

**REGULAR MEETING  
LAKE HELEN CITY COMMISSION  
August 25, 2008  
7:00 P.M.**

**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 Buddy Snowden, Commissioners Benton, Cooke, and Robbins.** Also present were **City Attorney Ken McIntosh, City Administrator Don Findell and City Clerk Nancy Wilson.** (This meeting was postponed from August 21, 2008 due to tropical storm Fay.)

**Mayor Duffy** expressed her gratitude to all of the city staff including **Chief of Police Keith Chester, Ricky Mullen of Public Works, Commissioner Cooke, and Vice-Mayor Snowden** for all the work they did while the city was under emergency conditions. The city fared well but Kicklighter remains flooded by Lake Macy. City Hall had rain coming down through the light fixtures while buckets caught much of the water. **Vice-Mayor Snowden** assisted in the matter. **Commissioner Benton** had surgery on his arm so was unable to participate. City staff worked hard preparing for the storm and continued to work hard during and after the storm.

**INVOCATION AND PLEDGE OF ALLEGIANCE:**

**City Attorney Ken McIntosh** led the invocation and pledge of allegiance

**MINUTES:**

**Commissioner Robbins** made a motion to approve the minutes of July 17, 2008 and August 7, 2008.

**Commissioner Benton** seconded the motion.

**All zones and the Mayor voted yes.**

**CONSENT AGENDA:**

**a. Bills for August 7, 2008**

There was no discussion.

***b. Approval of John Beard as the fifth member of the Lake Helen Police Pension Board.***

**Commissioner Robbins** explained that Mr. Beard had been appointed by the board. He has extensive background with the federal government (Department of Justice and Department of the Treasury). Mr. Beard had attended the last two meetings of the Lake Helen Police Pension Board and wished to be on the board.

**Commissioner Benton** motioned to approve the Consent Agenda.  
**Commissioner Robbins** seconded the motion.

**All zones and the Mayor voted yes.**

**PRESENTATIONS:**

***A) Presentation by Mike Woods of the ArcGIS system***

Mike Woods was unable to attend tonight's meeting so the presentation was tabled.

***B) Presentation by Elisha Lee, et al, providing an update on the community farm***

Elisha Lee approached to podium noting there were problems with the slide-show part of her presentation but that the commission had hard-copies of what the slide-show would have shown.

Chris Baker approached the podium and said that Community Roots had made tremendous progress since their May 15<sup>th</sup> presentation. Approximately six (6) acres of the Costa property next to the Equestrian Center will be available for the vegetable garden, green house, and shed. Community Roots will lease the property for five (5) years at \$1.00 per year but will divide the property into thirds, thus fencing in the first year approximately two (2) acres. The following year another two (2) acres will be fenced off with the final two (2) acres to follow.

Community Roots will grow organic vegetables on the property. Their mission statement includes providing high quality food to low-income families and those in need, offering education and training in ecologically conscious food production, offering education in proper nutrition and health, promoting and maintaining Florida's natural habitat, and assisting in the personal restoration of troubled youth and adults.

Mr. Baker explained there would be financial challenges and outlined the thousands of dollars that will need to be raised to build a propagation house, develop an irrigation system, etc. However, he stated he was interested in the well at the Equestrian Center and also stated that he needed some electricity, primarily to run the irrigation system.

He indicated that he had two hundred (200) interested people along with a strong core of people available to be members of the board of directors. He asked if the city would help with the electricity and water.

**Commissioner Cooke** asked for clarification of the request because he felt he had misunderstood the location of the water and electrical availability.

Chris Baker explained that the well was some distance from where the water was needed by Community Roots and that the electrical pole for hook-up was about two hundred and fifty (250) feet from where the propagation house would be placed so it would be quite a distance. He then went into the distance of electrical service from other areas to the farming area.

**Commissioner Cooke** thought it might be more economical to have an additional electrical pole put in to service the 'farm' but Mr. Baker said there would still be a long distance to bring the electricity to where they needed it.

**Commissioner Benton** thought the trailhead might have enough power to be tapped into and that it would be cheaper to do it that way.

Chris Baker said that it would be a lot of help to get the power to the fence of the 'farm' and that when the project 'blossomed', Community Roots would be able to hook-up to Florida Power independently. Mr. Baker envisioned being able to get some grants down the road and for the 'farm' to be a showcase to create other 'gardens'/'farms' in other areas of central Florida.

**Vice-Mayor Snowden** noted that Community Roots was requesting the use of irrigation water, not potable/city water. He asked City Engineer Provost if the draw-down from that well would affect the city's consumptive use permit. Mr. Provost wasn't sure and would have to research it. **Vice-Mayor Snowden** then asked Mr. Baker if he had prepared a site plan yet. Mr. Baker said that he had drawn some preliminary plans and explained where the propagation house would be plus added that the plans are still being worked on. **Mayor Duffy** asked where the entrance would be and Mr. Baker said they would utilize the gate that is already there. **Commissioner Cooke** asked if the propagation house would be portable or stationary and Mr. Baker responded that it would be stationary.

**Mayor Duffy** said the city staff would need some time to get prices on what it would cost the city to assist in this project. She felt that the Commission should know exactly what it would cost before agreeing to commit the city's resources. **Mayor Duffy** wanted to know exactly where the water line would be going, exactly where the electricity would be drawn from, and exactly what it would cost the city.

From the audience, **Ex-Mayor Mark Shuttleworth** said that **Ricky Mullen** was supposed to talk with **Mayor Duffy** and **City Clerk Nancy Wilson** but **Mayor Duffy** said that he did not, so the Community Roots request tonight is totally new to the City Commission. **Mayor Duffy** then asked **City Administrator Don Findell** if this matter should be taken before the PLDRC.

**City Administrator Findell** said it might be possible that the typical site plan and building permit could go through administrative review rather than being reviewed by the PLDRC. It would depend on the complexity of what Community Roots intended to do with the property.

**City Attorney Ken McIntosh** needed a copy of the lease, a copy of the articles of incorporation, a copy of the by-laws, a copy of the IRS validation of the 501c3, plus Community Roots must provide a copy of the site plan to **City Administrator Findell**. **City Attorney McIntosh** also needs a St. John's River Water Management District CUP waiver.

**Commissioner Cooke** would like to place this matter on the next agenda so that everyone would have time to make an intelligent decision after studying the cost factor and location of buildings. Is Community Roots buying the materials and the city providing the labor? **Ex-Mayor Mark Shuttleworth** responded but was inaudible. **Commissioner Cooke** wishes to hold this matter over to the September 4<sup>th</sup> meeting so that the materials requested could be gathered and cost estimates could be made. **Mayor Duffy** said that all the paperwork needed to be at City Hall by the Friday before the next meeting.

Chris Baker explained that Community Roots was in the midst of working on the 501c but **City Attorney Ken McIntosh** wanted the articles of incorporation and by-laws which Mr. Baker agreed to provide.

**Commissioner Benton** suggested that the propagation house be located as close to the trailhead as possible to cut down costs.

**City Attorney Ken McIntosh** asked for the address of Community Roots and Mr. Baker responded that it was 242 Pine Bluff Avenue, DeLand, Florida 32724.

## **BI-MONTHLY REPORTS:**

### ***a. City Engineer***

**City Engineer Stephen Provost** approached the podium to provide a brief update on several projects.

Consumptive Use Permit Renewal: At this time there has been no progress but St. John's River Water Management District is expected to work on the matter in early September.

John Street Well: The replacement of the hydropneumatic tank has become more complicated as the footings that are now in place won't be utilized for the new tank because of the odd size of the old tank. **City Engineer Provost** designed new footings and will be requesting bids to accomplish the job. He expects to receive the bids in time to present them to the City Commission at their next meeting.

**SRF Program:** **City Engineer Stephen Provost** sent a memo to the City Commission for their review concerning the automation and inner-connection of the three well sights and emergency generator at the John Street Well. **Mr. Provost** corrected his earlier statement that the system would be installed during the first part of September by saying that the manufacturing of the 'mock-up' system would be completed about that time. The completed system should actually be ready by late October or early November. The emergency generator is expected to be shipped around the end of September and should be here locally around early to mid-October. In the meantime, the John Street Well site is being prepared for the delivery of the new equipment. This work is just about completed. He expects that all the different phases of the project will be completed at approximately the same time.

**City Engineer Provost** met with **Finance Manager Cheryl Leonard**, got the forms together and created the first invoice to send to DEP that covers the allowances that the city receives for the project. In this case it was \$12,000 to help the city underwrite the administrative costs associated with the project as well as a \$21,000 determination to help underwrite the initial engineering costs. These two amounts are generated by DEP based on the total construction/loan cost. Mr. Provost explained that there will be another \$10,000 distributed for engineering services during construction. **City Engineer Provost** said that the entire project took longer than he had anticipated and that his contract with the city will be exceeded by approximately \$4,000. He requested that the city authorize an increase in the amount of the contract by \$3,500 for a total of \$31,000 and promised he would not ask for another increase.

**Commissioner Cooke** asked for clarification on previous discussions with **Ricky Mullen** concerning a John Deere generator. **City Engineer Provost** explained that a Cummings generator had been selected because it is the same brand as the generator at the water plant so that the city would have the same supplier for both locations.

**Commissioner Cooke** motioned to approve the ECT contract from \$27,500 to \$31,000. **Commissioner Snowden** seconded the motion.

**All zones and the Mayor voted yes.**

**City Engineer Provost** thanked the Commission and said he would return on the September 18th to update the city on the project. **Commissioner Cooke** asked **Mr. Provost** to work on the Community Roots request, which he agreed to do.

**b. Local Planning Agency (PLDRC).** No report.

**c. Historic Preservation Board.** No report.

**d. Parks and Recreation Board.** No report.

**e. Ad Hoc Cemetery Committee.** No report.

## **COMMISSION CONSIDERATION:**

**Mayor Duffy** wished to add to the agenda the matter of the emergency warning system that **Chief of Police Keith Chester** has requested. This would be numbered on the agenda as "7A1 - The warning system." Mayor Duffy asked Chief Chester to approach the podium and explain his request.

**Chief Chester** explained that there has been an offer of a donation of a mass notification warning system that we could use for tornadoes and other emergency events. The system can operate as a siren or for verbal warnings. Though the system will be donated to the city, the city would have to bear the expense of having it installed in a timely manner. The expense includes a pole and hooking up the power to the system. **Chief Chester** expects the cost to do this would be around \$2,000 depending if **Commissioner Cooke** is able to have a pole donated. There might be the expense to rent a crane that would set the siren on top of the pole depending on how it can be installed. **Chief Chester** explained that the system would be donated by the manufacturer Whelan who has requested that the city would then let the manufacturer use the Lake Helen site as a demo from time to time for other possible clients. This system is the manufacturer's top-of-the line product and is supposedly worth \$40,000-\$50,000. **Commissioner Robbins** asked where the siren would be placed. **Chief Chester** said that it would be up to the City Commission but that he would recommend the Equestrian Center. **Commissioner Cooke** is currently talking with Florida Power about installing the system and is waiting for the answer from the Florida Power engineers. **City Administrator Don Findell** asked **Chief Chester** if he had considered placing the system near the emergency generator but **Chief Chester** explained that the system came with a thirty (30) minute backup battery and possibly a solar panel. **City Administrator Don Findell** is concerned with the system being non-functional if the power was down for an extended length of time. **Commissioner Cooke** suggested the well sight with the generator in the center of town. A discussion took place concerning possible locations for the system and there was another discussion about whatever happened to the old siren.

**Mayor Duffy** noted that this system was a valuable tool and she wished to move forward with it. **Commissioner Robbins** felt the system would be very important to the citizens of Lake Helen.

**Commissioner Benton** motioned to accept the donation of the emergency warning system as explained by Chief Chester.

**Commissioner Cooke** seconded the motion.

**All zones and the Mayor voted yes.**

***A) Consideration of request for the Saddle Club to build a horse wash rack adjacent to the stalls at the Equestrian Center.***

**Commissioner Benton** explained the drawing and a discussion about the grading and draining took place among **Commissioners Snowden, Benton, Robbins, and Cooke.**

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**Commissioner Cooke** suggested a french drain but **Commissioner Benton** disagreed. **Commissioner Snowden** said that he was sure it would be done by city code and that it would be inspected and **Commissioner Benton** concurred.

**Commissioner Snowden** motioned to grant the request by the Saddle Club to build a horse wash rack at the Equestrian Center site as per city code, using the permitting, and inspection process as required.

**Commissioner Benton** seconded the motion.

**All zones and the Mayor voted yes.**

***B) Consideration of request to approve Jerry Wilson's request for two variances from the City's Land Development Code.***

**Mayor Duffy** noted that the request has gone before the PLDRC. **City Administrator Don Findell** provided some background information on the matter. The first variance is for a nineteen (19') foot front yard setback rather than a thirty (30') foot setback and the second variance is to have a two (2') foot driveway setback rather than a ten (10') foot driveway setback. The lot is only fifty-six (56') feet wide by one hundred and twenty (120') feet deep.

PLDRC reviewed the plans during their July 28<sup>th</sup> meeting and recommended approval but only under two (2) conditions. The first being that the north-south footprint of the building should be flipped so that the driveway would be on the north side of the building instead of the south side. The second recommendation was that the project site would be screened by vegetation in order to address possible concerns by adjoining property owners.

**Commissioner Benton** questioned the necessity of flipping the layout. **PLDRC Commissioner Ed Blackman** explained that it would keep the driveway further from the closest homes. **Commissioner Robbins** questioned why there wasn't a turn-around for such a long driveway. **PLDRC Commissioner Ed Blackman** pointed out the pad in front of the garage could serve as a turn-around. Mr. Jerry Wilson approached the podium and said that the neighbors in the back wanted to have no visibility between their properties. This neighbor is against flipping the layout as it would open up the visibility between their properties even more and has objections to this. Mr. Wilson said that he agreed with his neighbor because he might have the chance to purchase the property next to where the driveway is currently planned. He doesn't want to flip the plans. **Commissioner Benton** said he didn't have a problem with how it is laid out presently. **Commissioner Robbins** asked Mr. Wilson if he had the septic tank permit. Mr. Wilson said he hadn't obtained the actual permit but that he had been assured he had plenty of green area for it. **City Administrator Don Findell** noted that Mr. Wilson will obtain the septic tank permit prior to getting the building permit. Mr. Wilson added that if his neighbor in the back agrees, he will install a six (6') foot fence across the back for the benefit of his neighbor.

**Mayor Duffy** announced that she had a card for Mary Dickinson, owner of Custom Realty, to speak concerning this matter.

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Ms. Dickinson approached and said that she had been at the July 28<sup>th</sup> meeting of the PLDRC noting that **PLDRC Commissioner Gary Adams** made a motion to accept the plans as they stood but **City Administrator Don Findell** began speaking before a second could be made. She objected to him speaking before a second was made and her opinion was the resulting motion and vote after that was null and void. Ms. Dickinson also questioned the status of the lot being buildable.

**Mayor Duffy** asked if the City Commission approved in-fill lots. **Commissioner Benton** explained that the in-fill lots matter had been turned down because the word "subdivision" was used and for no other reason.

**City Administrator Findell** said that if anyone would like to go back and listen to the tape, he was sure they would find **PLDRC Commissioner Ed Blackman** asked after the motion had been made, if the motion included the two potential provisions for flipping the footprint of the plans and adding vegetative screening to the property that had been discussed. **PLDRC Commissioner Adams** responded in the negative so **City Administrator Don Findell** said that it was at that point that he advised **PLDRC Commissioner Adams** that the two potential provisions that had been discussed had validity. At that point, **PLDRC Commissioner Adams** amended his motion to include the two potential provisions the board had reached a consensus on.

**City Administrator Findell** wished to make another clarification and that was the lot owned by Mr. Jerry Wilson is a buildable lot whether there is a house on it or not. It is a non-conforming, substandard lot in terms of area and front yard width, however it is a lot of record. It is not a lot that can be combined with another adjoining lot owned by the same owner. Therefore, it is considered as a buildable lot. This applies to several irregular lots in Lake Helen.

**Commissioner Snowden** motioned to grant the two (2) variance requests of Jerry Wilson for a two (2') foot driveway setback rather than a ten (10') foot driveway setback and for a nineteen (19') foot front yard setback rather than a thirty (30') foot setback with the understanding that the plans do not need to be flipped but a fence or vegetative screening is to be erected in the rear of the property.

**Commissioner Benton** seconded the motion.

**Commissioner Robbins** asked **City Attorney Ken McIntosh** if she was correct in believing that a building permit would not be issued until the EAR report has gone to Tallahassee and we have fulfilled our obligation. **City Attorney McIntosh** said she would have to consult with **City Administrator Findell**. **City Administrator Findell** said that in this particular instance, it's no longer an issue since Mr. Wilson has upgraded the size of the structure from fifteen hundred and fifty eight (1,558) square foot to a nineteen hundred and eighteen (1,918) square foot building. The code requires seventeen hundred and fifty (1,750) square feet.

**City Attorney McIntosh** said he would like clarification on the reference to screening from surrounding properties. It was his understanding it was to be by vegetation and not by

a fence. He asked **City Administrator Findell** if that was correct. **City Administrator Findell** said there was discussion at the PLDRC meeting about some type of structural screening. It was the consensus of the PLDRC that the preferred method of screening was vegetation rather than a fence. A six (6') foot fence was regarded as insufficient due to the height of the structure and that vegetation and trees was preferred. **Commissioner Benton** asked Mr. Wilson to come to the podium to answer a question, which he did. **Commissioner Benton** asked Mr. Wilson if the neighbors preferred a six-foot (6') fence. Mr. Wilson said his east-side neighbor asked that side be fenced and Mr. Wilson has agreed to do that. Mimi Clarke came forward, who is the east-side neighbor, and stated she would prefer the vegetation rather than a fence.

Mayor Duffy said there was a motion on the floor and **City Attorney McIntosh** said that **Commissioner Snowden** needed to clarify the matter of the vegetation when making his motion.

**Commissioner Snowden** withdrew the reference to "fence" and inserted "vegetative screening." It would read as the following:

**Commissioner Snowden** motioned to grant the two (2) variance requests of Jerry Wilson for a two (2') foot driveway setback rather than a ten (10') foot driveway setback and for a nineteen (19') foot front yard setback rather than a thirty (30') foot setback with the understanding that the plans do not need to be flipped but vegetative screening is to be provided around the property.

**Commissioner Benton** seconded the motion.

**Zone 1 "yes", Zone 2 abstained** noting a conflict of interest, **Zone 3 "yes", Zone 4 "yes"** and the Mayor voted "yes."

***C) Consideration of request by Commissioner Cooke to allow the Central Fellowship Baptist Church to erect two 24'x36' portable buildings***

**Commissioner Benton** asked **City Administrator Findell** if this matter should be brought before the PLDRC prior to bringing it before the City Commission because the property is located within the Gateway Corridor. **City Administrator Findell** thinks that point will be brought up for discussion. The appropriate path this request should follow is in question and the City Commission will need guidance from **City Attorney McIntosh**. **City Administrator Findell** said he would like to hear the discussion first.

**Commissioner Cooke** said that he would like to be able to give the pastor of the church an idea of where he was going with this and what the alternatives were, which is why he brought it up before the City Commission tonight.

**Commissioner Benton** mentioned that the church was still in the process of expansion through the PLDRC that hasn't been completed and now there is a request for erecting two (2) portable buildings temporarily for three years that is coming before the City Commission

instead of the PLDRC, which makes things confusing. Rev. Breedlove concurred that he would be asking for the temporary permits to not expire for twenty-four (24) to thirty-six (36) months. **Mayor Duffy** asked the reverend if it were true that he had submitted plans to build a permanent building and Rev. Breedlove answered in the affirmative. He submitted plans to the city and was in the middle of that process but because it was to be built by "cash only," things have slowed down due to the fall of the economy and the money hasn't been forthcoming. He would like to continue to grow his church's membership and then return to the building of the permanent structure when the economy improves. **Mayor Duffy** asked where the permanent building would be located on the property. Rev. Breedlove was going to locate the temporary buildings on the east side which is where they would also build the added square footage to the permanent building. **Mayor Duffy** wondered just how much dirt would have to be removed to facilitate the temporary buildings and questioned the wisdom of placing them in that location because of the slope of the land. She asked if the temporary buildings would be used for a school or for Sunday services. Rev. Breedlove said that they would be used for Sunday services. The second building would be used for storage until there were enough new church members to use it for additional Sunday services, also.

**City Attorney McIntosh** asked if there is currently a building plan submitted to the City of Lake Helen. **City Administrator Findell** said there was a Concept Plan that had been submitted but no further work product has been received for either staff review or anything to be reviewed by the PLDRC. **City Attorney McIntosh** asked if the application had been withdrawn. **City Administrator Findell** answered in the negative. **City Attorney McIntosh** asked if this location was in the Gateway Corridor. **City Administrator Findell** answered in the affirmative. **City Attorney McIntosh** asked if the square footage of the two temporary buildings were seventeen hundred and twenty-eight (1,728'). **City Administrator Findell** concurred that number would be very close. **City Attorney McIntosh** said that which is categorized as "temporary" is generally six months and the reason for temporary designation is in order to make arrangements for permanent construction. He asked **City Administrator Findell** if that was correct and **City Administrator Findell** concurred. **City Attorney McIntosh** then asked if this was a precedent establishing request within the Gateway Corridor. **City Administrator Findell** agreed that would be a concern. **City Attorney McIntosh** then stated that the matter must go before the PLDRC, giving attention to the fact there are building plans within the city, that the property is located within the Gateway Corridor, and that there are seventeen hundred and twenty-eight (1,728') square feet that are contemplated within this area. We also need to know how long "temporary" is. Twenty four (24) months to thirty six (36) months does not meet the declaration of "temporary". **City Administrator Findell** concurred with **City Attorney McIntosh** and added that it has been a primary issue since the request was first made. **City Attorney McIntosh** stated that he was merely going by the code. **City Attorney McIntosh** added that it may be recommended that one portable building be given consideration by the PLDRC but not two (portable buildings). At a later date there may be a necessity for two but at this juncture there does not appear to be a justifiable need for seventeen hundred and twenty-eight (1,728') square feet. Rev. Breedlove asked what the needs were based on. **City Attorney McIntosh** answered that the needs were based on the anticipated use of those two specific portables at this time. As **City Attorney McIntosh** understood the testimony presented by Rev. Breedlove, he anticipated

that the church would need two temporary buildings in the very near future as the ministry grew but that they (additional members) do not exist at this point in time. **City Attorney McIntosh** stated that a lot of times churches are afforded the privilege and opportunity to place a portable for a year and request the opportunity to return to the Commission for an additional period while they are fulfilling their financial and construction needs. **City Administrator Findell** indicated that the PLDRC would probably be concerned about the esthetics of the building and surrounding area because of the Gateway Corridor. He further indicated that a variance may be necessary but if a variance was granted a site plan review might be needed for the expansion of the facility. A site plan review isn't necessary for a storage building. Therefore, it is important to know what the use of a temporary building is to know what path to take to accomplish what is necessary. **City Administrator Findell** indicated that he would be happy to meet with Rev. Breedlove concerning this matter on another day. **Commissioner Cooke** said that he hadn't considered the Gateway Corridor situation and would appreciate any assistance **City Administrator Findell** could offer Rev. Breedlove. Rev. Breedlove thanked everyone for their assistance in this matter.

***D) Consideration of request to approve Resolution 2008-13 establishing residential solid waste collection service rates for FY 2008/2009***

**Commissioner Robbins** said that she thought the rate was going from \$12.92 to \$17plus to \$19plus. **City Administrator Findell** stated that **Commissioner Benton** had raised that question at a previous Budget Meeting and that **City Administrator Findell** had said he would look into it. He did go back and look at it and saw that there were two proposals from Waste-Pro. One proposal would make the jump from \$10.92 to \$17plus. The other proposal was a two-tiered proposal that would go from \$10.92 to \$12.92 and then \$12.92 to \$19.94. The reason they offered two proposals was because basically they said the \$17.74 was where they need to go to make a profit but they realized that the city might not be able to handle a large jump like that so they offered to stretch it out over a couple of years. **Commissioner Robbins** said she checked with other cities and only one was higher but noted they all only had once a week pickup. Orange City will be paying \$259 a year verses our payment of \$239 a year. DeBary has once a week pickup at \$156 a year. Deltona is anticipating raising their once a week pickup from \$120 to \$132. **City Administrator Findell** indicated that the subject of reducing trash pickup to once a week has been before the City Commission several times and each time the City Commission has felt that once a week trash pickup would not serve the citizens' best interest. **City Administrator Findell** noted that a person needs to compare apples with apples and that Lake Helen has double the amount of pickups of other cities. **Mayor Duffy** said that she does remember that the people of Lake Helen do want twice a week trash pickup. **Commissioner Robbins** said that the people are going to be shocked to see that their trash pickup charge has jumped from \$153 to \$239 but noted that these citizens have not attended the meetings to express their displeasure. **Commissioner Cooke** pointed out that **City Administrator Findell** had negotiated a tremendously low cost trash pickup contract five years ago with this company and that's why the company needs to raise the rates now. **Commissioner Benton** said that if he remembered correctly, Waste-Pro stayed with the rate (plus 3% COL) that Waste-Management had been giving us and that Waste-Management wanted to charge us five years

ago the amount that Waste-Pro is now charging. **City Administrator Findell** said that the city might want to renegotiate the contract later on down the line but that at this point we need to plan for next year.

**Commissioner Benton** made a motion to approve Resolution 2008-13.  
**Commissioner Cooke** seconded the motion.

**All zones and the Mayor voted yes.**

***E) Consideration of request to approve Resolution 2008-14 adopting the Volusia County Metropolitan Planning Organization (MPO) Transportation Impact Analysis Methodology***

**City Administrator Findell** said that this is a new resolution that resulted from a work effort of the technical staff at the MPO so that cities will be able to have a uniform method for determining traffic impact studies.

**Commissioner Benton** made a motion to approve Resolution 2008-14.  
**Commissioner Robbins** seconded the motion.

**All zones and the Mayor voted yes.**

***F) Consideration of request by Commissioner Robbins to select an alternate representative to attend the Florida Scenic Highway meetings when she's unavailable.***

**Commissioner Robbins** said that she brought this matter before the City Commission because she's going on vacation and the next Florida Scenic Highway meeting is on September 8, 2008 at 8:30 a.m. The group feels that it is important to have each representative there or at least an alternate representative there for the next several meetings. **Commissioner Cooke** volunteered to attend the meeting in place of **Commissioner Robbins** while she's on vacation.

**Commissioner Snowden** made a motion to designate **Commissioner Cooke** as the alternate representative for the Florida Scenic Highway meetings when Commissioner Robbins is unable to attend.  
**Commissioner Benton** seconded the motion.

**All zones and the Mayor voted yes.**

**COMMISSION DISCUSSION:**

***A) Discussion about the most appropriate process for installing the cemetery fencing.***

**Mayor Duffy** explained that there was a conflict when it came to installing the cemetery fence but then said that **Vice-Mayor Snowden** wanted to add an item to the Commission Consideration. **Commissioner Benton** objected because there had been a time when he was not allowed to add something to the agenda.

**Vice-Mayor Snowden** said that he had gotten something in the mail that he wanted to bring up before the City Commission for discussion that addressed the City Administrator's position that had been brought before the City Commission previously. He explained that he felt it was extremely important that the City Commission move forward with this matter. **City Administrator Findell** said that it was a point of order and that if the City Commission wished to discuss it, someone needed to make a motion to place the item on the agenda and the vote would determine if the matter is discussed. **Commissioner Benton** objected because he had asked to place the same subject matter on the agenda but was flatly turned down. He said that he was told he could not change the agenda. His position was that the rules should apply to everyone. **City Administrator Findell** said that any commissioner can make a motion but it would be up to the other commissioners if there is a second and up to the other commissioners if the motion passed before there could be any discussion.

**Vice-Mayor Snowden** motioned that he would like to add an item under Commission Consideration that would be listed as item 7.G. related to a memorandum received from the City Administrator regarding the possibility of his continued employment with the City of Lake Helen.

**Commissioner Cooke** seconded the motion.

**Commissioner Robbins** asked where the document was because she had not seen it. **Mayor Duffy** said that she thought the memorandum had been placed in the Commissioner's boxes around noon and passed her copy to **Commissioner Robbins**. **City Administrator Findell** said he put it in the boxes around 9:30 a.m. **Commissioner Cooke** said he came into City Hall around 9:45 a.m. and it was in his box.

**Mayor Duffy** asked for a vote. **Zone 1 “no”, Zone 2 “yes”, Zone 3 “yes”, Zone 4 “no” and Mayor Duffy voted “yes.”**

**Mayor Duffy** said that she would read the memorandum that was written by **City Administrator Findell**. She said, “It’s a memorandum dated August 24<sup>th</sup>, 2008 to the Mayor and Commissioners from **Don Findell, City Administrator.**”

“As you are aware, on February 21<sup>st</sup>, 2008 I tendered my resignation from city employment effective November 28<sup>th</sup>, 2008. Over the past several months I have repeatedly been asked by members of the community, board members, city staff, and individual City Commissioners if I would consider staying on as City Administrator if the City Commission desired that I do so. In each instance I have indicated that my loyalty to the City Commission and to the best interests to the city has not wavered and that I would be pleased to continue as City Administrator if that is the Commission's wish.”

“Of late, there seems to be some amount of speculation as to the desires of both the City

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Commission and me regarding this matter. While I obviously cannot speak for the City Commission, I would like to end such speculation as it relates to my thoughts by saying unequivocally that I will respectfully withdraw my resignation if that is the desire of the City Commission.”

“Thank you for the support you have provided and the confidence you have had in me.”

**Mayor Duffy** told the audience, “So that is just what we have put on the agenda,” and asked the Commission if there was any discussion.

**Vice-Mayor Snowden** said that he wanted to point out that since the day that **City Administrator Findell** had tendered his resignation, that everyone has continued to rely on his expertise, his knowledge, his assistance to the city over and above the agreement that we had reached with **City Administrator Findell** to perform. He continued that the City of Lake Helen would be hard-pressed to find a replacement for **Mr. Findell** with the myriad of duties that he performs on a day-to-day basis (duties of the City Administrator and City Planner). **Vice-Mayor Snowden** said that no matter what the crises may have been over the years, no one has questioned his ability, his talents, or his worth to the city. **Vice-Mayor Snowden** stated that he felt the city was well-served by Mr. Findell and cited the recent storm as an example. He said the **City Administrator Findell** spent at least forty (40) hours during those three days addressing the needs of the city and coordinating things in an emergency that would not have otherwise been accomplished. **Vice-Mayor Snowden** stated that he thought the city had a good employee with **Mr. Findell** and that his service to the city has been exemplary. It's been recognized throughout not only this community but throughout this entire county and the state of Florida. He continued that one would only need to look where the city was before he came to Lake Helen and where we are today. He added that it was a team effort but that many things this community has today would not have existed if it weren't for the leadership **Don Findell**.

**Commissioner Robbins** thanked **Vice-Mayor Snowden** and said that he had reiterated the same fact fourteen times over the past several months. **Vice-Mayor Snowden** concurred with **Commissioner Robbins**.

**Commissioner Cooke** began talking about the many different times that he has had to call **City Administrator Findell** for advice and that he has thought about what the city would do if it lost Mr. Findell. He concurred with **Commissioner Snowden** that **City Administrator Findell** was at City Hall most of the time during the tropical storm that had threatened the city. He noted that when the flooding of Kicklighter Road happened, it was **Mr. Findell** that was able to get another pump to the site to address the flooding problem. **Commissioner Cooke** added that that he has worked with him and has seen what has been going on. **Commissioner Cooke** said, “So at this time I do feel that keeping **Don Findell** would be a benefit to the city.” He admitted that he had voted to make **Don Findell** an Ad Hoc City Administrator previously, but said that after that vote he realized it would be a big mistake to lose **Mr. Findell**.

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**Mayor Duffy** announced that it was her turn to speak and said, "I was the biggest opponent of **Don Findell** in my running for mayor. I will admit. I have changed my mind. I have worked with **Mr. Findell** since November and I am sorry if you don't agree and many of you are never going to agree to it, the city and the people working here cannot get along without him. He answers a myriad of questions every day. We have had discussions. I have personally, apologized to him for some of the things I had said to him during the election (process). There were things that I didn't realize went on. We have had discussions about some of the things I don't agree with – the way he does them." She added that the city has so much going on and that "we all call on **Mr. Findell** almost every day." **Mayor Duffy** continued, "He was here for our emergency OPS meeting on Monday when we knew we were going to have a storm, which is a major emergency for the city and he was here the rest of the week, every day including Sunday. So, I also will vote to keep **Don Findell**."

**Vice-Mayor Snowden** asked to speak again. He said, "I know that there have been various movements in the past that targeted specifically Don Findell's employment with the city and there is another movement, in the process now that does the very same thing. What bothers me more than anything, I guess, is that the voters go to the polls every single year and they elect representatives to represent the people and seldom, if ever, do the people come individually to the commissioners and bring forth a complaint or a situation or anything that would rise to the level to terminate the employment of an individual. There are clandestine meetings that have led to the circulating of petitions and a variety of things that occur within the community behind closed doors in a sneaky fashion. I resent that as a citizen of the community but not as a commissioner – as a citizen. There is a political action committee that has been formed within the community. Some of the members are present tonight. The sole stated purpose of that committee is to eliminate the City Administrator. This is a group that is registered with the state of Florida, yet they haven't come forward to the representatives (City Commission). I have one point of clarification: This (group) is named the Lake Helen Citizen's Awareness Group. I wanted to asked **Ms. Robbins** if she is a member of the Lake Helen Citizen's Awareness Group." **Commissioner Robbins** responded, "I no longer am Mr. Snowden. I no longer am." **Commissioner Snowden** told her that she is still named on the Division of Corporations website as such. **Commissioner Robbins** repeated that she had tendered her resignation and stated that she had a copy of the resignation that she would be happy to place in his box at City Hall. **Commissioner Snowden** expressed that he would like to see that resignation since the state of Florida still shows her as a member and then asked, "Are you currently Ma'am, affiliated with the Lake Helen Citizens' Awareness Group." **Commissioner Robbins** responded, "No, I am not."

Ed Blackman came to the podium and repeatedly said that Ann Robbins was not a member but that he is a member of the Lake Helen Citizen's Awareness Group, at which time another citizen, Ann Nehrig, joined Ed Blackman and said that she supports him.

Ed Blackman said to **Mayor Duffy**, "You made a promise when you were elected that you

wouldn't change the agenda at the meetings. That was one of your promises, your campaign promises. This issue is an important issue, whether you want to admit it or not. It's an important issue. The citizens of Lake Helen, not just me, but the citizens of Lake Helen and other folks, would like to participate in this discussion. It should have been on the agenda so that other citizens, not just the ones of us that come to the meetings on a regular basis, could attend. You say to everybody that you want to be out in the open (so) let's be in the open. Let's be open on both sides. I'm here right now to say that we're not happy. We think there is a large group of people out there, contrary to what you feel, but we think there is a large group of people out there that feel the exact opposite to the way you feel. We're not going to get anywhere with me saying that or you saying that. The only way we can do it is to get out into the community and find out. And so what we've decided to do recently, is to do just that and get out into the community. Now, if I'm wrong then I will shut-up and the only reason I'm doing it again is that I don't think I am wrong. So, I want us to do this one last thing and if I'm wrong, I will apologize to Don (Findell) myself, okay? Nothing is secret and nothing is clandestine. Nobody has any hidden agendas. I mean I've heard all kinds of rumors. We're being labeled all the time. It's not true so we're here, we're going to be doing this thing whether we're successful with it, the citizens will tell us. And you're right, it's the citizens of Lake Helen who are your bosses. That's all I'm saying."

**Mayor Duffy** began saying that there hadn't been a vote on the matter but was interrupted by a woman speaking from the audience. **Mayor Duffy** responded that the City Commission had not voted on it and that there was not a motion before the City Commission to vote on it. **Mayor Duffy** explained that the matter was just brought before the board today but the woman kept talking. **Vice-Mayor Snowden** explained that the matter was just for discussion purposes only so that the community was advised. **Mayor Duffy** said that she was sure it would be in the newspaper. She reiterated that there wasn't a vote on it and that the community would find out about it. **Mayor Duffy** said, that she was a bit offended by **Commissioner Robbins** because it seemed that all week **Commissioner Robbins** had suspicions that **Commissioner Cooke** and **Vice-Mayor Snowden** had been plotting something while they were actually making decisions on the emergency the city had been facing. She added that the people that were criticizing what was going on, should have actually come over and assisted in putting buckets under the water that was dripping throughout the building.

**Vice-Mayor Snowden** noted that the city has a surplus of about \$200,000 more than before **City Administrator Findell** came to Lake Helen.

Rafine Pierce came to the podium and argued with **Vice-Mayor Snowden** saying that she was against the employment of Mr. Findell. She said, "I stood and said no to him being the City Administrator. I said, not that you aren't good, you remember that, I simply said that I'd love to drive a Cadillac but I just couldn't afford one. And I still can't afford one, but I do all right. But Don, you're that good. Make the money. Prove you're worth the money. Let him make the business decisions we need him to make. We're Lake Helen and we're going down the drain fast."

"I have sat here and listened to this ridiculous childish bantering. Let's just work together and pull this place up out of the drain. I live here. I'm going to live here for a long, long time. Too much of my life is invested in this. I'm not going anywhere and I'll help in any way I can but we just need you guys to run the city." The woman left the podium.

Mayor Duffy who explained to someone in the audience that the city has three different reserve funds that total almost a million dollars.

Vernon Burton approached the podium and stated that he was a citizen of Lake Helen first and a candidate (for Zone 2) second. He said that each member of the commission that ran for office had told the people of Lake Helen what they were going to do and the people voted accordingly. He recalled the meeting where **Commissioner Benton** asked about advertising for a new City Administrator. "He was soundly dismissed" and added that **Commissioner Benton** wasn't counseled that he needed to make a motion, whereas **Vice-Mayor Snowden** was. Mr. Burton indicated that the appearance of what the City Commission is doing is suspect even though it may be completely innocent. He stated, "I'm offended by what went on here tonight" and added that the City Commission needed to be more respectful of the citizens of Lake Helen. He then began to read what he had decided was the job description of a city administrator.

**Mayor Duffy** said, "I just want to remind you that this has not been made into a motion. It was just put on the agenda, I assume, so that the people could hear about it." She added that she thought the matter would be brought up again at the next City Commission meeting.

**Vice-Mayor Snowden** said, "Vernon, if you had been there at the awards presentation where **Mr. Findell** was recognized as the City Administrator of the City of Lake Helen, you would have an appreciation for how his peers and counterparts see him."

Mr. Burton said he had nothing but the utmost respect for **City Administrator Findell** and added that he had told **Mr. Findell** this many times. He then went on at length about the issue being **Mr. Findell's** salary and how **Mayor Duffy** and **Commissioner Cooke** were elected to vote against the continued employment of **Mr. Findell**.

As Mr. Burton continued speaking at length, **Vice-Mayor Snowden** interrupted him and said, "You don't have to politic here." Mr. Burton denied he was doing that and continued speaking for a short time before leaving the podium.

**Commissioner Cooke** asked to speak. He said that he has enjoyed being a commissioner and helping the city. He had thought about the employment of Mr. Findell several times and had only just recently made a decision concerning the matter. **Commissioner Cooke** said that he supports **City Administrator Findell** whether he wins the election for another term in office or not. He added that his decision is based on what is best for the City of Lake Helen.

**City Administrator Findell** said that he wanted to make a comment. He said that he felt that there had been an adequate hearing on both sides of the matter. He simply did as he

promised he would do at the previous meeting and that was to write a memorandum regarding his personal opinion concerning his employment and/or subsequent retirement.

**Commissioner Benton** said his argument was that when he brought up the subject to be put on the agenda, he was told he could not do it so he was forced to talk about it during Commission comments. He said that it had nothing to do with **City Administrator Findell** but it did have to do with **Mayor Duffy**. "The next time I bring something up, and I want to make a motion to put something on it (agenda), don't tell me I can't do it because I'm going to throw this right back at you." He said that he was tired of favoritism.

**Mayor Duffy** responded by saying that she did not know what he was going to put on the agenda but **Commissioner Benton** disagreed.

**Mayor Duffy** asked **City Attorney Ken McIntosh** what the City Commission should do next. **City Attorney McIntosh** said that the first thing he wanted to bring to her attention was the agenda for the regular meeting of August 21, 2008, which is like all the other agendas and says that the City Commission may take action on any matters concerning city government at the meeting. **City Attorney McIntosh** said that if the chairperson indicates to **Commissioner Benton** that he cannot add something to the agenda, he needs to challenge the decision of the chair. At that point a vote would be taken on the decision that was made by the chair. Regarding the memorandum written by **City Administrator Findell** and dated August 24, 2008, **City Attorney McIntosh** said it was now on the agenda because it had been approved by a vote of three to two.

**Vice-Mayor Snowden** said that his intention of placing this matter on the agenda was simply to make the City Commission and the public aware of the decision that **City Administrator Findell** expressed in his memorandum so that there would not be any suspicions or accusations that things were being done under the table or behind closed doors. "I have never wavered on my thoughts about **Mr. Findell** and his value to the community." He said that it was his opinion that trying to replace **Mr. Findell** was short-sighted because it would cost the city in more ways than one. He expressed his confidence in Mr. Findell's leadership. He added that he didn't wish to bring this matter to a vote tonight but just to make the community aware of **Mr. Findell's** memorandum and its contents.

**City Attorney Ken McIntosh** indicated that Mayor Duffy had several alternatives available to her. Number one is to table the matter until the next regular meeting, at which time the City Commission may wish to reject the resignation of **City Administrator Findell**. Another action that could be taken is a motion could be made tonight to reject the resignation of **Mr. Findell** subject to the formal withdrawal of his resignation dated February 21, 2008 prior to the effective date of the resignation of November 28, 2008. He indicated that the law is clear on the subject – that any individual who has tendered a resignation, may withdraw it at any time prior to the effective date. The second matter that needs to be considered is the separation agreement that had been entered into between **Mr. Findell** and the City of Lake Helen. He advised the City Commission that if they take action in reference to the resignation of **Mr.**

**Findell**, they would also need to take action in reference to the separation agreement declaring it null and void.

**Commissioner Robbins** motioned to table the matter until September 18, 2008.  
**Commissioner Cooke** seconded the motion.

**All zones and the Mayor voted yes.**

**Commissioner Snowden** made an apology to anyone that may have gotten upset by what he had said and explained that it was not his intention to hurl accusations about anyone.

**Mayor Duffy** also apologized and explained that it is difficult to listen to negative statements made about the city and its' employees on a daily basis.

#### **COMMISSION DISCUSSION:**

##### ***A) Discussion about the most appropriate process for installing the cemetery fencing.***

**Mayor Duffy** asked **Commissioner Cooke** if he would like to start off the discussion and he agreed. **Commissioner Cooke** explained that he had been on his way to a job site when he noticed Tammy Johns and Chris, his helper, installing the cemetery fencing. He also noticed that the iron posts on the truck had not been painted on the bottom and asked Chris about that. Chris had responded that Mr. (Ed) Blackman had said the bottom didn't need to be painted and therefore, they were going to put the fence up without the paint. **Commissioner Cooke** then noticed that Tammy Johns had the fencing in his truck. **Commissioner Cooke** asked Mr. Johns if the fence had been scraped and painted on the bottom. Mr. Johns indicated that Mr. (Ed) Blackman had advised Mr. Johns to install the fence, then scrape and paint them later. **Commissioner Cooke** then asked Mr. Johns where the cement was that would be used to hold up the posts. Mr. Johns responded that Mr. Blackman was supposed to give him one hundred dollars (\$100) to purchase the cement a week or two previous to this discussion but hadn't so he wasn't able to buy the cement. **Commissioner Cooke** asked Mr. Johns how he was going to install the fence without cement or painting the bottom of the fencing as agreed upon at the City Commission meetings. Tammy Johns responded that he didn't know and that he was just doing what he was told to do. **Commissioner Cooke** said that Mr. Johns' helper, Chris, said the same thing. **Commissioner Cooke** said he suggested that they call Mr. Blackman and **Commissioner Cooke** spoke with Ed Blackman. He said he asked Mr. Blackman why the posts weren't painted on the bottom. **Commissioner Cooke** said that Mr. Blackman said he had discussed the matter with the workers and he had decided that the easiest way to do it was to put up the fencing first, then scrape and paint it. **Commissioner Cooke** disagreed with Mr. Blackman and felt that Mr. Blackman was not doing the job as agreed to with the City Commission. **Commissioner Cooke** expressed his frustrations with the cemetery fencing project including when the fence had been installed in the wrong place. He said another item that irritated him was that when the decision was made to put the fence up in the open area over the graves, he had not been invited to that

meeting. He added that because the decision was made without him, the fence had twenty-three (23) turns instead of eight (8).

**Commissioner Cooke** said that to date, because the fencing hadn't been installed properly, the City of Lake Helen has spent over seventy-two hundred dollars (\$7,200).

**Commissioner Cooke** called **City Administrator Findell** while he was still at the cemetery with Tammy Johns and his helper, but Mr. Findell didn't answer. **Commissioner Cooke** said he had to make a decision so that the fencing would be done the way the City Commission agreed it should be done. As a City Commissioner and for the betterment of the City of Lake Helen, he held up the process instead of allowing the fence to be put in the wrong way.

**Commissioner Cooke** said he still feels he made the right decision.

He later said that he called **City Clerk Nancy Wilson** who, in turn, called the other commissioners. He said that **City Clerk Nancy Wilson** called him back and told him the other commissioners agreed with his decision.

After the fencing project was halted, a letter was sent to **City Clerk Nancy Wilson** from Mr. Blackman stating that **Commissioner Cooke** had stopped the job. Another letter was then sent to **Mayor Duffy** from Mr. Ed Robbins (husband of **Commissioner Ann Robbins**), saying that he had heard from Mr. Blackman that **Commissioner Cooke** had halted the cemetery fence project.

**Commissioner Cooke** said he wanted to make it clear that he did not halt the fencing project on his own, but was supported by the other commissioners. He then began reading from the letter signed by Ed Robbins. It says, "I was approached many months ago by Ed Blackman as to what type of paint to put on the fence. I gave him materials to use or try, that worked very well. Then he wanted to know about cleaning and painting the panels. Wray Schaeffer and I volunteered to do the cleaning and painting at no charge). When inspecting the panels with Ed, we found that it would be easier, as we have a special needle-scaler to clean the metal and prep it for paint, after they were erected as the panels are very large."

"So today, the work came to a screeching halt as Commissioner Cooke stated he wanted it done the right way. I did not wish to get any pats on my back and asked Ed (Blackman) to please not mention our names. We're just going to get it done."

"I hope you can pass this on to the other commissioners. I hope this can be addressed. **Commissioner Cooke** is making decisions on his own, on the spot and it seems to cost the city more money every time he does this."

**Commissioner Cooke** contradicted that statement and said, "**Commissioner Cooke** did not cost the city any money." He said that he had a copy of the May 15, 2008 City Commission meeting where Chris LeMoine stated that he felt the bottom rail would be primed and painted before it was installed. During the Commission meeting of July 17, 2008 it was stated, "Mr.

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Chris LeMoine suggested that the steel going in the ground and surrounded by concrete should have a primer on it also." **Commissioner Cooke** said that he also had a letter from Mr. Tammy Johns to the City Commission. He explained that Mr. Johns is a gentleman that has been in the fence business for many years. **Commissioner Cooke** read, "This letter is to confirm that I feel that the bottom of the iron fence sections that are going to be installed in the cemetery needs to be prepared and painted before installation." **Commissioner Cooke** stated again that he stands by his decision.

**Mayor Duffy** called on Mr. Ed Blackman to approach the podium. He said that in his email that he had sent, he referenced how the steel posts would go into concrete. "I never told them not to put them in concrete." He said that Wray Schaeffer and Ed Robbins have been working with fences and metal for years. There had been many meetings with different people concerning the difficulty of working with and painting such large sections of fencing. He said that Tammy Johns has told him personally that he does not get involved with painting, so Mr. Blackman was surprised that Mr. Johns wrote that letter.

He said that Mr. Johns referred him to another man who does painting and Mr. Blackman said he called the man many times but was unable to make contact with him. Later, **Commissioner Cooke** disagreed with this statement and said that Mr. Johns brought the painter from Lake County to Lake Helen to meet Mr. Blackman. **Commissioner Cooke** said that he talked to the painter and the painter tried to call Mr. Blackman three (3) different times. **Commissioner Cooke** said that he talked to the painter personally.

Mr. Blackman said he still feels the fence should have been installed in concrete prior to prepping and painting. He said that the job would have been done in three (3) days. He said he realized that it wasn't how **Commissioner Cooke** wanted it but that he and **Commissioner Cooke** had discussed it numerous times. "As a group we felt this would be the most cost-effective way to get the fence up." He added, "I don't want to go any further with these discussions. If you feel you want to take the project and get the project done in the next couple of weeks, that's fine. Are you willing to do that?" **Commissioner Cooke** responded in the affirmative. Mr. Blackman asked, "At no additional cost to the city?" **Commissioner Cooke** said that there would still be the cost of the paint. Mr. Blackman responded, "I promised the Commission that it wouldn't cost them any more than what I asked them for the last time." **Commissioner Cooke** responded, "\$8,000." Mr. Blackman said, "We've given the city \$5,000." He said that he has wanted to erect a cemetery fence for over two years but it's been constant talking with little action. Mr. Blackman said, "It's a fence for crying out loud. It's going to out-live you and I twice over." **Commissioner Cooke** responded, "Not if it rusts and falls down, it won't."

Mr. Blackman and **Commissioner Cooke** continued to disagree for several minutes. Mr. Blackman said he felt like he was being kicked in the face. **Commissioner Cooke** responded that he thought Mr. Blackman was more professional than he's recently demonstrated.

Voices became louder and **Mayor Duffy** pounded the gavel several times. **Commissioner**

**Benton** said the matter was becoming ridiculous and suggested that if the two gentlemen wanted to paint the fence the way that is easiest for them, then let them do it as long as the end product is the same. He said he understood that **Commissioner Cooke** had gotten a bid of \$5,000 to paint the fence and objected to the city putting in any more money on this fencing project. He added, "To set something straight, I never heard about this incident until Mr. Cooke stopped the job. Nobody called me and asked me about it." He said that it wasn't true that all the commissioners were called. **Commissioner Benton** added, "You authorized something that you didn't have the right to authorize, spending \$3,200. No other commissioner knew about it."

**City Attorney Ken McIntosh** advised **Mayor Duffy** that if she wanted to take action on the matter, it needed to be added to the agenda. He continued, "The stay order that was entered by Mr. Cooke on the 12<sup>th</sup> day of August, 2008 needs to either be affirmed or reversed. If the stay order is affirmed then Mr. Cooke is going to take over responsibility for the fence. If it is reversed then Mr. Blackman's group known as the Ad Hoc Cemetery Committee is going to finish the job in accordance with all the information that has been shared with this commission from the on-set of the cemetery job."

He indicated that the matter needed to be added to the agenda as 7.H. **Mayor Duffy** asked for a motion change item number (on the agenda) from 8.A. to 7.H. **City Attorney Ken McIntosh** said the item should read, "Action on the cemetery fence."

**Mayor Duffy** asked for a motion to that effect. **Commissioner Benton** said, "So moved." **Commissioner Cooke** seconded the motion.

**Mayor Duffy** explained that this motion was to put the matter on the agenda.

**All zones and the Mayor voted yes.**

**City Attorney Ken McIntosh** said the next item to be addressed is the stay order that was entered in by **Commissioner Cooke** on August 12, 2008. He advised the City Commission that they needed to take action with reference to that stay order. "You either confirm it or you reverse it."

**Commissioner Benton** motioned to reverse the stay order.  
**Commissioner Robbins** seconded the motion.

**Zone 1 "yes", Zone 2 "no", Zone 3 "no", Zone 4 "yes" and the Mayor voted "no."**

**City Attorney Ken McIntosh** said that the City Commission needed to take action with reference to the future of the cemetery fence project.

**Commissioner Snowden** commented that the cemetery fence has been a big issue for a very long time. He talked about when Ms. Dene Masters originally came before the City Commission because she wanted to fence in the cemetery to preserve and protect it. "Our

former mayor got a grand deal on some metal fencing from Disney World that was fantastic and (now) I wish they had kept it. We wouldn't be having all these problems.” He added that he thought **Commissioner Cooke** did what he thought was right in stopping the project but wanted the volunteers to know that the City Commission does appreciate all that they have done even though there may be times the volunteers don't feel that way. He said that he personally appreciated all of the efforts that all of the volunteers have made. “Let's not divide ourselves over something that was meant to be good. Let's look for solutions.” He felt that the project had taken too long to complete.

**Mayor Duffy** asked the audience when the cemetery fence project was started. A member from the audience told her it started two years ago.

**Commissioner Robbins** said she didn't know if she should make the motion considering her husband had volunteered his time but said that she felt Mr. Blackman has more than dedicated himself, not only to this project but to Hopkins Hall which turned out magnificently.

**Commissioner Robbins** motioned that Mr. Ed Blackman be allowed to be the Ad Hoc Cemetery coordinator and to finish the fence.

**Commissioner Benton** seconded the motion.

**Zone 1 “yes”, Zone 2 “no”, Zone 3 “yes”, Zone 4 “yes” and the Mayor voted “yes.”**

There was a discussion that took place between Mr. Blackman and **Mayor Duffy** concerning what would be done with the left-over fencing panels. Donating them to another cemetery was discussed but **Mayor Duffy** wanted to make sure that some of the panels remain in Lake Helen in case the fence is damaged in the future. **Commissioner Benton** said that the city cannot give away property without permission from the taxpayers or commission approval. **Mayor Duffy** concurred.

**B) Discussion about calling a special meeting of the City Commission and the Charter Review Committee to discuss Lake Helen's City Charter.**

**City Administrator Findell** suggested Tuesday, September 16, 2008 at 7:00 p.m.

**Commissioner Snowden** said that he continues to challenge the establishment of the Charter Review Commission. He indicated that he continues to believe that we have a firm and sound charter that is consistent with other charters throughout the state of Florida.

**Commissioner Snowden** said that he felt the commission spent a lot of time accomplishing little.

#### **STAFF REPORTS:**

**Commissioner Cooke** began speaking about the cemetery fence, the moving of dirt in the area, and grading it. He said that he hoped the City Commission made the right decision with the way they voted.

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**Commissioner Snowden** said he wished **Commissioner Cooke** had provided that information prior to the vote.

**Commissioner Cooke** said that he would be happy to work with Mr. Blackman to ensure that the fencing comes out right.

**Commissioner Snowden** said that being a commissioner is a thankless job. He told the audience that they can think they would do things differently but that when they actually sit in the seat as a commissioner it is different. "You try to do the best that you can and hope that you can do the best that you can to serve the entire community. It's not easy. Get on the ballot. I'll be one of your biggest critics."

**Commissioner Benton** said that he had a couple of suggestions that he believed were made by Rob (of the local police department) during a meeting. He said that the City of Lake Helen needed to write some ordinances where Lake Helen would receive 100% of the fines instead of only receiving 30% from the county. **Commissioner Benton** suggested that the city could use a section of the Lemon Well property as an impound lot and further stated that something should be done about people who sign a complaint but then do not appear in court. This costs the city extra money while the case is thrown out and the police officer is sitting in a courtroom instead of patrolling the streets. **City Administrator Findell** said he would talk with Rob about these items.

**Mayor Duffy** said she received three bids for appraisals that came in too late to put on this agenda but they'll be on the next agenda. **Mayor Duffy**, addressing Commissioner Robbins, said that it had been brought to her attention that City Hall (and Hopkins Hall) is the only city-owned building that has a flag and if we buy a flag for Melissa Park we have to consider these other buildings too.

***a. City Attorney***

**City Attorney Ken McIntosh** referred to the Robinson vs. The City of Lake Helen case. He said that the Florida League of Cities Consortium had assisted him and **City Administrator Findell**. He said that the defense of that case has been turned over Dean, Ringers, Morgan & Lawton and the lawyer assigned to it is William Lawton. The Robinson case is being transferred to the Middle District of the Federal Court in Orlando. "We are getting very serious about the litigation that is being instituted against the City of Lake Helen." The case of Troy vs. The City of Lake Helen is before the Circuit Court of Volusia County now.

***b. Police Chief*** No report.

***c. Ad Hoc City Administrator***

**City Administrator Findell** said he would be meeting with William Lawton this week. He also has a meeting scheduled with other managers and administrators in Volusia County regarding changes to the FEMA regulations.

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**d. Code Enforcement Officer** No report.

The regular meeting of the City Commission of the City of Lake Helen, Florida was adjourned by **Mayor Duffy** at approximately 11:15 pm.