

City Commission Meeting Minutes
June 2, 2020
(APPROVED)

This meeting was be conducted partially via teleconference

Pursuant to Executive Order No. 20-69, issued by the Office of Governor Ron Desantis on March 20, 2020, extended via Executive order no. 20-112, and further extended by Executuve Order No 20-114, municipalities may conduct meetings of their governing boards without having a quorum of its members present physically or at any specific location, and utilizing communications media technology such as telephonic or video conferencing, as provided by Section 120.54 (5)(b)2, Florida Statutes.

The City of Lake Wales held this hybrid virtual public meeting using the GoToMeeting Web/Teleconference service.

6/2/2020 - Minutes

1. INVOCATION

Dr. Jim Moyer gave the invocation.

2. PLEDGE OF ALLEGIANCE

3. CALL TO ORDER

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

Mayor Fultz read a statement:

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

Albert Galloway, Jr., City Attorney, read a statement on Procedures for this partial virtual Public Meeting.

Mr. Galloway asked the Commissioners, "are you comfortable with all the notice provisions set forth and these uniform rules of procedures we have established for this Virtual meeting? The Commissioners answered affirmatively.

4. ROLL CALL

Commission Members Present: Eugene Fultz - Mayor, Curtis Gibson, Terrye Howell, Al Goldstein, Robin Gibson

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

5. PRESENTATION/REPORT

5.I. COVID-19 Update

Joe Jenkins, Fire Chief and Emergency Operations Director, there is 1053 cases in Polk County and 58 deaths. I Lake Wales there are 60 cases. There has not been a decline in cases in Polk County yet. The pandemic is still going on despite other events. He cautioned towards moving too quickly towards reopening.

Kenneth Fields, City Manager, reviewed possibility of opening facilities and athletic fields. City Hall is prepared to open on Monday on an appointment basis. He asked for consensus for this. The library is

holding back due to increased volume of Books by Mail. As other libraries open we will see if that decreases.

Deputy Mayor Robin Gibson said this issue will be with us for a long time. We will have to live with it. Let's cautiously reopen in accordance with CDC guidelines. Commissioner Curtis Gibson agreed saying we need to be cautious and be sure we observe proper distancing. We need to go ahead and open our facilities as other cities and the county are moving forward. Commissioner Goldstein said people, especially athletes, need to get back outside. Mayor Fultz said he hopes citizens will use the facilities at their own risk. Commissioner Howell said she agreed with going by CDC guidelines. She asked Albert Galloway, Jr., City Attorney, if the City could be held liable if anyone got sick. Mr. Galloway said no as it would be too difficult to prove that the City is where they caught the virus. Deputy Mayor Robin Gibson said negligence would also be hard to prove if we follow CDC guidelines. He agreed with Mr. Galloway's opinion. Commissioner Goldstein asked if the percentages were going down. Chief Jenkins said with the new way calculations are being done, yes, except last week when they doubled. Mr. Fields reported that Central Florida Health Care is looking to establish a permanent testing site in Lake Wales. Mayor Fultz said people still need symptoms to get tested.

Chris Lutton, resident, asked how many of those infected have recovered and are how many are still sick. Chief Jenkins said the CDC has not defined what recovered is yet so those statistics are not being provided at this time.

Chief Jenkins recommended having the youth leagues submit a plan as to how they will follow CDC guidelines. The Commission consented to this. James Slaton confirmed that there are CDC guidelines for allowing youth sports to take place so we can be sure our organizations are following those. Commissioner Howell asked that Chief Jenkins review the plans that are submitted to the city. Mayor Fultz agreed with this.

6. COMMUNICATIONS AND PETITIONS

Mayor Fultz read an email from Erin Killebrew, Citrus Connection, saying that they can fulfill the Commissioners request to have the bus go down to Central Avenue at no extra cost to the City.

Terry Christian, resident, shared a complaint from March 28, 2019. The citizen was unhappy with the result of the complaint so they followed up with the Florida Department of Law Enforcement. Citizen complaints need to followed up on without retaliation. We need to hold people accountable. he participated in a protest regarding this. This officer has several complaints against them. Police officers lie for each other. No one from the Police Department attended. They should have come for fellowship and dialogue.

Sara Jones, resident, said she attended the protest Sunday and has heard several complaints against this officer. She doesn't want the City to get a bad reputation over this.

Chris Lutton, resident, spoke on the departure of the City Manager. He asked the Commission to not be stressed out over this. He encouraged dialogue. He said they should be sure of the cost related to his leaving. Transparency is important and the Commission needs to watch the budget. He said he will be more vocal during the budget process.

Bob Wood, resident, shared a plan involving stamps and purchasing items downtown. This would have a good return value. He will do more research on this. He recommended a new City Manager to work with Dover Kohl. He recommended deferring pension changes until the quarterly report. He thanked Deputy Mayor Robin Gibson for being open to talking to him.

Deputy Mayor Robin Gibson voiced support for how the protest was conducted Sunday. It was done peacefully and respectfully. The specific concerns raised during the protest should be followed up on. After the investigation into the matter is concluded he recommended that the matter be reviewed by a 3rd party. We need to establish the facts for the benefit of the town. Commissioner Goldstein said he was proud of how the protest was done. He came and checked throughout the day and visited with participants including Mr. Christian.

Anita Wells, resident, expressed concerns about the Boys & Girls Club. is the Austin Center the new location? She has submitted an application for a protest event on Saturday. She said that we need more activities for children in Lake Wales. She suggested a water park.

Allison, resident, asked for playgrounds to be reopened.

Christie Land expressed opposition to the agenda item regarding the food trucks. She does not want food trucks excluded in Lake Wales. She also asked that playing fields be reopened immediately as kids need to run and play in team sports.

Hillary Gordine asked for baseball fields to be open as soon as possible. Their baseball association has guidelines in place for safe play. They need an outlet for exercise.

Kevin Kieft reported on CARES Act from the county. The rules regarding funding have been modified allowing those companies to get funding if they already received other funding. The amounts have been doubled.

Melissa Konkol, resident, said she opposed allowing Mr. Fields to buy into the retirement system as this is unfair to City Employees.

7. CONSENT AGENDA

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

By Voice vote:

Commissioner Howell "YES"

Commissioner Goldstein "YES"

Commissioner Curtis Gibson "YES"

Deputy Mayor Robin Gibson "YES"

Mayor Fultz "YES"

Motion passed 5-0.

7.I. Minutes - May 5, 2020

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

[Begin Agenda Memo]

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.

[End Agenda Memo]

Mayor Fultz asked for confirmation that the Boys and Girls Club will permanently be at the Austin Community Center. Kenneth Fields, City Manager, confirmed this.

Commissioner Howell asked if events held at the Austin Center on the weekends will be able to set upon Fridays. James Slaton, Deputy City Manager, said the Boys and Girls Club will work with us. They will be flexible. Commissioner Howell asked about maintenance. Mr. Slaton explained that this is similar to the previous agreement. The City will help with some of the maintenance. Commissioner Howell asked about the \$500 a month. Mr. Slaton said that is 25% of utility costs.

Commissioner Curtis Gibson asked about the requested fencing at the Austin Center. Mr. Slaton said they are working on getting quotes for this.

Anita Wells, resident, expressed concern that the Austin Center is used for other things such as PAL and voting.

Mayor Fultz asked about Curtis Reddick, Citrus Center Boys & Girls Club, if he was agreeable to the new location. Mr. Slaton said he was. Commissioner Curtis Gibson said he spoke to Mr. Reddick and he is comfortable with the change.

Commissioner Howell asked about voting. Mr. Slaton said that staff is coordinating with the Boys & Girls Club to allow for this. Commissioner Goldstein said another location for the voting may be needed in the future.

Commissioner Howell said this Community Center is the only place for some large events to happen. It still needs to be available.

8. OLD BUSINESS

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

[Begin Agenda Memo]

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.

[End Agenda Memo]

Jennifer Nanek, City Clerk, read **ORDINANCE 2020-06** by title only.

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.

Kathy Bangley, Assistant City Manager, reviewed this item. Ms. Bangley explained that Kona Ice posted concerns on social media that this ordinance would prohibit fundraisers at schools. Ms. Bangley said that this ordinance would not affect those activities. Staff has spoken to the owner and clarified this. Several comments were emailed to City Staff in opposition to this Ordinance related to the social media post.

Commissioner Howell said she had several questions. She suggested that we write our own ordinance in conjunction with food truck owners. We can then tailor it to Lake Wales. This ordinance needs to be reviewed after a certain time to see if it is working for us. She said the insurance requirement is too high for Lake Wales. She said the time needs to be later so they can be open after activities such as a football games. She wanted to allow food trucks on vacant lots. Deputy Mayor Robin Gibson suggested that the Ordinance be modified to Commissioner Howell's satisfaction. This should not be written by committee.

Commissioner Curtis Gibson asked about the 72 hours limit. Ms. Bangley explained that a mobile food truck can only stay in one of their spots for 72 hours to keep with the mobile concept. The permit is good for a year. Commissioner Curtis Gibson asked about special events. Ms. Bangley explained that the food trucks can participate in special events as they have previously. Commissioner Curtis Gibson asked about using the Winter Haven version. Ms. Bangley identified the differences between this one and what Winter Haven has in theirs.

Commissioner Goldstein asked about the insurance requirements. Ms. Bangley reviewed the requirement which makes sure the City is covered. It is similar to the requirements for contractors.

Ms. Bangley said she is fine if they want to extend the hours. Mr. Fields suggested allowing later hours for certain occasions.

OPENED PUBLIC HEARING

Michelle Threatt, resident and food truck owner, said she is just feeding children for free on a weekly basis during this emergency. She just wanted to be sure there is a smooth way for food trucks to get started. When she started she let people know what she was doing. Mayor Fultz commended her for feeding the kids for free. Ms. Bangley said they can issue a card saying a truck is allowed to be at a certain place and time. Serving in the park after a football game may become a special event.

Terry Christian asked where the trucks will be allowed to park. Public property and private property. Ms. Bangley reviewed the process for authorization in those cases. For private property owner consent is required. For public property a special event is required. Ms. Bangley reviewed the process to apply.

Narvelle Petersen, with Martin Luther King Jr. Committee, asked about food trucks at their event. If they can set up on their own. Ms. Bangley said for that event and others food trucks must sign up with the organizers of the event.

Commissioner Howell asked if we can try this out like a pilot program and review this in a few months and address any concerns. Ms. Bangley said yes and she agreed. She can bring it back in 6 months with user comments. Changes could be made before then. Commissioner Goldstein suggested reviewing this in January after the holidays. The commission agreed.

Lisa Corpora asked if the Commission and staff is aware of new legislation regarding food trucks. Will the Taproom be able to have food trucks and will they have to close at the same time. Ms. Bangley said she wasn't aware of legislation but if anything changes this Ordinance we can amend our Ordinance later. In regards to the Taproom she hasn't seen their business plan yet. The hours and use

of food trucks is yet to be worked out. Lisa Corpora recommended waiting on this until reviewing the legislation. Commissioner Curtis Gibson agreed with this. Zaillet Suri, Deputy City Clerk, reviewed a summary of the legislation. Mr. Fields recommended passing this ordinance to allow food trucks to operate until this bill goes into effect. If changes are needed we can come back to the Commission with them later.

CLOSED PUBLIC HEARING

Commissioner Goldstein made a motion to adopt **ORDINANCE 2020-06** with recommended changes after second reading and public hearing. Deputy Mayor Robin Gibson seconded the motion.

By Roll Call vote:

Commissioner Goldstein "YES"

Deputy Mayor Robin Gibson "YES"

Commissioner Howell "YES"

Commissioner Curtis Gibson "YES"

Mayor Fultz "YES"

Motion Passed 5-0.

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

[Begin Agenda Memo]

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.

[End Agenda Memo]

Jennifer Nanek, City Clerk, read **ORDINANCE 2020-10** by title only.

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.

Kathy Bangley, Assistant City Manager, reviewed this item.

Commissioner Curtis Gibson asked if this property was anybody's or just this company's which they own. Ms. Bangley confirmed that it was just the property belonging to this business and it was a voluntary annexation. Commissioner Howell said she had heard a concern about this and our City Attorney explained it to her and the person who asked.

OPENED PUBLIC HEARING

A citizen said he had nearby property that has been in his family that he is not interested in selling. Ms. Bangley said she was aware of in interest in other property. But the property in question tonight belongs to McKibben Sports. Mayor Fultz assured the citizen that they will not annex the property without careful review.

CLOSED PUBLIC HEARING

Deputy Mayor Robin Gibson made a motion to adopt **ORDINANCE 2020-10** after second reading and public hearing. Commissioner Curtis Gibson seconded the motion.

by roll call vote:

Deputy Mayor Robin Gibson "YES"

Commissioner Curtis Gibson "YES"

Commissioner Howell "YES"

Commissioner Goldstein "YES"

Mayor Fultz "YES"

Motion passed 5-0.

9. NEW BUSINESS

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

[Begin Agenda Memo]

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 2nd, 2020
July 2nd 2020.

BACKGROUND

In response to the recent threat of COVID-19 Mayor Fultz issued a State of Emergency on March 13th 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 5th will expire June 2nd.

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.

[End Agenda Memo]

Jennifer Nanek, City Clerk, read **RESOLUTION 2020-20** by title only.

RESOLUTION 2020-20 EMERGENCY RESOLUTION BY THE CITY COMMISSION OF THE CITY OF LAKE WALES EXTENDING THE DECLARED STATE OF EMERGENCY RELATING TO CORONAVIRUS DISEASE COVID-19

Kenneth Fields, City Manager, reviewed this item.

Deputy Mayor Robin Gibson made a motion to approve **RESOLUTION 2020-20**. Commissioner Howell seconded the motion.

By Roll Call vote:

Deputy Mayor Robin Gibson "YES"

Commissioner Howell "YES"

Commissioner Curtis Gibson "YES"

Commissioner Goldstein "YES"

Mayor Fultz "YES"

Motion passed 5-0.

9.II. RESOLUTION 2020-19 - Lake Wales Charter Review Committee

[Begin Agenda Memo]

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

[End Agenda Memo]

Jennifer Nanek, City Clerk, read **RESOLUTION 2020-19** by title only.

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.

Kenneth Fields, City Manager, reviewed this item.

Commissioner Curtis Gibson made a motion to approve **RESOLUTION 2020-19**. Commissioner Howell seconded the motion.

By Roll Call Vote:

Commissioner Curtis Gibson "YES"

Commissioner Howell "YES"

Commissioner Goldstein "YES"

Deputy Mayor Robin Gibson "YES"

Mayor Fultz "YES"

Motion Passed 5-0.

9.III. ORDINANCE 2020-07 - Amending Chapter 16, Pension & Retirement – General Employees' Pension Plan – First Reading

[Begin Agenda Memo]

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 buy back must be paid by the member. The cost of the service buy back 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.

[End Agenda Memo]

Jennifer Nanek, City Clerk, read **ORDINANCE 2020-07** by title only.

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.

Kenneth Fields, City Manager, reviewed this item.

Deputy Mayor Robin Gibson said the issue with the cap is separate from the buy-in. The cap can be tabled to another time. The buy-in part has to do with the package of the City Manager. This is part of the next item on the agenda. Commissioner Curtis Gibson agreed. Mr. Fields suggested a motion to this effect.

Deputy Mayor Robin Gibson made a motion to table the portion of this ordinance dealing with the \$75,000 cap issue. Commissioner Curtis Gibson seconded the motion.

By roll call vote:

Deputy Mayor Robin Gibson "YES"

Commissioner Curtis Gibson "YES"

Commissioner Goldstein "YES"

Commissioner Howell "YES"

Mayor Fultz "YES"

Motion passed 5-0.

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

Kenneth Fields, City Manager, proposed the following to allow for him to have a clean departure and allow both to move forward.

The following are the terms for an amendment to the Employment Agreement between Kenneth Fields, City Manager ("the Manager") and the City of Lake Wales, (the "City").

As to the Manager

- The Manager will resign his position on June 2, 2020 effective August 9, 2020.
 - The Manager agrees that he shall not make any public statements disparaging the CITY or in any way interfering with the CITY's search for a new City Manager.
 - The Manager will waive all claims against the City.
 - The Manager will not file for unemployment compensation upon separation from the City
- As to the City of Lake Wales

- The City will allow the Manager to purchase service time in accordance with proposed Ordinance 2020-07 for his Lake Wales and prior local government service
 - The City will place the Manager on paid administrative leave effective June 3, 2020 until August 9, 2020; During this period, the Manager shall remain available for consultation and advice to the City as the City may desire
 - The City will provide the Manager with ten weeks of severance pay in accordance with his Employment Agreement
 - The City will pay the Manager for accrued leave in accordance with his Employment Agreement and the City's Personnel Policies
 - The City Commission, the City of Lake Wales and its employees shall not make any public statements disparaging the Manager or interfering in any way with his search for new employment
- These terms shall become effective upon enactment of City of Lake Wales Ordinance 2020-07.

Mr. Fields said that his contract provides for a 45 day suspension with pay and provides for 20 weeks of severance pay. In order to facilitate this change he will take 10 weeks of severance pay. This is less costly to the City. It will allow both to move forward and amicably separate. He stated he was proud of his accomplishments and hopes that he has helped the City move forward.

Deputy Mayor Robin Gibson said he wanted the City Manager to help us through the budget process as this one may be difficult. He wants a City Manager to take us through the Dover-Kohl plan over the next several years. He said he supports allowing the City Manager to buy in to the defined benefit pension plan. He emphasized that this arrangement is voluntary and not a firing. He was not sure about the severance pay.

Commissioner Curtis Gibson said he didn't want Mr. Fields to feel like he was pushed out. Mr. Fields said the termination of a City Manager agreement can be similar to a divorce. It was a good relationship but now it has to end and both parties need to move on. According to his contract he is entitled to a certain amount. He has tried to be fair to the City. He modified the previous request of 17 weeks severance to 10. Commissioner Curtis Gibson asked about changing terms for the buy in. Mr. Fields said they can modify the ordinance for just the City Manager or those in a certain pay scale.

Commissioner Goldstein asked if this goes into effect tonight what happens next. Mr. Fields said that the Commission will select an interim City Manager. Commissioner Goldstein said this is a good agreement as Mr. Fields will still be available to us through budget process. This agreement will make it easier to bring someone else in.

Commissioner Howell said she thought she was waiting on an independent review on the pension issue. She asked how much the total cost is to the City for this agreement. This is a major compromise. She wants to do the best thing for the City. She would like this to be amicable and then we could move on. Mr. Fields explained that the buy-in to the pension is at no cost to the City. The employee bears full responsibility.

Mayor Fultz said this is amicable. This is a good agreement. This won't make the City Manager look bad. We need to look at the cost. We don't need anything negative about us. He agreed that we need to do what is best for the City. This allows Mr. Fields to leave with his head high.

Mr. Fields recommended the first vote on the change to the pension and then on the separation agreement. Mayor Fultz agreed and said the pension agreement can be modified for just the City Manager. Deputy Mayor Robin Gibson said that this is all one package. It can be voted on separately. Commissioner Howell asked if this puts the City in debt. Mr. Fields said no. Commissioner Curtis Gibson said this is a mutual agreement and not a firing. He expressed support for this agreement. He asked if this stops us from investigating any improprieties after he leaves. Mr. Fields said no. Deputy Mayor Robin Gibson said the City Manager doesn't handle that much of the day to day finances of the City. Deputy Mayor Robin Gibson said the vote at the Pension Board that he attended was 4-3. The buy-in was controversial. He reviewed the buy-in proposal. He was the deciding vote. He said City Managers don't last 10 years to get vested in our plan. Our good benefits which is why we have good people. He estimated the cost of severance at about \$27,000. This is a goodwill payment. Commissioner Goldstein said we should move forward to be sure others will want to come and work here. Mr. Fields said he will pay for all of the buy-in cost himself and the 45 day severance is from the City Charter that he put into his contract.

Mr. Fields suggested a consensus vote on the package before a vote on the Ordinance.

Mayor Fultz asked for a consensus vote on the package with the change to the Ordinance and the separation agreement.

By Voice Vote:

All Commissioners "Aye"

There was unanimous consent to the package.

Commissioner Curtis Gibson made a motion to approve **ORDINANCE 2020-07** after first reading with amendment to allow only the City Manager to buy in. Commissioner Goldstein seconded the motion.

There was a question from Chevon Baccus about the cost. Mr. Fields said he will have to pay in approximately \$300,000 to the Pension plan. The total cost of his severance or goodwill payment of 10 weeks is estimated at \$26,800. He also gets his leave. Total is about \$53,000. Mr. Fields said he is committed to staying in the City and being available during this time. Commissioner Howell asked Sandra Davis if there was anything else. Ms. Davis said his sick leave that he gets anyway.

Albert Galloway, Jr, reread **ORDINANCE 2020-07** by revised title.

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 CITY MANAGER THE PURCHASE OF PRIOR SERVICE; CREATING SECTION 16-66(b) PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

By Roll Call vote:

Commissioner Curtis Gibson "YES"

Commissioner Goldstein "YES"

Commissioner Howell "YES"

Deputy Mayor Robin Gibson "YES"

Mayor Fultz "YES"

Motion passed 5-0.

A motion was made by Commissioner Goldstein to approve the term sheet and authorize the City Attorney to incorporate it into the agreement. The motion was seconded by Commissioner Curtis Gibson.

By Roll Call Vote:

Commissioner Goldstein "YES"

Commissioner Curtis Gibson "YES"

Commissioner Howell "YES"

Deputy Mayor Robin Gibson "YES"

Mayor Fultz "YES"

Motion passed 5-0.

Commissioner Curtis Gibson made a motion to appoint Deputy City Manager James Slaton as Interim City Manager. Commissioner Howell seconded the motion.

Deputy Mayor Robin Gibson suggested that the Interim City Manager be barred from applying for City Manager. He described some problems with this. Mayor Fultz suggested that he should be allowed. This was discussed. It was decided to defer further discussion to another agenda.

By Roll Call Vote:

Commissioner Curtis Gibson "YES"

Commissioner Howell "YES"

Commissioner Goldstein "YES"

Deputy Mayor Robin Gibson "YES"

Mayor Fultz "YES"

Motion passed 5-0.

10. CITY ATTORNEY

Albert Galloway, Jr., City Attorney, said there was no pending litigation against the City.

11. CITY MANAGER

James Slaton, Interim City Manager, pledged to do his best in this position and make necessary changes to do what is best for the City.

11.I. Tracking Report

11.II. Social Media Tracking Report

11.III. Commission Meeting Calendar

Mr. Slaton reminded the Commission that the next Budget Workshop is tomorrow night.

12. CITY COMMISSION COMMENTS

Commissioner Goldstein praised residents for a positive, peaceful protest Sunday.

Commissioner Curtis Gibson thanked Mr. Fields for his 7 years of service and congratulated Mr. Slaton on being Interim City Manager. He hopes that the City moves in the right direction.

Deputy Mayor Robin Gibson said he was glad we are not in chaos after the protest and the departure of the City Manager. We are strong with a strong staff. We won't miss a beat.

13. MAYOR COMMENTS

Mayor Fultz encouraged response to the 2020 Census.

14. ADJOURNMENT

The meeting was adjourned at 10:04 p.m.

Mayor

ATTEST:

City Clerk