

**WORKSHOP
LAKE HELEN CITY COMMISSION
FEBRUARY 17, 2009
7:00 P.M.**

MINUTES

A WORKSHOP of the City Commission of the City of Lake Helen, Florida was called to order by **Mayor Duffy** at approximately 7:00 p.m. Present were **Mayor Duffy, Vice-mayor Snowden, Commissioners Robbins, Burton and Lane.** Also present were **City Attorney Lonnie Groot, City Administrator Don Findell** and **City Clerk Nancy Wilson.**

CALL TO ORDER: Mayor Duffy

COMMISSION DISCUSSION

Discussion about drafting an ordinance related to registration of residential rental properties, vacant residential properties and pre-foreclosure properties.

City Attorney Lonnie Groot explained that the preliminary ordinance before them is really a three part ordinance. He will walk the Commission through it and answer questions then they can determine how the Commission wants to proceed. The three parts are:

1. "A regulatory provision that would address properties that are residential rental properties when they are owned by absentee landlords. Absentee landlords are those owners who are not residents of Volusia County or an abutting county. If a landlord is an absentee landlord they would be required to designate a local representative to be a contact person in the event of a code enforcement action, etc."
2. "A regulatory provision dealing with properties that are in the foreclosure process, requiring registration by the mortgagee/lender and requiring the duty of maintenance to be upon the mortgagee/lender so that the City will know what properties are facing foreclosure and be able to address them and also be able to ensure those properties are maintained when the resident mortgagor/borrower has departed or when the property is vacant. (Mr. Groot distributed an article to the Commissioners – it is attached behind the last page of these minutes.) It is an editorial arguing for state legislation on this issue. Legislative sessions start in two weeks and they will likely get into this field, preempt it and make local ordinances ineffectual if not disallowed. On this second part of the ordinance, even if you decide to go forward with this generally, you might want to wait to see what the legislature does. What the introduced legislation does is if a lender fails to register the foreclosed property on the statewide registry, among other requirements, there are fines associated with that. The way it's written is the first cut out of the fine goes to the local government to satisfy any liens on that

property. That's in there now. It may not be in there when it passes. We will have to wait and see." **Mayor Duffy** asked, "Did you indicate that the state would be keeping a registry?" **Mr. Groot** answered in the affirmative. "There's still local government work that needs to be performed in the context of these foreclosures, however, because they are using the registry; the lender has to register and has to notify the local government and the local government has to certify that they've been notified. There is activity currently going on about this at the State level and I think the legislation will pass. Again, I think we may be preempted."

3. "A mechanism to ensure that the city recoups expenditures that it makes on nuisance abatement activities. If the city is forced to demolish a building, clear a lot, clean a lot, etc, there are costs involved. The City then places a notice in the land records and places a lien against the property. The problem is if you are dealing with a foreclosure, you don't have priority. This ordinance places a special assessment district throughout the entire city. It makes those types of activities not just activities that result in liens but activities that result in special assessments. Special assessments are treated at the same level as a tax. So, if there's a foreclosure, the money owed to the city won't get wiped out because of being a low priority, this results in better collection. The way this ordinance is setup is the special assessment lien will be recorded and just sits there. When an event necessitates clear title, it won't go on the tax rolls as a special assessment would for roads, streetlights, etc. You can do that and I've seen ordinances that have done that. One issue that always comes up on this issue of putting it on the tax rolls is if the special assessment is placed on the tax roll and the property owner pays city, county, school, water, etc taxes but doesn't pay that special assessment that's due, it goes into the tax certificate process. Some people think that's the way it should be but other people think that's too harsh. It's your decision."

Those are the 3 parts of the ordinance.

Commissioner Robbins asked how many foreclosures there are in Lake Helen.

Commissioner Burton went into a great deal of detail about the pre-foreclosure and foreclosure processes. He discussed statistics he found on the website realtytrac.com. "The available figures report different activities so it's difficult to say exactly how many foreclosures there are in Lake Helen."

Mayor Duffy asked if the Commission would like to wait until we find out what the State is going to do.

Commissioner Burton wanted to add something else. "While working in Sanford, I was at a property with a sign in front of it indicating that the property has been secured by an organization named, *Field Assets Inc*. Banks hire this company to manage their properties. They are nationwide company that manages over 65,000 properties worth \$55 billion dollars. They started a program last year that takes a proactive approach by working with local governments' code enforcement people. Four days after the company is notified by the bank, they go to the property and change locks, clean up the property and maintain the lawn. The sign he saw today read, 'we have gone into this property and secured it. Should the owner request access, call us for the key.' This property was foreclosed on, the bank was notified, they called this company and *Field*

Assets Inc. changed the locks and put a notice on property. I gave them Patrick Clarino's telephone number so he should be getting a call from this agency. I contacted them because of this meeting. This company has figured out that there's a market for this and they offer a valuable service. Once the bank determines that they have a property, this company maintains the property so it doesn't deteriorate. They use local real estate offices as the agent who then hires local help. They are forward looking which is what we are hopefully going to do." He continued talking about the current economy, foreclosures and the stimulus package.

Mayor Duffy asked again if the Commission would like to table this until we hear more from the state.

City Administrator Findell said, "You're dealing with multiple issues of which foreclosures is just one - absentee landlords and maintenance of properties. The problems that we've experienced the last couple of years with a number of properties not being maintained, was not a result of foreclosure action but rather absentee ownership. The primary problems were associated with one firm. We periodically have others that have to be addressed as well that are a result of absentee ownership. The state is addressing foreclosure issues and trying to find some way to establish a statewide database on one hand and to respond to the lending institutions concern about an undue financial burden on them by having to pay a registration fee."

Commissioner Robbins asked, "Other than the one absentee landlord who owned multiple properties, I see problems with single family residential properties looking like pig pens and these are people who own and live in these properties. There are many in Zone 1. They are all over town but for the most part, other than the absentee landlord who we all know, that's the only one I know of. I know most everybody in town."

Patrick Clarino said, "Code enforcement is an ugly creature. Our standard of living can be a completely different standard of living than another person's. The way other people live is not necessarily against our city ordinances or codes. We don't live in a gated community and we aren't deed restricted so there are only certain things we are able to do. Generally, we can't tell someone how to live. When I was hired, we didn't want to be the gestapo. We wanted someone who was going to work with the general public. When I am able to work with somebody, I do that. We've dealt with the infamous absentee owner and we've tried to deal with that owner with our current ordinances. It's difficult to get people to do the right thing when it's not necessarily illegal - not against the ordinance." **Mr. Findell** asked Mr. Clarino, "In the last few years, outside of the one owner we've discussed, how many other instances have you had where you've had to contact people outside of the area?" Mr. Clarino said there have been quite a few. "In one case, a family member lives in town but the owner lives out of town. I'm able to go to that local person and say 'the property is getting out of hand'. Typically within 7-10 days, the problem is fixed. Having somebody locally who I can call and work with and say to 'what can we do to resolve this issue?' helps tremendously. I don't have to track somebody down. Code enforcement is not a speedy process so being able to pick up the phone and call somebody is great. Sometimes, I can't even find who is responsible for the property and I don't know who owns the property. I can't issue a violation without knowing to whom it goes. I like what I've seen so far in the proposed ordinance but I have a question - How long does a property have to be vacant before you have to register it?" **Mr. Groot** answered, "Under part two of the ordinance related to foreclosure, vacant doesn't mean just vacant. (Page 11)

(00:00:30)

Vacant means any property not legally occupied and not properly maintained or secured from access by an unauthorized person. Vacant is not just vacant it's also a nuisance property and/or it's not secured. If it's not occupied and is properly maintained it's not an issue. The idea is not just to regulate vacant property, it's to regulate vacant property when there's a problem."

Commissioner Burton asked, "Would it be a legal issue if we concentrated on the banks as opposed to individuals. The major owners of these foreclosed properties are banks so if this legislation is targeting banks...." **City Attorney Groot** said, "I recommend you take part two, the foreclosure part, out of consideration right now. We should really wait to see what the Legislature does because something is going to happen. After the Legislation is passed, we can revisit this. The banks aren't going to like this." **Commissioner Lane** asked what the downside of going ahead and doing it would be. **City Attorney Groot** answered you'd then have to pass another ordinance to appeal what you did which would be time consuming and expensive. **Commissioner Burton** continued talking about the gravity of this situation. **City Attorney Groot** said banks like doing things their way and they will argue a lot of the points in the proposed legislation. **Vice-mayor Snowden** said a lot of the unkempt property issues can be corrected via normal code enforcement actions while waiting on the state. **City Attorney Groot** said what the state is proposing is actually what we've stated in part three of this ordinance – "Maintenance costs incurred by local governments are treated as special assessments, equal to taxes." **Mr. Groot** suggested we write our delegation to let them know we like that. We can proceed the way we have been until legislation is passed. He added, "The bill that's being introduced prohibits local governments from having registries of foreclosed properties. If a local government already has a registry, the State makes them send their information to the State registry within so many days." **Mayor Duffy** said the record keeping is not insignificant, she would hate for us to pass this part of the ordinance then have the State say we can't do it.

Mary Dickinson
336 S. Lakeview Drive

She suggested that all agenda items be made available to the public.

"The part about the absentee landlord – what are you planning on charging those people? I did get through to a few absentee landlords who have their properties maintained and they feel they are getting kicked in the head all the time. They are having to put money in to maintain the place. If they are charged a fee, they feel they should just sell." She also agrees with Mr. Burton regarding foreclosed property. She added that the Commission is "discriminating against those homeowners who don't live in Lake Helen."

Lou Benton
Lake Pearl Drive

"I think you're making a big mistake by waiting on Tallahassee. They could take many months to work this out. You can bet that the bank lobbyists will be spending a lot of money lobbying against this. We need to protect ourselves. It's not going to work in our favor." **Commissioner Lane** said he'd agree except that it behooves them to have one set of laws to work from. It would be almost impossible to deal with hundreds of local ordinances. Mr. Benton said it's already cost the taxpayers a lot of money. We should pass this now and if Tallahassee passes it, we just take it out of the ordinance. In the meantime, you're protecting the taxpayers. Regarding absentee landlords. People buy rental houses as an investment, to rent out and make money. There's no guarantee on that investment; it's no different from buying stock. When prices went up, all the landlords started charging sky high rent. They rightfully capitalized on the real estate market boom. A landlord is in business, so why shouldn't they have to pay for a license. Everybody else in business pays it. A landlord is in the business to make money. Saying that they are going to sell their property if they have to pay this tax is nonsense. **Mayor Duffy** said we need to recoup money to pay for this. Mr. Benton agreed and added, "Florida Statutes say you can't take taxpayer's money and spend it on private property." So you've got to get your money back from maintaining these properties. If we wait for Tallahassee, we'll lose. **Commissioner Burton** said he's inclined to agree with Mr. Benton. There is an atmosphere that's changing in this country toward banks. Now, the banks don't have it their own way all the time like they used to.

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I don't see how a \$25 annual fee is going to adversely affect landlords or their tenants but it will help the City offset the cost of the added paperwork. With this ordinance there would be a mechanism in place to protect the taxpayers from footing the bill. If they don't pay the assessment, title can't be transferred. The code enforcement process doesn't go that far." **Commissioner Robbins** thinks Tallahassee will be more expeditious than we could be. "We are short staffed. Patrick is one person. We're a small town, we need to start lobbying Tallahassee legislators to let them know that we want this passed. Foreclosures are the word of the day. They are going to have to do something and something fast. We've got a lot of laws on our books, probably more than we need. I think enacting another one....we should wait. I think we should wait on all three parts and see what Tallahassee produces. I asked Cheryl (Leonard) for a copy of the financials. We're four months into the year and I want to see where we stand. Before we spend more taxpayer money, we should worry about tightening our belts. **City Administrator Findell** doesn't think it's as much a concern about what has been spent but what revenue has been generated. **Commissioner Robbins** agreed. **Commissioner Lane** asked if revenue sources have dried up. **Mr. Findell** answered no but added that we typically take a mid-year approach to analyzing revenue sources. In this particular year while doing the budget we anticipated that most of our revenue sources would decline. The question is if they are declining at the rate we expected or at a greater rate. **Commissioner Lane** agreed that "Foreclosure is the word of the day. A lot of the rhetoric about our economy is true. I think it's being under reported. It's ugly and going to get uglier. The thought of one more tax doesn't appeal to me, however, I do like the special assessment part of the ordinance. This shouldn't generate more clerical work for the City and is well worth doing. I'd like to leave out the rental property

registry right now.” **Vice-mayor Snowden** agreed with **Commissioner Lane**.

*Ralph Kelly
170 Tangerine*

“I agree with some of it regarding a charge for the absentee landlords. I don’t think it’s fair to not charge local landlords the same fee. I speak from 20 years of rental experience. These fees will ultimately trickle down to the tenants. I can make more money in the bank than I could in properties. When rental properties are sold they sell to people who can file for homestead which will bring down tax revenue.”

Mayor Duffy asked if the Commission would like to schedule another workshop or wait.

Vice-mayor Snowden said, “**Commissioner Burton** wants to keep part two intact but given the advice from our attorney, we should hold up that process until we hear from Tallahassee.” **Commissioner Burton** recounted a situation in Sanford. What he’s finding is that a number of people who suffered damage from Tropical Storm Faye don’t have homeowner’s insurance. More people are letting this go. “When we get into the storm season and there’s damage and the property owner doesn’t have insurance, those properties often become eyesores. The bank will be there to foreclose. That’s why I’m still supporting part two. This is what I deal with on a regular basis. There’s no money in the disaster funds any more. States are all short.”

Code Enforcement Officer Clarino wanted to add one thing before a decision is made. “It sounds like the object of this is to penalize people. That’s not our intent. A lot of the time we can get neighbors to help out troubled people. If I don’t know who to call or contact, I can’t go on your property. It’s nice to have somebody local who we can contact to give us permission to call a wrecker or get volunteers to clean up debris or whatever. We don’t treat our citizens like they do in Deltona. I want us to be able to use this as a tool, a tool so we can help each other. I want to be able to help. This can prevent problems down the road. We’re not trying to get in anybody’s pocket we’re just asking for a little money to cover our expenses. We have enough problems paying bills. I just want this to be a tool to help people not hurt people. If we don’t help each other, we’re done.

Mayor Duffy thinks it’s a great idea and would be a big help to Mr. Clarino and the City. “I recommend at the next Commission meeting that we adopt a resolution to send to the legislators in our area about pushing a real property registration bill through. A resolution doesn’t hurt anything but it does let everybody know that we are here and we care what they’re doing.” **Commissioner Lane** likes the idea. **Mr Findell** said it could be ready by the March 5th meeting. **Commissioner Robbins** added that we can email them privately too.

City Attorney Groot said what he gathers is that there’s a consensus to go ahead with part three regarding special assessments.

There was a good deal of general conversation about updating registries and finding information on the property appraiser’s site.

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Commissioner Lane said, “If Tallahassee doesn’t act on it and/or succumbs to the lobbyists, we ultimately will need to do something. We’ve got to be able to find people so we can go on their property.

Commissioner Robbins added, “People would rather deal with the state, they’d be more inclined to give information to the state than to Lake Helen. It’s in the bank’s best interest to work with the state.”

Vice-mayor Snowden said that we’d gotten to the point of needing these ordinances for a reason and we should “continue that march.” If we’re going to agree to leave one part out that’s fine but we need to look at the other parts and come to some consensus on the good and bad points. He was impressed with the way this was drafted.

Commissioner Lane asked how hard it would be to come back with part two omitted.

City Attorney Groot said it would be very easy.

Mayor Duffy asked if the Commission would like **Mr. Groot** to rewrite the ordinance without the registry section, part one. There was no response.

Vice-mayor Snowden asked if the City can play the part of middle man between a landlord and a tenant to enforce some things on a tenant that’s really incumbent upon the landlord? The landlord is sometimes helpless because of the way rental agreements are written.

Mr. Groot explained part one of the ordinance again then explained the options available to give the Commission some direction.

The Commission discussed the timeframe of first and second readings and the pros and cons of waiting for Tallahassee.

Commissioner Lane suggested that they leave out part two and move forward on parts one and three.

Vice-mayor Snowden’s concern was who would handle the registry and what it would cost.

City Administrator Findell said if we didn’t want to accept parts one and two, we could still move forward on part three. “We’re interested in recovering our expenses and a way to do that is through the special assessment. If part one doesn’t work because of expense and aggravation to the city and part two is no good because of waiting for Tallahassee, then part three is what you want to go forward with because we really are looking for a mechanism to recoup expenses. Parts one and two are tools to help us do our work but part three is the most important part for the City.

Commissioner Lane said “Part one will provide a mechanism to collect usable information that somebody in the office can compile and maintain thereby freeing code enforcement from the job of tracking down people. The golden nugget, though, is part three. Part one smoothes things out; it’s a proactive process vs. a reactive process.

City Administrator Findell agreed but added, “One of the things required of the city in part one beyond establishing a database is to create and maintain an educational program for the property owners and that comes with no little expense of time or effort. I only say that in response to the concern about the additional cost that will be incurred

by the City from a time and financial standpoint to implement this ordinance as written.” **City Attorney Groot** gave the Commissioners some history on that section of the proposed ordinance.

Mr. Findell said we shouldn’t just calculate direct costs when figuring what it would cost to set-up and maintain a database. Indirect costs need to be factored in as well. He doesn’t see how a \$25 charge for landlords is that big a deal. **Commissioner Burton** agreed. He’s not as concerned about how we’re going to cover our costs but how important it is to do this to protect our taxpayers in the future from having to pay for unkempt properties. I’m very supportive of the special assessment too.

City Attorney Groot said he heard a consensus to move ahead with parts one and three.

Commissioner Robbins said she only sees the need to move forward with part three and **Commissioner Lane** agreed with her.

City Administrator Findell said “if that’s what you’re considering your consensus, you’d all be better served by moving in that direction rather than rehashing this for another two hours at another meeting to get to the same point.”

Commissioner Lane then said he’d rather see part one in there. **City Administrator Findell** said, “The gist of your comment was that you thought that part three was the most important and three is where you think you’ll end up at the end of the discussion. I’m hearing reservations from **Commissioners Snowden and Robbins** about part one. The others agree that part three is the most important. I don’t want to waste anybody’s time spending a couple more hours at a public meeting if part three is what you really want to do. We can always work on the others later.”

City Attorney Groot said you might be able to forego part one to a later date and let Patrick and me experiment with some research techniques. So if you just want to go with part three, the sooner you put the special assessment in place, the better.

The final consensus was to have the **City Attorney** draft an ordinance from part three, regarding special assessments, from his original proposed ordinance.

The meeting adjourned at 9:02 p.m.

Joan L. Duffy, Mayor

Nancy Wilson, City Clerk