

City Commission Meeting Minutes
February 19, 2019

2/19/2019 - Minutes

1. INVOCATION

Dr. Jim Moyer gave the invocation.

2. PLEDGE OF ALLEGIANCE

3. CALL TO ORDER

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

4. ROLL CALL

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

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

5. PRESENTATION/REPORT

5.I. PRESENTATION - Commission Plaques

Mayor Fultz unveiled three perpetual plaques listing past mayors and commissioners.

6. PROCLAMATIONS AND AWARDS

6.I. PROCLAMATION - Black History Month

Mayor Fultz presented a proclamation establishing February as Black History Month to Leroy Smith President of the Lake Wales branch of the NAACP.

6.II. PROCLAMATION - Literacy And Arts Education Week

Mayor Fultz presented a proclamation establishing the week of February 17-24 as Literacy and Arts Education Week to Deming Cowles and Gail Crum of the Lake Wales Family Literacy Academy.

7. MAYOR

8. COMMUNICATIONS AND PETITIONS

Mike Carter, resident, said he was concerned about contracts that don't go out to bid that are over \$35,000. He asked Albert Galloway, Jr., City Attorney, what the precedent was since he said it was legal at the last Commission meeting. Mr. Fields said that Mr. Galloway can research the matter and provide a written response. Mr. Carter asked Deputy Mayor Robin Gibson and Commissioner Stewart as they are attorneys if they agreed that it was legal. Deputy Mayor Robin Gibson said he was comfortable with it because the Construction contract went out for competitive bid and the ordinance does not limit contracts to a year. Commissioner Stewart said she was comfortable with it as well for the same reasons.

John Barnett, non-resident, said turn signs are needed at Central and Scenic. This needs to be done. He asked if the County Sheriff's Office can pull people over in Lake Wales. He said the Lake Wales Police Department does a good job and we should not let the County take over. Mr. Galloway said the County Sheriff has concurrent jurisdiction in Lake Wales. Kenneth Fields, City Manager, explained that light belongs to FDOT and he will pass on the concern.

9. CONSENT AGENDA

Commissioner Howell made a motion to approve the consent agenda. Commissioner Stewart seconded the motion.

By Voice Vote:

Commissioner Howell "YES"

Commissioner Stewart "YES"

Commissioner Curtis Gibson "YES"

Deputy Mayor Robin Gibson "YES"

Mayor Fultz "YES"

Motion passed 5-0.

9.I. Minutes - February 5, 2019

9.II. Authorization - Purchase Of Bleachers For Lake Wales Little League

[Begin Agenda Memo]

Synopsis:

The City Commission will consider authorizing staff to expend funds for the purchase and installation of one set of bleachers at Barranco Little League Field.

Recommendation:

Staff recommends that the City Commission take the following action:

1. Authorize the expenditure of \$33,495.00.
2. Award the proposal to purchase and install one set of bleachers to GT Grandstands.

Background

In 2012 one set of bleachers were removed from the Lake Wales Little League Barranco field after an inspection identified them as unsafe.

The City's Recreation department is requesting Commission approval to expend funds and approve the proposal submitted by GT Grandstands for the purchase and installation of bleachers at Barranco Little League Field. In accordance with Sec. 2-417 (d) (3) of the City's Code of Ordinances, all purchases in excess of Category 1 (\$20,000.00) require City Commission approval.

The city received three proposals for this project:

GT Grandstands: \$33,495.00

Belson Outdoors: \$35,832.00

Builtrite Bleachers: \$37,407.00

Fiscal Impact

The project cost of \$33,495.00 is in the current adopted FY18/19 CIP budget.

Other Options

The City Commission may not to approve the proposal.

[End Agenda Memo]

9.III. Piggyback Annual Contract With USSI , LLC

SYNOPSIS:

Staff recommends commission approve entering into an annual contract with USSI, LLC for the services of infiltration testing using the piggyback agreement from Toho Water Authority. Staff also recommends the commission approve to expend funds in the amount of \$75,970.27 to perform infiltration testing on the sewer system in Lake Ashton.

STAFF RECOMMENDATION

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

1. Approve entering into a piggyback agreement with USSI, LLC utilizing the Toho Water Authority agreement.
2. Approve expending funding in the amount of \$75,970.27 to perform infiltration testing on the Lake Ashton neighborhood sewer system.
3. Authorize the City Manager to execute the appropriate documents, on the City's behalf.

BACKGROUND

Infiltration is when groundwater enters the sanitary sewer system through faulty pipes or manholes. These pipes might have cracks or leaks that let the water in. This can happen because of age, design, installation or maintenance issues or even tree root intrusion.

Inflow and infiltration water is referred to as "clear water," distinguishing it from sanitary sewage water. When clear water gets into the wastewater or sewer system, it gets treated. And when it gets treated it costs cities money. It also takes up valuable capacity within a collection system. This is a problem for cities whose collection system may already be working at maximum capacity. Clear water also takes up valuable capacity at the wastewater treatment facility.

There are several indicators that could indicate there is an infiltration problem within the sanitary sewer system:

- Your lift station pumps run for a long time after a rain event. It has a large number of starts and stops after it rains. This means storm water has entered the sanitary sewer system and is on its way to be treated.
- Pipes back-up. Manholes spill wastewater onto roadways or green space.
- You see significant spikes in flow at your wastewater treatment plant corresponding to precipitation events or high groundwater conditions.

Staff is starting to see some of these same indicators happening within the City sanitary sewer system.

Staff recommends commission approve entering into an annual contract with USSI for the services of infiltration testing using the piggyback agreement from Toho Water Authority. Staff also recommends the commission approve to expend funds in the amount of \$75,970.27 to perform infiltration testing on the sewer system in Lake Ashton and authorize the City Manager to execute the appropriate documents on the City's behalf.

OTHER OPTION

The delay in testing the specified area will continue to allow groundwater to continue to infiltrate the sanitary sewer system causing extended wear and tear on all sanitary sewer system components.

FISCAL IMPACT

The 2018-2019 Capital Improvements Plan has budgeted \$600,000 to address this problem system wide.

[End Agenda Memo]

10. OLD BUSINESS

10.I. ORDINANCE 2019-02 - Repealing The City's Panhandling Ordinance Second Reading And Public Hearing

[Begin Agenda Memo]

SYNOPSIS: On July 21, 2009, the City adopted Ordinance 2009-19 adding a prohibition of panhandling and aggressive solicitation to Chapter 15 of the Lake Wales Code of Ordinances. As you may be aware, Polk County recently rescinded its panhandling Ordinance after receiving correspondence from the ACLU pointing out constitutional deficiencies to the County's Ordinance. I have reviewed a copy of that same correspondence and the City's Ordinance in light of the cited decisions. I believe it prudent for the City of Lake Wales to rescind its similar Ordinance.

RECOMMENDATION: That the City Commission adopt Ordinance 2019-02 to rescind that portion of Ordinance 2009-19 dealing with panhandling.

FISCAL IMPACT: None.

[End Agenda Memo]

Jennifer Nanek, City Clerk, read **ORDINANCE 2019-02** by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING THE LAKE WALES CODE OF ORDINANCES, CHAPTER 15, MISCELLANEOUS OFFENSES, SECTION 15-14, PANHANDLING, BY REPEALING SECTION 15-14 OF SECTION 1 OF ORDINANCE 2009-19; AND PROVIDING FOR AN EFFECTIVE DATE.

OPENED PUBLIC HEARING

CLOSED PUBLIC HEARING

Commissioner Howell made a motion to adopt **ORDINANCE 2019-02** after 2nd Reading and Public Hearing. Commissioner Stewart seconded the motion.

By Roll Call Vote:

Commissioner Howell "YES"

Commissioner Stewart "YES"

Commissioner Curtis Gibson "YES"

Deputy Mayor Robin Gibson "YES"

Mayor Fultz "YES"

Motion passed 5-0.

11. NEW BUSINESS

11.I. Ordinance 2019-03 Annexation – 1st Reading Right-Of-Way For Hunt Brothers Road

[Begin Agenda Memo]

SYNOPSIS:

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

RECOMMENDATION

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

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

BACKGROUND

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

OTHER OPTION

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

FISCAL IMPACT

None.

[End Agenda Memo]

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

ORDINANCE 2019-03

(Annexation - Right-of-way of a portion of Hunt Brothers Road east of US Highway 27)

AN ORDINANCE PROVIDING FOR THE ANNEXATION FOR PUBLIC SAFETY JURISDICTIONAL PURPOSES OF APPROXIMATELY 2,005 FEET OF MAINTAINED RIGHT OF-WAY CONTIGUOUS TO THE INCORPORATED TERRITORY OF THE CITY OF LAKE WALES, SHOWN ON "ATTACHMENT A" AND SPECIFICALLY DESCRIBED THEREIN; GIVING THE CITY OF LAKE WALES JURISDICTION OVER THE ROADWAY ANNEXED; AND PROVIDING FOR AN EFFECTIVE DATE.

Kathy Bangle, Planning Director, reviewed this item.

Deputy Mayor Robin Gibson commended Hunt Brothers and said the family and company have been loyal to the city. Mr. Fields concurred saying Hunt Brothers has recently joined the board of Main Street.

Deputy Mayor Robin Gibson made a motion to approve **ORDINANCE 2019-03** after 1st Reading. Commissioner Howell seconded the motion.

By Roll Call Vote:

Deputy Mayor Robin Gibson "YES"

Commissioner Howell "YES"

Commissioner Stewart "YES"

Commissioner Curtis Gibson "YES"

Mayor Fultz "YES"

Motion passed 5-0.

11.II. Use Of Public Property By Park Avenue Private School

[Begin Agenda Memo]

Synopsis:

An indemnification agreement is being presented along with a certificate of insurance for use of public property for school activities in Market Place.

Recommendation: Approval with conditions and authorization for the Mayor to execute the agreement is recommended.

Background: A primary/secondary school is a permitted use in the C-1 zoning district. Park Avenue Private School is located at 160 E Park Avenue and utilizes the Market Place area for outdoor activities. Staff understood that they would be using Crystal Lake Park for playground activities. Occasional use of the Market Place was anticipated and the insurance and indemnification agreement should have been in place from the beginning. The School responded when contacted by Staff to execute both of the required documents.

Recently, other merchants and citizens utilizing the area have expressed concern about some of the activity and possible conflicts. It may be appropriate for Commission to condition the use of the public property by establishing times of activity and the duration of the activity for the safety of all involved.

Fiscal Impact: None to the City.

[End Agenda Memo]

Kathy Bangley, Planning Director, reviewed this item.

Commissioner Howell asked if a special event would supersede the school's recess. Ms. Bangley said probably but the concern is more day to day activity. Mr. Fields said that pedestrian access should not be blocked and said that their activities must yield to pedestrians coming through the area. Mayor Fultz suggested some sort of signage alerting traffic that there is a school there. Ms. Bangley suggested requiring a sign put out when kids are outside. Deputy Mayor Robin Gibson said he has seen the kids

play there and enjoys seeing them. The school is a good use for that building. He said signage is a good idea.

Ms. Bangley said she can draft a letter requiring they yield to pedestrians and signage for the mayor to sign. The Commission consented to this.

Deputy Mayor Robin Gibson made a motion to approve the indemnification agreement. Commissioner Stewart seconded the motion.

By Voice Vote:

Deputy Mayor Robin Gibson "YES"

Commissioner Stewart "YES"

Commissioner Howell "YES"

Commissioner Curtis Gibson "YES"

Mayor Fultz "YES"

Motion passed 5-0.

11.III. Board Appointments: Board Of Zoning Adjustment And Appeals, Planning And Zoning Board

[Begin Agenda Memo]

SYNOPSIS: Appointments to the Board of Adjustment and Appeals, Planning and Zoning Board

RECOMMENDATION

Staff recommends:

1. The Mayor appoint Deborah Solow to the Board of Zoning Adjustments and Appeals for a term ending 7/1/2020 and that the Commission consent to the appointment.

2. The Mayor appoint Diane Sims to a term on the Planning and Zoning Board ending 7/1/2021 and that the Commission consent to the appointment.

BACKGROUND

There are vacancies on the due to resignations and expiration of terms.

Deborah Solow, resident, has applied to serve on the Board of Zoning Adjustments and Appeals.

There are vacancies on the Planning and Zoning Board due to expiration of terms. Diane Sims, resident, has applied to serve on this board.

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).

Board of Zoning Adjustment and Appeals (BOA) (City Code Sec. 23-206.1) The board consists of five (5) members. Members must be residents. (3 year term)

- An interview process is necessary for new applicants only.
- Members are required to file an annual Form 1, Statement of Financial Interests
- Current Vacancies: 2 vacancies

Current Members: James Boterf, resident 10/04/11 – 07/01/20, 3
Harold Weigand, resident 06/20/06 – 07/01/17, 4-Final
Sue Marino, resident 02/02/16 – 07/01/19, P+1
Eberhard, Ralph, resident 08/02/16 - 07/01/19
Turner, Warren 07/05/17 - 07/01/20, 1

Applying for Appointment: Deborah Solow for a term expiring on 7/1/2020

Meetings (City Code Sec. 23-206.2(c)) - The board of appeals shall hold regular meetings at the call of the chair and at such other times as the board may determine.

Special meetings may be called by the chair or vice-chair with twelve (12) hours of notice.
Current Meeting Schedule: 3rd Thursday @ 9:00 AM; Commission Chamber

[The meeting time could be changed to accommodate members who work during the day.]

Duties (City Code Sec. 23-206.3) – The Board of Appeals shall:

1. Hear and decide appeals where it is alleged that there is an error in any order, decision or determination of the administrative official in the enforcement of these zoning regulations;
2. Authorize such variance from the terms of these zoning regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these zoning regulations would result in unnecessary and undue hardship. A variance from the terms of these zoning regulations shall not be granted until a public hearing is held before the board of appeals;
3. Hear and decide appeals where the planning board has denied an application for a special exception use permit or site plan approval;
4. Perform any other duties which are lawfully assigned to it by the city commission.

Planning & Zoning Board (City Code Sec. 23-205.2) – The board consists of seven (7) members. At least four (4) members must reside in the City and three (3) members must either reside in or own real property in the city. (3 year term)

- An interview process is required for new applicants only.
- Members are required to file an annual Form 1, Statement of Financial Interests
- Current Vacancies: 2 vacancies, must reside in or own real property in the City

Applying for Appointment: Diane Sims to a term that will expire 07/01/21

Current Members: Joanne Fuller, resident 09/19/06 – 07/01/18, 4-Final
Mark Bennett, resident 05/07/13 – 07/01/18, 2
Charlene Bennett, resident 02/16/10 – 07/01/16, 2
Narvell Petersen, resident 07/05/17 – 07/01/20, 1
Christopher Lutton, resident 07/05/17 – 07/01/20, 1
John Gravel, property owner 05/06/14 – 07/01/16, 1
Linda Bell, property owner 08/01/2017 - 07/01/21, 1

Meetings (2-133) – The planning board shall hold regular meetings at the call of the chairman on the fourth Tuesday of each month and at such other times as the planning board may determine. Special meetings may be called by the chair or vice-chair with twelve (12) hours of notice.

Current Meeting Schedule: - 4th Tuesday @ 5:00 p.m.; Commission Chamber

Rules of procedure (City Code Sec. 23-205.3):

The planning board shall elect from its membership one (1) member to serve as chairman and one (1) to serve as vice-chairman.

- a. The term of the chairman and vice-chairman named by the planning board shall be for a period of one (1) year with eligibility for re-election.

b. The planning board shall hold regular meetings at the call of the chairman on the fourth Tuesday of each month and at such other times as the planning board may determine. Special meetings may be called by the chairman or vice-chairman with twelve (12) hours of notice.

c. The planning board shall adopt rules for transaction of its business and shall keep a public record of its resolutions, transactions, findings and determinations which record shall be filed with the official records of the city.

The planning board may set a limit on the number of applications which may be scheduled for review on an agenda.

Functions, powers and duties (City Code Sec. 23-205.4) - To act as Local Planning Agency pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, F.S., ch 163, part II, and perform all functions and duties prescribed therein:

1. To advise and make recommendations to the city commission regarding applications for amendments to the official zoning map and comprehensive plan, rezoning of property, preliminary planned development projects and subdivisions;
2. To consider the need for revision or addition of regulations in these land development regulations and recommend changes to the city commission;
3. To hear and decide applications for special exception use permits and site plans in compliance with these regulations;
4. To perform any other duties which are lawfully assigned to it by the city commission.

OPTIONS

Do not make these appointments.

FISCAL IMPACT

There is no cost to these appointments.

[End Agenda Memo]

The Mayor appointed Deborah Solow to the Board of Zoning Adjustments and Appeals for a term ending 7/1/2020 and asked that the Commission consent to the appointment.

Commissioner Howell made a motion to approve the appointment of Deborah Solow to the Board of Zoning Adjustments and Appeals for a term ending 7/1/2020. Commissioner Stewart seconded the motion.

by Voice Vote:

Commissioner Howell "YES"

Commissioner Stewart "YES"

Commissioner Curtis Gibson "YES"

Deputy Mayor Robin Gibson "YES"

Mayor Fultz "YES"

Motion passed 5-0.

Mayor Fultz appointed Diane Sims to a term on the Planning and Zoning Board ending 7/1/2021 and asked that the Commission consent to the appointment.

Commissioner Howell made a motion to approve the appointment of Diane Sims to a term on the Planning and Zoning Board ending 7/1/2021. Commissioner Stewart seconded the motion.

by Voice Vote:

Commissioner Howell "YES"

Commissioner Stewart "YES"

Commissioner Curtis Gibson "YES"

Deputy Mayor Robin Gibson "YES"

Mayor Fultz "YES"

Motion passed 5-0.

12. CITY ATTORNEY

Albert Galloway, Jr., City Attorney, reported that there is no pending litigation to the city. He has begun the process to collect overdue utility payments out at the Airport campground.

13. CITY MANAGER

Jennifer Nanek, City Clerk, reported that Spook Hill was recommended to be listed on the National Register of Historic Places by the Florida National Register Review Board. This recommendation will now go to the Keeper of the National Register to be approved.

Kenneth Fields, City Manager, reported that the first Lake Wales Live Event took place Friday at the Tina Peak pavilion and was well attended.

13.I. Tracking Report

13.II. Social Media Tracking Report

13.III. Commission Meeting Schedule

13.IV. Other Meetings & Events Calendar

14. CITY COMMISSION COMMENTS

Deputy Mayor Robin Gibson asked about the status of the Grand hotel. Mr. Fields reported that there are no code violations, no permits are open and no activity taking place. He hopes that increased activity Downtown will bring the hotel along. We are not going after it as there is no reason to.

Deputy Mayor Robin Gibson asked about the status of the YMCA. Mr. Fields said that it is under legal review by their counsel. Once approved by them it will come to the Commission in a workshop for review then approval.

Commissioner Howell asked that the City look into getting a turn light at the Scenic Highway and Central Avenue intersection mentioned earlier and anywhere else one is needed.

Commissioner Howell recommended providing suggestions to the City Manager so we can judge them for next year's evaluations. Mr. Fields said that as we get into the budget process for next year some short term goals for himself could be set. One goal could be getting improvements to the Downtown and CRA areas underway. Deputy Mayor Robin Gibson said financing the downtown projects are important and

hopes that there will be efforts to find funds for these. Mr. Fields said we are looking into grants for downtown.

Commissioner Curtis Gibson asked if the 1919 School Building has been treated for termites yet. Mr. Fields said no not yet. The building is being monitored and we are planning an RFP for it. Treating it for termites would be costly and doesn't wish to rush into that.

Commissioner Curtis Gibson said we need to encourage the county to repair Burns Avenue as it needs a lot of work especially near Scenic Highway. Mr. Fields said he would like to take over Chalet Suzanne Road and Burns Avenue from the County if the County brought them up to standards. There would be advantages to this such as being made aware of new developments on those roads sooner.

Commissioner Stewart mentioned that traffic on Scenic Highway going into Janie Howard Wilson Elementary School when students are arriving and leaving is bad. Mr. Fields said he will have Deputy Chief Schulze look at that area and see if something can be done.

Commissioner Curtis Gibson would like to see other evaluation forms for the City Manager. Commissioner Howell said this has been done several times. They are pretty much the same. Commissioner Curtis Gibson said he will research them too.

15. MAYOR COMMENTS

Mayor Fultz reminded everyone of the upcoming election on April 2 and encouraged turn out. He announced that Al Goldstein will join the board in May but there are 2 seats up.

The State of the City will be February 27th at Vanguard School 8:00 a.m.. He will talk about accomplishments over the past several years. Mr. Fields said the event will be taped and available on the website later.

16. ADJOURNMENT

The meeting was adjourned at 7:02 p.m.

Mayor

ATTEST:

City Clerk