

The meeting of the Lake Wales City Commission was held on March 17, 2015 in the Commission Chambers at the Municipal Administration Building. The meeting was called to order by Mayor Fultz at 6:00 p.m. following the invocation and the Pledge of Allegiance.

#### **INVOCATION**

The invocation was given by Dr. Jim Moyer.

#### **PLEDGE OF ALLEGIANCE**

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

**COMMISSIONERS ABSENT:** Betty Wojcik

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

[Full staff memos are incorporated into the minutes. Meetings are recorded, but not transcribed verbatim.]

#### **MAYOR**

**Agenda Item 5. PROCLAMATION: Mayors National Service Recognition Day; April 7, 2015**

Mayor Fultz presented a proclamation establishing April 7, 2015 as National Service Recognition Day.

**PROCLAMATION: Water Conservation Month; April 2015**

Mayor Fultz presented a proclamation to Holly Britt, Chief Water Operator for the City of Lake Wales, establishing April 2015 as Water Conservation Month.

#### **ANNUAL REPORT**

#### **PRESENTATIONS**

#### **COMMUNICATIONS AND PETITIONS**

Sue Smith, 919 Carlton Avenue, reviewed the injunction issued to Ms. Mimi Hardman last September preventing items being taken from the museum. She said there was no follow up to this and said that it was disheartening the way City does business. She reviewed the past transfer of the Depot Museum Complex from the Historic Lake Wales Society, Inc. was improperly done as the \$10 was not paid, it was not the fair market value and no appraisal was done as required when property is donated. She said that the City Attorney should have known this and this is part of a hostile takeover of the museum.

Rocky Haag, with State Representative Mike LaRosa's office, located at 1224 10<sup>th</sup> Street in St. Cloud, announced that Mike LaRosa was currently in Tallahassee for the legislative session and will be fighting hard for Lake Wales. He introduced Matt McBride the new District Secretary who will now be working in an office located at the Lake Wales Municipal Administration Building. Mr. McBride said he is happy to be here in Polk County and looks forward to meeting everyone.

Gary Gose, Commander of the VFW Post at 200 W Central Avenue, announced that a representative from the South Korean government will be here to present 11 Korean War veterans a medal for their service in

the Korean War. This will be on Saturday the 28<sup>th</sup> at 10:30am. All are invited. An inaugural Poker Run will be held for TJ Murphy who passed away last year. This event will raise money for scholarships in his name. Mayor Fultz asked if there would be someone from the county there as well. Mr. Gose confirmed there would be 3 county commissioners and a representative from State Representative Mike Larosa's office and State Representative John Wood's office.

Mimi Hardman, 300 S. Lake Shore Blvd., said she was not notified that the City was going to take over the buildings. She was never notified legally and is disappointed with how it happened. She has worked 40 years every day. She has been to Tallahassee several times and serves on the State Historic Preservation board. The task force has now dissolved and she asked that they voted to reopen the museum as it was not on the agenda when it was decided previously. This is a black eye on Lake Wales and is embarrassed for all of the Commission. She introduced board member Jack Neal and encouraged them to move forward.

### **CONSENT AGENDA**

**Agenda Item 6. APPROVAL OF MINUTES: March 3, 2015, regular meeting**

**Agenda Item 7. Office Space Lease Renewal – FSBDC, University of South Florida Board of Trustees**

[Begin Agenda Memo]

### **SYNOPSIS**

The approval will allow Florida SBDC to continue leasing office space in the City of Lake Wales Municipal Administration Building for \$1.00.

### **RECOMMENDATION**

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

1. Approve the amended Lease agreement renewal with the University of South Florida College Board of Trustees, a public body corporate, to provide office space to FSBDC for a term beginning February 1, 2015 through January 31, 2016 for \$1.00.

The City Commission approved the original Lease on February 4, 2014 for a term beginning February 5, 2014 through January 31, 2015 for \$1.00.

Hours of operation will be Monday through Friday, 8:00 a.m. to 5:00 p.m.

### **BACKGROUND**

The Florida SBDC network is a statewide partnership of higher education, economic development organizations, and other sponsors dedicated to the economic prosperity of Florida. Funded in 1976 by the U.S. SBA, the program successfully links Florida's education system with community outreach to aid in the development and education of the state's entrepreneurs and small business community. As the only statewide provider of entrepreneurial services, the SBDC plays a vital role in Florida's economic development initiatives by assisting entrepreneurs in all stages of business; working with firms in all industry sectors; utilizing the expertise and resources of some of the best universities and colleges in Florida; accessing the resources of national network of more than 5,000 SBDC professionals; and accrediting through the National Association of SBDCs.

State designated as Florida's Principal Provider of Business Assistance, the Florida SBDC Network has more than 35 years of experience helping businesses grow and succeed. Florida SBDCs have assisted hundreds of thousands of potential and existing business owners by providing management advice,

training, and information needed to make sound business decisions in a complex and ever-changing marketplace. With partners ranging from institutions of higher learning to federal, state, and local governments to private organizations, and funding from the U.S. Small Business Administration, Florida SBDCs offer this business management and technical assistance through no-cost consulting and low-cost training for entrepreneurs. Services include strategic market research, business and strategic plan development, market and revenue growth strategy development and implementation, capital access and loan packaging, financial analysis and assessment, accounting systems and financial literacy, and feasibility analysis and start-up assistance.

The Florida SBDC would like to continue providing this vital program to the City of Lake Wales and its citizens by requesting the City Commission approve the Lease agreement renewal for office space at the Lake Wales Municipal Administration Building for a term beginning February 1, 2015 through January 31, 2016 for \$1.00. Hours of operation will be Monday through Friday, 8:00 a.m. to 5:00 p.m. The City will provide telephone, internet, electric, and water utilities for Lessee. The annual \$1.00 will offset this cost. The lease does not include training class space.

#### **OTHER OPTIONS**

Do not approve the lease as proposed.

#### **FISCAL IMPACT**

The lease will generate \$1.00 in annual revenue that will offset the cost of telephone, internet, electric, and water utilities for Lessee.

[End Agenda Memo]

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

By Voice Vote:

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

The motion carried 4-0.

#### **OLD BUSINESS**

**Agenda Item 8.                   ORDINANCE 2015-02, Zoning Amendment, PDP Building Setbacks – 2<sup>nd</sup>  
Reading & Public Hearing**

[Begin Agenda Memo]

#### **SYNOPSIS**

Minimum building setbacks from project property lines in residential Planned Development Projects (PDPs) are proposed for amendment to allow more flexibility in designing developments.

#### **RECOMMENDATION**

At its December 10, 2014 meeting, the Planning Board voted to recommend the changes in Sec. 23-443.1 subsec.(e) 1 & 2 as set forth in Ordinance 2015-02. Staff recommends an additional change by adding subsec. (e) 3.

A first reading of the ordinance was approved by City Commission at its March 3, 2015 meeting.

The notice requirements for a public hearing have been met.

## **BACKGROUND**

The ordinance will amend the minimum setbacks from project property lines required for buildings in residential Planned Development Projects (PDPs). The minimum setbacks were enacted to buffer adjacent properties from developments not meeting standard subdivision requirements. As the code reads now, the minimum design standards (in section 23-443.1) cannot be waived. The minimum setback is currently 35 feet.

The amendments will exempt houses on lots meeting the subdivision requirements for the zoning district from the additional PDP setback. It will also allow waivers for one-story single-family houses on non-standard lots if not detrimental to the surrounding properties.

The amendments were prompted by the Planning Board's review of Leoma's Landing in 2014. The PDP setbacks were found to be too large for some single-family lots.

As part of the approval of Leoma's Landing, the City Commission voted to make adjustments to the minimum requirements as suggested by the Planning Board to allow flexibility. In Leoma's Landing, rear setbacks along the Dinner Lake Shores' property line were "pre-approved," pending an amendment to the ordinance. The setbacks approved for Leoma's Landing meet or exceed the setback required in the R-3 district, but do not meet the 35-ft. minimum required under the existing ordinance.

Following is condition #8 for Leoma's Landing, approved May 20, 2014 by City Commission:

### **SETBACK FROM PROJECT PROPERTY LINES**

In addition, the Planning Board recommends that sec. 23-443.1.e. of the zoning regulations be amended to reduce the required setback (now 35 feet) from project property lines for single-family dwellings in PDPs. The Board further recommends that the setbacks from project property lines as proposed by the developer for lots along the eastern property line of Leoma's Landing be accommodated in the amendment, provided the houses are limited to one story:

- For lots 61 through 78 rear setback of 25 feet (abutting Dinner Lake Shores)
  - For lots 81 through 90 rear setback of 24 feet (abutting Dinner Lake Shores)
  - For lots 1 through 7 rear setback of 19 feet (at C. F. Kinney Rd. entrance)
- As shown on plan dated March 14, 2014 and reviewed by the Planning Board.

The amendments proposed in the ordinance will accommodate the setbacks pre-approved for Leoma's Landing and will apply to all new residential PDPs. Waivers can only be granted as part of a PDP approval by City Commission.

Staff recommends an additional provision (subsec. 3) allowing waivers of the front setback on a lot in a residential PDP to allow for a neo-traditional development. Front setbacks can be reduced in a PDP under the current ordinance, but not along a road which is also a project property line.

[End Agenda Memo]

City Clerk Clara VanBlargan read **ORDINANCE 2015-02** by title only.

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING THE MINIMUM BUILDING SETBACK REQUIREMENTS FOR RESIDENTIAL PLANNED DEVELOPMENT PROJECTS IN THE LAKE WALES CODE OF ORDINANCES, CHAPTER 23, ZONING, LAND USE AND DEVELOPMENT REGULATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE**

**OPENED PUBLIC HEARING**

There were no comments from the public.

**CLOSED PUBLIC HEARING**

Commissioner Howell made a motion to adopt **ORDINANCE 2015-02** after second reading and public hearing. Deputy Mayor Lutton seconded.

By Roll Call Vote:

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

The motion carried 4-0.

**Agenda Item 9.           ORDINANCE D2015-02, Small Scale CPA and Zoning, Sunshine Agriculture, Inc. Property – NE corner of US27 and Hunt Bros. – 2<sup>nd</sup> Reading & Public Hearing**

[Begin Agenda Memo]

**SYNOPSIS**

Sunshine Agriculture, Inc. is requesting amendments to the Future Land Use Map (FLUM) and Zoning Map designations for property in the City, located on the northeast corner of US 27 and Hunt Brothers Road.

**RECOMMENDATION**

Ordinance D2015-02 was approved after first reading on March 3, 2015. A public hearing is required with the second reading of the ordinance. Public notice requirements have been met.

At their February 24, 2015 meeting, the Planning Board voted to recommend the amendments to the FLUM and Zoning Map designations as set forth in Ordinance D2015-02 and shown on Attachment A.

**BACKGROUND**

The property is located on the northeast corner of US 27 and Hunt Brothers Road. A ten (10) acre parcel is being sold to LOVE'S Travel Stop for the development of a truck stop. The land use and zoning designation lines do not currently align with the property to be sold. This is the result of the configuration established through the master plan for the now defunct Mayfair development.

It is the desire of the property owner to swap designations on two equal 2-acre portions of property to align the land use and zoning designations with the parcel boundaries.

As illustrated in "Attachment A" the parcels involved in the amendment are triangular in shape and approximately 2 acres a piece in size. The parcel located to the north of the parcel to be sold and designated BPC/C-3 will be re-designated MDR/R-1A to match the remainder of the parcel identified as PID# 27-30-14-000000-031000. The other is a portion of the property to be sold and located directly east of the existing land use and zoning designation line. This portion will be re-designated from MDR/R-1A to BPC/C-3.

This is a Small Scale Amendment as total acreage included in the re-designation is less than 10 acres. This type of amendment is adopted by the city without review by the state according to the 2011 amendments to Ch. 163 of FL statutes.

[End Agenda Memo]

City Clerk Clara VanBlargan read **ORDINANCE D2015-02** by title only.

**AN ORDINANCE OF THE CITY OF LAKE WALES, FLORIDA, AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN AND THE ZONING MAP TO CHANGE LAND USE DESIGNATIONS ON APPROXIMATELY 4 ACRES OF LAND IN TWO PARCELS LOCATED EAST OF US HIGHWAY 27 AND NORTH OF HUNT BROTHERS ROAD, ONE PARCEL FROM MEDIUM DENSITY RESIDENTIAL MDR/R-1A TO BUSINESS PARK CENTER BPC/C-3 AND THE OTHER FROM BUSINESS PARK CENTER BPC/C-3 TO MEDIUM DENSITY RESIDENTIAL MDR/R-1-A; AND PROVIDING FOR AN EFFECTIVE DATE.**

#### **OPENED PUBLIC HEARING**

There were no comments from the public.

#### **CLOSED PUBLIC HEARING**

Commissioner Howell made a motion to adopt **ORDINANCE D2015-02** after second reading and public hearing. Commissioner Thornhill seconded.

By Roll Call Vote:

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

The motion carried 4-0.

#### **NEW BUSINESS**

**Agenda Item 17.           ORDINANCE 2015-03, Operating of Radios or Other Mechanical Sound Making Devices or Instruments in Motor Vehicles – 1<sup>st</sup> Reading**

[Begin Agenda Memo]

#### **SYNOPSIS**

Staff is recommending a change to the Code of Ordinances by repealing City of Lake Wales Ordinance 2011-13.

#### **RECOMMENDATION**

Staff recommends that the City Commission approve Ordinance 2015-03, after first reading, repealing Ordinance 2011-13, concerning noise emanating from motor vehicles.

The repeal of the City's Ordinance will allow for enforcement of Polk County Ordinance 2014-073 within the municipal limits by any law enforcement officer. Enforcement of Polk County Ordinance 2014-073 will provide for county wide uniformity in enforcement and the enhancements for repeat violators will apply regardless of where an offender is cited in Polk County.

## **BACKGROUND**

A recent decision of the Second District Court of Appeal in the case of State of Florida vs. Richard Catalano et.al. (2<sup>nd</sup> DCA, Case No. 2D1-973) has ruled that the Florida Statute concerning loud music from motor vehicles is unconstitutionally vague and thus unenforceable. Our city ordinance at that time which dealt with sound making devices in vehicles mirrored the provisions of State Statute and as such suffered the same infirmities as the statute. The critical failures of the Statute, as the Court saw them, are that it seeks to prohibit content-based speech which is in violation of the First Amendment of the Constitution of the United States and that the term "Plainly Audible" as used in the statute was not sufficiently defined to prevent an arbitrary enforcement of the law. The Court reasoned that by providing exemptions to the statute for Political or Business related purposes, the statute had the effect of encouraging a subjective standard to be placed on the noise rather than a uniform restriction of the noise.

As a result, on August 16, 2011, the City Commission adopted Ordinance 2011-13 which moved the restriction of noise from vehicles from the nuisance chapter of the Lake Wales Code of Ordinances and placed it in the Traffic section of the Code of Ordinances for the purpose of narrowly defining the conduct sought to be prohibited and provided clear direction as to the standards which enforcement personnel used to uniformly enforce the provisions of the ordinance inside the city limits of Lake Wales. The standards found in the County's recently adopted ordinance are very similar to those found in the City's ordinance to be repealed.

Repealing City Ordinance 2011-13 will provide for county wide uniformity in enforcement and the enhancements for repeat violators will apply regardless of where an offender is cited in Polk County.

Staff recommends approval.

## **OTHER OPTION**

The Commission may choose not to repeal the current City Ordinance.

## **FISCAL IMPACT**

None

[End Agenda Memo]

City Clerk Clara VanBlargan read **ORDINANCE 2015-03** by title only.

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING LAKE WALES CODE OF ORDINANCES CHAPTER 20, SECTION 20.5, TRAFFIC AND MOTOR VEHICLES, DIVISION 3, NOISE CONTROL, BY REPEALING ORDINANCE 2011-13; PROVIDING FOR REPEAL OF ANY CONFLICTING ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE.**

Commissioner Howell asked about enforcement and penalty if the county ordinance is violated. Chief Velasquez explained that someone playing music too loud from their vehicle could be cited. He explained that this ordinance repeals our ordinance and puts us under the county ordinance providing uniformity throughout the area so that the penalty can be increased for repeat violations.

**OPENED PUBLIC COMMENT**

There were no comments from the public.

**CLOSED PUBLIC COMMENT**

Commissioner Thornhill made a motion to approve **ORDINANCE 2015-03** after first reading. Commissioner Howell seconded the motion.

By Roll Call Vote:

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

The motion carried 4-0.

**CITY MANAGER**

**Agenda Item 11. City Commission Tracking Report:**

No report.

**Agenda Item 12. City Commission Calendar**

Mayor Fultz announced that the next City Commission meeting is Wednesday April 8<sup>th</sup> due to the Municipal Election to be held on April 7<sup>th</sup>. He encouraged everyone to vote.

**Agenda Item 13. Annual Reporting – Boards, Commissions, and Committees**

**CITY COMMISSION COMMENTS**

**MAYOR COMMENTS**

The meeting was adjourned at 6:33p.m.

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Mayor/Deputy Mayor

ATTEST:

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City Clerk Clara VanBlargan, MMC