

City Commission Meeting Minutes
February 20, 2018
(APPROVED)

2/20/2018 - Minutes

1. INVOCATION

Dr. Jim Moyer gave the invocation.

2. PLEDGE OF ALLEGIANCE

3. CALL TO ORDER

The Mayor called the meeting to order at approximately 6:00 p.m. after the invocation and pledge of allegiance.

4. PROCLAMATIONS AND AWARDS

5. ROLL CALL

Commission Members Present: Eugene Fultz - Mayor, Curtis Gibson, Flora "Tonya" Stewart, Terrye Howell, Robin Gibson - Deputy Mayor

Staff Present: Kenneth Fields, City Manager; Albert C. Galloway, Jr., City Attorney; Jennifer Nanek, City Clerk

6. PRESENTATION/REPORT

7. COMMUNICATIONS AND PETITIONS

Tina Peak, Director of Library and Museum Resources, introduced Jennifer D'hollander who is the new Director at the Depot Museum. Ms. D'hollander introduced herself and shared her plans for the museum.

David Smith, non-resident, stated that he and some others worked for Terrye Howell to qualify for election by collecting petitions. He expressed support for Commissioner Howell.

Danny Sanchez, resident, said that he has been here about a year. He expressed concern that business is bad downtown and that the community is dying. He also expressed concern about the grand hotel that it has been sitting 10 years. It needs to get up and running which will help downtown. He says we need to care about the community and not let it die. The system is too slow.

Diane Armington, non-resident and downtown business owner, said thank you to the City for the effort being put in downtown. The streets are being maintained and the new trail and parking are that are in progress.

Ray Levin, resident, says he is a long time Florida resident. He said he is concerned about the empty buildings around downtown. he said the lines on the streets need to be repainted. He said the Commission is doing good and work together.

David Gross, non-resident, shared a plan for temporary shelters for after a hurricane. These would be made out of cardboard and be water resistant. He hopes to construct some soon and will keep the Commission updated on this project. He hopes to fast track this before the next storm comes.

Larry Bossarte, non-resident, said he was a business owner downtown and he commended the City for their efforts downtown.

8. CONSENT AGENDA

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

Voice Vote:

Commissioner Howell "YES"

Deputy Mayor Robin Gibson "YES"

Commissioner Stewart "YES"

Commissioner Curtis Gibson "YES"

Mayor Fultz "YES"

Motion passed 5 -0.

8.I. Minutes - January 16, 2018

8.II. Purchase Authorization - SEMCO Construction

[Begin Agenda Memo]

SYNOPSIS:

The City Commission will consider authorizing staff to expend funds for the replacement of two baseball dugouts at the Northwest complex.

RECOMMENDATION

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

1. Authorize staff to expend funds in the amount of \$41,950.00 for the replacement of two baseball dugouts at the Northwest complex.
2. Authorize SEMCO Construction, Inc. to complete the work.
3. Authorize a budget amendment in the amount of \$1,950.00.

BACKGROUND

The City Commission approved \$40,000 in the FY17 adopted CIP budget for the replacement of two of the six baseball dugouts at the Northwest complex and subsequently has approved an additional \$40,000.00 in the FY18 adopted CIP budget to replace two more dugouts. This is phase two of a three year plan to replace all six.

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

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

OTHER OPTIONS

1) The City Commission may elect to defer the proposed project.

FISCAL IMPACT

The project cost of \$41,1950.00 requires a budget amendment in the amount of \$1,950.00 which will be funded out of the parks department operating budget.

[End Agenda Memo]

8.III. Special Event Application: Main Street Food Truck Rally

[Begin Agenda Memo]

SYNOPSIS

This is a request by Main Street to have a Food Truck Rally on Park Avenue in conjunction with the Car Show that takes place on the 4th Saturday of each month. The event will include alcohol in the Marketplace parking lot.

RECOMMENDATION

Staff recommends

1. That the City Commission approve the permit request to close Park Avenue from 2pm –9pm on the 4th Saturdays of April, May, June, September and October.
2. That the City Commission approve the serving of alcohol in the Marketplace Parking lot.

BACKGROUND

Lake Wales Main Street currently has a Special Event Permit for the Car Show to take place on the 4th Saturdays of the month from 4pm-8pm. This permit includes closing Stuart Avenue between 1st Street and Scenic Hwy and is good until January 2019.

Lake Wales Main Street would like to combine a Food Truck Rally on Park Avenue between 1st Street and Scenic Hwy during the same time.

OTHER OPTIONS

Do not approve the Special Event Permit modification.

[End Agenda Memo]

8.IV. Grant Application: Energy Efficient Lighting Grant

[Begin Agenda Memo]

SYNOPSIS

The City of Lake Wales is applying to the Florida Department of agriculture and Consumer Services Florida Small Community Energy Efficient Lighting Grant Program to replace lighting on the basketball courts with more energy efficient lighting. A match is not required.

RECOMMENDATION

Staff recommends

1. Approval of grant application to the Florida Small Community Energy Efficient Lighting Grant Program for \$50,000 to replace the lights at the Northwest Complex Basketball Courts with more energy efficient lighting.

2. Authorizing the City Manager to sign all grant related documents.

BACKGROUND

The Florida Department of Agriculture and Consumer Services is seeking grant applications for the Florida Small Community Energy Efficient Lighting Grant Program. This competitive grant program is designed to provide funding to eligible local governments to make energy-efficient upgrades to indoor or outdoor lighting in publicly accessible, community-oriented facilities.

Minimum award: \$50,000 Eligible applicants are limited to local municipalities with a population of up to 50,000. Grant deadline is February 27, 2018.

OTHER OPTIONS

Do not apply for the grant.

FISCAL IMPACT

No match is required. Fiscal Impact Statement is attached.

[End Agenda Memo]

9. OLD BUSINESS

9.I. ORDINANCE 2018-02 Solid Waste Agreement - 2nd Reading And Public Hearing

[Begin Agenda Memo]

SYNOPSIS

Ordinance 2018-02 amends Ordinance 2011-09 by extending the existing solid waste franchise contract with Republic Services for the three-year extension period allowed for under the existing agreement, continuing the provision of an allowable second three year extensions, providing for collection of recyclable materials by the use of wheeled carts, and other modifications as described further below. The two most important modifications are the use of wheeled carts for the collection of recyclable materials, and a reduced monthly charge for vacant properties to cover the costs of collection from such locations if refuse or yard waste is placed for pick-up when unoccupied.

RECOMMENDATION

It is recommended that Ordinance 2018-02 be approved to extend the existing franchise contract with Republic Services as modified.

BACKGROUND

In 2011, the City entered into a franchise contract with Republic Services for the provision of solid waste collection services within the City including domestic solid waste, recyclable materials and yard waste for the period October 1, 2011 to September 30, 2018. This contract provided that it could be extended for two, three year periods by mutual agreement of Republic and the City, including any modifications mutually agreed to by both parties.

In accordance with the existing contract, Republic notified the City of its desire to extend the contract. The City Manager and Republic have agreed, subject to approval by the City Commission, of certain modifications to the contract as contained in the proposed Ordinance 2018-02.

The specific modifications contained in the proposed contract extension are as follows:

- The contract term is extended for one three-year period with an additional three year renewal period allowed until September 30, 2024.
- Waste designated as hazardous or infectious by the U.S. Environmental Protection Agency or any State agency is defined as "Excluded Waste".
- If the contract is canceled, the City cannot take possession of the Contractor's equipment for the balance of the contract or a period of three months.
- The Contractor may request a rate adjustment from the City if the value of recyclables declines by more than twenty percent (20%).
- If a residential property is not receiving utility service because it is vacant or is in "vacation" status, it shall be billed at a "vacation rate" of twenty five percent (25%) of the regular monthly billing rate for solid waste services.
- Solid waste rates shall be adjusted annually based on changes in the Consumer Price Index – All Urban Consumers (Water, Sewer and Trash Collection Services) U.S. Average. The minimum increase shall be 2.5% annually; however, in no event shall the total increase exceed 3%.
- Collection of recyclable materials shall be made using automated pickup of new 65- gallon totes instead of manually loaded 18-gallon bins. Cardboard shall be placed in the new totes.
- There will be a charge for new additional solid waste collection totes above one per household of sixty dollars (\$60.00) plus a delivery fee of forty dollars (\$40.00). There will be no charge for existing additional totes.
- The fuel cost adjustment base is adjusted to current fuel prices.
- Since a local telephone number has been provided as required in the existing contract, the requirement to maintain a local office is eliminated.
- The Contractor is no longer required to supply the City with a roster of employees providing service. The City has never requested such a roster.
- If the Contractor disagrees with a decision of the City Manager with respect to the assessment of liquidated damages, it may appeal such decision to the City Commission.

The proposed monthly rate per household for solid waste and recycling services is competitive with rates being charged other municipalities within Polk County.

The contract extension period will allow the Contractor to recover the cost of upgrading the recyclable collection method by the use of wheeled totes, which will make it easier for households to place recyclables by the curb.

The addition of a "Vacation Rate" will provide for the pickup of yard waste and other items that are placed in front of currently unoccupied residences and vacant lots which are currently not required to be picked up.

OTHER OPTIONS

The City can re-compete the contract for solid waste and recyclable collection services. The current Contractor has maintained an extremely low level of complaints during the current contract period and has been extremely responsive to City requests for additional services to meet unusual circumstances. Re-competing the contract would require extensive staff time and resources with no guarantee that this will result in lower rates, better service or a lack of disruption caused by a change in vendor. The proposed rates are comparable to those of other Polk County municipalities.

FISCAL IMPACT

Inclusion of "vacation" status residential properties billed at twenty five percent (25%) of the regular monthly solid waste billing rate for solid waste services is estimated to provide a net increase in City funding of \$4,980.00 annually.

[End Agenda Memo]

Jennifer Nanek, City Clerk, read **ORDINANCE 2018-02** by title only.

ORDINANCE 2018-02

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING ORDINANCE 2011-09 BY EXTENDING THE INITIAL AGREEMENT PROVIDED THEREBY GOVERNING THE FRANCHISE FOR THE PROVISION OF SOLID WASTE COLLECTION, RECYCLING AND DISPOSAL SERVICES TO REPUBLIC SERVICES OF FLORIDA, L.P.; REVISING THE PROVISION CONCERNING CANCELTION OR ANNULMENT OF THE AGREEMENT; MODIFYING THE CHARGES FOR SERVICES TO BE PROVIDED; REVISING THE DEFINITION OF RESIDENTIAL ACCOUNTS; REVISING THE CHARGES FOR COMMERCIAL ACCOUNTS; REVISING THE CALCULATION OF RESIDENTIAL PAYMENTS FOR SERVICES; REVISING CERTAIN PROVISIONS CONCERNING RECYCLING FOR RESIDENTIAL AND COMMERCIAL SERVICES; REVISING CERTAIN PROVISIONS REGARDING QUALITY OF SERVICE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Fields distributed wording to add into the ordinance regarding handling of complaints.

[Begin additional section]

D. Handling complaints

The Contractor shall perform a service of high quality and keep the number of legitimate complaints to a minimum. The Contractor shall maintain a telephone listing in the name in which he is doing business as a Contractor and provide answering service for those customers needing to contact him between the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, and 8:00 a.m. to 12:00 noon Saturday.

1) In order that the City may be informed of the quality of service, the Contractor agrees to maintain a record of all complaints for inspection by the City. The Contractor agrees to furnish a monthly weekly report of all complaints, listing the name and address of the person complaining, the nature of the complaint, and disposition of such complaint. All complaints whether received in person, by mail or telephone, shall be recorded in triplicate, one (1) copy to go to the City and two (2) copies to be retained by the Contractor. Complaints received before 12:00 noon, shall be serviced before 6:00 p.m. the same day; and complaints after 12:00 noon shall be serviced by 12:00 noon the following day. The Contractor shall notify the City of any unresolved complaints in the weekly report. For each month in which the number of legitimate complaints reaches more than fifteen, whether for garbage or trash, or any other cause, the City shall be entitled to claim liquidated damages of twenty dollars per complaint in excess of 15 per month. Complaint shall be considered unsatisfactorily resolved unless satisfactory disposition of the claim is furnished. The decision of the City Manager shall be final. The Contractor will provide access and training on

"InfoPro" software which will to allow City staff to track and/or directly enter customer complaints into the Contractor's computer system. This system will also allow staff the ability to track the progress and results of customer complaints.

2) City personnel shall direct first time customer complaints to Contractor's customer service personnel. Instances in which customers have previously contacted the Contractor and satisfactory resolution has not been achieved, or in which customers have been redirected to contact the City causing City personnel to become involved in handling solid waste customer complaint issues, the Contractor shall reimburse the City its personnel service costs associated with City staff members involved. The City Manager or his/her designee will calculate personnel service costs. The City's calculation shall be final, conclusive and binding upon both the City and the Contractor. The "personnel service cost" reimbursement shall be deducted from the next scheduled payment(s) to the Contractor and a detailed schedule shall be provided to the Contractor. In the event the Contractor does not agree with the cost deduction, the Contractor may appeal to the City Commission within thirty (30) days of the deduction.

[End additional section]

Mr. Fields introduced Debbie Mullen from Republic Services to give a presentation on what they pick up and what they don't.

Debbie Mullen, Republic Services, shared slides showing what they prefer to see for pick-up and what they don't pick up. She explained that she drove around with our Code Compliance Staff to take these pictures. There are separate trucks that pick up bulk items, recycling, yard waste and regular waste so they can't be mixed up. Its best to have items separated. Construction debris is not covered in the contract. They can pick it up but there is a cost. A few times a year there is a curbside cleanup where bulk items such as appliances or tires are picked up. Tires go to a separate facility. They would be picked up in a curbside clean-up. They do not pickup storm debris that is a separate company. They tag piles that they can't be picked up asking residents to call Republic Services and they are told how to handle that pile. They are now cleaning up vacant lots.

Commissioner Curtis Gibson asked about education of residents about these details. Ms. Mullen says that she has education materials that are distributed and that she goes out to community groups. They and City will work together to educate residents about the new carts that will be rolled out in the fall. They will decide on a day. Mr. Fields said that they City puts information in our Utility Bills, online and our Code Compliance team helps tag certain piles that don't meet requirements.

Commissioner Howell said that one pile has been there since the storm. It has now been picked up. She thanked them for their efforts. Mr. Fields said that contractors who are doing work on your house should include debris removal in their price. This includes tree companies as they should take away the debris.

Ms. Mullen commended the City's Code department. They are great to work with.

Mr. Fields asked for a motion to amend the ordinance to include the additional language.

Commissioner Howell made a motion to amend ORDINANCE 2018-02 to include the additional language. The motion was seconded by Commissioner Stewart.

Roll Call Vote

Commissioner Howell "YES"

Commissioner Stewart "YES"

Commissioner Curtis Gibson "YES"

Deputy Mayor Robin Gibson "YES"

Mayor Fultz "YES"

Motion approved 5 -0.

OPENED FOR PUBLIC COMMENT

Ray Levine, resident, recommended additional trucks and reported a tree that has to be picked up. Mr. Fields said he would address it.

CLOSED FOR PUBLIC COMMENT

Deputy Mayor Robin Gibson made a motion to adopt ORDINANCE 2018-02 as amended after second reading and public hearing. Commissioner Howell seconded the motion.

Deputy Mayor Robin Gibson "YES"

Commissioner Howell "YES"

Commissioner Stewart "YES"

Commissioner Curtis Gibson "YES"

Motion passed 5-0.

10. NEW BUSINESS

10.I. Discussion - City Clerk Position

[Begin Agenda Memo]

SYNOPSIS

The City Commission requested information for discussion on possibly changing the position of City Clerk. This item includes data on other cities in Polk County and around Florida.

RECOMMENDATION

Staff is open to direction from the Commission as to any changes.

BACKGROUND

The City Commission directed staff to gather information from the City Clerk's Association and other cities on who hires and fires the City Clerk and who supervises the City Clerk.

Currently our Charter reads:

"The commission shall appoint an officer of the city who shall have the title of city clerk, and who shall serve during the pleasure of the commission. The city clerk shall serve under the supervision of the city manager and shall give notice of commission meetings to its members and to the public, keep the minutes of its proceedings, and perform such other duties as are assigned by this charter or by the commission, or by the city manager."

Any changes to our charter will have to be by referendum.

OTHER OPTIONS

Leave charter as it is

FISCAL IMPACT

None

[End Agenda Memo]

Kenneth Fields, City Manager, reviewed this item. He said that he is comfortable with the current model or the Clerk being hired and supervised by the City Manager. He is not comfortable with the City Clerk being completely independent and doesn't work well. Mayor Fultz noted that Jill Walker, Executive Assistant from the Florida Association of City Clerks, said that they have no official preference as to who hires or supervises the City Clerk.

Deputy Mayor Robin Gibson said that he talked to the Florida League of Cities and said they had no

preference but said that 65% have the Clerk completely under the City Manager. He said that when the turmoil arose with the former City Clerk they had no supervisory knowledge of what went on. The Clerk is responsible for Public Records and disclosure of Public Documents. We can judge the City Manager on access to City records. Any change can go on next year's ballot.

Commissioner Curtis Gibson said we should just leave the arrangement as is as it has worked for the most part.

Commissioner Howell said that do not evaluate the City Clerk as they do with the City Manager and now the City Attorney. if there are any changes they need to be sure of what the changes are.

Commissioner Curtis Gibson suggested that they evaluate the City Clerk. Commissioner Howell said they should be advised about the evaluation of the Clerk.

Commissioner Stewart said that she had no real personal insight into what was going on at City Hall or what was going on at the City Administration. There does need to be some changes that need to be agreed upon.

Mr. Fields said that he has heard two options. One is making the City Clerk like other employees under the City Manager or present the City Clerk's evaluation to the City Commission for review and discussion. Mr. Fields said he can present the two options to the Commission at a later date. The Commission agreed.

11. CITY CLERK

11.1. Discussion - Commission Vacancy

[Begin Agenda Memo]

SYNOPSIS

This item is to allow for discussion of the vacancy for Seat 3/District 122

RECOMMENDATION

Staff recommends discussion of vacancy of Seat 3/District 122 as no one qualified to run.

BACKGROUND

At the end of qualifying Friday February 16 no one had qualified to run for Seat 3/District 122 currently held by Terrye Howell.

According to our Charter:

From the Lake Wales Charter regarding vacancies on the Commission.

(a) Vacancies. The office of a commission member shall become vacant upon the member's death, resignation, removal from office in any manner authorized by law, or forfeiture of office, such forfeiture to be declared by the remaining members of the commission.

(b) Forfeiture of office. A commission member shall forfeit the office if at any time during the term of office any qualifications for the office prescribed by this charter or by law are lacking.

(c) Filling of vacancies. A vacancy of the commission shall be filled by majority vote of the remaining commission members. The interim commissioner shall serve until the seat is filled in the normal course by the electorate and the next elected commission member takes office.

(d) Extraordinary vacancies. In the event that all members of the commission are removed by death,

disability, law or forfeiture of office, the governor shall appoint an interim commission that shall call a special election and such election shall be governed by the provisions of Article VIII of this charter.

OTHER OPTIONS

Do not discuss the vacancy

FISCAL IMPACT

none

[End Agenda Memo]

Albert Galloway Jr, City Attorney, distributed a written opinion on the matter and reviewed it. He explained that there is no provision for this type of vacancy in our charter or State Statutes. He suggested Commissioner Howell resign on May 1st rather than just not resign. Commissioner Curtis Gibson asked why they couldn't appoint Commissioner Howell now. Mr. Galloway said no because it has to happen when the vacancy occurs which will be May 1st. The seat would be up for election for one year until the 2019 election.

OPENED PUBLIC COMMENT

Clinton Horne, resident, suggested that the Commission should have the right to waive the rule about the noon deadline. The intent should be examined. No one else applied for the seat. He suggested additional opinions on this topic.

David Smith, non-resident, asked Commissioner Howell if she still wants to represent her District. Commissioner Howell said she does. Mr. Smith said they got petitions from her district so the residents still want her to represent them.

CLOSED PUBLIC COMMENT

Commissioner Howell asked if someone filled a vacancy do they still have to live within the district. Mr. Galloway said an appointee would have to reside in the district and be a resident of Lake Wales for a year.

Mr. Fields clarified that at the first meeting in May Commissioner Howell will resign and the City Commission can then reappoint her for one year. She will run next year.

Mr. Fields then asked the Commission if they wished to go forward with the election with just the amendment on the ballot. We will need to repeal the Ordinance recently passed to put the question on the ballot. It costs about \$7000 and there may be a low turnout.

Mayor Fultz said that we have a low turnout for elections anyway.

Commissioner Howell asked how the terms would be reworked to be staggered so that not all the seats are up on the same time. Mr. Fields says he will look into it and see how to stagger the terms as originally intended.

Commissioner Gibson asked where it was written that Commissioner Howell would not be appointed for the full term. Mr. Galloway said it came from the Code of Ordinances and read it. Deputy Mayor Robin Gibson said that the charter says the appointed Commissioner serves the "normal course" until the next election. Mr. Galloway says the code says they serve until the next election. This discrepancy was discussed. Deputy Mayor Robin Gibson said he is concerned about so many seats being up for election at once. Mr. Fields and Mr. Galloway said they would review this matter further.

Deputy Mayor Robin Gibson said in regards to the election that he is concerned about low turnout. Jennifer Nanek, City Clerk, reported that there is normally a 13%-15% turnout for our elections but with just this charter amendment the turnout is projected at 6%. Commissioner Curtis Gibson suggested not having the election as it will be a disservice to people wanting to express their opinion. Commissioner Howell agreed saying let's not have one thing on the ballot.

Deputy Mayor Robin Gibson made a motion to take the amendment off the ballot. Commissioner Howell seconded the motion.

Roll Call Vote:

Deputy Mayor Robin Gibson "YES"

Commissioner Howell "YES"

Commissioner Curtis Gibson "YES"

Commissioner Stewart "YES"

Mayor Fultz "YES"

Motion passed 5 -0.

12. CITY MANAGER

Mr. Fields said that the Art Show is this weekend and the winners of the Flag Design Contest will be announced. They will be presented their checks at the March 6th Commission meeting. There has been good participation in this.

Mr. Fields said that drafts of the CRA plan were distributed to the Commission and a CRA board meeting will be scheduled soon to review it.

He would like to set up a Recreation Workshop to discuss what is going on and get input from the Commission.

12.I. Tracking Report

12.II. Social Media Tracking Report

12.III. Commission Meeting Schedule

12.IV. Other Meetings & Events Calendar

13. CITY COMMISSION COMMENTS

Commissioner Howell asked about the Food Truck event last night. Jennifer Nanek, City Clerk, announced that Chow Down food trucks will be at Lake Wailes Park on the 3rd Mondays from 5pm -9pm.

Commissioner Curtis Gibson said that the City Clerk should be present at the end of qualifying and let potential candidates know if they are missing certain papers. Mr. Fields responded that the City Clerk was handling the State of the city Speech but that the Executive Assistant was present and informed the person who came in what pages were missing. The Deputy City Clerk was out sick.

Mayor Fultz said there isn't a problem as everything will work out. We need to discuss this as there will be 4 seats up next year and we need to focus on voter turnout next year.

Commissioner Stewart asked about possible waiver of the qualifying deadlines. Mr. Fields said we can research it but that can open us up to challenges with a waiver.

Deputy Mayor Robin Gibson reported on the Pension Board and said the Pension Fund is run very well. Wells Fargo handles it well and it is solid. He asked about impact fees on a lot near his house. He thought those were for new development not for development in established areas. Would like information on how they work.

Deputy Mayor Robin Gibson said we need to do something about a community newspaper as communication about events and City issues.

14. MAYOR COMMENTS

15. CITY ATTORNEY

16. ADJOURNMENT

The meeting was adjourned at 8:06 p.m.

Mayor/Deputy Mayor

ATTEST:

Clerk/Deputy City Clerk