

On Monday, December 10, 2018 at 6:00 p.m., the City of Wauchula Commission met for its regular meeting in the Commission Chambers at 225 East Main Street, Suite 105, Wauchula.

**Nadaskay called the meeting to order.**

Commissioners present were Mayor Pro-Tem Neda Cobb, Russell Smith, Mayor Keith Nadaskay, Kenneth Lambert and Gary Smith.

Also, present were City Manager Terry Atchley, Assistant City Manager Olivia Minshew, City Attorney Thomas Cloud, Finance Director Sandee Braxton, Police Chief John Eason, Director of Support Services & Internal Auditing James Braddock, Community Redevelopment Agency Director Jessica Newman, Community Development Coordinator Kyle Long and City Clerk Holly Smith.

**Nadaskay declared a quorum.**

**Approval of Agenda**

G. Smith motioned to approve the agenda as presented, seconded by Cobb.

With no discussion, Nadaskay called for all in favor, all responded aye.

For those opposed like sign, no response. Motion carried.

**Approval of Minutes for the November 5<sup>th</sup> Workshop and the November 13<sup>th</sup> Meeting**

Cobb motioned to approve the minutes of the November 5<sup>th</sup> Workshop and the November 13<sup>th</sup> Meeting, seconded by Lambert. With no discussion, Nadaskay called for all in favor, all responded aye.

For those opposed like sign, no response. Motion carried.

**ORDINANCES/PUBLIC HEARINGS**

**Approval of Ordinance 2018-09 - Public Hearing – 2<sup>nd</sup> Reading – Capital Improvement Element**

Nadaskay announced the Public Hearing and asked anyone who wished to speak to identify themselves for the record and address the Commission. Hearing no comment from the public, Nadaskay closed the Public Hearing.

Attorney Cloud read Ordinance 2018-09 by title only.

Lambert motioned to approve Ordinance 2018-09, seconded by Cobb.

With no further discussion, Nadaskay called for all in favor, all responded aye.

For those opposed like sign, no response. Motion carried.

**NADASKAY RECESSED THE COMMISSION MEETING AND CALLED TO ORDER THE GENERAL PENSION BOARD MEETING**

**Approval of September 10, 2018 minutes**

R. Smith motioned to approve the minutes of September 10, 2018, seconded by Cobb.

With no further discussion, Nadaskay called for all in favor, all responded aye.

For those opposed like sign, no response. Motion carried.

**Request approval of the 1<sup>st</sup> Quarter Reports & Earnings for the General Pension and the OPEB**

Braxton presented the Financial Reports for the 4<sup>th</sup> Quarter of 2017/2018 fiscal year earnings for the Board's consideration. Braxton stated the General Employee Pension Fund had earnings of \$614,000 and with contributions added in, distributions and fees deducted, the pension increased \$525,000. Braxton stated in the 2018/2019 fiscal year you will start seeing distributions deducted from the OPEB. Nadaskay asked a couple of questions regarding the portfolio returns of the General Pension and the OPEB. Braxton explained the differences. Lambert motioned to approve General Pension and OPEB Financial Reports of the 1<sup>st</sup> Quarter as presented, seconded by G. Smith. With no other discussion, Nadaskay called for all in favor, all responded aye. For those opposed like sign, no response. Motion carried.

**Discuss the 2017 Annual Report Letter for the General Pension**

Braxton presented the 2017 Annual Report Letter to the Board and stated no action was needed.

### **Request approval of the 2018/2019 Administrative Budget for the Wauchula Pension Plan**

Braxton addressed the Board and stated this is another part of the compliance portion for the Department of Management Services. We have to adopt a budget yearly for each pension fund and each fund pays for its own fees. G. Smith motioned to approve the 2018-2019 Administrative Budget for the Wauchula Pension Plan, seconded by Cobb. With no discussion, Nadaskay called for all in favor, all responded aye. For those opposed like sign, no response. Motion carried

### **NADASKAY ADJOURNED THE GENERAL PENSION BOARD MEETING AND RECONVENED THE COMMISSION MEETING**

#### **Approval of the General Pension Board's actions**

Lambert motioned to approve the actions of the General Pension Board, seconded by Cobb. With no discussion, Nadaskay called for all in favor, all responded aye. For those opposed like sign, no response. Motion carried.

### **CITY MANAGER, NON-CONSENT AGENDA**

#### **Announce Power Cost Adjustment**

Atchley announced the PCA for December should be \$0.0110 the same as the prior month. The tax-exempt portion should be \$0.0200, a decrease from the prior month.

#### **Discuss Noise Complaint from Resident**

Atchley addressed the Commission and stated we have a resident with us tonight that would like to come before you and discuss some concerns, she has.

Cindy Cook – 802 Seminole Street

Cook stated the La Hacienda Bar & Grill, I looked up online and it is not a bar as far as I can see. She stated the noise ordinance states the music is till 10 pm and the sound shall be contained to their parking lot and it is not and disturbs me at my residence. I have traveled to 7<sup>th</sup> and 8<sup>th</sup> Avenue and can still hear the music. They will have a speaker in their parking lot playing music and it is disturbing me. It is also disturbing other people in the neighborhood but they did not come tonight. I am asking you tonight if the noise time can be changed to an earlier time than 10pm, I go to bed at 10. I have been calling since June at different times. They have truck shows and these trucks have their speakers on in the trucks, lights on and they are drinking and dancing and I do not think this is the law. If they want to have it to where they can have a party then they need to be out of the city limits because when this restaurant was owned by previous owners, we did not have problems like this. I think with me being a person I have the right to have silence and go to bed and be able to sleep. It is not the music that I hear it is the booming. I feel like you need to address it and look and see if you can get it back to an earlier time than 10. Cobb asked if 10 was the time. Eason replied no it is not. R. Smith asked what our ordinance says. Eason stated the ordinance was approved in 2011, Ordinance 2011-09. The time frame for commercial businesses, in section 12-2.3.02(m), says places of public entertainment shall be in violation of this section for any public entertainment establishment or person associated with it to allow stereo sets, cassette players, compact discs, etc. to be heard past 9pm and before 6am the next day. Eason stated the time frame is 9pm-6am. He stated just for some back ground since April 20, 2018 we have received 20 complaints regarding La Hacienda regarding potential noise ordinance violations. Of those 20 complaints, 16 were unfounded by officers. There were 4 complaints confirmed as violations and the location and management have been warned on 2 separate occasions that they need to turn their music down. The week of Thanksgiving City staff and I met with management and ownership of the business and again told them any further violations will subject them to fines and/or arrest and options were given to them as to what they should do to try and mitigate the music and noise coming from the establishment. They are renting, so we have offered to them a possibility: they need to contact their landlord and see about putting up some type of privacy fencing, hedging or something to act as a sound buffer to the west side of the property. Eason stated unfortunately for Ms. Cook she lives very close to 2 major roadways within the city, she is probably within 1,000 feet of Highway 17 and less than 500 feet from Carlton Street. While going through the reports we have seen an increase in noise complaints coming off Downing Circle and the apartments on Carlton Street. Eason stated every officer in the City has been told to do directive patrols specifically targeting La Hacienda, Carlton Street and Downing Circle and anyone they find that is in violation to issue a warning first before any criminal action can be taken. Eason informed the Commission the owner of the property cannot be fined for violation of the noise ordinance unless they are physically present when the violation is occurring. Other than that, the only other person we can fine is the management staff. Eason stated of the 4 confirmed violations we have arrested 2 individuals for violating the noise ordinance. I understand where Ms. Cook is coming from and

we are trying to hedge the issues but all the noise is not coming from the La Hacienda. Cook stated an officer told her the time was 10pm and she is not happy with the situation and she did not feel it was being done properly. Cook asked what was she physically going to have to do, stand out on the street with a sign. Cook stated she is tired of calling and nobody is taking this seriously. Lambert asked for clarification on the number of complaints. Eason stated there have been 20 complaints registered, 16 unconfirmed where there has not been noise located at La Hacienda, 4 confirmed complaints at that location and when the officer arrived 2 arrests were made related to noise from La Hacienda. Lambert told Cook that we are sympathetic to the problem but there are constraints and I feel that law enforcement is doing all they can do. Lambert asked Eason if the noise was coming from the parking lot or within the business. Eason replied it has come from both. Eason continued by stating because the way the ordinance is read under section M, that it is an entertainment establishment, they bring in truck shows every 4-6 weeks to draw in business, they will have a speaker outside until 9pm and then the speaker is shut down and taken inside and they continue what they are doing inside the business. When the officers get the complaint, they go the property line and the ordinance states it cannot cross the property line. There have been 4 confirmed cases where the music has been going across the property line; however, a warning has to be issued first to the management staff working there at the time to make sure they have properly been noticed of the violation before the State Attorney will pick up any kind of criminal charges. Lambert asked has that been done. Eason replied yes. Lambert asked when. Eason stated November 17, 2018 they were noticed, August 10, 2018 they were noticed twice and there was another time on August 4, 2018. Eason again stated the owners have been informed that any further violations will be subject to fines and/or arrests. Lambert asked if the noise had been any better within the last 2 weeks. Eason stated I have found two complaints. Lambert also asked Eason if he felt the business was trying to comply with the spirit of the ordinance. Eason replied he did. Cook commented they are not an entertainment establishment, it is a restaurant and grill, when I looked up their license online is for a restaurant and grill not an entertainment establishment. She stated if they want to do entertainment then they need to get out of the city limits. G. Smith asked if all the complaints were after 9pm. Eason stated no some have been before 9pm. Cook asked who made the ordinances. Nadaskay and Lambert replied we do. Lambert stated when we adopted the ordinance in 2011, we caught a lot of slack for setting the time to 9pm because there were a lot of people that want it to be till 11pm. Nadaskay commented most of the feedback we received was that we made it too restrictive. Cobb asked if the arrested were owners or managers. Eason replied no, one arrest was made in the McDonald's parking lot in which the vehicle had just left La Hacienda and the other was a vehicle that was on La Hacienda's property and once they left an arrest was made on that one. Lambert asked if the activity that was occurring on the property was within guidelines of what they are allowed to do. Eason replied yes sir. The difficulty is when you have an individual that is leaving from attending an event that has taken place there and sits in the parking lot a few minutes and then drive away. I still cannot charge that business owner with that violation because it is an individual leaving. Therefore the 2 that have been arrested have been individuals leaving the property. As far as the management, are they operating within the spirit of the ordinance, yes, have they had some violations that we have had to take some corrective actions on, yes, but as far as all these violations coming directly from management or staff at La Hacienda, it is not coming from them. They are willing to work with City staff to try and abate the problem. Cobb asked questions about further violations and fines. Eason expressed it is up to the judge. Lambert replied Cindy I know this is not what you want to hear but I do not think this is a legislative or policy issue which is what we are here to take care of. I am hearing we are attempting to enforce it and I understand that does not satisfy you and I do not have a room full of neighbors who are opposing this. Lambert continued by stating the other issue is when it becomes a matter of law, we are not a body of law, so it has to go to a body of law for there to be any kind of passing of judgment of any kind, we can through law enforcement attempt to enforce what the regulation says and from what I am hearing we are attempting to do that. Lambert asked Cook if she in anyway fault law enforcement for their attempts of what they are doing. Cook replied yes, I do, I do not feel like they are doing a good enough job. Lambert asked Cook what does that mean, be more specific. Cook replied that means when I call them and I am hearing the music and it is after 9pm, it is at least 30 minutes before I hear any silence and I do not feel they are taking it to heart and that is my opinion. Discussion continued on this matter. Cobb stated Cindy has called me several times over the last few months and I told her after the last time that she needed to present it to us so we would know what was going on and I did not know there had been 20 complaints, 2 warnings and the 2 arrests. Cook asked if all 20 were from here. Eason replied they were from the general area and I cannot tell if they were all from you because when you first started calling in you called in anonymously but there are a lot with your name attached to them. Eason stated if you call in anonymously it comes up an anonymous complaint, if you call in and give us your name, then we can actually make contact with you. Cook asked so if I call in and the dispatch asks if I want an officer to call me back then my

name is on it. Eason replied the only time your name is not on it is if you tell the dispatcher that it is an anonymous complaint, then they put on the complaint anonymous. Lambert stated the reality is nobody wants to be caught in a situation where they are uncomfortable not being able to rest peacefully in their own home and I am very sympathetic to that, but we are policy board. What we are saying is that our policy is in place at least what I have heard tonight, we are very much attempting to enforce policy. Lambert stated what we probably need to do at least from my perspective is an interest in hearing the outcome of this, hearing whether or not these good neighbors as a business are attempting to work to understand the issue, if they do not then maybe we do have policy or legislative issue to take up and consider but until it has worked its way through that process, I am not sure what else can we do. Lambert stated he is not trying to be unreasonable he just does not know what else we can do. Nadaskay asked Eason if he knew when the next truck show was. Eason replied no sir we normally find out about the truck show a week to week and a half in advance and usually only if it the event is large enough for off duty officers to work it to ensure the safety of the event. Cobb informed Cook all she can do is continue to complain if you hear it so we are aware and go out and check it at this point and it will catch up with them if they continue. Cook replied she will tape it and go further than this with it because she is done dealing with it.

### **Request Approval of Board Appointments**

Atchley presented the proposed Board appointments to the Commission.

- Airport Advisory Board – Reappointment - Ward Grimes until December 2021 and Appointment of Mike Wilkinson until December 2021
- Police Pension Board – Reappointment – Commissioner G. Smith until December 2020 and tonight the Police Pension Board elected Mr. Braddock to serve until December 2020
- Planning & Zoning Board – Reappointment – Donna Stephens and Wayne Johnson until December 2021

Atchley stated those are they recommendations for you tonight. Lambert motioned to approve the Board appointments as presented, seconded by Cobb. With no discussion, Nadaskay called for all in favor, all responded aye. For those opposed like sign, no response. Motion carried.

### **COMMENTS FROM COMMISSIONERS, OTHER ELECTED OFFICIALS, CITIZENS**

Cobb gave updates on the Central Florida Regional Planning Council and the Ridge League of Cities meetings.

### **Nadaskay recessed the City Commission Meeting and convened the Meeting of the Wauchula Community Redevelopment Agency's Board of Directors**

#### **Approval of CRA minutes from the November 13<sup>th</sup> Meeting**

Cobb motioned to approve the CRA minutes from November 13<sup>th</sup>, seconded by G. Smith. With no discussion, Nadaskay called for all in favor, all responded aye. For those opposed like sign, no response. Motion carried.

#### **Project Updates**

- **Utilitech**

Newman stated Brent Stephens from Utilitech would give the update.

Brent Stephens – Utilitech, 130 W. Main Street

Stephens addressed the Board and stated all the request from the building department we had regarding our plans has been addressed. We are currently working to get a meeting with the Fire Department regarding the egress on the second floor. Stephens told the Board he had a meeting with the Historic Preservation Board earlier regarding making the overhang on the south and west side of the building a balcony making two exterior doors for the second floor.

- **Palmetto 8**

Dr. Juan Curci addressed the Board and stated a lot of progress has been done over the last couple of months and seven inspections had passed for the electrical and framing. Curci stated in late January early February residential units should be ready for lease.

- **Cobb Project**

Clay Cobb addressed the Board and stated the project is moving right along at a faster pace. Cobb stated the wall framing was being completed this week and the exterior wall sheeting will start next week. Pouring of the third floor will begin the first part of January. Lambert asked the estimated completion date. Cobb stated the estimated completion date was April but I think it has been pushed back into June. Cobb discussed some interior issues he has had with the plans and the building department.

- **Wayfinding Signs**

Newman addressed the Board and gave an update on the new wayfinding signs.

- **226 W. Main Street**

Newman addressed the Board and stated Biovation had finished cleaning out their stuff last week. Newman stated with the help from Bill Spinner we are just monitoring the wells.

- **Crews Park**

Newman addressed the Board and stated we were working with the contractor to reduce the cost but not integrity of the project. Fortunately at the last minute we received a Mosaic grant for additional funding and we able to add back in most of the stuff we were having to cut. The Recreational Trails Grant agreement still is not ready another agency wanted to review the contract.

### **Main Street Updates**

Newman showed a brief video from Shop Small Saturday and gave a brief report. Newman also discussed the upcoming events.

Nadaskay asked if anyone else had anything for the CRA. Lambert spoke up and said I do. Lambert stated I am not sure the approval process is working for these projects the way we designed it to. The design was to figure out how we help move these projects along faster. They are not moving as expected and I am a believer that if something is not working then we do something different. Atchley stated on a positive note Commissioner there have been some challenges but what I have personally witnessed in the last couple of weeks along with what we are starting to see and lack of not hearing is I think the process is correcting itself. It seems to be getting much better. Atchley stated I think we need to keep watching it and see if it continues going down that path. Lambert stated I do not know if asking all these people to come in monthly and give updates on their projects is accomplishing a lot. Lambert stated what he would like to do is to suggest that maybe we consider not doing this in January asking them to submit a written update on their project and see if we are getting as much from that. The whole idea was not to do this permanently it was to do it to the point that we could begin to see some forward action. Lambert motioned for the CRA Board to suspend personal appearances from developers and go back to a written report due by the workshop for the month of January and sees where we go, seconded by Cobb. R. Smith stated recently he has experienced the same issues the developers are experiencing with the delays with permitting. Lambert stated the whole process was about us understanding where the bottlenecks are. With no discussion, Nadaskay called for all in favor, all responded aye. For those opposed like sign, no response. Motion carried.

Cobb asked for clarification on what the report needed to entail. Atchley explained what needed to be on the report.

### **Nadaskay adjourned the Meeting of the Wauchula Community Redevelopment Agency's Board of Directors and reconvened the City Commission Meeting**

#### **Approval of the CRA Board's actions**

Cobb motioned to approve the actions of the CRA Board of Directors, seconded by G. Smith.

With no discussion, Nadaskay called for all in favor, all responded aye.

For those opposed like sign, no response. Motion carried.

Atchley informed the Commission there was a citizen present that wanted to make a comment but was unsure at what time to speak. Atchley asked if the floor could be open for public comment again.

Jose Trinidad addressed the Commission regarding issues with the 1 pick up a week for solid waste. Trinidad stated once a week pickup is not enough and the trash gets stinky and the flies and maggots are in the garbage. Atchley addressed the Commission and stated that after the solid waste analysis is completed then we will know what improvements need to be made. Nadaskay thanked Trinidad for his feedback on the matter.

A video of the recent construction at the airport was presented to the Commission.

Cobb asked what was happening with the utility poles. Atchley stated pole inspections are being done.

REMINDERS:

December 24<sup>th</sup> and 25<sup>th</sup> – City Closed in Observance of Christmas  
January 1, 2019 – City Closed for New Year's Day  
January 7, 2019 @ 5:00pm – City Commission Workshop  
January 14, 2019 @ 6:00pm – City Commission Meeting

WITH NO FURTHER BUSINESS TO DISCUSS, NADASKAY ADJOURNED THE COMMISSION MEETING AT 7:24 P.M.

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Mayor Richard K. Nadaskay, Jr.

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City Clerk Holly Smith, CMC