LAKELAND CITY COMMISSION

Regular Session
June 6, 2022

The Lakeland City Commission met in Regular Session in the City Commission Chambers. Mayor Bill Mutz and Commissioners Chad McLeod, Bill Read, Stephanie Madden, Sara McCarley, Mike Musick, and Phillip Walker were present. City Manager Shawn Sherrouse, City Attorney Palmer Davis, Assistant Finance Director Deidra Joseph, and City Clerk Kelly Koos were present.

CALL TO ORDER – 9 A.M.

Mayor Bill Mutz announced that the Public Hearing would take place at the end of the meeting after all other business was completed.

PRESENTATIONS

Communications - Stay Connected! (Kevin Cook, Communications Director)

Beautification Awards (Bill Koen)

- Residential: 2626 Hollingsworth Hill Avenue - Charles and Pamela McDonald
- Commercial:5546 Autumn Ridge Road - Bridgewater Grand Apartments

PROCLAMATIONS

- Juneteenth Day: Celebration June 18, 2022 from 3-6 p.m. Coleman-Bush Bldg.
- National Garden Week
- Vitiligo Awareness Month

COMMITTEE REPORTS AND RELATED ITEMS

Real Estate & Transportation Committee 06/03/22

- Sale of Portion of 802 E. Robson Street to Polk County for Future Polk County EMS Station

Commissioner Mike Musick presented this report.

Motion: Commissioner Sara McCarley moved to approve the sale of the property. Commissioner Phillip Walker seconded.

Mayor Bill Mutz asked for comments from the Commission and the audience. There were no comments from the audience. The Commission debated the sale price and the best use of the property.

Action: Mayor Bill Mutz called for the vote and the motion carried 5-2 with Commissioners Bill Read & Mike Musick voting nay.

APPROVAL OF CONSENT AGENDA

All items listed with an asterisk (*) were considered routine by the City Commission and were enacted by one motion following an opportunity for public comment. There was no separate discussion of these items unless a City Commissioner or Citizen so requested, in which event the item was removed from the consent agenda and considered in its normal sequence.

Motion: Commissioner Sara McCarley moved to approve the Consent Agenda. Commissioner Chad McLeod seconded.

Mayor Bill Mutz asked for comments from the Commission and the audience. There were no comments.

Action: Mayor Bill Mutz called for the vote and the motion carried unanimously.

APPROVAL OF MINUTES (with any amendments)

* Commission Minutes – May 13-16, 2022

Action: The Commission approved this item as part of the Consent Agenda.

REQUESTS TO APPEAR FROM THE GENERAL PUBLIC – None

EQUALIZATION HEARINGS

Recess/Convene: The Commission recessed the Regular Session and convened as the Equalization Board.

Lots Cleaning and Clearing

Palmer Davis explained the City Charter requires that prior to recording a lien against private property, the City Commission convene as the Equalization Board and grant those property owners the opportunity to object to the recording of the lien or ask any questions they might have. If someone present received a notice to appear before the City Commission re a lots cleaning/clearing or demolition assessment, this is the time to address the Commission.

Motion: Commissioner Phillip Walker moved to approve the assessments. Commissioner Chad McLeod seconded.

Mayor Bill Mutz asked for comments from the Commission and the audience. There were no comments.

Action: Mayor Bill Mutz called for the vote and the motion carried unanimously.

Adjourn/Reconvene: The Equalization Board adjourned and the City Commission reconvened in Regular Session.

COMMUNITY REDEVELOPMENT AGENCY - None

CITY MANAGER

Recommendation re: Approval of the Standard Continuing Contract for Professional Lakes & Watershed Management Services and Authorization to Negotiate Continuing Contracts with Short-Listed Firms

In accordance with the Consultant's Competitive Negotiation Act (CCNA), the City, through its Purchasing Department, recently issued Request for Qualifications (RFQ) #2117 and formed a Selection Committee to select qualified firms to provide Lakes and Watershed Management Services under a continuing contract. A total of seven (7) firms responded to the City's RFQ. The following five (5) firms listed below, in the order in which they were ranked by the Selection Committee, have been shortlisted:

Company Name	Location
Wood Environment & Infrastructure Solutions, Inc.	Lakeland, FL
Geosyntec Consultants, Inc.	Orlando, FL
Pennoni Associates, Inc.	Winter Haven, FL
Environmental Science Associates	Tampa, FL
Environmental Research & Design, Inc.	Belle Island, FL

The overall evaluation criteria submitted by the Selection Committee, which was comprised of Lakes & Stormwater, Water Utilities, and Lakeland Electric Utilities staff included:

- Capability and adequacy of professional personnel
- Response to the requirements set forth in the public announcement
- Experience and past performance
- Willingness to meet time and budget requirements
- Office location from where work will be performed

Included in the agenda packet is a copy of the standard continuing contract for Lakes & Watershed Management Consultant Services that the City intends to enter with the short-listed firms, once approved by the Commission. The initial term of this Agreement is three (3) years, with two (2) additional one (1) year renewal options upon mutual written agreement. All work performed is subject to the terms and conditions of the continuing contract. Separate Task Authorizations will be issued and require City approval based on the overall cost of the project.

Staff recommended that the City Commission approve the standard continuing contract for Lakes & Watershed Management Services with the above-specified short-listed firms and authorize the appropriate City officials to enter contract negotiations and finalize continuing contracts with those firms.

Shawn Sherrouse presented this item to the Commission.

Motion: Commissioner Bill Read moved to approve the recommendation. Commissioner Phillip Walker seconded.

Mayor Bill Mutz asked for comments from the Commission and the audience. There were no comments.

Action: Mayor Bill Mutz called for the vote and the motion carried unanimously.

Shawn Sherrouse offered the following Verbal Reports:

- Congratulations to Emily Colon on her promotion to Deputy City Manager.
- Transition in CRA Division. Brian Rewis will be covering CRA needs in the interim.

CITY ATTORNEY

Ordinances (First Reading)

Proposed 22-022; Amending the City of Lakeland Employees' Pension and Retirement System Plan to Remove all Non-Sworn Police Officers and Firefighters from the Plan

> AN ORDINANCE RELATING TO THE CITY OF LAKELAND EMPLOYEES' PENSION AND RETIREMENT SYSTEM; AMENDING SECTION 21, DEFINITIONS, OF ARTICLE II OF DIVISION II OF THE CHARTER OF THE CITY OF LAKELAND, FLORIDA; MAKING FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

The foregoing is the title of an ordinance read for the first time by short title only. The Commission will hold the second reading and public hearing on June 20, 2022.

Proposed 22-023; Amending Chapter 62, Article II, Division 3, of the City Code, the City of Lakeland Police Officers' Retirement System, to Reduce Required Contributions

> AN ORDINANCE OF THE CITY OF LAKELAND AMENDING CHAPTER 62, LAW ENFORCEMENT, ARTICLE II, POLICE OFFICERS' BENEFITS, DIVISION 3, CITY OF LAKELAND POLICE OFFICERS' RETIREMENT SYSTEM, OF THE CODE OF ORDINANCES OF THE CITY OF LAKELAND; AMENDING SECTION 62-55, CONTRIBUTIONS; AMENDING SECTION 62-81, ACTUARIAL GAIN

SHARING ACCOUNT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AND EFFECTIVE DATE.

The foregoing is the title of an ordinance read for the first time by short title only. The Commission will hold the second reading and public hearing on June 20, 2022.

Proposed 22-024; Approving a Conditional Use to Allow for the Conversion of a Group Home into a Two-Family Residential Dwelling on Property Located at 722 E. Myrtle Street

AN ORDINANCE RELATING TO ZONING; MAKING FINDINGS; APPROVING A CONDITIONAL USE TO ALLOW FOR THE CONVERSION OF A GROUP HOME INTO A TWO-FAMILY RESIDENTIAL DWELLING ON PROPERTY LOCATED AT 722 E. MYRTLE STREET; FINDING CONFORMITY WITH THE COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

The foregoing is the title of an ordinance read for the first time by short title only. The Commission will hold the second reading and public hearing on June 20, 2022.

Proposed 22-025; Small Scale Amendment #LUS22-001 to the Future Land Use Map to Change Future Land Use from Mixed Commercial Corridor (MCC) to Community Activity Center (CAC) on Approximately 2.14 Acres Located at 1141 E. Memorial Boulevard

AN ORDINANCE RELATING TO LOCAL GOVERNMENT COMPREHENSIVE PLANNING; MAKING FINDINGS; PROVIDING FOR SMALL SCALE AMENDMENT #LUS22- 001 TO A CERTAIN PORTION OF THE FUTURE LAND USE MAP OF THE LAKELAND COMPREHENSIVE PLAN: OUR COMMUNITY 2030; CHANGING THE FUTURE LAND USE DESIGNATION ON APPROXIMATELY 2.14 ACRES LOCATED AT 1141 E. MEMORIAL BOULEVARD FROM MIXED COMMERCIAL CORRIDOR (MCC) TO COMMUNITY ACTIVITY CENTER (CAC); PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

The foregoing is the title of an ordinance read for the first time by short title only. The Commission will hold the second reading and public hearing on June 20, 2022.

Proposed 22-026; Amending Ordinance 3524, as amended; Major Modification of PUD Zoning to Allow for a Three-Story 102,648 sq. ft. Commercial Building, Consisting of a 99,648 sq. ft. Mini-Warehouse/Self-Storage Facility with 3,000 sq. ft. of Ground-Floor Retail Uses on Approximately 2.14 Acres Located at 1141 E. Memorial Boulevard

AN ORDINANCE RELATING TO ZONING; MAKING FINDINGS; AMENDING ORDINANCE 3524, AS AMENDED, TO PROVIDE FOR A MODIFICATION TO PLANNED UNIT DEVELOPMENT ZONING TO ALLOW FOR A THREE-STORY 102,648 SQUARE FOOT COMMERCIAL BUILDING, CONSISTING OF A 99,648 SQUARE FOOT MINI-WAREHOUSE/SELF-STORAGE FACILITY WITH 3,000 SQUARE FEET OF GROUND-FLOOR RETAIL USES ON APPROXIMATELY 2.14 ACRES LOCATED AT 1141 E. MEMORIAL BOULEVARD; PROVIDING CONDITIONS; FINDING CONFORMITY WITH THE COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

The foregoing is the title of an ordinance read for the first time by short title only. The Commission will hold the second reading and public hearing on June 20, 2022.

Resolutions

Resolution 5760; Proposed 22-024; Lots Cleaning and Clearing

A RESOLUTION RELATING TO ASSESSMENTS; DETERMINING THE NECESSITY FOR HAVING CLEANED AND CLEARED CERTAIN PROPERTIES WITHIN THE CITY OF LAKELAND; PROVIDING FOR THE ASSESSMENT OF LIENS AGAINST SUCH PROPERTY FOR EXPENSES INCURRED IN THE CLEANING AND CLEARING THEREOF; PROVIDING AN EFFECTIVE DATE.

Palmer Davis read the short title.

Motion: Commissioner Bill Read moved to approve the resolution. Commissioner Phillip Walker seconded.

Mayor Bill Mutz asked for comments from the Commission and the audience. There were no comments.

Action: Action: Upon roll call vote Commissioners Phillip Walker, Mike Musick, Sara McCarley, Stephanie Madden, Chad McLeod, Bill Read, and Mayor Bill Mutz voted aye. Ayes-seven. Nays-zero. The motion carried unanimously.

Resolution 5761; Proposed 22-025; Approving a State-Funded Grant Supplemental Agreement with the Florida Department of Transportation for the Construction of Intersection Improvements at County Line Road and US 92

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LAKELAND, FLORIDA AUTHORIZING EXECUTION OF A STATEFUNDED GRANT SUPPLEMENTAL AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE CONSTRUCTION OF INTERSECTION IMPROVEMENTS AT COUNTY LINE ROAD AND US 92; ADOPTING FINDINGS; PROVIDING AN EFFECTIVE DATE.

Palmer Davis read the short title.

Motion: Commissioner Phillip Walker moved to approve the resolution. Commissioner Sara McCarley seconded.

Mayor Bill Mutz asked for comments from the Commission and the audience. There were no comments.

Action: Upon roll call vote Commissioners Chad McLeod, Bill Read, Stephanie Madden, Sara McCarley, Mike Musick, Phillip Walker, and Mayor Bill Mutz voted aye. Ayes – seven. Nays – zero. The motion carried unanimously.

Miscellaneous Reports – None

FINANCE DIRECTOR

* **Appropriation and Increase in Estimated Revenue – Various Funds for FY 2022**

Throughout the fiscal year, the City receives various donations from private individuals that are designated for expenditure on specific projects or operating expenses, at the donor's request. These donations are not included in the original operating budget of the City, because the dollar value cannot be anticipated. The City also receives reimbursement for certain types of expenses - most notably the reimbursement for overtime duties performed by Lakeland Police Officers. These reimbursements and the associated expenses are not included in the original operating budget of the City, because they cannot be forecasted accurately. The budgeting practice adopted by the City for these transactions is to present these donations and expenses reimbursements to the City Commission semi-annually, at which time the operating budgets are amended accordingly.

Staff requested that the City Commission authorize an increase in estimated revenue and matching appropriation to the various operating budgets of the City as required based on the listing of donations and expense reimbursements (in the agenda packet) received for the six-month period October 1, 2021 through April 30, 2022.

Action: The Commission approved this request as part of the Consent Agenda.

* **Appropriation and Increase in Estimated Revenues – Fleet Management Fund and Solid Waste Fund**

Fleet Management annually estimates gasoline and diesel fuel consumption by the City's fleet of equipment via working with our departments. Usage is easy to project from year to year throughout our City/service territories. Typically cost has been consistent to forecast as well. Unfortunately, this year has become somewhat of a challenge for Fleet and the Departments due to the unforeseen fuel cost increases that have remained high for some time.

For that reason, we are requesting an increase to the City's fuel budget in Fleet Management of $1,492,741 for the remainder of Fiscal Year 2022.

Fortunately, the cost borne by all the departments except Solid Waste will be offset by a decrease in expenses charged by Facilities Maintenance. The City's Facilities Maintenance Department recognized unusually high vacancies and turnover during the earlier part of the Fiscal Year. This savings would typically be allowed to fall to the bottom line of the Facilities Maintenance Fund at year end to lower the following year's rates to the departments. However, the City Manager has authorized a budget transfer from Facilities Maintenance to Fleet to offset each department's increases in fuel costs. Any savings above the cost of the fuel will be DE appropriated and fall to the surplus of those funds.

Therefore, it is requested that the City Commission authorize an appropriation and increase in estimated revenues of $1,492,741 for the purchase of fuel in the Fleet Management Fund as well as an appropriation of $506,795 in the Solid Waste Fund.

Action: The Commission approved this item as part of the Consent Agenda.

UTILITY

Ordinances – None

Resolutions

Resolution 5762; Proposed 22-026; Establishing Fuel Charge Effective July 1, 2022

> A RESOLUTION RELATING TO THE ELECTRIC UTILITY; MAKING FINDINGS; ESTABLISHING THE FUEL CHARGE FOR ALL CUSTOMER CLASSES FOR METERS READ ON OR AFTER JULY 1, 2022; AMENDING TIME OF DAY FUEL CHARGE FOR APPLICABLE RATE CLASSES; REPEALING RESOLUTION 5748; PROVIDING AN EFFECTIVE DATE.

Palmer Davis read the short title.

Motion: Commissioner Phillip Walker moved to approve the resolution. Commissioner Chad McLeod seconded.

Mayor Bill Mutz asked for comments from the Commission and the audience. There were no comments.

Action: Upon roll call vote Commissioners Phillip Walker, Mike Musick, Sara McCarley, Stephanie Madden, Chad McLeod, Bill Read, and Mayor Bill Mutz voted aye. Ayes-seven. Nays-zero. The motion carried unanimously.

Miscellaneous

Memo re: Agreement with Charah, LLC for Removal of Solids from Process Water Ponds at McIntosh Power Plant

This was a proposed Agreement with Charah, LLC for the removal of solids from the process water ponds at McIntosh Power Plant. There are four (4) interconnected process water ponds at the McIntosh Power Plant that service the process water from Unit 3. However, with the closure of Unit 3, these ponds are no longer active. As such, Lakeland Electric must remove the solids, comprised of gypsum, fly ash, bottom ash, coal and soil, from the ponds and place them in the onsite permitted Byproduct Storage Area. This will enable Lakeland Electric to facilitate closure of the Byproduct Storage Area in compliance with the Environmental Protection Agency's Coal Combustion Residual Rule. During this removal process the ponds will be drained and the land eventually returned to greenfield use.

Accordingly, on February 24, 2022, the City's Purchasing Department issued Request for Proposal (RFP) No. 2083 seeking proposals from qualified contractors to remove, dewater and transport solids from the McIntosh Power Plant process water ponds to Lakeland Electric's onsite permitted Byproduct Storage Area. The City received responses from the two (2) companies listed below.

- Bio-Nomic Services, Inc. Belmont, NC
- Charah, LLC Louisville, KY

Upon evaluation by Lakeland Electric staff, Charah was selected as the most qualified lowest cost contractor capable of best meeting Lakeland Electric's needs in accordance with the City's RFP. Upon City Commission approval, Charah will begin services on or about June 13, 2022 and is scheduled to complete all work by October 2022. Charah will perform all services pursuant to the terms and conditions set forth in the City's RFP and Charah's RFP response dated April 14, 2022. The total cost of the work, which includes all labor, materials and equipment is $1,082,633 and is included with Lakeland Electric's FY-22 budget.

Staff recommended that the City Commission approve this Agreement with Charah for the removal of solids from the process water ponds at McIntosh Power Plant and authorize the appropriate City officials to execute all corresponding documents related to the Agreement.

Palmer Davis presented this item to the Commission.

Motion: Commissioner Sara McCarley moved to approve the agreement. Commissioner Mike Musick seconded.

Mayor Bill Mutz asked for comments from the Commission and the audience. There were no comments.

Action: Mayor Bill Mutz called for the vote and the motion carried unanimously.

* **Memo re: Software Agreement with Tovuti, Inc. for Learning Management System.**

This proposed Software Agreement with Tovuti, Inc. was for a fully hosted Learning Management System (LMS) platform for Lakeland Electric. This new LMS software platform solution will replace the obsolete Moodle platform, which required replacement due to its use of Adobe Flash that reached the end of its useful life in 2021 and the server hosting the Moodle platform was retired by the City's IT Department and will no longer be supported.

As a result, much of the 2022 training for Lakeland Electric staff was conducted using paper and virtual classroom settings. This proved to be economically and logistically challenging since nearly 600 users were pulled out of the field multiple times since January for training. Implementation of the new LMS software platform will enable Lakeland Electric to complete the remainder of the 2022 training via LMS and prepare staff for the 2023 training cycle.

Specifically, Tovuti, Inc.'s LMS software platform solution will enable Lakeland Electric to provide administration, documentation, tracking, reporting, automation and delivery of educational courses, training programs, as well as learning and development programs. Some of the courses and programs developed by Lakeland Electric will encompass Critical Infrastructure Protection (CIP) Training related to NERC CIP requirements, Standards of Conduct related to FERC requirements, Substation Safety/Situational Awareness, and Substation Access Training for employees.

On January 6, 2021, the City's Purchasing Department issued Request for Proposal (RFP) No. 1027 seeking the services of qualified vendors to provide a fully hosted LMS for approximately 500–1000 employees, contractors and vendors. The responses the City received to this RFP were unacceptable in price and scope. Therefore, much of the 2022 training was conducted manually.

In April 2022, Lakeland Electric reached out to vendors for new quotes to better understand current price structures. The City received quotes from the two (2) vendors listed below.

Vendor	Location	1500 Users for 1 Year
Tovuti, Inc.	Eagle, ID	$17,500
Cornerstone Marick	Brooklandville, MD	$43,500

Upon evaluation by City staff, Tovuti, Inc. was selected as the most responsive responsible quote with the lowest price for one (1) year of service. Upon further discussions with Tovuti, Inc., it was determined that a longer three (3) year term would be more cost effective for the City. Upon City Commission approval, the Agreement with Tovuti, Inc. will be effective for an initial term of three (3) years. The Agreement contains one (1) additional three (3) year automatic renewal option unless the City provides ninety (90) days prior written notice of its intent not to renew prior to the expiration of the initial term of the Agreement. All services provided by Tovuti, Inc. will be performed in accordance with the terms and conditions of the Software Agreement and Tovuti Inc.'s proposal dated May 25, 2022.

The total cost for the initial three (3) year term is $56,500 and will remain firm. Should the parties exercise the option of renewal, pricing for services will be subject to a 5% increase. The price for the first year of the LMS software solution is $17,500, in addition to $4,000 for implementation services, for a total cost of $21,500, which is included in Lakeland Electric's FY22 budget. The remaining two (2) year initial term cost will be subject to future budget approval by the City Commission.

Staff recommended that the City Commission approve this Software Tovuti, Inc. and authorize the appropriate City officials to execute all corresponding documents on behalf of the City.

Action: The Commission approved this item as part of the Consent Agenda.

PUBLIC HEARINGS

Mayor Bill Mutz gave an overview of the process. The City Attorney will read the title, staff will make a presentation, the applicant will make a presentation, the Commission will hear public comments, each limited to 5 minutes, and the applicant will have the opportunity for rebuttal, then the Commission will vote.

Ordinances (Second Reading)

Proposed 22-013; Amending Ordinance 3449, as Amended; Major Modification of PUD Zoning to Allow an Apartment Complex with a Maximum of 211 Multi-Family Dwelling Units on Approximately 12.07 Acres Generally Located South of Lake Miriam Square Shopping Center, North of Lake Miriam Drive, East of S. Florida Avenue and West of Lakeland Highlands Middle School (1st Rdg. 05-16-2022)

AN ORDINANCE RELATING TO ZONING; MAKING FINDINGS; AMENDING ORDINANCE 3449, AS AMENDED, TO PROVIDE FOR A MODIFICATION TO PLANNED UNIT DEVELOPMENT (PUD) ZONING TO ALLOW AN APARTMENT COMPLEX WITH A MAXIMUM OF 211 MULTI-FAMILY DWELLING UNITS ON APPROXIMATELY 12.07 ACRES GENERALLY LOCATED SOUTH OF LAKE MIRIAM SQUARE SHOPPING CENTER, NORTH OF LAKE MIRIAM DRIVE, EAST OF S. FLORIDA AVENUE AND WEST OF LAKELAND HIGHLANDS MIDDLE SCHOOL; FINDING CONFORMITY WITH THE COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Palmer Davis read the short title.

Planning & Transportation Manager Chuck Barmby gave a presentation.

- Site was 12.07 acres south of Lake Miriam Shopping Center on the northeast corner of Lake Miriam Drive and South Florida Avenue.
- Reviewed presentation from April 4, 2022 and highlighted applicant changes since that meeting.
- Reviewed the history of the site.
- The request was to replace 39,797 sq. ft. of retail space with 211 multi-family dwelling units.
- Layout plan changed. The total over all height is 43 ft. 4th stories removed.
- Compatibility.
- Transit Oriented Corridors. This site served by the Gold and Flex lines of the Citrus Connection.
- Reviewed Level of Service Standards. Highway level of service standards are somewhat reduced because of transit services.
- Reviewed transportation concurrency. Applicant not required to address existing transportation issues but only their effects.
- Reviewed relationship between City and County impact fees for retail and multi-family. Multi-family was a higher impact fee.
- Reviewed mix of units and parking spaces to be provided. 312 parking spaces were required and 368 were being provided.
- Reviewed County's plans for W Pipkin Rd and Florida Ave intersection. Not much change to existing intersection by the County. Most of their work is planned for further west on Pipkin Rd.
- Impact fees would be higher than existing entitlements.
- Staff continues to coordinate with Polk County and the School Board. The intent is to develop an interlocal with Polk County re utilities in the corridor. There were Right-of-Way constraints west of the school. They do plan for an eastbound turn lane into the school to help with drop off and pick up peaks.

Revisions Since April 4, 2022 Public Hearing

- Proposal replaces 39,797 sf of retail with 211 multi-family dwelling units. Previously the request was 244. Multi-family dwelling units.
- Increases the proposed automobile parking count from 356 spaces to 368 spaces.

- Removes the fourth story from the two tallest buildings shown on the development plan, resulting in a height decrease from 54 feet to 43 feet.
- Expands the sidewalk along the east side of the Lake Miriam Square driveway and along the Lake Miriam Drive frontage between the driveway and eastern property boundary to an eight-foot width.

Elise Batsel of Stearns Weaver Miller represented the applicant.

Ms. Batsel gave background information on Preferred Apartment Communities. They develop, build, and manage their own apartments. They will not build and then sell to someone to manage. Publix is in a joint venture on this project. Preferred Apartment Communities is their partner. This property was currently entitled with an intense use. The proposal was down zoning this property by building apartments. They were not starting with a blank slate.

The Commission had the choice to deny the rezoning. If they do, they are choosing to keep a more intense development which meant greater noise, odor, lighting, and traffic. Under the existing zoning, a 24-hour use could be built by right. They would be far less compatible with the surrounding property. This is a Class-A residential venture between Publix and Preferred Apartments Communities.

No building will exceed 43 ft in height. The current properties across Lake Miriam were zoned residential and entitled to building any home up to 50 ft in height.

They proposed 17.5 units per acre which was 53 units less than permitted by the Comp Plan.

After the last hearing, they tried to address every comment heard from the Commission and the community.

- 4-stories were reduced to 3-stories.
- Offering 56 additional parking spaces than required.
- Improved safety by widening sidewalks to 8-feet on the eastern boundary of the property and within the property.
- Updated the ecological study. There were no animals of concern.
- Reviewed slide depicting anticipated traffic with current zoning and proposed zoning.

Tina Ekblad gave a presentation on compatibility. She submitted regulations. This location was identified for more intense development. Lake Miriam Dr is a constrained road. They plan to increase the sidewalks to an 8 ft multi use path. That will be on the east side of the internal drive and along the northside of Lake Miriam. The layout of the buildings helps to ensure space and vegetation facing Lake Miriam Drive. The applicant tried to ensure that the building locations promoted a physical separation to the surrounding single-family units. The applicant would provide an enhanced buffer. It is a condition of development. It includes a fence with architectural features, hedgerow and trees. At the time of site plan development approval, the applicant will have to submit plans to comply with the City's light regulations and noise ordinance. The amenities are being placed at the center of the U-shaped building to shield the lighting and noise. The applicant believed they were consistent with the City's comp plan. They were proposing a swap to a less intense usage. They were consistent with the transportation element.

Ms. Batsel explained they were done with the presentation and wanted to hear from the neighbors. She reminded the Commission they were down zoning the property and requested approval.

Audience Comments:

Linda Wiggs via video spoke against the development. This was not an urban area. This was a suburban area. There was not significant parking. No residents are going to use the transit system. She asked the Commission to vote to deny the development.

Ronald Becton spoke against the development.

Jeff Cox reviewed Facebook post analytics. He spoke against the development. He spoke against Blackstone and Preferred Apartment Communities.

Catherine Rideout spoke against the development because of property values. It was not compatible. Single family homes or luxury condos would be compatible.

Alexandria Davis stated the median income of residents will be $121,000 and they would not use public transportation. Lake Miriam Publix was a Central Florida Concept Store. That is why their prices are higher than anywhere else. LHMS is rated for 1117 students. They have already exceeded their enrollment. Their proficiency scores are already low in the fifty percentiles.

Bill Wheeler spoke against the development. No one who is affected by the area are in favor of the development.

Jerry Reynolds spoke against the development. He was concerned about neighborhood streets and children walking to school.

Holly Potts and Zachery Jefferson spoke. Lake Miriam is already backed up. Mr. Jefferson spoke against the development. In 2017 on his way home from LHMS he was hit by an impatient driver. More students are going to end up getting hit by a car. There are crashes there every month. He was also concerned about stormwater runoff. He was concerned about sink holes too.

Sue Nelson, former Polk County Planner, stated development was not consistent with the Land Development Code or the Comprehensive Plan. The applicant had requested the State nullify the wetland designation.

Debra Walker stated her public records request on the number of accidents was closed. She spoke against the development because of dangerous traffic. The road is in need of improvements.

Brian Jorgensen spoke against the development.

Hal Porter spoke against the development. There have been 3 bad accidents in the last 2 1/2 years in front of his property. The issue is safety in the area. The apartments will not improve safety.

Dave Ligon of Bridgewater Dr spoke against the development. He was disappointed in the building that is covering up all the green space in Lakeland.

Steve Sheets stated there were a lot more vehicles on the road. He suggested other uses for the property. The government needs to meet the needs of the people.

Public Comment Closed.

Ms. Batsel invited Elaine Imbruglia to speak about wetlands.

Ms. Imbruglia President of Modica Associates. She has personally been to the property. There is a difference between wetlands and surface waters. That will be decided by the water management at time of permitting. There are no protected species present. They will coordinate the appropriate surveys at time of permitting.

Ms. Batsel's rebuttal:

- The applicant would not be able to develop if the land were determined to be an impact wetland.
- The transportation analysis did not consider transit. The point of the testimony was that there was likely to be internal transit customers. People who chose the apartments live differently than we do in homes.
- The development exceeded required parking.
- The school board determines adequate capacity at the schools. There will be a count each year to determine capacity. Right now, the schoolboard says there is adequate capacity.
- Responding to Facebook posts. Preferred Apartments Communities won the JD Power awards the last two years in a row.

Tina Ekblad came forward again to discuss compatibility. The City has identified improvements that must be made. The City has a vision. They need more heads in beds to make transit work throughout the City. The applicant was consistent and compatible with the elements. The orientation of the buildings on the site. This is not a greenfield development. It is a commercial development. They were looking to put residential in an area that would provide the most benefit to the City. This was an appropriate transition between single family and commercial. Rural development would not be consistent with the Comp Plan. The site will be 2-4 ft. lower than the crown of the road which will allow the buffer to block the lighting from the surrounding residential. It was her professional opinion that the development was compatible and consistent. The multifamily option was more compatible than the commercial option at this site.

Ms. Batsel showed examples for multi-family that has been built adjacent to single family. Lakeland is in a stage of growth, like it or not. You have housing needs. The City should plan for that growth and those housing needs. When your supply is less than demand, you have affordability problems.

Mayor Bill Mutz asked for a motion.

Failed Motion: Commissioner Chad McLeod moved to approve the ordinance. The motion failed for lack of a second.

Motion: Commissioner Phillip Walker moved to deny the development. Commissioner Stephanie Madden seconded.

Commissioner Phillip Walker: Everything lawful is not expedient or helpful.

Commissioner Stephanie Madden thanked everyone who came today. With this unprecedented growth it was important for everyone to work together. There are rights on both sides of this situation. There are rights to purchase and develop land. At the same time, we cannot ignore the rights of the surrounding residents. Cities are often restricted on how they can vote. Our comments and rationale must be kept within the law. How we decide means something and must be upheld in a court of law. She was thankful to hear from competent experts who present evidence. The developer listened to the neighbors and made modifications. We have a failing road now. Why would anyone want to build more on a failing road? What are the mistakes made that has made Lake Miriam a failing road? They cannot develop now because of those mistakes. She would love to say she made her decision because of the neighbors but she must vote based on substantial evidence. Competent substantial evidence is how long you sit at a light and children who are hit by cars. She cannot in good conscience add more development to an already failing road. Historical perspective is important. In 1973, Publix talked about wanting to preserve the nearest residents with buffer zones. The buffer was touted as one of the best aspects of their development. Until we can address the situation that got us here in the first place. The School Board cannot change the release times. W Pipkin is 20th on the list of unfunded projects totaling over $1Billion. Lake Miriam is not even on the list.

Commissioner Chad McLeod: Predicament is a good description. The Commission gives these issues a lot of thought and consideration. We must ask if the developer has the right to request the rezoning and if it fits within the comp plan. They believe it is compatible. They do not believe their traffic impacts would make the traffic worse. He thought the current zoning would be more intense. He was hesitant to deny the development.

Mayor Bill Mutz did believe the apartments were the right solution for the location. It is a huge downsizing of what will go there otherwise. It is not going to remain green grass. This is the only opportunity to engage on what will go there. The developer has not missed any of their criteria in the process. For putting something in, I would much rather put in additional homes for people. They have responded to the concerns of the residents. The apartments would bring lower impacts while the City determines how they can improve Lake Miriam. The City will make certain the property is maintained and looks good. What can we put in that space that is not commercial that allows additional residency? Just green grass is not an option. We are already losing that. It is already approved for more than grass. He felt they have satisfied the burdens. He will vote no against the denial to keep the opposite from coming there.

Commissioner Sara McCarley: By right what currently exists, that will not require Commission and citizen input, will be commercial. If this is denied, it will maintain commercial use without regard to the desire of the residents. Because of where this is positioned, this is a unique space. The road is failing because of that unique position. This citizen engagement needs to happen at Polk County Commission every time they change their zoning and land use. We are in this predicament because we live in the 7th fastest growing county in the Country. How do we have smart growth to be inclusive, and make sure Planning & Zoning is consistent? From a citizen's standpoint, this is not an easy decision. She is still hanging in the balance because the developer is doing the best they can but she does not see how it cannot specifically affect the traffic. These are difficult decisions. She strongly encouraged citizens to engage at the County level.

Commissioner Bill Read thanked everyone who came out today. Every property in every zoning case is unique. He did not think this development was compatible. He would vote to deny the development.

Commissioner Mike Musick works in the development world and serves the citizens. There could be a worst-case scenario. He did not want to make his vote scared. He cannot rationalize that many people and that many vehicles and there not be an additional issue. He did not think this was the best use currently. He struggled with making the wrong call. What if we are wrong? This is a hot seat. We are here because we love the City, not for power or money.

Commissioner Phillip Walker appreciated everything the developer submitted. They have been responsive. He could not in good conscience support this project.

Mayor Bill Mutz did not believe there was evidence to deny this development. He did not believe they were presented with reasons to turn aside this development. This is an opportunity that we have with lower traffic, multiple entry points, wider and safer sidewalk, buffers, adjacent to commercial, transition between commercial and single-family residents. This is a Class A applicant.

Commissioner Bill Read differed from the Mayor.

Commissioner Chad McLeod agreed with the Mayor. He had considered voting to deny because of the deep opposition. He did not think there was enough to deny.

Action: Upon roll call vote Commissioners Bill Read, Stephanie Madden, Sara McCarley, Mike Musick, and Phillip Walker voted aye. Mayor Bill Mutz and Commissioner Chad McLeod voted nay. Ayes – five. Nays – two. The motion carried. The development is denied.

Palmer Davis explained Florida Statutes required they bring out things presented in the record.

- What is the total sq. ft. of the buildings in the development? 83,307 sq. ft.
- What is allowed by right currently? 39,737 sq. ft.
- Impact Fee calculation for 211 units was a difference of $145,004.

Palmer Davis stated the impact fees show there is impact to the traffic. Additional sq. ft. and additional impact fees are the reasons for the denial. There can be substantial evidence on both sides of the argument. Those are the two best grounds for the denial.

Commissioner Stephanie Madden voted against the change because 83,000 sq. ft. is a lot more than 39,000 sq. ft. and the impact fee calculation showed a larger impact. The smaller buffer also supported the vote against compatibility.

Chuck Barmby clarified the slide that showed the impact fee comparison showed collapsed retail uses that generated more traffic than multi-family. That was different from retail in the traffic study. It shows up as an anomaly. The traffic study does not show any more traffic impact than multi-family. Depending on the retail use, a standard shopping center use does generate more traffic than multi-family. He did not believe there would be more impact.

Motion: Commissioner Stephanie Madden moved to approve the rational to deny the development based on difference of sq. ft.; 83,307 vs 39,727 sq. ft and the additional impact fee calculation denoting a larger impact to area. Commissioner Phillip Walker seconded.

Mayor Bill Mutz asked for comments from the Commission and the public. There were no comments.

Action: Upon roll call vote Commissioners Phillip Walker, Mike Musick, Sara McCarley, Stephanie Madden, Bill Read, and Mayor Bill Mutz voted aye. Commissioner Chad McLeod voted nay. Ayes-six. Nays-one. The motion carried.

AUDIENCE

Angela Smith of North Lake Wire Community. The community is reactivated and the neighbors are getting more engaged. They recently met and have concerns. They have been addressing their concerns in the wrong forums. There is a lot of drug activity in their neighborhood and prostitution. They have very poor lighting in their neighborhood. That was a safety issue. There was a high population of homelessness in that area. The neighborhood is divided by MLK. The bad activity is on the east side because of bad lighting. Police response time is very slow in the area. There is a task force of detectives working in the community but they are staffing and funding challenged. They were pleading for more work to be done in the neighborhood. She understood the ongoing battles but she wanted to see one thing checked off.

Commissioner Phillip Walker thanked Ms. Smith for speaking. The ill that is there is ongoing. You know that. He has seen some improvement. He was thankful for that improvement. The neighborhood association has been revitalized. It will take all of us working together.

Commissioner Sara McCarley left for the day at 1:13 p.m.

Kevin Kayden spoke against the fuel rate increase. He spoke in support of photovoltaic (solar).

Lorenzo Robinson of Paul A Diggs Neighborhood Association. If one neighborhood is affected, all neighborhoods are affected. Unfortunately, crime just moves from place to place. We are not going to end prostitution. Can we not put them in a treatment program to minimize prostitution? He suggested the City install cameras in the neighborhood to help catch violators.

Commissioner Bill Read: We will have body cameras soon and cameras on cars. Maybe that will help some.

Chief Garcia agreed North Lake Wire has suffered. They were working on that neighborhood. If a citizen has an opportunity to get a tag that is helpful but we do not want citizens to put themselves in danger.

Mr. Robinson asked for the City to put up cameras in the neighborhood or allow the neighborhood association to put up cameras.

Commissioner Stephanie Madden wanted to hear more on the possibility of cameras.

MAYOR AND MEMBERS OF THE CITY COMMISSION

Voting Delegate for 2022 Florida League of Cities Conference

Action: Commissioner Phillip Walker moved to appoint Commissioner Stephanie Madden as the voting delegate. Commissioner Mike Musick seconded. The motion carried 6-0. Commissioner Sara McCarley was absent at that time.

City Manager/City Attorney review process.

Shawn Sherrouse will be bringing information to the Commission. Since the strategic planning session, he has been developing a baseline. He has held multiple meetings and will be doing more. He recently met with Dan Biles about Pasco County. They recently went through an employee engagement process and were recently recognized as one of the best places to work.

The Commission discussed:

- Maintaining the status quo and implementing the 360 Review.
- Allowing other firms to apply up until June 17, 2022.
- The standard review, the 360 Review and the Employee Engagement piece as 3 separate layers.
- Deciding as a group what to evaluate.
- The Commission will reach out to people they know.

CALL FOR ADJOURNMENT - 1:42 p.m.

H. William Mutz, Mayor

CITY OF LAKELAND, FLORIDA
INCORPORATED
JAN. 1, 1885

Kelly S. Koos, City Clerk