

**REGULAR MEETING
LAKE HELEN CITY COMMISSION
August 6, 2009
7:00 P.M.**

Minutes

CALL TO ORDER: Mayor Duffy

INVOCATION AND PLEDGE OF ALLEGIANCE

Vice-mayor Snowden gave the invocation and led the Pledge of Allegiance.

DELETIONS OR MODIFICATIONS TO AGENDA

The **City Clerk** said that the minutes from July 2, 2009 were not completed as indicated for this meeting and should be deleted. The **City Administrator** added an item under Commission Discussion regarding the proposed tavern on 210-220 Cassadaga Road. He wants direction from the Commission. This will be item 8B

COMMISSION ANNOUNCEMENTS – *none for this meeting*

MINUTES – *none for this meeting*

CONSENT AGENDA:

Bills – August 6, 2009

Commissioner Robbins made a correction to the bills: \$399 that was listed under the Café should have been listed under General Fund. The charge was for an air conditioner that was purchased for the Teen Program and was a Platinum Plus charge. **Commissioner Burton** asked about the \$3,200 for asphalt work on I-4. **City Administrator Findell** said, “I don't know if you remember, but several months ago we had a water main break at the I-4 ramp going to Daytona. The physical repair was made to the pipe out there and because it requires a special DOT specific type of asphalt, we had to wait until the asphalt was available. It finally became available and was put down a couple weeks ago.” **Mayor Duffy** said, “I added up the amount we are spending on repairs to the police vehicles. In just this one month it was \$1,786.69. If we do that every month, that's quite a bit of money.” **Vice-mayor Snowden** said, “That was one point I wanted to make last month on the bills. We were billed for a collision repair that was attributed to the painting of a vehicle. Again this month we have another similar bill for roughly the same amount.” **Commissioner Robbins** said, “One charge to Maaco was for \$803. The 2001 Ford which is one of the fleet vehicles was painted and then the 2000 Dodge Ram that Mike is driving was also painted for \$400.” **Vice-mayor Snowden** said, “I'm concerned about the pickup. That was a free vehicle to the City, almost surplus, but still utilized. There again, that's an added expense.” **Commissioner Robbins** added, “That was the one that was confiscated during the hurricanes. It had been, for the most part, used by the Teen Program up until about six or eight months ago.” **City Administrator Findell** said, “It's always been part of the

fleet. It's up to the Commission's discretion how each of those vehicles is used." **Vice-mayor Snowden** said, "I have another point - we are seeing the Halifax Humane Society bills rise. We are at \$1,500 just for this past month. That's 18 stray animals. We have no other choice than to go to Halifax Humane Society but it gives us pause for thought for us to consider stronger ordinances concerning these stray animals within the community. This is typical of what we see this time of year. It varies a little bit month-to-month but I don't think that we can afford \$1,500 monthly on shuttling animals back and forth to the Humane Society let alone the cost it takes for the officer to go out and trap the animals and spend all the time that he does, and the gas, and the wear and tear on the vehicle. That \$1,500 could easily turn into \$2,000." **Commissioner Robbins** added, "\$431 of that was for a biter-scratcher case. I didn't notice where that took place but I did make note that three of the cats picked up were at Euclid and Main and three were on High and Clough. It seemed to be a litter that nobody wanted or somebody dropped off or a stray that had kittens. The biter-scratcher thing, the dog was held for 31 days so that's why it's so much." **Mr. Findell** said, "The cost of animal control from an impoundment standpoint will be considerably higher from about April through September or October than it will be from October through the end of March. That runs with the litter cycle and if cats time it right, they can have two litters in that time period. It's typical of what you're going to see in any community as far as your expenses are concerned. I think that it is indicative of what we discussed a couple weeks ago about the importance of a spay/neuter ordinance because those ordinances are effective even though you have to rely on people to do the right thing. They do have an impact and they have been demonstrated to have an impact nationally on the number of animals that get turned in. It can affect us from a cost standpoint." **Commissioner Lane** asked Mr. Findell if he had any idea how much impact an ordinance has. **Mr. Findell** answered, "It's not a number at my fingertips but experience has shown in Casselberry and in Seminole County that you probably have about a 1/3 reduction in strays." **Commissioner Robbins** said, "In speaking of some of the expenses on here and it's a pretty sizable night, I guess everybody will agree. I made notes of the D.G. Meyer's bill in the general fund of \$429.27. They were both for the police department and they were for two service calls, one on June 25th and one on June 29th. The \$259 was for the Café. Maybe they didn't fix it right the first time. There was also a report given last meeting on the Fourth of July which basically came from the Parks and Rec department. There are more bills for the Fourth on this meeting. The porta-potties, the tarp, the bungee ties, Office Depot was for the paint for the face painting. That didn't get added in on the actual report that was done." **Mr. Findell** said, "Regarding the D.G. Meyer bill. The issue there is that at the police department you have a relatively ancient air-conditioning system. It's a system that we believe is on its last legs. The goal is to get that system through this next fiscal year but it's a system that will need to be replaced in the future." **Commissioner Robbins** said, "On the good side I'll report that the tennis court light bill was only \$56 this month. Another thing Buddy mentioned this probably six or eight months ago, when we had a badge for Commander Walker. Well, on this bill for Harrison Uniforms it's only \$122.97 but I don't.....having been a police officer maybe you can answer this, why would you need two badges? You just take it off one shirt and put it on another. There were two badges at \$53 each." **Vice-mayor Snowden** said, "One goes in an ID folder and one is worn." **Mayor Duffy** said, "The only thing I had was on the Platinum Plus charges - why

was the Police Department car repair paid for with the Platinum Plus card?"

Commissioner Robbins said, "It was Daytona Dodge. They replaced the dashboard and the bezel and it was a 50-50 split on the warranty. They probably had to take it to the Dodge dealer." Mr. Findell said, "When work is performed through someone with whom we don't have an account, we have to use a credit card, otherwise, we use a purchase order."

Commissioner Burton made a motion that the bills be accepted as adjusted and read.

Commissioner Lane seconded

All zones and the Mayor voted yes.

PRESENTATIONS: *none 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, Co-chairman: "The only thing I have in my report tonight is about kickball. We are coming to the end of the season. It is running very smoothly. The last game and the closing ceremonies are on September 14th. The game is at 6pm and the closing ceremonies are at 7pm." **Mayor Duffy** said there are adult teams now so it's not just for kids anymore.

PUBLIC FORUM

Lewis Long

N. Euclid Avenue

"I had no foreknowledge that Vice-mayor Snowden was going to bring up the Halifax Humane Society Bill. I filled out a card just to bring to your attention the fact that Deland is no longer contracted with Halifax Humane Society to handle their strays. I don't have all the details but they have started their own pound. One of you made note of where some of the stray cats had come from. They were in our barn. When we found the kittens, Caryn went online and found out how to bottle feed them. Ultimately, Patrick came and got them. I felt very sad that perhaps they may be euthanized so I did give Patrick a check for \$50 made out to the Halifax Humane Society and asked them to please not euthanize the kittens. So, Deland has gone through the same thing we are experiencing and they have worked out an alternative."

City Administrator Findell said, "The City of Edgewater is also putting together their own facility but it is simply for the City of Edgewater. I know that Deland has had an issue with their animal control bills ever since I worked for Orange City so it's been a long time. At nearly every manager's meeting for ten years, Mike Abel who was the City Manager, would bring up the animal control cost issue. Unfortunately, the other side of

that coin is that it costs a lot to maintain an animal control facility. It costs a lot for the staff to be there and the staff is not particularly well paid. It costs a lot for the physical plant itself. Plus, the medication and vet care both cost a lot. I can tell you by personal experience, as it relates to animal care costs, that the amount communities are charged for this service is not exorbitant. It's just simply expensive to care for animals in any setting. We don't know yet if Deland is constructing a facility for the larger community or just for themselves. We did the same thing in Orange City. As a result of costs, we made a decision not to contract with any Humane Society and to build our own facility out across from the GEL Landfill and Recycling facility. It cost us about \$6,000 back in 1997 to build that open air facility. Even on a limited scale it's not inexpensive and you have to have somebody to maintain it. There's a lot to consider when you think about establishing your own facility." **Commissioner Burton** said, "Just on that note, there was a facility that tried to open up here in our community - a boarding facility. When it was all said and done, all the things that they were required to do including the maintenance, sanitation, noise abatement and all the other problems associated with the community, it was decided that it wasn't worth it." **Mr. Findell** said, "Even though Deland is establishing their own facility, they are still adopting the spay/neuter ordinance to reduce the numbers that they would have to deal with."

PUBLIC HEARINGS:

Consideration of approval on second and final reading of Ordinance 2009-06 amending Article 10.02.00 relating to the PLDRC

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, "This is the Ordinance the Commission requested that addresses both perceived and actual issues related to terms of office for the Planning Commission members. So what this ordinance does is to institutionalize a traditional practice of Lake Helen providing that Planning Commissioners terms of office run for a three-year period from October 1st of one year to September 31st three years later regardless of when they were appointed to their position. So, if they were appointed to fill somebody's position midterm, they would fill the remaining portion of the three-year term rather than starting a new three-year term." **Mayor Duffy** said that this is the second and final reading. The Public Hearing was opened and upon hearing no input from the public, the Public Hearing was closed.

Commissioner Robbins made a motion to approve ordinance 2009-06 on second and final reading.

Commissioner Burton seconded

All zones and the Mayor voted yes

COMMISSION CONSIDERATION: *none for this meeting*

COMMISSION DISCUSSION:

Discussion regarding upcoming term expiration dates on City Boards.

City Administrator Findell said, "I asked Nancy to put this on the agenda because we had a discussion at a previous meeting regarding terms of office for planning commissioners and that was expanded to terms of office for other board members and the city's policy for filling those positions when terms of office would expire. I asked Nancy to give you the membership and the terms of office for those individuals who are currently serving on the City's boards simply so you would be aware of them. Some of the terms have expired and having that knowledge first gives you the ability, if you so desire, to go out and educate people in the community as it relates to potential vacancies on the board or potential openings on the Board. Also, we can determine what sort of advertising you would like to see conducted in order to secure additional interest for serving on the Boards." **Commissioner Robbins** asked why the expiration dates for the Historic Preservation Board fall in April instead of September. **Mr. Findell** answered, "It would have to be something in the way the Board was set up. For the Historic Preservation Board, their enabling legislation may have set those terms to begin in May instead of October. Changing those dates would make it easier for staff from a monitoring standpoint." It was agreed among the Commissioners that the start and ending terms of office for all Boards should be the same. **Commissioner Robbins** said, "There's four people on the Historic Preservation Board whose terms have actually expired but since they're still sitting, if their term would become 9/30, they would need to, at this point, need to file a new application if they were still interested, which is the normal case." **City Administrator Findell** said, "The first thing we would have to do with the Historic Preservation Board is look at the enabling legislation to see if the legislation that set the terms was established by ordinance or resolution. That would then have to be amended to establish the new term dates. The members that are serving, even with expired terms, would continue to serve in that capacity until such time as changes are made." **Mayor Duffy** said, "Their ordinance regarding Board members is 34.02.02.. When they started, the Board consisted of seven members, three for two years, four for four years. It didn't specify what month the terms began and ended. I know Pamela Kump was just recently appointed so she was filling out somebody's term. I think it would be a good thing that they be notified. One of the positions is open. Their ordinance or resolution should be rewritten to make the dates the same among the Boards." **City Attorney Groot** said, "The City of Sanford just went through a long, involved process to make their Board's and Commission's have terms that end on September 30th. They staggered all the different memberships to make sure that happens so that way they can look at a set time every year to see what is available, who has filed for application and if someone was chosen for one board they could then be asked if they are interested in sitting on another board. It's a good system." **Commissioner Burton** said, "I'm glad to see that Don has undertaken this. We had talked about this with regards to Planning Board members and terms of office

and being able to open it up to the public. It appeared to be at some point if you were a sitting member of the board and your term came up it was something that was discussed within the Board and then what recently happened as an oversight that it didn't get back to the City Commission to vote on. It became an issue. My point was that some of the qualified citizens of our City could also know that when there is an opening that they could apply for it. No Board should turn into a good old boys or a good old girls club. The Board that is sitting up here now, we were all elected and in some cases we were elected by as few as three votes. The citizens should have a vote, they should have a say. So if there is a citizen out there who when there is an opening or when their term has come up and they would like to put their application in for the Board to be considered, I think this is a good opportunity to allow other people to participate and to have the City get the best person qualified for the job. I'm in full agreement with the way this is being worked out and the fact that it is going to be done on a more regular basis and will be more transparent. People will be able to know that at the end of September there will be an appointment made. You can put in your application and it will be considered. This goes a long way in helping us open the Boards up to people who would like to serve and who otherwise would not know that the Board even had an opening. I'm all in favor of it." **Mayor Duffy** said, "I think it would be much easier for the staff also to keep an eye on it without missing term expiration dates." **Commissioner Robbins** said, "I think it might be a good idea on the first of the month that the expiration would come up, that someone from staff call them and let them know that their term is expiring and if they are interested to please come in and fill out the paperwork. I think it may shorten the process and then we'll know who wants to continue on and who doesn't. Then we can advertise or whatever we need to do to get the positions filled." **Commissioner Burton** said, "Are you saying if a person is on the Board and they want to continue to serve then they submit their application indicating that they would like to continue to serve therefore it wouldn't be necessary to open it up to the public because there would not be a vacancy?" **Commissioner Robbins** said, "Everyone has always had to fill out an application even if it was for a position they already had." **Commissioner Burton** said, "If they fill out an application, would that mean it wouldn't be open to the public to submit?" **Commissioner Robbins** answered, "Anybody can submit and then we have to vote on them." **Mr. Findell** said, "I think that the Commission's intent has been to make it an open process so that the individuals who currently serve on the Board submit an application and during a discrete period of time, the Commission also accepts applications from members of the public and then the Commission and staff collects the applications, provides the compiled applications to the Commission and they set a date to make the appointments. They could reappoint a sitting member or appoint somebody new." **City Attorney Groot** said, "I think what Commissioner Robbins was saying is to make sure that the incumbent knows that their term is ending so that they will submit an application. I've seen it happen before where you had five applicants for a position and one of them isn't the incumbent only to find out that they were really interested. It's always good to call the incumbents to ask if they're still interested in serving." Mr. Findell added that it is announced at the individual Board meetings then said, "The direction I need, because September is coming up shortly - we have no problem with contacting City Board members to see if they are interested and if they are, asking them to fill out an application or letter of interest. But we need some additional direction if you wish us to

put out any public advertising, whether it be newspaper advertising or some other form of advertising.” **Commissioner Robbins** said, “We know we have one open seat on the Historic Preservation Board.” **Mayor Duffy** added that there may be others who would like to not serve. **Mr. Findell** said, “Okay, here's my point, if we are going to solicit applications from the public and we are going to do so over the next two months, basically, and the Commission wishes us to advertise the potential open positions, whether they are currently filled or not and they wish us to advertise in ways other than putting it on the marquee or in City Hall then they need to advise us how and where they would like that information to be advertised.” **Commissioner Robbins** said on the website. **Commissioner Burton** said, “On the website as well as the marquee. For cost reasons it may be too expensive to do it in the newspaper. If a citizen is concerned about the goings-on here in City Hall they can be directed to look at the public bulletin board.” **Commissioner Robbins** suggested the Post Office bulletin board and **Mayor Duffy** said we could inform the local reporters. **City Administrator Findell** said, “It used to be that we sent out a public service announcement but I haven't seen those lately.” **Vice-mayor Snowden** said, “The Pennysaver still has a public service announcement area. If they have space available they will give us free ads. We have a City Observer that comes out monthly that we could put it in.” **Commissioner Robbins** said it could be written up in there as an article without paying for an ad. The Commission discussed different options for advertising and getting the word out including using the water bills. **Commissioner Burton** said, “I would fall back to one of the other things we don't utilize enough - our local churches. They all have bulletin boards and we don't take full advantage of that free option.”

Discussion about the proposed tavern on Cassadaga Road

City Administrator Findell said, “I have had conversations with Commissioners over the last several weeks as it's become common knowledge that there has been an interest in opening a tavern in the old Babbington Enterprise building on Cassadaga Road. The yellow building. The use itself is a permitted use. The property is located in the downtown commercial land use district. It is a permitted use within that land use district. There are a couple caveats. One is that it has sufficient parking and it not be located with within 1000 feet of an established church or school. The closest church to my knowledge is the one across the street in Brock's Plaza. We measured the distance from that church to the building and it's in excess of 1000 feet so that criteria has been met. They don't trip that threshold. The parking issue is that there is not sufficient parking on-site to accommodate the business. There's a provision in the code that allows offsite parking to be used. Offsite parking to be used on a temporal basis so that if it's not allocated for another use or if it's not allocated for another use or a specific use for a specific period of the day, then it can be allocated for a proposed use. There is latitude to use that parking to meet the parking requirements for the proposed use. The mechanism by which that occurs, typically, is through what is called a parking binding agreement. Basically what that does, in order to protect the property owner and to protect the city interests and public interests, is an agreement is prepared that basically binds this offsite parking, the portion of the offsite parking would bind that perpetually to the area of the proposed use. Lonnie and I put together a lot binding agreement and I provided that to the proposed owner of the facility. He has pursued execution of the agreement with the individuals who own Brecht's Meat Market and with Dane Roberts.

Dane has a fairly sizable field next to his building. He has gotten the agreements back, I haven't had a chance to review them myself or with Lonnie but if they meet the requirements of the code then they would provide a mechanism by which that parking can be provided. That brings up a corollary issue which is that the code requires by default, that parking be paved parking so that when you build a new business or a new facility, if you have to have a parking lot, then the parking has to be paved. The City adopted a revision to their code some time ago that would allow latitude as to the surface that would be used for a parking area in some instances. Basically what that latitude provided was that an alternate surface could be proposed to the City Commission. This surface would have to be a stabilized surface and a surface that wouldn't create off-site problems or on-site problems for people who would use the parking lot or for the City or the traveling public. The issue at this juncture is twofold. The agreements that have been executed after we've reviewed them, will have to be reviewed by the City Commission and the City Commission will have to execute the agreements as well. The second issue is that the City Commission has the responsibility and the authority to establish what the parking surface will be. This can be done a couple different ways. One way is that the Commission can make these decisions at a regular Commission meeting on their own or the Commission, if they so desire, can request that the Planning Commission review this particular activity and make recommendations to the Commission regarding the parking area surface. At this point I'd like to get a feel for whether the Commission would wish to schedule this for the next available agenda to address it themselves or whether they would prefer to send it to the Planning Commission to get their recommendation before the City Commission acts?" **Commissioner Robbins** said, "I think that that's basically what we're tasking the Planning Commission with these kind of things. We have an ordinance in regard to parking so I would like to see how they feel about it. You have the issue of whether it has to be paved or stabilized or what have you."

Commissioner Robbins made a motion that we ask the PL DRC to look at this issue since we don't have any documents to look at ourselves. I think it would be good to have them look at it first.

Vice-mayor Snowden said, "I think it would be a good idea to have the Planning Board evaluate this plan.

Commissioner Lane seconded.

Commissioner Burton said, "The people have spoken about the introduction of a tavern in the community. It has nothing to do with the legality of it as Don told us. The property is zoned for it. We used to have the Alibi Tavern over there. It was torn down. The fact that the tavern zoning still exists, there have been areas to explore to see whether or not it could be stopped. That was from the position of the residents. In speaking with Don about this, the individuals who have the right to have an establishment, their rights can't be impugned because someone doesn't like the fact that there is a bar put there. The issues that I'm agreeing with, the PL DRC should take look at it and it would give the public more chance to be able to speak to their issues and will allow us to know that the citizens are aware of it. There is a food ministry across the street from it. Don pointed out that the food ministry started out as a bread ministry and a clothing ministry so they do not have a charter or they are not licensed or registered

with the City as such so that does not fall within the purview of a church. The other church is too far away. We are moving toward legality. Legally we cannot stop them but in our community if the community feels that it's not something they want they have an opportunity to speak. My vote is yes I'm in favor of it." **Commissioner Lane** said, "The two other land owners that would enter into the binding agreement for parking have both said that they are okay with it. Why would they do that?" **Mr. Findell** said, "I would imagine because they would be receiving compensation to do so."

Commissioner Lane said, "That's what I figured. If it's binding, is it in perpetuity?" **Mr. Findell** said it is. "It binds them, their successors and their assigns, yes, it is into perpetuity." **City Attorney Groot** said, "The agreement I provided makes the City a beneficiary to the agreements so it can enforce the provisions itself. Mr. Findell said, "When we modified it, we made the City a party to the agreement so that actually carries a little more weight because you are not a passive party to the agreement you are an executor of the agreement as well." **Commissioner Lane** said, "And those agreements have been sent back to the people and everybody's ready to go?" **Mr. Findell** said, "I've got the agreements. Lonnie and I have to review them for legal sufficiency, if they are filled out correctly and if they meet the number of space requirements which on the surface they do." **Commissioner Lane** said, "The reason I'm asking all these questions is that, I'm sure like the rest of you, I've gotten a lot of questions about this so I want to have answers. So those agreements are a done deal. Is that an accurate statement?" **Mr. Findell** said, "They are a done deal when they're executed by the City Commission but they are a done deal with the two parties."

Commissioner Lane continued, "They are a done deal between the parties involved. Do we have the ability not to approve those. I'm not looking for a backdoor way to step on somebody's property rights but I want to be able to give an honest answer. Do we have the ability to squash that and make it not happen?" **City Attorney Groot** answered, "Not in the context of this application because this application is considered on its merits when it gets in front of you so I will talk about the hypothetical case. The hypothetical case of a titled piece of property that lacks adequate parking and comes before you saying I want to use Joe's or Sally's lot to make my parking adequate. What you can then look at is: are there public health and safety issues relative to using Joe's or Sally's parking, are they proximate enough so that it makes sense that they are a unified parcel for the use that's anticipated and that type of thing. That's the type of consideration and evaluation that you would give this application when it comes before you. If you find that it doesn't make sense, that it doesn't make the planning sense and it can't be a unified development or there are public safety issues then you could deny it." **Commissioner Lane** said, "But it couldn't be denied because we didn't care for the type of establishment." **Mr. Findell** said, "It would be the same type of analysis that you would use for any other use. You have to be consistent." **Commissioner Robbins** asked, "Is there a hold harmless clause or something for the people who are extending the binding agreement that the property owners that are going to let their property be used. Is there any kind of liability clause in there that they will be held harmless or whatever if somebody fell. I always look at the liability involved because I think today there's so many lawsuits going on that are frivolous." **City Attorney Groot** said "I haven't seen the final version but if I were drafting one for a property owner who was letting another property owner use my clients property for this type of use, I would have insurance indemnification's that would use some significant amount of ink in the

document. That really isn't the City's point, though. If a user uses another person's property for parking, it's no different from a governmental point of view than if they had all the parking on their own property, from our perspective. The property owners need to work that out themselves." **Commissioner Robbins** said, "They either better have an umbrella or something to protect themselves because they could be sued also if somebody fell and got hurt." **Commissioner Burton** said, "I would assume the contract between the owner of the establishment and the lots that he is going to be contracting with would be tied to the operation so that if he lost one of the lots, that would make him not have sufficient parking, it would impact him. Maybe the individual would want to take back the parking space. Would that be something that an individual could do and if that should happen, would that affect the establishment that now doesn't have sufficient parking spaces?" **City Attorney Groot** said, "That is a governmental concern so that's why the City is either a party to this kind of agreement or a third-party beneficiary. And that's why the agreements are perpetual and run with the land. What Commissioner Lane was saying is binding on your successors and assigns. It means it runs with the land so when a document runs with the land it can't be changed because I change my mind three years later. Simply not wanting the agreement anymore, won't work, it runs with the land, it's a binding agreement that can't be changed. The reason the government wants it to be binding and run with the land is so a developer doesn't come in and say I can use Joe's property, you approve it and then he doesn't actually use Joe's land. That's why it's binding. To undo it would require your action, too. So, if it comes back and the property owner who is allowing their property to be used for parking later on says 'I don't want to do this anymore', they have to go to the tavern and say 'I want to undo this'. Now, they are in the position where they may have to pay for it and it has to come here to be unbound. Once parcels are bound they have to be unbound with the same formality." **Commissioner Burton** said, "Would that also bind the next business owner if the current owner sells the business?" **City Attorney Groot** repeated, "It runs with the land. If this is approved and the tavern owner sells to somebody else down the road, that new person gets the benefit of that use too." **Commissioner Lane** asked, "If that vacant lot is assigned as parking under this binding agreement, then that can never be used as anything else?" **City Attorney Groot** said, "Not unless it's legally unbound. That's why the owner of the vacant lot would normally receive compensation because they are giving up a use on their property." **Commissioner Robbins** said, "Supposing the tavern would close, would that automatically make it null and void?" **City Attorney Groot** said, "No, it's bound and it has to be unbound." **City Administrator Findell** said, "You would expect at that point that the property owner would come to the City and ask that the agreement be amended or unbound." **City Attorney Groot** said, "I haven't seen the deal between these two property owners but if I were the tavern owner, I would want to be able to get out of that obligation for payment if my business failed." **Vice-mayor Snowden** asked, "Who bears the expense on all this negotiation and putting this agreement together?" **Mr. Groot** answered, "The City is incurring very little expense because I've talked about this with Don for less than an hour. I gave Don a copy of an agreement that I was familiar with and told him that this is what these folks ought to do. They went off and worked with that document." **Mr. Findell** said, "I took the agreement that Lonnie had, which was an agreement that we had in Orange City and then modified it to provide some additional strength for Lake Helen and that's what I sent back to Lonnie and that's

the final agreement that went out to all the parties to execute.” **City Attorney Groot** said, “To get to Vice-mayor’s Snowden’s point, if this type of situation were to come before you and there was some significant time, even if it was only an hour, you can approve it then have the tavern owners pay the attorney fees. That’s legitimate.” **Commissioner Robbins** said, “It seems like there should be a fee for your time with anything else if it has to be reviewed, there is a development review fee or whatever. **City Administrator Findell** said, “Typically there is with new development activities but typically there is not with things like this where people are establishing a new business. What we are doing is providing a service up to a point and that begins with filling out an application for development and once that application for development is filed then the requisite fees kick in. So the point that Lonnie made, because this kind of winds its way through the system in a non-typical fashion, is that you may want to consider, when all is said and done if you execute the contract, that it be executed conditional upon payment of all City fees and expenses incurred.” **Commissioner Robbins** said, “I think we need to advise them of that before we just slap it on them at the very end. That’s not being real friendly.”

Caryn Long
176 N. Euclid Avenue

“You mentioned that the tavern cannot be within so many feet of a church or school. I understand that there is a proposed charter school coming into the location of the old Pyramax Studio. I was wondering if that is within the thousand feet and how that will affect the school if the tavern is in first.” **City Attorney Groot** said, “The separation requirement is that the tavern use can’t be within ‘x’ number of feet of certain uses. If those ‘protected uses’ (that’s the goal of these types of provisions, is to protect certain uses such as churches, schools, daycare centers, etc.) want to be next to a tavern or whatever that’s their prerogative. I know of a church in Sanford who wanted to be next to an adult entertainment facility because that’s who they want to talk to. But that is their choice. It doesn’t work both ways, it doesn’t stop the church from putting themselves next to the tavern.” **Ms. Long** said, “So, if the school goes in, then the tavern can still stay there?” **Mr. Groot** said, “Yes, and the tavern doesn’t become nonconforming either. What the law would say is that that’s not fair because theoretically if you got together as a group, you could make every bar or whatever a nonconforming use just by putting a church next to them. Once you’re in as a conforming use you don’t become nonconforming because other uses come in around you.”

All zones and the Mayor voted yes (that the PLDRRC should review the tavern plans first)

STAFF REPORTS:

City Attorney
Nothing to report

Police Chief
Nothing to report

City Administrator

"I have a parable about how government works. We often get criticized as a local government for the review criteria that we put people through and the length of time that it takes to go through review and approval. I'm going to describe a situation wherein we are providing information to somebody else and you'll see that we are not the only government that's perceived to be difficult to work with. In this particular instance, you know the experience that we had going through the conditional use process and you know how many times we went back and forth before the CUP was approved. That was a successful process but time-consuming and relatively expensive. I related to you about two months ago that we had submitted our NPDES permit renewal application for 2009-2013 and last month I reported back to you that we had received the comments from them and the comments consisted of three things. One and two were that they wanted us to change a word in two of the best management practices and although the word that they wanted us to change to meant essentially the same thing, it was easy enough to accommodate that so we did. The second thing is they noted that they weren't sure that we were eligible for the reduced permitting fee that we applied for to take the permitting fee from \$5,700 to \$100 and so they wanted us to submit additional information on that which we subsequently did. So when we set the revised package back to them, we changed the two words and we submitted all the documentation to justify the reduced fee. Today in my mailbox was a letter from DEP that came from the stormwater section which I assumed was our permit renewal. The letter was not a permit but it was a request for additional information and the request for additional information, which by the way, I had a new project manager than the project manager that I had before who was different from the project manager that I had before that. The request for additional information was twofold. One, they noted that I had failed to check a box that indicated whether our stormwater system was a public local government system, a state system, or a federal system. The second thing was that I forgot to check the box about what water management district we were in which is St. John's Water Management District. There followed about two pages of additional requests for revisions to what had been submitted previously which of course had nothing to do with the things that had been requested before which we had complied with. I'm obviously mulling over what my response is going to be but it's not a particularly good one at the moment. The company that provides the oversight service for DEP is a consultant so we're not working directly with DEP. It worked reasonably well while you had one project manager that was consistent for three or four years but this past year, there have been two different ones in the last couple of months and obviously different ones between last month and today."

Code Enforcement Officer

Nothing to report

MAYOR'S REPORT AND COMMISSIONERS' REPORTS BY ZONE

Zone 1/Commissioner Robbins

"I've been hearing on the radio, on the TV and in the newspaper about the cuts in funding and I'm just wondering what has happened with County Road 4139 being repaved. Have we had any updates lately? I had an e-mail today from Gerald Brinton

from the County of Volusia in regard to the Zone 4, I only printed out Zone 4 because that's us, in regard to future funding for year 2013/2014 to 2017/2018. Long ways away. And also for trails but it didn't say anything in there in regard to the repaving of 4139 that we heard about a couple months ago and I wondered if you have any update." **Mr. Findell** said, "I haven't heard anything either other than the fact that it was funded at the state and federal levels so I guess it's winding its way through the procurement system which again is kind of interesting for the 90 day projects that the stimulus money was for. The shovel ready, 90 day projects haven't even started nine months later." **Commissioner Robbins** said, "The only other thing that I had was about two to three months ago we enacted an ordinance in regard to unkempt property and I had a call yesterday or today in regard to what is the City doing about following through on the ordinances with all of these properties that are being foreclosed on. There's quite a few houses that have got grass this tall (she indicated about 3 feet). We have the ordinance in effect." **Mr. Findell** answered, "I don't know that we've received any complaints because none of that's been reported back to me and a lot of times they would contact Joan and Joan hasn't mentioned anything to me." **Commissioner Robbins** asked, "Does it still have to go through the code enforcement process?" **Mr. Findell** said, "Typically somebody will complain about an individual piece of property then we will handle it from there through the normal channels and if it ends up that we have to take care of the property, we will. I was kind of wondering the same thing because there are some properties around the City I've noticed as well that need to be addressed."

Zone 2/Commissioner Burton

"I notice that there are a couple new signs in town that don't look like they meet our sign and size requirements." **Mr. Findell** said, "You must be talking about the one on Main Street." **Commissioner Burton** said there's another one on High Street. **Mr. Findell** responded, "I talked to Patrick about that today and he will notify the company and ask them to remove their signs. They don't have a sign permit either. They are real estate signs but the sign would require a permit and secondly the size of the sign is not in compliance with the code." **Commissioner Burton** commented that it looks like a billboard – the one by High Street."

"I mentioned last month that the number of foreclosures has increased. They don't have the numbers in for July yet but the foreclosure filings have gone up from 980 in June 2008 to 1980 in June 2009. By July 2009 when those final figures are in, there may be up to 2000 foreclosures. Those are just the filings. The process is yet to come. The properties that are now being foreclosed on may be vacant even sooner than the normal process because people have realized that for the most part there is no hope and they just get up and leave. The state's attorney general has just passed new legislation, as a result of a lawsuit that was won against Countrywide which was one of the largest predatory lenders. Part of the funds from that lawsuit was \$4 million and that's going to be applied to non-profit legal aid and non-profit legal defense for homeowners. This program is going to last for two years but won't begin until October 1 so the properties that got foreclosed on that were filed in June, July, August and September won't be able to use those funds. The majority of people that get foreclosed on are not eligible for legal aid. They are not eligible because they own property and for a number of other reasons that I'm not quite sure of. The other thing is that they can't afford to pay an attorney so they lose hope because there's nothing else they can do."

So now they are going to be leaving these properties in record numbers. The ordinance that was placed in effect was supposed to stem the tide and not have the other residents feel the brunt for somebody else's inability to maintain their property and their mortgages. It's going to be passed on to the people that are living next to a house and now there are one to three or four houses in the neighborhood in foreclosure. Some of the neighbors are still cutting grass but soon that will stop too. It's something that's become an epidemic in Volusia County not to mention Lake Helen. We are probably a microcosm of what's happening throughout the county. There will be a breakfast where they will be talking about the state of foreclosures in Volusia County. I'll be there. This is really getting serious and it's not lightening up." **Commissioner Robbins** said, "Can I mention one thing in regard to what Vernon said? There is a very, very nice house in our neighborhood that was foreclosed on and the bank told the people that they had to stay in it, they would be held legally responsible for any damages, etc. So they couldn't move out because they would be held legally responsible." **Mayor Duffy** asked Commissioner Burton if the 1900 figure he stated was for all of Volusia County? **Commissioner Burton** answered in the affirmation and added, "That's a count of the number of dockets that may or may not have been served yet." Mayor Duffy asked Commissioner Burton if he had any idea how many are in Lake Helen. He responded that he doesn't know the exact figure. **Commissioner Robbins** added that they are in the paper every day under lawsuits but then they are also in the Sunday News-Journal, there is always a list.

Zone 3/Vice-mayor Snowden

Nothing to report

Zone 4/Commissioner Lane

Nothing to report

Mayor/Mayor Duffy

"I put it in your boxes a letter from the Volusia County School Board on the teaching of subjects and education. I'm afraid this came about because of what happened at the Miss Lake Helen/Cassadaga Pageant when Vice-mayor Snowden was asked to lead the Pledge of Allegiance. I got on the phone and called the school board because I wanted to know if number one, they still say the pledge in school and number two, if they had flags and every classroom. It took me three different people to get an answer. It took all afternoon and finally I got in touch with a gentleman who's in charge of all the civics classes in the school system and he sent me an e-mail that said 'yes, they do have flags and they do recite the Pledge of Allegiance every morning'. I also got a letter on the civics programs they have so at least we know they are doing it."

The City Clerk was asked to announce who qualified for the 2009 elections:

For Zone 1: Commissioner, Lewis Long and Ann Robbins and Lewis Long

For Zone 3: Theresa Abshire and Richard Basso

For Mayor: Buddy Snowden is running unopposed.

The meeting was adjourned at 8:32 p.m.

Joan L. Duffy, Mayor

Nancy Wilson, City Clerk