

**CITY COMMISSION  
REGULAR MEETING  
OFFICIAL AGENDA  
June 2, 2020  
6:00 p.m.**

**Municipal Administration Building  
Commission Chambers  
201 W. Central Avenue  
Lake Wales, FL 33853**

This will be a hybrid virtual tele-conference meeting.

**Pursuant to Executive Order No. 20-69, issued by the Office of Governor Ron Desantis on March 20, 2020, and extended by Executive Order No. 20-112, and extended further 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.**

Some members of the Commission, Staff and public will be welcome to attend in the Commission Chambers.

Everyone is welcome to attend virtually.

**Virtual public meetings will continue to be broadcast live, locally, on Comcast channel 6 and on the City's web site. A link to the live stream can be found in the left-most menu of the City's home page and is labeled "Live Meeting Stream".**

The direct link is: [http://lakewales.granicus.com/player/camera/3?publish\\_id=2](http://lakewales.granicus.com/player/camera/3?publish_id=2)

**Members of the public may register to attend at**  
<https://www.lakewalesfl.gov/Register>

**Public Comments will be accepted at**

[www.lakewalesfl.gov/comments](http://www.lakewalesfl.gov/comments)

1. INVOCATION
2. PLEDGE OF ALLEGIANCE
3. CALL TO ORDER
4. ROLL CALL
5. PRESENTATION/REPORT
  - 5.I. COVID-19 Update  
Joe Jenkins, Fire Chief, will give an update on issues related to the COVID-19 Emergency.
6. COMMUNICATIONS AND PETITIONS  
Public participation is encouraged. If you wish to address the Commission, members of the public may register to attend at

[HTTPS://WWW.LAKEWALESFL.GOV/834/VIRTUAL-PUBLIC-MEETING-REGISTRATION](https://www.lakewalesfl.gov/834/virtual-public-meeting-registration)

Anyone wishing to speak should give their name, state that they are a resident or non-resident and they will have 5 minutes.

Public Comments will be accepted at [WWW.LAKEWALESFL.GOV/COMMENTS](http://www.lakewalesfl.gov/comments) Submitted comments will be read into the record.

## 7. CONSENT AGENDA

Any member of the public can ask the City Commission to pull a consent item for separate discussion and vote that they would like to make comment on.

### 7.I. Minutes - May 5, 2020

The minutes of [MAY 5, 2020](#)

### 7.II. Lease Agreement - Boys & Girls Club Of Polk County

*The City Commission will consider approving a Lease Agreement with the Boys & Girls Clubs of Polk County.*

Documents:

[BOYS AND GIRLS CLUB LEASE MEMO.PDF](#)  
[LEASE BGC POLK JPA 2020.PDF](#)

## 8. OLD BUSINESS

### 8.I. Ordinance 2020-06 Zoning Amendment – Chapter 23 Zoning, Land Use And Development Section 23-358 Mobile Food Vending/Mobile Food Dispensing Vehicles

This amendment establishes rules and regulations for mobile food vending in the City of Lake Wales.

Documents:

[CC MEMO ORD 2020-06 MOBILE FOOD VENDING 2R AND PH.PDF](#)  
[ORDINANCE 2020-06 MOBILE FOOD DISPENSING VEHICLES.PDF](#)

### 8.II. Ordinance 2020-10 Annexation – 2nd Reading And Public Hearing .51 Acres East Of US Highway 27 | Parcel ID: 27-29-34-875000-006100

Ordinance 2020-10 proposes the annexation of approximately .51 acres of land located east of US Highway 27, abutting the Mckibben Powersports site and contiguous to the incorporated City limits.

Documents:

[CC MEMO 2ND R 2020-10 ANNEXATION MCKIBBEN.PDF](#)  
[ORD 2020-10 ANNEXATION MCK PROPERTIES.PDF](#)

## 9. NEW BUSINESS

### 9.I. RESOLUTION 2020-20 - Extended State Of Emergency

Resolution 2020-20 declares a State of Emergency for Lake Wales in response to concerns related to COVID 19. This will be in effect from June 2, 2020 until July 2, 2020.

Documents:

[MEMO RESOLUTION 2020-20.PDF](#)  
[RESOLUTION 2020-20 EXTENDED STATE OF LOCAL EMERGENCY - COVID-19.PDF](#)

- 9.II. RESOLUTION 2020-19 - Lake Wales Charter Review Committee  
Staff recommends approval of Resolution 2020-19 creating the City of Lake Wales Charter Review Committee.

Documents:

[MEMO RESOLUTION 2020-19.PDF](#)  
[RESOLUTION 2020-19.PDF](#)

- 9.III. ORDINANCE 2020-07 - Amending Chapter 16, Pension & Retirement – General Employees’ Pension Plan – First Reading  
The City Commission will consider adopting Ordinance 2020-07 to allow for the purchase of prior municipal service and coordination of benefits between the 401(a) (defined contribution plan) and the City’s General Employees’ Pension Plan and Trust (defined benefit plan).

Documents:

[MEMO ORDINANCE 2020.07 RETIREMENT MODIFICATION.PDF](#)  
[ORDINANCE 2020-07 RETIREMENT MODIFICATION.PDF](#)  
[LETTER OF NO IMPACT ORDINANCE 2020.06.PDF](#)

- 9.IV. Status Of The Employment Of The City Manager

10. CITY ATTORNEY

11. CITY MANAGER

- 11.I. Tracking Report

Documents:

[TRACKING.PDF](#)

- 11.II. Social Media Tracking Report

Documents:

[SOCIAL MEDIA TRACKING-5-27-2020.PDF](#)

- 11.III. Commission Meeting Calendar

Documents:

[COMMISSION MEETING CALENDAR, JUNE-2020.PDF](#)

12. CITY COMMISSION COMMENTS

13. MAYOR COMMENTS

14. ADJOURNMENT

**(The staff memos are not incorporated into the official record)**

Minutes of the City Commission meeting can be obtained from the City Clerk's Office. The minutes are recorded, but are not transcribed verbatim. Persons requiring a verbatim transcript may make arrangements with the City Clerk to duplicate the recording, or arrange to have a court reporter present at the meeting. The cost of duplication and/or court reporter will be the expense of the requesting party.

In accordance with Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this meeting should contact the City Clerk's office no later than 5:00 p.m. on the day prior to the meeting.

Appeals concerning decisions on issues requiring a public hearing:

Persons who wish to appeal any decision made by the City Commission with respect to any matter considered during a public hearing at this meeting will need a record of the proceedings, and for such purpose may need to ensure that verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

## MEMORANDUM

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**DATE:** May 28, 2020

**TO:** Honorable Mayor and City Commission

**VIA:** Kenneth Fields, City Manager

**FROM:** James Slaton, Deputy City Manager  
Stephanie Edwards, Recreation Coordinator

**SUBJECT:** Lease Agreement with Boys & Girls Clubs of Polk County

**SYNOPSIS:** *The City Commission will consider approving a Lease Agreement with the Boys & Girls Clubs of Polk County.*

### RECOMMENDATION

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

1. Approve Lease Agreement with the Boys and Girls Clubs of Polk County.

### BACKGROUND

The Community Redevelopment Agency (CRA) approved the Sale of the 1919 High School Complex to the Lake Wales Charter School, Inc. on April 14, 2020. This sale included the building the Boys and Girls Club of Polk County previously leased from the City for \$1 annually plus all utility-related charges.

Staff proposes to lease the James P. Austin Community Center to the Boys and Girls Club for the Club's continuous operations in Lake Wales. The initial term of the lease is for a one-year period. Upon expiration, the Boys & Girls Clubs of Polk County will have the option to renew the lease, perpetually, for twelve-month terms upon written agreement of both parties.

The rent collected from the new Lease Agreement will be \$500 monthly, totaling \$6,000 annually. Rent under the new Lease Agreement includes utility-related charges (electricity, water, and garbage removal).

The Boys and Girls Club will utilize the facility for the Club's After-School and Summer Camp Programming. After-School Programming hours are Monday – Friday, 3 p.m. – 8 p.m. during the school calendar year. Summer Camp Programming is Monday – Friday, 7:30 a.m. – 5:30 p.m. outside of the school calendar year. The City will allow rentals of the facility on Saturdays and Sundays throughout the year.

### OTHER OPTIONS

The City Commission may elect to defer approval of this Lease Agreement and direct staff to renegotiate the key business terms.

### FISCAL IMPACT

The fiscal impact of the agreement for FY'20 is revenue generation of \$2,000. Funds generated will be applied towards payment of utility charges for the James P. Austin Community Center.

### ATTACHMENTS

Lease Agreement

## **LEASE**

This Lease entered into this 3<sup>rd</sup> day of June, 2020, between the **CITY OF LAKE WALES**, a Florida municipal corporation, hereinafter referred to as Lessor or lessor, and **BOYS & GIRLS CLUBS OF POLK COUNTY**, a corporation organized under the laws of the State of Florida, having its principal place of business at 1525 Martin Luther King Jr. Ave. Lakeland, FL 33805, County of Polk, State of Florida, herein referred to as Lessee or lessee.

In consideration of the mutual covenants contained herein, the parties agree as follows:

### **SECTION ONE DESCRIPTION OF PREMISES**

Lessor leases to lessee and lessee does hereby rent and take possession as lessee of the municipal facilities of the City of Lake Wales commonly known as the James P. Austin Community Center, located at 315 Dr. Martin Luther King Jr. Blvd, Lake Wales, Florida 33853. A drawing showing the extent of the premises let hereby is attached hereto as Exhibit "A".

### **SECTION TWO PURPOSE**

Lessee represents that such premises are being rented for the purpose of its youth programs, and for no other purpose whatsoever without the written consent of the lessor, for an initial one (1) year term beginning on June 1, 2020. The Lessee shall have the option to renew for an additional one (1) year term upon the expiration of the initial term. It is the parties' initial understanding that lessee's usage during the school year shall be generally between the hours 3:00 p.m. and 8:00 p.m., Monday through Friday, for after school programming, and during summer break shall be generally between the hours 7:30 a.m. and 5:30 p.m.. The parties acknowledge that the lessee's programming may necessarily change during the term of this lease to accommodate the needs of the children served by the lessee, Lessor shall approve the necessary changes. Lessor's usage shall be generally between the hours of 8:00 a.m. and 11:00 p.m., Saturday and Sunday.

### **SECTION THREE QUIET ENJOYMENT**

Lessor agrees to permit said lessee, upon faithful performance of the terms and covenants of this lease, to peaceably and quietly have, hold, and enjoy the use of said premises for the purpose and for the term aforesaid.

### **SECTION FOUR ACCEPTANCE OF LESSEE**

Lessee has inspected and knows the condition of the premises and accepts the same in their present condition.

**SECTION FIVE  
RENT**

Lessee shall pay to said lessor, at lessor's office, at City Hall, for the use of said premises and facilities the sum of Five Hundred Dollars (\$500.00) per month during the term of this agreement.

**SECTION SIX  
SURRENDER OF PREMISES**

Lessee shall quit and surrender the demised premises and all permanent affixed equipment contained therein to lessor at the end of the aforesaid term in the same condition as the date of the commencement of this lease, ordinary use and wear thereof only expected.

**SECTION SEVEN  
TERMINATION**

This lease may be canceled and terminated by either party giving a written notice of the intent to terminate to the other party sixty (60) days prior to the termination.

**SECTION EIGHT  
EMPLOYEES OF LESSEE**

Staff and personnel, if employed by lessee, are employees of lessee, and lessee is responsible for payment of all elements of worker's compensation, including but not limited to salary, unemployment insurance, social security, and withholding taxes.

**SECTION NINE  
INDEMNIFICATION**

The Lessee shall indemnify and hold harmless the Lessor and its employees and agents from any and all liabilities, claims, suits, losses and expenses including reasonable attorney's fees and court cost arising out of or in the course of this lease which is caused in whole or in part by and any act of the Lessee, anyone directly or indirectly employed by the Lessee or any act the Lessee may be liable, whether or not it is caused in whole or in part or other fault of a party indemnified. Lessee further covenants and agrees that the indemnification provided for hereby shall apply to any use in any way related to or arising from the use of the premises by the lessee, it patrons, guests, members, employees, volunteers, counselors, invitees, or others who may be participating in or observing any of the activities or programs provided by the lessee.

## **SECTION TEN**

### **DAMAGE TO PREMISES**

If the premises or any portion of the building or any equipment contained therein during the term of this lease shall be damaged by the act, default, or negligence of lessee, or of lessee's agents, employees, patrons, guests, or any person admitted to the premises by lessee, ordinary wear and tear excepted, lessee will pay to lessor upon demand such sum as shall be necessary to restore the premises or equipment contained therein to their present condition.

## **SECTION ELEVEN**

### **LOSS OF EQUIPMENT**

Any equipment entrusted to the care of lessee or on the demised premises during the term of this lease which shall become lost, stolen, or which shall disappear, shall be the sole responsibility of lessee. Lessee shall be responsible to pay full replacement costs to lessor.

## **SECTION TWELVE**

### **UTILITIES AND SERVICES**

Lessor shall furnish and pay for all existing electricity, water, garbage removal or utilities used in or assessed against the premises, unless otherwise herein expressly provided.

## **SECTION THIRTEEN**

### **ASSIGNMENT**

Lessee shall not assign this lease without the express written consent of lessor, nor suffer any use of the premises other than herein specified.

## **SECTION FOURTEEN**

### **ATTORNEY'S FEES**

There shall be no entitlement to an award of attorney's fees, costs, or other expenses in any litigation, including breach, enforcement or interpretation, arising out of this Contract.

## **SECTION FIFTEEN**

### **STAFF**

Lessee understands and hereby specifically agrees that lessor does not furnish any staff not otherwise provided for in this lease.

## **SECTION SIXTEEN**

### **DAMAGE TO BUILDING**

In case said building or any part thereof shall be destroyed or damaged by fire or any other cause, or if any other casualty or unforeseen occurrence renders the fulfillment of this lease by lessor impossible, including without limitation thereto, requisitioning of leased premises by the United States government or any arm or instrumentality thereof, then and thereupon this lease shall terminate and lessee shall pay rental for said premises only to the time of such termination, at the rate herein specified, and lessor hereby waives any claims for damages or compensation should this lease be so terminated.

**SECTION SEVENTEEN  
EVACUATION OF BUILDING**

Lessor reserves the right to evacuate the building during any activity in progress when it is deemed necessary for the safety of the general public.

**SECTION EIGHTEEN  
INDEMNITY AND PUBLIC LIABILITY**

Lessee covenants at all times to indemnify and save lessor harmless from all loss, liability, cost, or damages that may occur or be claimed with respect to any person or property on, in or about the leased premises or to the leased premises themselves resulting from any act done or omission by or through lessee, its agents, employees, invitees, or any person on the premises by reason of lessee's use or occupancy or resulting from lessee's non-use, or possession of such property and any and all loss, cost, liability, or expense resulting therefrom; and further covenants at all times to maintain such premises in a safe and careful manner.

During the term of this agreement, lessee shall obtain, pay all premiums for, and furnish certificates to lessor for insurance as specified herein:

- (1) Public liability insurance protecting the parties hereto, their agents, officers, elected officials, representatives, or employees because of liability incurred by the parties in the performance of the terms of this lease when such liability is imposed on account of injury to or death of a person or persons, such policy to provide limits on account of any accident resulting in injury or death to one or more persons of not less than One Million Dollars (\$1,000,000.00). Lessee shall also maintain a public liability umbrella policy in the amount of not less than One Million Dollars (\$1,000,000.00)
- (2) Tenant shall maintain insurance against loss, damage or destruction by fire or other casualty, including theft, vandalism and malicious mischief, and all matters covered by a standard extended coverage endorsement, insuring the premises and all improvements thereon for not less than their full insurable replacement cost.

All such insurance contracts shall name lessor and lessee as their interests appear and shall insure the benefit of lessee and lessor and their officers, agents, elected officials, representatives, or employees. Such insurance contracts shall be with companies acceptable to lessor and they shall require thirty (30) days prior written notice to both parties hereto of any cancellation.

**SECTION NINETEEN  
MAINTENANCE AND REPAIRS**

The premises is leased in an "AS IS" condition and the lessor makes no express or implied warranties as to fitness for the proposed use. It is understood between the parties hereto that it is not the intent of the lessor to maintain and repair the facilities and there is no duty

to do so. The lessor cannot and does not guarantee that maintenance and repairs can be or will be made. The lessor may provide for the care and maintenance of the grounds, driveways, sidewalk, parking areas, lawns, landscaping and the building as funds are available therefor. The lessee shall be responsible for routine maintenance and cleaning of and repairs to the interior and exterior of the structure located on the leased premises. The lessee shall reimburse the lessor for repairs to the facilities necessitated by the use or damage by the lessee or its employees or invitees. The lessee will not make any major improvements, remodeling, or additions to the facilities without obtaining the lessor's prior written consent.

**SECTION TWENTY  
BINDING EFFECT**

All terms and conditions of this lease shall be binding on the parties, their heirs and/or representatives. Said terms and conditions cannot be waived by any oral representations or promise of any agent or other person in any manner connected with the parties hereto unless the same be in writing and mutually signed by the duly authorized agent or agents who executed this lease.

There are no other documents pertaining to this agreement outside of what is contained herein and none will be added without express written consent.

In witness whereof, the parties have executed this lease at Lake Wales, Florida the day and year first above written.

**SECTION TWENTY ONE  
TAXATION**

In the event that *ad valorem* taxes are assessed against the property due to lessee's use and occupancy of same, lessee shall pay all such taxes, and any other taxes assessed due to lessee's use and occupancy of the premises.

(Execution on following page of lease)

Exhibit A



ATTEST:

CITY OF LAKE WALES

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Albert C. Galloway, Jr.  
City Attorney

Witnesses

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Boys & Girls Clubs of Polk County, INC.,  
a Florida not-for profit corporation

By: \_\_\_\_\_  
Steve Giordano, President

Witnesses

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

## MEMORANDUM

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May 28, 2020

**TO:** Honorable Mayor and City Commissioners

**VIA:** Kenneth Fields, City Manager

**FROM:** Kathy Bangle, Assistant City Manager – Planning and Economic Development

**RE:** Ordinance 2020-06 Zoning Amendment – Chapter 23 Zoning, Land Use and Development Section 23-358 Mobile Food Vending/Mobile Food Dispensing Vehicles

### **SYNOPSIS**

This amendment establishes rules and regulations for mobile food vending in the City of Lake Wales.

### **RECOMMENDATION**

Staff recommends adoption of Ordinance 2020-06 after second reading and public hearing.

Public notice requirements have been met.

### **BACKGROUND**

Ordinance 2020-06 establishes regulations for Mobile Food Vending within the corporate city limits of Lake Wales. The regulations establish procedures for permitting and registration and rules for conduct, renewal, revocation and a schedule of fees.

Mobile Food Vending will be allowed by permit and with a current business tax receipt in the C-1, C-2R, C-3, and C-4 commercial districts, the I-1 Industrial, the BP Business Park and LCI Limited Commercial Industrial zoning districts as a permitted use. Permitting and registration of locations shall be handled by the Department of Development Services.

Permit applications will include the following: name, address, business address and contact phone number; description of type of food and beverage; copy of FL Department of Business and Professional Regulation license for operation; site(s); and proof of insurance. Staff will have ten (10) business days to process an application.

Registration of sites will be required. A site plan of proposed location(s) shall be filed with the application. Authorization from the land owner will be required. Criteria is established for approval of a potential site. The ordinance allows for up to five (5) sites to be registered at one time by each vendor. Conduct that may cause a permit or registration to be revoked are clearly stated.

Staff has drafted the appropriate applications and identification card to be ready to implement the ordinance upon adoption.

### **FISCAL IMPACT**

This action has no direct fiscal impact.

### **OTHER OPTIONS**

Commission could choose not to approve the ordinance.

**ATTACHMENTS**  
Ordinance 2020-06

**ORDINANCE 2020-06**

(Zoning Amendment – Chapter 23 Zoning, Land Use and Development)

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES CHAPTER 23, ZONING, LAND USE AND DEVELOPMENT REGULATIONS; ESTABLISHING SECTION 23-358 MOBILE FOOD VENDING/MOBILE FOOD DISPENSING VEHICLES; AMENDING TABLE 23-421 PERMITTED AND SPECIAL EXCEPTION USES ALLOWED IN ZONING DISTRICTS TO ADD MOBILE FOOD VENDING; AND AMENDING SECTION 23-802 DEFINITIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT ENACTED** by the City Commission of the City of Lake Wales, Polk County, Florida:

**SECTION 1: Section 23-358 Mobile Food Vending/Mobile Food Dispensing Vehicles** is established as follows:

**§23-358 Mobile Food Vending/Mobile Food Dispensing Vehicles**

The regulation of the Mobile Food Vending industry is necessary to protect the health, safety and welfare of the public. Mobile Food Vending means the practice of (1) selling or offering for sale of food and beverages from a Mobile Food Dispensing Vehicle, (2) managing or owning one or more Mobile Food Dispensing Vehicles, and/or (3) preparing food and beverages within a Mobile Food Dispensing Vehicle.

a. Mobile Food Vending prohibited without permit

1. No person or business shall engage in Mobile Food Vending within the municipal limits of the City unless the person or business possesses a valid Mobile Food Vending Permit issued pursuant to the Section;

2. Any person or business in violation shall be subject to a civil penalty in an amount not-to-exceed \$500.00. Each day the violation exists shall be considered a separate violation. The penalty provided herein is cumulative to other remedies or enforcement processes the City may have, including those available under Chapter 162, Florida Statutes and this Code

3. Notwithstanding the foregoing, no person or business shall be in violation of the Section for Catering activity, Temporary Sales of Food, or Vending Machine activity in accordance with Chapter 509, Florida Statutes & Rule 61C-1.002(5)(a), Florida Administrative Code, so long as such person or business is not required to procure a license from the Florida Department of Business and Professional Regulation for service of food to the public as a Mobile Food Dispensing Vehicle.

b. Permitting requirements for Mobile Food Vending

1. *Permit, generally.* A Mobile Food Vending Permit granted under this Section authorizes a Mobile Food Vendor to conduct Mobile Food Vending activities on any

improved parcel of land in the City's C-1, C-2R, C-3, C-4, I-1, BP or LCI zoning districts that is properly registered and approved as provided for in this Section.

2. Application for Permit. Application for a permit required by this section shall be made to the City's Development Services Director, upon forms provided by the City. Such application shall be sworn or affirmed to and filed with the City's Development Services Department and shall contain or have attached the following:

A. The name, home and business address and business telephone number of the applicant.

B. A description of the type of food or beverage to be sold.

C. If available at the time of application, a license or set of licenses issued by the Florida Department of Business and Professional Regulation for the operation of one or more Mobile Food Dispensing Vehicles proposed to be operated in the City, and a copy of the most recent inspection report of such Vehicle(s).

D. A description of the proposed storage location of the Mobile Food Vending business's Mobile Food Dispensing Vehicle(s) (if within the City).

E. A description of the proposed initial Mobile Food Vending site(s), if known at time of application.

F. Proof of business insurance, issued by an insurance company licensed to do business in Florida, protecting the applicant from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with Mobile Food Vending. Such insurance shall name the City as an additional insured and shall be in at least the amount of \$300,000.00 each occurrence for injury and \$100,000.00 per person.

3. Issuance/Denial of Permit. Not later than 10 business days after the filing of a completed application for a Mobile Food Vendor Permit, the applicant shall be notified by the City's Development Services Department of the decision on the issuance or denial of the permit. If the issuance of the permit is approved, the permit shall be issued. If the permit is denied, the applicant shall be provided with a statement of the reasons therefor, which reasons shall be in writing on the application. The applicant shall be entitled to an informal hearing with the City Manager, or designee, if so requested by the applicant within 10 business days of the date of the written denial. A permit issued pursuant to this section is valid for a period up to 1 year from October 1 to September 30.

The following may constitute grounds for denial of a permit to operate or renewal of an application:

- A. The proposed mobile vending activity does not comply with all applicable laws including, but not limited to, the applicable building, zoning, housing, fire, safety and health regulations;
- B. The applicant has knowingly made a material misstatement in the application of a permit.
- C. The applicant does not possess clearance to operate from the Florida Department of Business and Professional Regulation.

In the event the applicant does not receive notice within 10 business days of filing a completed application for a Mobile Food Vendor Permit, the application will be deemed denied.

4. *Persons Authorized to Vend Pursuant to Permit.* Notwithstanding subsection (a) herein above, an employee of a licensed Mobile Food Vendor may perform Mobile Food Vending activities at any of his or her employer's registered sites and in any of his or her employer's registered vehicles without first obtaining a personal Mobile Food Vending Permit. The authorization granted to an employee herein is an affirmative defense to a charge of unlawful activity and in order to establish such defense in any enforcement action, including actions before a court, an employee must:

- A. present admissible proof of employment by a permittee in possession of a valid permit during the time unlawful activity is alleged (such as a paystub, IRS Form W-2 or notarized proof of employment letter); and
- B. present evidence of compliance with all applicable conditions of his or her employer's permit during the time unlawful activity is alleged.

An independent contractor under agreement with a permittee, whether oral or in writing, to operate on or more Mobile Food Dispensing Vehicles is not an employee for purposes of this affirmative defense.

#### c. Registration of Mobile Food Vending Sites

As a condition of permitting under this section, a Mobile Food Vendor shall register the physical site the Mobile Food Vendor intends to use for conducting Mobile Food Vending operations or for storage of Mobile Food Dispensing Vehicles with the Development Services Director either at the time of application for a new permit or not less than 30 calendar days prior to the planned start of operations on the site for a current permittee. Registration shall be made on a registration form provided by the City and a site plan of the physical site and an authorization form signed by the legal owner(s) of the physical site shall accompany such registration form when filed.

1. *Site Plan.* The required site plan shall depict to scale the principal use of the physical site and its compliance with the development regulations contained in Chapter 23 of this code, and other applicable ordinances, to include, but not be limited to, access

points, curb cuts, landscaping buffers, setbacks and parking spaces. The site plan shall also depict the size and placement of the Mobile Food Dispensing Vehicle on the physical site and proposed parking areas for the Mobile Food Vendor's patrons. For a parcel of land solely to be used for storage or exterior cleaning of Mobile Food Dispensing Vehicles, and not general Mobile Food Vending activity, the plan may omit proposed parking areas for the Mobile Food Vendor's patrons.

2. Authorization Form. Authorization from the legal owner(s) of the proposed site shall be made on a form provided by the City. In the event that the legal owner of the proposed site is a corporation, the authorization form shall be signed by an officer of the corporation or its designated agent. The authorization form shall, in addition to acknowledging that the Mobile Food Vendor has permission to conduct Mobile Food Vending activities on the proposed site from its legal owner(s).

3. Schedule of Mobile Food Vending Activity. At the time of site registration, a Mobile Food Vendor shall establish and file a proposed schedule of Mobile Food Vending activity to be conducted on the proposed site. A schedule of operation of the primary business on the site shall also be provided. Mobile Food Vending consistent with this Chapter may only occur on a site during the time that the primary business on the site is open for operation. If site registration is approved, the schedule of activity shall be appended thereto and shall be the approved times that the Mobile Food Vendor may conduct Mobile Food Vending activity on the premises.

4. Approval of Registration Required. To be valid, a registration must be approved by the City's Development Services Director, or designee, prior to initiating site operations. Upon receipt of the registration form, proper site plan, and authorization form, the City's Development Services Director, or designee, shall review the filed documents to determine:

- A. that the physical site is compliant with the current development regulations contained in Chapter 23 of this code, and other applicable ordinances;
- B. that the proposed placement of the Mobile Food Dispensing Vehicle does not impact the public's safe ingress and egress to and from the physical site by blocking visibility triangles at access points and driveways;
- C. that the proposed placement of the Mobile Food Dispensing Vehicle, including all necessary outdoor space for patron service and patron parking does not impact the general on-site traffic flow of the principal use;
- D. that only registered Mobile Food Dispensing Vehicles will be utilized on the proposed site; and
- E. that the legal owner(s) of the proposed site have given permission for the Mobile Food Vendor to establish operations on such proposed site.

Not later than 10 business days after receipt of a registration form, proper site plan and authorization form for a particular proposed site, the permittee shall be notified by the Development Services Department of the decision on the approval of the registration. If the registration is approved, the Mobile Food Vendor may begin operating. If the registration is denied, the applicant shall be provided with a statement of the reasons therefore, which reasons shall be entered in writing on the registration form.

5. Authority of Development Services Director to Authorize Administrative Variances. The City's Development Services Director, or designee, may, in the process of reviewing a site registration for approval, administratively grant a waiver to the technical parking requirements of Chapter 23 of the Code required for the site's principal use during the proposed vending hours listed in the schedule of Mobile Food Vending activity if not greater than 20% of the number of required parking spaces is reduced by site space occupied by the Mobile Food Vendor and Mobile Food Dispensing Vehicles.

6. Maximum Number of Registered Sites. A permittee may only register five (5) sites for Mobile Food Vending activity at any one time. In the event that a permittee submits registration paperwork for a site in excess of five, and does not direct the Development Services Department to cancel an existing and active registration, the Development Services Director may either:

- A. summarily reject the proposed registration; or
- B. approve the new registration and revoke an existing registration as the Development Services Director may discretionarily choose.

#### d. Local Registration of Mobile Food Dispensing Vehicles

As a condition of permitting under this section a Mobile Food Vendor shall annually register each Mobile Food Dispensing Vehicle intended to be used in the City for Mobile Food Vending activities with the City's Development Services Director, or designee. To be eligible for registration in the City, a Mobile Food Dispensing Vehicle (hereafter "MFDV" in this subsection) must meet the following standards:

- (1) The MFDV must be licensed by the Florida Department of Business and Professional Regulation.
- (2) The MFDV must be entirely self-reliant for necessary gas, water, wastewater and electric provisions. No MFDV may connect to permanent utilities.
- (3) The MFDV shall be constructed for the specific use of preparing and selling food and beverage obtained from a licensed commissary. An open bed truck, van, or converted automobile is not an MFDV and may not be registered as such in the City.

- (4) The MFDV shall be constructed so that any equipment installed in any part of the vehicle may be secured in order to prevent movement during transit and to prevent detachment in the event of a collision or overturn.
- (5) The MFDV must be covered under a currently effective agreement with a Florida-licensed food commissary (hereafter referred to as "commissary") for restocking, interior cleaning and proper water and wastewater disposal and must maintain commissary logs inside the MFDV showing the date and time of each restocking and interior cleaning required by state law, rules and regulations.

Registration shall be made on a form provided by the City and shall include a written description of the MFDV, 4 or more photographs (showing different exterior views) of the MFDV and any exterior-operated equipment, the Florida Department of Highway Safety and Motor Vehicles license tag number and registration number if applicable, a current health certificate issued by the appropriate state or county authority as may be required under Florida law, all current licenses required for operation by Florida state and county agencies, and copies of the most recent inspections performed by Florida state and county agencies as applicable. Registration of the vehicle shall be complete upon filing. At registration, the City's Development Services Director, or designee, shall issue proof on registration to be placed on the MFDV for the applicable registration year.

Registration of an MFDV may only be undertaken by a person or business in possession of a valid Mobile Food Vendor Permit. A MFDV may only be registered by its legal owner.

e. Certain Conduct Prohibited.

No Mobile Food Vendor shall:

- (1) Vend for more than a single 72-hour period per week at any one location.
- (2) Vend in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant or create or become a public nuisance, increase traffic congestion or delay or constitute a hazard to traffic, life or property or an obstruction to adequate access to fire, police or sanitation vehicles.
- (3) Vend on a vacant lot.
- (4) Vend without an available litter receptacle for patron use.
- (5) Leave any location without first picking up, removing and disposing of all trash, materials or refuse remaining from Mobile Food Vending activities.
- (6) Allow any fluids to be discharged from a Mobile Food Dispensing Vehicle.
- (7) Sell anything other than that which he is licensed to vend.

- (8) Vend without required insurance coverage.
- (9) Vend without appropriate licensure from all state agencies with jurisdiction or vend without appropriate payment of state and local business taxes.
- (10) Set up tables and chairs to be utilized by patrons as part of the vending operation.
- (11) Dump wastes or wastewater on site, into the City's stormwater system, or at any other place in the City other than the licensed commissary depicted in the application.
- (12) Use temporary signs of any kind.
- (13) Conduct Mobile Food Vending activities without first registering and obtaining site approval.
- (14) Conduct Mobile Food Vending activities without displaying a valid Mobile Food Dispensing Vehicle registration sticker.
- (15) Vend between the hours of 9:00 p.m. and 6:00 a.m.
- (16) Fail to comply with any requirements imposed in this section, including quarterly filing of commissary logs and inspection reports.

#### f. Renewal

All permits issued under this section are valid for the entire licensing period unless revoked prior to expiration. An application to renew a license may be made not later than 60 calendar days before the expiration of the current license. All current documentation required for initial permit issuance shall be submitted with each renewal.

#### g. Revocation of Permit or Registration.

Any permit or registration issued under this section may be revoked by sending a "Notice of Revocation" to the permittee stating both the facts and legal conclusions constituting cause to revoke. Within 10 business days' of the "Notice of Revocation," the permittee may request a hearing before the City Manager, or designee, by submitting a written request and response to the Notice to the City Clerk. At the hearing before the City Manager, or designee, the issue shall be whether cause to revoke is present based on either permittee misconduct or the permittee's failure to comply with registration requirements. The City Manager, or designee, shall allow the permittee to present any defenses the permittee may have and shall, after all of the evidence has been presented, issue a determination in writing. Any party aggrieved by the decision of the City Manager or designee may appeal the decision to a court of competent jurisdiction by petition for writ of certiorari.

#### h. Schedule of Fees

Each permittee shall pay the corresponding fee for each service performed by City staff pursuant to this section:

- (1) Permit, Initial issuance/renewal: \$50.00
- (2) Site registration: \$50.00 and \$10.00 for each additional site.
- (3) Mobile Food Dispensing Vehicle registration: \$25.00

**SECTION 2: Table 23-421 Permitted and Special Exception Uses allowed in Zoning Districts**

Add Mobile Food Vending/Mobile Food Dispensing Vehicles to the following districts as a conditional use subject to Section 23-358.

C-1, C-3, C-4, I-1 BP or LCI

**SECTION 3: Section 802 Definitions** is amended as follows:  
**§ 23-802 Definitions**

Mobile Food Dispensing Vehicle - any conveyance, or any vehicle or structure mounted on a conveyance or designed to be pulled or pushed by a conveyance, where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises, called for or taken out by patrons, or prepared prior to being delivered to another location for consumption.

Mobile Food Vending – the practice of (1) selling or offering for sale of food and beverages from a Mobile Food Dispensing Vehicle, (2) managing or owning one or more Mobile Food Dispensing Vehicles, and/or (3) preparing food and beverage within a Mobile Food Dispensing Vehicle for sale to a patron.

Mobile Food Vending Permit – a permit granted by the City to a Mobile Food Vendor to conduct Mobile Food Vending from Mobile Food Dispensing Vehicles on certain zoned lands within the municipal limits of the City.

Mobile Food Vendor – any person or business engaged in (1) selling or offering for sale of food and beverages from a Mobile Food Dispensing Vehicle, (2) managing or owning one or more Mobile Food Dispensing Vehicles, and/or (3) preparing food and beverages within a Mobile Food Dispensing Vehicle for sale to a patron.

**SECTION 4: Severability:** If any clause, section or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining

portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated.

**SECTION 5: Effective date:** This ordinance shall become effective immediately upon its passage by the city commission.

**CERTIFIED AS TO PASSAGE** this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

By: \_\_\_\_\_  
Mayor/Commissioner  
City of Lake Wales, Polk County, FL

ATTEST: \_\_\_\_\_  
City Clerk

## MEMORANDUM

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June 2, 2020

TO: Honorable Mayor and City Commissioners

VIA: Kenneth Fields, City Manager

FROM: Kathy Bangle, Assistant City Manager, Planning and Economic Development  
Prepared by: Autumn Cochella, Development Services Manager

RE: Ordinance 2020-10 Annexation – 2<sup>nd</sup> Reading and Public Hearing  
.51 acres east of US Highway 27 | Parcel ID: 27-29-34-875000-006100

**Synopsis:** Ordinance 2020-10 proposes the annexation of approximately .51 acres of land located east of US Highway 27, abutting the Mckibben Powersports site and contiguous to the incorporated City limits.

**Recommendation:**

Staff recommends adoption after second reading of Ordinance 2020-10. A Public Hearing is required and notice requirements have been met.

A recommendation from the Planning and Zoning Board is not required for an annexation ordinance.

**Background:**

MCK Properties of Lake Wales, LLC, owner, is requesting annexation into the corporate city limits of Lake Wales. This property abuts MCK Properties' existing Powersports store site to the north and to the west. The owner has plans to redevelop a portion of the existing site but must first bring this parcel into the City in order to complete the project.

"Attachment A" to the ordinance shows the property's location. It is contiguous to the City Limits on its north and west boundaries.

**Other options:** Decline to annex the property.

**Fiscal Impact:** The annexation will add to the City's tax roll and will allow for property improvements to take place on the abutting site.

**Attachments:**

Ordinance 2020-10 with Attachment A

**ORDINANCE 2020-10**

(Annexation – .51 acres east of US Highway 27)

**AN ORDINANCE PROVIDING FOR THE ANNEXATION OF APPROXIMATELY .51 ACRES OF TERRITORY, CONTIGUOUS TO THE INCORPORATED TERRITORY OF THE CITY OF LAKE WALES SHOWN ON ATTACHMENT “A” AND SPECIFICALLY DESCRIBED HEREIN; GIVING THE CITY OF LAKE WALES JURISDICTION OVER THE LAND ANNEXED; AND PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT ENACTED** by the City Commission of the City of Lake Wales, Polk County, Florida:

**SECTION 1** The corporate territory of the City of Lake Wales in Polk County, Florida, is hereby extended to include approximately .51 acres of territory located East of US Highway 27 as shown on “Attachment A” hereby made part of this ordinance, and specifically described as follows:

Parcel ID 27-29-34-875000-006100 .51 acres  
Lots 10 and 11 Block 6 Everett’s Subdivision per plat book 30 page 45 of Polk County public records.

**SECTION 2** All of the public property, lots, easements, streets, roads, and public right-of-way, now located and dedicated, acquired, platted or conveyed to the public in the territory described in Section 1, shall be transferred to the City of Lake Wales without consideration for the same uses as originally conveyed.

**SECTION 3** All ordinances of the City of Lake Wales and all laws heretofore passed by the legislature of the State of Florida, relating to and which now or hereafter constitute its charter, shall apply to and have the same force and effect in all of the territory described in Section 1 of this ordinance as if all of such territory had been part of the City of Lake Wales at the time of the passage and approval of such laws and ordinances.

**SECTION 4** All of the area to be annexed shall be entitled to the same rights and benefits as those, which exist in the City of Lake Wales upon the effective date of annexation.

**SECTION 5** If any portion or portions of the ordinance shall be declared to be invalid, the remaining portion shall have the same force and effect, as though, such invalid portion or portions had not been included.

**SECTION 6** This ordinance shall become effective, and the territory shall be considered annexed, immediately upon passage by the City Commission.

**CERTIFIED AS TO PASSAGE** this \_\_\_\_\_ day of \_\_\_\_\_ 2020

\_\_\_\_\_  
Mayor/Commissioner, City of Lake Wales

ATTEST:

\_\_\_\_\_  
City Clerk

Attachment A

Parcel ID: 27-29-34-875000-006100



## MEMORANDUM

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**DATE:** May 28, 2020

**TO:** Honorable Mayor and City Commission

**VIA:** Kenneth Fields, City Manager

**FROM:** Jennifer Nanek, City Clerk

**REGARDING:** Resolution 2020-20 State of Emergency Declaration

**SYNOPSIS:** Resolution 2020-20 declares a State of Emergency for Lake Wales in response to concerns related to COVID-19. This will be in effect from June 2, 2020 until July 2, 2020.

### RECOMMENDATION

Staff recommends adoption of Resolution 2020-20 State of Emergency Declaration from June 2<sup>nd</sup>, 2020 July 2<sup>nd</sup> 2020.

### BACKGROUND

In response to the recent threat of COVID-19 Mayor Fultz issued a State of Emergency on March 13<sup>th</sup> for seven days and issued three more 7 day States of Emergency after that. The current state of emergency was extended twice more at the beginning of April and again in May. The current State of Emergency which was approved by the City Commission on May 5<sup>th</sup> will expire June 2<sup>nd</sup>.

According to Chapter 9 in our Code of Ordinances, the City Commission must approve a State of Emergency to last 30 days.

### OTHER OPTIONS

Do not approve Resolution 2020-20.

### FISCAL IMPACT

There is no fiscal impact from the resolution itself. There will be some costs to the City as we respond to this threat. These costs are being tracked. A declared State of Emergency will allow the City to seek possible reimbursement for those costs.

### ATTACHMENTS

Resolution 2020-20.

**RESOLUTION 2020-20**

**EMERGENCY RESOLUTION BY THE CITY COMMISSION OF  
THE CITY OF LAKE WALES EXTENDING THE DECLARED A  
STATE OF EMERGENCY RELATING TO CORONAVIRUS  
DISEASE COVID-19**

**WHEREAS**, the World Health Organization previously declared COVID-19 a Public Health Emergency of International Concern; and

**WHEREAS**, on March 1, 2020 the Governor of the State of Florida issued Executive Order number 20-51 directing the Florida Department of Health to issue a Public Health Emergency; and

**WHEREAS**, on March 9, 2020 the Governor of the State of Florida issued Executive Order number 20-52 declaring that a state of emergency exists in the State of Florida; and

**WHEREAS**, on May 8, 2020 the Governor of the State of Florida issued Executive Order number 20-114 continuing that state of emergency for another 60 days for the State of Florida; and

**WHEREAS**, the Polk County Board of County Commissioners declared a local state of emergency for Polk County on March 11, 2020 and has extended their State of Emergency since then; and

**WHEREAS**, the incorporated area of the City of Lake Wales is included in the emergency areas as declared by the Polk BOCC and the Governor of the State of Florida; and,

**WHEREAS**, COVID-19 constitutes a clear and present threat to the health and welfare of the People of the City of Lake Wales; and

**WHEREAS**, the City of Lake Wales is threatened by COVID-19 because of the apparent ability of the virus to spread rapidly among humans through respiratory droplets produced when an infected person coughs or sneezes; and

**WHEREAS**, Mayor Fultz of the City of Lake Wales originally declared a State of Emergency for the City of Lake Wales on March 13, 2020 and has extended it three times; and

**WHEREAS**, the City Commission approved Resolution 2020-11 declaring a State of Emergency at its meeting on April 8, 2020 to last until May 5<sup>th</sup>; and

**WHEREAS**, the City Commission approved Resolution 2020-15 declaring a State of Emergency at its meeting on May 5<sup>th</sup>, 2020 to last until June 2<sup>nd</sup> 2020; and

**WHEREAS**, City of Lake Wales residents should follow the recommendations of the U.S. Centers for Disease Control and Prevention (“CDC”); and

**WHEREAS**, During the existence of the state of local emergency, the City Manager

shall have the powers, duties and responsibilities enumerated in §9-2 of the Lake Wales Code of Ordinances; and

**WHEREAS**, During the existence of the state of local emergency, the City Manager may exercise the emergency management powers enumerated in §9-5 of the Lake Wales Code of Ordinances; and

**WHEREAS**, during the existence of the state of local emergency, the City Manager may impose by executive order those restrictions enumerated in §9-7(1) of the Lake Wales Code of Ordinances; and

**WHEREAS**, The enforcement of any provision, enactment or executive order related to emergency management shall be in accordance with the provisions of §9-9 of the Lake Wales Code of Ordinances.

**NOW, THEREFORE, IT IS RESOLVED** by the City Commission of the City of Lake Wales on this 2nd day of June, 2020, that the above described COVID-19 situation continues to pose a serious threat to the life, health, property, welfare or public peace of the people of the City of Lake Wales and that **a state of local emergency** shall be, and is hereby declared extended with an effective date of June 2, 2020 at 12:01 a.m. until July 7, 2020 which may be extended by the City Commission as necessary within the legal incorporated boundaries of the City of Lake Wales, Polk County, Florida shall be embraced by the provisions of this emergency resolution;

**BE IT FURTHER RESOLVED** that the City Commission for the City of Lake Wales hereby exercises its statutory authority, and appoints the City Manager as its representative to implement and enforce the provisions of this declaration, and waives the procedures and formalities required by law of a municipal corporation, as authorized in Section 252.38(3)(a)(5), Florida Statutes and the City's home rule powers.

All public officials and employees of the City of Lake Wales are hereby directed to exercise the utmost diligence in discharge of duties required of them for the duration of the emergency and in the execution of emergency laws, regulations and directives, state and local.

All citizens are called upon and directed to comply with necessary emergency measures, to cooperate with public officials and civil emergency/disaster service forces in executing emergency operational plans and to obey and comply with the lawful directions of properly identified public officers.

Approved this 2nd day of June, 2020.

CITY OF LAKE WALES

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Eugene L. Fultz, Mayor

ATTEST:

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Jennifer Nanek, City Clerk

## **MEMORANDUM**

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**DATE:** May 26, 2020  
**TO:** Honorable Mayor and City Commission  
**VIA:** Kenneth Fields, City Manager  
**FROM:** Jennifer Nanek, City Clerk  
**REGARDING:** Resolution 2020-19 – Lake Wales Charter Review  
**SYNOPSIS:** *A Resolution establishing a Charter Review Committee*

### **RECOMMENDATION**

Staff recommends approval of Resolution 2020-19 creating the City of Lake Wales Charter Review Committee.

### **BACKGROUND**

At a previous meeting the Commission gave direction to create a Charter Review Committee to review our Charter and recommend changes to the City commission for the 2021 Ballot.

Resolution 2020-19 is presented for the purpose of creating a Charter Review Committee and charging it with the task of the contemplated review and possible recommendations to the City Commission for changes or revisions to the Charter which would then be submitted to the electors if approved by the Commission.

Resolution 2020-19 is similar to Resolution 2010-04, which created the last Charter Review Committee, with the exception that those currently serving on a City board can serve.

### **OTHER OPTIONS**

Suggest changes to the Resolution.  
Do not approve the Resolution.

### **FISCAL IMPACT**

None

### **ATTACHMENTS**

Resolution 2020-19 Establishing a Charter Review Committee.

**RESOLUTION NO. 2020-19**

**A RESOLUTION OF THE CITY OF LAKE WALES, FLORIDA; ESTABLISHING THE CITY OF LAKE WALES CHARTER REVIEW COMMITTEE; PROVIDING FOR OBJECTIVES OF THE COMMITTEE; PROVIDING FOR COMPOSITION AND APPOINTMENT OF MEMBERS, QUALIFICATIONS OF MEMBERSHIP, MINIMUM MEMBER ATTENDANCE REQUIREMENTS AND REMOVAL FROM OFFICE; PROVIDING FOR DUTIES OF THE COMMITTEE; SPECIFYING MEMBERS' TERM OF OFFICE; IDENTIFYING MINIMUM PROTOCOL REQUIREMENTS; PROVIDING FOR DUTIES OF THE CITY MANAGER AND CITY ATTORNEY REGARDING THE COMMITTEE; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, a review of the Lake Wales Charter has been suggested; and

**WHEREAS**, the City Commission of the City of Lake Wales has determined it would be prudent for the Lake Wales Charter to be reviewed for purposes of determining whether it is sufficient in its current form or if it might be revised for the benefit of the citizens of the City of Lake Wales.

**NOW, THEREFORE, BE IT RESOLVED** by the City Commission of the City of Lake Wales, Florida, that:

**SECTION ONE: CREATION OF THE CHARTER REVIEW COMMITTEE**

The City Commission of the City of Lake Wales hereby creates the City of Lake Wales Charter Review Committee (hereinafter referred to as the "Charter Review Committee").

**SECTION TWO: OBJECTIVES OF THE CHARTER REVIEW COMMITTEE**

It is the mission of the Charter Review Committee to review the City's Charter, report to the City Commission concerning the status of the Charter and present any recommended amendments thereto for the City Commission's approval and subsequent submission to the electors.

**SECTION THREE: COMPOSITION, APPOINTMENTS, QUALIFICATIONS OF MEMBERS, MINIMUM ATTENDANCE REQUIREMENTS, REMOVAL, APPOINTMENT TO FILL VACANCIES**

A. *Composition & Initial Appointments*

The Charter Review Committee shall consist of five (5) members. Each City Commissioner shall be entitled to appoint one (1) member of the Charter Review Committee in his or her discretion, so long as the appointee meets the qualifications for membership as set forth herein. Commissioner appointments to the Charter Review Committee shall be made on a form provided to each City Commissioner by the City Manager and shall be filed with the City Clerk by June 10, 2020.

B. *Minimum Qualifications of Charter Review Committee Members*

Members of the Charter Review Committee must be residents and registered electors of the City of Lake Wales. No State Legislator, County Commissioner, or City Commissioner may be a member of the Charter Review Committee. The City Commission shall be the judge of the qualifications of individual candidates for membership.

C. *Minimum Attendance Requirements*

It is expected that appointed members of the Charter Review Committee should attend each meeting thereof. Should a member of the Charter Review Committee fail to attend three (3) consecutive Charter Review Committee meetings, that member shall be deemed to have vacated his or her position.

D. *Removal of Charter Review Committee Members; City Commission May Fill Vacant Position*

Any member of the Charter Review Committee may be removed by majority vote of the City Commission without a finding of cause. In the event a position on the Charter Review Committee is vacated, whether automatically, by vote of the City Commission or by resignation of the member, the City Commission may, by majority vote, appoint a qualified person to fill the remaining term of the vacant position.

**SECTION FOUR: DUTIES OF THE LAKE WALES CHARTER REVIEW COMMITTEE**

A. *Organization Session, Election of Officers, Meetings of the CHARTER REVIEW COMMITTEE; Quorum and Voting Requirements*

On or before July 7, 2020, the Charter Review Committee shall meet for the purpose of organization and election of officers. At its organization session, members of the Charter Review Committee shall, with the assistance of the City Manager and/or the City Attorney elect from its membership a Chair and a Vice-Chair. Further meetings of the Charter Review Committee shall be held on the call of the Chair or at the written request by a majority of Charter Review Committee members filed with the City Clerk. All meetings of the Charter Review Committee, including its organization session, shall be open to the public in accordance with Chapter 286, Florida Statutes. A majority of the members of the Charter Review Committee shall constitute a quorum necessary for the transaction of official committee business, however, when considering the question of whether a particular amendment or revision should be recommended to the City Commission for consideration, an absolute majority of the Charter Review Committee shall be necessary.

B. *Progress Reports*

During its existence, the Charter Review Committee shall cause a progress report to be provided to the City Commission informing the Commission of the Committee's progress and activities. The minutes of each meeting shall be deemed to constitute a progress report in the event so specific report is prepared.

C. *Final Report and Recommendations; Minority Reporting Rights*

Not later than ninety (90) days before the 2021 municipal election, the Charter Review Committee shall deliver to the City Commission its Final Report in written form detailing its findings regarding the City Charter. The Charter Review Committee's Final Report shall include Committee-proposed and recommended amendments or revisions to the City Charter, if any such recommendations are to be made. Charter Review Committee members who do not recommend a particular amendment or revision shall be entitled to prepare a Minority Report detailing opposing views and such Minority Report shall be presented to the City Commission with the Charter Review Committee's Final Report.

#### **SECTION FIVE: TERM OF OFFICE**

Each Charter Review Committee member's term of office will be from the date of initial appointment until the Committee's dissolution. Upon acceptance or rejection of the proposed amendments or revisions by the City Commission, the Charter Review Committee shall be automatically dissolved. If no amendments or revisions are recommended to the City Commission, the Charter Review Committee shall be dissolved after approval of its Final Report.

#### **SECTION SIX: PROTOCOL**

1. The Charter Review Committee shall comply with all applicable requirements of Chapters 119 (public records) and 286 ("Sunshine Law"), Florida Statutes.
2. The conduct of the meetings will be generally informal. If there is a question as to procedure, the Chair, at his or her discretion, may use Section 2-17 of the Lake Wales Code of Ordinances to address the issue.
3. Charter Review Committee members will serve without compensation, but may be reimbursed for necessary expenses as allowed under general law.

#### **SECTION SEVEN: DUTIES OF THE CITY MANAGER AND CITY ATTORNEY**

The City Manager and the City Attorney shall serve as staff liaison to the Charter Review Committee, may participate in its deliberations, and may give technical and policy advice to the Committee as requested. In the event that the Charter Review Committee desires legal advice on any particular subject, the City Attorney may furnish a legal opinion to the Committee and may generally provide legal advice to the Charter Review Committee concerning the task with which it is charged.

#### **SECTION EIGHT: EFFECTIVE DATE**

This Resolution shall take effect immediately on its adoption.

**APPROVED AND ADOPTED** by the City Commission of the City of Lake Wales, Florida, this 2nd day of June, 2020.

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Eugene L. Fultz, Mayor

ATTEST:

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Jennifer Nanek, City Clerk

## MEMORANDUM

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May 27, 2020

**TO:** Honorable Mayor & City Commission

**VIA:** Kenneth Fields, City Manager

**FROM:** Sandra D. Davis, Human Resources Director

**SUBJECT:** Ordinance 2020-07 Amending Chapter 16, Pension & Retirement – General Employees’ Pension Plan – First Reading

**SYNOPSIS:** The City Commission will consider adopting Ordinance 2020-07 to allow for the purchase of prior municipal service and coordination of benefits between the 401(a) (defined contribution plan) and the City’s General Employees’ Pension Plan and Trust (defined benefit plan).

### **RECOMMENDATION**

It is recommended that the City Commission adopt Ordinance 2020-07 on first reading.

### **BACKGROUND**

The City sponsors multiple retirement systems, including a Defined Benefit Plan and a Defined Contribution plan. Ordinance 2020-07 is being presented for: 1) to provide for coordination of benefits with the 401(a) Plan, and 2) to allow for purchase of prior City service.

In 2013 the City established a \$75,000 maximum annual benefit cap for all City employees and to discontinue employee and City contributions if a member reached the cap. While this has led to a substantial continuing reduction in the City pension liability, it has also created a situation where an employee who reaches the benefit cap could continue to work for the city for an extended period of time without earning any additional retirement benefit. Under such circumstances, it would be advantageous for the employee to leave the City and seek other employment to continue to earn future retirement benefits.

Coordination of benefits with the 401(a) Plan (Defined Contribution Plan) will enable employees who reached the \$75,000 maximum annual benefit cap to join the 401(a) Plan. Joining the 401(a) plan would require the employee to continue to make the 5% employee contribution and the City will make a contribution at the same rate as determined by the actuary for the Defined Benefit Plan, subject to applicable IRS limits. Over time, this would shift more and more employees into the 401(a) plan and eliminate the need to raise the pension benefit cap in the future, reducing the City’s future pension liability.

The second proposed change will allow members who have full-time City of Lake Wales service or other full-time governmental service in Florida prior to membership in this Plan, to purchase up to five years of prior service. The full actuarial cost of this buyback must be paid by the member. The cost of the service buyback will be made by lump sum payment, including rollover from another qualified plan.

The City's defined benefit plans currently allow members to purchase up to five (5) years of military service entirely at the employee's cost and the Florida Retirement System which covers school district and County employees, including the Sheriff's Office, allows members to purchase prior local government service in the same manner as is provided for in this ordinance.

The current employment environment has changed significantly from the days when an employee joined an organization with the expectation of continuing employment until retirement from that hiring organization. Human resource professionals recognize that today's younger employees are significantly more likely to jump from one organization to another, seeking new challenges and opportunities to learn. Allowing employees to purchase time spent in other Florida governments, at no cost to the City of Lake Wales, would aid in recruiting employees to the City, especially in highly technical and competitive areas such as information technology, engineering and urban planning although all employees would be eligible to make such a purchase.

### **FISCAL IMPACT**

Coordination of benefits with the 401(a) plan would require the City to continue making a retirement contribution on behalf of an employee who reaches the \$75,000 benefit cap to the 401(a) plan equal to the percentage it would have made to the Pension plan. The exact amount depends on which plan an employee belongs to.

Foster & Foster, Inc. the General Employees' Pension Board's Actuarial Consultants, have determined that the purchase of prior City service will have no impact on the assumptions used in determining the funding requirements of the plan, because the cost will be paid by the employee.

## ORDINANCE 2020-07

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE WALES AMENDING THE CITY OF LAKE WALES GENERAL EMPLOYEES' PENSION PLAN AND TRUST; CREATING SECTION 16-66(a) TO PERMIT THE PURCHASE OF PRIOR SERVICE; CREATING SECTION 16-66(b) TO PERMIT COORDINATION OF BENEFITS WITH THE CITY'S DEFINED CONTRIBUTION PLAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.**

**Section 1.** Section 16-66 of the Code of Ordinances of the City of Lake Wales is hereby created to read as follows:

### **Sec. 16-66. Purchase of service.**

- (a) Purchase of prior City service. Members who have full-time City or other full-time governmental service in Florida prior to active membership in this Plan may purchase up to five years of prior service, as permitted by Section 112.65, Fla. Stat. The full actuarial cost of this buyback must be paid by the member. The cost of the service buyback shall be made by lump sum payment, including rollover from another qualified plan.
- (b) Coordination of benefits with 401(a) Plan: This Plan shall coordinate with the City's 401(a) Defined Contribution Plan to enable a member who has reached the \$75,000 maximum benefit limitation in Section 16-46 to join the 401(a) Plan.

**Section 2.** Effective Date. This ordinance shall apply immediately upon adoption, unless otherwise provided.

**Section 3.** Inclusion in Code. It is the intention of the City Commission of the City of Lake Wales, Florida, that the provisions of this Ordinance shall become and be made a part of the City of Lake Wales Code of Ordinances; and that the sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," "division," or such other appropriate word or phrase in order to accomplish such intentions.

**Section 4.** If any clause, section or other part of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid

part shall be construed as eliminated and shall in no way affect the validity of the remaining portions of this Ordinance.

**Section 5.** All Ordinances or Resolutions or parts of Ordinances or Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**CERTIFIED AS TO PASSAGE** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

CITY OF LAKE WALES, FLORIDA

ATTEST:

By: \_\_\_\_\_

MAYOR

\_\_\_\_\_  
CITY CLERK

January 31, 2020

VIA EMAIL

Ms. Sandra Davis  
City of Lake Wales  
201 West Central Avenue  
Lake Wales, FL 33853

Re: City of Lake Wales  
General Employees' Retirement Plan

Dear Sandra:

As requested, we have reviewed the proposed Ordinance (identified as 2020-07) providing for a prior service buy back provision and providing for coordination of benefits with the 401(a) Plan. There is no projected impact on the funding requirements to the Plan for the service buy back provision because the Member is required to pay the full actuarial value of the additional service.

As regards the coordination of benefits with the 401(a) Plan, there is no impact on the City's funding requirements to the General Employees' Retirement Plan because the funding of the Plan already considers that the Member's benefits are capped at \$75,000 per year. However, it is my understanding that prior to this ordinance being adopted, the City would not have to make contributions to the 401(a) Plan for these Members and after the adoption of this proposed ordinance, once a Member reaches the \$75,000 cap on benefits, then they City will begin making contributions to the 401(a) Plan. Therefore, there will be a net increase in the City's overall contributions to the two plans, but only to the extent that Members continue employment beyond reaching the \$75,000 cap. Currently, there are no General Employees in that category, but there is one Police Officer and one Firefighter.

Because the changes do not result in a change in the valuation results, it is our opinion that a formal Actuarial Impact Statement is not required in support of its adoption. However, since the Division of Retirement must be aware of the current provisions of all public pension programs, it is recommended that you send a copy of this letter and a copy of the fully executed Ordinance to the following office:

Mr. Keith Brinkman  
Division of Retirement  
Bureau of Local Retirement Systems  
P. O. Box 9000  
Tallahassee, FL 32315-9000

If you have any questions, please let me know.

Sincerely,



Patrick T. Donlan

PTD/lke

# CITY OF LAKE WALES PROJECT TRACKING LIST 2019-2020

PROJECT NAME	BUDGET	COMMISSION APPROVAL	SCHEDULED COMPLETION	CURRENT STATUS	STATUS UPDATED
<b>AIRPORT</b>					
Corporate Hangars at the Airport				Staff is currently working with a private developer to construct four corporate hangars and anticipates bringing forth a ground lease for city commission consideration within the next 60 days.	05/27/20
<b>RECREATION</b>					
Recreation Master Plan		5/19/2020		The City Commission approved a contract with SFA to perform a feasibility study on a recreation complex during the 5/19 City Commission meeting. Additionally, a scope of work for a recreation master plan is being finalized, which staff will use in the advertisement of a formal RFQ to solicit design firms.	5/26/2020
<b>UTILITIES SYSTEM</b>					
C Street Project Phase 3	\$2,240,443	tentative 6/5/2018	9/30/2019	Project completed. Grant closed out.	5/26/2020
SR 60 Western Expansion	\$ 5,380,349.00	12/6/2016	Phase 2 TBD	Phase 1 complete. Phase two will be completed when FDOT plans are approved for construction for the grade separation. Pursuing easement with with Fence Outlet to complete project.	5/27/2020
SCADA Interconnect	\$ 275,000.00	TBD	TBD	Completion of the scada upgrades will coincide with the electrical upgrades associated with the new ground storage tank.	5/27/2020
Water High School Plant	\$ 1,300,000.00	5/7/2019	TBD	The construction of additional ground storage tank at WTP #3, about 50% complete.	5/27/2020
<b>Other items approved or discussed at Commission Meetings</b>					

Lake Wales Connected Plan				The next major milestone is a public design workshop to be held on 7/9/2020. The location is TBD.	5/26/2020
YMCA Rehabilitation				Electrical systems have been repaired and/or replaced, HVAC systems repair and replacements are in progress and expected to be completed by 6/15, structural engineering assessments have been completed, miscellaneous minor repairs have been completed, City staff has disseminated a survey to gather input from YMCA members on what member priorities are in terms of amenity repairs/upgrades.	5/27/2020
Streets Resurfacing				Street resurfacing for FY20 is completed. Nearly 2 centerline miles of street were resurfaced, including: Tillman, Bullard, Florida, MLK (south of Central) and Sharp (South of Central).	5/27/2020
Library Statistics (Jan)				Total Circulation Books-by-Mail: 28,137 Total Circulation BookMobile: 7,514 Total In-house circulation 86,816 new borrowers: 389 attendance at programs: 7,017 users: 11,615 Counter: 50,892  Total Total Computer People	5/27/2020
<b>COMPLETED PROJECTS</b>					
Wastewater Plant Building Rehab	\$ 40,000.00	2/5/2019	6/30/2019	Project Completed	5/27/2020
Wastewater Plant Filter Replacement	\$ 68,200.00	2/5/2019	5/31/2019	Project completed	5/27/2020
Flexnet Upgrade	\$ 175,000.00	4/3/2018	5/31/2019	Project Completed	5/27/2020
Taxiway Alpha & Bravo Construction/Rehab	\$4.9 million	9/19/2018	11/30/19	Taxiway Bravo North and South are completed. Taxiway Alpha East is completed. A ribbon cutting was held January 14 2020.	5/27/2020
Purchase of YMCA		2/4/2020	12/17/2019	Purchase of YMCA –Contract for sale was approved January 2020. Lease and operating agreement approved in February 2020	5/27/2020

Master Plan-Entire Collections and treatment system	\$ 107,000.00	12/2/2018	7/31/019	Completed	5/27/2020
Master Plan-Water System	\$ 96,140.00	2/5/2019	9/30/2019	completed	5/27/2020
Reuse Upgrades	\$ 965,000.00	5/7/2019	3/14/2020	Completed	5/27/2020
Water Main Replacement	\$ 3,160,000.00	5/7/2019	3/10/2020	Completed	5/27/2020

## CITY COMMISSION ITEMS - STATUS REPORT

TASK	MEETING DATE	RESPONSIBLE PERSON	REQUEST MADE BY	COMMENTS	DATE
Body Cameras	1/30/2020 & 5/5/2020	Fields	C Gibson	Staff is looking into costs and other details. Scheduled fo	5/27/2020
Charter Review Committee	5/5/2020	Fields	C. Gibson/Howell	A Resolution will be on June 2 agenda	5/26/2020
Complaint line & log for all Departments	5/5/2020	Fields	C. Gibson	Requires discussion and approval by Commission before	5/27/2020

SOCIAL MEDIA TRACKING REPORT		SINCE May 13, 2020 (Social media is now being archived)		
Name	Likes/Followers	Change	Top Posts	Comments
 Facebook	6,946	+75	May 14 :- Shared press release " There was a time when baseball 's spring training was big in Lake Wales too " :- 52 likes, 6 comments , 22 shares, 607 engagements, 3,381 people reached	"There were "farm teams" in Lake Wales in the 1920s. My father, Henry McClendon, Mayor of Lake Wales in the 1930s, went to LW in the 1920s to play there, after playing at UF. He later married Gertrude Jones (daughter of R.N. Jones), 2nd grade school teacher."
			May 15 :- Shared post by Polk County Tax Collectors Office about office reopening on 5/18/2020 :- 17 likes, 4 comments, 11 shares, 173 engagements, 1,357 people reached	" Sherri Crean thought you might like this info!! " Buju Man A hacer cita rápido!!"
			May 20 :- Posted pictures and information about the cancellation of the 2020 4th of July events in Lake Wales :- 151 likes, 158 comments, 177 shares , 3,425 engagements, 16,770 people reached	"We could have it at Wal-Mart. Seems to be safe there as long as we all use the same freakin entrance." "Sad to hear Lake Wales wants to cancel America's 4th of July Celebration. But you can have a food truck rally up there at the Lake. Guess we'll just have to buy our own fireworks have our own celebration!!"
			May 25 :- Posted a picture of the " Disaster preparedness 2020 sales tax holiday " flyer :- 20 likes, 7 comments , 25 shares, 289 engagements, 2,494 people reached	
 Twitter	1,715	+10	Top Tweet: May 15:- "Mayor Fultz @Fultz we can accept comments at anytime on agenda items." :- 190 likes , 8 replies , 5 retweets, 42.9K impressions	
(Commission meetings are Live tweeted)			Top Media Tweet: May 14- : "Our Lake Wales Municipal Airport got its new tractor in today. Its a Massey Ferguson 6713 with dual rear tires pic.twitter.com/vCx0ljG4TH" :- 1 like , 340 impressions	

SOCIAL MEDIA TRACKING REPORT		SINCE May 13, 2020 (Social media is now being archived)		
Name	Likes/Followers	Change	Top Posts	Comments
			<p>Top Mention: May 15:- By @Fultz "@CityofLakeWales" :- 523 likes, 20 replies , 11 retweets , 2,551 Engagents</p>	<p>"Man this is funnier than when it happens to @Spartan" "VOTE FOR MAYOR FULTZ" "LMAOOOOOOOO" "Waiting on you mayor fultz" "You shouldve asked about how it felt to win SI"</p>
 Instagram	1,034	+10	<p>May 27 :- Posted a picture of the " Disaster preparedness 2020 sales tax holiday " flyer :- 10 likes</p>	
			<p>May 14 :- Posted a picture of the new Massey Ferguson 6713 tractor at the the Lake Wales Municipal Airport :- 26 likes</p>	
 LinkedIn	122	+4	<p>May 26 :- Shared lakewalesnews.net article " Whats so hot about Dover-Kohl?" :- 25 impressions</p>	

"I worked at the Walesbilt one of their seasons. Great bunch of guys!" " I remember the Kansas City Blues training there." " I have listened to many a good story about those times from W. C. Acree (Bill)." "We loved our Washington Senators!"	
"Glad to see our city taking things seriously! Yes we are missing the normal celebrations, but we may be alive to celebrate next year, that's what is important. We can all get through this if we have patience and just go with what we need, not what we want! I happen to value my life, I have underlying issues and do NOT want to catch it."	



## CITY COMMISSION MEETING CALENDAR

[Regular City Commission meetings are held at 6:00 p.m. on the first and third Tuesday of each month in the Commission Chambers. Workshops & Special meetings to be scheduled accordingly. Meeting dates & times are subject to Change.]

### City Commission Meetings – May 2020

Tues, May 5, 2020	Regular	6:00 p.m.	Tele/video conference
Tues, May 19, 2020	Regular	6:00 p.m.	Tele/video conference

### City Commission Meetings – June 2020

Tues, June 2, 2020	Regular	6:00 p.m.	Commission Chambers
Wed, June 3, 2020	Budget Workshop	6:00 p.m.	TBD
Tues, June 9, 2020	CRA	6:00 p.m.	TBD
Tues, June 16, 2020	Regular	6:00 p.m.	TBD

### City Commission Meetings – July 2020

Tues, July 7, 2020	Regular	6:00 p.m.	TBD
Thursday July 9 <sup>th</sup> , 2020	Budget Workshop	6:00 p.m.	TBD
Tues, July 14, 2020	CRA	6:00 p.m.	TBD
Tues, July 21, 2020	Regular	6:00 p.m.	TBD

### City Commission Meetings – August 2020

Tues, August 4, 2020	Regular	6:00 p.m.	TBD
Tues, August 11, 2020	CRA	6:00 p.m.	TBD
Thurs, August 13, 2020	Budget Workshop	6:00 p.m.	TBD
Tues, August 19, 2020	Regular	6:00 p.m.	TBD

### City Commission Meetings - September 2020

(dates are varied due to budget hearing requirements)

Wed, September 9, 2020	Budget Hearing	6:00 p.m.	TBD
Tues September 15, 2020	CRA	6:00 p.m.	TBD
Tues, September 22, 2020	Budget Hearing	6:00 p.m.	TBD

For City Commission meeting information please contact Jennifer Nanek, City Clerk, 863-678-4182, ext. 270 or [jnanek@lakewalesfl.gov](mailto:jnanek@lakewalesfl.gov).

City Commission Agenda Packets for workshop and regular meetings are generally posted on the City's website by 12:00 p.m., the Friday before the scheduled meeting.

Minutes of City Commission meetings can be obtained from the City Clerk's Office. The minutes are recorded, but are not transcribed verbatim. Persons requiring a verbatim transcript may arrange with the City Clerk to duplicate the recording, or arrange to have a court reporter present at the meeting. The cost of duplication and/or court reporter will be the expense of the requesting party.

In accordance with Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this meeting should contact the City Clerk's office no later than 5:00 p.m. on the day prior to the meeting.

Appeals concerning decisions on issues requiring a public hearing:

Persons who wish to appeal any decision made by the City Commission with respect to any matter considered during a public hearing at this meeting will need a record of the proceedings, and for such purpose may need to ensure that verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

Approximate Seating Capacity:

- Commission Chamber **110**
- Employee Break Room **30**
- CM Conference Room **12**