

**REGULAR MEETING
LAKE HELEN CITY COMMISSION
August 20, 2009
7:00 P.M.**

Minutes

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

CALL TO ORDER: Mayor Duffy

INVOCATION AND PLEDGE OF ALLEGIANCE

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

DELETIONS OR MODIFICATIONS TO AGENDA

None for this meeting

COMMISSION ANNOUNCEMENTS

None for this meeting

MINUTES

July 2, 2009, July 16, 2009 Public Meetings

Vice-mayor Snowden made a motion to approve the minutes as published
Commissioner Lane seconded

All zones and the Mayor voted yes

CONSENT AGENDA:

Bills – August 20, 2009

Mayor Duffy asked about the bill from Boyer's Locksmith. What is a transponder? **City Administrator Findell** said it is generally something the police department would use. The **City Clerk** said it was probably for the door at the Mitchell Brothers Sports Complex, those locks were changed recently. One of the doors has an alarm on it. **Mayor Duffy** also asked about the payment to the Survey Group. Why are we paying for that? **Mr. Findell** said, "The way that it works is that the City has a base fee for the subdivision plat. The applicant pays that base fee when they submit their application. The City then performs the review and the review basically is a four-part review. Typically, that four-part review, from a personnel standpoint, includes myself, the City Engineer, the City Attorney and the City's consulting surveyor who happens to be Efirid. The City Attorney reviews the subdivision plat for consistency with state statutes. I review it for consistency with city codes. The City Engineer reviews it for consistency

with city codes as well. In this particular instance, this reflects the last two bills that we've received from Efir Surveying Group to review revisions to that subdivision plat. They pay the fee upfront, but what we have to do at the end of the process, prior to final approval, is determine how much or what the amounts of the expenses are that we have incurred. If the expenses that we have incurred are greater than the amount that we have charged, then we send them a bill for the remainder of that expense." **Mayor Duffy** also asked about the City using Tennant Printing since they are more expensive than other printers. She thinks we should all be using the same printing company. **Commissioner Robbins** said they may have had the prints already there for Mike's business cards so we didn't have to pay the additional setup charge.

Commissioner Robbins made a motion to approve the bills as recorded
Commissioner Burton 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 – no report

PUBLIC FORUM:

Lou Benton
Lake Pearl Drive

"I believe it was about a year ago that we approved the alarm system for emergencies. Somebody donated \$40,000 worth of equipment and I see that the telephone poll that we used to have is no longer over at the Equestrian Center. What is happening with it? It's been over a year." **City Administrator Findell** said, "I don't have a direct answer but I can tell you that both Cookie and the Chief discussed with me within the last month that they were making arrangements to have it installed." Mr. Benton said, "What happened to the big pole, it's gone?" **Mr. Findell** said he doesn't know. "Cookie said that he had gotten a pole but that's all I know." **Mayor Duffy** said she also inquired about it a month or so ago. Mr. Benton said, "Isn't that ridiculous that we got a \$45,000 piece of equipment donated to the City that was approved over a year ago and still nothing has been done?" **Mr. Findell** responded, "To the best of my recollection, the lion's share of the issue with installation related to coordinating with Progress Energy to actually get the pole and the equipment installed at minimal cost to the City. We can check it out for you."

PUBLIC HEARINGS

None for this meeting

COMMISSION CONSIDERATION:

Consideration of request by the American Legion to partner with Lake Helen for a booth at the Volusia County Fair

Mayor Duffy said that someone from the American Legion came in last year with the same request. "It doesn't cost us any money. The only thing we supplied them with was one of the cotton, woven throws that the Boy Scouts sold years ago and some Lake Helen brochures. They hung the blanket up in their booth and passed out our brochures which they ran out of last year. The request this year is to borrow the cotton throw again and to get more brochures. I am working on putting more together and the gentleman from the American Legion will come by in November to pick them up. Again, it doesn't cost us anything and it gives Lake Helen some visibility."

Commissioner Robbins made a motion to honor the request of the American Legion partnering with Lake Helen at the Volusia County Fair.

Vice-mayor Snowden seconded

All zones and the Mayor voted yes

Consideration of request by the Parks and Recreation department to purchase ribbons for Kickball's end of season event.

Sean Abshire, Co-chairman of Parks & Recreation: "In your agenda packet is a letter from me and copies of the receipts from money I've collected during registration this season. It totals \$107. I am requesting permission to purchase 30 ribbons at a total cost of \$35 plus a set-up fee of \$25. I'd also like to purchase a trophy for the winning team of the tournament games that we'll be having in September. The trophy would be displayed in City Hall. The trophy should run about \$20 so the total I'm asking for is \$80 which will be offset by the amount of money I collected." **Mayor Duffy** commented that he was covering all his expenses and then some.

Vice-mayor Snowden made a motion that the City authorize the expenditure for the stated purpose.

Commissioner Robbins seconded

All zones and the Mayor voted yes.

Commissioner Lane commented, "I went to several of the kickball games and Sean did a very nice job; it was a very nice event. He stood up to the hot sun week after week. It was good wholesome, fun."

Consideration of Ordinance 2009-07 relating to amendments to Article 34.02.02, Historic Preservation Board

Mayor Duffy read the Ordinance by title:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE HELEN, FLORIDA, AMENDING PROVISIONS OF ARTICLE 34.02.02, CODE OF ORDINANCES OF THE CITY OF LAKE HELEN, RELATING TO HISTORIC PRESERVATION BOARD; 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, “The background on this is a previous discussion that the City Commission had regarding City Boards. The Commission stated the desire to have the expiration terms of office be consistent. The Historic Preservation Board has different term expiration dates than the Planning Board. We amended the PLDRC’s enabling legislation by Ordinance to clarify what their terms of office would be, specifically the beginning and the expiration dates. The language that’s contained in here is consistent with that which was provided for the clarification in the PLDRC related Ordinance.”

Commissioner Burton made a motion that the Ordinance be approved as read.

Commissioner Robbins seconded

All zones and the Mayor voted yes.

*Consideration of agreement between FEMA and the City of Lake Helen
regarding the National Flood Insurance Program*

Mayor Duffy said, “FEMA is updating their maps for Volusia County and this agreement serves as formal acknowledgment that the City of Lake Helen will cooperate with the FEMA consultant in the development of the map updates.” **Mr. Findell** said, “This agreement is similar to the one that we did with the Census Bureau which is basically a participatory agreement. It’s not something that involves any expense on the part of the City with the exception of City staff time.” **Commissioner Lane** asked, “How much City staff time will it take?” **Mr. Findell** answered, “Well, we’ve had a kickoff meeting that lasted about two or three hours and that basically was to allow FEMA’s consultants to impart some information to each of the local governments in Volusia County as it relates to the mapping effort that they are about to undergo and to kind of outline the steps and the timing that’s involved. Also, the meeting gave us an opportunity, in a cursory sense, to provide them some information that they might not be aware of as it relates to flood hazards in areas of our community. The next step of the process is that the consultants are going to prepare an actual scope of work for the remainder of the program that will go out to each of the communities, as well, to comment on. Once that work program has been defined in writing, which has to be done for FEMA as much as us, they will start on the actual map updating.” **Commissioner Robbins** asked if this is going to be similar to that geophysical map that we had a couple years ago that showed the flood prone areas? **Mr. Findell** said, “It will basically be an update of the maps that Wendie has in her office that show the flood hazard zones. One of the things that I had hoped that they would do for Lake Helen, that I don’t believe they will be doing because of financial limitations, is establish some base flood elevations. When the last map was prepared several years ago, that was the first time such a map had been prepared for Lake Helen. We had been excluded previously but our inclusion has allowed us to prepare and adopt a floodplain management ordinance which made us eligible and our

citizens eligible for flood insurance through the National Flood Insurance Program. If by chance they are able to provide some basic flood information, that will be helpful. We really haven't had any recent developments in the floodplain so the basic flood elevation is not actually critical for us but if someone proposes development in a floodplain then that applicant will have to establish a base flood elevation for the location they propose to construct in. So, this is just a request for authorization from the City Commission to execute this agreement." **Commissioner Burton** said "Will there be a follow-up to this? After we approve it, will they give us an update as to what they've determined in regards to floodplains?" **Mr. Findell** answered, "This is a two-year program. It has to go through various levels of approval at both the state and federal levels. The mapping itself should be done within one year after their scope of work is approved and the approval process takes about a year as well." **Commissioner Burton** said, "One of the things we did discover is that most of the floods that did take place in Daytona took place in areas that had not been designated as floodplains. A lot of people who did not take out insurance had been told they were not in a flood zone. FEMA I'm sure since then has adjusted that but I would hate for us to get on the back end of that because we didn't know something was in a flood zone." **Mr. Findell** said, "One of the things that I did the other day when I met with them was to identify an expansion of some of the areas that are noted on our map. It was based on the experience that we had with Tropical Storm Fay and with the 2004 hurricanes. All the areas where we had flooding of any significance were included on the original maps, but not to the extent that we actually experienced, so that was the information that I provided them with the other day; now they'll look at it at a deeper level." **Commissioner Burton** asked if they took into consideration the elevation of Church Street off of Main Street? "Church Street was elevated almost 4 feet before the new bridge was built. Now, the houses are lower than the highway, before they were level or higher. I don't know if that's something to be considered in this process." **Mr. Findell** said, "I think it would if they were doing definitive field studies but I don't think that's going to occur with this mapping effort." **Commissioner Burton** said, "When the office building was supposed to be built up there, elevation was one of their considerations. The elevation of the roadway was lower prior to their application for the permit. Now that the roadway has been raised, their application would have to reflect that so that would be on their backs. Patsy and her sister are ones that are on that particular street. We have not yet had any weather that would create a flood." **Mr. Findell** said, "That area was certainly flooded during the 2004 hurricanes. We actually pumped from that area. One of the things that we will have the opportunity to do is to review the maps at various stages as they are prepared and provide additional information to them. This may be one of those areas that we would look at." **Commissioner Burton** said, "One thing we spoke about earlier is about the roadway on Church Street; the viaduct or whatever. The DOT is responsible for maintaining that area and now the foliage is pretty much overgrown. Deferred maintenance was one of the excuses made by insurance companies who denied coverage. If we have a lot of rain, those areas underneath that roadway which DOT is responsible for but not maintaining, will be flooded." **Mr. Findell** said, "I agree. Unfortunately, there's kind of a double-edged sword with the maintenance issue. If you improve the condition of the flow away that transports the water very quickly through the system, this is generally a good thing unless that volume of flow exceeds the capacity of some structure downstream to accommodate that flow. When that happens, you are basically

transferring flooding from one area to another area where that bottleneck occurs. Potentially, you run the risk of undercutting some of your infrastructure that exists that is supposed to transport that flow but is unable to because it's not of sufficient size for a certain rain event." **Commissioner Robbins** said, "We talked about that property when we purchased the Murphy Act property. I think Mr. McIntosh said that we would have to maintain it from a certain point and keep it clean." **Mr. Findell** said, "We would maintain that portion of the property that belongs to the City." **Commissioner Robbins** continued, "Because if we allow limbs and all that kind of stuff to get in, a bit further on down it's going to back up and the water's not going to have any place else to go like what happened on West Ohio where it came through those people's property and had them all but engulfed in water. The whole house was surrounded by water." **Mr. Findell** said, "It also depends on whose flowage way it is and the one that Vernon was describing that actually goes into the area, is a DOT flowage way. I indicated that I would contact DOT about the condition of the vegetation there. That happened to be one of the areas I advised the consultants that they needed to take a more expansive look at because we experienced some significant flooding in that area beyond what would have been indicated on the map." **Commissioner Robbins** said, "From that area it went down across Macy Avenue and Kicklighter Road which also elevated Lake Macy." **Mr. Findell** said, "The bottom line there was that you have at least a couple of structures in a system that simply can't handle that volume of flow. You're talking 100 and 200 year storm events and the pipes in your system are geared for something substantially smaller than that. You are going to have physical bottlenecks created by your existing infrastructure when water flows from one end of the system to the other." **Commissioner Robbins** said, "Is there any way that we could contact the people once we get the map that will show where these flood prone areas are? I think we need to let them know so that they could know that they are considered to be in a flood prone area and they need to buy flood insurance. If the properties changed hands or something and they're not aware of it, they should be told." **Mr. Findell** said, "If the properties changed hands and you have a lender involved, the lender is going to require a survey and the survey is going to indicate the extent of the floodplain and typically a lender is going to require flood insurance." **Commissioner Burton** said, "The only problem with that is if the previous information does not necessarily get passed on. A number of people who had problems with flooding were in areas that were not flood zones. They were never told they needed to get flood insurance. The lender told them they weren't in a flood zone. So, once those storms hit, nobody had flood insurance so FEMA was then approached to give money. We should let the folks know whatever the outcome is and make that information available."

Commissioner Lane made a motion to accept the FEMA Community Partner Memorandum Agreement as presented
Commissioner Burton seconded

All zones and the Mayor voted yes.

COMMISSION DISCUSSION: *none for this meeting*

STAFF REPORTS:

City Attorney – no report

Police Chief

Keith Chester was asked when the early warning siren system is going to be installed. Mr. Chester said he didn't know, former Commissioner Cooke and Ricky were handling that." **Mr. Findell** said he knows that Cookie secured the pole and they were making arrangements with Progress Energy to have it installed but that was about a month ago. Mr. Chester said he would get with Cookie and get back to the Commission.

City Administrator

"Just to let you know that we are on the final stages of the update to the local mitigation strategy - Volusia Prepares 2025. I have a meeting on that tomorrow. The draft update should be coming back shortly and it will be submitted to the state sometime in the month of August as well. Secondly, I am in the process of revising the 2009-2013 NPDES permit application. That should go out next week."

Code Enforcement Officer – no report

MAYOR'S REPORT AND COMMISSIONERS' REPORTS BY ZONE

Zone 1/Commissioner Robbins

"In our July 2nd minutes that we approved regarding the budget, \$63,000 expenses over revenue was listed. In Keith's report, he mentioned that we were up to speed with the ECHO grant and that we should be getting the \$27,000 and I wondered if we had got that?" **Mr. Findell** answered, "Yes, and not only did we get the \$27,000 but we got the remainder of the retainage." **Commissioner Robbins** asked, "Is that going to offset the \$26,000 that you talked about that you're anticipating that you were going to have to reallocate. Is that going to take its place?" **City Administrator Findell** answered, "I honestly won't know until the draft audit report is prepared." **Commissioner Robbins** said, "But that \$27,000 + retainage will go back into the reserves?" Mr. Findell said, "It will go into the general fund. How it will impact the reserves I don't know right now."

Zone 2/Commissioner Burton

"There has been a proposal for a beer and wine tavern in our community. A number of people have spoken to me about it. The process is pretty much underway. There are requirements that are not necessarily related to Lake Helen. Someone spoke to me about the removal of a Crepe Myrtle which is the foliage that was required because of the gateway corridor. The code enforcement person was informed of this. One of the things that was also brought up was that the Alibi Tavern was previously in this area and our zoning permits this type of activity in that location. There are a number of other requirements that have to be met in order to make this a viable deal. One of the things is parking. The parking available with the property is not sufficient but Don and Mr. Groot are hammering out that agreement. A lot of the things that are being brought up to the Commission are not necessarily drop dead issues. The City is performing due diligence but this exercise is also serving to enlighten the individuals who are bringing the request to the City. One of the questions that came up was that at the time the establishment was built it was an office building and the septic tank was the appropriate

size for that use. So, if this building becomes a bar, you're going to have more people using it and possibly you're going to need more septic tank capacity. That doesn't come under the purview of the City. That's a health department issue. Another issue that the City does not become involved in is food preparation. There are a number of things the people who live close to this have a problem with including, increased traffic and the increased potential of noise. But we do have noise ordinances within the city and if those ordinances are broken, there is legislation or laws in place to accommodate that. All people coming into the City have to go through the same responsible in-depth study. There was also the issue of the church. The establishment has to be within 1000 feet of the church on Lakeview; it has satisfied that requirement. There is a bread and clothing ministry right across the street but they have not applied to the City for a license. Some people in the community have been very vocal about having a bar in town, some are for it, some are against it. When the Alibi Tavern was torn down, I was not at all unhappy about that. This proposed tavern, however, is not a done deal or a dead deal. It's being taken under advisement." **Mr. Findell** said, "I can provide some enlightenment on the septic tank issue. I had a conversation with the proposed owner of the tavern regarding that particular issue and he said they were not anticipating improvements to the septic tank at the current time. As a result of that, the health department was restricting them to no more than 14 seats."

Zone 3/Vice Mayor Snowden

"I would publically like to express praise to the local police department. We had a burglary here in Lake Helen about a week ago in which a house was broken into and a number of guns were taken. Corporal Bellesfield responded. Commander Walker effected an arrest. The individual was arrested, the property was recovered and a vehicle was seized because it was used in the commission of a crime. I just want to express to the Chief my sincere praise and appreciation for the professional way in which that investigation was handled."

Zone 4/Commissioner Lane

"The only thing I want to speak to is I was at a meeting today with my accountant. He talked to me about taxes and where things are. He looked up his personal property taxes; the taxable value on his home has gone down 24% and his taxes have gone up 14%. That's a pretty big jump. He's under the Save Our Homes provision. He checked the taxable value on another property that was a rental property that wasn't under Save Our Homes and its taxable value had gone down 20% but his taxes also went down by 11%. So, when it comes time for these notices to come out, we're probably going to catch a lot of well-earned flak about taxes going up. I'll take the opportunity here to say Lake Helen has done a commendable job of not living high on the hog when that's the way everybody else has been living. The vast majority of the tax hikes were attributed to the county and state. The properties he looked at are not in Lake Helen, they are in Deland. When we catch a lot of flak on that, we're going to need to be ready to respond. We're in a very defensible position." **Commissioner Robbins** said she thinks those forms are going out in the mail today or tomorrow. **City Administrator Findell** said, "One of the things that I indicated back during the earlier budget sessions was, because of the way that the legislation was written relating to Save Our Homes, that the properties that will bear the brunt of the increased millage rates will be those

that have the longest standing with Save Our Homes. It's important that we recognize that. But it's also important to recognize that those properties have been affected beneficially through the years. Save Our Homes has reduced the taxes that those individuals should have paid that owned those properties over time. The tax burden has been placed disproportionately on new property owners and new retirees and people who have moved into the state. So what this is having a tendency to do is to not achieve parity but to move toward a more proportional balance between old-time residents and new residents." **Commissioner Burton** said, "Last month I gave these statistics on foreclosures: In June 2008, there were 987 foreclosures. In June 2009, there were 1973 foreclosures. That's an increase of 127%. When the July statements came out, foreclosures increased another 37%. This is just in Volusia County. That trickles down to Lake Helen in terms of vacant houses and in terms of houses that have not been picked up by tax sales and in a lack of revenue coming to the City. These are the things that we are looking at that have an impact on us. A number of these properties will wind up in some sort of a forbearance agreement or some arrangement that the property may not go into foreclosure or may not be sold. What we are also seeing is another disturbing trend. There are properties that are in foreclosure but the banks have not decided to take them over because once the property is sold, the bank becomes responsible for them so there have been instances where banks have just not gone to the sale. The individual moves out of the house thinking that the property has been sold and the bank is then in a situation where they have to inventory the property. It's cheaper to inventory property when it's in the name of the owner because once the bank takes it over they are responsible for liability as well as for maintenance. There are a number of properties that have not been foreclosed on that are in the system. These are the things that as the year goes are just going to get worse." **Commissioner Robbins** said, "That can go a step or two or three or four further because if the house is empty and you had a family of four and it had a water bill of \$100 a quarter there's another \$400 you've lost. If they had a power bill, that's another 10% on the franchise fees that we are not going to collect. It trickles down and it affects way more than just our ad valorem taxes. It's a heck of a situation this country is in. It's scary. I feel sorry for people who have mortgages. I'm glad mine's paid."

Mayor Duffy

"The auditor is in the house and he's performing our yearly audit. Yesterday, I was returning from an emergency meeting at MPO and when I was exiting, I noticed there were people at the exit and entrance ramps to I-4 marking the area with white flags." **Vice-mayor Snowden** noticed this also. "I'm guessing this is being done by DOT showing where the plantings are going. Also, the next Commission meeting is on September 3rd. The first budget hearing is on September 10th and the second budget hearing is on September 24th."

Randall Henry

710 Semoran Way.

"I just wanted to let everyone know that I am doing anything and everything necessary with Don's assistance. Any issues that come up, Don lets me know and we are working together. I'm doing my best. The address of the proposed tavern is 210-220 Cassadaga Road.

City Administrator Findell said, "I forgot something doing during my comments. I met with Patrick today to talk about unpaid water bills and we are going to initiate the process of taking a number of those higher bills to small claims court to see if we can secure a judgment on them and if we can secure a judgment, to then place a lien on those properties to collect the money." **Mayor Duffy** said, "Someone came in the other day to open a water account. It was for a property that was owned by Lake Helen Partners and the buyer has a similar corporate name. Sharon told them that an outstanding amount of \$300+ was due on that property and she couldn't give them any paperwork until that was paid. She got a check the next day." **Mr. Findell** said, "We have overdue water bills ranging from a few dollars to about \$4500."

Meeting was adjourned at 8:00 p.m.