

**REGULAR MEETING
LAKE HELEN CITY COMMISSION
July 16, 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 and Burton**. Also present were **City Attorney Lonnie Groot, City Administrator Don Findell and City Clerk Nancy Wilson**. **Commissioner Cameron Lane was absent from this meeting.**

The meeting was called to order by **Mayor Duffy**.

INVOCATION AND PLEDGE OF ALLEGIANCE

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

DELETIONS OR MODIFICATIONS TO AGENDA

The **City Clerk** asked that an item be added to the Consent Agenda regarding the contract for services between the Department of Elections and the City of Lake Helen.

Commissioner Robbins made a motion to add to the Consent Agenda the 2009 election contract for services.

Commissioner Burton seconded

All zones and the Mayor voted yes

COMMISSION ANNOUNCEMENTS – *no announcements for this meeting*

MINUTES

June 18, 2009 Public Meeting

Commissioner Robbins found a couple things that the City Clerk has corrected

Commissioner Robbins made a motion to approve the June 18, 2009 minutes
Vice-mayor Snowden seconded

All zones and the Mayor voted yes

CONSENT AGENDA:

Bills – July 16, 2009

Commissioner Robbins had one item on the July 2nd bills. “Last meeting Vice-mayor Snowden asked Ricky (Mullen) if we were stockpiling the road base material. There’s another bill on this meeting’s bills and what happened is that we approved July 2nd’s

bills but there was an order that was placed on the June 27th bill list that we are just now getting billed for. I wanted to point that out.” **Vice-mayor Snowden** said he had already discussed that with Ricky (Mullen). **Mayor Duffy** mentioned the \$3300 for Police Department education for Commander Walker. The money comes from special revenue generated by traffic tickets that is earmarked specifically for police education.

Consideration to change Rodney Blanks employment status from probationary to full-time

Consideration to approve contract between the City of Lake Helen and the Department of Elections for services provided during the 2009 Election.

Commissioner Robbins asked if the \$718 charge is for a primary and the general elections. The **City Clerk** answered, “The cost is \$718 for each election and that doesn’t include the cost of printing and mailing the ballots so it’s a several thousand dollar ordeal but we have no choice. This is a standard contract that we’ve filled out for odd year elections and the price hasn’t changed from 2007.”

Commissioner Burton made a motion to approve the Consent Agenda for the election contract, the change in probationary status to full-time for Rodney Blanks and the bills. **Vice-mayor Snowden seconded**

All zones and the Mayor voted yes

PRESENTATIONS: Miss Lake Helen/Cassadaga 2009, Isabella Plucinik was introduced by Sean Abshire, vice-chairman of the Parks & Recreation Board. Miss Plucinik asked if the Commission had any questions. **Commissioner Burton** asked if she’d like to say something to the Commission or the citizens now that she is representing us. Ms. Plucinik responded, “One of the reasons I was in the pageant is because I have a lot of younger siblings and friends and I want to be a good role model for them. I also want to get more involved in my community because I’m not involved much right now.” **Mayor Duffy** asked if she’d be available whenever she’s called upon. She answered “of course”. The Commission offered her their congratulations

BI-MONTHLY REPORTS:

City Engineer/Steve Provost

“I think you know the work is pretty much finished up with most of the projects that we've been working on during the past year. Rather than spending a lot of time talking about them I'll take any questions. We're still working on fine tuning the automation of the water system. Everything is going quite well and I think you are, for a small community in the county, you're really in the forefront with having a fully automated system where you can actually look at things and ensure they're operating as they should be. We're just watching a couple of things, and we're working with the contractor on that, but it's really going very well. The only project that we've really been working on in the last few weeks is the South Summit paving project. That's the Community Development Block Grant project that we started some time ago and it's incremental based on the availability of funds through the program. I think you all know that the first part of it was

putting in part of a stormwater system and some initial paving and grading and base in the roadways. You can actually get your waste trucks down the road now. The second phase was to really do a couple of major things. One was to finish the design of the stormwater management system and get the necessary permitting. We didn't permit the very first part of it because it was below the threshold of the project level for St. Johns River Water Management District. The rest of it we had to permit. The next phase included the design of the roadway to the end, the stormwater management system, getting it permitted and basically doing the design of the entire roadway although we knew that we wouldn't have enough funds to fully pay for it in one increment. What we have done, is we've gotten the stormwater permit issued for the entire roadway and we've looked at the funds that will be available. We're going to do the same thing that we did last time and bridge two years. So, we'll be using 2009 funds plus the 2010 funds for the project. Basically, what we've come up with is that we've looked at what funds we have available and how we would allocate those and we have enough funds to finish up the stormwater management system, the piping system, as well as do some more paving on Ohio Avenue moving northward. We're going to break it into two pieces. In one part, we're going to put in our base bid that we know we have enough money to cover and we're being a little optimistic because bids in the last year or so have been quite a bit lower than previous costs so we're going to put in another part as an added alternate so we have an additional amount in that bid. The county will not sign their contract with the City for their funds until they have them in hand from the federal government. Those don't come to them until October, probably late October is when they typically have those funds. So, once they have them in hand, you would sign a contract with the county for the 2010 funds. You certainly don't want to sign a contract with the contractor until you know you have that commitment from the county. So, were staging our program. We are basically done with our design work but we're not going to get into the bidding until the fall. Then we'll get a contractor selected and once the City has signed a contract with the county, you'll be in a position to sign a contract with a contractor to do the work. I think you may recall when we presented our original contract that we had broken it into two phases. The first phase was the design and the permitting work. We're basically done with that. The second part of it was going to be preparing the actual bid documents and selecting the contractor and bidding it and then doing the construction phase services and that contract is here for you tonight to consider. That would be the remainder of the work in this next phase through the construction of it. The fee for that part of it would be \$16,500. That would finish up all the way through construction of this next phase. Beyond that, of course, if it's the city's desire to expend additional Community Development Block Grant funds, we now have the design completed so if you were to decide to continue paving more of it we would just be moving right into the bid documents and then bidding it for whatever the next phase would be." **City Administrator Findell** said, "That will lead into the consideration of item 7A regarding the engineering services contract for Phase 3 of South Summit Ave."

Local Planning Agency (PLDRC) – no report

Historic Preservation Board – no report

Parks and Recreation Board

Vicky Loeffler thanked the Commissioners for taking a pie in the face. She said it was a lot of fun and we raised \$340. "I also want to thank a lot of people here who donated money for the bands who played on the Fourth of July and for some of the other activities. There are a lot of people in the audience and some of our Commissioners who helped out."

Betty O'Laughlin thanked several people for their help in organizing the Fourth of July event. "You all have in front of you the expenses and total income that came in for the Fourth of July. The income totaled \$7,215 and the expenses totaled \$7,665 so the cost to the city was \$450. We ended up getting donations for music in both parks. We had a great showing down at the park. There were a lot of people there. Our vendors were great. One of the comments from the vendors was that it was nice that they had more room to spread out. We also got a lot comments about it being hot. Miss Lake Helen went over budget \$120. We got that budget down as far as we could and I think in view of the fact that we did so well on money for our part that the Commission should make up that difference. I think that when someone volunteers to do something they shouldn't also have to take money out of their pocket. I spoke to Holly Holisi today and she said they cut it back as much as they could and they got outside donations as much as they could and they came up short \$120. They put a lot of time and effort into this and there were a lot of positive comments. It covered three age groups and was enjoyed by the community. So once again I'd like to ask that we give Holly Holisi the amount they went over and she'll disperse it among the girls who were working on it. They didn't ask for any other expenses, it was their own time and gas. We shouldn't be expected to put our money into it also. That is my request." **Mayor Duffy** said, "The Commission had given the Miss Lake Helen/ Cassadaga committee \$650. When the receipts were turned in to Cheryl, our Finance Manager, and it was over \$650, she would not issue a check. It's up to us, the Commission, to either approve it so that she can write the check or not. That's what happened." Ms. O'Laughlin added, "You approved \$750 for us but we didn't use that much. We turned in money from the jugs, water sales, Commissioner pie throwing, vendors and the dunk tank and it totaled \$1421. **City Attorney Groot** said, "Madam Mayor, if it's okay, I will make up the difference myself. That way you don't even need to vote on this." Ms. O'Laughlin thanked him and said, "It's very hard getting volunteers and if money starts coming out of their pockets, it will be even harder getting them. The girls did do a good job." **Commissioner Burton** said, "Since this is the first time we have had the event over at the equestrian park I did have a couple people who said that it was pretty hot. That big expanse over there looks like it could use some trees. It was pointed out that until we tried it we wouldn't know what we needed to do. I think after we tried it we saw where it could be made better for other events. What was your feedback?" Ms. O'Laughlin said, "I was so busy running around putting out fires that I didn't notice. What we are going to do, and we are going to get together on Wednesday, is get input from the board and then put together a master plan for future Fourths of July. We'll talk about what we would have done better, etc. What we are going to do next year we don't have control over. The mist tents were a big hit. The vendors liked the way they were spread out more. Bart Gawlikowski said that there were more kids at the games than there have been in the last couple of years. He was overwhelmed that we had so many kids. One of the comments from a friend of mine was that she looked out on the field from the announcer's booth and she saw a lot of

people milling around and she heard a lot of laughter. We walked away as a committee feeling pretty good about how it went and how it came together. There are always minor glitches. There's not a whole lot we would do different. We might move a couple of tents in and do a little rearranging but other than that I wouldn't change anything. We also needed more tables and chairs under the tents to accommodate more people who wanted to sit. Some people did bring their own chairs. We're going to put that information into our master plan."

(00:30)

Commissioner Burton said, "It was commendable that the dunking booth raised \$110. That was a dollar a shot. Only three Commissioners got hit by pies and there could have been more if the price had been lower. We can thank Vince Cuda for the pie throwing and the dunking and the bounce houses." **Mayor Duffy** thanked Betty O'Laughlin from the city for all the work she did and for what a wonderful day it was. **Vice-mayor Snowden** said, "When we were planning this and we talked about the parade route and which streets would be opened and closed the word didn't get around because when the parade participants got to Ohio and turned on Ohio they could only go to Pleasant Street. I thought we had hammered out in the meetings that Pleasant Street was to be opened as well as Ohio. Pleasant was blocked off. It gave people only the opportunity to go right or south on Pleasant which took them back to Kicklighter and then to Prevatt Avenue. Once they turned down Prevatt, they tried to go down Lemon Avenue but it was closed. They then tried to go down Tangerine Avenue but it took them back around to Lemon that, again, was closed. When they took Tangerine to Lakeview, they ran into the parade. Lemon Avenue was closed because of the Cub Scout event and the fireworks being set up, it was closed the entire day. This was particularly bad for those young children who were either riding bicycles or four wheelers or who were on a float. They were stranded and parents were separated from their children. I just had a number of complaints regarding that because nobody knew where anyone was. We had agreed to this before." Ms. O'Laughlin said she didn't know that Lemon was going to be closed all day and her goal was to keep the horses away from the crowd. She said they had to close that off in order to get the horses past. She was also concerned that the floats coming down Pleasant Street and people moving across it would lead to an unsafe situation. **Vice-mayor Snowden** said that after four complaints, he moved the barricades himself. There was more discussion about the routing of traffic among the Commissioners and Ms. O'Laughlin. She concluded by saying that this information will go into her master plan for next year. Ms. Loeffler stepped up to the podium and said, "I'd just like to point out that this is the first time we've done this. Parks and Rec really didn't do it last year, Amy and Keith did. We didn't know what we were doing but we learned a lot and we're glad you're bringing up these issues so we know what to correct." **Commissioner Burton** asked if anybody saw the amount of publicity that followed in newspapers. "Did you get a sense of how the rest of the community found out or heard about what we did here in Lake Helen because I didn't see too much. It would be helpful for us to promote ourselves and this event would have been a great opportunity." Ms. Loeffler said she didn't see much but Ms. O'Laughlin did see several articles.

*Alan Cooke
792 Oak Tree Lane*

"I want to thank everybody for their efforts in making the July 4th celebration successful. Among the group of people who worked on this, there's one person I'd like the City to thank and that person is Wayne Bishop. He worked really hard getting the parade organized and it ran smoothly because of his efforts."

PUBLIC FORUM

*Ranger James
217 N. Lakeview Drive*

He wanted an update on the handicap parking he requested in the ballpark area. Rick Mullen answered that he had the signs available. He also wanted an update on the solar panels for the cemetery lights. Solar lighting might also be something we should consider for other areas of Lake Helen. He wanted an update on Lake Helen's designation as a Tree City and the plantings on I4. **Mayor Duffy** told him that the planting will be done by DOT this fall. He also had an idea about selling bottled water for the July 4th celebration and putting the proceeds back into the Teen Program. **Commissioner Burton** said the July 4th meetings are where he should bring up this matter.

PUBLIC HEARINGS: *none for this meeting*

COMMISSION CONSIDERATION:

*Consideration of ECT engineering contract for South Summit Avenue Paving,
Phase II, Construction Services*

City Administrator Findell said, "To reiterate: The work that is proposed to be performed is preparation of final construction documents for paving and drainage for the project limits; preparation of project bid documents; coordination of the bid process; provision of project construction; observation services and project coordination with Volusia County and CDBG monitoring staff. Finally, the project will be wrapped up by preparation of the certificate of completion of construction documentation. The contract is for \$16,500. The project is for next year and should be completed within 260 days. If we go over the 260 days we won't incur more costs. When you're looking at it in terms of completion, you are anticipating the time to get the documents prepared, the time to get the construction plans prepared for the bid documents, the bidding, the receipt of the bids, the review of the bids by the City Commission and then awarding the contract. Finally, there's actually the execution of the project. All that should be accomplished in 260 days. Engineering is approximately 25% of the cost."

Commissioner Robbins made a motion to approve the contract for South Summit Avenue Paving, Phase II, Construction Services
Commissioner Burton seconded

All zones and the Mayor voted yes.

Consideration of request by West Volusia Saddle Club to erect directional signs to the Equestrian Center

Betty O'Laughlin: "We would like to get permission to put up temporary signs directing people to the Equestrian Center when we have events. What we would like is to have signs that would go up the morning of the show and come down after the show is over. These signs would not be left up. They would be the size of a campaign sign and would point the way to the arena and the speed shows. I would be responsible for putting them up in the morning and for taking them down in the evening." **Mayor Duffy** asked how many signs she was talking about. Her written request asked for six at these intersections but she'll probably just need five: coming into Lake Helen from I-4, Main/Lakeview, Lakeview/Park, Prevatt/Ohio, Lakeview/Pleasant. **Commissioner Burton** asked since the Equestrian Center is part of Lake Helen, would it be possible to put up permanent directional signs. Ms. O'Laughlin said that would be nice but it is one more sign. "At this point, since our shows happen only one or two times a month, putting up the signs on a temporary basis would serve our purpose. It will not only serve to help people find the Equestrian Center but it might remind people in town that there is something going on locally."

Commissioner Robbins made a motion to allow the West Volusia Saddle Club to erect directional signs to the Equestrian Center on a show day basis.
Commissioner Burton seconded.

City Attorney Groot said, "It would be prudent to amend the motion so that permission is revocable at any time at the direction of the City Administrator. The reason being that there should be a time limit on the permission and plus you don't want a situation where somebody else comes along and says they're entitled to the same thing, because you can't regulate content, and they want to advertise something else. If the City Administrator can revoke that permission at any time then nobody would be allowed to do it. It would be prudent to add that it's revocable at any time by some date or the City Administrators discretion." **Mr. Findell** said, "The issue is that these are off premises signs, temporary signs are allowed. Off premises signs are not allowed but the city has historically allowed them for City sponsored activities. The City has also allowed the installation of temporary signs on a relatively limited basis for events and activities that are not City sponsored. It's an important point. It's not something that we generally would consider to be a problem but it has been in other communities. We make the same concession for Little League. We are just bringing up an important point that needs to be thought about and needs to be addressed in some fashion by the Commission."

Commissioner Robbins amended her motion to allow the verbiage that **City Attorney Groot** said in regard to revocation of the signage at the discretion of the City Administrator.

Mr. Findell added that if such a situation did occur, it would be placed on the following agenda for City Commission discussion. "We'd be having a much bigger and broader discussion at that point if an issue arose that necessitated the conversation."

Commissioner Burton seconded

Consideration for Resolution 2009-11 relating to City position on proposed amendments to VGMC Consistency Certification Rules.

Mayor Duffy read the Resolution by title:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LAKE HELEN, FLORIDA, STRONGLY OPPOSING A PROPOSED AMENDMENT TO THE CONSISTENCY CERTIFICATION RULES OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION (VGMC) THAT WOULD LIMIT THE EXISTING RIGHT OF A CITIZEN TO REQUEST A PUBLIC HEARING BEFORE THE VGMC ON A CONSISTENCY CERTIFICATION APPLICATION AND TO SEEK PARTY STATUS TO THE PUBLIC HEARING.

Mayor Duffy said that once this is signed and approved, we will send a copy to the VGMC before their next meeting.

(01:00)

Vice-mayor Snowden made a motion to approve *Resolution 2009-11 relating to the City's position on proposed amendments to VGMC Consistency Certification Rules.*

Commissioner Robbins seconded

All zones and the Mayor voted yes

Consideration of Resolution 2009-12 calling for Municipal Elections

Mayor Duffy read the Resolution by title:

A RESOLUTION BY THE CITY OF LAKE HELEN, FLORIDA, CALLING FOR MUNICIPAL ELECTIONS TO BE HELD IN THE CITY OF LAKE HELEN, FLORIDA, ON TUESDAY, SEPTEMBER 22, 2009 (PRIMARY IF NEEDED) AND/OR TUESDAY, NOVEMBER 3, 2009 (GENERAL) FOR THE PURPOSE OF ELECTING A MAYOR, ONE (1) COMMISSIONER FOR ZONE 1 AND ONE (1) COMMISSIONER FOR ZONE 3, EACH OF WHOM SHALL SERVE A TWO (2) YEAR TERM OF OFFICE TO COMMENCE AT THE FIRST REGULAR CITY COMMISSION MEETING FOLLOWING THE GENERAL ELECTION; SETTING CANDIDATE QUALIFYING DATES, AND PROVIDING FOR THE LOCATION OF THE POLLING PLACE AS STATED BY THE VOLUSIA COUNTY UNIFORM MUNICIPAL ELECTION SCHEDULE.

The **City Clerk** said that this Resolution is presented to the Commission every year.

Commissioner Robbins made a motion to approve Resolution 2009-12 calling for municipal elections

Commissioner Burton seconded

All zones and the Mayor voted yes

Consideration of Resolution 2009-13 calling for the appointment of Clerks and Inspectors for the General Election

Mayor Duffy read the Resolution by title:

A RESOLUTION OF THE CITY OF LAKE HELEN, FLORIDA, APPOINTING CLERKS AND INSPECTORS FOR THE GENERAL ELECTION ON TUESDAY, NOVEMBER 3, 2009, TO BE HELD IN THE CITY OF LAKE HELEN, FLORIDA.

The **City Clerk** added that appointments didn't need to be made that evening. **City Administrator Findell** said we have the option of making these appointments but the Supervisor of Elections customarily makes them.

Commissioner Robbins made a motion to approve Resolution 2009-13 calling for the appointment of Clerks and Inspectors for the General Election
Commissioner Burton seconded

All zones and the Mayor voted yes

COMMISSION DISCUSSION:

Discussion requested by Commissioner Robbins about City Attorney Groot's memo dated 6/29/09 regarding the Roseville Subdivision Bond.

Commissioner Robbins said, "The day before the last meeting, we received a memo from Mr. Groot and as I read the second paragraph 'the bond attached is dated 2002', this is what got me. This is not a precisely dated document. I called the bonding company today because I did not hear anything from Attorney Groot as to whether or not he had received a letter back from the letter. When I called them today, they are located in Buffalo, New York not in Doral, Florida, so the lady whom I spoke with said she'd never gotten the letter. But, anyway, it has been renewed and it is in effect from April 23, 2008 through 2010. At this point in time what really scares me is the fact that insurance companies are going under every single day. This bond for \$238,000 I don't believe is enough to finish the infrastructure. I talked to people who do infrastructures on large subdivisions and they advised me that you're looking at \$21,000 per lot. If you multiply the 14 lots in the subdivision times \$21,000, you are looking at \$294,000. This is where I stand. When I was elected I took an oath of office to protect the city's interest. At this point in time I do not feel that this bond is sufficient to finish the project. I don't know what my fellow Commissioners think." **Attorney Groot** explained to whom he'd written and where the office is located. "Do corporations go under? Sometimes yes but as to the amount of what the infrastructure would cost today I have not investigated that. But what I can tell you is that if the infrastructure is not in place there won't be any building permits issued. It's in Mr. Troy's best interest to have the infrastructure in place if he wants to sell the lots that are buildable."

*Tony Troy
421 Rosewood*

"I'm very surprised that this has come up. Well, I'm actually not surprised given the way Ann's been dealing with me lately. That bond was based on the value when Roseville had two cul-de-sacs Roseville Lane and Lily Lane. We deleted Lily Lane and we just have one cul-de-sac now. You've never contacted me about looking at the property, if you're really interested, because this is pretty silly. There is about \$25-\$30,000 left to do once we decide to pave the road. The underground power is in, the lights are in, the water lines are in, the cable lines are in, the drainage is in, the grass is growing and maintained on the swale. We don't have any water runoff that leaves that property. All the infrastructure is in except for paving the road and the only reason we're not paving the road is that we enjoy having it a dirt road now. Don (Findell) knows that the City is protected because I will not be able to pull any permits to put any houses on those lots,

other than my own, until we do the paving. That's the only thing left, that and sidewalks and the sidewalks go in when the house is being built. The City is not in any jam, the bond is good and I'm not going anywhere. I don't really think that it's a smart thing to rush to pave the road and give kids someplace else to go. It's just our driveway right now. The only thing that's left is the paving and we may upgrade with pavers. You can get pricing on the amount of paving left. The infrastructure is over 90% completed and paid for. So wherever Ann got that number, it was from somebody who has never looked up the subdivision to see that all the infrastructure is there except for the paved road." Mr. Findell said, "The \$21,000 per lot figure is a figure that's generally used in the construction industry and it goes up and down as the market goes up and down. A couple years ago that figure was closer to \$40-\$45000 per lot. Back in the 1990s it was about \$21,000 a lot. That's the total development cost for a typical subdivision when you break it down on a lot by lot basis. **Mr. Groot** said, "Assuming that the City did call the bond, we would have to build what is reflected in the bond. Do the January 24, 2002 plans reflect the correct plans?" Mr. Troy answered in the affirmative. "Assuming that the roads aren't built or Mr. Troy didn't do the roads like they were supposed to and the City decided they wanted to build the roads and be funded by the surety bond, the roads would have to be constructed in accordance with the plans so that's why I was asking if the current plans are reflected in the bond." **Commissioner Robbins** said, "I would like to find out on this performance bond - it says January 24, 2001 with the '1' crossed out and a '2' written under it. How legal is that?" **City Attorney Groot** said, "It appears to be legal and you verified that is was legal with the surety who said it was on their books. Correct?" **Commissioner Robbins** answered "yes". **Mr. Groot** continued, "So they recognize the bond. I can tell you that if I'd reviewed it I would have had it dated properly but I'm picky that way. Apparently you have verified that it's on their books and is being carried on their books. I've seen worse execution bonds in my life. The date should have been filled in completely but it wasn't. But an error in form does not overcome its substance. I can tell you one thing, if the surety tried to avoid its obligation on that basis I would ask permission to contact the office of Alex Sink right away and inform the Chief Financial Officer of the state that they have a bad surety operating in the state. But that's not likely to happen." **Commissioner Burton** asked if this bond is like an insurance policy where it's renewable or is the bond taken out as a one time deal?" **Mr. Groot** answered, "If you look at the paragraph just before the one you referred to where it says 'this bond shall remain in full force and effect until the original bond is returned to the surety and the bond is cancelled by the City of Lake Helen.' This is a perpetual bond until the City surrenders the original document to the surety." **Commissioner Robbins** said, "So it just goes on and on and on and Mr. Troy never has to bother with the road if he doesn't want to or when he gets the money or whatever?" **City Administrator Findell** said, "This is a better way to address that question and a question you need to ask yourself. Why do you want Mr. Troy to construct the road? What useful purpose is served to protect the citizens of Lake Helen by having the road constructed at a specific point?" **Commissioner Robbins** said, "I have a memo here that you wrote when my husband asked about it. 'Attached is a copy of a memo I distributed to the City Commission in December regarding code enforcement related issues and other complaints made against Tony Troy including issues related to the Roseville Subdivision. Issues, options related to the subdivision performance bond are discussed at the end of the memorandum. At this date, staff has

not received any further communication from the City Commission in response to the memorandum'. Well, when I got this memo from the attorney I figured nobody else is going to ask any questions. We need to put this on the table." **City Attorney Groot** said "You have the right, because Mr. Troy has not done what he was obligated to do under the bond because the improvements were not in within two years - you have the right to tell Mr. Troy to get the improvements in. You have the right alternatively to have to call the bond which Mr. Troy doesn't want to have happen. No developer wants to have a bond called because then it's difficult to get bonds in the future. Or you have the right to build the road and seek reimbursement up to the face value of the bond from the surety. You have that right now. So if the Commission wanted the road there you have the option of doing it." **Mr. Findell** said, "As many times as this issue has been discussed I have never received direction from the City Commission that they wished to pursue that avenue. Typically you would pursue that avenue to protect some public purpose or to protect the citizenry. In this particular instance, the question always becomes what public purpose is being protected? What citizenry is being protected? Other than calling the bond for calling the bond's sake it does no good." **Mr. Groot** added, "The reason you have the platting laws and the reason you have surety's guaranteeing improvements to be constructed within plats is a consumer protection issue. I was working at the legislature when the Florida land sales fraud was occurring and the planning statutes were revised to take care of this kind of thing. The real purpose of the bond is to make sure that nobody purchases a lot who thinks they can build a house only to find out that the roads aren't there, the utility lines aren't there, the clubhouse that was promised isn't built, and so on. Consequently, all these things became subject to guarantees and that's what this is. It's a guarantee that those improvements will be in to protect the people that Mr. Troy is going to sell lots to. If you feel like you need to call the bond you have the right to do it but that's a policy issue." **Mayor Duffy** asked if the road base is in? Mr. Troy answered, "We did put the road base on and over time some has washed away; that's part of the construction cost with the roads. But I will be doing some more road base work in the next couple of months. The proper road base will be in prior to paving." **Mayor Duffy** asked about his time frame. Mr. Troy answered that he wished he could do it in six months but with the real estate market the way it is, it doesn't look promising. "Right now, nobody's knocking down my door to buy lots. I didn't expect the economy to get this bad."

(01:30)

Vice-mayor Snowden said, "The City is protected by the bond until such time as Mr. Troy can move forward. We are protected. We have other subdivisions in the community that also have existing issues. If we start going down this road, we wouldn't be very 'user friendly'. We wouldn't be very popular if we directed these same standards to the other subdivisions." **Commissioner Burton** said, "Right now the City's exposure is literally what you actually pay the City to put in the roadway or the water line?" Mr. Troy answered that he'd already paid for the water line. **Commissioner Burton** continued, "So the city has benefitted from the water line that you put in, the citizens aren't at risk and you have a bond for \$238,000 should you not complete the work? The fact is, if you don't complete the work, you cannot sell lots in the subdivision to anybody who would buy them. If you left it like this for a specific period of time who is

damaged?" **City Attorney Groot** answered, "That's for you to decide. All I can tell you is that Mr. Troy's purchasers are not going to get building permits unless the improvements are in. In terms of exposure, if you look in the first 'whereas', it lists all the improvements: roads, drainage, water distribution lines, fire hydrants, sidewalks, landscaping and other improvements based upon those January 2002 plans. So, the only exposure that the City could have is if the City decided to construct the improvements and as it turned out, the improvements cost more than \$238,915 because the Surety Company is only going to pay the City that amount."

Commissioner Robbins asked one more time where the number came from. **City Administrator Findell** said, "The number comes from an engineers estimate. Whenever a subdivision goes in, the plans are reviewed and then sent to the Planning Commission and City Commission for approval. One of the things that is required in that review process is for the applicant to submit a cost estimate for the project. The City Engineer reviews that cost estimate and makes a determination if it's adequate. If it's not adequate, an adjustment would have to be made to it. Our code requires that a bond, whether it be a cash bond or a performance bond, be at least 115% of the estimated cost." **City Attorney Groot** said, "There's a maintenance requirement after that too. So let's assume that Mr. Troy or the surety constructs the improvements. A building permit still won't be issued until there is a maintenance bond submitted." **Mr. Findell** said, "We had a maintenance bond for the Woods of Lake Helen and we had a maintenance bond for Edgewood." **Mr. Groot** continued, "That's another bond requirement that's typically for one year. The maintenance bond provides that the city can call on it if there's any poor construction in the roads, streets, fire hydrants and so on." **Mr. Findell** added that the maintenance bond may be in the area of 10% of the total project cost. **Commissioner Burton** asked, "There are other subdivisions that have a similar situation to Mr. Troys? They have bonds that have not yet been called?" **Mr. Groot** said, "I'm not sure how many there are in Lake Helen but there are plenty of subdivisions in Central Florida right now that have been approved with bonds in place but they are sitting there without any sales." **Commissioner Burton** clarified, "My point is, is that if we were to ask that the bond amount be increased, we would not only have to require it from Tony Troy but the other subdivisions as well. We couldn't single out Mr. Troy." **Mr. Groot** said, "We conform to our code and we make developers conform to our code. This hypothetical situation wouldn't happen because you would be revisiting a development after it had been approved and after it had complied with the rules at the time of approval." Mr. Troy said, "The value of the bond is \$200,000 over what remains to be done will cost. The individual sidewalks go in as you build the home so I'm more than covered with the bond right now. It would be silly to try to raise it. 90% of the work has been done." **Vice-mayor Snowden** said, "If Mr. Troy built a road, the City would have the responsibility of maintaining it once it's completed." **Mr. Findell** said, "That's the point of having a maintenance bond for a subdivision. You get a year to see how the infrastructure functions and if it functions in accordance with City specifications then at that point you accept the infrastructure into the City and you're responsible for the maintenance. The only portion of the infrastructure that you don't accept into the City after that performance period is anything that you have established as being infrastructure that is to be maintained by a homeowners association or some other group. The policy that we have used over the years, in each of the development approvals that I've been responsible for, is to make a homeowners association

responsible for the stormwater system because that's an ongoing maintenance responsibility and a fairly costly maintenance responsibility. We put that burden on the homeowners rather than on the taxpayer. There's other infrastructure that can be done the same way but that's the principle one." **Commissioner Robbins** said, "That's exactly what I don't want to have happen, I don't want the taxpayers to have to pay for anything in a private subdivision." **Mr. Findell** said, "The taxpayers are not obligated or on the hook to pay for anything even if Mr. Troy never completes his infrastructure." **Commissioner Burton** went on to discuss the Woods of Lake Helen subdivision and how they will be required to always maintain their common areas. He also pointed out that they too have not satisfied their contract agreement because they have not 'built out' to a certain percentage.

*Lou Benton
Lake Pearl Drive*

"I just want to say that if you read your ordinance book, you'll find that all three subdivisions have problems. If the City takes over Mr. Troy's road, the City loses tax revenue on that square footage. You can't get an adequate estimate of what it would cost to do something in the construction business if you just call one person. The cost of what it was back then when the bond was put up would be a lot more expensive than it is now. Like I said, if you read our ordinance book, there's a section in the ordinance on the subdivisions that shows that not one of the subdivisions in Lake Helen is legal right now. So what you do with one you have to do with all. You can't penalize one person and forget about the other two. I wouldn't want to go up against DR Horton. I don't know who owns Edgewood but you'd be bucking against them too because you can't treat one differently than you treat others." **Commissioner Robbins** said, "I think Edgewood has put in their infrastructure." **Mr. Benton** said, "No they haven't. They don't have a stormwater system, streetlights, landscaping or sidewalks. They don't have all the same stuff you listed for Mr. Troy that he does have. The Woods of Lake Helen is not in compliance because 35% of the subdivision was supposed to have been built out within two years. Are you going to try to take that away from them? It will never happen. Those are the things that I'm talking about but also if the Woods of Lake Helen wanted to shut all those roads off, the City couldn't say anything because they still own them and they're paying the taxes on them. Once the City takes over you don't get a dime for that square footage of road so it ultimately costs the taxpayers money."

*Betty O'Laughlin
McKenzie*

"I'm president of the Environmental Council for Volusia and Flagler Counties and I would like to thank the Commission for their resolution regarding VGMC. I also sit on the board of the Sierra Club and I'd also like to thank you for your support of the VGMC resolution on their behalf as well."

STAFF REPORTS:

City Attorney – no report

Police Chief

"We had our silent auction and made \$400+ if everybody ends up paying. I was the only bidder on the electric cart and I bid \$110. There were no other bidders but I don't want it to look like there were any improprieties. I did have two witnesses when we pulled the bids out of the box. What I want is the Commission's approval for me to purchase the electric cart for personal use. I just want to make sure that the Commission is willing to accept \$110 from me, the single bidder." **City Attorney Groot** asked if it was titled in the City's name. Mr. Chester answered that it doesn't require a title. It was given to the City as a gift a long time ago. **Mr. Groot** continued, "If you do approve it, would you approve it contingent upon me looking at it and making sure Keith doesn't fall into a trap. There's a prohibition about doing business with your own agency and I don't recall that there's an exception for bids. Approve it contingent upon legal review." **Commissioner Burton** said he knows that New York City police officers can't bid on cars that have been recovered or confiscated. **Vice-mayor Snowden** said he did take an opportunity to review the surplus property and Keith identified the things that did and did not sell.

Vice-mayor Snowden made a motion that the City accepts the bids as presented contingent upon legal review with the one issue concerning the electric cart and that all bids be honored.
Commissioner Burton seconded.

All zones and the Mayor voted yes.

Vice-mayor Snowden said, "I thought we were fortunate that Keith was able to dispose of these items through the bidding process. I was surprised actually that people would bid on most of it. It is surplus property but you can't really identify it as being useful without some improvements to it." Mr. Chester added that there are a few things left over and he'll bring the list back to the Commission. "I thought it went very well and maybe next time we can advertise in the Pennysaver to get more participation." Mr. Chester next recounted a burglary incident that happened on Lake Pearl Drive. "The man was arrested, put on probation and the property was recovered. The property was broken into again and the same property was missing. It was stolen by the same individual. He's currently on probation and we're looking for him to arrest again. I'm really proud of our officers. They've done a lot of really good work and they deserve more recognition than they get. I'm sure everybody has seen the new graffiti around town. Commander Walker is going to be filing charges against a couple individuals in town. Also, one of our citizens had a dog sitter who stayed in his house while he was gone. The dog sitter ended up ripping him off. Our guys once again got right on it and caught the person who did it. They are doing a terrific job and we're proud of them. Finally, I know there were some questions raised about the Command Officers Development Course for Commander Walker. The issue was raised by several people and I can understand the sticker shock. This is a very valuable course which Buddy can understand having been in law enforcement. As you move through the ranks, you are sent to these kinds of courses. This course is very similar to the FBI course. It teaches you to be a better leader and enhances the skill of our staff. This is a 400 hour course so it's very long and it's taught in two, two-week increments. The course is in Orlando and he's going to continue working while he takes it. I commend him for being willing to

take this on to become a better leader for this community. He also has completed his bachelor's degree. Commander Walker has tried to improve himself throughout the time he has been here and we should commend him." **Vice-mayor Snowden** pointed out that the funding received can only be used for police education. The money is generated by setting aside two dollars from every citation and putting that money into an education fund. This education is very valuable for the community. On a final note, Keith Chester asked if anybody knew how much Market in the Park contributed to the fourth of July. The answer was \$3,696. He also wanted to thank Jesse, the plumber who lives across from the Villa. He's been collecting the money, putting up the signs and helping out a great deal. We should all thank him. **Mayor Duffy** asked if we found out if the City is required to pay sales tax on Market in the Park. The answer was that we haven't heard from the Department of Revenue. Keith also wanted to thank those who worked so hard on the Fourth of July. We need to always thank our volunteers which we often forget to do.

City Administrator

"The NPDES permit for 2009-2013 has been resubmitted to the state along with our latest documentation justification for a reduced permit fee from \$5700 to \$100. We're about halfway through the hazard mitigation planning update process. It's a project that's being done by each of the cities in Volusia County and it is to be completed in August. As you've probably guessed, I spent the majority of my time over the last few weeks working on budget issues. We have a budget meeting next week."

Code Enforcement Officer – no report

MAYOR'S REPORT AND COMMISSIONERS' REPORTS BY ZONE

Zone 1/Commissioner Robbins – no report

Zone 2/Commissioner Burton

"Yesterday I spoke before the City Commission in Daytona Beach about *Project Hope* which is the organization for whom I work. I discussed the disaster relief effort that's taking place in Daytona. Anyone who has any related storm damage has until July 27th to report it. As it stands now, at least three citizens in Lake Helen have actually filed reports with FEMA. It has become probably one of the largest disasters to hit Volusia County. It hasn't been named, it wasn't a storm, it was just a lot rain and is referred to as the Daytona floods. When I met with the emergency management officer in Daytona, he said they are expecting an outgrowth of mold as a result of these floods and it is going to create almost a disaster. We're also in the process of identifying people who have been displaced by the storms. There are actually a number people who have committed suicide. Myself and my team have stopped at least two suicide events. One thing I like about this job is that I'm able to interface with those in other municipalities. It's interesting to see how other cities work. One of the complaints against the City of Daytona was that a budget report hadn't been done. Don explained to me that the state has held off giving the final numbers and all the municipalities are in the same boat. We're saying that we are operating in uncharted territory. Nobody ever anticipated that we'd be in this fiscal situation. The City of Lake Helen needs to be

commended about how well we are managing our resources. We're doing well but we could do better. By the grace of God we could be doing worse. I want to give you that information. These are the things that happen outside of Lake Helen.”

Zone 3/Vice-mayor Snowden

“I'd just like to ask if before the meetings we could close the doors and cool the room down so we could turn the air off and be able to hear better. One of the vents is right over my head and I have a very difficult time hearing people. The acoustics in this room are not the greatest.”

Mayor Duffy

Mayor Duffy asked if it's possible to get a longer arm for the podium because it's difficult to hear people who come up to speak. City Administrator Findell thinks that it is the longest arm that was available. The problem is that the podium is too deep. Mayor Duffy added, “The special meetings regarding the budget are being held on July 21st and July 29th.” **City Administrator Findell** said, “I will clarify for the Commission that these meetings are not Public Hearings, they are Special Meetings.”

Meeting was adjourned at 9:03 p.m.

Joan L. Duffy, Mayor

Nancy Wilson, City Clerk