

## **MEMORANDUM**

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**DATE:** February 10, 2014

**TO:** Honorable Mayor and City Commission

**FROM:** Kenneth Fields, City Manager

**RE:** Ordinance 2014-02, Amendment to Ethics Ordinance City Code Section 1-23(b) – 2<sup>nd</sup> Reading & Public Hearing

**SYNOPSIS:** Ordinance 2014-02 amends Ordinance 2011-06, which provided for more stringent standards of ethical conduct by a city commissioner, appointed official or officer, or employee.

### **RECOMMENDATION**

The recommendation is for the City Commission to approve after second reading and public hearing Ordinance 2014-02 that will:

1. Allow a city commissioner, appointed official or officer, or employee to accept a gift of a value not exceeding Fifty US Dollars (\$50.00) from a person or entity transacting business with the City; and
2. Require a city commissioner, appointed official or officer, or employee that accepts a gift exceeding the limit of Fifty US Dollars (\$50.00) to file a report with the City Clerk, on a form provided by the City Clerk, within 30 days of receipt of such gift for maintaining such gift(s) received.

The City Commission approved first reading of Ordinance 2014-02 on February 18, 2014 to include a revision requiring that the reporting requirement to the City Clerk be within 30 days of receipt of such gift exceeding the limit.

Public Notice for second reading and public hearing was advertised on Saturday, February 22, 2014 in the News Chief.

### **BACKGROUND**

The current Ethics Ordinance 2011-06 (City Code Section 1-23(b)) does not allow a city commissioner, appointed official or officer, or employee to either solicit or demand any gift, or accept “a gift of any value (emphasis added) from a person or entity transacting business with the city,” such as bottled water, a cup of coffee, business lunch or meal, or award or gift sponsored by a private business in conjunction with a civic or professional event. This strict prohibition can result in a technical violation, which can sometimes be unavoidable or attempting to be in conformance with the code can impinge on normal business practices and relations.

In the event a gift exceeds a value of Fifty US Dollars (\$50.00), the recipient shall, within 30 days of receipt of such gift, report the gift to the City Clerk who shall be responsible for maintaining a record of such gift(s) received by a City Commissioner, appointed official or officer, or employee.

### **OTHER OPTIONS**

The City Commission could choose not to amend its ethics ordinance and continue to enforce its more stringent standards of ethical conduct for a city commissioner, appointed official or officer, or employee.

### **FISCAL IMPACT**

There is no fiscal impact.

### **ATTACHMENTS**

Ordinance 2014-02  
City Charter Sec. 3.01

## ORDINANCE 2014-02

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING ORDINANCE 2011-06 WHICH PROVIDED FOR MORE STRINGENT STANDARDS OF ETHICAL CONDUCT BY AMENDING THE SAID ORDINANCE TO PROVIDE FOR ACCEPTANCE OF MINIMAL GIFTS AND A REPORTING REQUIREMENT FOR GIFTS WHICH EXCEED THE ESTABLISHED MINIMUM; AND PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the City Commission of the City of Lake Wales by adoption of Ordinance 2011-06 imposed, in some instances, more stringent ethical standards than those set forth in the Code of Ethics found within Chapter 112, Florida Statutes; and

WHEREAS, the City Commission over time has determined that the gift prohibition provision of Ordinance 2011-06 is overly stringent in its effects on everyday practices in that it precludes the acceptance of any item, including a bottle of water or cup of coffee; and

WHEREAS, the City Commission desires to implement a workable restriction on the acceptance of gifts which will apply to members of the City Commission, as well as to all other elected and appointed officials of the City, and its employees.

NOW THEREFORE, the City of Lake Wales, by and through its City Commission, does hereby amend only the following provision of the Lake Wales Conflict of Interest and Code of Ethics Ordinance:

1. *Prohibitions:*

(b) **GIFTS:** No City Commissioner, appointed official or officer, or employee shall either solicit or demand any gift. It is also unlawful for any person or entity to offer, give or agree to give a City Commissioner, appointed official or officer, or employee any gift for or because of:

- 1) An official public action taken or to be taken, or which could be taken;
- 2) A legal duty performed or to be performed, or which could be performed, or
- 3) A legal duty violated or to be violated or which could be violated.

A City Commissioner, appointed official or officer, or employee shall be allowed to accept a gift of a value not exceeding Fifty US Dollars (\$50.00) from a person or entity transacting business with the City.

In the event a gift exceeds a value of Fifty US Dollars (\$50.00), the recipient shall, within 30 days of receipt of such gift, report the gift to the City Clerk who shall be responsible for maintaining a record of such gift(s) received by a City Commissioner, appointed official or officer, or employee. Reporting form provided by City Clerk.

Exceptions to the above rule include: political contributions specifically authorized by state law; gifts from relatives or members of one's household; awards for professional or civic achievement; materials such as books, reports, periodicals or pamphlets which are solely informational or of an advertising nature; gifts solicited by a City Commissioner, appointed official or officer, or employee on behalf of the City in performance of his or her official duties for use solely by the City in conducting its official business; gifts solicited by a City Commissioner on behalf of any nonprofit organization where neither the Commissioner nor the Commissioner's immediate family receives any compensation as a result of the solicitation.

This Ordinance shall become effective immediately upon adoption.

**CERTIFIED AS TO PASSAGE AND ADOPTION** this \_\_\_\_ day of \_\_\_\_\_, 2014.

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Eugene Fultz, Mayor  
City of Lake Wales, Florida

Attest:

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City Clerk

Prepared by:  
Albert C. Galloway, Jr.  
City Attorney  
Albert C. Galloway, Jr., P.A.  
P.O. Box 3339  
Lake Wales, FL 33859-3339

**CITY CHARTER Sec. 103. Ethics policy.**

The city commission of the City of Lake Wales may, by ordinance, impose upon its officers, both elected and appointed, and its employees additional or more stringent standards of ethical conduct and disclosure requirements than currently exist by law, provided that those standards and requirements do not otherwise conflict with law or the provisions of the Charter. In the event such standards or requirements are adopted, the said standards or requirements may only be revised or repealed by a super majority vote of the city commission.  
(Ord. No. 2011-01, § 1, 2-1-11)