

**REGULAR MEETING
LAKE HELEN CITY COMMISSION
July 2, 2009
7:00 P.M.**

Minutes

A REGULAR MEETING 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

INVOCATION AND PLEDGE OF ALLEGIANCE

Commissioner Lane gave the invocation and led the pledge of allegiance.

DELETIONS OR MODIFICATIONS TO AGENDA

City Administrator Don Findell said, "Item 7B, *Consideration of approval on second and final reading of Ordinance 2009-05 relating to stormwater pollution prevention* should be changed to item 6A. It's a Public Hearing. Item 7C should be moved to item 7B and I'd like to add item 7C which is a brief budget discussion. I'd also like to talk a little bit about this year's budget and the budget calendar for the coming fiscal year."

COMMISSION ANNOUNCEMENTS

No announcements at this meeting

MINUTES: June 4, 2009 Public Meeting

Commissioner Robbins said, "On page 5 in the middle of the page Mr. Groot's name should be spelled with an 'ie' instead of a 'y'. On page 7, fourth sentence up from the bottom - instead of roadway I think I said right-of-way. Those were all the changes to the minutes."

Commissioner Robbins made a motion to approve the minutes of June 4, 2009 as amended.

Vice-mayor Snowden seconded

All zones and the Mayor voted yes.

CONSENT AGENDA:

A) *Bills – July 2, 2009*

B) *Consideration to change Cheryl Leonard's employment status from probationary to full-time*

Vice-mayor Snowden asked Rick Mullen if we are stockpiling the road-base material and if what we have is surplus. Mr. Mullen answered “yes” to both questions. **Vice-mayor Snowden** then asked if we expected to have to buy any more before the end of the year. Ricky Mullin said “no”. **Mayor Duffy** asked where the road-base is stockpiled. The answer was at the Lemon Street well.

Commissioner Robbins made a motion to approve the Consent Agenda.
Vice-mayor Snowden seconded.

All zones and the Mayor voted yes.

PRESENTATIONS

No presentations for this meeting

BI-MONTHLY REPORTS

City Engineer – no report

Local Planning Agency (PLDRC) – no report

Historic Preservation Board – no report

Parks and Recreation Board

Sean Abshire, Vice-chair Parks and Recreation. “Everything is going great for the Fourth of July, we’re ready for Saturday. The Parks and Rec Board and the Fourth of July committee will be down at the Equestrian Center tomorrow at noon to start setting up. We’re still looking for volunteers from the Commission to take a pie, if anybody wants to do that. Kickball’s going great. We had one minor issue with one of our coaches a couple of weeks ago but that’s been settled and everything is going fine.” **Mayor Duffy** added that the fireworks have been purchased and we’re right on track. **Vice-mayor Snowden** asked if we could get a report on the Miss Lake Helen contest. Mr. Abshire said it went well. “We have three new Miss Lake Helen’s of different ages. My understanding is that somebody will be announcing them at the Fourth of July event in the Park on Saturday.” **Mayor Duffy** said Miss Lake Helen is usually brought to the meeting after she wins to be introduced to the Commission.

PUBLIC FORUM

No public input

PUBLIC HEARINGS:

Consideration of approval on second and final reading of Ordinance 2009-05 relating to Stormwater Pollution Prevention

Mayor Duffy read the ordinance by title:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE HELEN, FLORIDA, RELATING TO STORMWATER POLLUTION PREVENTION; PROVIDING FOR FINDINGS OF FACT AND LEGISLATIVE INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR APPLICABILITY; PROVIDING FOR EXEMPTIONS; PROVIDING FOR ILLICIT DISCHARGE PROHIBITION;

PROVIDING FOR ILLICIT CONNECTION PROHIBITION; PROVIDING FOR STORMWATER POLLUTION PREVENTION PLAN; PROVIDING FOR REQUIREMENT TO PREVENT, CONTROL AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES (BMPs); PROVIDING FOR WATERCOURSE PROTECTION; PROVIDING FOR NOTIFICATION OF SPILLS; PROVIDING FOR INSPECTION AND MONITORING; PROVIDING FOR VIOLATIONS AND ENFORCEMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR EFFECTIVE DATE.

City Administrator Findell said, “This is the same ordinance that we discussed at the June 4th meeting where it was approved on first reading. The title really says it all as it relates to this ordinance. It's an ordinance that deals with stormwater pollution issues and stormwater pollution prevention mechanisms . The ordinance is required by our stormwater permit. It was prepared to be consistent with the guidance and recommendations of the Department of Environmental Protection and the United States Environmental Protection Agency which is the federal agency that is responsible for monitoring this program.”

The Public Hearing was opened.

No public input

The Public Hearing was closed

Vice-mayor Snowden made a motion that the City of Lake Helen adopt Ordinance 2009-05 relating to stormwater pollution prevention on second and final reading.
Commissioner Robbins seconded.

All zones and the Mayor voted yes.

COMMISSION CONSIDERATION:

Consideration for approval on first reading of Ordinance 2009-06 amending Article 10.02.00 relating to PLDRC

City Administrator Findell said, “This item came from a Commission agenda item at a previous meeting where we discussed the reappointments of members of the PLDRC and it came to our attention that the application of the code as it is currently written is inconsistent with the City's historical practice of appointing PLDRC members for specific terms. As a result of that, I suggested to the Commission that we address the inconsistency by amending the code to be consistent with the historical practice of the City and so in that regard the Commission gave me the direction to do so. This ordinance makes a number of changes. The principle change relates to the terms of office of the individual PLDRC Commissioners and it clarifies that the three-year term of office shall, regardless of actual date of members appointment or reappointment, be considered to commence on October 1 and to expire on September 30 in the third year of a term in accordance with the schedule of terms that has been implemented by the City Commission. Basically, what that means in simpler terms is that the Commission, when they set up the PLDRC, established three-year terms but the initial appointments were done on a staggered basis so you would not reappoint members all at one time.

It's my understanding, and it certainly was the practice when I came to work here, that the term of office of the individual Commissioners was expected to start on October 1st and expire on September 30th so when we made reappointments over the years it was done in that context. So what this language does is effectively amend our existing ordinance to provide for that clarification.”

Mayor Duffy read the ordinance by title:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE HELEN, FLORIDA, AMENDING PROVISIONS OF ARTICLE 10.02.00, CODE OF ORDINANCES OF THE CITY OF LAKE HELEN, RELATING TO PLANNING AND LAND DEVELOPMENT COMMISSION; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR AMENDMENTS; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

City Administrator Findell said, “In my memo, there were a couple other minor changes that were addressed in this ordinance that I felt, and the City Attorney felt, were warranted given the fact that we’re making some clarifications in accordance with current and historical practice. Go to item *D. compensation*. The recommendation is to strike through that. The old ordinance says that each PLDRC member shall be paid a travel allowance to be set by resolution by the City Commission. I'm not aware of that ever occurring. I suggest that we take it out. There was also some language in here that related to the presentation of a proposed amendment or special exception and the requirement under the current code is that in order for that amendment or special exception that relates to specific areas of land to be heard, it must be presented by the person owning 50% or more of that land. The city historically has taken the approach that it can be the owner’s designee as well and we have a process for that designation to be made. I’ve simply added language in here that would be consistent with that practice.” **Commissioner Lane** said, “The problem that we saw at the last meeting where somebody served on the board and they weren't replaced - that was an oversight. This doesn't really address that issue does it? What if they continue to serve due to an oversight - what are the remedies for that? If no one is found to replace them, can the person who was on the Board continue to serve until someone is found to replace them?” **Mr. Findell** said, “That is exactly what happens but they are serving within the parameters and constraints of the term for which they were initially appointed. If they then, if by oversight or some other reason, continue to serve in that capacity and go into the next term, the next term ends after three years. So they'll serve out that term or if they're not reappointed and somebody else is appointed in their place, that individual would serve out the remainder of that specific term.” **Commissioner Burton** said, “In regard to the oversight, the oversight would be on the part of the Commission right? The PLDRC is an advisory board and they would vote to accept the continuation of the individual who wanted to continue to serve. Having done that they would then present it to the City Commission and the City Commission would then be required to vote on their recommendation.” **Mr. Findell** said, “The oversight I was referring to was in relation specifically to this previous instance where the PLDRC recommended that two sitting members be reappointed back in 2007. Because of the confluence of a number

of situations or occurrences that recommendation didn't get transmitted to the next Commission agenda and it just got lost in the process and lost in time. So once it was brought to our attention and it was confirmed that the Commission had never acted on that recommendation, then we brought it back to the Commission for their consideration." **Commissioner Robbins** said, "Part of this could be remedied if at such time as the PLDRC has voted to reinstate or re-up someone, it really is the PLDRC Chairman's position that he or she should be at the following meeting to apprise the Commission of that. Don't you think?" **Mr. Findell** answered, "Maybe. I can say from past practice that typically the City Clerk would track all these appointments and she would have a calendar that indicated when PLDRC members needed to be reappointed or when their terms were about to expire. The process is the same for all City Boards. She would advise me of the necessity to plan for those reappointments. In this particular instance, as I indicated in my last memo, so many things happened at one time that it just got lost in space." **Commissioner Burton** said, "So this doesn't necessarily take it out of the hands of the Commission?" **Mr. Findell** answered, "Absolutely not. To answer Commissioner Burton's question, let's talk about the particular incident that happen at the last meeting where we had the two individuals who had been recommended by the PLDRC for reappointment. Because it never came to the City Commission until a couple weeks ago, if you applied the code the way the code is written, you would have made an appointment for a three-year term starting on the date that you reappointed them. That's not the way the system has worked and that has not been the intention of the Commission in the past. So in this particular case, the reappointments were made but they were made to serve the rest of the existing term that they should have been in. The same would apply for a new appointee. In either case, the term will end in 2010." **Vice-mayor Snowden** said, "I have a concern. It's not really specified in the code that the Planning Board makes the recommendation is it? I have a problem with putting the Planning Board in the position of making recommendations. I think it puts them at a disadvantage to sit among their peers and debate whether or not someone might be reappointed. I think it's incumbent upon the Commissioners to perhaps interview the Planning Board members to get their thoughts and feelings." **Mr. Findell** said, "It doesn't say that in here and to give you a historical perspective, there have been years that the Planning Board didn't make that recommendation even though they would certainly have some discussion among themselves when somebody's term of office was set to expire. They would also see whether that person was interested in serving another term. Ultimately, however, recommendation and reappointment was in the hands of the City Commission. In later years, when that discussion occurred, the PLDRC felt that it was appropriate for them to make that recommendation." **Commissioner Burton** said. "I think that the process of selecting a candidate had come up as an issue previously when someone had applied for a position and there was no opening but their application was on file. An opening came up and other people wanted to apply. Apparently, there was some discrepancy as to who could be appointed such as – whoever applied first, they would be the next in line. Speaking from a historical perspective, in some cases they didn't have many applicants, so if you put your name in for a Board you were considered. The question I have is: what is the exact process by which a member of this community can be considered for this Board? It doesn't seem to be that big of a deal to ask the PLDRC to consider the process of who will come before them to be considered and then upon

their recommendation they can send it to us. We don't have to accept their recommendation but it still gives another buffer to the due process and sort of levels the playing field. If the person who might be willing to serve is not known by anybody in particular, as opposed to a person who is known by everybody, the person who isn't known shouldn't be at a disadvantage."

(00:30)

"So, I'm just concerned that the process used to select qualified people will narrow down the people to a very small pool. This is not something that is historical because in years past we haven't had these issues. The only time good law is made is when situations come up. Do we make positive ordinance based upon a particular situation that might involve someone we may or may not have known to the detriment of someone who we may not know?" **Mr. Findell** said, "The Commission's practice on this has differed from time to time. I would say it's not always been applied consistently. One of the past practices of the Commission, was at some point prior to a members' term of office expiring, the Commission requested that the individual advise the Commission by letter or make application for the position of the expiring term. The Commission would then solicit applications from other members of the community and would take all the applications for the expiring position and would either reappoint the individual sitting Commissioner or could take the opportunity to appoint someone else. I can't think of an instance where someone else was appointed when you had a sitting Commissioner who was still willing to serve though. That gave other people the opportunity to submit applications at that point and then they would have the same opportunity when the next position came up for reappointment." **Commissioner Burton** continued talking about the terms of office and Board appointments. His concern was that continuing to reappoint Board members without opening the door to new applicants might turn the PLDRC into an 'good old boys club'. "The situation that happened previously came about because someone read the ordinance and they read our City Commission minutes and said 'hey, the City Commission didn't follow its own rules' so it was brought to the City Commission and because of the rule of law we voted and the vote held. I think when we start jury rigging the system to accommodate an isolated event, then we start dealing with things that sometimes aren't in the citizens best interest." **Mr. Findell** said, "This ordinance addresses the broader issue. What I think you need to confirm or reconfirm or revise is the Commission's policy as it relates to appointments and reappointments to the PLDRC and other Boards." **City Attorney Groot** wanted to follow up on **Vice-mayor Snowden's** point about recommendations from the Planning Board itself. It is a policy question. If it's not in the ordinance for the PLDRC to make recommendations, they should be instructed not to do it because it's a Commission decision." **Commissioner Robbins** said they are all volunteers and it's kind of hard to fire a volunteer.

*Lou Benton
Lake Pearl Drive*

"I believe it was in 2002 or 2003 that this whole thing came up and Lonnie Groot made a suggestion to the Commission that the recommendation should not come from the PLDRC because it creates a conflict for the simple reason that you might have attitude

problems with individuals. That's why it was left to the Commission. It never was done by the PLDRC members to recommend anybody. There is another issue that came up pertaining to Parks & Rec because they were interviewing people and the Commission said they couldn't do that. The PLDRC could never make a recommendation and they never interviewed individuals, it was done by the City Commission. In all the years I was there, the person who was on the Board who wanted to be reappointed was reappointed the majority of the time because they already had the knowledge. It's not an easy job. There's a lot of book work and homework to do. The longer you sit there, the more knowledge you have. So, when Gary Adams keeps renewing you have a history there. Sometimes the ordinance is not black and white and the more people you have there who have the knowledge and experience and history, the better off you are. None of the boards could recommend to the Commission who should be appointed; they shouldn't even see the applications - it was all handled by the City Commission."

Commissioner Burton said, "You're right, as I recall, there was no discussion on the PLDRC when a seat came up. The PLDRC members simply asked if the person wanted to continue serving on the Board. Once his desire to continue to serve was determined, it was then submitted to the City Commission." **Mr. Benton** continued, "If I remember correctly, what the Commission said at the last meeting was that the PLDRC recommended that the two people be re-upped. That was never done in the past, that's the first time that's been done. The PLDRC board members never made a recommendation to the Commission. A member who wanted to re-up filled out the application then lobbied their Commissioners to be reappointed. None of the board members of any of the boards are supposed to recommend for someone to stay on, it's always done by the Commission." **Commissioner Lane** said, "Should we address that in this ordinance that we do not solicit recommendations from individual boards?" **City Attorney Groot** answered, "You would then leave the ordinance as it is because that is not in there. If you do want recommendations then you should put it in the ordinance." **Commissioner Lane** added that he hasn't heard anything to the contrary that we don't want people on the boards fighting among themselves. "Certainly, I would think that anybody, anytime could put their name up for consideration and when the time for appointments comes up, we would have all those applications at our fingertips to review. Anybody, at any time, could put their name in the hat." **Commissioner Robbins** said, "That brings up another situation. I think there was kind of a misnomer about whoever put their application in first would be the first to be considered for the next appointment whenever it may take place. You may have ten people who become interested in the one position but the person who put his or her name in first thinks that because it's in there that they would be the next one appointed." **City Administrator Findell** said, "That's not the way it works and it never has worked that way. I don't know why that thought exists." **City Attorney Groot** said, "I can give you a very simple answer to that theory. It's illegal. It would be a delegation to everybody in the entire city of your authority and you can't do that. It would be a delegation to the first person who puts their application in to basically appoint themselves." **Mayor Duffy** said, "The question here is if you have ten applications you're going to go through them as you would if you were hiring somebody and choose the person with the best qualifications for the position." **Mayor Duffy** discussed her tenure on the PLDRC and why she submitted her application years ago. She said in the past, the City has always had trouble getting a full complement of people. Some people wouldn't even serve out their

term and then we had trouble getting someone to replace them. "You need to choose somebody who has some knowledge of what the Planning Board does."

Commissioner Lane said, "It probably becomes a matter of education from each of us to our constituents that if there is a perception that it's a first come, first served appointment, we need to explain that that's not the case. In fact it's illegal. We need to be responsible for that education." **Commissioner Burton** said, "Instead of taking it out of the hands of the Commissioners to be responsible, we have seats opening up at the end of September. We should advertise those openings in whatever way we can to inform the community. A lot of things that take place in the community take place with only a few who are paying attention or who have become knowledgeable. When I left the PLDRC, I was amazed at the number of qualified people who brought their applications to me who otherwise would never have even considered it because they didn't know what was entailed. I think we need to do a better job to educate and to facilitate the avenues where people can become part of this board. It shouldn't become a good old boy or good old girls club. It would be to the citizens' detriment."

Commissioner Lane asked if it is the City's policy to advertise for a vacancy on a board. The answer was yes. **Mr. Findell** continued, "You collect the applications then distribute them in the Commissioners boxes. They have a period of time to review them and then they are scheduled to go on an agenda to give the Commissioners time to review them and interview individuals. That's the reason why there's a timeframe between the time that the applications are put in your box and the time they would go in front of the Commission for consideration." **Commissioner Burton** said, "One thing that's become a pattern is that unless there is a vacancy, there are no submissions. If the person is sitting in the seat says that they want to continue to serve then it becomes no vacancy. By there not being a vacancy, it's not being advertised; by not being advertised, nobody submits an application. Therefore the person sitting in the seat just continues on." **Commissioner Lane** said, "Historically, if that's what's been done we need to advertise. We always need to look at what applications might be brought before us whether or not someone wants to remain in service or not. We may not as a Commission want somebody to continue to serve even if they want to." **Mr. Findell** said, "That was exactly the point of having the seated Commissioner make application at the time the term was to expire. Their application would be considered with all other applicants prior to an appointment being made." **Mayor Duffy** said that point is of value because of the continuity of what the PLDRC does. "You can't in the middle of a project they're working on just say goodbye it's been fun and appoint somebody new who knows nothing about what the PLDRC does." **Commissioner Burton added**, "That also applies when City Commissioners run for office. You might have been in the seat for a long time but when the vote comes, if the people say they want someone else then that knowledge would have to take second place to the will of the people." **Mayor Duffy** continued, "That's why it's important to choose or review the applications and get someone who knows about building and planning. Are we going to send this back to change it in any way?" **Vice-mayor Snowden** said, "The revision before us is fairly concise and cleans up a lot of loose ends. I think that it was brought to us so that we could discuss some of the other things that we've done that aren't specified in the code, in any policy, directive or ordinance. I think the efforts that have been taken to clean this up did what we intended."

Vice-mayor Snowden made a motion to approve Ordinance 2009-06 on the first reading

Commissioner Robbins seconded.

Zone 1 – yes; Zone 2 – no; Zone 3 – yes; Zone 4 – yes; Mayor – yes

Mayor Duffy said yes on condition that the ordinance still be reviewed. **Commissioner Burton** said, “That would've been my vote too, that's what I was trying to say. I agree with the Mayor and I think that there should be more consideration of this ordinance because I think the process should be looked at more. **Vice-mayor Snowden** agreed with them but he said part of this is that the other boards have the same issue that may be addressed in another ordinance at a future date to clean up any other loose ends.

Consideration of approval of Agreement for the Provision of Police Dispatch Services between the City of Lake Helen and the County of Volusia

Mayor Duffy said, “Our dispatch service expires on September 30, 2009; we signed a contract for a three year term. The former contract language said there could not be more than a 5% increase in the contracted rate during the term.” **City Administrator Findell** said, “In this particular contract, the sheriff is proposing language that would not limit them to a 5% cap. It would not be their intention to exceed that but, for lack of a better term, they have wiggle room in case extraordinary circumstances occur that increase their costs such that they're warranted to increase their rate by 5% in any year. They would notify us of that and provide justification for said proposed increase. This particular contract is for \$16,287 for the coming fiscal year.” **Commissioner Lane** asked how often can they adjust their rates and how much notice do they have to give us? **Mr. Findell** answered, “They can adjust their rates annually and they're supposed to provide a letter to us in May each year indicating what the proposed rate will be for the coming year so it's basically five months notice. The reason for the five month notice is that they know you'll be working on your budget during the summer so it allows you to factor the information into the preparation of your budget.” **Commissioner Lane** said, “As I said a few meetings back, I think we're going to be looking at some significant inflation numbers in the coming years. Giving someone the open-ended ability to inflate at their will is hazardous but they're the only game in town so we have to play their game. However, we do want to contract with them and use their services. I was just wondering if they were going to come back and give us 30 days notice and we have to give them 180 days notice to terminate and we'd be caught in a bind but it sounds like we have adequate notice of any increase and the ability to protect ourselves.” **Commissioner Robbins** said, “I can say that having retired in 2006 and having been associated with this dispatch service for the last 16 years the figure has really not gone up that much. I don't think they're going to take advantage of Lake Helen. I think they do a good service for us and we're kind of caught between a rock and a hard place because we can't afford to start our own dispatch for obvious reasons. 5% of 16,000 is not all that much when you stop to think about all the services other than dispatch that they can also provide for us that come from our county taxes. So I think it's pretty a good bang for our buck. One thing I did notice in here, though, and I don't know if they've started this recently, is that there is a provision in here for quarterly billing. Are they doing that now?” **Mr. Findell** said, “No, they typically send us one bill,

you remember that. They send it at the end of the year.” **Commissioner Robbins** continued, “It would be a good thing if we could pay quarterly instead of one big payment at the end of the year, like our liability insurance, so we know every quarter how much we're going to pay rather than being hit hard for \$16,000 at the end of the year. It's just a little bit easier budgeting and for the finance director to know that come April 30 she's got a payment to make.” **Mr. Findell** said, “One of the things that I do and I can't remember whether I did it when you (**Commissioner Robbins**) were here by I do with Cheryl because she's new. Each of these individual items that we have to make plans to pay for in the coming year I give them to her to put in a folder specifically for payment next year so that they're right there in front of her and it's no surprise. The only converse side to the quarterly payment is that if the payment is once a year as it typically has been and it's toward the end of the season then we have use of the sheriff's money for whatever miniscule interest that we'll receive.” **Commissioner Burton** asked if there are possibly any law enforcement grants that this could fall under because it's a very specific service that they're providing and it's a needed service and we are a small municipality. “Could we not be eligible for some sort of a federal law enforcement assistance?” Neither **Mr. Findell** nor **Chief Chester** was aware of any such grant. **Commissioner Robbins** added that the contract is “sort of a necessary evil, something you have to have.”

Commissioner Lane made a motion to approve the *Agreement for the Provision of Police Dispatch Services between the City of Lake Helen and the County of Volusia*

Commissioner Burton seconded

All zones and the Mayor voted yes

Consideration of brief budget discussion about this years budget and the budget calendar for the upcoming fiscal year.

City Administrator Findell said, “This is going to be a twofold item. The first part of it is that I wanted to bring you up to date on where we stand this budget year with the 2008/2009 budget.

(01:00)

The second is really more of a *consideration* item that relates to setting some dates this month specifically to go over the proposed 2009/2010 budget because there's a statutory schedule that I have to work with. For those of you who look at the budget occasionally, we started the 2008/2009 year out with the anticipation that we would have about \$1,693,000 in revenues in the General Fund. That \$1,693,000 included the transfer of \$26,000 from city reserves. We also anticipated that we would have General Fund expenses of \$1,693,000; that's what provides for a balanced budget. Subsequent to the approval of the budget early in the fiscal year the City Commission approved an additional purchase that would be added to the budget and that was the purchase of the software upgrade and computer that was necessary to upgrade the City's financial system. The cost of that was about \$36,000 so we add that to what the anticipated budget was and that gives you a total of \$1,724,000 in expected expenses for this fiscal

year. As we've all talked about and certainly we've all noticed, the continuing status of the poor economic conditions that we're faced with locally, regionally and nationally has led us to anticipate that even though we had in many of our revenue categories for this fiscal year downgraded the amount of revenue that we expected to receive, we anticipated expecting less revenue than we had projected even at declining levels. At this point as I've gone through the detailed expense and detailed revenue receipts and compared them to last year during the same time period, I've been able to make some projections about what's down and what's up; a lot more things are down. Where they are down is in major revenue categories. The economic conditions that were faced with have resulted in changes to many of the major revenue sources. What we anticipate is that we will collect less in ad valorem taxes, less in sales taxes, less in gas taxes and collect less in revenue sharing and less in interest on investments, than we had anticipated. On the other hand, we expect that we will collect more on solid waste franchise fees and Progress Energy franchise fees and Progress Energy municipal services taxes, bottom line being, the decline in revenues is going to outpace the increase in revenues in those sources that are projected to see an increase. If everything else held steady for the remainder of the year, then I would expect that our total revenues would be something more like \$1,596,000. That's significantly less than we had anticipated. At the same time, we have seen on the expenditure side a reduction in anticipated expenditures. On the expenditure side, where we see lower expenditures than we had anticipated, we see those in legal costs, insurance costs, inspection costs and individual departments savings as individual department heads have scrutinized their budgets and tried not to buy more than they needed to. So everybody's paying attention here. The end result is that if everything holds true to form, we can expect expenses to be 1,659,000 as opposed to what was originally projected at 1,724,000. Significant decline in revenues, some decline in expenditures, take the two together and that gives you a figure that tells you that currently projected expenses would exceed currently expected revenues by about \$63,000. That \$63,000 includes the \$36,000 that the Commission approved for the financial system. In one sense it's a lot of money, in another sense it's not as bad as it could have been. However, it still needs to be addressed and so my intention is to address the disparity between revenues and expenditures by reallocating a portion of personnel costs that are currently absorbed into or supported by the General Fund but that are related to stormwater management. With our Public Works people, other than water, my intention is to reallocate a portion of those resources that are absorbed by the General Fund within the Public Works Department and place those costs in the stormwater utility budget. We have kind of a three-pronged public works program that consists of roads and streets, maintenance, building and grounds maintenance and stormwater management. I've got about \$42,000 at the moment that can be allocated in such a way in that we can relieve some of the burden on the General Fund. Additionally, it's my intention to pay for the phone system that was part of the original budget which was about \$10,000 out of general government impact fees. The bottom line would be that if this scenario played out, the difference between revenues and expenses at the end of the fiscal year would be something in the neighborhood of \$10,000. This would be more in line with what we projected initially. I'll also bring to your attention that a portion of my salary is paid out of the stormwater utility budget because I work on stormwater management issues and I'm the City's stormwater coordinator and the City's floodplain

management coordinator. Because I am those things there is the ability to charge some of those costs off against the stormwater utility. The work that we're doing on stormwater this year, from a management standpoint, is substantially greater than it has been in the last couple of years and will become even greater next year as we work on our NPDES permit requirements provisions. A small amount of my General Fund salary will also be reallocated to the stormwater utility but it's a relatively minor amount."

Commissioner Robbins asked if the \$63,000, that Mr. Findell said would be the difference between revenues and expenditures, was from reserves. **Mr. Findell** said, "We had anticipated reallocating \$26,000 of the reserves to the General Fund, making a General Fund transfer. Additionally, we anticipated the \$36,000 that we would expend from reserves for the financial system upgrades. So if you take the two that's pretty close to what we expected to expend from reserves. What we're doing in this regard is actually reducing the amount that would have to come from reserves at the end of the year which is a positive thing. There are three more months and there are a lot of hurdles that come into play but this is the basic situation now based on the detailed information that I have available. I just wanted to give you a heads up and bring you up-to-date on how we're going to address this." **Commissioner Burton** said, "So these are basic accounting principles we're using by transferring money between funds. It doesn't increase or decrease the monies we have, they're just allocated differently correct?" **Mr. Findell** answered in the affirmative. "We're closer to even than we thought we'd be. What we're doing is allocating resources across funds. We're not borrowing from any funds, we're reallocating our resources across funds where we have the ability to do that. In this particular instance, we have the ability to do that and we're justified in doing that with the balance that we have in the stormwater utility. The City, in the early years of the Stormwater Management Fund, put that money into the General Fund. It paid for certain Public Works expenses, personnel expenses and equipment expenses. Ann (Robbins) and I set up an enterprise fund two or three years after I came to work here so that we could better track the expenditure of those funds and because we had some stormwater projects that we wanted to implement and we had grant funding that was available to implement those projects so we used specific stormwater funds to match grant funds that we received. Then, we let the General Fund absorb the cost of Public Works personnel and Public Works equipment. This year we have no matching grant to do a project, next year we don't anticipate one either because of the water management districts financial situation. So we have the opportunity to reallocate those resources this year and will have that same opportunity to reallocate the resources in the 2009/2010 fiscal year. You'll see that reflected in the budget to come." **Commissioner Burton** said, "Historically, when I was sitting in the audience and they were talking about the reserves, they were spoken about in numbers of days. With that \$26,000, how many days did we just lose? How many days do we have and what is the per diem that you use to calculate that?" **Mr. Findell** said, "I can't answer that question without going back and doing some calculations. The \$26,000 - that's kind of miniscule in terms of days. The basis for the calculation is simply to look at what the City's operational expenditures are on a year-to-year basis and look at the amount of reserves that you have at any point and see what percentage the reserves are of that total operational budget. Let's say the reserves are 50% of the total operational budget - you would multiply .50 by 365 days which would be approximately 180 days. So, 180 days is the amount of time you could manage your resources

without other funding. That's the equation that you use." **Commissioner Lane** asked what our reserve balance is. **Mr. Findell** didn't know the exact figure but it's in the neighborhood of \$700,000. "They've been a little bit higher, they've been a little bit lower." **Commissioner Burton** said that given what he's heard at this meeting, he's not sure if reserves can still counted in days anymore. **Mr. Findell** answered that reserves can absolutely be counted in days. "The formula remains the same and it is every bit as accurate. The formula remains the same and the way it's calculated remains the same. What difference there is, is that the numbers that you use for the calculation are different because you have a different base number for the anticipated expenditures each year and you have a different base number for the anticipated reserves each year. A better way of looking at it and I think this is the analogy that most people use is that your budget and your reserves are analogous to your individual bank account or your family's bank account. You build the reserves up to plan for a rainy day or you build your reserves up to plan for the implementation of specific projects that you might not include in your operations budget. In most years, historically, we've increased the reserves; we certainly did in the mid-part of this decade. In the last couple of years, those reserves have diminished as a result of economic conditions. But it's important that you maintain your reserves because at a minimum they need to be there for an emergency situation. We'll have that discussion when we talk about next year's proposed budget and the importance of maintaining reserves and replenishing reserves when you have that opportunity." **Commissioner Burton** said, "Unlike our personal home finances, as a city, we are required to have accounting practices that are sound based on what government declares as sound. Will moving funds around to make our situation look better raise any red flags with our accountant?" **City Administrator Findell** said, "The point of having an audit is to tell you where you are at the end of any given fiscal year and to let you know how you compare to other communities. So when Alex (Kish) comes and makes his presentation, he talks about how you are situated compared to other cities that he either uses as part of his analysis or that he's familiar with because he does the audit for those communities as well. He does the audit for a number of communities in Volusia County. Some of the information he provides is cut and dried information, accountant information based on very specific parameters and consistent and specific constraints. Other information that he gives you is anecdotal information. Some of that information may be good, some may not be good. The information that's good you can say that's great. The information that's not so good we know what we have to work on."

"On July 1st, we received a certificate of taxable values from the property appraiser's office. July 1st starts the official state statutory budget calendar. The way the calendar works is on July 1st you receive a certificate of taxable value. By July 15th, I have to submit a draft budget to you. By August 4th, you have to have held a meeting to set a tentative millage rate and the date of your first Public Hearing to review the budget. That information then gets submitted to the property appraiser's office and the importance of that information is that that's the information that he uses to send out the proposed tax notices. In September, you typically have your first Public Hearing on the tentative budget and millage rate and it's usually during the second week of September. Then, you typically have your final Hearing sometime in the fourth week of September. The key issue at this point is the timing of what you do between July 15th and somewhere around July 30th. The importance of that is you get the budget around the

15th and I would expect that we take the opportunity to discuss the budget hopefully no later than the following week and then do nothing less than hold a meeting the fourth week of the month to finalize any tentative discussions that we have and set the tentative millage rate and the date of the public hearing. We can hold as many meetings as you want to between July 15th and July 30th, but by the end of that week we need to set the tentative millage rate and the date of the Public Hearing so that I can convey that information and the paperwork that goes along with it to the property appraiser. As we say each year, the tentative millage rate is the rate that the property appraiser utilizes to send out the proposed tax notices. The importance of that millage rate to us is that once you set the tentative millage rate you cannot exceed that millage rate in subsequent meetings and in subsequent hearings. You can reduce that rate but you can't exceed it. The only way in which you can exceed that rate subsequent to sending it is if you are willing to send out corrected tax notices to every property owner describing the difference between the proposed rate that the property appraiser sent out and the rate that you had corrected. So you try to set the proposed millage rate or the tentative millage rate at the highest reasonable level that you can set it and then you can work down from there, if possible, but you don't want to set it arbitrarily low on the front end and then not have the ability to adjust it as you might find yourself needing to on the rear end. There's a City Commission meeting on the 16th which is a Thursday so the first meeting should be held no later than early the next week. After that meeting, you may wish to have another meeting before you have your tentative millage rate meeting but at a minimum you have the one meeting and at a minimum you have a second meeting to set the tentative millage rate the following week. The tentative millage rate needs to be sent to the property appraiser's office by the end of July.

(01:30)

There was general discussion among the Commissioners about when the meetings should be held. The first budget meeting was set for Tuesday July 21st at 7pm. The second meeting was scheduled for July 29th. **Mr. Findell** continued, "These are not Public Hearings, they are Commission meetings. This will give me time to have the paperwork submitted by August 4th. Once we set the tentative millage rate, we typically have further budget discussions before we get have the Public Hearings in September. I want to check when vacations are scheduled against our budget calendar." There was more discussion about vacation schedules and meetings. **Commissioner Robbins** asked if the Public Hearing dates could be set tonight. **Mr. Findell** said those dates are usually set at the tentative millage rate meeting. "Let's say that we have two budget meetings this month and at the second meeting the tentative millage rate and the date of the first public hearing is determined. You can then hold whatever meetings you want to hold in August and then you'd also have the opportunity to hold meetings prior to the budget meetings in September. Generally, the first Public Hearing on the budget would be the second week of September and your second and final hearing would be the fourth week of September.

COMMISSION DISCUSSION

Discussion of effect of sales tax exemption changes on fees charged by the city

City Administrator Findell said, "This item was placed on the agenda because Cheryl (Leonard) received notice from the Department of Revenue that certain sales tax exemptions that have been in effect in the past were not approved. One of these exemptions potentially affected us. That exemption was an exemption for local governments to exempt sales tax from certain fees that they charge for use of city facilities for the sale of souvenirs, novelties and other event related products. This particular sales-tax goes into effect on July 1st so Lonnie and I looked at the legislation and we saw that there were two particular areas that might apply to us. One is Market in the Park where we basically charge vendors to sell stuff and another is the Craft Fair where we allow space to be used and we charge a fee for vendors to do something similar to Market in the Park. So if we are to collect the sales-tax, then what we need from the Commission is direction as to whether they wish to have the sales-tax absorbed in the current fee or whether they wish to have the sales-tax added on to the current fee." **Mayor Duffy** said the craft show letters have gone in the mail and they say nothing about sales-tax so we're going to have to absorb the sales-tax for that event. **Commissioner Robbins** asked, "So this is basically like if we rent out Hopkins Hall for a short-term rental we have to charge them sales-tax on the rental?" **Mr. Findell** said it's hard to decipher this. "This is what applies to us, if you look at the last page I gave you where you have the advice from the Department of Revenue. Look at the second highlighted item that starts with *Real Property*:

Effective July 1, 2009, real property is subject to sales tax when rented, leased, subleased, or licensed to a concessionaire by a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly-owned recreational facility, during an event at the facility, to be used by the concessionaire to sell souvenirs, novelties, or other event-related products.

If you look at it in the greater context you would think that that would apply to the arena and other larger venues. But when you look at it at a micro level it can also apply to something like a craft fair or Market in the Park because when Lonnie and I were going over the specific words the key word there was those *licensed*. The analogy we used was that it's not licensed in the sense that it's a written agreement it's a license in a legal sense which is analogous to *allow to use*." There was a great deal of discussion about what would fall under this new ruling and how it would apply to the City. **Mr. Groot** said, "The purpose is to capture more revenues, it doesn't matter what the size of the city. The risk to the city is getting a bill at the end of the year rather than collecting sales tax throughout the year. Is it beyond the Department of Revenue (DOR) to do that? No, it's not. The legislature is attempting to fill their gaps just like local governments are needing to fill their gaps. Don's trying to give you the information so that you can either run the risk of getting a bill at the end of the year or collecting it incrementally and sending it to DOR who if they say 'well, that's not what we meant' they can always give us a refund but my guess is that they won't do that." **Commissioner Robbins** said, "We're talking about 6.5% which is about \$.52 on an eight dollar flea market table." **Vice-mayor Snowden** added that once you add on what it costs to process this, \$.50 turns into three dollars. **Mayor Duffy** asked if we need to charge the vendors tax on July 4th? **Commissioner Lane** said, "This is the perfect time to advertise the fact that the state is forcing us to charge a tax on a tax. We should let everybody know that we're just as ticked off about it as they are. I don't mind reducing our fees to around

\$7.50 and saying we're collecting a sales tax on this because we're taking the hit but we want the citizens to know what their state government is doing to small cities like us." **City Attorney Groot** said, "Another option is whatever rate you set, calculate what would have been the tax and hold it in escrow and then try to get an official declaration from the DOR. If they say 'yes' then you will have the money and if they say 'no' you will have it to keep." **Mr. Findell** said, "That's the advice I gave Cheryl (Leonard) because we need more clarification. When I read it I agreed with **Commissioner Burton** that it's meant for a broader application but when you read it in its literal sense it could apply to Lake Helen's events. So I asked Cheryl to write DOR and see if we could get a written clarification from them but in the meantime we'd like to go ahead and set up the system." **Commissioner Robbins** said, "With the Market in the Park stuff, for the most part, it's used stuff which when the people bought it they paid tax on it so you're paying tax on tax and it's a snowball effect." **Mayor Duffy** added that even if they have new things to resell, they paid tax on it. Keith Chester noted that the Cafe has been collecting tax on all the food they've sold. "I want to keep it simple I want to keep it at eight dollars. I don't care what we do with semantics but I want to keep it at eight dollars and take the tax out of that, we can let the vendors know how much of it is tax. But for collecting purposes dealing with loose change is just a hassle. **Commissioner Robbins** said, "When you go to different events and it says \$50, tax included of \$3.42, or whatever." **Mayor Duffy** asked if a report would need to be filed each Saturday for Market in the Park or could you file a monthly. Keith answered that the money is turned into Cheryl with receipts so she can track it. Mr. Groot wasn't sure when the best time would be to remit this money. Keith added that Cheryl's already doing this for the Café and Mr. Findell concluded that she just needs to set up a process for this like she did for the Café. It's the same process, it's only other different fund. **Commissioner Burton** said, "I wouldn't even be against putting out a petition. I went to a store today and there was a sign up for protesting the credit card fees. It was right in the store and they were letting people, who were using their cards, know that there is some tax that the state is now trying to impose so the vendors were having them sign the petition to say that they didn't think this was right." **Commissioner Lane** said, "In light of the fact that that the fairgrounds have reduced their fees I certainly don't think we should be raising ours even if it's the state raising it. I think we need to protect our vendors and our event so we probably should reduce our fees to \$7.50, or whatever it works out to be, with tax included. If it turns out that we don't have to pay that tax, what we do then? Do we have to refund that money to the individual vendors?" **Mr. Findell** answered, "No, because your fee is eight dollars so it would be like it always was. I would not recommend that you refund the money. You should simply hold the amount out and if you have to pay, you pay it, if you don't ,then it becomes part of the fee as it was originally."

*Lou Benton
Lake Pearl Drive*

The average person pays sales tax. Only government doesn't pay it. If you go to different areas you go to the private entities with a flea market setup you pay sales tax. If you buy a used piece of equipment, you pay sales tax. If you sell it, whoever buys it pays sales tax. And if it's used ,or whatever, you pay sales tax. The place out there on

44, go in there and buy used clothes, you buy sales-tax. Only government is the one that never pays sales tax everyone else pays it all the time.”

Commissioner Robbins made a motion that we continue to charge eight dollars with a 6 1/2 percent sales tax included in that amount for Market in the Park with Cheryl figuring out what the actual price of the table plus tax would be to total eight dollars. **Mr. Findell** added that that would also apply to the Craft Fair - that the city would absorb the sales-tax and the cost of the vendor booth rentals.

(02:00)

Vice-mayor Snowden said, “In as much as this is a state law, is it really necessary to have a motion that covers that? Until we get further reports from the state or clarification, we’ll be obligated to do it one way or the other.” **Mr. Findell** answered, “What it’s necessary for the Commission to give us direction on, is whether they want the sales-tax absorbed in the fee or whether they want the sales-tax added to the fee. That’s what the item was and that’s why it requires a motion.” **Vice-mayor Snowden** said, “So the motion would apply to any other event that this would be applicable to?” There was some discussion about what events would fall under this change. The Craft Fair is not a City event and the City receives no revenue from it so even though a City building is being used, no sales tax is charged. **City Attorney Groot** said, “I don’t know about the Craft Fair but when the Friends of the Library has the book sale they pay the tax on what they make but the individual vendors or booksellers don’t. There’s also no payment for use of the public facility if a fee wasn’t charged. If there is no charge there is no tax.” **Commissioner Burton** said, “The other thing to be considered is the auto show. There were a number of vendors who were there selling souvenirs.” **Mr. Findell** said, “That’s true but we are not charging for the use of that space. An individual vendor is selling items, but the City’s not renting him space so that vendor is responsible for collecting the tax on his sales but it’s not our charge and not our responsibility.” **Mayor Duffy** said, “So if we don’t pay for Hopkins Hall for the Craft Fair then we don’t have to pay any tax?” **Mr. Groot** said, “If the city is not charging for the use of the facility then there is no tax that the city is involved in. The vendor’s sales are another question but that’s not the City’s responsibility.” **Mr. Findell** said, “So, regarding the Craft Fair, the City does not charge for the booths, the City doesn’t have any role or responsibility and the City doesn’t collect any revenue so it would not apply to us.” **Vice-mayor Snowden’s** follow-up to and motion is that the Commission would direct the staff to absorb the tax where it was applicable. **City Attorney Groot** said, “An across-the-board motion to do what the Vice-Mayor said is that all charges for the use of City facilities will remain the same notwithstanding any changes in the tax law. That way everything just stays the same and if the city has to pay a tax, it does, and if it doesn’t have to pay the tax, it doesn’t pay it.”

Commissioner Robbins withdrew her motion and so moved what Mr. Groot said. Vice-mayor Snowden seconded

All zones and the Mayor voted yes

Commissioner Lane repeated that he thinks it is important to tell vendors, and whomever else this will apply to, that we are absorbing this tax that the state has put on us and that they are paying a tax.

Discussion of status of Water Operator certification for Jason Hood

Rick Mullen came to the podium. He brought a stack of material showing the volume of material that must be mastered before a Class "C" license can be issued. "Jason (Hood) has finished volume 1 and he's now on volume 2. He should have that volume completed within the next couple of months at which point he will study for the licensing exam. When you take on this endeavor for being a water operator you can pass these courses which you have to before you take the test. You can take the test three months after you do these books and get your certificate. You cannot become a licensed operator for one year minimum because you have to have worked for a utility. It has to be a letter signed by a lead operator verifying that they have satisfied that requirement. So it's not just reading a book and taking a test. They've become less stringent since I took the test because you could not even sit for the test without having 2080 hours under your belt and this course. I was fortunate enough, 14 years ago, that they offered a course at DBCC that I went to two nights a week on my own time for six months in Daytona and Flagler/Palm Coast. I got to hands on experience. All plants are different. Some do lime softening, some do reverse osmosis; different disinfectants are used - Daytona uses ultraviolet, we use chlorine, both liquid and gas. So I had the privilege of having that course to go through and see this. Everybody else has not unless you can get an operators to let you look at these different plants. The test is not just on what your plant requires, it's on a full-blown water treatment plant involving lime softening. So it's just not an easy thing to do. There's not a good pass rate on it. I copied this and I will pass this around. (Mr. Mullen gave the Commissioners a handout showing all the openings available for those holding a Class "C" license along with the associated salaries.) There are numerous openings in this field everywhere. If you look at the starting salaries there is a major difference between what they start at from what we start our trainees. Also, an operator who works at a water plant does not do anything but work as an operator at a water plant. He does not weed or mow or anything else that our operators do. It's a totally different ballgame from what we do here. We ask our operators to read water meters mow grass, trim trees, build whatever the city wants. That is not in any other job description in other cities, they just work in a water plant. So when we have an operator here, he also has the opportunity to leave which has happened in the past. I would like to have time away from not checking the wells that you need to check every day of the week. Our policy in Lake Helen has been seven days a week to make sure everything is working properly. I have done that since our previous water guy left. I've done it when I'm on vacation and when I'm sick. When I had my son, I asked Mr. Tola to come and check the plants a couple of times. They did not charge us. Customarily they charge \$90 a day to check the wells. Mr. Tola has worked here and has some loyalty to us and a lot of times we get a 'no charge' invoice from him. So we had to pay approximately \$1800 last year at Christmas time for the whole year when I took a vacation. When Mr. Hood gets his license and he decides to stay here, he will take over this responsibility. The City will then incur costs for overtime on the weekends and for callouts for him to check the wells, this is for a minimum of two hours each time. I've absorbed all that for the last four or five years. I cannot have

anybody who is not licensed check the wells. It is illegal. If I don't have anybody to back me up, it's illegal." **Mr. Findell** said, "It sounds to me like what you're saying is that when Jason becomes certified, that there may be a false impression that the City is going to be saving money because he'll be performing some of the things that you are performing for free now. Is the other point that once he receives his license that he becomes more marketable and therefore has the opportunity to move on from the City and there are a number of jobs out there that pay substantially more than we pay. Is that what I'm understanding?" Mr. Mullen answered in the affirmative. "As you know the quality of water is getting worse, the restrictions are getting tighter and they want us to pump out of the St. John's eventually; there are a lot of variables involved. You see in almost every municipality there is a opening for this position because there is not a good passing rate on this test. I get letters all the time to relocate to work somewhere else. What I'm trying to explain is that it's not an easy thing to do and it's not a 'you do this and it's yours'. There are certain criteria you have to meet to get this license. It's a very marketable position out there. Mr. Tola got his license, then left. Subsequently Mr. Rushworth didn't get his license and he left. Now we have Jason sitting in there trying to get his license. He recently had a baby and I gave them two months off between volume 1 and volume 2 so he didn't have to spend that time studying it. He's now working on volume 2 and when he finishes that, he'll sit for the test and if he passes that he'll get his license." **Mr. Findell** said, "Regardless of whether it's to the financial benefit to the City or the financial detriment to the City you would like him to receive this license. Mr. Mullen answered 'yes'. "HRS knows we don't have a backup operator but Biometric, though not under contract, has served, at times, as our backup operator and HRS knows that. They'd prefer that we have two operators but they are letting us slide because of our relationship with Biometric. They do always want a backup operator. I'm never really off of work because I am the backup operator. I sure would like when I'm on vacation or sick not to have to check these wells. Right now, Biometric is doing it free of charge the majority of the time without any contract and they have backed me up with HRS. They've told HRS that they are our backup to keep us out of trouble until we get somebody certified." **Commissioner Robbins** said, "I'm the one who put this on the agenda for the simple reason and I spoke directly to Ricky and I told him that I was going to put it on the agenda. I just wanted a clarification of when we can expect him to get his license." Mr. Mullen said that's why he came to the meeting with all the material (he pointed to the stack of books). "I don't know when he's going to get it. It may be the first time he passes it may not. It's not an easy test. Once he finishes the test from Book 2, we'll submit his application and at that point we'll find out how soon he can sit for the test. It should be by the end of the year. The pass rate is well below 50%." **Commissioner Lane** said, "If I may say from a general business practice, I know that you mentioned several people who've gotten this and then moved on. That's one of the difficult things about having a small shop like ours but it speaks very well for you. When you give people the ability to increase their education and increase their marketability, even if it's a detriment to you, it is a great benefit across the city to have people working for us that feel that we're looking out for their best interest and we are. You are doing that. You are giving people that opportunity even though it's a detriment to us to lose these good people. We get good people coming in and taking those places much more frequently if we do that. So, it's a frustration to you but it's a real benefit to the City and I appreciate your promoting that and working with people to give them that opportunity.

It's a great benefit to us as a City so thank you for that extra effort and work on behalf of your employees.” **Commissioner Burton** said, “The thing that strikes me most Ricky is that you're working every day, your child is born, you're sick but you're going out to inspect the wells. The City is being benefited by the fact that you're not going to charge the City and it would be illegal to have someone who's not legally able to check the wells. Biometric, because of the relationship that you've established with them, has covered you at no cost which is a savings to the City. You are in a position where you could be offered two or three times your salary and you're still here. I think this is what's indicative of how the City has people who are working far beyond their pay grade and they're probably not getting the recognition that they deserve. This is an eye opener for the City Commissioners. I can say that I took for granted that I could get a glass of water out of my sink without being poisoned but now I know that it's taken a toll on you. My hats off to you and also to the Police Chief and the officers. The city personnel as a whole are not getting their just recognition and I think that we have been remiss as City Commissioners for not making our appreciation more available. I think that whether or not Jason gets the position or not I don't think that's a big issue. I think what this opportunity allows us to see exactly what you do. Only when it comes to a point that it's an issue do we find out how much you are doing and that you are saving the City tens of thousands of dollars but it doesn't get translated into the recognition that you deserve. So my hats off to you.” Mayor Duffy asked what Jason becomes when he passes his test. Mr. Mullen said he becomes a “C” class operator. **Commissioner Robbins** said, “I was really looking at it to give you some relief Ricky, believe it or not. I just really wanted, because I've had multiple people ask me not just the one person that you mentioned when I talked to you, but several others who said ‘how long is this guy going to be taking this class.’ I said I don't know but I'll see if I can find out for you.” **Mr. Findell** asked Ricky how long it took him. The answer was “one year. Much of what he said was inaudible because he was not at the podium. **Commissioner Robbins** asked, “Didn't Carlos have hours for this coursework when he got here?” Mr. Mullen answered, “No, he was a diesel mechanic. It took him almost two years to finish the coursework and testing. He passed the first time. The California books are the recommended way to cover the material and prepare you for the test.”

Discussion of request from VGMC Chair for City position regarding citizen standing in VGMC reviews

Mayor Duffy said, “I spoke about this before and Don has written a memo to us and I hope you've read it.” **City Administrator Findell** said, “The memo pretty well outlines the points under consideration.” Below is the memo in its entirety as read by Mr. Findell:

As you may know, or have read, the Volusia Growth Management Commission is currently evaluating its consistency certification rules, and considering potential amendments to these rules. The attached letter from VGMC Chair Joan Spinney speaks to one of the more contentious and controversial proposed amendments, which relates to citizen standing in the VGMC review and decision making process.

Specifically, under current VGMC rules, a member of the public has the ability to request, and seek status as a party to, a public hearing on a comprehensive plan amendment that has been submitted by a local

government for VGMC review. A proposed amendment to the VGMC rules would eliminate this ability. As noted by VGMC Chair Joan Spinney, and as previously reported by Mayor Duffy, there has been substantial public and governmental comment regarding the proposed rule change (many local government officials have stated support for the change, while most citizen commenters have opposed the change).

Supporters of the amendment generally take the position that citizens have the ability to participate in public hearings held at the local government review level, and that allowing a citizen to request a hearing on the same matter at the VGMC review level is unnecessarily burdensome and expensive. Opponents of the amendment generally take the position that allowing a member of the public to request a VGMC hearing provides an important check and balance in the planning process, and provides an opportunity for citizens to “plead their case” before a more impartial group of individuals (the VGMC) than their own local government officials, which, in turn, gives citizens an enhanced role in the planning process. Opponents of the proposed amendment also point out that not every local government plan amendment submitted to the VGMC is reviewed by the full VGMC board, and, without the ability for a citizen to request a public hearing, the public’s ability to be “heard” is diminished.

As a result of the substantial public and private dialogue that has taken place on this issue, VGMC Chair Spinney is requesting that each local government in Volusia County advise the VGMC of their “official” position on the issue of “citizen standing” (Chair Spinney would like to have the official position stated in a Resolution, if possible, by July 31). I have included, for your review, Mayor Duffy’s previous letter of May 13, 2009, to VGMC Chair Spinney regarding this, and other, issues relating to proposed VGMC rule changes.

Mayor Duffy said she wanted to talk about the letter she wrote on May 13th. “The reason I did it without coming before the Commission is because I only had five hours to get it to them so that it could be heard at the meeting that they were holding that nobody seemed to know about until the last minute. Having served on the VGMC for a number of years and also having chaired it I was familiar with the charter and they are throwing out all the best things that it does which the people of Volusia County voted for. And they voted for it several times.”

(02:30)

“The VGMC has been around for 22 years and it seems to me every, maybe, five to ten years it goes before the people again and the people vote for it. It protects the people. What they’re trying to do with the whole document is change it in such a way that the people have no say when they come before the VGMC. If a citizens wants to say something about a project a city is doing that may almost be taking away their homes or devaluating their homes because of what they want to build, the people cannot come to VGMC and ask for a hearing. That’s not right. Through all those years, at VGMC, we

heard from people that were going to have their homes maybe even taken away or at least reduced in value because somebody wanted to put up condo or hotel or whatever. Naturally if that was going to be adjacent to private homes, those people would suffer and if the proposed changes are passed, those people wouldn't be here. If you read my letter, you can see that I became a little annoyed and I went to the meeting and spoke along with a lot of other people from Volusia County. There were only two attorneys for cities and one resident who spoke for the changes, everyone else spoke against it. Many of the people including some members of the VGMC didn't even notice some of the changes they wanted to make. The first paragraph said 'in the county charter (that we all voted for) the commission shall have the power and duty to determine the consistency of a municipality'. They changed the word determine to presumed. What's that doing for their decisions? It went on and on. I tried to address the things that were most important but changes were made to the whole document. It's not right. VGMC helped Lake Helen when Deltona wanted to do something that would adversely affect us in the late '90s. They wanted to put some big box stores near 472 and I-4 and they needed a way to get the traffic out so they wanted to put a road where Matanzas is now but it would have dumped the traffic onto Cassadaga Road which would then have come through Lake Helen. We fought that and VGMC fought that and voted it down because the communities were supposed to have their comprehensive plans consistent. That would have put a city against a small city. We didn't want that. They fought for us and it was turned down. That's what this is all about. To be perfectly honest, the eastside cities, the big cities, are the ones who are fighting in favor of the changes. They want to build their condo's and hotels and they don't care who they step on. DeBary wanted to put in a yacht basin with a hotel and the people fought that and they won. It's mainly the east cities with all the money and all the big plans. I think we should stand up for what we believe in. I hope you feel the same way I do. The people have the right to appear and bring their issues to the people. Three minutes in front of the podium when a hotel was already decided on was not going to help them. That's not enough time to dissuade people that they don't want the condo. That's my fear. I've seen these things happen. I know it's hard for Lonnie because he works for some of these cities. They were turned down on a couple of developments because of how it would hurt certain people and I think that's the way it should be. There are so many people out there right now with money who entice the cities to build more."

Commissioner Robbins said, "I think any time you take the voice of the people away you've taken everything away. If somebody can't get up and speak their mind, what have they got left. That's why we're still a democracy."

Commissioner Robbins made a motion to send VCGM a resolution stating our position. We all feel the same way here. We're just little Lake Helen but we still want a voice.

Commissioner Lane seconded

"I appreciate very much what you did Mayor Duffy. This resolution as it's written I think should be very strong and should show our strong opposition to this kind of move. I'll be happy to sign it myself." **Commissioner Burton** said, "The voice of the people is the foundation of our democracy. When we start hearing less and less from the people and more and more from the corporations who run the situations it doesn't bode well for our

democracy. That translates locally. Your voice no matter who you are or where you're from or where you live, if you come into our City you should be equally heard.”

Commissioner Lane asked about the protocol regarding signatures on resolutions.

Mr. Findell said they typically just have the signatures of the Mayor, the City Attorney and myself, but if there is something that the Commission feels strongly about, we can prepare the resolution to include all the Commissioners individual signatures. We have until the end of July to get this written and signed and sent.”

Mayor Duffy concluded the conversation by saying, “I have been on the Commission for so long and chaired it for a number of years. It wasn't right, it isn't right that all of a sudden people can come along and rewrite the charter which everyone in Volusia County voted for. I don't know how they can do this.”

All zones and the Mayor voted yes.

STAFF REPORTS:

City Attorney – no report

Police Chief

“Wednesday, we had our teen program monitoring from the county pertaining to the grant we got. We now have good scores and everything was fine. Most of you probably read where we were denied funding for the teen program for 2009/2010. I went to County Council today to address that and they have reversed that decision. That decision was made by their children and families board who makes recommendations to the council. What I found out is not that we had done anything wrong. I was confused because we normally score very well. What had happened was County Council and Board had had a discussion at one point about funding cities and other governments. They were going back and forth as to whether they wanted to keep funding other government entities or other government programs or have any participation at all. One of the board members thought after that discussion that they weren't going to fund government programs anymore so she gave us a zero all the way down the line. All the other scores were relatively fine. When calculating our score, they didn't remove the top and bottom scores, which is typically done. So her zeros brought our score way down. We were 1/10 of a point away from what it would take to get funding next year. Ultimately, I went before the County Council, in fact, I just came from there. The County Council did reverse the decision. Mr. Wagner voted against reversing it only because of how they were doing the money. What they did was they took the money that we typically receive and after they threw us out, they dispersed that money among the other agencies that were receiving funding. Mr. Wagner wanted them to pull that money back and give it back to us as opposed to spending more government money. Mr. Hayman also voted against this. He looked at our budget online and I guess he thought we were rolling in the dough. In our budget he saw a 1.7 million dollar figure regarding water and he thought we had enough money and shouldn't get funding from the county. I explained to him that we are not rolling in the dough in Lake Helen. In fact, we are struggling. He chose to go with the initial recommendation of the board. It was nothing we did, in fact, we would have scored high if we hadn't had that 0. They're changing all their criteria next year for all the programs they fund. From the citizens perspective, I personally have a little trouble with

funding some of the not-for-profits but that's a philosophical issue. They're trying to push more money toward not-for-profits.” **Mayor Duffy** asked what will happen next year. Mr. Chester said, “We're funded next year so we'll wait and see what happens next year for the following year. There will be debates about how they spend taxpayer money and how it's allocated. Bottom line is we have funding for another year in the amount of \$69,707. The other good news is that Margaret Hodge from ECHO came to do her inspection and she's been very tough. Supportive but tough. We have cleared up everything she wanted cleared up and we have everything in order the way she wanted it in order and she said our last check for 27,000+ is on its way. Everything is under the pole barn. Once we got rid of some real junk there's room under there. Our little auction is ready to go. I'd also like to report that despite rumors we are not in the red at the Café as of last month. We are \$3000 in the black. We're still struggling like everybody else is but we've done a good job at keeping costs down. We have about 60+ people at the Café for karaoke and open mic night. It's become the hit of the community. We have people of all ages there and that's what the Café is all about. People from all age ranges get up to sing and entire families show up. You really should check it out. It's awesome. It makes me feel so good because that's one of the main reasons we built this facility. It's brought the community together in such a neat way. Also our veggie guy is supposed to be bringing 30 watermelons for the Fourth of July watermelon eating contest. He came here to our market and we were doing pretty well. Deltona saw that we were having a market so now they are having one and he's going there. He said sales dropped off here and Deltona is much more profitable so he sent somebody else here. On another note, the library in Deltona is adding a coffee shop and the Florida Museum of Women's Art in Deland is also going to have a coffee shop so some of these other places are following the Cafés lead.” **Mayor Duffy** said to Mr. Chester, “Someone has been in the cemetery and has pushed over numerous headstones. Anybody going in there this weekend will see them. We know about them and they will be fixed but it's not as easy as we need to get equipment to lift them. Our fence is not keeping people out.” Rick Mullen said he's been here fifteen years and this is the most he's ever seen pushed over. Mr. Mullen also talked about the process of righting these stones.

City Administrator

“Remember back a few weeks ago when we discussed the Murphy act property adjacent to the Woods of Lake Helen. We made the decision, after we were informed that it would cost \$2000 to have an appraisal conducted to determine the value of that property for the state to sell it to us. The Commission decided that \$2000 is too much and probably the property wasn't worth \$2000. I conveyed that information to the state and they contacted me a few days ago and indicated that they've taken a second look at the process and they anticipate doing the appraisal in house now and they will get with me when they get their travel approved and go out and meet with me at the site to better and to more fully understand the constraints for the use of the site. Perhaps it will work out that they'll come up with something more reasonable.

Code Enforcement Officer – no report

MAYOR'S REPORT AND COMMISSIONERS' REPORTS BY ZONE

Zone 1 – Commissioner Robbins

“I was pleasantly surprised when I went to City Hall today and there was a letter from the Antique Automobile Club of America and a check for \$300 for our tree fund. I think they want a little shade when they come to town. That was a pleasant surprise. Tuesday morning I had a meeting with Lt. Len Taft of the Daytona Beach Fire Department. It was very enlightening. Currently, all the firefighters throughout Volusia County are cross trained as paramedics and emergency medical technicians. They're the first to respond to any emergencies that arise including medical problems. They administer everything from first aid to advanced life support, starting IV, heart monitoring and whatever else is needed or necessary to work on a patient. The EVAC comes in and transports the patient. EVAC charges for the service. Firefighters arriving first and administering care cannot bill to cover their expenses. Only the agency can charge currently EVAC. Daytona Beach Fire Department wants to start transporting patients to the hospital instead of EVAC stating that they can improve the EMS system while saving \$1 million each year but they need Volusia County Council approval to begin. Fire transport is not a new idea. It has been used and proven successful in the majority of cities and counties around Florida. I'm offering each of you Lens business card and if you want to learn more about the advantages of fire transport just give him a call. He'd be happy to talk to about the benefits of fire transport and how it can benefit Lake Helen. I'm sure that you will find this as worthwhile as I did. One of the things that we talked about was the fact that currently Lake Helen has three firefighters at our station. Starting with the new budget year, we will be cut back to two. I'm sure he'd appreciate Lake Helen's support. It's quite enlightening as to what he told me and I think it could save all of us some money in the long run. That was one of my things for the week. One thing that I wanted to bring up that Don hasn't mentioned was about six weeks ago Vernon gave us a memo in regards to the mold and the Florida League of Cities was going to check this out.” **City Administrator Findell** said, “They spent about four hours here the day that they came out and did their inspection. They were on the roof and in the attic and went from room to room and closet to closet. In that inspection that they did, the only mold that they identified was actually a little bit of mold in my closet.”

(03:00)

“That makes sense because the biggest water intrusion problem was over there in the bathroom and I've never looked in the closet. It was a small spot but they picked it up. They did identify, and I haven't had a chance to talk to Ricky about this, they did identify a potential issue in the in the community room or the yellow room where the interior of the window in the air handling closet is kind of dicey. You can see where water has gotten in there and it probably needs to be replaced. Subsequently, we've finally found somebody to come and fix the roof and it looks like it's holding now. It looks like they've done a good job and we haven't had any leaks since they did this. The other thing that we've been more cognizant of is keeping the air-conditioning set to a more constant temperature which helps to control the growth of mold. We've had to lower the temperature on the advice of the League of Cities inspection people and on the advice of Flair Air. Finally, last week we discovered that something was wrong with the air-

conditioner or the air in the conference room. The thermostat was set at 75 degrees but the room was clammy and not cool. Something was wrong. I reached down to the vent to see what the air felt like. The air did not feel as cool as it should have; it felt like there was fresh air mixing with it. Flair came out and spent a considerable amount of time and the guy discovered that there was a venting problem in the system. A vent in the airflow system that should have been closed was only partly closed and it needed to be closed completely. He sealed it off and it's been fine since. I'd like to elaborate on something that **Commissioner Robbins** said at the beginning of her comments that has to do with the car show. John came in to see me this morning and gave me the check and I put a copy in everyone's box. I don't know how many of you knew that there were some dicey issues and divisive issues that occurred before the show was slated to be conducted. We don't want anybody to leave with a bad impression as to how we greet people and how we work with people and how we accommodate people. I suggested to John, when I was made aware of the potential problem, that we get with the Chief and with Ricky and I asked Buddy if he'd like to attend because he knows John. We met down at the park and went through each of the issues of concern and we were able to work out among us what we felt would be the best solution to the potential problem. John told me today that he just wanted to let me know that everything went perfectly. He said that he did not have the first complaint from anybody regarding the show and he was appreciative of all of the effort we put forth. He's looking forward toward to next year and said they had a very successful show. There were 269 vehicles."

Zone 2 – Commissioner Burton

"I have now been deployed to Daytona Beach as a result of the unnamed storm. We were working there for disaster relief. There are 240 people who've applied to FEMA for relief as a result of the storm. It wasn't even a storm it was a rain event. That number far exceeded the number of people who had been declared survivors of tropical storm Fay. More water was dumped from this water event than during tropical storm Fay. What this has given me is a real good look as to the disaster recovery efforts that go on. One of the things that I'm seeing is that FEMA has a process by which you have to go through the process in order to be eligible and in some instances you have to hope that you get turned down from the SBA for a loan. What I'm saying is that people are applying for FEMA and if they had damage and they had insurance then they were told that they must have the insurance companies say that they are not covered. Once they get that insurance coverage denial then FEMA can still deny them and then the person appeals. Once they leave the appeal they can go to the SBA. The majority of people in the area that were affected, 43% of them happen to be apartment dwellers. Most of them don't have the expertise, knowledge or the sophistication to get through the system. But it seems that if you go through the SBA and you file a request for a loan and you're turned down, FEMA will then give you a grants up to \$30,000 provided you've been turned down. This whole process makes no sense. This is what's happening in a disaster area and that disaster area was a result of a rain event. Translate that into a disaster event that could be possible in Lake Helen and if it's declared this is the process. Believe me, there's a lot of money available but there's a big hoop you have to jump through. We had a Father's Day event from our church this year at the Café. What it did was that it brought a lot of attention to the Café and I've

heard at church on Sunday from a number of people who now know that there is a place that you can get a real good prime rib dinner and fish. We're being promoted and were getting out there. What I mention with regard to Ricky I can also say to the Commission regarding Keith. He was turned down but he did not take no as a final answer and he generated from his efforts \$69,000+ from a grant that had been denied. I'm holding up our city employees to give them some recognition. I hope this is echoing in the ears of the City Commissioners that we show our employees how much we really appreciate them. The economy has created a lot of opportunities to bring the community together. For instance, karaoke - it's cheap, it's something that everybody can participate in and you don't have to go to Deland and you don't have to pay \$10 to go to a movie. These are the kinds of things that we need in Lake Helen. As a Commission, we should bond together and promote these activities and not be divisive. We're always trying to do what's best for the City. Since I mention Parks and Red, Sharon Johnson's mother is in the hospital in Orlando and it's not looking good so I'm asking the Commissioners to be aware of that. Lastly, I was asked by one of the residents over on Sherman Street about a fire hydrant. I spoke to Don about it and he explained to me why we don't have one over there and he said it's private property. There are six houses over there that could have been declared as a subdivision. What I would like you to do, Ricky, if you could, give me a price of what it would cost to put in a fire hydrant on Sherman so I can take it back to the individual so that they can consider purchasing it because I couldn't in good conscience tell them that the City should pay for a fire hydrant when it's on their private property. It's at the end of Sherman." Ricky explained that there are fire hydrants that would be well within distance required for those properties. They meet the 500 foot criteria.

Zone 3 – Vice-mayor Snowden

"I appreciate what Vernon said about commending the staff and the people who work here. It's been the history in Lake Helen and it's made Lake Helen what it is because so many people have made so many sacrifices and pulled together and worked for a pittance to really make things work. I've seen it over the years. I hope we continue to get people like that. So I appreciate what you said I appreciate your commendation of people, they don't often hear that. I attended the Miss Lake Helen pageant and I shared with several people who commented to me about the pageant. I'm not condemning those involved who made the effort to pull that together. There seemed to be some confusion on the part of those that put the event together in that they did not feel that they had enough information from the City yet they did not go out of their way to communicate with the City. Honestly, to me it was a poorly organized event and there was a lot of disappointment from the young ladies who participated. There was a lot of confusion and a lack of continuity. I think it could've been better." **Mayor Duffy** asked **Mr. Findell** about the event and he responded that Jeannie was intimately involved for a couple years but he didn't know much more than that. Sean Abshire, co-chairman of Parks and Rec, said, "What happened is that Vicki Loeffler got Holly Holosi to run it and we got reports at our meetings from Holly about what she was doing. Holly was in charge for the most part. She updated us on what was going on and we communicated with Holly back and forth." Vice-mayor Snowden said, "Holly worked with the pageant last year. She communicated with the City but did not communicate that information back to the ones working with the pageant. She, in fact, didn't really play an active role.

She was there from time to time but not during the rehearsals and so there was confusion and a lack of direction. Nobody really oversaw the pageant. There are just a lot of hard feelings and there were a number of people will attest to that.”

Commissioner Robbins had heard one complaint. Commissioner Burton said, “Having been on the Parks and Rec Board and having participated in two of the pageants previously, I think the one thing that was missing from this particular pageant was that there was no recognition of the Parks and Rec Board. They weren’t recognized at the event. **Vice-mayor Snowden** spoke but there was no recognition of other Commissioners. At the previous pageant my wife had offered to provide some support and assistance in the program. She’s been very successful with the *Daughters of Ebony Excellence*. Nobody reached out to my wife. We pretty much heard about it when date was upon us. There was also some confusion as to start time. One place said 7pm, another said 6:30pm. One thing that occurs when you start getting younger and younger children involved, there’s a tendency for stage moms to want their child to be center stage. The girls who asked for and received funds should have been in charge so it would take it out of the hands of a partisan group of people that would come in and create a scenario that Commissioner Snowden pointed out that there was a lack of coordination. Hopefully, next year we’ll address that and keep it as open as we can.” Mr. Abshire said he’d report back to his Board about what was said tonight and get their feelings. **Vice-mayor Snowden** said his contribution was to say the Pledge of Allegiance because the girls running the pageant didn’t know the words. Vice-mayor Snowden concluded by saying, “I think we had a good meeting tonight. I learned a lot about various things. “

Zone 4 – Commissioner Lane

“Do they not say the pledge in school anymore? If true, that would be very disheartening. We didn't talk any about the Fourth of July. I'm not going to be here until about two o'clock on the Fourth of July because I'm working with another event but I'll be here in spirit until then and I'll do whatever I can after that. I'll take a pie in the face at 2:30.

Mayor Duffy

She talked about the Fourth of July saying it starts with a parade at 10am that ends at the Equestrian Center where the main events will be. Market in the Park will still take place but they’re just moving them back 20 more feet so that the spectators can watch the parade. In the evening there will be fireworks at the same place is always over the lake. Also, on July 23rd all the Commissioners need to be in town for the Florida League of Cities dinner. It's going to be fun.

Meeting was adjourned at 10:30 p.m.