

**City Commission
Agenda Work Session
Meeting Minutes August 12, 2020
(APPROVED)**

This meeting was conducted partially via teleconference Pursuant to Executive Order No. 20 -69, issued by the Office of Governor Ron Desantis on March 20, 2020, extended via Executive order no. 20-112, and further extended by Executive Order No 20-114, municipalities may conduct meetings of their governing boards without having a quorum of its members present physically or at any specific location, and utilizing communications media technology such as telephonic or video conferencing, as provided by Section 120.54 (5)(b)2, Florida Statutes. The City of Lake Wales held this hybrid virtual public meeting using the GoToMeeting Web/Teleconference service.

8/12/2020 - Minutes

1. CALL TO ORDER & ROLL CALL

Commissioners Present: Mayor Eugene Fultz, Terrye Howell, Curtis Gibson, Al Goldstein, Robin Gibson

Staff Members Present: James Slaton, Interim City Manager; Jennifer Nanek, City Clerk

Mayor Fultz called the meeting to order at 3:00 p.m.

Mayor Fultz read a statement: Pursuant to Executive Order No. 20-69, issued by the Office of Governor Ron DeSantis on March 20, 2020, extended by Executive Order 20-112, and further extended by Executive Order No 20-114, municipalities may conduct meetings of their governing boards without having a quorum of its members present physically or at any specific location, and utilizing communications media technology such as telephonic or video conferencing, as provided by Section 120.54(5)(b)2, Florida Statutes. Procedures for public participation will be explained by the City Attorney shortly.

Albert Galloway, Jr., City Attorney, read a statement on Procedures for this partial virtual Public Meeting. Mr. Galloway asked the Commissioners, "are you comfortable with all the notice provisions set forth and these uniform rules of procedures we have established for this Virtual meeting? The Commissioners answered affirmatively.

2. City Manager Comments

James Slaton, Interim City Manager, had no comments.

3. Audit Selection Committee

[Begin Agenda Memo]

SYNOPSIS: Section 218.391(2), Florida Statutes, requires that the governing body of a municipality prior to entering into a written contract for procurement of auditing services shall establish an audit committee to assist the governing body in selecting an auditor to conduct the annual financial audit.

RECOMMENDATION

Staff recommended that the City Commission approve:

- 1) The establishment of an audit committee for providing assistance to the governing body in selecting an auditor to conduct the annual financial audit.
- 2) Approve Eugene Fultz, Violeta Salud, and Rodney Canon as members of the audit committee.

3) Approve Dorothy Abbott to serve in an advisory capacity to the Audit Selection Committee per Florida Statute 218.391 (2)(c).

4) Terminate the audit committee once selection for professional auditing services has been completed by the City Commission.

BACKGROUND

The City of Lake Wales has issued a request for proposal for professional auditing services. In compliance with state statute, municipalities prior to entering into a written contract for procurement of auditing services are required by Florida Statute 218.391 to establish an audit committee. The primary purpose of the audit committee is to assist the governing body in selecting an auditor to conduct the annual financial audit. The audit committee shall:

1) Evaluate proposals provided by qualified firms.

2) Rank and recommend in order of preference no fewer than three firms deemed to be the most highly qualified to perform the required services after considering the factors established within the RFP.

FISCAL IMPACT

N/A

[End Agenda Memo]

James Slaton, Interim City Manager, reviewed this item.

4. One Scenic Central Indemnification Agreement

[Begin Agenda Memo]

Synopsis:

AVA Properties, LLC, seeks to open a restaurant facility in the subject property and plans a take out window to the sidewalk area lying South of the building adjacent to Central Avenue. AVA Properties, LLC, also plans to add a 6' x 9' concrete pad to the sidewalk area near the take out window which will be dedicated to the public in accordance with the terms of the Agreement. The Agreement serves to protect the City related to the use of public property by the restaurant business and its patrons.

Recommendation: That the City Commission approve the Indemnification Agreement and authorize the Mayor to sign it on behalf of the City.

Background: The subject property and project were recently approved for a Lake Wales Community Redevelopment Agency Grant to assist in development of the restaurants at the site in the amount of \$100,000.00. This Agreement is similar to that required of the Market Café for its utilization of public property.

Fiscal impact: None

Alternatives: There are no alternatives which will serve to protect the public and the City in the manner contemplated by the Indemnification Agreement.

[End Agenda Memo]

James Slaton, Interim City Manager, reviewed this item.

5. Ordinance 2020-15 - Requiring Masks Or Face Coverings 2nd Reading And Public Hearing

[Begin Agenda Memo]

SYNOPSIS:

The City Commission will consider adopting Ordinance 2020-15, requiring the wearing of face masks or similar coverings in certain public places.

RECOMMENDATION

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

1. Adopt Ordinance 2020-15.

BACKGROUND

The City Commission expressed a desire to mandate the wearing of face masks in public inside the city limits of Lake Wales during the July 21, 2020 City Commission meeting. The proposed Ordinance:

- Does require a second reading
- Expires upon adoption of a repealing Ordinance
- Imposes a noncriminal civil citation for non-compliance
- Does not require a super majority affirmative vote of the City Commission to adopt

OTHER OPTIONS

The City Commission may 1) direct staff to revise the proposed Ordinance prior to adoption or 2) may elect not to approve the Ordinance.

FISCAL IMPACT

None.

[End Agenda Memo]

James Slaton, Interim City Manager, said there was no changes to this item since first reading.

Commissioner Goldstein said he is against this. Our current resolution is fine. He has had more calls against this than in favor. We don't need a mandate.

Deputy Mayor Robin Gibson said we don't need to go through this again.

6. Resolution 2020-28 Polk County Multi-Jurisdictional Local Mitigation Strategy

[Begin Agenda Memo]

SYNOPSIS:

The City Commission will consider adoption of Resolution 2020-28, The Polk County Multi-jurisdictional Local Mitigation Strategy.

RECOMMENDATION

It is recommended that the City Commission adopt Resolution 2020-28

BACKGROUND

The Polk County Local Mitigation Strategy is a multi-jurisdictional plan that must be updated and adopted by all local governments every 5 years. The City of Lake Wales last adopted a similar resolution in 2015. The Disaster Mitigation Act of 2000 requires that such document exists in order for local governments to apply for Hazard Mitigation Grants and Pre-Disaster Mitigation Grants. The purpose of the Local Mitigation Strategy is to develop an ongoing strategy for reducing a community's vulnerability to identified natural, technological and human-caused hazards. All jurisdictions covered by this plan must actively participate in the creation of the document.

OTHER OPTIONS

Do not adopt Resolution

FISCAL IMPACT

No fiscal impact

[End Agenda Memo]

Joe Jenkins, Fire Chief, reviewed this item.

James Slaton, Interim City Manager, said this opens up the possibility to apply for mitigation grants. Chief Jenkins confirmed this.

7. Commission Meeting Invocation Policy

[Begin Agenda Memo]

SYNOPSIS:

The City Commission will consider establishing a policy regarding invocations at meetings of the City Commission.

RECOMMENDATION

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

1. Review policy examples and direct staff to bring forth an action item for Commission consideration.

BACKGROUND

The City Commission has not adopted a policy regarding invocations during City Commission meetings. Staff has compiled various options for the City Commission to review and to provide staff with direction.

Possible invocation policy options include:

- A. Replacing invocations with a moment of silence
- B. Eliminating invocations from the Commission agendas

C. Adopting Resolution 2020-27, which would appoint an individual (Dr. Moyer) as the Commission's chaplain to give invocations; in his absence a rotating list of individuals who are restricted by Lake Wales' geographic boundaries and who give theistic prayers will give invocations. The United States Court of Appeals, Third Circuit, has determined that it is constitutionally permissible for a legislative body to determine that it will only allow theistic prayers, which invoke a higher power. Florida, however, is in the 11th circuit.

D. Adopting a Resolution similar to the example provided by Winter Garden, whereby a rotating list of individuals who are restricted by Lake Wales' geographic boundaries will give invocations. Theistic restrictions would not apply under this Resolution.

E. Adopting a Resolution that combines options C and D. A chaplain would be appointed with this option, but in his absence, the only restriction would be Lake Wales' geographic boundaries.

Resolution 2020-27 and the City of Winter Garden's Resolution 15-04 are attached to this memorandum for review.

OTHER OPTIONS

None.

FISCAL IMPACT

None.

[End Agenda Memo]

James Slaton, Interim City Manager, reviewed this item.

Deputy Mayor Robin Gibson said options A and B were good options. He said he was in favor of appointing Dr. Moyer as chaplain and asked if Dr. Moyer would accept the appointment. Mayor Fultz said he spoke to Dr. Moyer and he said Dr. Moyer would accept the appointment. Deputy Mayor Robin Gibson asked if the Chaplain could not do it could not one of the commissioners give the invocation as we have done in the past. The Commissioners are elected by the people. Albert Galloway, Jr., City Attorney, said a rotation list has been supported by case law as it wouldn't create a conflict. Deputy Mayor Robin Gibson said we should keep it simple or not do it at all.

Commissioner Curtis Gibson said he agreed with Deputy Mayor Robin Gibson. Let's keep it the same. Could we let the Chaplain arrange for his replacement.

Commissioner Goldstein said the Commission should have been informed on this. We were blindsighted by this.

Mr. Slaton recommended focusing on the issue at hand.

Commissioner Howell said she would like to go back to how it was with Dr. Moyer, or one of the commissioners or a moment of silence. She suggested the Commissioners could recommend churches or get a church per month.

Mayor Fultz asked Mr. Galloway asked about the legal ramifications of what is being proposed. Mr. Galloway said the simplest thing to be done is to appoint Dr. Moyer and if he is unavailable then a member of the commission or a member of the audience can fill in. What Commissioner Howell proposed would not work.

Commissioner Goldstein suggested that picking someone out of the audience could be a problem. Deputy Mayor Robin Gibson agreed. He said the Mayor could do the invocation, ask a Commissioner or do a moment of silence.

8. Board Appointments - Citizens And Police Community Relations Committee

[Begin Agenda Memo]

SYNOPSIS:

Appointments to fill vacancies on the newly reestablished Citizens and Police Community Relations Advisory Committee

RECOMMENDATION

Staff recommends that the Mayor and Commission to make the following appointments to the Citizens and Police Community Relations Advisory Committee as deemed appropriate.

1. Appoint Narvell Peterson for a term ending June 30, 2022
2. Appoint Andy Oguntola for a term ending June 30, 2021
3. Appoint Dwight Wilson for a term ending June 30, 2022

BACKGROUND

On August 4, 2020 the City Commission adopted Resolution 2020-25 re-establishing the Citizens and Police Community Relations Advisory Committee

The Mayor makes appointments to various citizen advisory and regulatory boards, commissions, committees, and authorities with the advice and consent of the City Commission (City Charter, Sec. 3.06).

Citizens and Police Community Relations Advisory Committee (Res 2020-25)

The committee shall consist of 6 members, each of whom will serve a two-year term. A quorum shall require the presence of four members. Appointments - Each Commissioner shall recommend one appointment to the Mayor. The Mayor's appointments will then be subject to approval by the City Commission. One member shall be an active police officer serving in the Lake Wales Police Department and shall be appointed by the chief of police. Citizen members shall serve no more than two consecutive terms.

With the exception of the initial appointments, terms shall begin on July 1 and expire two years later on June 30. So that term expiration dates may be staggered, the initial term of two citizen members shall expire on June 30, 2021 and the initial term of three citizen members shall expire on June 30, 2022. Initial terms of all members shall begin upon appointment.

- Appointees must be electors and residents of the City of Lake Wales
- There is no interview process requirement for applicants applying for appointment to this board.
- Members are not required to file an annual Form 1, Statement of Financial Interests
- Current Vacancies: 6 Vacancies due to expiration of terms and Board Expansion.

Current Members: None

Applying for appointment: Andy Oguntola, resident nominated by Mayor Gene Fultz for a term expiring on 6/30/2021.

Applying for appointment: Narvell Peterson, resident nominated by Commissioner Terrye Howell for a

term expiring on 6/30/2022.

Applying for appointment: Dwight Wilson, resident nominated by Deputy Mayor Robin Gibson for a term expiring on 6/30/2022.

OPTIONS

Do not appoint those that have applied.

FISCAL IMPACT

None. These are volunteer boards.

[End Agenda Memo]

James Slaton, Interim City Manager, reviewed this item.

Commissioner Goldstein asked why some terms ended in 2021 and others 2022. Mr. Slaton explained that so the terms are staggered.

Commissioner Curtis Gibson asked if the appointee has to apply. Mr. Slaton explained that the nominee should apply through the Clerk's office.

9. Pay And Classification Schedule Discussion

[Begin Agenda Memo]

SYNOPSIS:

The City Commission will review and discuss Sections 2-233 and 2-234 of the City Code

RECOMMENDATION

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

1. Review the current policy and direct staff to bring forth an action item for Commission consideration.

BACKGROUND

The City adopted a pay and classification plan in 1994. Staff is requesting the Commission to review Sections 2-233 and 2-234 of City Code to determine if the purpose and intent of those sections continue to be applicable.

OTHER OPTIONS

None.

FISCAL IMPACT

None.

[End Agenda Memo]

James Slaton, Interim City Manager, reviewed this item and the history of the topic.

Deputy Mayor Robin Gibson said he was surprised that this provision was in the charter. He appreciated the attorney's opinion but it doesn't look good to the public and may not hold up in court. The City Commission should not be involved in salaries and pay classifications. He would like to take this requirement out of the charter.

Mr. Slaton said salaries are listed in the budget documents so that the City Commission does see the salaries.

Commissioner Curtis Gibson said the Commission approves the budget and the positions in there. The Commission should not interfere with salaries. The City Manager should let the Commission know about increases. Mr. Slaton agreed. Commissioner Curtis Gibson said that the Commission should be informed as to what is going on.

Deputy Mayor Robin Gibson said politics should not be involved in personnel decisions. They might get to personal. The City Commission only judges the City Manager not the staff. The City Manager must justify salaries to the Commission.

Commissioner Curtis Gibson said the Commission is approving the ranges for salaries not individuals. The Commission should approve changes to the ranges based on information from the City Manager. Mr. Slaton said changes are also in the budget amendment that the City Commission approves.

Commissioner Goldstein agreed that personalities should not be involved in the salaries.

Mayor Fultz said we review the salaries in the budget and through that evaluate the City Manager. Everything comes to us through the budget and the Commission can ask questions and understand what is going on.

Commissioner Howell is concerned about salary increases after budget is approved. What can the City Commission do? Deputy Mayor Robin Gibson said then we get a new City Manager. Also the citizens can weigh in on their decisions through the vote.

Sandra Davis, Human Resources Director, explained that some increases are included in the budget such as an employee getting a certificate. Mayor Fultz said sometimes a position changes and therefore the salary changes. Commissioner Howell asked if that comes back to the Commission. Mayor Fultz said that decisions about staff are up to the City Manager.

Commissioner Goldstein said that if there is a problem a member of the Commission hears about among staff then they can call a special meeting and address it.

10. CITY COMMISSION AND MAYOR COMMENTS

Deputy Mayor Robin Gibson shared concerns about the Pension. He asked if we should we go into the Florida Retirement system? Will it make a difference? He also asked about the issue regarding the \$75,000 pension caps. James Slaton, Interim City Manager, said they are looking into both questions. Deputy Mayor Robin Gibson said we need to be more aware of these issues as the commission is ultimately responsible. There was discussion on this.

Mayor Fultz asked the City Clerk to notify everyone of events concerning the commission and not just him.

Deputy Mayor Robin Gibson offered to help control meetings while the Mayor is remote. Mayor agreed and authorized the Deputy Mayor to assist if there is a problem.

Commissioner Curtis Gibson agreed with bringing up the Pension issues so he can better understand. It helps to know more of what is going on.

11. ADJOURN

The meeting was adjourned at 4:08 p.m.

Mayor/Deputy Mayor

ATTEST:

City Clerk