

**MINUTES
CITY COMMISSION MEETING
MONDAY, FEBRUARY 2, 2015
7:30 P.M.
CITY HALL**

Call to Order: Mayor Nancy Z. Daley

Invocation and Pledge of Allegiance

Roll Call: Those in attendance were Mayor Nancy Daley, Vice Mayor Charles Lake, Commissioner John Duncan, Commissioner Albertus Maultsby, Commissioner Jack Dearmin, City Manager Ryan Leavengood, Assistant City Attorney Seth Claytor, and Interim City Clerk Valerie Ferrell.

Staff attendance: Police Chief Art Bodenheimer, Public Works Director John Deaton and Parks and Recreation Superintendent Richard Weed.

CITY MANAGER ANNOUNCEMENTS

The Master Gardeners will hold a Workshop at Mackay on Thursday, February 5th at 10am to discuss Florida Friendly Ground Covers. The public is welcome to attend.

Reminder: The Florida League of Cities is offering an education course on Ethics in Winter Haven on Saturday, February 7th at the Chain of Lakes Complex in Winter Haven. All Commissioners plan on attending.

Also, there will be a Preservation Nature Walk at Mackay on Sunday, February 8th beginning at 2pm. The public is welcome to attend.

The City of Lake Wales will be hosting the next Ridge League of Cities dinner meeting on Thursday, February 12th 6pm at the Lake Wales Country Club.

The City will conduct its Municipal Election on April 7th for the purpose of electing two commissioners, and to consider three charter referendum items. Qualifying for candidates will begin Monday, February 16th at 8:30am and close on Friday, February 20th at 12:00noon.

The Lake Alfred Little League will kick-off the season with its Jamboree on Saturday, February 21st beginning at 9am. Mayor Daley will be throwing the first pitch of the season.

He also stated city staff is continuing its progress with centennial events and memorabilia, and indicated the first historical presentation will be made at the next regular City Commission meeting.

CITY ATTORNEY ANNOUNCEMENTS

There were no legal announcements.

RECOGNITION OF CITIZENS

Margaret Wheaton, 330 S Carolina Ave, invited the public to participate in 1 Billion Rising event on Saturday, February 14, 2015, a worldwide event to protest violence against women and girls. The local event will be held at the Winter Haven Downtown park from 10am and 2pm.

Jean Brittain, 370 S Echo Dr, thanked city staff for responding to her concerns at Echo Terrace fishing pier and other items from the last meeting. She mentioned one additional concern regarding a loose picnic table at the Echo Terrace Park.

Mike Jones, 155 S Glenn Ave, stated First Baptist Church of Lake Alfred will be holding its annual Lovin' LA on Saturday March 28th, a volunteer effort for community projects.

Dorothy Selhime, 345 N Echo Dr, stated concerns with mail forwarded to her home with the wrong address and asked for assistance in getting the issue resolved.

CONSENT AGENDA: APPROVE CITY COMMISSION MEETING MINUTES 1/20/15.

Commissioner Maultsby moved to approve the City Commission Meeting minutes for the January 20, 2015 regular meeting; seconded by **Commissioner Duncan** and the motion was approved by unanimous voice call vote.

There were no public comments.

MAYOR DALEY	AYE
VICE MAYOR LAKE	AYE
COMMISSIONER DEARMIN	AYE
COMMISSIONER DUNCAN	AYE
COMMISSIONER MAULTSBY	AYE

AGENDA

1.) PUBLIC HEARING: ORDINANCE 1349-15: TECO FRANCHISE AGREEMENT

Mayor Daley read the title of Ordinance 1349-15.

City Manager Leavengood stated in 1986 the City of Lake Alfred entered into a thirty (30) year agreement with Tampa Electric Company (TECO) providing them with an electric franchise within the City. In consideration for the granting of this franchise and as compensation for specific property rights relinquished by the City, TECO pays a franchise fee to the City equal to "an amount which added to the amount of all taxes" is equal to six percent (6%) of TECO's electric revenue generated from commercial and residential properties within the City.

While certain customer classes (namely industrial) were excluded from the initial franchise fee, state law required that the fee be applied to all customers. In application, this meant that the revenue that would have been generated by applying the 6% fee to the commercial and residential customers included in the agreement was hedged out across all customers to produce the same dollar amount. This resulted in an effective franchise fee lower than the 6%

included in the ordinance. Additionally, TECO “backed out” an amount from the franchise fee equal to the taxes they paid to the City further reducing the franchise fee below 6% (actual fee was ~4%).

In 2006, the franchise agreement was amended to include Industrial customers and was extended an additional 10 years to expire in 2026. This increased the customer base the fee applied to and raised the effective rate to its current 4.78%, but still below the 6% approved in the original agreement. This was due to the tax “back out” provision and a few customer classes that were still omitted (namely institutional and governmental).

Following the evolution of franchise agreements over the decades and the language contained within, only 2 of the 13 or so localities that have Franchise agreements with TECO have an effective franchise fee lower than 6%; Temple Terrace and Lake Alfred. The City of Auburndale recently exercised a provision in their franchise agreement that allowed them to correct this issue and to collect the full 6%. While the City of Lake Alfred’s agreement does not contain such a provision, city staff has reached out to TECO representatives and advocated the City’s position.

In consideration for a five (5) year extension of the agreement to 2031, TECO has agreed to clean up the language within the agreement to remove the tax “back out” provision and to apply the franchise fee to all customer classes. This will increase the City’s effective franchise fee paid by TECO to six percent (6%), consistent with the intent of the original agreement and all other TECO customers within Polk County.

Mayor Daley opened the public hearing.

There were no public comments.

Mayor Daley closed the public hearing.

Commissioner Maultsby asked if there were any comments received from any residents on this change.

Vice Mayor Lake stated he only spoke with two residents who expressed concern over the increase, however he discussed the increase would be minimal.

After brief discussion, **Vice Mayor Lake** moved to approve the Ordinance 1349-15 on second and final reading; seconded by **Commissioner Dearmin** and the motion was approved by unanimous voice call vote.

There were no public comments.

MAYOR DALEY	AYE
VICE MAYOR LAKE	AYE
COMMISSIONER DEARMIN	AYE
COMMISSIONER DUNCAN	AYE
COMMISSIONER MAULTSBY	AYE

2.) PUBLIC HEARING: ORDINANCE 1350-15: MOTOR VEHICLE NOISE

Mayor Daley read the title of Ordinance 1350-15.

City Manager Leavengood stated in December 2014 the Polk County Board of County Commissioners passed an ordinance to prohibit unreasonably excessive noise generated by motor vehicles. Any sound generated by a radio or electronic device from a vehicle that is plainly audible at a distance of 50 feet would be considered unreasonably excessive and a violation. The ordinance allows for citations to be issued by law enforcement officers for violations in the amount of \$100, \$250, and \$500 for the first, second, and third offenses, respectively. The ordinance passed by the county applies to unincorporated Polk County and in municipalities, unless a municipality already regulates motor vehicle noise or opts out of the County's provisions.

The proposed ordinance adopts the county's motor vehicle noise ordinance by reference into the City's code. Law enforcement and management staff from various municipalities in Polk County worked together over the past year with the County and the Sheriff's Office legal staff in the preparation of the county regulations in order to provide a uniform and countywide method of enforcement that could be widely supported.

Mayor Daley opened the public hearing.

There were no public comments.

Mayor Daley closed the public hearing.

Mayor Daley inquired about the number of citations and if there is a method to track within city limits in addition to unincorporated Polk County. Also, she asked to clarify that the citation will be given based on the level of noise not the sound itself, and this will be based on the officer's discretion.

Police Chief Bodenheimer stated it is his understanding there will be a collection method through the Polk County Sheriff's office and all municipal police departments. He confirmed that the officer will have discretion on the level of noise. Also he mentioned that this Ordinance will be implemented and tested for approximately one year in Polk County to determine its effectiveness. After this trial period, changes may be presented to clarify the violations and/or the enforcement methods.

Commissioner Duncan asked if the ordinance would apply to moving vehicles only, or if it would include vehicles parked in a driveway or residence.

Chief Bodenheimer stated the ordinance only states that it shall apply to motor vehicles which could be moving or parked, however it does not apply to stereos inside a residence or boats which are defined as vessels. It also includes loud horns, however does not include muffler exhaust noise as it is addressed separately in Florida Statutes.

After brief discussion, **Commissioner Dearmin** moved to approve the Ordinance 1350-15 on second and final reading; seconded by **Commissioner Duncan** and the motion was approved by unanimous voice call vote.

There were no public comments.

MAYOR DALEY

AYE

VICE MAYOR LAKE	AYE
COMMISSIONER DEARMIN	AYE
COMMISSIONER DUNCAN	AYE
COMMISSIONER MAULTSBY	AYE

3.) LAND EXCHANGE AGREEMENT

City Manager Leavengood stated in 2014, the City began correspondence with the University of Florida's real estate division regarding a potential property swap for City owned grove property for two properties that were a part of Jim Hughes's Estate in Lake Alfred. He described the location of each property, and also reviewed the City grove property as being considered for the State Veteran's Assisted Living Facility. The site was ranked fourth in the State overall and not likely to be awarded in the immediate future. Therefore it is available to be considered in this land exchange. The University of Florida has expressed interest in the grove property for citrus research. In consideration for the grove property, the City would receive the warehouse building located at 260 N Seminole Avenue as well as the warehouse building located at 100 West Cummings Street. He stated that the City Commission previously budgeted approximately \$35,000 for a storage warehouse to be constructed at the Mackay Gardens and Lakeside preserve for Parks and Recreation staff to store vehicles and equipment. Since that project was not completed, the warehouse at 260 N Seminole would be an ideal location for this use.

In August 2014 the city manager sent an email to the University of Florida's real estate division detailing staff's perspective on what considerations would be involved in the agreement. City staff met with the Director of the Citrus Research Center (IFAS) and her staff to tour approximately sixty (60) acres of city owned grove property that staff had tentatively proposed as consideration for the exchange. In September 2014, the City had a discussion item regarding the proposed property swap and the City Commission instructed staff to proceed with negotiations and shortly after the City Commission toured the Buchanan building and Seminole Avenue property in October 2014.

Following instructions to proceed with negotiations, staff has performed surveys on all three properties, and an asbestos survey and Phase I environmental assessment on the Buchanan building. The asbestos survey came back clear and the Phase I recommended a Phase II assessment for onsite testing be conducted, which staff is proposing to complete during the sixty (60) day inspection period included in this agreement.

The proposed agreement will swap the approximately 60 acres of city owned grove property located at the end of Experiment Station Road for the Buchanan Building property and the Seminole Avenue warehouse. The agreement is consistent with the information presented by staff throughout the process and the direction given by the City Commission.

Commissioner Maultsby asked what would be the City's options if the Phase II assessment discovers contaminants at the Buchanan property.

City Manager Leavengood stated the City has built in a 60-day inspection period to review that concern, receive results from the Phase II and determine the best scenario. He pointed out that even if contamination is found, there may be easy ways to mitigate the environmental impacts. But all of these scenarios depend on the results of the Phase II assessment.

Mayor Daley also stated that if the site is found to be a brownfield, this could be helpful in attracting national retailers who seek tax incentives on eligible properties.

Vice Mayor Lake inquired about the number and location of soil samples and borings into the ground. He asked if this would be done inside the building and through the concrete floor.

Miles Ballogg, CardnoTBE, stated they are proposing cores inside the building, specifically looking for solvents that may migrate through concrete. Also, they will be using ground penetrating radar to look for any underground tanks. He stated Phase I determined there are recognized environmental conditions based on the historical use of the property and physical observation, including a storage drum inside with unknown materials, historic grove activities and railroad lines once being closely located to the site. Based on all of these, the Phase II will determine what may actually be present and will also provide a list of options the City could utilize for cleanup and incentives for redevelopment.

Mayor Daley stated the City will initiate the Phase II assessment and if the property were to be sold for redevelopment, that new owner would have the option to review the findings or pay for their own Phase II assessment. In either case, she stated a Phase II assessment would need to be done before the property could be developed.

Mr. Ballogg stated the City can assign the Phase II assessment to a potential buyer or developer, if desired.

Commissioner Maultsby asked about the value of the grove property in comparison to the two warehouse buildings and property. He asked if the City would be in a position to make a profit, or would this be considered an equal exchange.

City Manager Leavengood stated the City Attorney advised that the property exchange has to be of similar value because it is local government owned property. However, the grove property is significantly more valuable to the University of Florida than it would be to another end user for the purposes of citrus research.

There was discussion regarding the future purposes of the property, whether the building should be demolished prior to selling to private developer. The City manager identified that all options depend on results of the Phase II assessment, however he stressed the best option may be to raze the building and then market the site as “shovel-ready.”

Lowell Schmidt, 365 E Sanford St, stated the property is extremely valuable to the community because of its location in the downtown and brownfield designated area. Also, the property is accessible to both northbound and southbound lanes of US Highway 17/92. He also stated the City is in a great position to negotiate further with the University of Florida if contamination is found on the site.

Commissioner Maultsby moved to approve the land swap agreement with Eagle Ridge, Inc.; seconded by **Vice Mayor Lake** and the motion was approved by unanimous voice call vote.

There were no public comments.

MAYOR DALEY	AYE
VICE MAYOR LAKE	AYE
COMMISSIONER DEARMIN	AYE

COMMISSIONER DUNCAN
COMMISSIONER MAULTSBY

AYE
AYE

4.) PHASE II ENVIRONMENTAL ASSESSMENT: BUCHANAN BUILDING

City Manager Leavengood stated in preparation for and as a part of due diligence on the property exchange agreement the city staff, through the CFRPC, solicited the services of CardnoTBE to perform a Phase I Environmental Assessment of the Buchanan property. The Phase I assessment is a review of the historical uses of the property which concluded that site specific testing, or a Phase II Assessment, would be necessary to determine if there was any contamination on the property.

The proposed addendum, through the CFRPC, again utilizes the services of CardnoTBE to perform the Phase II Environmental Assessment of the Buchanan property as a part of the City's due diligence and 60 day inspection period on the property through the land exchange agreement.

If the property is clear of contamination, the City may continue with demolition and eventual marketing and redevelopment of the site. If contamination is discovered on the property, remediation of the site may be required before it can be developed depending on the type and severity of the contamination. Federal and State Programs are available to assist property owners, especially for governmental entities and those that did not cause the contamination to clean up the site including the Brownfield Program that the City previously made the Buchanan Building eligible for when it included it in the designation area.

If approved, City staff will provide an update following receipt of the results of the Phase II environmental assessment on the Buchanan building including any recommendations for further action, if necessary.

Commissioner Duncan inquired as to the expected completion of the assessment and when the Commission will be able to review the results.

Mr. Ballogg stated his firm would initiate the field work to be complete 30 days of authorization from City, with a report due to city staff within 45 days.

City Manager Leavengood stated that the City has 30 days to provide notice to the University of Florida of any issues, following the 60-day due diligence period.

Assistant City Attorney Claytor asked for clarification of the Phase II report being due back to city staff within 45 business days or 45 calendar days.

Mr. Ballogg confirmed the report would be due back to city staff within 45 calendar days.

Mayor Daley asked where the funding would be expended within the City budget.

City Manager Leavengood stated this item would be expended from unrestricted reserve funds.

Vice Mayor Lake moved to approve of Addendum of the Planning Advisory Services Agreement with the Central Florida Regional Planning Council for the completion of a Phase II

Environmental Assessment in the amount of \$32,835; seconded by **Commissioner Maultsby** and the motion was approved by unanimous voice call vote.

There were no public comments.

MAYOR DALEY	AYE
VICE MAYOR LAKE	AYE
COMMISSIONER DEARMIN	AYE
COMMISSIONER DUNCAN	AYE
COMMISSIONER MAULTSBY	AYE

RECOGNITION OF CITIZENS

Art Bodenheimer, 190 N Seminole Ave, expressed his appreciation for the Mayor and Commissioners being in attendance to show support during the swearing-in ceremony for new police officers.

COMMISSIONER QUESTIONS AND COMMENTS

Commissioner Dearmin commended city staff on the work at the Veterans memorial expansion project. Also, he shared his sentiment of city employees and new officers joining the city family.

Commissioner Duncan shared his sentiment of the current projects in the community and the upcoming Little League Jamboree.

Commissioner Maultsby stated he continues to hear praise from citizens regarding the City's projects and progress.

Vice Mayor Lake welcomed the new officers and shared that Lake Alfred's population growth was not extensive between 1974 and 2014, growing from 2,000 residents to 5,000 residents.

Mayor Daley stated Ms. Wanda Maultsby-Daley had submitted her resignation as the Lake Alfred designee on the Agricultural and Labor Program Inc. Board. She stated Ms. Maultsby-Daley served in her place, and asked if the Commissioners may have a volunteer who could serve in this capacity. The volunteer must be an elected official or designee of an elected official.

She stated a history student at Florida Southern College was gearing up for a summer project and selected the Mackay Historic Home in coordination with the City's centennial. The student and his professor will be doing an extensive review of the property, family and community. She also stated the historical video project in coordination with Polk County Government Television and Polk County Historical Association is underway. The top five sites selected for filming are the Mackay Historic Home, Biggar's Antiques Building, University of Florida Citrus Research and Education Center and the historic bridge at Mackay Gardens and Lakeside Preserve.

With there being no further business to discuss, Mayor Daley adjourned the meeting at 8:50 p.m.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Valerie Ferrell". The signature is written in black ink and is positioned above the printed name.

Valerie Ferrell
Interim City Clerk