road/Dorris-Kirby annexation will add one hundred twenty-seven (127) acres of additional RAC for a total of four hundred five (405) acres. As read, Policy 2.02 of the comprehensive plan specifically lists regional mall and associated out-parcel development as the primary use in the Regional Activity Center land use category. This policy is not flexible in its interpretation and does not include mixed-use development.

The Urban Land Use Institute (ULI) classifies Mixed-Use Development as part of Regional Centers or Regional Activity Centers. A mixed-use development (MXD) has been defined by ULI as large-scale real estate projects having the following characteristics:

- three or more significant revenue-producing uses (such as retail, office,

residential, hotel/motel, and recreational), which, in well-planned projects, are mutually supporting.

- significant functional and physical integration of project components (and thus highly intensive use of land), including uninterrupted pedestrian connections; and
- development conforming to a coherent plan (which frequently stipulates the type and scale of uses, permitted densities and related items).

The retail component in a mixed-use development may range from convenience retailing to serve projects major land uses to a regional shopping center. A variety of related land uses such as office-buildings, high density residential units, restaurants, cinema complexes, and other uses are typical to mixed-use developments.

The Eagle Ridge Mall is expected to cause development pressure on the surrounding area including the four hundred and five (405) acres of RAC to the north and east of the mall. In an effort to ensure quality development in the newly annexed U.S. 27 corridor, staff recommended a text amendment to the Lake Wales Comprehensive Plan Policy 2.02 to specifically include mixed-use development including high density residential at 12 to 25 dwelling units per acre. Development through the Planned Development Project (PDP) or Developments of Regional Impact process (DRI) would be required.

This text amendment to Policy 2.02 will give developers greater flexibility in the types of uses, and allow for the transitioning or stepping down of uses between incompatible uses. Also, this amendment will ensure quality development through the PDP or DRI process, instead of sporadic 'cookie-cutter' development common to regional sized development.

Business-Park Center/Industrial Text Amendment

The Lake Wales Comprehensive Plan specifies that the primary function of the Business Park Center (BPC) land use category is to promote employment opportunities within the region by allowing for the establishment of office parks, research and development parks, light-industrial facilities, distribution centers, and mixed-use employment parks. Currently, the BPC Floor Area Ratio or percentage of building square-footage per total site square footage is .25. The following example illustrates the differences between standard Floor Area Ratios for different Business Park Center Future Land Use categories. The example assumes a one acre (43,560sf) parcel. A survey of cities in Polk County shows that Floor Area Ratios range from .25 (Lake Wales) to .75 (Polk County) (see Table below).

During discussions with potential industrial developers, our experience has shown that the .25 maximum Floor Area Ratio is too restrictive for Business Park Centers. Generally, the typical uses allowed in BPC's (such as light industrial), require more floor space for manufacturing processes, storage of raw materials, and storage for the final products prior to shipping. Light industrial or light manufacturing are the most intense uses allowed in Business Park Center land use categories. These uses are generally characterized by their clean exterior appearance, minimal outside storage and activities, and attractive landscaping to blend with the natural environment.

Floor Area Ratio	City & Land Use Category	Buildable Square Feet per Acre
.25	Lake Wales Business-Park Center (BPC)	10,890
.35	Avon Park Industrial (IND)	15,246
.50	Winter Haven BPC	21,780
.50*	Haines City BPC	21,780
.60	Lake Wales IND	23,136
.75	Polk County BPC & IND	32,670

* - This standard includes impervious-surface areas.

Staff initially recommended to the Planning & Zoning Board that the new Floor Area Ratio (FAR) for Business-Park Centers (BPCs) be established as .60, which is the same as the City's Industrial category. However, since the Planning and Zoning Board meeting of September 16, staff has had discussions with other potential developers, including an existing business located in Lake Wales. These discussions have led staff to the conclusion that perhaps the .60 FAR will not be adequate. Therefore, staff recommended that the FAR for both Business-Park Centers and Industrial Areas should be increased to .75. This number is appropriate because Polk County's Business-Park Center and Industrial land-use designations also have a FAR of .75.

Public and Institutional Text Amendment

The primary function of the Public and Institutional (PI) future land use classification, Policy 2.13, is to provide areas for existing or future government-owned buildings or leased buildings or grounds (other than parks and open spaced areas) and semipublic buildings or grounds such as hospitals. This definition of PI, although it implies the use schools, it does not specifically list public schools as a typical use. A 1995 amendment to Florida Statutes, Chapter 163.3177(6) (a) states that, "The future land element must clearly identify the land use categories in which public schools are an allowable use". In order to comply with Chapter 163.3177 (6) (a), staff recommended amending Policy 2.13 to add public schools as a typical use in the Public and Institutional land use classification.

At the September 16, 1996 meeting, the Planning & Zoning Board recommended approval of Ordinance 96-14.

It was recommended that the City Commission approve Ordinance 96-14 as modified on first reading.

Mrs. Delmar read Ordinance 96-14 by title:

AN ORDINANCE OF THE CITY OF LAKE WALES, FLORIDA, ADOPTING AN AMENDMENT TO THE CITY OF LAKE WALES COMPREHENSIVE PLAN PURSUANT TO THE LOCAL GOVERNMENT COMPREHENSIVE PLANNING AND LAND DEVELOPMENT REGULATION ACT (CHAPTER 163, PART II, FLORIDA STATUTES); PROVIDING AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

A motion was made by Commissioner Kimbrough to adopt Ordinance 96-14 after first reading and public hearing. The motion was seconded by Commissioner Tonjes.

ROLL CALL:

Commissioner Kimbrough	"YES"
Commissioner Tonjes	"YES"
Commissioner Kirkland	"YES"
Commissioner Howell	"YES"
Mayor Armstrong	"YES"

Motion carried 5 - 0.

Agenda Item 6.

ORDINANCE 96-20/PUBLIC SERVICE TAXES, FIRST READING AND PUBLIC HEARING.

Mr. Greene reported as part of the ongoing effort to correct inconsistencies between city codes and Florida Statutes and to improve the administration of all aspects of city government, Ordinance 96-20 has been proposed for the purpose of establishing procedures for more effective collection of public service taxes.

Chapter 166, Florida Statutes, authorizes municipalities to levy a public service tax on the purchase of electricity, metered or bottled gas (natural liquefied petroleum gas or manufactured), water service and telecommunications service within the municipal limits. Chapter 166 also authorizes the levy of the public service tax on services competitive with those enumerated. Ordinances of 1/21/42 and 1/16/51, Ordinance 74-3, and Ordinance 86-13 authorized the levy of a public service tax on these purchases as follows:

	Amount	Date of adoption
Electricity	10%	1/16/51
Gas	10%	1/16/51
Water	10%	1/16/51
Telecommunications	7 %	1/16/51; revised 9/16/86
Fuel Oil	4¢ per gallon	4/16/74
Kerosene	½¢ per gallon	1/21/42

These taxes are collected by the sellers of the service and remitted to the City on a monthly basis. In recent years, the public service tax has generated nearly as much revenue for the City as the ad valorem tax. The FY96'97 budget estimates that public service taxes (utility taxes) will be the third largest revenue source for the general fund, and public service taxes have been pledged by bond resolution to meet the debt service obligation to repay the Capital Improvement Revenue Bonds, Series 1996 issued to finance \$5.5 million in capital improvements over the next 2-3 years.

Charges for Services	\$1,478,885	19.40%
Ad Valorem Taxes	\$1,383,679	18.15%
Utility Taxes	\$1,347,668	17.67%
Intergov't Revenue	\$1,025,361	13.45%
Franchise Fees	\$872,636	11.44%
Other Fund Contributions	\$646,838	8.48%
Other Financing Sources	\$415,700	5.45%
Miscellaneous	\$215,550	2.83%
Licenses & Permits	\$163,552	2.14%
Fines & Forfeitures	\$75,100	0.98%
Total Revenues	<u>\$7,624,969</u>	100.00%

Procedures for collection of public service taxes and audit of sellers serving as tax-collecting agencies have not been modified substantially since authorization to levy these taxes was granted in 1951. State and city auditors have indicated that these procedures should be strengthened and controls implemented to ensure that the City is receiving all revenues which are due from this source. Ordinance 96-20 has been prepared for this purpose and is presented to the City Commission for consideration at this time.

The proposed ordinance makes no change in the amount or scope of the public service tax. This is primarily a housekeeping ordinance which accomplishes the following:

1. incorporates into the city code of ordinances definitions, rules and procedures for administration of the public service tax which are provided by Florida Statutes
2. specifies exemptions for governmental agencies and churches
3. defines responsibilities of sellers as tax collecting agencies for the City, establishes uniform procedures for remittance of taxes collected, establishes a monthly due date for remittance of taxes, and establishes procedures for review of sellers' records by the City for audit purposes
4. establishes the requirement that the seller pay interest on taxes which are remitted late and establishes penalties for non-compliance with the ordinance
5. defines responsibilities of the City Clerk in respect to administration of the public service tax

A copy of the existing code provisions relating to the levy and collection of the public service tax was included with the agenda material for the information of the City Commission.

To improve procedures for collection of the public service tax, it was recommended that the City Commission approve Ordinance 96-20 on first reading.

Mrs. Delmar read Ordinance 96-20 by title:

The regular meeting of the Lake Wales City Commission was held November 5, 1996 at 7:30 p.m. in the Commission Chambers at City Hall. The meeting was called to order by Vice Mayor Linda Kimbrough.

INVOCATION.

The invocation was given by Reverend David Rockness of the First Presbyterian Church.

PLEDGE OF ALLEGIANCE.

COMMISSIONERS PRESENT: Richard D. Howell; Linda Kimbrough, Vice Mayor; Clifford L. Tonjes; Albert Kirkland, Sr.; *Dixon F. Armstrong, Mayor/Commissioner.

* Mayor/Commissioner Armstrong arrived at 7:35 p.m. Vice-Mayor Kimbrough continued to chair the meeting for its entirety.

COMMISSIONERS ABSENT: None.

CITY REPRESENTATIVES PRESENT: David L. Greene, City Manager; Judith H. Delmar, Assistant City Manager; Albert C. Galloway, Jr., City Attorney; Patricia N. Turner, Office Assistant.

Agenda Item 4.

APPROVAL OF MINUTES.

Commissioner Howell asked for a correction on page 11 from Scenic Highway to Old Scenic Highway.

A motion was made by Commissioner Tonjes to approve the minutes of the October 15, 1996 regular meeting. The motion was seconded by Commissioner Kirkland.

VOTE: All "AYE", none "NAY".

Agenda Item 5.

PROCLAMATION - NATIONAL EPILEPSY AWARENESS MONTH

Vice Mayor Kimbrough proclaimed the month of November, 1996 as National Epilepsy Awareness Month.

Agenda Item 6.

ORDINANCE 96-20 -PUBLIC SERVICE TAXES, SECOND READING AND PUBLIC HEARING

Mr. Greene reported that as part of the ongoing effort to correct inconsistencies between city codes and Florida Statutes and to improve the administration of all aspects of city government, Ordinance 96-20 has been proposed for the purpose of establishing procedures for more effective collection of public service taxes.

Chapter 166, Florida Statutes, authorizes municipalities to levy a public service tax on the purchase of electricity, metered or bottled gas (natural liquefied petroleum gas or manufactured), water service and telecommunications service within the municipal limits. Chapter 166 also authorizes the levy of the public service tax on services competitive with those enumerated. Ordinances of 1/21/42 and 1/16/51, Ordinance 74-3, and Ordinance 86-13 authorized the levy of a public service tax on these purchases as follows:

	Amount	Date of adoption
Electricity	10%	1/16/51
Gas	10%	1/16/51
Water	10%	1/16/51
Telecommunications	7%	1/16/51; revised 9/16/86
Fuel Oil	4¢ per gallon	4/16/74
Kerosene	1/2¢ per gallon	1/21/42

These taxes are collected by the sellers of the service and remitted to the City on a monthly basis. In recent years, the public service tax has generated nearly as much revenue for the City as the ad valorem tax. The FY96'97 budget estimates that public service taxes (utility taxes) will be the third largest revenue source for the general fund, and public service taxes have been pledged by bond resolution to meet the debt service obligation to repay the Capital Improvement Revenue Bonds, Series 1996 issued to finance \$5.5 million in capital improvements over the next 2-3 years.

Charges for Services	\$1,478,885	19.40%
Ad Valorem Taxes	\$1,383,679	18.15%
Utility Taxes	\$1,347,668	17.67%
Intergov't Revenue	\$1,025,361	13.45%
Franchise Fees	\$872,636	11.44%
Other Fund Contributions	\$646,838	8.48%
Other Financing Sources	\$415,700	5.45%
Miscellaneous	\$215,550	2.83%
Licenses & Permits	\$163,552	2.14%
Fines & Forfeitures	\$75,100	0.98%
Total Revenues	<u>\$7,624,969</u>	100.00%

Procedures for collection of public service taxes and audit of sellers serving as tax-collecting agencies have not been modified substantially since authorization to levy these taxes was granted in 1951. State and city auditors have indicated that these procedures should be strengthened and controls implemented to ensure that the City is receiving all revenues which are due from this source. Ordinance 96-20 has been prepared for this purpose and is presented to the City Commission for consideration at this time.

The proposed ordinance makes no change in the amount or scope of the public service tax. This is primarily a housekeeping ordinance which accomplishes the following:

1. incorporates into the city code of ordinances definitions, rules and procedures for administration of the public service tax which are provided by Florida Statutes
2. specifies exemptions for governmental agencies and churches
3. defines responsibilities of sellers as tax collecting agencies for the City, establishes uniform procedures for remittance of taxes collected, establishes a monthly due date for remittance of taxes, and establishes procedures for review of sellers' records by the City for audit purposes
4. establishes the requirement that the seller pay interest on taxes which are

CLOSED PUBLIC HEARING

A motion was made by Commissioner Howell to adopt Ordinance 96-23 after first reading and public hearing. The motion was seconded by Commissioner Kirkland.

ROLL CALL:

Commissioner Howell	"YES"
Commissioner Kirkland	"YES"
Commissioner Tonjes	"YES"
Mayor/Commissioner Armstrong	"YES"
Vice Mayor Kimbrough	"YES"

Motion carried 5 - 0.

Agenda Item 9.

ORDINANCE D96-09 - STATE ROAD 17 STUDY AREA COMPREHENSIVE PLAN AMENDMENT, FIRST READING AND PUBLIC HEARING.

Mr. Greene reported that the S.R. 17 study area is approximately 20 acres and includes the following existing businesses; Florida Rock, Wausau, Ross American Log Homes, G-Express Trucking Co. (formerly Ridge Fertilizer), and Barbers Machinery. Currently, the future land use designation is Business-Park Center (BPC). The primary function of the Business-Park Center land use classification is to promote employment opportunities within the region by allowing for the establishment of office parks, research and development parks, light-industrial facilities, distribution centers, and mixed-use employment parks. Typical uses include light manufacturing, assembly plants, warehouses, and office centers. These uses are generally characterized by their clean exterior appearance, minimal outdoor storage and activities that reduces noise, odor, and dust. However, the uses in the area all share common characteristics not typical to Business-Park Centers such as outside storage and activities, heavy truck traffic, noise, and dust. The Lake Wales Zoning and Development Regulations delineates the S.R. 17 study area as General Industrial (GI). The existing uses are typical industrial uses, and as designated as Business-Park Center are not consistent with zoning or existing land use patterns.

The project site is bounded on the west by the Florida Midland Rail line, and to the east by Scenic Highway. There is a variety of commercial development surrounding the area. The area is surrounded by the current existing land uses:

North: Public and Institutional, and unimproved property

South: Commercial

East: Commercial, and residential

West: Commercial, and residential

This S.R. 17 study area has the largest concentration of industrial development in the City. While a Future Land Use designation of Business Park Center sounds desirable, it creates inconsistencies and conflicts when implementing the Comprehensive Plan and zoning ordinance. The Comprehensive Plan states that inconsistencies between zoning and land use designations be identified and eliminated through land development regulations or other actions. Because of its proximity, located between an active rail line and a major arterial road, the future land use pattern is expected to remain industrial. The City recognizes that the

existing land use patterns are predominantly industrial in nature, and that the industries located in the study area are important to the economic vitality of the city. Staff asked that the City Commission favorably consider a Comprehensive Plan Map Amendment for the S.R. 17 study area from Business Park Center to a Future Land Use designation of Industrial.

On August 27, 1996, the Planning and Zoning Board voted unanimously to forward Ordinance D96-09 to the City Commission with a recommendation of approval.

Staff recommended that Ordinance D96-09 be approved upon first reading after public hearing.

Mrs. Delmar read Ordinance D96-09 by title:

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, ADOPTING AN AMENDMENT TO THE CITY OF LAKE WALES COMPREHENSIVE PLAN PURSUANT TO THE LOCAL GOVERNMENT COMPREHENSIVE PLANNING AND LAND DEVELOPMENT REGULATION ACT (CHAPTER 163, PART II, FLORIDA STATUTES), INCLUDING AMENDMENTS TO THE FUTURE LAND USE MAP; PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

A motion was made by Mayor/Commissioner Armstrong to adopt Ordinance D96-09 after first reading and public hearing. The motion was seconded by Commissioner Tonjes.

ROLL CALL:

Mayor/Commissioner Armstrong	"YES"
Commissioner Tonjes	"YES"
Commissioner Howell	"YES"
Commissioner Kirkland	"YES"
Vice Mayor Kimbrough	"YES"

Motion carried 5 - 0.

Agenda Item 10.

ORDINANCE D96-11/CENTRAL FLORIDA ELECTRIC COMPREHENSIVE PLAN AMENDMENT, FIRST READING AND PUBLIC HEARING; ORDINANCE D96-12/CENTRAL FLORIDA ELECTRIC REZONING, FIRST READING AND PUBLIC HEARING

Mr. Greene reported that Robert Jones, owner of Central Florida Electric, has petitioned the City to rezone his property and the adjacent four lots for the expansion of his contracting business. He is requesting a zone change from Industrial to C-2 for his existing business, and a zone change from Affordable Housing District (AHD) to C-2 for the adjacent four lots. Along with the zone change from AHD to C-2 is a Comprehensive Plan Map Amendment from Medium Density Residential (MDR) to Neighborhood Activity Center (NAC). The existing business is already designated as NAC. The subject site is located at the northeast corner of Burns Avenue and East Street.

The surrounding land uses are:

North - Residential and unimproved property

South - Institutional (Dove Health Care, across from Burns Ave.)

East - Residential

West - Commercial and unimproved property

The applicant wishes to expand his current contracting business and to also utilize the site for a commercial storage business. Currently, the four lots adjacent to the existing business are unimproved with oak, pine, and dense undergrowth vegetation. The total size of the subject site is 38,338 square feet or .88 of an acre. There are no soil, floodplain, or wetland limitations on the site to limit development. Currently, East Street is unimproved. The applicant is aware that the Public Works Department may require the paving of East Street as future development occurs. The site is contiguous with an existing C-2 zoning district to the west which includes the Cumberland Farms convenience store.

Staff's primary concern is the potential impact to the Affordable Housing District (AHD) caused by the requested zone change. The applicant will be responsible for adequately buffering the non-residential use from the residential district pursuant to Sec 23-72 of the Lake Wales Zoning and Land Use Regulations. Staff finds the C-2 zoning designation more suitable than the existing Industrial zoning designation, because commercial uses are less intensive than industrial uses. The requested zone change is contiguous with an existing C-2 zoning district and NAC land use designation. Therefore, the request will not create a 'spot' zoning district.

On October 22, 1996, the Planning and Zoning Board voted unanimously to forward Ordinances D96-11 and D96-12 to the City Commission with a recommendation of approval.

Staff recommended that the City Commission approve Ordinances D96-11 and D96-12 upon First Reading and Public Hearing.

Mrs. Delmar read Ordinance D96-11 by title:

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, ADOPTING AN AMENDMENT TO THE CITY OF LAKE WALES COMPREHENSIVE PLAN PURSUANT TO THE LOCAL GOVERNMENT COMPREHENSIVE PLANNING AND LAND DEVELOPMENT REGULATION ACT (CHAPTER 163, PART II, FLORIDA STATUTES), INCLUDING AMENDMENTS TO THE FUTURE LAND USE MAP; PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

A motion was made by Commissioner Kirkland to adopt Ordinance D96-11 after first reading and public hearing. The motion was seconded by Mayor/Commissioner Armstrong.

ROLL CALL:

Commissioner Kirkland	"YES"
Mayor/Commissioner Armstrong	"YES"
Commissioner Howell	"YES"
Commissioner Tonjes	"YES"
Vice Mayor Kimbrough	"YES"

Motion carried 5 - 0.

Mrs. Delmar read Ordinance D96-12 by title:

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, REZONING THE AREA DEFINED WITH PARTICULARITY IN THE MAP ATTACHED TO THIS ORDINANCE AND LABELED "EXHIBIT B" FROM EXISTING ZONING CLASSIFICATION OF IND AND AHD TO A ZONING CLASSIFICATION OF C-2, PROVIDING AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

A motion was made by Commissioner Kirkland to adopt Ordinance D96-12 after first reading and public hearing. The motion was seconded by Commissioner Tonjes.

ROLL CALL:

Commissioner Kirkland	"YES"
Commissioner Tonjes	"YES"
Commissioner Howell	"YES"
Mayor/Commissioner Armstrong	"YES"
Vice Mayor Kimbrough	"YES"

Motion carried 5 - 0.

Agenda Item 11.

RESOLUTION 96-21 - HABITAT FOR HUMANITY - COMMUNITY CONTRIBUTION TAX CREDIT PROGRAM

Mr. Greene reported that Sun-Trust bank through foreclosure has acquired property at 309 N. Wetmore Street in Lake Wales. They have decided to donate it to the Habitat for Humanity for them to rehabilitate or demolish and construct a new structure. In order for Sun-Trust to get tax credits for their donation, Habitat must be designated as a valid sponsor by the State's Office of Tourism, Trade and Economic Development through the Community Contribution Tax Credits Program.

As part of Habitat's application for this program, they must have a resolution certifying this project (309 Wetmore) is in compliance with our zoning code and Comprehensive Plan.

The house is in a residential district (R-3) zoning and the Comprehensive Plan designates it as High Density Residential (HDR).

Staff recommended adoption of Resolution 96-21.

Mrs. Delmar read Resolution 96-21 by title:

A RESOLUTION CERTIFYING THAT THE WETMORE STREET HOUSE PROJECT OF HABITAT FOR HUMANITY OF EAST POLK COUNTY IS CONSISTENT WITH LOCAL PLANS AND REGULATIONS; PROVIDING AN EFFECTIVE DATE.

A motion was made by Commissioner Kirkland to adopt Resolution 96-21. The motion was seconded by Commissioner Howell.

ROLL CALL:

Commissioner Kirkland	"YES"
Commissioner Howell	"YES"
Commissioner Tonjes	"YES"
Mayor/Commissioner Armstrong	"YES"
Vice Mayor Kimbrough	"YES"

Motion carried 5 - 0.

Agenda Item 12.

THE MEADOWS - FINAL PLAT APPROVAL

Mr. Greene reported that Amdev Corporation has requested approval of the final subdivision plat for the Meadows which is located north of East Grove Avenue between Eleventh Street and Hamlin Street.

The Meadows consists of twenty-three (23) single-family, residential lots on seven (7) acres, representing a gross density of approximately 3.2 units per acre. The project is accessed from East Grove Avenue. The City Commission gave preliminary plat approval of the meadows on April 2, 1996.

The Final plat has been reviewed by the following departments; Planning, Public Works, Utilities, Police, Fire, and the City Attorney. The developer received copies of the comments by the Department Directors and made changes to the final plat. The developer has constructed all required improvements, to staff's satisfaction, as outlined in Lake Wales Zoning, Land Use and Development Regulations.

On June 25, 1996, the Planning and Zoning Board voted unanimously to forward the Meadows of Lake Wales final plat to the City Commission with a recommendation of approval.

Staff recommended that the City Commission approve the Meadows of Lake Wales Final Plat.

A motion was made by Mayor/Commissioner Armstrong to approve the Meadows final plat. The motion was seconded by Commissioner Tonjes.

ROLL CALL:

Mayor/Commissioner Armstrong	"YES"
Commissioner Tonjes	"YES"
Commissioner Kirkland	"YES"
Commissioner Howell	"YES"
Vice Mayor Kimbrough	"YES"

Motion carried 5 - 0.

Agenda Item 13.

ECONOMIC DEVELOPMENT TRANSPORTATION FUND GRANT ON BEHALF OF FINDLAY INDUSTRIES, INC.

Mr. Greene reported that Findlay Industries, Inc. is planning to expand its current facility in a newly constructed 114,000 sq. ft. building on a 10 acre tract of land located within the city limits on the eastern side of SR 17 (Scenic Highway). On August 20, 1996 the ten acre tract was annexed into the City. On September 4, 1996, the subject property was rezoned to I-1 Industrial District and given a future land use designation of Business Park Center (BPC).

After meeting with engineers and land planners to design the facility and accompanying entrances and exits, it was discovered there was a major traffic impediment to this site. The site abuts SR 17 which has high volume high speed traffic traveling on it. The road lacks acceleration and deceleration lanes for access to the site. The road is in need of widening on the east side of SR 17 to accommodate the improvements.

Mr. Donald R. Williams, Plant Manager for the Lake Wales Branch of Findlay Industries, Inc. has submitted a letter to the Mayor requesting assistance in making road improvements to the site to accommodate this new facility. He has asked that on behalf of Findlay, the City submit a grant application to the Department of Commerce for \$200,000 of funding to be used for transportation improvements. The improvements will be maintained via a partnership of the Florida Department of Transportation (FDOT) and the City. FDOT will be responsible for the acceleration and deceleration lanes due to its location in their right-of-way. The City will be responsible for the portion of the road that is not within the FDOT right-of-way.

Staff recommended approval of the grant submittal and execution of the agreement by the Mayor.

A motion was made by Commissioner Kirkland to approve the submittal of a grant request and authorize the Mayor to execute the agreement. The motion was seconded by Mayor/Commissioner Armstrong.

ROLL CALL:

Commissioner Kirkland	"YES"
Mayor/Commissioner Armstrong	"YES"
Commissioner Howell	"YES"
Commissioner Tonjes	"YES"
Vice Mayor Kimbrough	"YES"

Motion carried 5 - 0.

Agenda Item 14.

WAIVER OF FINE AND RELEASE OF LIENS FOR MS. LIZZIE STOUTAMIRE 509 CRESCENT CIRCLE

Mr. Greene reported that Ms. Stoutamire has requested that the Code Enforcement Board waive fines and release liens on her property located at 509 Crescent Circle. She has received funds from the County to rehabilitate the dwelling. However, a hold has been placed on these funds until the liens have been cleared. The property has a homestead exemption. Approximately 75% of the construction work is completed.

The Code Enforcement Board has not been able to hold a meeting due to a lack of a quorum for the past two meetings. The City Commission is requested to release the liens and waive the fines imposed by the Code Enforcement Board.

This property has the following liens placed on it by the City:

01/22/88	Lot Cleaning	\$ 755.00
06/20/91	Code Enforcement Fine	\$ 25.00
11/14/91	Code Enforcement Fine	\$ 100.00
02/12/92	Code Enforcement Fine	<u>\$ 2,612.00</u>
	TOTAL	\$ 3,492.00

Florida Statutes allows the local governing body to release liens.

It was requested that the City Commission release the liens for 509 Crescent Circle, and waive the fines associated with these liens.

Mayor/Commissioner Armstrong asked if the City had expended \$755 to clean the lot.

Mr. Greene responded that he would be surprised if it was that high and "guestimated" a cost more in the \$50 range to clean a homeowners lot.

Mayor/Commissioner Armstrong said he is opposed to doing away with all liens.

Commissioner Kirkland said this is an extreme case of poverty and the neighbors want to see the property rehabilitated.

Commissioner Howell asked Mark Bennett, Development Services Director if he knew what the Code Enforcement Board's feelings would be in this case.

Mark Bennett replied that if actions are being taken to remedy the problem, the Board likely would be amenable to waiving the fines and liens.

There was general discussion among the members of the Commission.

A motion was made by Commissioner Kirkland that the liens be waived providing work commence in 90 days and be completed within six months and if not, all fines and liens be reinstated to \$3,492. The motion was seconded by Commissioner Howell.

ROLL CALL:

Commissioner Kirkland	"YES"
Commissioner Howell	"YES"
Commissioner Tonjes	"YES"
Mayor/Commissioner Armstrong	"YES"
Vice Mayor Kimbrough	"YES"

Motion carried 5 - 0.

Agenda Item 15.

APPROVAL OF WORK ORDER NUMBER 1 - MUNICIPAL COMPLEX

Mr. Greene reported that on May 21, 1996, the City Commission adopted Ordinance 96-06 revising the City's 5-Year Capital Improvement Plan for FY95'96 through FY99'00. Funds are appropriated for various facility construction and improvement projects which include converting the old K-mart building to a new municipal complex, construction of a fire station, and the remodeling of the old gymnasium in the Mimi Reid Hardman Recreational Complex. On September 4, 1996, the Commission approved the firms of Gee & Jensen, Inc. and Parlier Architects to provide architectural consulting services for the various facility improvements.

At this time, Gee & Jensen is submitting Work Order Number 1 for the architectural consulting services for the municipal complex for Commission approval. The scope of work will include the programming, space planning and master plan for the municipal complex, as described in attachment "A." The total compensation for these elements of the project is \$28,560 plus reimbursable expenses not to exceed \$500. The time for completion of these tasks is eight weeks from the date the work order is executed by the City.

City staff has completed questionnaires provided by Gee & Jensen to help them with the programming and space need requirements of the various departments to utilize the municipal complex. The new fire station design and the site development work will be completed on separate work orders to be brought before the Commission at a later date.

It was recommended the City Commission take the following actions;

1. Approve Work Order Number 1 for the Municipal Complex in the amount of \$28,560 plus reimbursable expenses not to exceed \$500.
2. Authorize the Mayor to execute the Work Order on behalf of the City.

Commissioner Tonjes asked if this amount was for planning the layout of offices for one half of the Kmart building and the inclusion of the plans for the fire station.

Mr. Greene replied that the work order includes plans for 20,000 square feet of the building (out of a total of 40,000 square feet) and a master plan for use of the entire site. He added there is a possibility of building a public works facility on the site.

Commissioner Tonjes asked what was planned for the other 20,000 square feet of space in the Kmart building.

Mr. Greene said the City is looking to the future when it may need more space because of growth or to relocate other departments who now work from substandard buildings. City street, parks and garage are departments that may need to be moved. Also since the Kmart site has nine acres of land, approximately two acres of which will be taken by a new fire station, there is a possibility of eventually constructing a public works facility as needs dictate. Furthermore, the City is expected to double in population within the next 20 years. Mr. Greene said the intent in purchasing the Kmart building was to have land available in a central location if and when it is needed. He went on to say that the present City Hall is inadequate with offices sandwiched into available space affecting the various departments ability to function.

A motion was made by Commissioner Howell to approve Work Order Number 1 for the municipal complex in the amount of \$28,560.00 and reimbursable expenses not to exceed \$500.00 and authorize the Mayor to execute the work order on behalf of the City. The motion was seconded by Commissioner Kirkland.

ROLL CALL:

Commissioner Howell	"YES"
Commissioner Kirkland	"YES"
Mayor/Commissioner Armstrong	"YES"
Commissioner Tonjes	"YES"
Vice Mayor Kimbrough	"YES"

Motion carried 5 - 0.

COMMUNICATIONS AND PETITIONS

Henry Croley, President of the Lake Wales Professional Fire Fighters complimented Vice Mayor Kimbrough for her efforts in establishing the Corey Hines Assistance Fund. He presented a check in the amount of \$1,000.00 collected from the Lake Wales Fire Fighters to Ms. Kimbrough to add to the fund. He said the fire fighters will conduct a Boot Drive Friday night at various intersections to collect more money for the Fund.

Vice Mayor Kimbrough thanked the Lake Wales Fire Fighters for their good hearts and intentions. She also thanked all those who participated in donating to the Fund.

Mayor/Commissioner Armstrong asked if the City's Ordinances could be changed to limit the number of dogs one could keep or prohibit breeding.

Mr. Greene said staff will complete a review of existing Ordinances and bring any needed changes to the Commission for its consideration.

Mayor/Commissioner Armstrong announced that the dedication of the new learning center at Bok Tower Gardens will take place Sunday, November 10, at 2 p.m. and everyone is invited. Admission to the Gardens is free that day.

There being no further business, the meeting was adjourned.


Mayor/Commissioner

ATTEST:


City Clerk

ORDINANCE 2001-19

AN ORDINANCE AMENDING CHAPTER 19, TAXATION, BY DELETING REFERENCES TO PUBLIC SERVICES TAXES LEVIED ON TELECOMMUNICATIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 166, Florida Statutes, authorizes municipalities to levy a public service tax on the purchase of electricity, metered or bottled gas (natural liquified petroleum gas or manufactured), and water service ~~and telecommunications service~~ within the municipal limits and upon services competitive with those enumerated; and

WHEREAS, Ordinances of 1/21/42 and 1/16/51, Ordinance 74-3 and Ordinance 86-13 of the City of Lake Wales, Polk County, Florida authorized the levy of a public service tax on the purchase of electricity, gas, fuel oil, and water service ~~and telecommunications service~~ to premises located within the municipal limits; and

WHEREAS, the City is desirous of improving its procedures for collecting said public service tax;

NOW THEREFORE, BE IT ENACTED by the City Commission of the City of Lake Wales, Polk County, Florida:

SECTION 1. Chapter 19, TAXATION, Lake Wales Code of Ordinances, is amended to read as follows:

ARTICLE I. IN GENERAL

Secs. 19-1—19-23. Reserved.

ARTICLE II. PUBLIC SERVICE TAX

Sec. 19-24. Definitions and rules of construction.

(a) When used in this chapter, the following words, terms or phrases shall have the meanings ascribed to them in this section unless the context clearly indicates otherwise:

- (1) *City* means the City of Lake Wales.
- (2) *City clerk* means the city clerk of the City of Lake Wales or his/her designee.
- (3) *City manager* means the city manager of the City of Lake Wales or his/her designee.
- (4) *Electronic transfer* means the use of the Automated Clearing House (ACH), or other electronic transfer system approved on a case by case basis, to send the public service taxes collected directly from the seller's bank to the bank so designated to receive such transfer.
- (5) *Finance director* means the finance director of the City of Lake Wales or his/her designee.
- (6) *F.S.* means the most recently published edition of Florida Statutes.

(7) *Fuel oil*, for the purpose of this article, means an oil, including kerosene (coal oil), that is burned to supply light, heat or power; oil purchased for use in internal combustion engines is not taxable under this article.

~~(8) Interstate, as applied to telecommunications services, means originating in the state of Florida but not terminating in this state, or terminating in this state but not originating in this state.~~

~~(9) Intrastate, as applied to telecommunications services, means originating and terminating in the state of Florida.~~

~~(10) Local telephone services means:~~

~~(i) The access to a local telephone system and the privilege of telephonic quality communication with substantially all persons having telephone or radio telephone stations constituting a part of such local telephone system; or~~

~~(ii) Any facility or service provided in connection with a service described in paragraph (i).~~

~~The term local telephone service does not include any service which is a toll telephone service, private communication service, cellular mobile telephone or telecommunications service, specialized mobile radio, or pagers and paging service, including but not limited to beepers and any other form of mobile and portable one-way or two-way communication, or teletypewriter or computer exchange service.~~

~~(11) Private communication service means:~~

~~(i) A communication service furnished to a subscriber or user that entitles the subscriber or user to exclusive or priority use of a communication channel or groups of channels, or to the use of an intercommunications system for the subscriber's stations, regardless of whether such channel, groups of channels, or intercommunication system may be connected through switching with a service described in subsection (10), subsection (16), or subsection (17);~~

~~(ii) Switching capacity, extension lines and stations, or other associated services which are provided in connection with, and which are necessary or unique to the use of channels or systems described in paragraph (i); or~~

~~(iii) The channel mileage which connects a telephone station located outside a local telephone system area with a central office in such local telephone system.~~

~~(128) Purchaser means a person, firm, corporation or other legal entity who purchases a service directly from a seller.~~

~~(139) Remit and remittance means the sending by the seller and the receipt by the city of all taxes levied and collected pursuant to this article.~~

~~(1410) Seller means a person, firm, corporation, or other legal entity who sells directly to the purchaser; for purposes of this article, the seller acts as the tax-collecting agency of the city.~~

~~(1511) Telecommunications service means:~~

~~(i) Local telephone service, toll telephone service, telegram or telegraph service, teletypewriter or computer exchange service, or private communication service; or~~

~~(ii) Cellular mobile telephone or telecommunications service, specialized mobile radio, and pagers and paging service, including but not limited to beepers and any other form of mobile and portable one-way or two-way communication, but does not include services or equipment incidental to telecommunications services enumerated in this paragraph such as maintenance of customer premises equipment, whether owned by the customer or not, or equipment sales or rental for which charges are separately stated, itemized, or described on the bill, invoice, or other tangible evidence of the provision of such service.~~

~~(16) Teletypewriter or computer exchange service means the access from a teletypewriter,~~

~~telephone, computer, or other data station of which such station is a part, and the privilege of intercommunication by such station with substantially all persons having teletypewriter, telephone, computer, or other data stations, constituting a part of the same teletypewriter or computer exchange system, to which the subscriber or user is entitled upon payment of a charge or charges, whether such charge or charges are determined as a flat periodic amount, on the basis of distance and elapsed transmission time, or some other method. — The term *teletypewriter or computer exchange service* does not include local telephone service or toll telephone service.~~

~~—(17) Toll telephone service means:~~

~~(i) A telephonic quality communication for which there is a toll charge which varies in amount with the distance and elapsed transmission time of each individual communication; or~~

~~(ii) A service which entitles the subscriber or user, upon payment of a periodic charge which is determined as a flat amount or upon the basis of total elapsed transmission time, to the privilege of an unlimited number of telephonic communications to or from all or a substantial portion of the persons having telephone or radio telephone stations in a specified area which is outside the local telephone system area in which the station provided with this service is located.~~

~~The term *toll telephone service* includes interstate and intrastate wide area telephone service charges.~~

~~(18) Utility service for the purpose of this article means electricity for light, heat or power; natural and manufactured gas, fuel oil or kerosene (coal oil) for light, heat or power; or water service; or telecommunications services.~~

(b) For the purposes of administration and enforcement of this chapter, unless otherwise stated in this chapter, the following rules of construction shall apply:

(1) The word "*shall*" is always mandatory and not discretionary; the word "*may*" is permissive.

(2) The words "*he*," "*his*," and other words denoting the masculine gender shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

(3) Words used in the present tense shall include the future, and words used in the singular number shall include the plural and plural the singular, unless the context clearly indicates the contrary.

(4) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "*and*," "*or*" or "*either...or*," the conjunction shall be interpreted as follows:

(i) "*And*" indicates that all the connected terms, conditions, provisions or events shall apply.

(ii) "*Or*" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

(iii) "*Either...or*" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

(iv) The word "*includes*" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

(a) The tax hereby levied shall apply to all sales of electricity, gas, fuel oil, or water service, whether delivered through the medium of a meter or other measuring device or otherwise, to premises located in the city.

(b) Telecommunications services are not taxed by the City of Lake Wales as of October 1, 2001. The State of Florida levies a Communications services tax on telecommunications services to include cable television service providers. Prior pledges of telecommunications service tax revenues for debt issues now apply to a portion of Communications Services Tax revenues received from the State. The tax hereby levied shall be applied to the amount billed for telecommunications service as defined in F.S. § 203.012 originating and terminating within the state of Florida to premises located in the city or, if the location of the telecommunications service provided cannot be determined, the tax shall be applied to the total amount billed for such telecommunications service to a telephone or telephone number, a telecommunications number or device, or customer's billing address located within the city. The tax hereby levied shall not apply to public telephone charges collected on site, charges for any foreign exchange service or any private line service except when such services are used or sold as a substitute for any telephone company switched service or dedicated facility by which a telephone company provides a communication path, access charges, and any customer access line charges paid to a local telephone company.

Sec. 19-26. Public service tax levied.

(a) There is levied by the city on every purchase in the city of electricity, water service and metered or bottled gas (natural liquified petroleum gas or manufactured) a public service tax based upon the charge made by the seller in the amount of ten (10) percent on each sale, which tax shall in every case be paid by the purchaser for the use of the city to the seller at the time of paying the charge therefor, but not less often than monthly. The tax hereby imposed shall not be applied against any fuel adjustment charge, and such charge shall be separately stated on each bill rendered by the seller to the purchaser for the purchase of a utility service. The term *fuel adjustment charge* shall mean all increases in the cost of utility services to the purchaser resulting from an increase in the cost of fuel to the seller subsequent to October 1, 1973.

~~(b) There is levied by the city on each and every sale in the city of local telecommunications services and intrastate telecommunications toll services, as defined by F.S. § 203.012, and to the full extent permitted by F.S. § 166.231, a tax based upon the charge made by the seller of seven (7) percent of such charge, which tax shall, in every case, be paid by the purchaser for the use of the city, to the seller of such local telecommunications services or intrastate telecommunications services at the time of paying the charge therefor to the seller thereof, but not less often than monthly. Telecommunications service as defined in F.S. § 203.012(5)(b) shall be taxed only on the monthly recurring customer service charges excluding variable usage charges.~~

(eb) There is levied by the city a tax of four cents (\$0.04) per gallon on every purchase of fuel oil and a tax of one-half of one cent (\$0.005) per gallon on every purchase of kerosene (coal oil) within the city which tax shall in every case be paid by the purchaser for the use of the city to the seller of such fuel oil or kerosene at the time of paying the charge by the seller therefor. The bulk station or dealer of such fuel oil or kerosene shall collect the tax from the retailer and report and pay the same to the city as provided in section 19-28. In the event any retail dealer shall purchase such fuel oil or kerosene from any dealer not operating a bulk station within the city, such retail dealer shall collect the tax and report and pay the tax to the city. The dealer responsible to the city for the payment of the tax, whether bulk, wholesale dealer or retailer, shall make a report to the city of the number of gallons of fuel oil or kerosene sold in the city subject to the tax as provided in section 19-28 .

Sec. 19-27. Exemptions.

(a) The purchase of natural gas or fuel oil by a public or private utility, either for resale or for

use as fuel in the generation of electricity, is exempt from taxation.

(b) The purchase of fuel oil or kerosene for use as an aircraft engine fuel or propellant or for use in internal combustion engines is exempt from taxation.

(c) The tax imposed by this article shall not apply to purchases in the city of electricity, gas, fuel oil, or water service ~~or telecommunications services~~ by the following entities which are exempt from municipal taxation:

- (1) the United States government
- (2) the state of Florida, its agencies and departments
- (3) Polk County, its agencies and departments
- (4) Polk County School Board
- (5) Lake Wales Housing Authority

(d) The tax imposed by this article shall not apply to purchases of electricity, gas, fuel oil, or water service ~~or telecommunications services~~ by the city of Lake Wales.

(e) The tax imposed by this article shall not apply to purchases in the city of electricity, gas, fuel oil, or water service ~~or telecommunications services~~ by any church which is recognized by the state and whose purchases are used exclusively for church purposes.

~~(f) The tax imposed by this article shall not apply to purchases in the city of telecommunications services by any federally chartered or state chartered credit union.~~

~~(g)~~ (f) The tax imposed by this article shall not apply to any purchase which is specifically exempted by federal or state law.

Sec. 19-28. Collection of tax; responsibility of seller.

(a) It shall be the duty of every seller of electricity, gas, water, or fuel oil ~~or telecommunications service~~ in acting as the tax-collecting agency of the city to collect from the purchaser, for the use of the city, the tax hereby imposed and levied at the time of collecting the purchase price charged for each transaction, and to report on forms prescribed by the city and pay over to the city all such taxes.

(b) It shall be unlawful for any seller to collect the price of any sale of electricity, gas, water, or fuel oil ~~or telecommunications service~~ in the city without, at the same time, collecting the tax hereby levied in respect to such sales, unless such seller shall elect to assume and pay such tax without collecting the tax thereby levied from the purchaser; and it shall be unlawful for any seller of a utility service to fail to state a fuel adjustment charge upon which no tax is levied separately from all other charges upon which the tax is levied at the time the seller collects the charges and tax from the purchaser.

(c) Any seller failing to collect the tax at the time of collecting the price of any sale, where the seller has not elected to assume and pay such tax, shall be liable to the city for the amount of such tax in like manner as if the same had actually been paid to the seller; and a seller failing to show separately the amount of the fuel adjustment charge upon which no tax is levied at the time of collecting the charge shall be liable to the city for the amount of tax which would have been collected on the charge if the tax had been levied thereon. The city manager and city commission of the city shall bring or cause to be brought all such suits and actions and take all such proceedings as may be necessary for the recovery of such tax.

(d) Sellers shall remit to the city by hand-delivery, U.S. postal service or electronic transfer, on or before the twentieth day of each calendar month, all such taxes collected during the preceding calendar month except as provided in subsection (e) herein. In the event the twentieth day falls on a Saturday, Sunday or holiday, the time shall be extended additionally to the next business day following the Saturday, Sunday or holiday. The date of receipt of such taxes by the city will be the date postmarked by the U.S.

postal service, or, if hand-delivered, the day received by the city clerk. If taxes are remitted by electronic transfer, the date of receipt will be the date received by the bank so designated to receive electronic transfers as indicated on the bank statement. Prior to making the initial remittance by electronic transfer, authorization to do so must be obtained from the city's finance director. If a seller elects to remit by electronic transfer, that seller shall thereafter always remit by electronic transfer unless approval is given by the finance director to discontinue the electronic transfer; a seller remitting by electronic transfer shall also forward to the city a monthly report of public service taxes collected as required in subsection (a).

(e) Sellers collecting less than twenty-five dollars (\$25.00) of tax during the calendar month may remit such tax to the city on a quarterly or fiscal year basis at the discretion of the finance director. All such taxes imposed, levied and collected during the preceding calendar quarter or fiscal year shall be remitted to the city by hand-delivery or U.S. postal service on or before the twentieth day of the calendar month following the end of the calendar quarter or fiscal year. In the event the twentieth day falls on a Saturday, Sunday or holiday, the time shall be extended additionally to the next business day following the Saturday, Sunday or holiday. The date of receipt of such taxes by the city will be the date postmarked by the U.S. postal service, or, if hand-delivered, the day received by the city clerk. Sellers remitting on a quarterly or fiscal year basis shall not remit by electronic transfer.

(f) Effective January 1, 1997, when a seller fails to make a report or fails to pay the tax within the time required hereunder, interest will accumulate on the outstanding tax due on a daily basis at a rate of .0328767% (12%/365) from the delinquent date until paid in full; said interest shall be payable and collectible in the same manner as if it were a part of the tax imposed. The city manager and city commission of the city shall bring or cause to be brought all such suits and actions and take all such proceedings as may be necessary for the recovery of such tax and interest; provided that the seller shall not be liable for the payment of tax upon uncollected charges.

(g) If any purchaser shall fail, neglect or refuse to pay to the seller the seller's charge and the tax hereby imposed and as hereby required on account of the sale for which such charge is made, or either, the seller shall have and is hereby invested with the right, power and authority immediately to discontinue further service to such purchaser until the tax and the seller's bill have been paid in full.

~~(h) For the purpose of compensating the seller of telecommunications service in accordance with the provisions of F.S. § 166.231(9)(b), the seller shall be allowed one (1) percent of the amount of the tax collected and due to the city in the form of a deduction from the amount collected for remittance. The deduction shall be allowed as compensation for the keeping of the records and for the collection and remitting of the tax.~~

Sec. 19-29. Records of purchases; inspections.

(a) Each and every seller of electricity, gas, water, and fuel oil ~~and telecommunications service~~, in respect to sales on which a tax is hereby levied, shall keep complete records showing all sales in the city of such electricity, gas, water, and fuel oil ~~and telecommunications service~~, which records shall show the price charged upon each purchase (showing as separate amounts the fuel adjustment charge upon which no tax is collected and all other charges upon which the tax levied hereby is collected), the date thereof and the date of payment thereof, and shall during business hours on all business days be open for inspection by the duly authorized agents of the city, who shall have the right, power and authority to audit, examine, and make such transcripts of any and all business and/or sales records including those records stored on computer software or otherwise kept by electronic means, in any way pertaining to the sales, within the city limits during such times as they may desire. It shall be the duty of the finance director or his designee to inspect the records at least once every three years in order to determine that the tax hereby imposed and levied is being properly reported and paid to the city by each seller of the service, ~~except for telecommunications services whose records shall be inspected when determined to be necessary by the finance director on a case by case basis.~~

~~(b) Providers of telecommunications services taxable in accordance with the provisions of this~~

~~article shall provide to the city, upon sixty (60) days notice, access to all applicable records for such telecommunications service. However, any information received by the city in connection with such audit is confidential and is not subject to the provisions of F.S. § 119.07(1) in accordance with the provisions of F.S. § 166.231(9)(e).~~

(eb) Records not located within the municipal limits of the city must be furnished by the seller to the city within fourteen (14) days of written demand ~~except for telecommunications service which must be forwarded to the city within sixty (60) days of written demand.~~ Should the seller fail to comply with the written demand or notice, the city may authorize an agent or officer of the city to conduct an audit at the location where said records are maintained at the seller's expense.

Sec. 19-30. Penalty for non-compliance.

(a) It shall be unlawful and an offense for a purchaser to willfully fail, refuse or neglect to pay the tax hereby imposed and levied and for a seller, or an officer, agent or employee of a seller, to willfully make a false report, fail to make a report or fail to pay the tax, or violate any other provision hereof. The person shall, upon conviction, be guilty of a class D offense or a civil fine not to exceed ten thousand dollars.

(b) In addition to the penalty imposed by subsection (a), a person who willfully obtains an exemption number with the intent to avoid paying the tax hereby imposed and levied when the tax would otherwise be payable, or uses an exemption number to avoid paying the tax hereby imposed and levied when the tax would otherwise be payable, or procures or permits either of the foregoing shall upon conviction be liable to the city in an amount not to exceed three times the amount of the tax that would have been payable in respect to the purchase or purchases for which the exemption number was used contrary to the provisions of this chapter. *Conviction* as used in this paragraph shall mean a finding of guilty by a court of competent jurisdiction whether or not adjudication of guilt is withheld; the term shall also include a plea of *nolo contendere* by such person.

(c) Additional fees may be assessed against sellers not complying with any provision of this chapter, said fee being based upon the actual cost incurred by the city in collecting the public service tax or obtaining any information or reports due.

Sec. 19-31. Duties and responsibilities of city clerk.

(a) The city clerk shall perform the duties of tax collector in respect to collection of the public service tax.

(b) The city clerk shall maintain records of all known sellers of items taxable hereunder which records shall include the reports required to be filed by the sellers with the remittance of taxes due the city.

(c) The city clerk shall maintain, provide, update and make available to sellers an alphabetical listing of all street names within the city. Said listing shall meet all criteria established in F.S. § 166.231(9)(d).

(d) The city clerk shall notify in writing by certified mail any known seller of items taxable hereunder of any change in the city boundaries or in the rate of taxation. Said notification shall occur within seven (7) days of the adoption of an ordinance authorizing such change.

(e) The city clerk shall develop and implement procedures for the collection of public service taxes due the city which shall include notification of delinquent status and billing for interest due on late payments. A billing for interest due shall not be required when said interest is less than ten (10) dollars.

(f) The city clerk is authorized to refuse issuance or renewal of an occupational license if the

public service tax of the applicable business has become delinquent or remains unpaid.

Sec. 19-32. Deposit and use of public service taxes.

(a) All public service taxes received by the city shall upon receipt thereof be deposited in the general fund. Revenues derived from taxes levied on each separate service taxable hereunder shall be recorded in separate revenue accounts within the general fund for purposes of accounting therefor, but shall be authorized to pay any and all operating and nonoperating expenses of the city.

(b) Nothing contained in this article shall impair or affect the validity of pledges of revenues derived from public service taxes heretofore made by the city for the debt service requirements of obligations issued by the city.

Secs. 19-33—19-45. Reserved.

SECTION 2. If any clause, section or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

SECTION 3. This ordinance shall become effective immediately upon its passage by the City Commission.

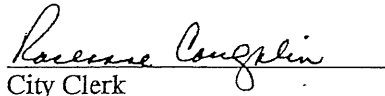
CERTIFIED AS TO PASSAGE this ~~5th day of November, 1996~~ 20th day of November, 2001.

BY: 

Mayor/Commissioner

City of Lake Wales, Polk County, Florida

ATTEST:


City Clerk

AFFIDAVIT OF PUBLICATION

News Chief

Published Daily

STATE OF FLORIDA
COUNTY OF POLK

Before the undersigned personally appeared **Mary Tibado** who on oath says that she is **Business Manager** of the News Chief, a newspaper published at Winter Haven, in Polk County, Florida; that the attached copy of advertisement, being **Public Hearing/Ordinance #2001-19** in the matter **City of Lake Wales** in the Circuit Court, was published in said newspaper in the issue of **November 10, 2001**.

Affiant further says that the News Chief is a newspaper published at Winter Haven, in said Polk County, Florida, and that said newspaper has heretofore been continuously published in said Polk County, Florida, daily, and has been entered as second class matter at the post office in Winter Haven, in said Polk County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission, or refund for the purpose of securing this advertisement for publication in said newspaper.

Signed _____

Sworn to and subscribed before me this **12th** day of **November** A.D. **2001** by **Mary Tibado** who is personally known to me or who has produced (_____) as identification.

Lynda Wilkerson

Notary Public



Lynda Wilkerson

My Commission CC761568

Expires July 22, 2002

My Commission Expires: _____

NOTICE OF
PUBLIC HEARING

A PUBLIC HEARING will be held on the following proposed Ordinance at 7:30 p.m. or soon thereafter on November 10, 2001, in Commission Chambers at the Administration Building, 201 W. Central Avenue, Lake Wales, at which time the City Commission will consider its adoption into law. The ordinance in its entirety may be

inspected at the office of the City Clerk during regular working hours. All interested parties may appear and be heard with respect to the proposed ordinance.

ORDINANCE 2001-19

AN ORDINANCE AMENDING CHAPTER 19, TAXATION, BY DELETING REFERENCES TO PUBLIC SERVICES TAXES LEVIES ON TELECOMMUNICATIONS; PROVIDING FOR AN EFFECTIVE DATE.

If any person decides to appeal any decision made by the above City Commission with respect to any matters considered at such public hearing, he will need a record of the proceedings, and for such purpose he may need to ensure that a verbatim record of the proceeding is made, which record includes testimony and evidence upon which the appeal is based.

/s/ Roseanne Coughlin
City Clerk
City of Lake Wales

November 10, 2001

 * TRANSMIT MESSAGE CONFIRMATION REPORT *

NAME: CITY LAKE WALES
 TEL : 863 678 4180
 DATE: 11/07/01 09:29

TRANSMIT: 8632942008			DURATION	PAGE	SESS	RESULT
TYPE: MEMORY TX	MODE	E-144	01'04	04	267	OK

INSERTION ORDER


City of Lake Wales
P.O. Box 1320
Lake Wales, FL 33850-1320
(863)678-4182 • FAX: (863)678-4180

PLEASE PROVIDE TWO (2) TEARSHEETS AND
 ATTACH COPY OF INSERTION ORDER TO
 INVOICE FOR PAYMENT

TO: NEWS CHIEF

Date of Order: Nov. 07, 2001		Department: City Clerk		Type of Ad: Legal	
Deadline:		Display/Line Line		Border Size:	
Start	End	CAPTION OR KEY WORDS		SIZE	SECTION
11/10/01	11/10/01	Ord. 2001-17 - Imperial Ridge Annexation Ord. 2001-18 - Drug & Pros.-Related Nuisance Abtmnt Ord. 2001-19 - Amend Chapt. 19, Taxation		as needed	Legal

SPECIAL INSTRUCTIONS:

Signature of City Clerk	Requested by: R. Coughlin City Clerk	Department: City
	PROVIDE AFFIDAVIT YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
	Signature of Employee Placing Ad:	

INSERTION ORDER

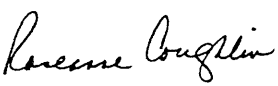
City of Lake Wales
P.O. Box 1320
Lake Wales, FL 33850-1320
(863)678-4182 • FAX: (863)678-4180

PLEASE PROVIDE TWO (2) TEARSHEETS AND
 ATTACH COPY OF INSERTION ORDER TO
 INVOICE FOR PAYMENT

TO: NEWS CHIEF

Date of Order: Nov. 07, 2001		Department: City Clerk	Type of Ad: Legal	
Deadline:		Display/Line Line	Border Size:	
Start	End	CAPTION OR KEY WORDS	SIZE	SECTION
11/10/01	11/10/01	Ord. 2001-17 - Imperial Ridge Annexation Ord. 2001-18 - Drug & Pros.-Related Nuisance Abtmnt Ord. 2001-19 - Amend Chapt. 19, Taxation	as needed	Legal

SPECIAL INSTRUCTIONS:

Signature of City Clerk	Requested by: R. Coughlin Clerk	Department: City
	PROVIDE AFFIDAVIT YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
	Signature of Employee Placing Ad:	

NOTICE OF PUBLIC HEARING

A PUBLIC HEARING will be held on the following proposed Ordinance at 7:30 p.m. or soon thereafter on November 20, 2001 in Commission Chambers at the Administration Building, 201 W. Central Avenue, Lake Wales, at which time the City Commission will consider its adoption into law. The ordinance in its entirety may be inspected at the office of the City Clerk during regular working hours. All interested parties may appear and be heard with respect to the proposed ordinance.

ORDINANCE 2001-19

AN ORDINANCE AMENDING CHAPTER 19, TAXATION, BY DELETING REFERENCES TO PUBLIC SERVICES TAXES LEVIED ON TELECOMMUNICATIONS; PROVIDING FOR AN EFFECTIVE DATE.

If any person decides to appeal any decision made by the above City Commission with respect to any matters considered at such public hearing, he will need a record of the proceedings, and for such purpose he may need to ensure that a verbatim record of the proceeding is made, which record includes testimony and evidence upon which the appeal is to be based.

/s/ Roseanne Coughlin
City Clerk
City of Lake Wales

November 7, 2001

The regular meeting of the Lake Wales City Commission was held on November 6, 2001 at 7:30 p.m. in Commission Chambers at the Administration Building. The meeting was called to order by Mayor Linda Kimbrough.

INVOCATION

The invocation was given by Rev. Ed Marshall, First Christian Church.

PLEDGE OF ALLEGIANCE

COMMISSIONERS PRESENT: Fred Else; Albert Kirkland, Sr.; Clifford L. Tonjes; Lee A. Wheeler, III; Linda Kimbrough, Mayor.

COMMISSIONERS ABSENT: None.

CITY REPRESENTATIVES PRESENT: Anthony G. Otte, City Manager; Albert C. Galloway, Jr., City Attorney; Judith H. Delmar, Asst. City Manager; Roseanne Coughlin, City Clerk.

Agenda Item 4.

APPROVAL OF MINUTES

A motion was made by Commissioner Tonjes to approve the minutes of the October 16, 2001 regular meeting. The motion was seconded by Commissioner Kirkland.

ROLL CALL:

Commissioner Tonjes	"YES"
Commissioner Kirkland	"YES"
Commissioner Else	"YES"
Commissioner Wheeler	"YES"
Mayor Kimbrough	"YES"

Motion carried 5-0.

Agenda Item 5.

PROCLAMATION - Veteran's and Patriotic Day of Celebration

Mayor Kimbrough proclaimed November 10, 2001 as Veteran's and Patriotic Day of Celebration.

Agenda Item 6.

PRESENTATION TO THE COMMISSION

Mr. Otte reported that pursuant to the discussion at the October 2, 2001 Commission meeting on the setting of speed limits on state highways, staff has requested FDOT representatives to make a presentation.

Ms. Maryemma Bachelder, Public Information Director, Florida Department of Transportation, addressed the Commission concerning FDOT's plans for adjusting speed limits on US 27 and SR 60 as well as the Five Year Work Program and the Governor's Economic Stimulus Plan. Tony Russo, FDOT, was present and responded to questions from the Commission.

Agenda Item 7.

ORDINANCE 2001-14 - AMENDING CHAPTER 2, ADMINISTRATION, LAKE WALES CODE OF ORDINANCES - SECOND READING AND PUBLIC HEARING

Mr. Otte reported that Chapter 2, Lake Wales Code of Ordinances, codifies and standardizes administrative processes. The last revision to Chapter 2 was in April 2001. Sec. 2-476. Disposal of surplus property is changed to remove the constraint of three (3) responsive bids in the competitive selection process under removal of surplus property. This change simplifies the process since the City cannot guarantee responsiveness of the bidders.

It was recommended that the City Commission adopt Ordinance 2001-14 upon second reading and public hearing.

Ms. Delmar read Ordinance 2001-14 by title only:

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, TO AMEND CHAPTER 2, ADMINISTRATION, LAKE WALES CODE OF ORDINANCES, BY ELIMINATING THE REQUIREMENT FOR THREE RESPONSIVE BIDS IN THE PROCESS OF DISPOSAL OF SURPLUS PROPERTY; PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

A motion was made by Commissioner Tonjes to adopt Ordinance 2001-14 on second reading and public hearing. The motion was seconded by Commissioner Else.

ROLL CALL:

Commissioner Tonjes	"YES"
Commissioner Else	"YES"
Commissioner Kirkland	"YES"
Commissioner Wheeler	"YES"
Mayor Kimbrough	"YES"

Motion carried 5-0.

Agenda Item 8.

ORDINANCE 2001-15 - AMENDING CHAPTER 20, TRAFFIC AND MOTOR VEHICLES, LAKE WALES CODE OF ORDINANCES - SECOND READING AND PUBLIC HEARING

Mr. Otte reported that Chapter 20, Lake Wales Code of Ordinances, codifies and establishes violations and fines as they relate to Traffic and Motor Vehicles within the municipal limits of the City of Lake Wales. As a result of continuing complaints concerning large commercial vehicles, primarily semi-tractors and/or trailers being parked in residential districts within the City, a review of Chapter 20 has revealed that the ability to issue parking citations to vehicles violating the prohibitions in the ordinance does not currently exist.

There is a need for police officers, parking enforcement officers and code enforcement officers to be able to issue parking citations to the owners or operators of vehicles in violation of the prohibitions in the ordinance. Currently the code enforcement procedure must be used and once the violating vehicle has been moved, the violation no longer exists and any code enforcement action ceases. The next time the same truck appears at the same or another location, the process begins again. In addition, under code enforcement procedures, the code action is against the property owner not the owner or operator of the vehicle. Many times this is an innocent owner and the City may be the owner of the property where the vehicle is parked.

The proposed ordinance makes no change to existing restrictions on commercial vehicles in the Code of Ordinances, it simply provides police officers, parking

enforcement officers and code enforcement officers with a more effective way to respond to citizen complaints and enforce the existing restrictions.

The police department studied the parking of commercial vehicles.

The only City property available that has sufficient space for the parking of large commercial vehicles and meets the requirements of the City Code and other government regulations concerning parking lots are the two parking lots on Orange Avenue.

Parking at the lots on Orange Avenue other than on nights and weekends is likely to create a problem for employees of downtown businesses that use these lots to avoid violating the downtown parking time limits.

Officers located and spoke with several individuals who operate large commercial vehicles (semis) to ascertain where they park their vehicles and what suggestions they might have. Some individuals park in large "shopping center" type parking lots after the stores have closed and then leave in the morning prior to the businesses opening. Others leave the vehicle at a terminal or truck stop and are picked up or have a vehicle they leave at the terminal.

Several of the drivers indicated that they would prefer to be able to park the vehicles in "large shopping center" type parking lots, but frequently the owners of the property do not want them there.

A survey was conducted of gasoline/diesel fueling locations within the City that also had space sufficient to accommodate a large commercial vehicle to determine if such space is available. With only one (1) exception, all of the locations surveyed stated that they did not want these vehicles using their location for parking. The one location that does permit the parking places some requirements upon the vehicle operators and the space is limited.

Any authorization for individuals to use any private property for the parking of large commercial vehicles should be the responsibility of the owner and/or operator of the vehicle. If these vehicles are parked on private property parking lots within a commercial district, they are not in violation of the City Code. Frequently owners of private parking areas do not want these vehicles there because they take up space, obstruct the view of the business, may obstruct access to the business, may do damage to parking areas and adversely affect the visual appeal of a location.

Establishment of a parking location on unimproved private property would violate City Code.

It was recommended that the City Commission approve 2001-15 upon second reading and public hearing.

Ms. Delmar read Ordinance 2001-15 by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, TO AMEND CHAPTER 20, TRAFFIC AND MOTOR VEHICLES, LAKE WALES CODE OF ORDINANCES, BY REVISING THE PENALTIES PORTION OF THE COMMERCIAL VEHICLES PARKING RESTRICTIONS AND PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

Willie Joiner, 307 Dorsett Avenue, discussed the problems with parking tractor/trailers in the city. He asked that the matter be tabled until a solution is reached that will please everyone.

Commissioner Tonjes advised that the ordinance does not propose any change as to where one can park. The parking that is permitted now will continue to be permitted. The ordinance will enable the police department to issue a ticket for a violation.

Mitchell Ware, 23 A Street, asked how long do you have to be parked in a location in order to be grandfathered in.

Mr. Otte said the ordinance does not contain a grandfathering provision and only relates to parking in a residential area.

A discussion was held concerning parking in a residential area.

Pastor Reuben Thompson, Jr., 134 E Street, Apt. 1, discussed the vacant lot across from Roosevelt School where he has parked his truck for many years. He asked where would they be able to park these trucks if they cannot use the present locations.

Ms. Delmar advised that an application for private parking of a commercial vehicle in a residential district would be developed. Once the application was completed, it would be presented to the City Commission for approval.

Becky Wynkoop, 1210 Bryn Mawr, asked about allowing parking at the old fertilizer plant.

Commissioner Tonjes noted that the plant had illegally operated in that capacity for several years.

Ms. Delmar advised that numerous complaints from citizens were received during that time period.

CLOSED PUBLIC HEARING

Commissioner Wheeler said the point of this ordinance is not to put truckers out of business but it is directed toward nuisance situations.

Mayor Kimbrough thanked Mr. Joiner, Mr. Ware and Pastor Thompson for sharing their experiences with the Commission.

Commissioner Kirkland noted there is an area on Park Avenue which commercial vehicles could use for street parking.

Mr. Otte said the area would be checked out.

A motion was made by Commissioner Tonjes to adopt Ordinance 2001-15 upon second reading and public hearing. The motion was seconded by Commissioner Else.

- ROLL CALL:

Commissioner Tonjes	"YES"
Commissioner Else	"YES"
Commissioner Kirkland	"YES"
Commissioner Wheeler	"YES"
Mayor Kimbrough	"YES"

Motion carried 5-0.

Agenda Item 9.

ORDINANCE 2001-17 - IMPERIAL RIDGE ANNEXATION - FIRST READING

Mr. Otte reported that David Holden, representing Imperial Ridge Estates, is requesting voluntary annexation of a 363± acre parcel located on US 27, north of Peddler's Pond Subdivision in Sections 4, 8 and 9, Township 29 and Range 27.

Section 171.044, Florida Statutes, requires that property to be annexed must meet two tests: (1) it must be contiguous to the existing municipal boundaries; and, (2) it must be reasonably compact. The proposed annexation meets the two preceding tests.

The property being considered for annexation is vacant, however, it does have a valid Planned Unit Development designation in the County, which allows for a golf course which consists of approximately 570 single family units, a 35 acre industrial park and approximately 20 acres for multi-family.

It was recommended that the City Commission approve Ordinance 2001-17 after first reading.

Ms. Delmar read Ordinance 2001-17 by title only:

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 363± ACRES OF TERRITORY CONTIGUOUS TO THE INCORPORATED TERRITORY OF THE CITY OF LAKE WALES AND DEFINED WITH PARTICULARITY IN THE MAP ATTACHED TO THIS ORDINANCE AND LABELED "EXHIBIT B"; GIVING THE CITY OF LAKE WALES JURISDICTION OVER THE TERRITORY ANNEXED; PROVIDING FOR TAXATION OF THE TERRITORY ANNEXED; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

Mayor Kimbrough asked, with 570 single family homes, who would supply the water.

Mr. Otte responded that the City would supply the water.

Mayor Kimbrough asked how this would affect the water table.

Mr. Partlow noted the City has the capacity of 15 mgd, and we are currently using 2.5 mgd.

A motion was made by Commissioner Tonjes to approve Ordinance 2001-17 after first reading. The motion was seconded by Commissioner Kirkland.

ROLL CALL:

Commissioner Tonjes	"YES"
Commissioner Kirkland	"YES"
Commissioner Else	"YES"
Commissioner Wheeler	"YES"
Mayor Kimbrough	"YES"

Motion carried 5-0.

Agenda Item 10.

ORDINANCE 2001-18 - AMENDING THE DRUG AND PROSTITUTION-RELATED NUISANCE ABATEMENT ORDINANCE - FIRST READING

Mr. Otte reported that on January 4, 2000 the City Commission adopted Ordinance 99-14 which created the Drug and Prostitution-Related Nuisance Abatement Board. The language in the ordinance established the Drug and Prostitution-Nuisance Abatement Board as being made up of the members of the Code Enforcement Board sitting in a separate capacity. This has created a situation where two (2) of the current board members are actually a member of three (3) boards, which is not permitted under Chapter 2 of the Code of Ordinances. Both these members were appointed to the Code Enforcement Board and the other board or committee approximately six (6) months prior to the creation of the Drug and Prostitution-Related Nuisance Board.

The Drug and Prostitution-Related Nuisance Abatement Board does not meet on a regular basis and will only meet when a complaint has been prepared that meets the requirements of the ordinance. To date the board has never met or convened to hear a complaint. A complaint has recently been prepared, however, and the convening of the board and the hearing of the complaint have been delayed until the ordinance can be amended so as not to violate Chapter 2.

In order to address the situation, a revision to Chapter 15 has been prepared. This will allow more flexibility in the composition of both of these boards and encourage citizen participation.

It was recommended that the City Commission approve on first reading Ordinance 2001-18, amending Chapter 15, Lake Wales Code of Ordinances.

Ms. Delmar read Ordinance 2001-18 by title only:

AN ORDINANCE AMENDING CHAPTER 15, MISCELLANEOUS OFFENSES, LAKE WALES CODE OF ORDINANCES; AMENDING THE CREATION AND COMPOSITION OF THE DRUG AND PROSTITUTION-RELATED NUISANCE ABATEMENT BOARD; PROVIDING AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

(Commissioner Else leaves the meeting.)

A motion was made by Commissioner Tonjes to approve on first reading Ordinance 2001-18, amending Chapter 15, Lake Wales Code of Ordinances. The motion was seconded by Commissioner Wheeler.

ROLL CALL:

Commissioner Tonjes	"YES"
Commissioner Wheeler	"YES"
Commissioner Kirkland	"YES"
Mayor Kimbrough	"YES"

Motion carried 4-0.

Agenda Item 11.

ORDINANCE 2001-19 - AMENDING CHAPTER 19, LAKE WALES CODE OF ORDINANCES - FIRST READING

Mr. Otte reported that the Florida Legislature created a new tax on telecommunications and cable television service providers that replaces franchise fee agreements and utility service taxes imposed by municipalities and counties. The new tax, the Communications Services Tax (CST), is collected by the State Department of Revenue and distributed to counties and municipalities based on a formula designed to replace the revenues that would have been generated by the franchise fees and utility service taxes that will no longer be in effect.

Our Capital Improvement Revenue Bonds, Series 1996, were secured with a pledge of utility service taxes, to include the telecommunications service tax with reference to Chapter 19, Lake Wales Code of Ordinances. Our bond counsel, Duane Draper of Bryant, Miller and Olive, advised that we amend the ordinance to delete references to the telecommunications services tax to avoid the possibility of confusing bond holders.

Although there are fiscal implications involved with the implementation of the CST, there is no fiscal impact associated with the proposed changes to the ordinance. The effect of the CST has been considered in the 2002 fiscal year budget.

It was recommended that the City Commission approve Ordinance 2001-19 upon first reading.

Ms. Delmar read Ordinance 2001-19 by title only:

AN ORDINANCE AMENDING CHAPTER 19, TAXATION, BY DELETING REFERENCES TO PUBLIC SERVICES TAXES LEVIED ON TELECOMMUNICATIONS; PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

A motion was made by Commissioner Kirkland to approve Ordinance 2001-19 upon first reading. The motion was seconded by Commissioner Wheeler.

ROLL CALL:

Commissioner Kirkland	"YES"
Commissioner Wheeler	"YES"
Commissioner Tonjes	"YES"
Mayor Kimbrough	"YES"

Motion carried 4-0.

(Commissioner Else returns to the meeting.)

Agenda Item 12.

**ORDINANCE D2001-09 - BARNES PLAN AMENDMENT - FIRST READING
ORDINANCE D2001-10 - BARNES REZONING - FIRST READING**

Mr. Otte reported that John Barnes, applicant, is requesting a Plan Amendment and Rezoning on a 46± acre parcel located on the north side of Chalet Suzanne Road, in Section 15 of Township 29 and Range 27, from City Regional Activity Center (RAC) to Medium Density Residential (MDR). This site is currently undeveloped and has a land use designation of City Regional Activity Center (RAC). If approved, the site will accommodate approximately 350 apartments.

Since the original land use designation of RAC, the surrounding area has had significant changes. These changes include the development of the two single family residential subdivisions to the east of the site as well as a 100 unit apartment complex directly adjacent to the site. This land use change, if approved, will be a less intense use than what may be approved with a site plan under the existing land use. The entire site is 48 acres and two acres will remain as commercial.

The site does contain some wetlands and portions of the site lie within the floodplain. The applicant is required to receive all necessary permits through the South Florida Water Management District as well as the Florida Department of Environmental Protection prior to final site plan approval.

The site, when developed, shall connect to the available water and sewer service which is available to serve the site. The utility system has adequate capacity to serve this development.

This application will rezone the site to Planned Development Project (PDP). The rezoning of the property will make the entire site consistent with our zoning code designation of PDP. Planned Development Projects require a specific, detailed site plan showing locations of structures, and receive approval for only that use or activity that is shown on the site plan. The PDP category allows for flexibility in the project's design, while at the same time permitting additional review.

Property owners within 500 feet of the subject parcel were mailed notices on October 5, 2001, regarding the proposed request. There have been no phone calls in opposition to this proposal.

The Planning and Zoning Board, at its October 23, 2001 meeting, recommended approval of Ordinances D2001-09 and D2001-10 to the City Commission.

Ms. Delmar read Ordinance D2001-09 by title only:

AN ORDINANCE OF THE CITY OF LAKE WALES, FLORIDA, ADOPTING AN AMENDMENT TO THE CITY OF LAKE WALES COMPREHENSIVE PLAN PURSUANT TO THE LOCAL GOVERNMENT COMPREHENSIVE PLANNING AND LAND DEVELOPMENT ACT (CHAPTER 163, PART II, FLORIDA STATUTES), INCLUDING AMENDMENTS TO THE FUTURE LAND USE MAP; PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

Heather McKinley, Lake-of-the-Hills, advised that the Lake-of-the-Hills Community Club is interested in what happens with this area. She asked if the rezoning was not approved, what was the next step for the project.

Mr. Otte responded that it would remain in the current zoning classification.

Ms. McKinley asked if it were feasible to postpone the zoning change until other interested parties such as SWFWMD could review the project and determine whether or not it was suitable for this site.

Mr. Otte responded that the developers have to have permits from SWFWMD before they are issued a building permit.

Ms. McKinley felt it would be irresponsible not to consider the possibility that this land is unstable and the use of heavy equipment to clear the land and erect dwelling units could lead to a sinkhole problem, just as the mall experienced.

Mr. Otte said this type of investigation is not in the purview of a City ordinance. The City relies on other agencies who have the expertise in that area of jurisdiction to verify whether the ground is suitable for development. If the owner wants to mitigate the property in some way, he can do so.

Ms. McKinley responded that this is not a usual situation. She urged that this be investigated before the land is rezoned.

A lengthy discussion followed.

Commissioner Wheeler expressed his concerns about the project and felt a workshop was needed to discuss this in more detail.

CLOSED PUBLIC HEARING

A motion was made by Commissioner Else to table Ordinance D2001-09 and readdress it at the second meeting in December. The motion was seconded by Commissioner Wheeler.

ROLL CALL:

Commissioner Else	"YES"
Commissioner Wheeler	"YES"
Commissioner Kirkland	"YES"
Commissioner Tonjes	"YES"
Mayor Kimbrough	"YES"

Motion carried 5-0.

A motion was made by Commissioner Else to table Ordinance D2001-10 and readdress it at the second meeting in December. The motion was seconded by Commissioner Wheeler.

ROLL CALL:

Commissioner Else	"YES"
Commissioner Wheeler	"YES"
Commissioner Kirkland	"YES"
Commissioner Tonjes	"YES"
Mayor Kimbrough	"YES"

Motion carried 5-0.

Agenda Item 13.

ORDINANCE D2001-11 - COMPREHENSIVE PLAN TEXT AMENDMENT FOR THE TRANSPORTATION ELEMENT - FIRST READING

Mr. Otte reported this is a City-initiated request to repeal the Traffic Circulation Element of the Future Land Use Element of the City Comprehensive Plan; and to adopt a Transportation Element in compliance with Chapter 163 Florida Statutes (F.S.), and 9J-5 Florida Administrative Code (FAC).

The City has been successful in working with the County on issues of joint concern. The proposed revisions are required to ensure that local governments and County TPO work together to provide better planning to address growth-related problems. The adoption of this amendment will also allow Lake Wales to continue to seek quality growth and development in coordination with other local governments.

The Planning and Zoning Board, at its October 23, 2001 meeting, recommended approval of Ordinance D2001-11 to the City Commission.

It was recommended that the City Commission forward Ordinance D2001-11 to the Department of Community Affairs with a recommendation of approval.

Ms. Delmar read Ordinance D2001-11 by title only:

AN ORDINANCE OF THE CITY OF LAKE WALES, FLORIDA, ADOPTING AN AMENDMENT TO THE CITY OF LAKE WALES COMPREHENSIVE PLAN PURSUANT TO THE LOCAL GOVERNMENT COMPREHENSIVE PLANNING AND LAND DEVELOPMENT ACT (CHAPTER 163, PART II, FLORIDA STATUTES), PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

A motion was made by Commissioner Else to forward Ordinance D2001-11 to the Department of Community Affairs with a recommendation of approval. The motion was seconded by Commissioner Tonjes.

ROLL CALL:

Commissioner Else	"YES"
Commissioner Tonjes	"YES"
Commissioner Kirkland	"YES"
Commissioner Wheeler	"YES"
Mayor Kimbrough	"YES"

Motion carried 5-0.

Agenda Item 14.

RESOLUTION 2001-19 - CITY OF LAKE WALES TAXABLE GENERAL OBLIGATION GRANT ANTICIPATION NOTE, SERIES 2001

Mr. Otte reported that as has been discussed recently, the City requires a short-term loan to bridge a projected cash shortfall between now and the receipt of our Ad Valorem tax proceeds anticipated in December.

We currently have two major projects in progress, Public Access Reuse (Utilities Fund) and the infrastructure construction of the Longleaf Business Park. Both projects have sources of funding from outside the City of Lake Wales to include:

Longleaf Business Park - EDA Grant of \$1,000,000
Public Access Reuse - SWFWMD Grant of \$700,000; DEP State Revolving Fund (SRF) Loan for up to \$1,500,000

In both cases, the funding is provided on a reimbursement basis, after our funds are paid out, with a processing delay in reimbursement. It is therefore necessary to have funds in place to pay construction related invoices.

It was recommended that the City Commission:

- 1) Adopt Resolution 2001-19, City of Lake Wales General Obligation Grant Anticipation Note, Series 2001;
- 2) Authorize the Mayor to execute the debt documents;
- 3) Authorize the payment of administrative costs associated with the above actions.

Mayor Kimbrough asked what the bond counsel's expenses would entail.

Duane Draper, serving as bond counsel and note counsel, advised that expenses would consist of out-of-pocket expenses and would be in the range of \$1,000-\$2,000.

A motion was made by Commissioner Else to adopt Resolution 2001-19, City of Lake Wales General Obligation Grant Anticipation Note, Series 2001; authorize the Mayor to execute the debt documents; and, authorize the payment of administrative costs associated with the above actions. The motion was seconded by Commissioner Tonjes.

ROLL CALL:

Commissioner Else	"YES"
Commissioner Tonjes	"YES"
Commissioner Kirkland	"YES"
Commissioner Wheeler	"YES"
Mayor Kimbrough	"YES"

Motion carried 5-0.

Agenda Item 15.

FLORIDA DEPARTMENT OF TRANSPORTATION PURCHASE OF CITY PROPERTY LOCATED ALONG HIGHWAY 60 EAST

Mr. Otte reported that in August 2001, FDOT submitted a written offer to the City of Lake Wales to purchase property owned by the City and lying along the southerly boundary of the FDOT right-of-way for Highway 60 East. The parcel sought is identified as Parcel 101.1 by FDOT. A copy of the Description of the parcel was provided to the Commission. The parcel sought contains 5,530 square feet and the initial offer was \$5,550 based on an appraisal performed by FDOT. The parcel sought does not include all of the property owned by the City. An offer to sell the portion not sought by FDOT was made to adjacent owners of real property. A contract was entered into which established a higher value per square foot and FDOT has increased its offer to the total mentioned above of \$9,401. The offer is also now a net to seller price with no contingencies. This disposal of surplus property to another governmental unit in the state complies with the provisions of §2-476(d)(3) of the Lake Wales Code of Ordinances.

It was recommended that the City Commission declare the subject property to be surplus and approve the sale of the property sought by the Florida Department of Transportation for the sum of \$9,401 and authorize the Mayor and City Manager to execute the Deed, Resolution authorizing the transfer and additional closing documents as required on behalf of the City of Lake Wales.

A motion was made by Commissioner Else to declare the subject property to be surplus and approve the sale of the property sought by the Florida Department of Transportation for the sum of \$9,401 and authorize the Mayor and City Manager to execute the Deed, Resolution authorizing the transfer and additional closing documents as required on behalf of the City of Lake Wales. The motion was seconded by Commissioner Tonjes.

ROLL CALL:

Commissioner Else	"YES"
Commissioner Tonjes	"YES"
Commissioner Kirkland	"YES"
Commissioner Wheeler	"YES"
Mayor Kimbrough	"YES"

Motion carried 5-0.

Agenda Item 16.

HIGHWAY 27 COMMERCIAL CENTER - FINAL PLAT APPROVAL

Mr. Otte reported that Ken Adair is requesting final plat approval to develop four commercial lots on a 4± acre parcel. The site is located on the east side of US 27, north of Home Depot.

Lot 2 is currently being developed for a Denny's Restaurant. Surrounding uses include the following:

North: Peddler's Pond Mobile Home Park
South: Home Depot
East: Vacant
West: Flea Market

With this plat, the applicant shall dedicate two roads to the City. Both roads have been built to City specifications and once the plat is recorded, they will become City maintained.

It was recommended that the City Commission approve the Final Plat for the Highway 27 Commercial Center.

A motion was made by Commissioner Else to approve the Final Plat for the Highway 27 Commercial Center. The motion was seconded by Commissioner Wheeler.

ROLL CALL:

Commissioner Else	"YES"
Commissioner Wheeler	"YES"
Commissioner Kirkland	"YES"
Commissioner Tonjes	"YES"
Mayor Kimbrough	"YES"

Motion carried 5-0.

Agenda Item 17.

APPOINTMENT OF MEMBER TO THE JOINT AIRPORT ZONING BOARD (JAZB)

Mr. Otte recommended that Pete Chichetto, City Planner, replace Mark Bennett as a City representative to the JAZB. Mr. Chichetto, in his role as City Planner, is instrumental in the development and implementation of growth management, land use, economic development, utility, housing, transportation, facilities, solid waste or other plans and codes to meet the City's needs and any intergovernmental agreements or requirements. Mr. Chichetto is currently the City representative to the Polk County Transportation Planning Organization (TPO).

A motion was made by Commissioner Tonjes to appoint Pete Chichetto to replace Mark Bennett as a City representative to the Joint Airport Zoning Board. The motion was seconded by Commissioner Kirkland.

ROLL CALL:

Commissioner Tonjes	"YES"
Commissioner Kirkland	"YES"
Commissioner Else	"YES"
Commissioner Wheeler	"YES"
Mayor Kimbrough	"YES"

Motion carried 5-0.

Agenda Item 18.

**FINANCIAL STATEMENTS FOR SEPTEMBER 30, 2001, FISCAL YEAR END AND
QUARTER PROJECTIONS - CASH FLOW AS OF NOVEMBER 2, 2001**

Mr. Otte presented the financial statements for September 30, 2001 fiscal year end and quarter projects, cash flow as of November 2, 2001 to the Commission for its review.

No action by the City Commission was required.

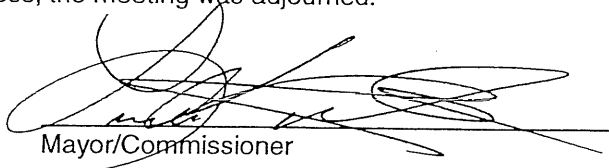
COMMUNICATIONS AND PETITIONS

Commissioner Kirkland asked if a caution light was needed in front of the Fire Department.

Mr. Otte thought that was a good idea.

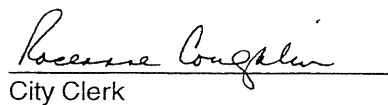
Chief Tucker noted that this matter was addressed during the planning stages of the new building and agreed that a caution light would be helpful.

There being no further business, the meeting was adjourned.



Mayor/Commissioner

ATTEST:



City Clerk

The regular meeting of the Lake Wales City Commission was held on November 20, 2001 at 7:30 p.m. in Commission Chambers at the Administration Building. The meeting was called to order by Mayor Linda Kimbrough.

INVOCATION

The invocation was given by Rev. Glenn E. Oliver, Lake Wales Alliance Church.

PLEDGE OF ALLEGIANCE

COMMISSIONERS PRESENT: Fred Else; Albert Kirkland, Sr.; Clifford L. Tonjes; Lee A. Wheeler, III; Linda Kimbrough, Mayor.

COMMISSIONERS ABSENT: None.

CITY REPRESENTATIVES PRESENT: Anthony G. Otte, City Manager; Albert C. Galloway, Jr., City Attorney; Judith H. Delmar, Asst. City Manager; Roseanne Coughlin, City Clerk.

Agenda Item 4.

APPROVAL OF MINUTES

A motion was made by Commissioner Else to approve the minutes of the October 22, 2001 workshop, the October 30, 2001 workshop and the November 6, 2001 regular meeting. The motion was seconded by Commissioner Tonjes.

ROLL CALL:

Commissioner Else	"YES"
Commissioner Tonjes	"YES"
Commissioner Kirkland	"YES"
Commissioner Wheeler	"YES"
Mayor Kimbrough	"YES"

Motion carried 5-0.

Agenda Item 5.

ORDINANCE 2001-20 - ZIMMERMAN ANNEXATION - FIRST READING

Mr. Otte reported that Mr. Joe Tyborowski, representing Charlotte Zimmerman, et al, is requesting voluntary annexation of 40± acres. The parcels are located on both the east and west side of US 27, south of the Longleaf Business Park and the Candlelight Subdivision in Section 23, Township 30, Range 27.

Section 171.044, Florida Statutes, requires that property to be annexed must meet two tests: (1) it must be contiguous to the existing municipal boundaries; and (2) it must be reasonably compact. The proposed annexation meets the two preceding tests.

The subject property consists of approximately 40± acres and is accessed by US 27. The City will provide sewer to the site and will negotiate with Park Water Company to provide City water to the site. An agreement shall be presented to the Commission prior to second reading.

The majority of the property being considered for annexation is vacant, however, there is an existing towing facility on the east side of US 27.

The annexation of the parcels, in addition to providing a positive contribution to the City's ad valorem tax base and promoting economic development, represents an opportunity to control one of the primary entrances into the City.

Staff is developing a fiscal impact format that will be used in annexations in the future to estimate both revenues and expenditures.

It was recommended that the City Commission approve Ordinance 2001-20 after first reading.

Ms. Delmar read Ordinance 2001-21 by title only:

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 40± ACRES OF TERRITORY CONTIGUOUS TO THE INCORPORATED TERRITORY OF THE CITY OF LAKE WALES AND DEFINED WITH PARTICULARITY IN THE MAP ATTACHED TO THIS ORDINANCE AND LABELED "EXHIBIT B"; GIVING THE CITY OF LAKE WALES JURISDICTION OVER THE TERRITORY ANNEXED; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

Commissioner Else asked if the City would have any out-of-pocket expense by putting in the sewer lines.

Mr. Otte responded that the typical procedure is the off-site sewer lines are put in by the owner or developer and we give them credit on their impact fees.

Commissioner Tonjes discussed the agreement the City has negotiated with Oakley Transport concerning the sewer lines.

A lengthy discussion followed.

Corby Myers, attorney for the developer, advised that while there is nothing specifically proposed for this area, they are considering light industry use throughout the area.

A motion was made by Commissioner Tonjes to approve Ordinance 2001-20 after first reading. The motion was seconded by Commissioner Else.

ROLL CALL:

Commissioner Tonjes	"YES"
Commissioner Else	"YES"
Commissioner Kirkland	"YES"
Commissioner Wheeler	"YES"
Mayor Kimbrough	"YES"

Motion carried 5-0.

Agenda Item 9.*

***Taken out of order**

IMPERIAL RIDGE DEVELOPMENT AGREEMENT

Mr. Otte reported that Imperial Ridge Development Group, applicant/owner, is requesting a Plan Amendment and rezoning for a 388± acre parcel. The property is located on the east side of US 27, south of Waverly Road (CR540). It will be

annexed into the City which will be considered in the next agenda item. This parcel will be incorporated into the 570-unit project on the Imperial Ridge property that will be in front of the Planning and Zoning Board and City Commission this year.

An agreement between the City and Imperial Ridge requires the following:

- Construction of Off-Site Utilities - Imperial Ridge will design, permit and construct a 12-inch potable water line and a 10-inch wastewater forcemain from the Bice property to the Imperial Ridge property.
- Credit for Design, Permitting and Construction - Imperial Ridge will receive credit toward prepayment of impact fees.
- Dedication of property - As part of the original plan approval for the Imperial Ridge property, the applicant agreed to dedicate a three acre site for a public services complex, which will be slated for a future fire and police sub-station.
- Annexation - Developer agrees to annex into the City.

In the agreement there is one section that was found to be in conflict after the agreement was placed in the packets.

Mr. Galloway noted that a correction needed to be made on page 5 of the agreement. Section 7, Utilities and Urban Services, second paragraph, third line, "the City shall plan, construct, install..." should read "the owner shall plan, construct, install..." He noted that the developer's willingness to annex is contingent upon the Commission's approval of this agreement.

Mr. Otte continued that adequate water and sewer capacity is available to serve this project. As required by City regulations, the proposed subdivision will be served by underground electric, phone and cable service.

This project is one of the largest residential developments ever to occur in the City. It is estimated that when completed, the Imperial Ridge project will have a taxable value between \$150 and \$200 million. By comparison, the Eagle Ridge Mall has a current taxable value of approximately \$50 million. Nearly 1,800 residents, representing approximately an 18% increase in the City's population, will reside in the project when completed. Because of the project's size, it requires increased scrutiny to ensure that the development will have a beneficial effect on the community. Staff and the developer have spent many hours resolving the mostly design-related issues for this project. The request has been reviewed for consistency with the Lake Wales Comprehensive Plan and the City's Land Use, Zoning, and Development Regulations and is consistent with these regulations.

It was recommended that the City Commission approve the Development Agreement between the City of Lake Wales and Imperial Ridge Subdivision.

Commissioner Tonjes asked about developing a parks and recreation area. Since several hundred homes are proposed, he asked about the establishment of schools.

Pete Chichetto, City Planner, advised that this project is a single family development with a golf course. The establishment of parks and recreation areas will be discussed with the owners.

Commissioner Else asked what type of housing would be in the development.

Mr. Chichetto advised the price range would be \$90,000 - \$150,000 with some apartments.

A lengthy discussion concerning the development, city services that would be required, and other concerns of the Commission was held. It was noted that the time line for this development to be completed would be ten years.

A motion was made by Commissioner Tonjes to approve the Development Agreement between the City of Lake Wales and Imperial Ridge Subdivision. The motion was seconded by Commissioner Wheeler.

ROLL CALL:

Commissioner Tonjes	"YES"
Commissioner Wheeler	"YES"
Commissioner Else	"YES"
Commissioner Kirkland	"YES"
Mayor Kimbrough	"YES"

Motion carried 5-0.

Agenda Item 6.

ORDINANCE 2001-17 - IMPERIAL RIDGE ANNEXATION - SECOND READING AND PUBLIC HEARING

Mr. Otte reported that David Holden, representing Imperial Ridge Estates, is requesting voluntary annexation of a 363± acre parcel located on US 27, north of Pedaler's Pond Subdivision in Sections 4, 8 and 9, Township 29 and Range 27.

Listed below are the expected revenues for the entire project:

Impact Fees

Impact Fees*	Amount (Original 570 Units)	Amount (Proposed Business Park)	Total
Water	\$ 367,650	\$ 393,346	\$ 760,996
Sewer	\$ 607,620	\$ 732,000	\$1,339,620
Police	\$ 90,060	\$ 138,775	\$ 228,835
Fire	\$ 65,550	\$ 102,175	\$ 167,725
Parks & Rec.	\$ 114,000	\$n/a	\$ 114,000
Total	\$1,244,830	\$1,366,296	\$2,611,176

*Figures do not include additional impact fees for recreational activities

Estimated Annual Revenue

Annual Revenue*	Amount (Original 570 Single)
Ad Valorem Taxes (based on the current rate of 8.19)	\$303,440
Water Charges (average of \$17.28 a month per unit)	\$118,195
Sewer Charges (average of \$28.42 a month per unit)	\$194,393
Total	\$616,028

*This figure is based on an expected valuation of \$65,000 per unit, after homestead exemptions

- It was recommended that the City Commission adopt Ordinance 2001-17 after second reading and public hearing.

Ms. Delmar read Ordinance 2001-17 by title only:

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 363± ACRES OF TERRITORY CONTIGUOUS TO THE INCORPORATED TERRITORY OF THE CITY OF LAKE WALES AND DEFINED WITH PARTICULARITY IN THE MAP ATTACHED TO THIS ORDINANCE AND LABELED "EXHIBIT B"; GIVING THE CITY OF LAKE WALES JURISDICTION OVER THE TERRITORY ANNEXED; PROVIDING FOR TAXATION OF THE TERRITORY ANNEXED; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

A motion was made by Commissioner Tonjes to adopt Ordinance 2001-17 after second reading and public hearing. The motion was seconded by Commissioner Kirkland.

ROLL CALL:

Commissioner Tonjes	"YES"
Commissioner Kirkland	"YES"
Commissioner Else	"YES"
Commissioner Wheeler	"YES"
Mayor Kimbrough	"YES"

Motion carried 5-0.

Agenda Item 7.

ORDINANCE 2001-18 - AMENDING THE DRUG AND PROSTITUTION-RELATED NUISANCE ABATEMENT ORDINANCE - SECOND READING AND PUBLIC HEARING

Mr. Otte reported that on January 4, 2000 the City Commission adopted Ordinance 99-14 which created the Drug and Prostitution-Related Nuisance Abatement Board. The language in the ordinance established the Drug and Prostitution-Nuisance Abatement Board as being made up of the members of the Code Enforcement Board sitting in a separate capacity. This has created a situation where two (2) of the current board members are actually a member of three (3) boards, which is not permitted under Chapter 2 of the Code of Ordinances. Both these members were appointed to the Code Enforcement Board and the other board or committee approximately six (6) months prior to the creation of the Drug and Prostitution-Related Nuisance Abatement Board.

It was recommended that the City Commission adopt after second reading and public hearing Ordinance 2001-18, amending Chapter 15, Lake Wales Code of Ordinances.

Ms. Delmar read Ordinance 2001-18 by title only:

AN ORDINANCE AMENDING CHAPTER 15, MISCELLANEOUS OFFENSES, LAKE WALES CODE OF ORDINANCES; AMENDING THE CREATION AND COMPOSITION OF THE DRUG AND PROSTITUTION-RELATED NUISANCE ABATEMENT BOARD; PROVIDING AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

A motion was made by Commissioner Tonjes to adopt after second reading and public hearing Ordinance 2001-18, amending Chapter 15, Lake Wales Code of Ordinances. The motion was seconded by Commissioner Else.

ROLL CALL:

Commissioner Tonjes	"YES"
Commissioner Else	"YES"
Commissioner Kirkland	"YES"
Commissioner Wheeler	"YES"
Mayor Kimbrough	"YES"

Motion carried 5-0.

Agenda Item 8.

ORDINANCE 2001-19 - AMENDING CHAPTER 19, LAKE WALES CODE OF ORDINANCES - SECOND READING AND PUBLIC HEARING.

Mr. Otte reported that the Florida Legislature created a new tax on telecommunications and cable television service providers that replaces franchise fee agreements and utility service taxes imposed by municipalities and counties. The new tax, the Communications Services Tax (CST), is collected by the State Department of Revenue and distributed to counties and municipalities based on a formula designed to replace the revenues that would have been generated by the franchise fees and utility service taxes that will no longer be in effect.

Our Capital Improvement Revenue Bonds, Series 1996, were secured with a pledge of utility service taxes, to include the telecommunications service tax with reference to Chapter 19, Lake Wales Code of Ordinances. Our bond counsel, Duane Draper of Bryant, Miller and Olive, advised that we amend the ordinance to delete references to the telecommunications services tax to avoid the possibility of confusing bond holders.

It was recommended that the City Commission adopt Ordinance 2001-19 after second reading and public hearing.

Ms. Delmar read Ordinance 2001-19 by title only:

AN ORDINANCE AMENDING CHAPTER 19, TAXATION, BY DELETING REFERENCES TO PUBLIC SERVICES TAXES LEVIED ON TELECOMMUNICATIONS; PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

A motion was made by Commissioner Else to adopt Ordinance 2001-19 after second reading and public hearing. The motion was seconded by Commissioner Kirkland.

ROLL CALL:

Commissioner Else	"YES"
Commissioner Kirkland	"YES"
Commissioner Tonjes	"YES"
Commissioner Wheeler	"YES"
Mayor Kimbrough	"YES"

Motion carried 5-0.

Agenda Item 10.

AWARD OF BID FOR THE PURCHASE OF ONE (1) 2002 FORD CROWN VICTORIA POLICE INTERCEPTOR FUNDED BY THE FLORIDA DEPARTMENT OF TRANSPORTATION HIGHWAY SAFETY GRANT

Mr. Otte reported that on October 1, 2001, the City of Lake Wales Police Department developed and initiated the Lake Wales DUI Enforcement Program. The purpose of this program is the detection and arrest of persons driving while impaired on the roadways located in the City of Lake Wales. The Lake Wales DUI Enforcement Program is funded by a highway Safety Grant, which is administered by the Florida Department of Transportation.

The Lake Wales Police Department's Traffic Enforcement Section is responsible for the facilitation of the DUI Enforcement Program. The funding awarded during the 2001/2001 fiscal year will be used to purchase a fully equipped 2002 Ford Crown Victoria Police Interceptor. Additionally, the 2002 Ford Crown Victoria Police Interceptor will have advanced and specialized equipment including an audio/video recording system, a computerized criminal justice information system, and a radar.

The funding provided by the Florida Department of Transportation Highway Safety Grant does not require matching funds from the City of Lake Wales. Payment will be provided on a reimbursement basis.

Invitations to bid were delivered to each Ford dealership located in Polk County. The results are as follows:

Dealership	Quotation
Bartow Ford Company, Inc.	No Bid Submitted
Jarrett Ford, Inc.	No Bid Submitted
Lakeland Automall	No Bid Submitted
Stedem Ford, Inc.	No Bid Submitted
Weikert Ford, Inc.	\$19,694
Winter Haven Ford, Inc.	No Bid Submitted

The quotation provided by Weikert Ford, Inc. for the 2002 Ford Crown Victoria Police Interceptor is lower than the bid included in the 01-09-0904 Bid Award Announcement coordinated by the Florida Sheriff's Association and the Florida Association of Counties.

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

- 1) Award the bid for the purchase of one (1) 2002 Ford Crown Victoria Police Interceptor, funded by the Florida Department of Transportation Highway Safety Grant, to Weikert Ford, Inc. in the amount of \$19,694.

A motion was made by Commissioner Wheeler to award the bid for the purchase of one (1) 2002 Ford Crown Victoria Police Interceptor, funded by the Florida Department of Transportation Highway Safety Grant, to Weikert Ford, Inc. in the amount of \$19,694. The motion was seconded by Commissioner Else.

ROLL CALL:

Commissioner Wheeler	"YES"
Commissioner Else	"YES"
Commissioner Kirkland	"YES"
Commissioner Tonjes	"YES"
Mayor Kimbrough	"YES"

Motion carried 5-0.

Agenda Item 11.

AWARD OF BID FOR THE PURCHASE OF ONE (1) 2002 FORD E250 ECONOLINE VAN FUNDED BY THE BUREAU OF JUSTICE ASSISTANCE LOCAL LAW ENFORCEMENT BLOCK GRANT

Mr. Otte reported that annually the City of Lake Wales Police Department is awarded funding from the Bureau of Justice Assistance (BJA) through a Local Law Enforcement Block Grant (LLEBG). The purpose of the LLEBG is to provide funds to local law enforcement agencies to develop programs to reduce crime and improve public safety.

LLEBG program funds must be spent in accordance with specific purpose areas. Traditionally, the Lake Wales Police Department has used LLEBG funds to procure equipment, technology and materials directly related to basic law enforcement functions. Most recently, LLEBG funds were used to enhance and upgrade the Lake Wales Police Department's computerized reporting system.

During the 2001/2002 fiscal year the Lake Wales Police Department will use a portion of LLEBG funds to purchase a replacement crime scene unit. Currently, the Lake Wales Police Department utilizes a 1985 Ford ambulance, donated by Polk County Emergency Medical Services, as a crime scene unit. Due to the current crime scene unit's condition, configuration, and excessive mileage, it is no longer efficient or practical to operate in this manner.

LLEBG funds may not exceed 90% of incurred costs. As a requirement, the City of Lake Wales has to provide a 10% match in the amount of \$1,882.38. The match requirement was included in the approved 2001/2002 fiscal budget that was adopted by the City Commission.

Invitations to bid were delivered to each Ford dealership located in Polk County. The results are as follows:

Dealership	Quotation
Bartow Ford Company, Inc.	No Bid Submitted
Jarrett Ford, Inc.	No Bid Submitted
Lakeland Automall	No Bid Submitted

Stedem Ford, Inc.	No Bid Submitted
Weikert Ford, Inc.	\$18,823.80
Winter Haven Ford, Inc.	No Bid Submitted

The quotation provided by Weikert Ford, Inc. for the 2002 Ford E250 Econoline Van is lower than the bid included in the 01-09-0904 Bid Award Announcement coordinated by the Florida Sheriff's Association and the Florida Association of Counties.

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

- 1) Award the bid for the purchase of one (1) 2002 Ford E250 Econoline Van funded by the Bureau of Justice Assistance Local Law Enforcement Block Grant to Weikert Ford, Inc. in the amount of \$18,823.80.

A motion was made by Commissioner Tonjes to award the bid for the purchase of one (1) 2002 Ford E250 Econoline Van funded by the Bureau of Justice Assistance Local Law Enforcement Block Grant to Weikert Ford, Inc. in the amount of \$18,823.80. The motion was seconded by Commissioner Else.

ROLL CALL:

Commissioner Tonjes	"YES"
Commissioner Else	"YES"
Commissioner Kirkland	"YES"
Commissioner Wheeler	"YES"
Mayor Kimbrough	"YES"

Motion carried 5-0.

Mr. Otte congratulated the staff in the Police Department on their excellent grant writing skills.

Agenda Item 12.

ANNEXATION WORKSHOP

Mr. Otte reported that staff requests discussion about the Annexation Workshop to be held pursuant to questions raised at the November 6 meeting in connection with the Barnes Comp Plan Amendment and Rezoning. In order to prepare information for the workshop, staff requests direction on specific topics the Commissioners would like to address.

Staff would like to schedule the workshop for Tuesday, December 11, if there are no conflicts with the schedules of individual Commissioners.

It was decided to schedule the workshop for Tuesday, December 11, beginning at 5:30 p.m.

COMMUNICATIONS AND PETITIONS

Commissioner Tonjes asked if the City has had to utilize any of the \$1 million loan.

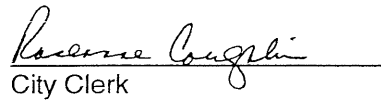
Mr. Otte advised that \$300,000 has been drawn down but it has not yet been utilized. It is anticipated that by the end of the quarter, we will use approximately one-half of that amount.

There being no further business, the meeting was adjourned.



Mayor/Commissioner

ATTEST:



City Clerk

CERTIFICATE OF RECORDING OFFICER

1. I am the duly appointed, qualified and acting City Clerk of the City Commission of the City of Lake Wales, Florida and keeper of the records thereof, including the minutes of its proceedings;

2. A meeting was duly convened on December 2, 2003, in conformity with all applicable requirements; a proper quorum was present throughout said meeting and Ordinance No. 2003-35 was duly proposed, considered and enacted in conformity with applicable requirements; and all other requirements and proceedings incident to the proper enactment of said instrument have been duly fulfilled, carried out and otherwise observed;

3. I am duly authorized to execute this Certificate;

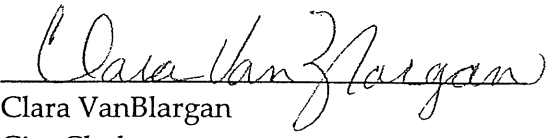
4. The annexed copy of the excerpted minutes of the meeting held on December 2, 2003 is a true, correct and compared copy of the excerpted minutes of said meeting on file and on record;

5. The annexed copy of the affidavit of publication of the requisite notice regarding the public hearing held prior to enactment is a true, correct and compared copy of the affidavit of publication on file and on record; and

6. The copy of Ordinance No. 2003-35 (with exhibits intentionally omitted) annexed hereto is a true, correct and compared copy of the original instrument as finally adopted at said meeting, which is in full force and effect and has not been modified, and, to the extent required by law, has been duly signed or approved by the proper officer or officers and is on file and of record.

DATED this 8th day of December, 2003.

(SEAL)


Clara VanBlargan
City Clerk

ORDINANCE 2003-35

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE V, FINANCIAL ADMINISTRATION, DIVISION 1, INVESTMENT OF PUBLIC FUNDS, OF THE LAKE WALES CODE OF ORDINANCES, ESTABLISHING A POLICY FOR HEDGE AGREEMENTS EXPRESSLY PERMITTING INTEREST RATE SWAP AGREEMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED by the City Commission of the City of Lake Wales, Polk County, Florida, that:

SECTION 1. Chapter 2, ADMINISTRATION, Article V, FINANCIAL ADMINISTRATION, Lake Wales Code of Ordinances is hereby amended to read as follows:

DIVISION 1. INVESTMENT OF PUBLIC FUNDS.

Sec. 2-500. Definitions.

When used in this division, the following words, terms or phrases shall have the meanings ascribed to them in this section unless the context clearly indicates otherwise:

Agencies. Federal agency securities.

Bankers' Acceptance. A draft or bill or exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

Certificate of deposit (CD). A time deposit with a specific maturity evidenced by a certificate. Large-denomination CD's are typically negotiable.

Collateral. Securities, evidence of deposit or other property which a borrower pledges to secure repayment of a loan.

Counterparty. A party, other than the City, to a Hedge Agreement.

Diversification. Dividing investment funds among a variety of securities offering independent returns.

Hedge Agreement. An interest rate exchange agreement, an Interest Rate Agreement, forward purchase contract, put option contract, call option contract or other financial product, any of which is used by the City as a hedging device, entered into between the City and a Counterparty; provided that such Counterparty shall be an entity whose long-term debt obligations, or whose payment obligations under the Hedge Agreement are guaranteed by an entity whose senior long-term debt obligations, in either case are rated (on the date the Hedge Agreement is entered into) by at least two (2) nationally recognized rating agencies in a rating category not less than double -A category without regard to gradations.

Interest Rate Agreement. An agreement between the City and a Counterparty under which the City is obligated to make periodic payments on a "notional amount" to the Counterparty and the Counterparty is obligated to make periodic payments to the City on such "notional amount" on a different basis or formula, and under which the amounts so payable by the City and such Counterparty on any date are netted against each other with the party owing the larger amount making a net payment to the other party.

Liquidity. A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value.

Market value. The price at which a security is trading and could presumably be purchased or sold.

Master repurchase agreement. A written contract covering all future transactions between the parties to repurchase agreements that establishes each party's rights in the transactions. A master repurchase agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

Maturity. The date upon which the principal or stated value of an investment becomes due and payable.

Portfolio. Collection of securities held by an investor.

Repurchase agreement (REPO). Securities sold to an investor by the holder with an agreement to repurchase them at a fixed price on a fixed date. The security "buyer," in effect, lends the "seller" money for the period of the agreement, and the terms of the agreement are structured to compensate the "buyer" for this.

Safekeeping. A service to customers rendered by banks for a fee whereby securities are held in the bank's vaults for protection.

SBA. The Florida Local Government Surplus Funds Trust Fund; the aggregate of all funds from political subdivisions that are placed in the custody of the State Treasurer for investment and reinvestment.

Sec. 2-517. Hedge Agreements.

With the approval of the City Commission, the City may enter into one or more Hedge Agreements, including Interest Rate Agreements, provided, however, the finance director, or any other official responsible for making and managing such Hedge Agreement(s), shall have developed sufficient understanding of the Hedge Agreement(s) and have the expertise to manage the Hedge Agreement(s).

SECTION 2. If any clause, section or provision of this ordinance or any fee imposed pursuant to this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance or remaining fees shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

SECTION 3. Except as amended hereby, the cited Chapter, Article, and Division shall remain as previously adopted.

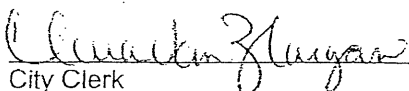
SECTION 4. This Ordinance shall become effective immediately upon its passage by the City Commission.

CERTIFIED AS TO PASSAGE this 2nd day of December, 2003.

BY: 

Mayor/Commissioner
City of Lake Wales, Polk County, Florida

ATTEST:


City Clerk



RESOLUTION NO. 2003-35

AN RESOLUTION OF THE CITY OF LAKE WALES, FLORIDA AUTHORIZING THE ISSUANCE OF A CAPITAL IMPROVEMENT REFUNDING REVENUE NOTE, SERIES 2003 OF THE CITY IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$9,550,000 TO REFUND CERTAIN BONDS OF THE CITY FOR NET PRESENT VALUE DEBT SERVICE SAVINGS; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF AN INTEREST RATE SWAP AGREEMENT AND AN ESCROW DEPOSIT AGREEMENT; PROVIDING THAT THE NOTE AND THE INTEREST RATE SWAP AGREEMENT SHALL BE LIMITED OBLIGATIONS OF THE CITY PAYABLE FROM THE CITY'S PUBLIC SERVICE TAX REVENUES AND COMMUNICATION SERVICES TAX REVENUES IN THE MANNER AND TO THE EXTENT DESCRIBED HEREIN; APPROVING SUNTRUST BANK AS THE COUNTERPARTY UNDER THE INTEREST RATE SWAP AGREEMENT; PROVIDING FOR THE RIGHTS, SECURITIES AND REMEDIES FOR THE OWNER OF THE NOTE AND THE COUNTERPARTY; PROVIDING FOR THE TRANSFER OF CERTAIN MONEYS HELD IN FUNDS AND ACCOUNTS FOR THE BONDS TO BE REFUNDED; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WALES, FLORIDA:

Section 1: Authority for this Resolution. This Resolution is adopted pursuant to the provisions of the Constitution of the State of Florida, Chapter 166, Florida Statutes, Chapter 202, Florida Statutes, Chapter 2000-140, Laws of Florida, the municipal charter of the City of Lake Wales, Florida, and other applicable provisions of law (collectively, the "Act").

Section 2: Definitions. The following words and phrases shall have the following meanings when used herein:

"Act" shall have the meaning ascribed thereto in Section 1 hereof.

"Bond Year" means, for any given year, October 2nd through October 1st of the following year.

"Business Day" shall have the meaning ascribed to the defined term "Business Day" in the 1992 ISDA U.S. Municipal Counterparties Definitions as published by the International Swaps and Derivatives Association, Inc., as modified by the confirmation related to the Qualified Agreement.

"City Attorney" means the City Attorney or assistant City Attorney of the Issuer.

"City Manager" means the City Manager or assistant, deputy, interim or acting City Manager of the Issuer.

"Clerk" means the City Clerk or assistant or deputy City Clerk of the Issuer, or such other person as may be duly authorized by the City Commission or City Manager of the Issuer to act on his or her behalf.

"Code" means the Internal Revenue Code of 1986, as amended, and any Treasury Regulations, whether temporary, proposed or final, promulgated thereunder or applicable thereto.

"Communications Services Tax Revenues" means 87% of the revenues and taxes received by the Issuer pursuant to Chapter 202, Florida Statutes, and Section 13, Chapter 2000-140, Laws of Florida, except the tax levied pursuant to Section 202.12, Florida Statutes.

"Debt Service Requirement" means for any current or future Bond Year while the Note is outstanding, the amount required to pay principal and interest coming due on the Note during such year. With respect to indebtedness with a variable interest rate which is not subject to a Qualified Agreement, if any, the interest rate used to calculate the Debt Service Requirement shall be (i) the actual rate on the date of calculation, or if the indebtedness is not yet outstanding, the initial rate (if established and binding), (ii) if the indebtedness has been outstanding for at least twelve months, the average rate over the twelve months immediately preceding the date of calculation, and (iii) if the indebtedness has been outstanding for twelve months or less, (1) if interest on the indebtedness is excludable from gross income under the applicable provisions of the Code, the most recently published Bond Buyer 25 Bond Revenue Index (or comparable

index if no longer published) plus fifty (50) basis points, or (2) if interest is not so excludable, the interest rate on direct U.S. Treasury Obligations with comparable maturities plus fifty (50) basis points. If indebtedness is subject to a tender or put option or a balloon payment, the date or dates of tender and/or the balloon payment shall be disregarded for purposes of this calculation. If the Issuer has entered into a Qualified Agreement with respect to indebtedness (including the Note) with a variable interest rate which has been incurred or which is to be incurred, the interest coming due on such indebtedness for purposes of this definition shall be deemed to be based upon the synthetic fixed interest rate resulting from the effect of such Qualified Agreement, without giving any regards to fees and expenses incurred in connection with the purchase of a liquidity facility or the remarketing of the indebtedness, if applicable.

"Escrow Deposit Agreement" means the Escrow Deposit Agreement between the Issuer and the Escrow Holder, the form of which is attached hereto as Exhibit E.

"Escrow Holder" means the bank appointed pursuant to Section 13(C) hereof.

"Federal Securities" shall have the meaning ascribed thereto in the Refunded 1996 Bonds Resolution.

"Finance Director" means the Finance Director or assistant, deputy, interim or acting Finance Director of the Issuer.

"Financial Advisor" means William R. Hough & Co.

"Issuer" means the City of Lake Wales, Florida, a municipal corporation of the State of Florida.

"Maturity Date" means October 1, 2016.

"Maximum Annual Debt Service" means, as of a particular date of calculation, the greatest amount of Debt Service Requirement for the current or any future Bond Year while the Note is outstanding.

"Mayor" means the Mayor of the Issuer, or in his or her absence or inability to act, the Vice-Mayor of the Issuer or such other person as may be duly authorized by the City Commission to act on his or her behalf.

"Note" means the Note of the Issuer authorized by Section 4 hereof.

"Original Purchaser" means SunTrust Bank.

"Owner" or "Owners" means the Person or Persons in whose name or names a Note shall be registered on the books of the Issuer kept for that purpose in accordance with provisions of this Resolution, including the Original Purchaser.

"Parity Contract Obligations" means regularly scheduled payment obligations of the Issuer to the Qualified Agreement Provider pursuant to the Qualified Agreement which are determined by reference to interest on notional amounts.

"Parity Debt" means additional obligations issued or incurred in compliance with the terms, conditions and limitations contained in Section 8(B) hereof and which (i) shall have a lien on the Pledged Revenues equal to that of the Note and any Parity Contract Obligations, (ii) shall be payable from the Pledged Revenues on a parity with the Note and any Parity Contract Obligations, and (iii) shall rank equally in all other respects with the Note and any Parity Contract Obligations.

"Person" means natural persons, firms, trusts, estates, associations, corporations, limited liability companies, partnerships and public bodies.

"Pledged Revenues" means (i) the Public Service Tax Revenues, (ii) the Communications Services Tax Revenues, and (iii) any payments received by Qualified Agreement Provider pursuant to the Qualified Agreement.

"Principal Office" means, with respect to the Original Purchaser, 200 South Orange Avenue, Orlando, Florida, 32801 or such other office as the Original Purchaser may designate to the Issuer in writing.

"Public Service Tax Ordinance" means Ordinance No. 96-20 enacted by the City Commission of the Issuer on November 5, 1996, as amended from time to time, and as particularly amended by Ordinance No. 2001-19 enacted by the City Commission of the Issuer on November 20, 2001.

"Public Service Tax Revenues" means the revenues which derived from taxes levied and collected by the Issuer under the authority of Section 166.231, Florida Statutes, and the Public Service Tax Ordinance on purchases of electricity, water, and metered or bottled gas (natural liquefied petroleum gas or manufactured) within the Issuer.

"Qualified Agreement" means an interest rate swap agreement, in particular, an ISDA Master Agreement and schedule related thereto, to be supplemented by a confirmation related thereto, the form of which is attached hereto as Exhibit D.

"Qualified Agreement Provider" means SunTrust Bank, or any other counterparty under a Qualified Agreement which is rated (on the date the Qualified Agreement is entered into) by at least two (2) nationally recognized rating agencies in a rating category not less than double-A category without regard to gradations.

"Refunded Bonds" means, collectively, the Refunded 1996 Bonds and the Refunded 1999 Bonds.

"Refunded 1996 Bonds" means the outstanding City of Lake Wales, Florida Capital Improvement Revenue Bonds, Series 1996.

"Refunded 1996 Bonds Resolution" means Resolution No. 96-15 adopted by the City Commission of the Issuer on June 18, 1996, as amended and supplemented.

"Refunded 1999 Bonds" means the outstanding City of Lake Wales, Florida Non-Ad Valorem Revenue Bonds, Series 1999.

"Resolution" means this resolution, pursuant to which the Note is authorized to be issued, including any supplemental or amendatory resolution(s) or supplemental resolution(s).

"State" means the State of Florida.

"Subordinated Indebtedness" means that indebtedness of the Issuer, subordinate and junior to the Note and Parity Contract Obligations, issued in accordance with the provisions of Section 8(A) hereof.

Section 3: Findings.

(A) For the benefit of its inhabitants, the Issuer finds, determines and declares that it is necessary for the continued preservation of the health, welfare, convenience and safety of the Issuer and its inhabitants to refund the Refunded Bonds. Issuance of the Note with a variable rate of interest and execution of a Qualified Agreement with the Qualified Agreement Provider, to refund the Refunded Bonds on a synthetic fixed interest rate basis satisfies a public purpose, and will result in overall substantial net

Section 7: Payment of Principal and Interest on the Note and Parity Contract Obligations; Limited Obligation; Setoff.

(A) The Issuer promises that it will promptly pay (i) the principal of and interest on the Note at the place, on the dates and in the manner provided therein according to the true intent and meaning hereof and thereof, and (ii) all payment obligations under the Qualified Agreement in the manner and to the extent contemplated hereunder. The Note and the Qualified Agreement shall not be or constitute a general obligation or indebtedness of the Issuer as "bonds" within the meaning of Article VII, Section 12 of the Constitution of Florida, but shall be payable solely from the Pledged Revenues in accordance with the terms hereof. No holder of any Note issued hereunder or Qualified Agreement Provider shall ever have the right to compel the exercise of any ad valorem taxing power to pay such Note or to make payments under the Qualified Agreement, or be entitled to payment of such Note or to make payments under the Qualified Agreement from any funds of the Issuer except from the Pledged Revenues as described herein. Notwithstanding anything herein to the contrary, the Issuer's obligations to pay interest on the Note and to pay Parity Contract Obligations are on parity with one another.

(B) Upon the occurrence of an event of default of the Original Purchaser in its capacity as the Qualified Agreement Provider under the Qualified Agreement, the Issuer is hereby authorized, with notice to the Original Purchaser, to set off, appropriate and apply any and all monies, securities and other properties of the Original Purchaser hereafter held or received by or in transit to the Issuer from or for the Original Purchaser, against the obligations of the Original Purchaser pursuant to the Qualified Agreement irrespective of whether the Issuer shall have made any demand under the Qualified Agreement and although such obligations may be contingent or unmatured.

Section 8: Subordinate Indebtedness; Parity Test.

(A) The Issuer will not issue any other obligations, except under the conditions and in the manner provided herein, payable from the Pledged Revenues or voluntarily create or cause to be created any debt, lien, pledge, assignment, encumbrance or other charge having priority to or being on a parity with the lien thereon in favor of the Note and the interest thereon, and the Parity Contract Obligations. The Issuer may, at any time or from time to time, issue evidences of indebtedness payable in whole or in part out of the Pledged Revenues and which may be secured by a pledge of the Pledged Revenues; provided, however, that such pledge shall be, and shall be expressed to be, subordinated in all respects to the pledge of the Pledged Revenues created by this Resolution. The Issuer shall have the right to covenant with the holders from time to time of any

Subordinated Indebtedness to add to the conditions, limitations and restrictions under which any Parity Debt may be incurred pursuant to Section 8(B) hereof. The Issuer agrees to pay promptly any Subordinated Indebtedness as the same shall become due.

(B) No Parity Debt, payable on a parity with the Bonds then outstanding pursuant to this Resolution, shall be issued except upon the conditions and in the manner herein provided. The Issuer may issue Parity Debt for any one or more of the following purposes: financing the costs of capital improvements, or the completion thereof or refunding the Note or of any Subordinated Indebtedness of the Issuer.

No such Parity Debt shall be incurred unless the following conditions are complied with:

(1) Except as otherwise provided in Section 8(B)(3) hereof, the Finance Director shall deliver a certificate: (1) setting forth the amount of the Pledged Revenues which have been received by the Issuer during any twelve (12) consecutive months within the eighteen (18) months immediately preceding the incurrence of such Parity Debt with respect to which such statement is made; and (2) stating that the amount of the Pledged Revenues received during such twelve consecutive month period equals at least 1.50 times the Maximum Annual Debt Service (taking into account for purposes of such calculation the debt service on such proposed Parity Debt). For purposes of calculating the historical ratio described above, the Finance Director may adjust (i) the Pledged Revenues for each of the twelve months selected to include the estimated amounts from such revenues that the Issuer would have received from areas that the Issuer has annexed prior to the incurrence of the Parity Debt and which are not fully reflected in such twelve months, and (ii) the Pledged Revenues for the each of the twelve months to include the estimated amounts from such taxes that the Issuer would have received during such twelve months due to any rate increase or legislative change, as applicable, which are not fully reflected in such twelve months.

(2) Parity Debt shall be deemed to have been incurred pursuant to this Resolution the same as the Note and the Parity Contract Obligations, and all of the other covenants and other provisions of this Resolution (except as to details of such Parity Debt inconsistent therewith) shall be for the equal benefit, protection and security of the holders of Parity Debt incurred pursuant to this Resolution. Parity Debt shall rank equally with respect to their lien on the Pledged Revenues and their sources and security for payment therefrom without preference.

(3) In the event Parity Debt is incurred for the purpose of refunding the Note, the conditions of this Section 8(B) shall not apply, provided that the incurrence of such Parity Debt shall not result in an increase in the aggregate amount of total debt service to be repaid by the Issuer. The conditions of Section 8(B)(1) hereof shall apply to Parity Debt incurred to refund Subordinated Indebtedness and to Parity Debt incurred for refunding purposes which cannot meet the conditions of this paragraph.

Notwithstanding any provision of this Resolution to the contrary, the Issuer may not incur any Parity Debt pursuant to this Section 8(B) if an Event of Default under this Resolution shall have occurred and shall be continuing.

Section 9: Pledged Revenues. The Issuer hereby pledges the Pledged Revenues to the payment of amounts due on the Note and the Parity Contract Obligations. Subordinate in all respects to the pledge of the Pledged Revenues created by the preceding sentence, the Issuer hereby pledges the Pledged Revenues to make all other payments under the Qualified Agreement, including without limitation termination payments, indemnification payments or other amounts to be paid to the Qualified Agreement Provider pursuant to the Qualified Agreement, which do not constitute Parity Contract Obligations. Such payment obligations under the Qualified Agreement which are not Parity Contract Obligations constitute Subordinate Indebtedness for all purposes of this Resolution. The Issuer covenants that, for so long as the payment obligations remain hereunder, it will do all things necessary on its part to maintain its eligibility to receive Pledged Revenues.

Section 10: Redemption of Refunded 1996 Bonds; Mailing of Notices of Redemption and Defeasance; Transfer of Funds.

(A) Subject to the execution and delivery of the Note for the purpose of refunding the Refunded 1996 Bonds, the Issuer hereby irrevocably calls the callable Refunded 1996 Bonds for early redemption on October 1, 2006, or such other date as determined by the Mayor.

(B) Subject to the execution and delivery of the Note for the purpose of refunding the Refunded 1996 Bonds, the Issuer hereby directs the Registrar (as such term is defined in the Refunded 1996 Bonds Resolution), on its behalf, to give notice of redemption by mailing a copy of an official redemption notice, the form of which is attached hereto as Exhibit F, by registered or certified mail at least 30 days and not more than 60 days prior to the date fixed for redemption to each holder of Refunded 1996 Bonds to be redeemed at the address of such holder shown on the registration books maintained

by the Registrar or at such other address as shall be furnished in writing by such holders to the Registrar.

(C) Subject to the execution and delivery of the Note for the purpose of refunding the Refunded 1996 Bonds, since the Refunded 1996 Bonds for which moneys are to be deposited for the payment thereof in accordance with Section 8.01 of the Refunded 1996 Bonds Resolution are not by their terms subject to redemption within the next succeeding 60 days, the Issuer hereby directs the Registrar to mail a notice of defeasance to the holders of such Refunded 1996 Bonds and Financial Guaranty Insurance Company, as insurer of the Refunded 1996 Bonds, in the form attached hereto as Exhibit G.

(D) On the date of issuance of the Note, the Issuer may transfer moneys on deposit in the Principal Account and the Interest Account created pursuant to the Refunded 1996 Bonds Resolution which were being held for the benefit of the Refunded 1996 Bonds and any other funds being held pursuant to the Refunded 1996 Bonds Resolution which are legally available therefore to the Escrow Holder to be held on behalf of the Issuer and to be used pursuant to the terms of the Escrow Deposit Agreement.

Section 11. *Application of Proceeds of Note.* The proceeds, together with other legally available moneys of the Issuer as described in Section 10(D) hereof, shall be applied by the Issuer simultaneously with the delivery of such Note to the Original Purchaser, as follows:

(A) A sum which will be sufficient to pay, as of any date of calculation, the principal of, interest on, premium, if any, and other costs and obligations incurred with respect to the Refunded 1996 Bonds as the same shall become due or are redeemed, shall be deposited into an escrow account created under the Escrow Deposit Agreement (the "Refunded 1996 Bonds Escrow Account"). Such funds shall be kept separate and apart from all other funds of the Issuer and the moneys on deposit therein shall be withdrawn, used and applied by the Issuer solely for the purposes set forth herein and in the Escrow Deposit Agreement.

Simultaneously with the delivery of the Note to the purchaser thereof, the Issuer shall enter into the Escrow Deposit Agreement with the Escrow Holder appointed pursuant to Section 13(C) hereof. Such Escrow Deposit Agreement shall provide for the deposit of sums into the Refunded 1996 Bonds Escrow Account for the investment of such moneys in Federal Securities so as to produce sufficient funds to make all of the payments described in the first paragraph of this Section 11(A). At the time of execution of the Escrow Deposit Agreement, the Issuer shall

furnish to the Escrow Holder named therein appropriate documentation and independent verification by an independent nationally recognized certified public accountant to demonstrate that the sums being deposited and the investments to be made will be sufficient for such purposes.

(B) A sum which will be sufficient to pay the Original Purchaser of the Note a restructuring fee of not more than \$75,000, which the Original Purchaser is requiring in lieu of receiving the prepayment penalty or premium it is otherwise entitled to receive pursuant to the Refunded 1999 Bonds.

(C) A sum which will be sufficient to pay the principal of and accrued interest on the Refunded 1999 Bonds, as of the date the Note is issued and the Refunded Bonds are simultaneously prepaid.

(D) An amount shall be used to pay when due the costs of issuance of the Note, including, without limitation, legal, financial advisory, verification agent, and escrow agent fees and expenses, and other related costs of issuance.

(E) An amount, if any, set forth in a certificate of the Mayor delivered at closing of the Note.

Section 12: Bank Qualified. The Issuer hereby designates the Note as "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code. The Issuer and any subordinate entities of the Issuer and any issuer of "tax-exempt" debt that issues "on behalf of" the Issuer do not reasonably expect during the calendar year 2003 to issue more than \$10,000,000 of "tax-exempt" obligations including the Note, exclusive of any private activity bonds as defined in Section 141(a) of the Code (other than qualified 501(c)(3) bonds as defined in Section 145 of the Code).

Section 13: Approval of Qualified Agreement; Approval of Escrow Deposit Agreement; Appointment of Escrow Holder; Approval of Commitment Letter.

(A) The form of the Qualified Agreement attached hereto as Exhibit D is hereby approved, subject to such changes, insertions and omissions and such filling of blanks therein as may be approved and made in such Qualified Agreement by the Mayor, in a manner consistent with the provisions of this Resolution, such execution to be conclusive evidence of such approval. Subject to satisfaction of the parameters in Section 4(B) hereof, the Qualified Agreement shall be executed on behalf of the Issuer with the manual or facsimile signature of the Mayor and a facsimile of the official seal of the Issuer shall be

imprinted thereon, and the Qualified Agreement shall be attested and countersigned with the manual or facsimile signature of the Clerk.

(B) The form of the Escrow Deposit Agreement attached hereto as Exhibit E is hereby approved, subject to such changes, insertions and omissions and such filling of blanks therein as may be approved and made in such Escrow Deposit Agreement by the Mayor, in a manner consistent with the provisions of this Resolution, such execution to be conclusive evidence of such approval. Subject to satisfaction of the parameters in Section 4(B) hereof, the Escrow Deposit Agreement shall be executed on behalf of the Issuer with the manual or facsimile signature of the Mayor and a facsimile of the official seal of the Issuer shall be imprinted thereon, and the Escrow Deposit Agreement shall be attested and countersigned with the manual or facsimile signature of the Clerk.

(C) The Bank of New York Trust Company of Florida, N.A., Jacksonville, Florida is hereby appointed Escrow Holder with respect to the Refunded 1996 Bonds.

(D) The City Commission hereby approves the Commitment Letter from the Original Purchaser, in the form attached hereto as Exhibit H.

Section 14: Tax Covenant. The Issuer covenants to the Owner of the Note that the Issuer will not make any use of the proceeds of the Note at any time during the term of the Note which, if such use had been reasonably expected on the date the Note was issued, would have caused such Note to be an "arbitrage bond" within the meaning of the Code. The Issuer will comply with the requirements of the Code and any valid and applicable rules and regulations promulgated thereunder necessary to ensure the exclusion of interest on the Note from the gross income of the holders thereof for purposes of federal income taxation.

Section 15: Amendment. Except in order to modify this Resolution as deemed necessary to permit the incurrence of Parity Debt pursuant to Section 8(B) hereof, this Resolution shall not be modified or amended in any respect subsequent to the issuance of the Note except with the written consent of the Owner of the Note and the Qualified Agreement Provider.

Section 16: Limitation of Rights. With the exception of any rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Resolution, the Note or the Qualified Agreement is intended or shall be construed to give to any Person other than the Issuer, the Owner and the Qualified Provider any legal or equitable right, remedy or claim under or with respect to this Resolution or any covenants, conditions and provisions herein contained; this Resolution and all of the covenants, conditions

and provisions hereof being intended to be and being for the sole and exclusive benefit of the Issuer, the Owner and the Qualified Provider.

Section 17: Note Mutilated, Destroyed, Stolen or Lost. In case the Note shall become mutilated, or be destroyed, stolen or lost, the Issuer shall issue and deliver a new Note of like tenor as the Note so mutilated, destroyed, stolen or lost, in exchange and in substitution for such mutilated Note, or in lieu of and in substitution for the Note destroyed, stolen or lost and upon the Owner furnishing the Issuer proof of ownership thereof and indemnity reasonably satisfactory to the Issuer and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur. The Note so surrendered shall be canceled.

Section 18: Impairment of Contract; Compliance with Laws and Regulations. The Issuer covenants with the Owner of the Note and the Qualified Agreement Provider, that it will not, without the written consent of the Owner of the Note and the Qualified Agreement Provider, enact any ordinance or adopt any resolution which repeals, impairs or amends in any manner adverse to the Owner and the Qualified Agreement Provider the rights granted to the Owner of the Note and the Qualified Agreement Provider hereunder. The Issuer further covenants that it shall maintain compliance with all federal, state and local laws and regulations regarding distribution of the Public Service Tax Revenues and the Communication Services Tax Revenues, and it will not repeal the Public Service Tax Ordinance, or amend it in a manner that materially adversely affects the receipt by the Issuer of Public Service Tax Revenues, without the prior written consent of the Owners of the Note.

Section 19: Budget and Financial Information. The Issuer shall provide the Owner of the Note with a copy of its annual budget, within 30 days of adoption, and such other financial information regarding the Issuer as the Owner of the Note may reasonably request. The Issuer hereby covenants that it shall promptly give written notice to the Owner of the Note of any litigation or proceeding which if determined adversely to the Issuer would adversely affect the security for the payment of the Note. The Issuer shall provide the Owner of the Note with annual financial statements for each fiscal year of the Issuer not later than the day that is 210 days after the close of such fiscal year, prepared in accordance with applicable law and generally accepted accounting principles and audited by an independent certified public accountant. All accounting terms not specifically defined or specified herein shall have the meanings attributed to such terms under generally accepted accounting principles as in effect from time to time, consistently applied.

Section 20: Events of Default; Remedies of Noteholder. The following shall constitute Events of Default hereunder: (i) if the Issuer fails to pay the payment of principal of or interest on the Note as the same becomes due and payable; (ii) if the Issuer defaults in the performance or observance of any covenant or agreement contained in this Resolution or the Note (other than set forth in (i) above) and fails to cure the same within thirty (30) days; or (iii) filing of a petition by or against the Issuer relating to bankruptcy, reorganization, arrangement or readjustment of debt of the Issuer or for any other relief relating to the Issuer under the United States Bankruptcy Code, as amended, or any other insolvency act or law now or hereafter existing, or the involuntary appointment of a receiver or trustee for the Issuer, and the continuance of any such event for 90 days undismissed or undischarged.

Upon the occurrence and during the continuation of any Event of Default, the Owner of the Note may, in addition to any other remedies set forth in this Resolution or the Note, either at law or in equity, by suit, action, mandamus or other proceeding in any court of competent jurisdiction, protect and enforce any and all rights under the laws of the State, or granted or contained in this Resolution or the Note, and may enforce and compel the performance of all duties required by this Resolution or the Note, or by any applicable statutes to be performed by the Issuer or by any officer thereof.

Notwithstanding the foregoing, the occurrence of any default under a Qualified Agreement, including without limitation failure on the part of the Issuer to pay Parity Contract Obligations or to pay a termination fee under a Qualified Agreement, shall not be construed as or deemed to constitute an Event of Default hereunder; rather, such occurrence shall be remedied pursuant to such Qualified Agreement and applicable legal and equitable principles taking into account the parity status as to lien on Pledged Revenues which the counterparty to such Qualified Agreement enjoys as to Parity Contract Obligations only, relative to that of the Noteholder and its right to payments hereunder.

Section 21: Severability. If any provision of this Resolution shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable in any context, the same shall not affect any other provision herein or render any other provision (or such provision in any other context) invalid, inoperative or unenforceable to any extent whatever.

Section 22: Business Days. In any case where the due date of interest on or principal of a Note or any other action date is not a Business Day, then payment of such principal or interest need not be made or action need not be taken on such date but may

Section 28: Repealer. All resolutions or parts thereof in conflict herewith are hereby repealed.

Section 29: No Third Party Beneficiaries. Except such other persons as may be expressly described in this Resolution, in the Note or in the Qualified Agreement, nothing in this Resolution, in the Note or in the Qualified Agreement, expressed or implied, is intended or shall be construed to confer upon any Person, other than the Issuer, the Owner and the Qualified Agreement Provider, any right, remedy or claim, legal or equitable, under and by reason of this Resolution, or any provision thereof, or of the Note, or of the Qualified Agreement, all provisions thereof being intended to be and being for the sole and exclusive benefit of the Issuer, the Person who shall from time to time be the Owners and the Qualified Agreement Provider.

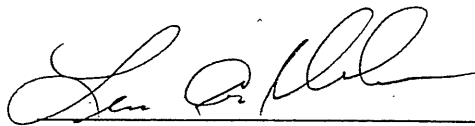
Section 30: Supplemental Resolutions. Any supplemental resolutions of the City Commission which, among other things, amend terms and details of the Note shall, to the extent necessary, contain such other provisions as may be desirable to facilitate interpretation of the provisions of this Resolution.

Section 31: Effective Date. This Resolution shall be in full force and take effect immediately upon its adoption.

DULY RESOLVED this 2nd day of December, 2003.

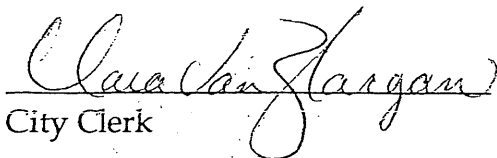
CITY COMMISSION OF THE
CITY OF LAKE WALES, FLORIDA

(SEAL)



Mayor

ATTEST:


City Clerk

The regular meeting of the Lake Wales City Commission was held on December 2, 2003 at 7:30 p.m. in Commission Chambers at the Administration Building. The meeting was called to order by Mayor Lee A. Wheeler, III.

INVOCATION

The invocation was given by Dorothy Pelletier, Deputy City Clerk, City of Lake Wales.

PLEDGE OF ALLEGIANCE

COMMISSIONERS PRESENT: Fred Else; Linda Kimbrough; Albert Kirkland, Sr.; Clifford L. Tonjes; Lee A. Wheeler, III, Mayor.

COMMISSIONERS ABSENT: None

CITY REPRESENTATIVES PRESENT: Anthony G. Otte, City Manager; Albert C. Galloway, Jr., City Attorney; Dorothy Pelletier, Deputy City Clerk; Clara VanBlargan, City Clerk.

Agenda Item 4.

APPROVAL OF MINUTES

A motion was made by Commissioner Tonjes to approve the minutes of the November 18, 2003 regular meeting. The motion was seconded by Commissioner Kimbrough.

All "AYE"; None "NAY".

Motion carried.

Agenda Item 5.

INTRODUCTION OF REPRESENTATIVES FROM MAINSTREET: RECOGNITION FOR WATER, FIRE AND POLICE DEPARTMENTS FOR RESPONSE TO HARDWARE STORE FIRE

Judy Kahler, President of the Mainstreet Committee came forward and commended the Water, Fire and Police Departments for their extraordinary and heroic effort in saving Historic Downtown Lake Wales. To express the Mainstreet's appreciation, Ms. Kahler presented each of the departments with a framed plaque. Fire Chief Tom Tucker, Police Chief Mark LeVine, Public Works Director Chuck Partlow and Water Division Manager Johnny Windsor were present to accept the plaques.

Agenda Item 6.

ORDINANCE 2003-07 – AMERICAN LEGION REZONING – 2ND READING & PUBLIC HEARING

Staff recommends adoption of Ordinance D2003-07.

Mr. Otte reported that the Planning and Zoning Board voted unanimously at its October 28th meeting to recommend an amendment to the zoning district map to assign the zoning designation of P-1 (Professional Office) to approximately 4 acres of property located on 9th Street South as set forth in Ordinance D2003-07.

The proposed ordinance was approved on First Reading by the City Commission on November 18, 2003.

Proposed is construction of a 100' x 200' event center for the Lake Wales Legion Club, subjecting to raising funds for construction. Initially, a storage building is proposed.

The recommended P-1 zoning designation is consistent with the Future Land Use Map classification of RO (Residential Office) which permits "low intensity office commercial."

The use is classified as a "social and fraternal association" a sub-category of "business, professional, and nonprofit organization offices" under the City's zoning. It is a permitted use in the P-1 (Professional Office) district.

Ms. Pelletier read Ordinance D2003-07 by title only:

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING THE ZONING DISTRICT MAP OF THE LAKE WALES CODE OF ORDINANCES, CHAPTER 23, ZONING, LAND USE AND DEVELOPMENT REGULATIONS, SUBSECTION 23-29, TO ASSIGN THE ZONING DESIGNATION P-1 (PROFESSIONAL OFFICE) TO PROPERTY ON THE EAST SIDE OF 9TH STREET SOUTH; PROVIDING AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

A motion was made by Commission Else to adopt Ordinance D2003-07. The motion was seconded by Commissioner Kimbrough.

ROLL CALL:

Commissioner Else	"YES"
Commissioner Kimbrough	"YES"
Commissioner Kirkland	"YES"
Commissioner Tonjes	"YES"
Mayor Wheeler	"YES"

Motion carried 5-0.

Agenda Item 7.

ORDINANCE D2003-08 – REZONE SOUTH SIDE OF HWY. 60 – 2ND READING & PUBLIC HEARING

Staff Recommends adoption of Ordinance D2003-08.

Mr. Otte reported that at a meeting on October 28th, the Planning and Zoning Board voted unanimously to recommend the approval of Ordinance D2003-08 to change the designation on the zoning map to P-1 (Professional Office) on properties on the south side of State Road 60 between 8th Street and Minnesota Street, including 2 properties east of Minnesota Street.

The proposed ordinance was approved on First Reading by the City Commission on November 18, 2003.

Several owners of property along State Road 60 have inquired in recent months

about converting houses for professional office use. The present R-3 Residential (multi-family) zoning does not allow professional office uses except as home occupations.

The Comprehensive Plan calls for professional uses along the highway to buffer residential areas from the heavily traveled highway. The Future Land Use Map (FLUM) of the Comprehensive Plan classifies the block fronting on State Road 60 between the Scenic Highway overpass to Minnesota Street as RO (Residential Office) and the lots east of Minnesota as GC (General Commercial).

The FLUM provides the basis for designation of zoning districts. However, the City has some discretion in assigning zoning district designations since the FLUM classifications are not equivalent to specific zoning districts. P-1 zoning corresponds well with the RO designation. The P-1 zoning in the area designated as GC General Commercial is consistent with the FLUM because some commercial uses are allowed by special exception permit in the P-1 zoning district.

The P-1 zoning will allow professional uses to provide a buffer from the highway. Properties at the West End of the area, near the overpass, are already protected by the on-ramp from the Scenic Highway. The Board is therefore recommending that the lots east of 8th Street retain the R-3 (Residential) zoning.

For the two lots east of Minnesota, where the FLUM designation is GC (General Commercial), a zoning designation of P-1 (Professional Office) is also recommended. The P-1 designation is recommended rather than a commercial zoning in order to limit the intensity of uses to the west of 11th Street. Presently, commercial uses are located east of the traffic light at 11th Street.

Ms. Pelletier read Ordinance D2003-08 by title only:

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING THE ZONING DISTRICT MAP OF THE LAKE WALES CODE OF ORDINANCES, CHAPTER 23, ZONING, LAND USE AND DEVELOPMENT REGULATIONS, SUBSECTION 23-29, TO CHANGE THE ZONING DESIGNATION OF PROPERTY LYING SOUTH OF STATE ROAD 60 BETWEEN 8TH STREET AND THE EAST SIDE OF MINNESOTA STREET FROM ZONING DESIGNATION R-3 RESIDENTIAL TO P-1 PROFESSIONAL OFFICE; PROVIDING AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

A motion was made by Commissioner Else to adopt Ordinance D2003-08. The motion was seconded by Commissioner Kirkland.

ROLL CALL:

Commissioner Else	"YES"
Commissioner Kirkland	"YES"
Commissioner Tonjes	"YES"
Commissioner Kimbrough	"YES"
Mayor Wheeler	"YES"

Motion carried 5-0.

Agenda Item 8.

ORDINANCE D2003-09 – REZONE NORTH SIDE OF HWY. 60 – 2ND READING & PUBLIC HEARING

Staff recommends adoption of Ordinance D2003-09.

Mr. Otte reported that at a meeting on October 28, the Planning and Zoning Board voted unanimously to recommend the approval of Ordinance D2003-09 to change the designation on the zoning map to P-1 (Professional Office) on properties on the north side of State Road 60 between 11th and 13th Streets.

The proposed ordinance was approved on First Reading by the City Commission on November 18, 2003.

The present zoning of the area is MSR-1 (Medical Service) between 11th and 12th Streets, extending northward one lot north of Druid Circle, and R-2 (Residential - duplex) between 12th and 13th Streets, also extending northward just beyond Druid Circle.

The reasons for the proposed change are two-fold. The first is for consistency between the Comprehensive Plan's Future Land Use Map and the zoning map. The Future Land Use Map (FLUM) of the Comprehensive Plan designates the area between SR 60 and Carlton Ave. as GC (General Commercial). The area north of Carlton is designated as RO (Residential Office) on the western end of the area and MDR (Medium Density Residential) to the east.

The second reason for the proposed change is to expand the types of uses allowed in the area. Continued residential use along this busy section of SR 60 has become problematic, and property owners are frustrated by the limited uses allowed under the present MSR-1 and R-2 zoning. Property owners in the area proposed for rezoning were mailed a courtesy notice of the hearings.

The P-1 (Professional Office) zoning recommended for the MSR-1 (Medical Service) area will allow a wider range of uses. Offices in MSR-1 are restricted to medical offices, while P-1 allows all types of professional offices. P-1 also allows business training schools and research laboratories. "Special exception permit uses in P-1 include hospitals, restaurants, and personal service establishments".

P-1 zoning is also recommended for the R-2 area between 12th and 13th Streets and north to Carlton Ave. Although the FLUM designates the area between SR 60 and Carlton Ave. as GC (General Commercial), the Planning and Zoning Board does not recommend allowing a full array of commercial uses because of the proximity to the hospital and because of concerns about traffic safety. The introduction of commercial uses such as convenience stores and gas stations permitted in the "C" zoning districts would be disturbing to the adjacent residential area and the hospital and would increase vehicle turning movements and traffic congestion.

The proposed zoning change will allow a wider range of uses, but will allow only limited commercial. Upgrading and redevelopment of the properties fronting on SR 60 will be encouraged by the zoning change.

Ms. Pelletier read Ordinance D2003-09 by title only:

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING THE ZONING DISTRICT MAP OF THE LAKE WALES CODE OF ORDINANCES, CHAPTER 23, ZONING, LAND USE AND DEVELOPMENT REGULATIONS, SUBSECTION 23-29, TO CHANGE THE ZONING DESIGNATION OF PROPERTY LYING NORTH OF STATE ROAD 60 BETWEEN 11TH AND 13TH STREETS FROM ZONING DESIGNATION MSR-1 (MEDICAL SERVICE) AND R-2 (RESIDENTIAL) TO P-1 (PROFESSIONAL OFFICE); PROVIDING AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

A motion was made by Commissioner Else to adopt Ordinance D2003-09. The motion was seconded by Commissioner Kirkland.

ROLL CALL:

Commissioner Else	"YES"
Commissioner Kirkland	"YES"
Commissioner Tonjes	"YES"
Commissioner Kimbrough	"YES"
Mayor Wheeler	"YES"

Motion carried 5-0.

Agenda Item 9.

ORDINANCE 2003-35 – AMENDING INVESTMENT POLICY – 2ND READING & PUBLIC HEARING

Staff recommends adoption of Ordinance 2003-35.

Mr. Otte reported that the City Commission approved Ordinance 2003-35 after first reading on November 18, 2003. Ordinance 2003-35 amends the City's Policy for Investment of Public Funds. The City Commission on December 19, 1995 adopted ordinance 95-44.

The City's Financial Advisor, William R. Hough & Co., has recommended a refinancing proposal that, based on market conditions as of November 20, 2003, produces a present value savings of \$558,293.00 with a cash flow savings of \$392,738.00 in year one. In order to provide the City with additional refinancing saving options and the opportunity to evaluate the Financial Advisor's recommendation, the City's investment policy needs to be amended to expressly permit interest rate swap agreements and to comply with the requirements of Section 218.415(5), Florida Statutes.

Ms. Pelletier read the Ordinance 2003-35 by title only:

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE V, FINANCIAL ADMINISTRATION, DIVISION 1, INVESTMENT OF PUBLIC FUNDS, OF THE LAKE WALES CODE OF ORDINANCES, ESTABLISHING A POLICY FOR HEDGE AGREEMENTS EXPRESSLY PERMITTING INTEREST RATE SWAP AGREEMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

A motion was made by Commissioner Else to adopt Ordinance 2003-35. The motion was seconded by Commissioner Tonjes.

ROLL CALL:

Commissioner Else	"YES"
Commissioner Tonjes	"YES"
Commissioner Kirkland	"YES"
Commissioner Kimbrough	"YES"
Mayor Wheeler	"YES"

Motion carried 5-0.

Agenda Item 10.

ORDINANCE 2003-36 – FY02'03 BUDGET AMENDMENT #4 – 2ND READING & PUBLIC HEARING

Staff recommends adoption of Ordinance 2003-36.

Mr. Otte reported that Ordinance 2002-17 estimating revenues and appropriating funds for Fiscal Year 2003-03 was adopted by the City Commission on September 17, 2002. This ordinance was amended on February 18, 2003 with the adoption of Ordinance 2003-04, on June 17, 2003 with the adoption of Ordinance 2003-17, and on October 7, 2003 with Ordinance 2003-30. We are presenting for second reading a fourth amendment of Ordinance 2002-17 in order to further modify the estimates of revenues and appropriations budgeted in various funds. Exhibits A and B and supporting attachments provide the details for the proposed amendment, which is housekeeping in nature.

Ms. Pelletier read Ordinance 2003-36 by title only:

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING ORDINANCE 2002-17 AS PREVIOUSLY AMENDED BY ORDINANCES 2003-04, 2003-17 AND 2003-30 TO MODIFY THE ESTIMATES OF EXPENDITURES FOR THE OPERATION OF THE SEVERAL DEPARTMENTS OF SAID CITY FOR THE 2002-2003 FISCAL YEAR AND TO MODIFY THE APPROPRIATION OF FUNDS RAISED AND COLLECTED FROM ALL SOURCES, SET FORTH IN THE ESTIMATE OF REVENUES FOR SAID FISCAL YEAR; REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

A motion was made by Commissioner Kimbrough to adopt Ordinance 2003-36. The motion was seconded by Commissioner Tonjes.

ROLL CALL:

Commissioner Kimbrough	"YES"
Commissioner Tonjes	"YES"
Commissioner Kirkland	"YES"
Commissioner Else	"YES"
Mayor Wheeler	"YES"

The motion carried 5-0.

Agenda Item 11.

ORDINANCE 2003-38 – GARBAGE & TRASH DISPOSAL REQUIREMENTS FOR FOOD ESTABLISHMENTS – 2ND READING & PUBLIC HEARING

Staff recommends adoption of Ordinance 2003-38.

Mr. Otte reported that complaints have been received about unsanitary conditions and odors in the vicinity of garbage that is being bagged by a local restaurant rather than being placed into a can or dumpster for disposal. Although our current ordinance permits the disposal of garbage in bags, it is apparent that the disposal in bags of waste food and food packaging materials in the quantities typical of food establishments can quickly become a serious sanitation problem.

Ordinance 2003-38 is proposed to require restaurants, hotels, grocery stores or any other public places where food or meals are sold or given away to use the following containers for accumulation and disposal of garbage and trash:

- Cans, provided that the total pickup does not exceed two (2) cubic yards in volume and provided that the cans are securely covered with a tightly fitting lid.
- Containers emptied by mechanical means.

Ms. Pelletier read Ordinance 2003-38 by title only:

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING CHAPTER 17, SOLID WASTE, LAKE WALES CODE OF ORDINANCES; ESTABLISHING GARBAGE AND TRASH COLLECTION AND DISPOSAL REQUIREMENTS FOR FOOD ESTABLISHMENTS; PROVIDING AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

A motion was made by Commissioner Else to adopt Ordinance 2003-38. The motion was seconded by Commissioner Kirkland.

ROLL CALL:

Commissioner Else	"YES"
Commissioner Kirkland	"YES"
Commissioner Tonjes	"YES"
Commissioner Kimbrough	"YES"
Mayor Wheeler	"YES"

The motion carried 5-0.

Agenda Item 12.

**ORDINANCE 2003-39 – AMENDING CHAPTER 16, PENSIONS AND RETIREMENT
- GENERAL EMPLOYEES' PENSION PLAN – 2ND READING & PUBLIC HEARING**

Staff recommends adoption of Ordinance 2003-39.

Mr. Otte reported that the General Employees Pensions Board is requesting to enhance the General Employees' Pension Plan by augmenting the period allowed in the DROP Plan from two (2) years to five (5) years. This will be consistent with both the Police and Fire Pension Plans.

Once an employee enters the DROP Plan the amount of the monthly pension, which would otherwise be paid, is maintained in a special DROP account in the name of the employee within the fund and is segregated from other trust assets on a bookkeeping basis. However, if the trust fund loses money, then so does the employee's segregated account. Ordinance 2003-39 allows the employee to elect to receive interest based on the 91 T-Bill interest rate compounded quarterly; or to share in the investment gains and losses for the quarter at the same rate of the return earned by the total trust fund. The election is irrevocable.

Other housekeeping changes that are necessitated at this time that were provided in the memorandum to the City Commission are as follows:

(At its May 21, 2002, meeting the City Commission adopted Ordinance 2002-09 on second reading. Ordinance 2002-09 reduced the normal retirement age for general employees from age sixty two (62) years with twenty-five years of service or age sixty-five (65) with ten years of service to age sixty (60) years with ten (10) years of service.)

Reducing the normal retirement age to sixty (60) years with ten (10) years of service affected the calculation of the early retirement reduction factor. (Ordinance 2003-39 will correct this oversight. The reduction factors periods are reduced from five (5) years to two and one-half (2.5) years each.)

Refunding member contributions at termination is also problematic. Once an employee leaves the employment of the City, there is a sixty (60) day requirement to make an election to receive a refund of employee contributions. Occasionally, employees do not make timely elections and some contributions have remained in the fund for several years. Ordinance 2003-39 permits the issuance of accrued benefits of less than \$5,000 without any requirement of the employee's consent.

Each year during the budget process, the City is faced with estimating the City's contribution rate. It is usually two months into the fiscal year before we are informed of the contribution rate from the actuary. Ordinance 2003-39 will allow the Pension Board to authorize the City's contribution requirements in any manner that is authorized under the provision of Part VII of Chapter 112, Florida Statutes, or its successor. (The Pension Board recently authorized the projection method for providing funding requirements for the General Employees Pension Plan. The projection method is authorized by Florida Statutes and assists the City with the budgeting process by providing funding requirements months in advance.)

Ms. Pelletier read Ordinance 2003-39 by title only:

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA,
2003-289**

AMENDING CHAPTER 16, PENSION AND RETIREMENT, LAKE WALES CODE OF ORDINANCES, RELATING TO THE CITY OF LAKE WALES GENERAL EMPLOYEES' PENSION PLAN AND TRUST, REVISING CITY CONTRIBUTIONS; REVISING BENEFIT AMOUNTS AND ELIGIBILITY TO INCLUDE MEMBER ACCRUED BENEFIT NOT EXCEEDING \$5,000.00; REVISING DEFERRED RETIREMENT OPTION PLAN OPERATION; PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

Commissioner Tonjes made a motion to adopt Ordinance 2003-39. The motion was seconded by Commissioner Kimbrough.

ROLL CALL:

Commissioner Tonjes	"YES"
Commissioner Kimbrough	"YES"
Commissioner Kirkland	"YES"
Commissioner Else	"YES"
Mayor Wheeler	"YES"

The motion carried 5-0.

Agenda Item 13.

RESOLUTION 2003-35 – CAPITAL IMPROVEMENT REFUNDING REVENUE NOTE, SERIES 2003.

Mr. Otte reported that it is recommended that the City Commission adopt Resolution 2003-35, Capital Improvement Refunding Revenue Note, Series 2003; authorizing issuance in the principal amount not to exceed \$9,550,000.00 based on satisfactory evidence that net present value debt service savings resulting from the refunding is equal to or greater than 4% of the principal amount of the Refunded Bonds; authorizing execution of an interest rate swap agreement; authorizing an escrow deposit agreement; approving SunTrust Bank as the counterparty under the interest rate swap agreement; authorizing early redemption of the public offered Capital Improvement Revenue Bonds, Series 1996; appointing the Bank of New York Trust Company of Florida, N.A., Jacksonville, Florida as Escrow Holder, and approving SunTrust's Commitment Letter.

The Fiscal Year 2001 audit indicated that the City's General Fund Balance for Fiscal Year Ending 9/30/01 had been depleted by \$874,754.00 as Fund Balance had to be used during that year for operational expenditures. As a result, the City's cash position was far below the recommended levels. For the next two fiscal years, the City had to spend over \$15,000.00 annually to establish a line of credit to ensure that we would have enough cash to operate from the start of our fiscal year on October 1 until ad valorem tax proceeds began arriving in late November.

At the end of Fiscal Year 2002, General Fund revenues exceeded expenditures by \$389,634.00 and at this time, it appears that General Fund revenues will exceed expenditures by \$245,702.00 for Fiscal Year 2003. However, we are still far from our goal of increasing the General Fund Balance to 20% of the total operating budget. In dollars, this represents \$1.7 million in relation to the adopted Fiscal Year '03'04

budget. At the present rate, staff estimates it will take approximately five years to meet the minimum General Fund level.

In addition to careful budgeting and cost controls, staff has been searching for other ways to meet our goal. One option that Staff began to research was debt refinancing. As explained below, we now have an opportunity to realize significant debt service cash flow savings in our current fiscal year. If the Commission approves the resolution authorizing the transaction, the General Fund's portion of the debt service cash flow savings will be returned to the General Fund Balance and bring us closer to our goal. Based on the beginning of the year's General Fund Balance, tentative Fiscal Year 2003's surplus and estimated refinancing savings, the estimated General Fund Balance will be over \$1,000,000.

Mr. Otte stated that at the City Commission Workshop that was held on November 25, 2003 there were four (4) financing alternatives that were identified by the City's Financial Advisor, William R. Hough & Company:

- Capital Markets Refunding Bond Issue
- Bank Qualified Fixed Rate Term Loan through SunTrust Bank
- Bank Qualified Synthetic Fixed Rate Term Loan through SunTrust Bank
- Bank Qualified Synthetic Fixed Rate Term Loan through Bank of America

Mr. Otte announced that the City's Financial Advisor Tom Carlson, Assistant Vice President of William R. Hough & Company was present to make a short presentation and to answer any questions on Resolution 2003-35.

Mr. Carlson came forward and gave a brief update on the present value (PV) savings that were calculated the morning of December 2, 2003. The savings of \$399,000.00 will give up front cash flow savings, in the year 2004, of \$320,000.00. Currently, the PV savings percentage is 4.396%. The percentage has decreased since the last update on November 20, 2003. This is a slight reduction in the PV Savings, but still well within the 4% threshold governed by the Resolution. Mr. Carlson stated that he encountered a slight glitch in the structuring of the transaction. From day one, William R. Hough & Co. had been going with a partial refunding of the 1996 Bonds and a full refinancing of the 1999 Bonds. Due to some good work by our bond counsel, it was discovered while reviewing the commitment letter from SunTrust they will probably require William R. Hough & Co. to refinance 100% of the 1996 bonds and a partial amount of the 1999 Bonds. This will reduce the PV savings around \$50,000.00, which will still be well within the 4% threshold that has been established by Resolution 2003-35. If the City Commission votes to adopt the Resolution, interest rates will be locked in first thing the morning of December 3, 2003. There will then be a pre-closing on Friday, December 5, 2003 and a closing transaction on Monday, December 8, 2003. The only thing left to be resolved is getting the approval by SunTrust Bank to do a partial refinancing of the 1999 Bonds and a full financing of the 1996 Bonds.

Mr. Carlson announced that that Leif Chase, with the bond counsel, was also present at the meeting. Mr. Carlson stated that he spoke with the bond council concerning refinancing of bonds and learned that there is a way to keep a portion of the 1999 Bonds legally outstanding, which will not affect this transaction. This will need the approval of SunTrust Bank.

Ms. Pelletier read Resolution 2003-35 by title only:

A RESOLUTION OF THE CITY OF LAKE WALES, FLORIDA AUTHORIZING THE ISSUANCE OF A CAPITAL IMPROVEMENT REFUNDING REVENUE NOTE, SERIES 2003 OF THE CITY IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$9,500,000 TO REFUND CERTAIN BONDS OF THE CITY FOR NET PRESENT VALUE DEBT SERVICE SAVINGS; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF AN INTEREST RATE SWAP AGREEMENT AND AN ESCROW DEPOSIT AGREEMENT; PROVIDING THAT THE NOTE AND THE INTEREST RATE SWAP AGREEMENT SHALL BE LIMITED OBLIGATIONS OF THE CITY PAYABLE FROM THE CITY'S PUBLIC SERVICE TAX REVENUES AND COMMUNICATION SERVICES TAX REVENUES IN THE MANNER AND TO THE EXTENT DESCRIBED HEREIN; APPROVING SUNTRUST BANK AS THE COUNTERPARTY UNDER THE INTEREST RATE SWAP AGREEMENT; PROVIDING FOR THE RIGHTS, SECURITIES AND REMEDIES FOR THE OWNER OF THE NOTE AND THE COUNTERPARTY; PROVIDING FOR THE TRANSFER OF CERTAIN MONEYS HELD IN FUNDS AND ACCOUNTS FOR THE BONDS TO BE REFUNDED; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Tonjes stated that he would like to comment to the press or anyone that might be watching the City Commission meeting on television that the savings in the Interest Rate Swap Agreement is a savings in the first year. He stated that these savings are all going into the City's reserves. It will not change the tax rate or budget in the future.

Mr. Otte commented for the record, that on Page 4, Paragraph 2, in the first sentence under Fiscal Impact of the memorandum that was provided to the City Commission it reads: The General Fund's portion of the debt service cash flow savings will be returned to General Fund Balance.

Commissioner Else made a motion to adopt Resolution 2003-35. The motion was seconded by Commissioner Tonjes.

ROLL CALL:

Commissioner Else	"YES"
Commissioner Tonjes	"YES"
Commissioner Kirkland	"YES"
Commissioner Kimbrough	"YES"
Mayor Wheeler	"YES"

The motion carried 5-0.

Agenda Item 14.

RESOLUTION 2003-36 – ENDORSING THE MEMBERSHIP REAPPORTIONMENT PLAN FOR THE POLK TRANSPORTATION PLANNING ORGANIZATION DATED OCTOBER 9, 2003

Staff recommends adoption of Resolution 2003-36.

Mr. Otte reported that the City of Lake Wales has a seat on the Polk Transportation Planning Organization (TPO). The recommended action described below does not affect our seat. (The City's representative on the TPO is Commissioner Kimbrough.)

The Plan seeks to provide additional representation for smaller cities by expanding the TPO's voting membership from 17 to 19: one new seat for a South County Bloc

(composed of Fort Meade, Mulberry, and Frostproof) and one new seat for a Winter Haven Urbanized Area Bloc (composed of Lake Alfred, Dundee, Eagle Lake, Davenport, Polk City, and Lake Hamilton). The new seat assigned to each bloc will be rotated among the listed cities on an annual basis.

Staff believes that the additional municipal representation on the board, provided by this Plan, will be beneficial.

Ms. Pelletier read Resolution 2003-36 by title only:

A RESOLUTION ENDORSING THE MEMBERSHIP REAPPORTIONMENT PLAN FOR THE POLK TRANSPORTATION PLANNING ORGANIZATION DATED OCTOBER 9, 2003.

Commissioner Kirkland made a motion to adopt Resolution 2003-36. The motion was seconded by Commissioner Else.

ROLL CALL:

Commissioner Kirkland	"YES"
Commissioner Else	"YES"
Commissioner Tonjes	"YES"
Commissioner Kimbrough	"YES"
Mayor Wheeler	"YES"

The motion carried 5-0.

Agenda Item 15.

RESOLUTION 2003-37 – SUPPORTING THE FORMATION OF A COMMUNITY DEVELOPMENT CORPORATION BASED IN THE NORTHWEST NEIGHBORHOOD

Staff recommends adoption of Ordinance 2003-37.

Mr. Otte reported that the Lincoln Avenue Revitalization Committee recently met with representatives of American Bank and Citizens Bank to discuss what sources of funding could be sought for the revitalization of commercial business on Lincoln Avenue. It was noted that there are funding sources that are willing to work with non-profit agencies on such projects.

Reverend James Cleare of the Allen Temple AME Church noted that he is in the process of forming a Community Development Corporation (CDC) which will be based in the Northwest neighborhood. He anticipates that this CDC will pursue improvements in economic revitalization, housing, and health care, and that they have already made contact with the DuPont Foundation for funding. Rev. Cleare has asked for a letter of support in the formation of this CDC. Staff suggested that the City Commission approve a resolution of support.

The Lincoln Avenue Revitalization Committee has discussed a plan for combining efforts with this group to utilize funds from the CRA and foundation sources to develop a plan to revitalize the buildings on Lincoln Avenue for commercial use. The plan is necessary to ensure that the appearance of the buildings is coordinated and aesthetically pleasing.

Staff has also discussed the formation of the new CDC with Robert Connors, the Chairman of an existing CDC that has focused on housing, who said he had no

objections. Mr. Connors likened the formation of a new CDC to a new developer coming to an area, whose activity will facilitate activity for the existing developer.

Ms. Pelletier read Resolution 2003-37 by title only:

A RESOLUTION SUPPORTING THE FORMATION OF A COMMUNITY DEVELOPMENT CORPORATION BASED IN THE NORTHWEST NEIGHBORHOOD.

Rev. James Cleare, Allen Temple AME Church came forward and asked the Commission if they had any questions for him.

Commissioner Else commented that he wished Rev. James Cleare well in the formation of a CDC.

Commissioner Kirkland also wished him well, but hoped that Rev. Cleare understood the difficulty of forming a CDC in a small community. Commissioner Kirkland advised the Commission that if the Resolution is passed, that one CDC is not favored over the existing CDC. He commented that there was a lot of pain in developing the first CDC. Rev. Cleare commented that he also shared the pain in the development process of the other CDC. One of reasons for the development of the new CDC is to concentrate more on the Northwest neighborhood and not only on the economic development along Lincoln Avenue but also to deal with the areas of housing and health care. The CDC representatives recently met with the DuPont Foundation for funding. The foundation gave them the green light to proceed with the development if they got the support from the City. Rev. Cleare commented that the Committee can bring forth a positive change in the area and utilize the resources that are available to them. This is something that they can do because their church is already a Grantee organization of the DuPont Foundation. Rev. Cleare stated that once the Committee has the Commission's support, they would work with the City Manager to formulate a comprehensive plan.

Commissioner Tonjes commented that the passing of this Resolution would in no way degrade the importance of the existing CDC.

Commissioner Else made a motion to adopt Resolution 2003-37. The motion was seconded by Commissioner Kirkland.

ROLL CALL:

Commissioner Else	"YES"
Commissioner Kirkland	"YES"
Commissioner Tonjes	"YES"
Commissioner Kimbrough	"YES"
Mayor Wheeler	"YES"

The motion carried 5-0.

COMMUNICATIONS AND PETITIONS

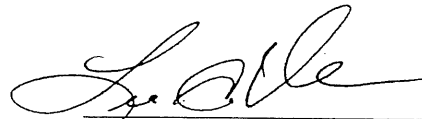
Mr. Otte announced that the City Commission and the Planning & Zoning Board will have a workshop December 9, 2003 at 5:30 p.m. in the Commission Chambers to discuss the feasibility of permitting smaller lot sizes for new developments. This workshop will feature a presentation by the City's Planning Director Margaret Swanson. Some developers are requesting smaller lots (50' & 55' lots). According to Doug Leonard from the Regional Planning Counsel, who will also be present at

the meeting, other cities along U.S. 27 have also had requests for smaller lot sizes.

Commissioner Kimbrough announced that Commissioner Tonjes and his son opened their new True Value store on Monday. She commented that she was very happy that they did because the new store saves her driving distance. Commissioner Kirkland commented that he liked the store's new sign on the side of the building.

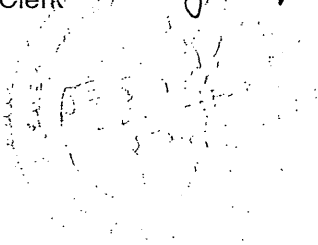
Mayor Wheeler gave the Commission an update on the Polk County Legislative Delegation Meeting and Public Hearing that was held in Bartow on Monday, December 1, 2003. Three requests from the Commission had been presented to them for action during the 2004 session and were warmly received. State Senator Paula Dockery made a comment that FRDAP Grants were about the only grants getting funding these days.

There being no further business, the meeting was adjourned.



Mayor/Commissioner

ATTEST:


City Clerk

RESOLUTION NO. 13-08

A RESOLUTION OF THE CITY OF LAKE WALES, FLORIDA, AUTHORIZING THE ISSUANCE OF THE NOT TO EXCEED \$1,700,000 CITY OF LAKE WALES, FLORIDA ASCENDING LIEN CAPITAL IMPROVEMENT REVENUE NOTE, SERIES 2013, TO FINANCE THE CITY'S FIRE SUBSTATION AND CEMETERY PROJECT; PLEDGING CERTAIN FRANCHISE FEES, PUBLIC SERVICE TAX REVENUES AND COMMUNICATION SERVICE TAX REVENUES ON A SUBORDINATE BASIS TO SECURE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SUCH NOTE; DESIGNATING THE NOTE FOR THE EXCEPTION FOR CERTAIN TAX-EXEMPT OBLIGATIONS CONTAINED IN SECTION 265 OF THE INTERNAL REVENUE CODE OF 1986; AUTHORIZING THE NEGOTIATED SALE OF THE NOTE; ACCEPTING THE COMMITMENT OF STI INSTITUTIONAL & GOVERNMENT, INC. TO PURCHASE SUCH NOTE; PROVIDING FOR THE RIGHTS OF HOLDERS OF SUCH NOTE; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WALES, FLORIDA, that:

SECTION 1. *Definitions.* Unless the context otherwise requires, terms used in this Resolution shall have the meanings specified in this section.

"Act" means the Constitution of the State of Florida, Chapter 166, Florida Statutes, the Charter of the Issuer, and other applicable provisions of law.

"Additional Obligations" shall mean additional obligations issued or incurred in compliance with the terms, conditions and limitations contained herein and which (i) shall have a lien on and be payable from the Pledged Revenues and the Franchise Fees (until they are released as provided herein) equal to that of the outstanding Notes, and (ii) shall rank equally in all other respects with the Series 2013 Note.

"Authorized Denominations" means \$100,000 and \$1,000 increments in excess thereof.

"Business Day" means any day except any Saturday or Sunday or day on which the Original Purchaser is closed.

"City Attorney" shall mean the City Attorney of the Issuer.

"City Commission" shall mean the City Commission of the City of Lake Wales, Florida.

"City Manager" shall mean the City Manager or assistant City Manager of the Issuer.

"Clerk" shall mean the City Clerk or assistant or deputy City Clerk of the Issuer, or such other person as may be duly authorized by the City Commission to act on his or her behalf.

"Code" means the Internal Revenue Code of 1986, as amended, and any Treasury Regulations, whether temporary, proposed or final, promulgated thereunder or applicable thereto.

"Communications Services Tax Revenues" means 87% of the revenues and taxes received by the Issuer pursuant to Chapter 202, Florida Statutes, and Section 13, Chapter 2000-140, Laws of Florida, except the tax levied pursuant to Section 202.12, Florida Statutes.

"Franchise Fees" shall mean the fees levied and collected by the Issuer from Florida Power Corporation pursuant to Ordinance No. 92-21 duly enacted by the Issuer on November 17, 1992 with a term of thirty (30) years from the date thereof, by reason of having granted to said company the right to supply electricity to the Issuer and its inhabitants.

"Issuer" means the City of Lake Wales, Florida, a municipal corporation of the State of Florida.

"Maturity Date" means October 1, 2028, or such other earlier date as may be agreed to in a resolution supplemental hereto.

"Mayor" means the Mayor of the Issuer, or in his or her absence or inability to act, the Vice Mayor of the Issuer or such other person as may be duly authorized by the City Commission to act on his or her behalf.

"Notes" shall mean the Series 2013 Notes and any Additional Obligations issued hereunder.

"Original Purchaser" means STI Institutional & Government, Inc., Orlando, Florida, a Delaware general business corporation.

"Owner" or "Owners" means the Person or Persons in whose name or names the Series 2013 Note shall be registered on the books of the Issuer kept for that purpose in accordance with provisions of this Resolution.

"Paying Agent" and/or "Registrar" as it relates to the Series 2013 Note shall mean the City Manager.

"Person" or "Persons" means natural persons, firms, trusts, estates, associations, corporations, partnerships and public bodies.

"Pledged Revenues" means the Public Service Tax Revenues and the Communications Services Tax Revenues.

"Project" means the acquisition and construction of a fire substation and cemetery and certain improvements thereto and certain other capital projects, as may be amended from time to time.

"Project Fund" shall mean the Project Fund established with respect to the Note pursuant to Section 13 hereof.

"Public Service Tax Ordinance" means Ordinance No. 96-20 enacted by the City Commission of the Issuer on November 5, 1996, as amended from time to time, and as particularly amended by Ordinance No. 2001-19 enacted by the City Commission of the Issuer on November 20, 2001.

"Public Service Tax Revenues" means the revenues which derived from taxes levied and collected by the Issuer under the authority of Section 166.231, Florida Statutes and the Public Service Tax Ordinance on purchases of electricity, water, and metered or bottled gas (natural liquefied petroleum gas or manufactured) within the Issuer.

"Resolution" means this Resolution, pursuant to which the Series 2013 Note is authorized to be issued, including any supplemental resolutions.

"Series 2013 Note" means the City of Lake Wales, Florida Ascending Lien Capital Improvement Revenue Note, Series 2013 authorized herein.

"State" means the State of Florida.

"Term Sheet" means the Term Sheet of the Original Purchaser.

SECTION 2. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of the Act.

SECTION 3. Findings. It is hereby ascertained, determined and declared that:

(A) For the benefit of its inhabitants, the Issuer finds, determines and declares that it is necessary for the continued preservation of the health, welfare, convenience and safety of the Issuer and its inhabitants to acquire and construct the Project. Issuance of the Note to finance the Project satisfies a paramount public purpose.

(B) The Pledged Revenues are currently pledged to secure the repayment of the Issuer's Capital Improvement Refunding Revenue Note, Series 2003 (the "Series 2003 Note") on a first lien basis and the Franchise Fees are currently pledged to secure the repayment of the Issuer's Refunding Revenue Note, Series 2009 (the "Series 2009 Note", and together with the Series 2003 Note, the "Senior Lien Debt") on a first lien basis. Prior to the issuance of the Series 2013 Note, SunTrust Bank, as holder of the Senior Lien Debt, will acknowledge and consent to the terms of this Resolution.

(C) At such time as the debt service coverage test related to the Pledged Revenues included in Section 8 hereof is satisfied, the lien on the Franchise Fees of the Series 2013 Note will be released; provided, however, such lien on the Franchise Fees may not be released prior to October 1, 2018.

(D) Upon the repayment in full of the Series 2003 Note, which is expected to occur on about October 1, 2016, the lien on the Pledged Revenues of the Series 2013 Note will become a

first lien. Upon the repayment in full of the Series 2009 Note, which is expected to occur on about October 1, 2014, the lien on the Franchise Fees of the Series 2013 Note will become a first lien.

(E) The costs associated with the issuance of the Series 2013 Note shall be deemed to include legal fees and expenses, expenses for estimates of costs and of revenues, accounting expenses, attorney fees of the Original Purchaser of the Series 2013 Note, and such other fees and expenses as may be necessary or incidental for the financing herein authorized.

(F) The principal of and interest and redemption premium on the Series 2013 Note and all other payments shall be payable solely from the Pledged Revenues and the Franchise Fees. The Issuer shall never be required to levy ad valorem taxes on any real or personal property therein to: (1) pay the principal of and interest on the Series 2013 Note herein authorized; or (2) make any other payments provided for herein. The Series 2013 Note shall not constitute a lien upon any properties owned by or located within the boundaries of the Issuer or upon any property other than a lien on the Pledged Revenues and the Franchise Fees.

(G) The Issuer desires to qualify the Series 2013 Note for the exception contained in Section 265(b)(3) of the Code to the provisions contained in Section 265(b) of the Code which deny financial institutions any deduction for interest expense allocable to tax-exempt obligations acquired after August 7, 1986, and to designate the Series 2013 Note for the purpose of qualifying for such exception.

(H) Because of the characteristics of the Series 2013 Note and prevailing market conditions, it is in the best interest of the Issuer to accept the Term Sheet of the Original Purchaser attached hereto as Exhibit A to purchase the Series 2013 Note at a private negotiated sale. Prior to the issuance of the Series 2013 Note, the Issuer shall receive from the Original Purchaser a Purchaser's Certificate, the form which is attached hereto as Exhibit B and a Disclosure Letter containing the information required by Section 218.385, Florida Statutes, the form of which is attached hereto as Exhibit C.

(I) In consideration of the purchase and acceptance of the Series 2013 Note authorized to be issued hereunder by those who shall be the Owners thereof from time to time, this Resolution shall constitute a contract between the Issuer and the Owners.

SECTION 4. Authorization of Project. There is hereby authorized the acquisition and construction of the Project.

SECTION 5. Authorization of the Note. Subject and pursuant to the provisions hereof, an obligation of the Issuer to be known as the "City of Lake Wales, Florida Ascending Lien Capital Improvement Revenue Note, Series 2013" in the principal amount of not to exceed \$1,700,000 is authorized to be issued.

SECTION 6. Description of the Series 2013 Note. The Series 2013 Note shall be dated the date of its execution and delivery, which shall be a date agreed upon by the Issuer and the Original Purchaser, and shall have such other terms and provisions, including an interest rate not exceeding the maximum interest rates permitted by the Act, interest rate adjustment provisions, principal and interest payment terms, maturity date, and prepayment provisions as stated herein and in the form of the Series 2013 Note contained herein. The Series 2013 Note is

to be in substantially the form set forth in Exhibit D hereof, together with such changes as shall be approved by the Mayor, such approval to be conclusively evidenced by the execution thereof by the Mayor. The Series 2013 Note shall be executed on behalf of the Issuer with the manual signature of the Mayor and shall be attested with the manual signature of the City Clerk. In case any one or more of the officers who shall have signed or sealed the Series 2013 Note shall cease to be such officer of the Issuer before the Series 2013 Note so signed and sealed has been actually sold and delivered, such Series 2013 Note may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Series 2013 Note had not ceased to hold such office. The Series 2013 Note may be signed and sealed on behalf of the Issuer by such person who at the actual time of the execution of the Series 2013 Note shall hold the proper office of the Issuer, although, at the date of the Series 2013 Note, such person may not have held such office or may not have been so authorized.

SECTION 7. Registration and Exchange of the Series 2013 Note; Persons Treated as Owners. The Series 2013 Note will initially be registered to the Original Purchaser. So long as the Series 2013 Note shall remain unpaid, the Registrar will keep books for the registration and transfer of the Series 2013 Note. The Series 2013 Note shall be transferable only upon such registration books and in Authorized Denominations.

The Person in whose name a Series 2013 Note shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of principal and interest on such Series 2013 Note shall be made only to or upon the written order of the Owner. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Series 2013 Note to the extent of the sum or sums so paid.

SECTION 8. Payment of Principal and Interest; Limited Obligation. (A) The Issuer promises that it will promptly pay the principal of and interest on the Series 2013 Note at the place, on the dates and in the manner provided therein. The Series 2013 Note shall not be or constitute a general obligation or indebtedness of the Issuer as "bonds" within the meaning of Article VII, Section 12 of the Constitution of Florida, but shall be payable solely from the Pledged Revenues and Franchise Fees in accordance with the terms of the Resolution. No holder of any Series 2013 Note issued hereunder shall ever have the right to compel the exercise of any ad valorem taxing power to pay such Series 2013 Note, or be entitled to payment of such Series 2013 Note from any funds of the Issuer except from the Pledged Revenues and the Franchise Fees on a subordinate basis as described herein.

(B) On or after October 1, 2018, the lien on the Franchise Fees shall be released upon filing of a certificate of the Finance Director to the Paying Agent and Owner (1) stating that the books and records of the Issuer relating to the Pledged Revenues have been examined by him or her, (2) setting forth the amount of the Pledged Revenues which have been received by the Issuer during the most recently audited fiscal year, and (3) stating that the Pledged Revenues for such year equals at least 1.50 times the maximum annual debt service on the outstanding Notes.

(C) Upon the repayment in full of the Series 2003 Note, which is expected to occur on about October 1, 2016, the lien on the Pledged Revenues of the Series 2013 Note shall immediately and automatically become a first lien and the Issuer shall promptly provide a certificate of the Finance Director to that effect to the Owner of the Series 2013 Note.

(D) Upon the repayment in full of the Series 2009 Note, which is expected to occur on about October 1, 2014, the lien on the Franchise Fees of the Series 2013 Note shall immediately and automatically become a first lien and the Issuer shall promptly provide a certificate of the Finance Director to that effect to the Owner of the Series 2013 Note.

SECTION 9. Terms of the Series 2013 Note.

(A) The Series 2013 Note shall bear interest from its date at an annual rate of 2.91%, payable semi-annually on the first day of April and the first day of October of each year, commencing on April 1, 2014, calculated on the basis of twelve 30-day months and a 360-day year.

(B) Amortization payments of principal on the Series 2013 Note will be as specified in the Series 2013 Note.

(C) The Series 2013 Note may not be prepaid for the first two years following its issuance. The Series 2013 Note may be prepaid in whole on any date after such two years at a price equal to the principal amount then outstanding plus accrued interest to the date fixed for prepayment upon seven days notice to the holder of the Series 2013 Note.

(D) All payments by the Issuer pursuant to the Series 2013 Note shall apply first to accrued interest and the balance thereof shall apply to principal.

(E) The Series 2013 Note may be transferred in Authorized Denominations not less than \$100,000 to an "accredited investor" within the meaning of the Securities Act of 1933, as amended, and Regulation D thereunder.

SECTION 10. Covenants of the Issuer.

(A) The Issuer will provide the holder of the Series 2013 Note with (i) annual audited statements within 210 days of fiscal year end, (ii) an annual budget within 30 days of adoption, and (iii) with any other information the Original Purchaser may reasonably request.

(B) The Issuer will timely make all payments due on the Senior Lien Debt.

(C) The Issuer will take all actions required to be eligible to receive and to continue to receive all Pledged Revenues and, so long as pledged hereunder, all Franchise Fees.

(D) The Issuer will maintain compliance with all federal, state and local regulations regarding the purpose of the Series 2013 Note.

SECTION 11. Issuance of Additional Obligations. No Additional Obligation payable from the Pledged Revenues and the Franchise Fees (until they are released as provided herein) on a parity with the Series 2013 Note then outstanding pursuant to this Resolution shall be issued except upon the conditions and in the manner herein provided. The Issuer may issue one or more series of Additional Obligations upon compliance with the following conditions:

(A) The Issuer's Finance Director shall deliver a certificate to the Owners of the outstanding Notes (1) stating that the books and records of the Issuer relating to the Pledged Revenues have been examined by him or her, (2) setting forth the amount of the Pledged Revenues which have been received by the Issuer during the two most recently audited fiscal years, and (3) stating that the average amount of the Pledged Revenues for such two years equals at least 1.50 times the maximum annual debt service on the Notes outstanding at that time and the to be issued Additional Obligations.

(B) The supplemental resolution authorizing the issuance of the Additional Obligations shall recite that all of the covenants contained herein will be applicable to such Additional Obligations.

SECTION 12. *Events of Default; Remedies of Noteholder.* The following shall constitute Events of Default: (i) if the Issuer fails to timely pay any payment of principal of or interest on the Series 2013 Note; (ii) if the Issuer defaults in the performance or observance of any covenant or agreement contained in this Resolution or the Series 2013 Note (other than set forth in (i) above) and fails to cure the same within thirty (30) days following written notice or an event of default occurs with respect to the Senior Lien Debt; or (iii) filing of a petition by or against the Issuer relating to bankruptcy, reorganization, arrangement or readjustment of debt of the Issuer or for any other relief relating to the Issuer under the United States Bankruptcy Code, as amended, or any other insolvency act or law now or hereafter existing, or the involuntary appointment of a receiver or trustee for the Issuer, and the continuance of any such event for 90 days undismissed or undischarged.

Upon the occurrence and during the continuation of any Event of Default, the Owner of the Series 2013 Note may, in addition to any other remedies set forth in this Resolution or the Series 2013 Note, by written notice to the Issuer declare the principal of the Series 2013 Note to be due and payable immediately, and upon such declaration the same shall become and be due and payable immediately from the Pledged Revenues and the Franchise Fees (until such time as they are released hereunder), and upon such declaration the same shall become and be due and payable from the Pledged Revenues and the Franchise Fees (until such time as they are released hereunder) notwithstanding any other terms hereof or of the Series 2013 Note, and the Owner of the Series 2013 Note may further, either at law or in equity, by suit, action, mandamus or other proceeding (including specific performance) in any court of competent jurisdiction, protect and enforce any and all rights under the laws of the State, or granted or contained in this Resolution, and may enforce and compel the performance of all duties required by this Resolution, or by any applicable statutes to be performed by the Issuer or by any officer thereof. In any such default, the Issuer shall also be obligated to pay as part of the indebtedness evidenced by the Series 2013 Note, all costs of collection and enforcement hereof, including such reasonable attorneys' fees as may be incurred, including on appeal or incurred in any proceeding under bankruptcy laws as they now or hereafter exist.

Notice of Defaults. The City Issuer shall within five (5) business days after it acquires knowledge thereof, notify the Owner of the Series 2013 Note in writing at its notice address included in the registration books related to the Series 2013 Note (a) of any change in any material fact or circumstance represented or warranted by the Issuer in this Resolution or in connection with the issuance of the Series 2013 Note; (b) upon the happening, occurrence, or existence of any Event of Default, and (c) any event or condition which with the passage of

time or giving of notice, or both, would constitute an Event of Default, and shall provide the Owner, with such written notice, a detailed statement by a responsible officer of the Issuer of all relevant facts and the action being taken or proposed to be taken by the Issuer with respect thereto. Regardless of the date of receipt of such notice by the Owner, such date shall not in any way modify the date of occurrence of the actual Event of Default.

SECTION 13. Application of the Series 2013 Note Proceeds. The proceeds from the sale of the Series 2013 Note shall be used to reimburse and fund the Project and associated costs of issuance (including but not limited to legal fees and expenses) in accordance with the provisions in this Section.

The Issuer hereby covenants that it will establish with a depository in the State of Florida, which is a member of the Federal Deposit Insurance Corporation and which is eligible under the laws of the State of Florida to receive municipal funds, one fund to be known as the "City of Lake Wales, Florida, Ascending Lien Capital Improvement Revenue Note, Series 2013, Project Fund" (the "Project Fund").

Proceeds from the sale of the Series 2013 Note herein authorized shall be deposited into the Project Fund and shall be used as described above. When the acquisition of the Project has been completed and all acquisition-related costs and other costs of issuance have been paid in full, all funds remaining in the Project Fund shall be used to redeem the outstanding balance of the Series 2013 Note and the Project Fund shall be closed. All moneys deposited in said Project Fund shall be and constitute a trust fund created for the purposes herein stated, and there is hereby created a lien upon such fund in favor of the Owners of the Series 2013 Note until the moneys thereof shall have been applied in accordance with this Resolution.

The Project Fund shall constitute a trust fund and shall be continuously secured in the same manner as municipal deposits of funds are required to be secured by the laws of the State of Florida. Moneys on deposit in the Project Fund may be invested pursuant to applicable law and the Issuer's investment policy and shall mature not later than the dates on which such moneys shall be needed to make payments in the manner herein provided. The securities so purchased as an investment of the Project Fund shall be deemed at all times to be a part of the Project Fund, and the interest accruing thereon and any profit realized therefrom shall be credited to such Project Fund and any loss resulting from such investment shall likewise be charged to said fund or account.

SECTION 14. Designation of the Series 2013 Note. The Issuer hereby designates the Series 2013 Note as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code. The Issuer and any subordinate entities of the Issuer and any issuer of "tax-exempt" debt that issues "on behalf of" the Issuer do not reasonably expect during the calendar year 2013 to issue more than \$10,000,000 of "tax-exempt" obligations including the Series 2013 Note, exclusive of any private activity bonds as defined in Section 141(a) of the Code (other than qualified 501(c)(3) bonds as defined in Section 145 of the Code).

SECTION 15. Adjustments to Interest Rate on the Series 2013 Note.

The interest rate on the Series 2013 Note may be adjusted by the Original Purchaser in accordance with the adjustment provisions attached to Series 2013 Note as Schedule I thereto.

SECTION 16. General Authority. The members of the City Commission of the Issuer and the Issuer's officers, attorneys and other agents and employees are hereby authorized to perform all acts and things required of them by this Resolution or desirable or consistent with the requirements hereof for the full, punctual and complete performance of all of the terms, covenants and agreements contained in the Series 2013 Note and this Resolution, and they are hereby authorized to execute and deliver all documents which shall be required by Bond Counsel or the initial purchasers of the Series 2013 Note to effectuate the sale of the Series 2013 Note to said initial purchasers.

SECTION 17. Paying Agent and Registrar. The City Manager is hereby appointed as Paying Agent and Registrar with respect to the Series 2013 Note.

SECTION 18. Tax Covenant. The Issuer covenants with the Owners of the Series 2013 Note that the Issuer will not make any use of the proceeds of the Series 2013 Note at any time during the term of the Series 2013 Note which, if such use had been reasonably expected on the date the Series 2013 Note were issued, would have caused such Series 2013 Note to be "arbitrage bonds" within the meaning of the Code. The Issuer will comply with the requirements of the Code and any valid and applicable rules and regulations promulgated thereunder necessary to ensure the exclusion of interest on the Series 2013 Note from the gross income of the Owners thereof for purposes of federal income taxation.

SECTION 19. Series 2013 Note Mutilated, Destroyed, Stolen or Lost. In case the Series 2013 Note shall become mutilated, or be destroyed, stolen or lost, the Issuer shall issue and deliver a new note of like tenor as the note so mutilated, destroyed, stolen or lost, in exchange and in substitution for such mutilated note, or in lieu of and in substitution for the note destroyed, stolen or lost and upon the Owner furnishing the Issuer proof of ownership thereof and indemnity reasonably satisfactory to the Issuer and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur. The note so surrendered shall be canceled.

SECTION 20. Impairment of Contract. The Issuer covenants with the Owners of the Series 2013 Note that it will not, without the written consent of the Owners of the Series 2013 Note, enact any ordinance or adopt any resolution which repeals, impairs or amends in any manner adverse to the Owners the rights granted to the Owners of the Series 2013 Note hereunder.

SECTION 21. Waiver of Jury Trial. The Issuer knowingly, voluntarily, and intentionally waives any right it may have to a trial by jury, with respect to any litigation or legal proceedings based on or arising out of this Resolution or the Series 2013 Note, including any course of conduct, course of dealings, verbal or written statement or actions or omissions of any party which in any way relates to the Series 2013 Note, or this Resolution.

SECTION 22. Applicable Law and Venue. The Series 2013 Note shall be governed by applicable federal law and the internal laws of the state of Florida. The Issuer agrees that certain material events and occurrences relating to this Series 2013 Note bear a reasonable relationship to the laws of Florida and the validity, terms, performance and enforcement of this Resolution and of the Series 2013 Note shall be governed by the internal laws of Florida which

are applicable to agreements which are negotiated, executed, delivered and performed solely in Florida. Unless applicable law provides otherwise, in the event of any legal proceeding arising out of or related to this Note, Issuer consents to the jurisdiction and venue of any court located in the Polk County in the state of Florida.

SECTION 23. Personal Liability Exemption. No recourse under or upon any obligation, covenant or agreement of this Resolution or the Series 2013 Note or for any claim based thereon or otherwise in respect thereof, shall be had against any City Commission Members, the Mayor, the City Manager, the Clerk and the City Attorney, as such, of the Issuer, past, present or future, either directly or through the Issuer it being expressly understood (a) that no personal liability whatsoever shall attach to, or is or shall be incurred by, the City Commission Members, the Mayor, the City Manager, the Clerk and the City Attorney, as such, of the Issuer, under or by reason of the obligations, covenants or agreements contained in this Resolution or implied therefrom, and (b) that any and all such personal liability, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such City Commission Member, the Mayor, the City Manager, the Clerk and the City Attorney, as such, are waived and released as a condition of, and as a consideration for, the execution of this Resolution and the issuance of the Series 2013 Note, on the part of the Issuer.

SECTION 24. Severability. If any provision of this Resolution shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable in any context, the same shall not affect any other provision herein or render any other provision (or such provision in any other context) invalid, inoperative or unenforceable to any extent whatever.

SECTION 25. Rules of Interpretation. Unless expressly indicated otherwise, references to sections or articles are to be construed as references to sections or articles of this instrument as originally executed. Use of the words "herein," "hereby," "hereunder," "hereof," "hereinbefore," "hereinafter" and other equivalent words refer to this Resolution and not solely to the particular portion in which any such word is used.

SECTION 26. Captions. The captions and headings in this Resolution are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Resolution.

SECTION 27. No Third Party Beneficiaries. Except such other persons as may be expressly described in this Resolution or in the Series 2013 Note, nothing in this Resolution or in the Series 2013 Note, expressed or implied, is intended or shall be construed to confer upon any person, other than the Issuer and the Owner, any right, remedy or claim, legal or equitable, under and by reason of this Resolution, or any provision thereof, or of the Series 2013 Note, all provisions thereof being intended to be and being for the sole and exclusive benefit of the Issuer and the persons who shall from time to time be the holders.

SECTION 28. Applicable Provisions of Law. This Resolution shall be governed by and construed in accordance with the laws of the State of Florida.

SECTION 29. Repealer. All resolutions or parts thereof in conflict herewith are hereby repealed.

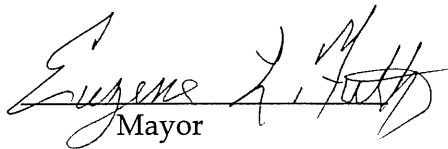
SECTION 30. Effective Date. This Resolution shall be effective immediately upon its adoption.

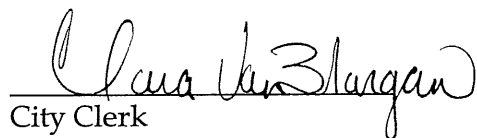
DULY RESOLVED this 17th day of September, 2013.

CITY COMMISSION OF THE CITY OF
LAKE WALES, FLORIDA

(SEAL)

ATTEST:


Mayor


City Clerk

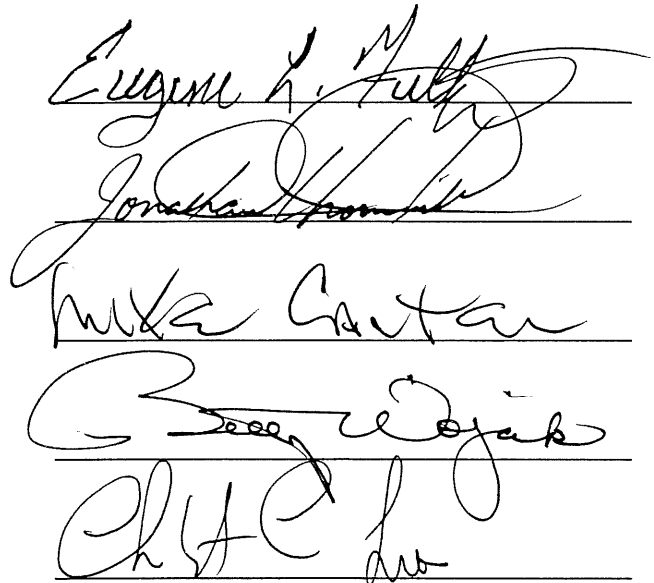
**CERTIFICATE AS TO PUBLIC MEETINGS
AND NO CONFLICT OF INTEREST**

Each of the undersigned members of the City Commission (the "Commission") of the City of Lake Wales, Florida (the "City"), recognizing that the purchaser of the not to exceed \$1,700,000 in aggregate principal amount of Ascending Lien Capital Improvement Revenue Note, Series 2013 (the "Note"), will have purchased said Note in reliance upon this Certificate, DOES HEREBY CERTIFY:

(1) that he or she has no personal knowledge that any two or more members of the Commission, meeting together, reached any prior conclusion as to whether the actions taken by the Commission, with respect to said Note, the security therefor and the application of the proceeds thereof, should or should not be taken by the Commission or should or should not be recommended as an action to be taken or not to be taken by the Commission, except at public meetings of the Commission held after due notice to the public was given in the ordinary manner required by law and custom of the Commission;

(2) that he or she does not have or hold any employment or contractual relationship with STI Institutional & Government, Inc., which is purchasing the Note from the Issuer.

IN WITNESS WHEREOF, we have hereunto affixed our official signatures as of this 19th day of September, 2013.



The block contains five handwritten signatures, each written over a horizontal line. From top to bottom, the signatures are: Eugene H. Fulk, Jonathan H. Brown, Mike Carter, [unclear], and [unclear].

EXHIBIT A

TERM SHEET OF ORIGINAL PURCHASER

EXHIBIT B

FORM OF PURCHASER'S CERTIFICATE

This is to certify that STI Institutional & Government, Inc. (the "Purchaser") has not required the City of Lake Wales, Florida (the "Issuer") to deliver any offering document and has conducted its own investigation, to the extent it deems satisfactory or sufficient, into matters relating to business affairs or conditions (either financial or otherwise) of the Issuer in connection with the issuance of the \$1,700,000 City of Lake Wales, Florida Ascending Lien Capital Improvement Revenue Note, Series 2013 (the "Note"), and no inference should be drawn that the Purchaser, in the acceptance of said Note, is relying on Bryant Miller Olive P.A. ("Note Counsel") or Albert C. Galloway, Jr., P.A. ("City Attorney") as to any such matters other than the legal opinions rendered by Note Counsel and by the City Attorney. Any capitalized undefined terms used herein not otherwise defined shall have the meaning set forth in Resolution No. 13-08 adopted by the City Commission of the Issuer on September 17, 2013 (the "Resolution").

We acknowledge and understand that the Issuer has determined that the Resolution is not required to be qualified under the Trust Indenture Act of 1939, as amended (the "1939 Act"), and that the Note is not required to be registered in reliance upon the exemption from registration under Section 3(a)(2) of the Securities Act of 1933, Section 517.051(1), Florida Statutes, and/or Section 517.061(7), Florida Statutes, and that the Issuer has further determined that neither the Issuer, Note Counsel nor the City Attorney shall have any obligation to effect any such registration or qualification.

We are not acting as a broker or other intermediary, and are purchasing the Note as an investment for our own account and not with a present view to a resale or other distribution to the public. We understand that the Note may not be transferred except to an "accredited investor" as described below, in minimum denominations of \$100,000 and other restrictions set forth in the Note.

We are a bank, trust company, savings institution, insurance company, dealer, investment company, pension or profit-sharing trust, or qualified institutional buyer as contemplated by Section 517.061(7), Florida Statutes. We are not purchasing the Note for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of Chapter 517, Florida Statutes.

We are an "accredited investor" as such term is defined in the Securities Act of 1933, as amended, and Regulation D thereunder.

DATED this 19th day of September, 2013.

STI Institutional & Government, Inc.

By: _____
Name:
Title:

EXHIBIT C

FORM OF DISCLOSURE LETTER

The undersigned, as purchaser, proposes to negotiate with the City of Lake Wales, Florida (the "Issuer") for the private purchase of the \$1,700,000 City of Lake Wales, Florida Ascending Lien Capital Improvement Revenue Note, Series 2013 (the "Note"), as authorized by Resolution No. 13-08 adopted by the City Commission of the Issuer on September 17, 2013 (the "Resolution"). Prior to the award of the Note, the following information is hereby furnished to the Issuer:

1. Set forth is an itemized list of the nature and estimated amounts of expenses to be incurred for services rendered to us (the "Bank") in connection with the issuance of the Note (such fees and expenses to be paid by the Issuer):

Holland & Knight LLP
Bank Counsel Fees -- \$3,500

2. (a) No fee, bonus or other compensation is estimated to be paid by the Bank in connection with the issuance of the Note to any person not regularly employed or retained by the Bank (including any "finder" as defined in Section 218.386(1)(a), Florida Statutes).

(b) No person has entered into an understanding with the Bank, or to the knowledge of the Bank, with the Issuer, for any paid or promised compensation or valuable consideration, directly or indirectly, expressly or implied, to act solely as an intermediary between the Issuer and the Bank or to exercise or attempt to exercise any influence to effect any transaction in the purchase of the Note.

3. The amount of the underwriting spread expected to be realized by the Bank is \$0.

4. The management fee to be charged by the Bank is \$0.

5. Truth-in-Bonding Statement:

The City of Lake Wales, Florida is proposing to issue \$1,700,000 of debt or obligation for the primary purpose of financing the acquisition and construction of a fire substation and cemetery. The Note is expected to be repaid over a period of approximately 15 years. At a fixed interest rate of 2.91%, total interest paid over the life of the Note will be approximately \$449,813.

The source of repayment or security for this proposal is the Public Service Tax, the Communication Service Tax and the Electric Franchise Fees of the Issuer.

6. The name and address of the Bank is as follows:

STI Institutional & Government, Inc.
200 S. Orange Avenue, SOAB 6
Orlando, FL 32801

DATED this 19th day of September, 2013.

STI Institutional & Government, Inc.

By: _____
Name:
Title:

EXHIBIT D
Form of Note

ANY HOLDER SHALL, PRIOR TO BECOMING A HOLDER, EXECUTE A PURCHASER'S CERTIFICATE IN THE FORM ATTACHED TO THE RESOLUTION (HEREIN DEFINED) CERTIFYING, AMONG OTHER THINGS, THAT SUCH HOLDER IS AN "ACCREDITED INVESTOR" AS SUCH TERM IS DEFINED IN THE SECURITIES ACT OF 1933, AS AMENDED, AND REGULATION D THEREUNDER.

September 19, 2013

\$1,700,000

CITY OF LAKE WALES, FLORIDA
ASCENDING LIEN CAPITAL IMPROVEMENT REVENUE NOTE, SERIES 2013

Maturity Date: October 1, 2028

KNOW ALL MEN BY THESE PRESENTS that the City of Lake Wales, Florida (the "Issuer"), for value received, promises to pay from the sources hereinafter provided, to the order of STI Institutional & Government, Inc., or registered assigns (hereinafter, the "Owner"), the principal sum of \$1,700,000 in the amount and on the date described below, together with interest on the principal balance at a rate of 2.91% multiplied by the Margin Rate Factor (as defined in Schedule I hereto), such interest to be paid semi-annually on each April 1st and October 1st, commencing April 1, 2014. Interest shall be calculated on the basis of twelve 30-day months and a 360-day year. The interest rate hereon shall be subject to adjustment and this Note shall be subject to certain other terms as provided in Schedule I hereto.

Principal on this Note is payable annually in lawful money of the United States of America at such place as the Owner may designate to the Issuer in writing pursuant to the following schedule:

Payment Date (October 1)	Principal Amount
2015	\$100,103
2016	103,016
2017	106,014
2018	109,099
2019	112,274
2020	115,541
2021	118,903
2022	122,363
2023	125,923
2024	129,588
2025	133,359
2026	137,240
2027	141,233
2028	145,344

This Note may not be prepaid for the first two years following its issuance. This Note may be prepaid in whole on any date after such two years at a price equal to the principal amount then outstanding plus accrued interest to the date fixed for prepayment upon seven days' written notice to the Owner.

If any date for the payment of principal and interest hereon or the taking of any action hereunder shall fall on a day which is not a Business Day, the payment due or action to be taken on such date shall be due on the next succeeding day which is a Business Day, but the Issuer shall not receive credit for the payment until it is actually received by the Owner.

All payments by the Issuer pursuant to this Note shall apply first to accrued interest, then to other charges due the Owner, and the balance thereof shall apply to principal.

This Note is issued to finance capital improvements pursuant to the Constitution of the State of Florida, Chapter 166, Florida Statutes, and other applicable provisions of law (the "Act"), the Charter of the Issuer, as amended, Resolution No. 2013-__ adopted by the City Commission of the Issuer on September 17, 2013, (the "Resolution"), and is subject to all the terms and conditions of the Act and the Resolution. All terms, conditions and provisions of the Resolution are by this reference thereto incorporated herein as a part of this Note. Terms used herein in capitalized form and not otherwise defined herein shall have the meanings ascribed thereto in the Resolution.

THIS NOTE SHALL NOT BE OR CONSTITUTE A GENERAL OBLIGATION OR INDEBTEDNESS OF THE ISSUER AS "BONDS" WITHIN THE MEANING OF ARTICLE VII, SECTION 12 OF THE CONSTITUTION OF FLORIDA, BUT SHALL BE PAYABLE SOLELY FROM THE PLEDGED REVENUES IN ACCORDANCE WITH THE TERMS OF THE RESOLUTION. NO HOLDER OF THE NOTE ISSUED HEREUNDER SHALL EVER HAVE THE RIGHT TO COMPEL THE EXERCISE OF ANY AD VALOREM TAXING POWER TO PAY SUCH NOTE, OR BE ENTITLED TO PAYMENT OF SUCH NOTE FROM ANY FUNDS OF THE ISSUER EXCEPT FROM THE PLEDGED REVENUES AS DESCRIBED IN THE RESOLUTION.

This Note is payable solely from and secured by a pledge of the Pledged Revenues and the Franchise Fees received by the Issuer, on a subordinate basis to the Senior Debt Obligations, in the manner provided in the Resolution. The Pledged Revenues are currently pledged to secure the repayment of the Issuer's Capital Improvement Refunding Revenue Note, Series 2003 (the "Series 2003 Note") on a first lien basis and the Franchise Fees are currently pledged to secure the repayment of the Issuer's Refunding Revenue Note, Series 2009 (the "Series 2009 Note", and together with the Series 2003 Note, the "Senior Lien Debt") on a first lien basis. At such time as expressly provided for by the terms of the Resolution, the lien on the Franchise Fees will be released. Upon the repayment in full of the Series 2003 Note, which is expected to occur on about October 1, 2016, the lien on the Pledged Revenues of this Note will become a first lien. Upon the repayment in full of the Series 2009 Note, which is expected to occur on about October 1, 2014, the lien on the Franchise Fees of this Note will become a first lien.

This Note may be exchanged or transferred by the Owner hereof but only upon the registration books maintained by the Issuer and in the manner provided in the Resolution.

This Note does not constitute a general indebtedness of the Issuer within the meaning of any constitutional, statutory or charter provision or limitation, and it is expressly agreed by the Holder of this Note that such Holder shall never have the right to require or compel the exercise of the ad valorem taxing power of the Issuer or taxation of any real or personal property therein for the payment of the principal of and interest on this Note or the making of any debt service fund, reserve or other payments provided for in the Resolution.

The Issuer has entered into certain further covenants with the Holders of this Note for the terms of which reference is made to the Resolution and Schedule I hereto.

It is certified that this Note is authorized by and is issued in conformity with the requirements of the Act.

IN WITNESS WHEREOF, the City of Lake Wales, Florida, has issued this Note and has caused the same to be signed by the Mayor and countersigned and attested to by the City Clerk and its seal to be affixed, impressed, imprinted, lithographed or reproduced hereon, all as of the 19th day of September, 2013.

CITY OF LAKE WALES, FLORIDA

(SEAL)

Mayor

ATTESTED AND COUNTERSIGNED:

City Clerk

SCHEDULE "I"

Adjustments to Rate of Interest

The Note is subject to the additional terms set forth in this Schedule "I", including, without limitation, adjustments to the interest rate on the Note:

Determination of Taxability. Upon the occurrence of a Determination of Taxability and for as long as the Note remains outstanding, the interest rate on the Note shall be converted to the Taxable Rate. In addition, upon a Determination of Taxability, the Issuer shall pay to the Owner (i) an additional amount equal to the difference between (A) the amount of interest actually paid on the Note during the Taxable Period and (B) the amount of interest that would have been paid during the Taxable Period had the Note borne interest at the Taxable Rate, and (ii) an amount equal to any interest, penalties on overdue interest and additions to tax (as referred to in Subchapter A of Chapter 68 of the Code) owed by the Owner as a result of the Determination of Taxability. This adjustment shall survive payment of the Note until such time as the federal statute of limitations under which the interest on the Note could be declared taxable under the Code shall have expired.

Loss of BQ Status. So long as no Determination of Taxability shall have occurred, upon the occurrence of a Loss of BQ Status and for as long as the Note remains outstanding, the Interest Rate on the Note shall be converted to the Adjusted BQ Rate. In addition, upon a Loss of BQ Status, the Issuer shall pay to the Owner (i) an additional amount equal to the difference between (A) the amount of interest actually paid on the Note during the period of time from the date of issuance of the Note to the next succeeding interest payment date after the Loss of BQ Status, and (B) the amount of interest that would have been paid during the period in clause (A) had the Note borne interest at the Adjusted BQ Rate, and (ii) an amount equal to any interest, penalties on overdue interest and additions to tax (as referred to in Subchapter A of Chapter 68 of the Code) owed by the Owner as a result of the Loss of BQ Status.

Definitions

"Adjusted BQ Rate" shall mean, upon a Loss of BQ Status, the interest rate per annum that shall provide the Owner with the same after tax yield that the Owner would have otherwise received had the Loss of BQ Status not occurred, taking into account the Margin Rate Factor and the increased taxable income of the Owner as a result of such Loss of BQ Status. The Owner shall provide the Issuer with a written statement explaining the calculation of the Adjusted BQ Rate, which statement shall, in the absence of manifest error, be conclusive and binding on the Issuer.

"Determination of Taxability" means the occurrence after the date hereof of the adoption or taking effect of any law, rule or regulation that changes the ability of the Holder to exclude all or a portion of the interest on the Note from gross income for Federal income tax purposes, or a final decree or judgment of any Federal court or a final action of the Internal Revenue Service determining that interest paid or payable on all or a portion of any Note is or was includable in the gross income of a Owner for Federal income tax purposes; provided, that no such decree, judgment, or action will be considered final for this purpose, however, unless the Issuer has been given written notice and, if it is so desired and is legally allowed, has been afforded the opportunity to contest the same, either directly or in the name of any Owner, and

{25067/006/00804136.DOCv7}

until the conclusion of any appellate review, if sought.

"Loss of BQ Status" shall mean a determination by the Owner that the Note is not a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code (or any successor provision).

"Margin Rate Factor" shall mean the fraction the numerator of which is equal to one (1) minus the Maximum Federal Corporate Tax Rate on the date of calculation and the denominator of which is 0.65. The Margin Rate Factor shall be 0.65/0.65 or 1.0 so long as the Maximum Federal Corporate Tax Rate shall be 35%, and thereafter shall increase from time to time effective as of the effective date of any decrease in the Maximum Federal Corporate Tax Rate. On the date of execution of the Note, the Margin Rate Factor equals 1.0.

"Maximum Federal Corporate Tax Rate" shall mean the maximum rate of income taxation imposed on corporations pursuant to Section 11(b) of the Code, determined without regard to tax rate or tax benefit make-up provisions such as the last two sentences of Section 11(b)(1) of the Code, as in effect from time to time (or, if as a result of a change in the Code the rate of income taxation imposed on corporations shall not be applicable to the Noteholder, the maximum statutory rate of federal income taxation which could apply to the Noteholder). The Maximum Federal Corporate Tax Rate on the date of execution of the Note is 35%.

"Taxable Period" shall mean the period of time between (a) the date that interest on the Note is deemed to be includable in the gross income of the owner thereof for federal income tax purposes as a result of a Determination of Taxability, and (b) the date of the Determination of Taxability and after which interest on the Note is accruing and being paid at the Taxable Rate.

"Taxable Rate" shall mean, upon a Determination of Taxability, the interest rate per annum that shall provide the Owner with the same after tax yield that the Owner would have otherwise received had the Determination of Taxability not occurred, taking into account the increased taxable income of the Owner as a result of such Determination of Taxability. The Owner shall provide the Issuer with a written statement explaining the calculation of the Taxable Rate, which statement shall, in the absence of manifest error, be conclusive and binding on the Issuer.