

City Commission Meeting Minutes
March 5, 2019
(Draft)

3/5/2019 - 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. ROLL CALL

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

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

5. COMMUNICATIONS AND PETITIONS

Mike Carter, resident, said he has received a memo from City Attorney Albert Galloway, Jr., on the issue concerning contracts over \$35,000 and the continuing construction agreement with SEMCO. He said that RFP 16-423 was sent out to bid with 4 responses and SEMCO was selected. This lets SEMCO complete contracts over \$35,000 without going out to bid. The two ordinances addressed in the memo are in conflict which needs to be cleared up. This contract prevents smaller local businesses from bidding on these projects. He feels this is illegal and not in the best interest of the City of Lake Wales. This requirement is also in the Florida Statute. There is case law that says this cannot be done. Small businesses could bring a lawsuit. He introduced Sara Jones who is attorney.

Sara Jones, resident, said she reviewed the city ordinance and the corresponding state statute and that both say that all contracts over \$35,000 should go out to bid.

Commissioner Stewart asked what section Mr. Carter is referencing. Mr. Carter said 2-418. Commissioner Stewart says that the memo references 2-401 and it appears that the City used both for the 2016 contract. Ms. Jones said she also referenced 2-457.

Mayor Fultz said we can review these sections for any inconsistencies.

Commissioner Howell asked if there is a discrepancy between the State and the City. Mr. Galloway explained that our ordinance is patterned after state law but he has not reviewed the state statute in question. Mr. Fields said that usually state law supersedes local ordinance but home rule allows for some leeway. If there is grant money involved then the procurement process is very detailed. Mr. Fields said that contractual services are allowed to be bid out which went through the bidding process. There are not any construction companies that can handle projects over \$35,000 in Lake Wales and not many in Polk County.

Commissioner Curtis Gibson asked if this is different from how things were handled before. Mr. Fields said that we have a lot more projects these past few years than in the past. There were also hurricane repair projects that were also bid out through a separate bid process and SEMCO also won that contract. Mr. Fields said that each project comes before the Commission for approval.

Mike Carter said we should not take SEMCO's word that their deal is the best deal. We should allow local companies a chance to bid.

Deputy Mayor Robin Gibson asked Mike Carter what Statutes and case law he is referencing. Mr. Galloway said he will review the State Statute and Mr. Carter said he will get the case law. Deputy Mayor Robin Gibson explained that he was concerned about the contract the way it was worded concerning bids from sub-contractors. This wording has since been changed. He expressed concern that SEMCO contracts are not evaluated.

Mayor Fultz said this can be discussed further at another time.

6. CONSENT AGENDA

Deputy Mayor Robin Gibson asked to pull item 6.II the Lease Agreement for the Ford Explorer be pulled.

Commissioner Howell made a motion to approve the consent agenda besides the vehicle lease agreement. Commissioner Stewart seconded the motion.

by voice vote:

Commissioner Howell "YES"

Commissioner Stewart "YES"

Commissioner Curtis Gibson "YES"

Deputy Mayor Robin Gibson "YES"

Mayor Fultz "YES"

Motion Passed 5-0.

6.I. Minutes - February 19, 2019

6.II. Lease Agreement With Mears Motor Leasing/The Bancorp

[Begin Agenda Memo]

SYNOPSIS:

Staff is requesting Commission approval to lease-purchase one (1) 2019 Ford Explorer under the existing master lease agreement with Mears Motor Leasing/The Bancorp.

RECOMMENDATION

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

1. Approve the sixty (60) month lease-purchase of the vehicle on the attached Schedule A from Mears Motor Leasing/The Bancorp.
2. Authorize the City Manager to execute the necessary documents on behalf of the City.
3. Authorize a budget amendment in the amount of \$4,639.02.

BACKGROUND

Staff recommends the lease-purchase of this vehicle for the following reasons:

- If this new vehicle were purchased outright under the Charlotte County, Florida contract, the total purchase price would be \$41,628.75. Under the Mears Motor Leasing/Bancorp agreement, this vehicle can be financed at an annual cost of \$9,278.04. An outright purchase would result in a current-year decrease in cash flow of \$41,628.75, compared to \$4,639.02 (payments for the remainder of FY19).
- As with all purchases, if the City were able to purchase items without the use of financing this would result in the lowest overall cost, but the greatest single annual cash flow decrease.

This vehicle will be purchased under the Charlotte County, Florida contract. Purchases made from the Charlotte County, Florida contract are exempted from the competitive sealed bid requirement outlined in the City's Purchasing Ordinance, Sec. 2-418, which allows the City to capitalize on Charlotte County's economy of scale and reduces the timeline of acquisition.

OTHER OPTIONS

1) An outright purchase would result in a current year decrease of cash flow of \$41,628.75.

FISCAL IMPACT

If the City Commission approves the vehicle lease agreement, the City is committed to yearly lease payments totaling \$9,278.04. If revenues are insufficient in future years, an option would be to return the vehicle under the non-appropriation of funds clause. If it becomes necessary to exercise this option, however, the City would suffer the loss of the vehicle.

A budget amendment is required in the amount of \$4,639.02 to cover the lease for the remainder of FY19.

[End Agenda memo]

Deputy Mayor Robin Gibson asked who this vehicle is for. Mr. Fields said that this is the vehicle for himself approved by the City Commission. He asked about the monthly payment how it compares to his past vehicle allowance. Mr. Fields said this vehicle is \$700 a month which is \$300 more than his allowance has been. Deputy Mayor Robin Gibson said that is different than what was represented. Mr. Fields said the difference with this lease is that the City will own the vehicle after the lease is completed.

Commissioner Howell asked if there are other possible vehicles. Mr. Fields said the Ford Explorer is standard for use by multiple departments. Mr. Fields said the car allowance for the past few years as it wasn't sufficient. He has tracked his mileage for tax purposes over the years. This deduction has now gone away.

James Slaton, Assistant City Manager, said this is an open ended lease that can be structured differently. This was financed like other city vehicles. He said this can be brought back with other options.

Deputy Mayor Robin Gibson said his main concern that this was different than what was originally represented. He said that we as Commissioners rely on City staff to provide correct information.

This item was tabled.

6.III. Rescheduling First City Commission Meeting In April

[Begin Agenda Memo]

SYNOPSIS:

It is necessary for the City Commission to reschedule its first meeting in April due to the April 2, 2019 Municipal Election.

RECOMMENDATION

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

1. Reschedule the first City Commission meeting in April from 6:00 p.m., Tuesday, April 2, 2019 to 6:00 p.m., Wednesday, April 3, 2019 due to the April 2, 2019 Municipal Election.

BACKGROUND

Pursuant to authority provided by F.S. § 100.3605, the City adopted the first Tuesday in April as the date for all regular city elections to fill the office of city commissioner. The City's election this year is on Tuesday, April 2, 2019, which is the same day as the first regular scheduled Commission meeting in April. It is necessary for the Commission to reschedule its first Commission meeting in April from 6:00 p.m., Tuesday, April 2, 2019 to 6:00 p.m., Wednesday, April 3, 2019.

OTHER OPTIONS

The Commission could choose another date.

[End Agenda Memo]

6.IV. CITY COMMISSION FINANCIALS FOR JANUARY 2019

[Begin Agenda Memo]

SYNOPSIS:

The preliminary financial statements report revenues received and expenditures made through the end of January 31, 2019.

The unaudited financial statements for the City of Lake Wales for the Period Ending January 31, 2019 are presented to the City Commission for review.

General Fund (001), page 1:

The General Fund appears to be materially on target with revenue and expenditure expectations.

Transportation Fund (102), page 6:

The Transportation Fund appears to be materially on target with revenue and expenditure expectations.

CRA Fund (105), page 11:

The CRA fund appears to be materially on target with revenue and expenditure expectations.

Library Fund (110), page 16:

The Library Fund appears to be materially on target with revenue and expenditure expectations.

Utility System Fund (403), page 27:

The Utility System Fund appears to be materially on target with revenue and expenditure expectations.

Airport Authority (404), page 30:

The Airport Authority appears to be materially on target with revenue and expenditure expectations.

ATTACHMENTS

Preliminary Financial Statements

[End Agenda Memo]

6.V. State Revolving Funds Loan Agreement Extension WW530330 For SR 60 Sewer Main Western Utilities Expansion

[Begin Agenda Memo]

SYNOPSIS:

Give authorization for the Mayor to sign the State Revolving Loan Fund (SRF) Agreement Amendment 1 for WW530330 for the extension of the sewer lines associated with the State Road 60 Western Expansion. This amendment would extend the contract for an additional year.

STAFF RECOMMENDATION

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

1. Give authorization for the Mayor to sign Amendment 1 associated with SRF agreement WW530330.

BACKGROUND

At the September 20, 2016 City Commission meeting, the commission approved entering into an SRF agreement to accept funding for the construction of the State Road 60 Sewer Main Western Expansion. In the agreement, construction was set to be completed and the first payment was to be made on March 15, 2019. Due to the delay of the land acquisition associated with the Department of Transportation's grade separation project, located west of West Lake Wales Road, extension of the sewer main could not be completed at this time. This delay has been communicated to the SRF representatives and the suggested remedy is to extend the contract dates for up to 6 months. The amendment 1 attached does just that. In order for the amendment to be accepted it must be returned to SRF by March 12, 2019. It is being added to the consent agenda for March 5, 2019 due to there will not be another meeting to approve the amendment prior to the SRF deadline.

Staff recommends commission take the following action; give authorization for the Mayor to sign the Amendment 1 to SRF contract WW530330.

OTHER OPTIONS

Close out the loan agreement to begin making the loan payments at the risk of not having the necessary funding to complete the project at such time the Department of Transportation has completed all land acquisition to increase its right of way for the grade separation.

FISCAL IMPACT

None at this time.

[End Agenda Memo]

6.VI. State Revolving Funds Loan Agreement Extension DW530320 For SR 60 Water Main Western Utilities Expansion

[Begin Agenda Memo]

SYNOPSIS:

Give authorization for the Mayor to sign the State Revolving Loan Fund (SRF) Agreement Amendment 1 for DW530320 for the extension of the water lines associated with the State Road 60 Western Expansion. This amendment would extend the contract for an additional year.

STAFF RECOMMENDATION

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

1. Give authorization for the Mayor to sign Amendment 1 associated with SRF agreement DW530320.

BACKGROUND

At the August 16, 2016 City Commission meeting, the commission approved entering into an SRF agreement to accept funding for the construction of the State Road 60 Water Main Western Expansion. In the agreement, construction was set to be completed and the first payment was to be made on March 15, 2019. Due to the delay of the land acquisition associated with the Department of Transportation's grade separation project, located west of West Lake Wales Road, extension of the water main could not be completed at this time. This delay has been communicated to the SRF representatives and the suggested remedy is to extend the contract dates for up to 6 months. The amendment 1 attached does just that. In order for the amendment to be accepted it must be returned to SRF by March 12, 2019. It is being added to the consent agenda for March 5, 2019 due to there will not be another meeting to approve the amendment prior to the SRF deadline.

Staff recommends commission take the following action; give authorization for the Mayor to sign the Amendment 1 to SRF contract DW530320.

OTHER OPTIONS

Close out the loan agreement to begin making the loan payments at the risk of not having the necessary funding to complete the project at such time the Department of Transportation has completed all land acquisition to increase its right of way for the grade separation.

[End Agenda Memo]

7. OLD BUSINESS

- 7.1. Ordinance 2019-03 Annexation – 2nd Reading And Public Hearing Right-Of-Way For Hunt Brothers Road

[Begin Agenda Memo]

SYNOPSIS:

The annexation of the subject rights-of-way will bring into the incorporated city limits portions of both Hunt Brothers Road and Lake Bella Road for Public Safety jurisdictional purposes.

RECOMMENDATION

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

- Adopt after second reading and public hearing of Ordinance 2019-03 providing for the annexation of approximately 2,005 feet of right-of-way on Hunt Brothers Road and 200 feet of right-of-way on Lake Bella Road.

BACKGROUND

Public notice requirements have been met.

There has been confusion regarding public safety enforcement along both of these roads. The properties abutting the subject rights-of-way on the north-side are in the corporate city limits. The Fire Chief and the Police Chief have requested that annexation be pursued so there is a clear demarcation between City and County jurisdictions.

OTHER OPTION

City Commission could choose not to annex the rights-of-way.

FISCAL IMPACT

None.

[End Agenda Memo]

Jennifer Nanek, City Clerk, read **ORDINANCE 2019-03** by title only.

ORDINANCE 2019-03

**(Annexation - Right-of-way of a portion of Hunt Brothers Road east of US Highway 27)
AN ORDINANCE PROVIDING FOR THE ANNEXATION FOR PUBLIC SAFETY JURISDICTIONAL PURPOSES OF APPROXIMATELY 2,005 FEET OF MAINTAINED RIGHT-OF-WAY CONTIGUOUS TO THE INCORPORATED TERRITORY OF THE CITY OF LAKE WALES, SHOWN ON "ATTACHMENT A" AND SPECIFICALLY DESCRIBED THEREIN; GIVING THE CITY OF LAKE WALES JURISDICTION OVER THE ROADWAY ANNEXED; AND PROVIDING FOR AN EFFECTIVE DATE.**

Kathy Bangley, Planning Director, reviewed this item.

OPENED PUBLIC HEARING

CLOSED PUBLIC HEARING

Commissioner Howell made a motion to adopt **ORDINANCE 2019-03** after second reading and public hearing. Commissioner Stewart seconded the motion.

by roll call vote:

Commissioner Howell "YES"

Commissioner Stewart "YES"

Commissioner Curtis Gibson "YES"

Deputy Mayor Robin Gibson "YES"

Mayor Fultz "YES"

Motion passed 5-0.

Mr. Fields reported that a light on US HWY 27 and Hunt Brothers has been approved. Mayor Fultz said he was glad to see that.

8. NEW BUSINESS

8.I. ORDINANCE 2019-06, Amending Ordinance 2001-08 Personnel Administration Policies – First Reading

[Begin Agenda Memo]

SUBJECT: Ordinance 2019-06, Amending Ordinance 2001-08 Personnel Administration Policies – First Reading

RECOMMENDATION

It is recommended that the City Commission approve Ordinance 2019-06 upon first reading.

BACKGROUND

The City's social media usage has rapidly increased over the years. It has become a substantial medium to share information and communicate with citizens in support of the City's goals and objectives. City officials, whether appointed or elected, have the ability to publish articles, facilitate discussions and communicate information through such media to conduct official City business.

For the purposes of this policy, social media refers to the tools and technologies that allow a social media user to share communications, postings or information, or participate in social networking, including but not limited to: (e.g., Twitter, Tumblr), social networks (e.g. Facebook, LinkedIn, Google+), and websites (e.g., Instagram, Flickr).

Ordinance 2019-06 is proposed to provide guidance for employees and elected officials to permit those performing work on behalf of the city to take full advantage of social media while at the same time protecting the city and its employees.

FISCAL IMPACT

None.

[End Agenda Memo]

Jennifer Nanek, City Clerk, read **ORDINANCE 2019-06** by title only.

ORDINANCE 2019-06

AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, LAKE WALES CODE OF ORDINANCES; AMENDING THE INFORMATION SYSTEMS POLICIES TO INCLUDE SOCIAL MEDIA USE; AMENDING DEFINITIONS; CREATING GUIDELINES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Sandra Davis, Human Resources Director, reviewed this item.

Commissioner Curtis Gibson noted that City Commissioners are included in this. He asked if his social media posts would have to be approved by the City Manager. Ms. Davis said that this only applies to City Social Media pages not personal. She encouraged everyone to keep personal and City business separate. Mayor Fultz said if anyone has concerns about what to post can check with the City Attorney. Commissioner Curtis Gibson asked why this is being brought forward. Ms. Davis said that it is time and it has been the focus of recent training some of the staff has been to. Mayor Fultz agreed saying that this is the subject of many training sessions. Commissioner Curtis Gibson said he would like more training on this. Mr. Fields said that can be arranged.

Commissioner Stewart asked what is considered City Business. Ms. Davis said if the issue might come before the commission then its City Business. Mr. Fields brought up the recent Mardi Gras event

where Commissioner Gibson

OPENED PUBLIC COMMENT

CLOSED PUBLIC COMMENT

8.II. Appointment - Alternate Canvassing Board Members

[Begin Agenda Memo]

SYNOPSIS:

It is necessary for the Commission to appoint alternate members to serve on the City of Lake Wales Canvassing Board.

RECOMMENDATION

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

1. Appoint residents Jacque Hawkins and Pete Perez to serve as alternate members to the Lake Wales Canvassing Board.
2. Designate the City Clerk and/or Deputy City Clerk to represent the Canvassing Board at the Preelection Logic and Accuracy Testing of Tabulating Equipment (L&A) on Tuesday, March 26, 2019 at 4:00 p.m. The City Clerk is required to attend the L&A Testing but if unavailable it is necessary to authorize a person to attend on behalf of the City Clerk if a Canvassing board member is unavailable to attend the L&A Testing.

BACKGROUND

The City Commission serves as the Canvassing Board and has legal responsibilities related to the conduct of the Municipal Election. However, there are legal rules that apply. No member can serve if he or she is a candidate with opposition in the election being canvassed or is actively participating in the campaign or the candidacy of any candidate who has opposition in the election being canvassed. Actively participating means undertaking an intentional effort to demonstrate or generate public support for a candidate beyond merely making a campaign contribution. Refer to DE 8-10; 09-07.

There are two seats up for election and the Mayor and one of the Commission members are incumbents in the election so those members do not qualify to serve on the Canvassing Board. Although there are three Commission members available to serve as Canvassing Board members and only three are necessary for a quorum it is still necessary for the Commission to appoint alternate members to serve on the Canvassing Board if a lack of a quorum is created on the Canvassing Board due to the legal rules that applies or any other unavoidable cause. In accordance with Sec. 8-26, Lake Wales Code of Ordinances, the City Commission may appoint the city manager, city attorney, or a resident/s to serve as a member to the Canvassing Board in the absence of the Commission member creating the lack of quorum.

Jacque Hawkins and Pete Perez have served on the Canvassing Board in the past and have volunteered to serve again this year. The City Clerk recommends their appointment.

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

- Pre-election Logic and Accuracy Testing of Tabulating Equipment (L&A)
Tuesday, March 26, 2019; 4:00 p.m.
Elections Operations Center, 70 Florida Citrus Blvd. Winter Haven, FL 33880 (behind the Auburndale Speedway).

-At least 1 member of the Canvassing Board or representative must attend the L&A Testing.

- Election Night Canvassing of Ballots

Tuesday, April 2, 2019, time to be scheduled by SOE (5:00 p.m. or later)
Elections Operations Center, 70 Florida Citrus Blvd. Winter Haven, FL 33880
A quorum must be present and must remain until all ballots are tabulated.

- Certification of Election

City of Lake Wales Municipal Administration Building
Thursday, April 4, 2019; 5:00 p.m.

-A Quorum must be present.

- Post-Election Manual Audit

Date & Time to be determined – April 8, 2019 through April 10, 2019
(Maybe Tuesday the 9th at 5pm?)

Elections Operations Center, 70 Florida Citrus Blvd. Winter Haven, FL 33880

-A quorum must be present.

[End Agenda Memo]

Deputy Mayor Robin Gibson made a motion to approve this item. Commissioner Howell seconded the motion.

by voice vote:

Deputy Mayor Robin Gibson "YES"

Commissioner Howell "YES"

Commissioner Stewart "YES"

Commissioner Curtis Gibson "YES"

Mayor Fultz "YES"

Motion passed 5 -0.

Jennifer Nanek, City Clerk, reviewed canvassing board dates and advised members to refrain from actively participating in the candidates' campaigns.

9. CITY ATTORNEY

Albert Galloway, Jr., City Attorney reported that the City is part of an eminent domain action because we have a service lien on the property. This property is one that FDOT needs on Highway 27 for its interchange project.

Mr. Galloway reported on a letter to the City requesting accommodation by making the website and attachments ADA compliant for those with visual impairment. Kenneth Fields, City Manager, explained that our website is ADA compliant but attachments are not. There will be a cost but they are working on making everything accessible and agendas in the future will be compliant. He decided to not take all documents down for now.

10. CITY MANAGER

Kenneth Fields, City Manager, reported that the Citrus Connection has added a route from Lake Wales up to Haines City and Poinciana. The city will have to pay more next year for this. Mayor Fultz said that this route can connect to Lynx and get people to Orlando. This gives more accessibility to our citizens. Ridge technical will also get bus service now.

Mr. Fields reported that Mardi Gras went well.

10.I. Tracking Report

10.II. Social Media Tracking Report

10.III. Commission Meeting Schedule

10.IV. Other Meetings & Events Calendar

11. CITY COMMISSION COMMENTS

Deputy Mayor Robin Gibson said he reads the minutes of the boards and referring to the Recreation Commission asked that there be a mention on there as to whether or not there is a quorum so we can find people to serve and maybe modify the board. Jennifer Nanek, City Clerk, said there was no quorum at the last meeting and that she will be sure to add that information to the beginning of the minutes.

Commissioner Curtis Gibson announced the meetings for the Lake Wales Connected Design Plan in April and the Lake Wales Live next Friday.

12. MAYOR COMMENTS

Mayor Fultz reported on the luncheon at the Depot Museum today. He said that the events and exhibits there are great and he is glad things are going well.

Mayor Fultz reported on a bill in the state house that will affect CRAs and other home rule related issues.

13. ADJOURNMENT

The meeting was adjourned at 7:20 p.m.

Mayor

ATTEST

City Clerk/Deputy City Clerk