

**REGULAR MEETING
LAKE HELEN CITY COMMISSION
September 3, 2009
7:00 P.M.**

MINUTES

CALL TO ORDER
Mayor Duffy

INVOCATION AND PLEDGE OF ALLEGIANCE
Vice-mayor Snowden gave the invocation and led the Pledge of Allegiance

DELETIONS OR MODIFICATIONS TO AGENDA
None for this meeting

COMMISSION ANNOUNCEMENTS
None for this meeting

MINUTES
July 21, 2009

Commissioner Robbins had two corrections: "On page 1, I don't believe City Attorney Groot was at that meeting and on page 7, I thought our minutes were pretty much verbatim but on the very first paragraph where we were talking about the communication tower, I made a comment that putting \$24,000 in the budget for something we didn't know anything about was like me giving a \$50,000 donation when I won the lottery." The **City Clerk** told Commissioner Robbins that she said that statement about the lottery at the July 29th meeting, not the July 21st meeting. **Vice-mayor Snowden** said he had no comments and **Commissioner Robbins** said to him that he left that meeting early because of his sister.

Commissioner Robbins made a motion to accept the minutes as amended
Commissioner Burton seconded

All zones and the Mayor voted yes

CONSENT AGENDA:
Bills – September 3, 2009

Mayor Duffy said, "The bills this month are General Fund: \$7,570.84; Utility Fund: \$6,909.88; Stormwater Fund: \$0 and Café: \$8,170.16." **Commissioner Burton** commented that the monthly power bill is not on the list to which **Commissioner Robbins** replied that it will be on the next set of bills. **Commissioner Burton** said the copy machine bill last month was \$194 and in August it was \$102. Why does that vary from month-to-month? **Commissioner Robbins** said it depends on the number of copies that are made. **City Administrator Findell** added that it also depends on which copy machine you're talking about because both the Police Department and City Hall have copiers. **Commissioner Robbins** added that the normal amount was \$102.

Mayor Duffy pointed out that the June/July bills from Halifax Humane Society totaled \$2009.81. “We’ve got to do something about that somehow.” **Vice-mayor Snowden** said, “I believe, Madam Mayor, that the Code Enforcement Officer and the City Administrator negotiated this bill down by about \$400. I agree that we need to start addressing something related to the animals that are at large.”

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

All zones and the Mayor voted yes

PRESENTATIONS

None for this meeting

BI-MONTHLY REPORTS:

City Engineer – no report

Local Planning Agency (PLDRC) – no report

Historic Preservation Board – no report

Parks and Recreation Board

Sean Abshire, Parks & Recreation, Vice-chairman – “I just want to remind you all that the closing ceremonies for the kickball league are on September 14th at 6:30 pm at Mitchell Brothers Sports Complex. I’d like it if you would all attend.”

PUBLIC FORUM

*Karen Greer, Boys and Girls Club
493 S. Lakeview Drive*

“This is the first Commission meeting I’ve attended since last spring. We were closed for the summer but we recently reopened at the beginning of the school year. We have 31 registered members at this time with 19 spots available. I just want to let you know that we have a few things coming up. We applied for the 21st Century Learning Center Grant that we were recently awarded. It’s a very prestigious grant to get for an afterschool program. It’s not awarded to a lot of agencies. There are a lot of stipulations and strings attached. We’re going to take those strings and run with them as best we can. What that means for us and what that means for the City of Lake Helen is a 21st Century Learning Club will be put into all the clubs in Volusia County. This will open the door to more opportunities for our kids. Sylvan Learning Center will be onsite two days a week to tutor 2nd to 5th graders. We will be able to pick the kids who we think will benefit from tutoring the most. This is a change from some of the other tutoring programs. With the awarding of this grant, we will be able to hire more staff in Lake Helen and will be able to accept more than the 50 kids we are currently limited to. Keith Chester, Kelly Zender, our CEO (Mr. Sullivan) and I will be meeting next week to discuss the partnership we’ll be making with the Café. The goal is to mesh our programs and see what we can do for each other so that we can reach a broader audience. They have the Teen Program, we’ve got the elementary school kids, so

we're hoping to blend the two and get more involvement. There is more information coming out about the 21st Century Learning Center and as I get it, I'll pass it along. This is a really good thing. There are not many Boys and Girls Clubs that get this grant. Something else that's coming up is a golf tournament on October 12th. We are looking for people who want to sponsor a hole. You'll get a 3'x5' banner with your name on it showing that you are a sponsor which is a good way to advertise your business. Also, Kid's Day is coming up on September 14th. For this one, we won't be in Lake Helen because we're looking for more staff. Once we get more, you'll see more community based events in Blake Park. Another effort is that we are hoping to do things in Lake Helen during October around the Fall Festival when we'll hopefully partner with the Parks & Recreation Board. Our fifth graders are going to be doing something called Torch Club which is a community service based program. Kids are taught leadership skills. They will elect a president, vice-president, secretary and treasurer for this Club. They'll learn how to conduct meetings so I may bring them here. Most important, we are going to be seeking out community service projects. Please let me know if you have any ideas for projects. They have an opportunity to win a national award for \$10,000, that will go to the club, and some incentive gifts for their hard work. We're looking for projects that will benefit Lake Helen. Finally, the kids made thank you cards for you, for all you've done for us over the last 10 years (she handed the cards to the City Clerk)." Keith Chester said, "Karen has been doing a wonderful job in our community. She's one of the best directors we've ever had and she does a lot of special things for our children. Please applaud her."

PUBLIC HEARINGS

None for this meeting

COMMISSION CONSIDERATION:

Consideration of off-site parking surface associated with the proposed tavern at 210-220 Cassadaga Road.

Mayor Duffy said, "The only thing being heard and discussed tonight regarding the proposed tavern is the parking. Nothing else will be discussed." **City Administrator Findell**, "The information in tonight's agenda packet is the same information that was supplied to the PLDRC for their meeting regarding this same matter. The package of material indicates where the site is and some of the issues associated with the offsite parking. Here's an overview of the issue: Mr. Randy Henry, desires to open a tavern at 210-220 Cassadaga Road in the old Babbington building. It was originally permitted as the Stoll building. It's been there since about 2001 and historically it's been separated into two offices. Mr. Henry desires to use the building to open a tavern. When he came in to talk to me about the proposed use, we went over some of the considerations that we have to go through from an administrative point of view but primarily whether the Health Department has approved the septic tank for the use and whether sufficient parking is available for the use. In this particular instance, what we found was that the proposed parking or the parking area that is located onsite is not sufficient for the proposed use. The code requires that parking for a tavern be such that you have one parking space for each 75 square feet of building area. This particular building is 2700 square feet and therefore it would require 36 spaces. There are 10 spaces onsite. One of the provisions in the code that is available to Mr. Henry relating to offsite parking is a

scenario whereby you can share parking facilities with an offsite, adjacent use so long as the hourly demands and the daily demands are different for the two uses. When he originally explored that option, he considered using the parking lot at Brecht's Meat Market. It is located across the street on the east side of Euclid Avenue. He considered also using an open field that belongs to Dane Roberts. It is an open field next to Dane Roberts' building. The area at Brecht's Meat Market is an existing parking area, however, the hours of use and the hours that the bar would be operating on a daily basis would conflict to some extent with the hours of operation of Brecht's. That did not appear to be a viable option in providing offsite parking for the proposed tavern. However, the field across the street next to Dane Roberts building is a better piece of property so he proposed using that particular area for parking. The code requires that the parking area be surfaced, that it meet the requirements of the City stormwater requirements and that it follow the City's landscaping provisions. Before he could go much further in determining what the cost of opening his business would be, he needed to have some input as to what type of surface was going to be required of him on Dane Roberts property if he was able to enter into a lot binding agreement with him. So, while the code has a default position that the parking area be a paved surface or other stabilized surface, it also provides that the City Commission can approve an alternate paving surface. We discussed this at a previous meeting and you requested that the issue be taken to the PLDRC so they would provide you with a recommendation. It was subsequently discussed at a PLDRC meeting last month and after two hours, the PLDRC was uniform in their recommendation that the parking area be surfaced. Their recommendation was that the parking area have a pervious surface such as crushed rock, pea gravel or cut crushed concrete materials and that it be subject to the City Engineers approval. Unfortunately, the PLDRC had six members voting that night so after two hours of discussion their opinion was split as to how many spaces should be surfaced initially. The proposed business is limited in the number of seats that it can have at the present time because the septic system is not sufficient to provide for maximum use of the facility. As a result, the Health Department said that the business would be limited to 14 seats. Because the business would be limited to 14 seats initially and could not expand until such time as the Health Department approved a plan for expansion of the septic system, one thought was that the surfacing of the parking area could be phased and that it would be appropriate to phase that parking. The suggestion was made that 14 spaces would be surfaced initially and 12 spaces would remain in grass. Later, at such time that the City determined that those grass spaces were being used routinely, the remaining 12 spaces would be required to be surfaced. The other argument was that phasing would be an administrative headache so why not just have them surface the entire parking area at the outset. Ultimately, after making a number of motions back and forth the PLDRC realized that they were deadlocked so they requested that I advise you of such and so the issue comes back to the City Commission with a recommendation that the parking area be surfaced with a pervious, stabilized surface and the Commission can decide whether it should be phased or whether that surfacing should occur at the outset. Just for sake of edification, the use itself, as I've tried to explain to individual Commissioners and other interested parties, is a permitted use within the land use district where it's located. It's located in the downtown commercial land use district and that use is specifically permitted so as long as the use can meet all of the requirements of the code, the City has no authority to

deny the operation or the use.” **Vice-mayor Snowden** said, “I’ve evaluated what the PLDRC did and the information provided by staff on the permitted use and received a lot of phone calls with concerns about this issue. I have also spoken with the owner of the parcel being considered for additional parking, Dane Roberts. He indicated to me that should that amount of work be required and if it binds his property to the application of that business then he would not be inclined to allow his property to be used for that purpose. He has intentions of selling that property and does not want to bind that parcel to that business at this time. I don't know if there's been any change to that but that was as of yesterday. On the other hand, matching the parking requirements of 36 spaces to the square footage of the building when the tavern can only accommodate 14 patrons at a time seems excessive. It doesn't seem like he would need that many working spaces if he can only accommodate 14 patrons. But if he is able in the future to have more people in his tavern then he certainly will need more parking places. I don't really favor a phased approach on parking because it will require continual oversight. Let's just say his business thrives and he gets more and more customers, it will have to come back to the Commission and be addressed time and time again and debated and argued back and forth as to how many more pervious parking spaces are required. If Mr. Henry has additional property available, be it Mr. Roberts' or his own, it would be my suggestion that he comply with the maximum amount of parking spaces required by the code. Otherwise, we will debate this back-and-forth time and time again.” **Commissioner Burton** said, “It was my understanding that the consent agreement among all parties involved was already settled. But what you just said, Vice-mayor Snowden, is that one key part of the parking has pulled out because he cannot or will not bind his property to the tavern which would mean that if the tavern is successful that he could not sell that property without the binding agreement being tied to the deal. It was my understanding, too, that the agreement was to be reviewed by City Attorney Groot to ensure that the wording was such that the City would be protected by that binding agreement. If that binding agreement has not been signed to the satisfaction of our attorney, it would not be something that we should be discussing.” **City Administrator Findell** said, “The issue with the agreement is one to be resolved. Mr. Henry has been given a copy of the binding agreement. He has not secured that agreement yet but that's ancillary to this discussion. He may still be able to secure that agreement or he may not. The issue at the moment is that if he is able to secure parking, whether it's on this parcel or on the adjacent parcel, both of which are open fields, what is he going to be required to do as far as the surface treatment is concerned. That will tell him what it's going to cost for him to comply with the code so it gives him one more bit of information to move forward.” **Commissioner Lane** said, “Since the parking spaces at Brecht’s have been removed from the equation, those additional spaces will be required on the Robert’s property which will be a significant amount of space.” **Mr. Findell** said, “In our estimation it will take most if not all of the open area on the Roberts property to provide for 26 spaces so that is considerable and it would be some expense for the surface treatment. You have the additional expense for stormwater management, landscaping and irrigation that would be required to meet the provisions of the code also. But, again, it's really hard for him to move forward in terms of his cost analysis if he does not know what is required of him as far as the surface treatment is concerned.” **City Attorney Groot** said, “To go with what Vice-mayor Snowden said, if there is no ability to have off-site parking and if there is no binding legal agreement between this site and some other

site that provides for adequate parking, the question about surface material is moot and not even necessary to answer. I think that's Vice-mayor Snowden's point." **Mr. Findell** said, "I would disagree with that, I think that information would be valuable to the applicant." **Mr. Groot** added, "There is no doubt that a decision would be beneficial to the applicant for his decision-making process. However, this Commission could say we are not going to consider this issue about what type of surface until we see a binding agreement. So you could take that position and it would be a completely legitimate position to take and that's what I thought the Vice-mayor was saying." **Mayor Duffy** asked Mr. Henry if he owns the building to which he responded that they are leasing it. **Mr. Groot** added, "The lot binding agreement would have to include the owners of the properties involved, not just the lessees." **Mr. Findell** added that the City would also be a party to the agreement. But the agreement is between the owners of the property not the tenants. That's what binds the properties together." Mr. Groot continued, "If Mr. Roberts were to decide that he did not want to tie up his property, that's reasonable because his title is tied to the abutting property. To unbind it takes all parties involved in the initial agreement." **Commissioner Robbins** asked if that parcel is all one parcel or is the area that would be parking separate. The answer was that it was separate. She added that if Mr. Roberts wanted to sell his property, he'd probably need that area for additional parking. **Mr. Findell** said "The lot binding agreement would tie his hands as to future use of the property. What Lonnie said, I agree with in terms of the technical and legal basis for that statement but we have generally taken a position to try to assist individuals who wish to open a business to the extent that we are able to. The caveat being that they still need to comply with the requirements of the code to open a business. In this particular instance, it was brought to you and brought to the PLDRC because the code provides that the City makes the determination as to what that surface treatment is if the owner doesn't wish to put down asphalt which they obviously do not." **Mr. Groot** said, "I'm not arguing against that but there is no obligation to make any decision tonight. The owner or the tenant is not entitled to this decision before the other agreement is made. You have two options: One is to decide if there was a lot binding agreement with the Robert's property, what type of pavement would you require and would you allow it to be phased. The other option you have tonight is that you would determine as a matter of policy that you would not be considering anything until you saw a lot binding agreement with that particular piece of property. Those are really the two options you have. One is to make the decision as to what type of pavement, whether it's phased if it's the Roberts property and the other is that it's premature to decide." **Commissioner Burton** said, "Until Vice-mayor Snowden interjected that the property owner may not be willing to bind his property, we were to decide what surface material Mr. Henry would use. I was under the impression that an agreement had been submitted and was ready for legal review to ensure the City was protected." **Mr. Findell** said, "I can address the issue about the hours. Let me talk about the lot binding agreement initially. The original lot binding agreement that was prepared was provided to Mr. Henry. This lot binding agreement was executed by Mr. Rodriquez from Brechts, Dane Roberts and Mr. Henry. When he brought it back to me I indicated that that would not suffice and the reason it would not suffice is because the agreement has to be between the owners of the various properties not the tenants so I prepared new lot binding agreements that specified those individuals and gave it back to him to secure if he was able to. The decision, as it relates to the viability of Brecht's meat market, was

an administrative decision that even if he was able to secure a lot binding agreement with Mr. Rodriguez, who was the owner of the property, that parking area could not be used in the manner in which it was proposed because the hours of use would conflict; the hours of use of the meat market and the hours of use of the tavern. Therefore, from an administrative standpoint, I wouldn't be able to approve that. That's what put it into the arena of being able to secure an area such as Mr. Roberts or the area that is immediately south of the proposed tavern. That's where we are." **Vice-mayor Snowden** said, "Mr. Henry has gone back and forth with the City with what would be required and what he needs to do and I'm sure he's encountered a lot of expense. What we're really faced with according to the agenda is the consideration of the parking surface. If we could at least provide him with that information so he can plan and make informed decisions. My recommendation would be, in the event that Mr. Henry does secure other property that can be used as parking, that we hold him to providing adequate parking and in my opinion that he be held to all the parking places that he needs. He needs 26 additional spaces and if he goes away knowing that he will have to provide a surface and he is willing to undergo the expense of all the bumpers and landscaping and irrigation and swale, at least he knows what he is facing. I know when Commissioner Cooke was up here we accommodated people and didn't require paved parking. There are other services available that will meet the requirements of the code. If we could come to that decision it would at least give Mr. Henry the knowledge that this is where the City is going." **Mr. Findell** said, "There are only two areas that are viable: One being Mr. Roberts property and the other property that's immediately south of the proposed tavern property. Both of them, for all intents and purposes, are open fields and in order to use them within the parameters of the code, they would have to be developed as a parking lot just as any other development would be required to have a parking lot. From a staff standpoint, if the Commission is able to provide me with that guidance whether it's this particular property or another property in the future, I've got something that I can convey to an interested applicant in the use of an individual property." **Vice-mayor Snowden** repeated that we don't even know if the property owner will enter into an agreement with Mr. Henry. **Commissioner Lane** said, "Perhaps we could each state our opinion and go from there or we could take a vote that would be binding on us in the future. It's more of a concept vote rather than a specific vote because we don't have enough specifics in front of us but I don't have any problem with making a concept vote." **Commissioner Robbins** said, "I spoke to Don through e-mail yesterday in regard to a map which he advised me that Mr. Henry would have to make up to show the ingress and egress for the parking area. I did check today in the code and there is and I know we are only supposed to be talking about the actual surface but there is... I would like him to know because I think you deserve to have all the facts up front and there's also a lighting provision which would mean that you have to put lighting in. To provide illumination which meets safety standards as prescribed by Volusia County in place before a CO is issued. So there is another thing. I think you need to get a set of our design standards and all of that so that you know exactly where you're going and what you are going to face. I apologize that you couldn't get a definitive answer from us. It's a hard decision to make when we don't have all the facts. I too was under the impression that there was going to be provided a lot binding agreement which would have made it a lot easier. That's my take on it."

Commissioner Lane said, "It's not necessarily incumbent upon us but in some way it is

incumbent upon us to be a business friendly community. I would like very much to give them all the information that we reasonably can. We can't go too far down that road necessarily but we should go as far as we can. I would agree with Vice-mayor Snowden that if we are going to allow a business to open, creating infrastructure up front is a reasonable requirement. In this instance, with only 14 seats, I don't think he's really going to need this many parking spaces. So the business friendly part of me would like to say let's phase it in because he probably wouldn't ever have to surface that much. It does create friction when he's got to come back before us. We don't really have a mechanism for follow-up. That puts us in a difficult situation. I think we'd be better off going with what the code requires up front." **City Administrator Findell** said, "The staff recommendation was that, prior to the issuance of a certificate of occupancy for the tavern proposed to be located at 210/220 Cassadaga Road, 14 spaces in the parking area proposed to be located on the Dane Roberts parcel at the southeast corner of Euclid Avenue and Cassadaga Road, are to be surfaced with a dust free, pervious, stabilized material approved by City staff and the City Engineer. Also, that the remaining parking spaces proposed to be located on the Roberts parcel shall be permitted to remain grass spaces until such time that the City determines that the grass parking spaces are being used on a daily basis. At such time, the City shall notify the operator of the tavern of the necessity to convert the grass parking space to a dust free, pervious, stabilized material approved by City staff and the City Engineer. The operator of the tavern shall cause this surfacing to be carried out within 14 days of said notification by the City." **Vice-mayor Snowden** said, "The only problem I have with that is that if a car enters the parking area and there are 14 spots that are obvious parking spots and there is a grassy area, one would be just as apt to park in a grassy area as they might be to park in the improved parking area." **Mr. Findell** said, "I wouldn't disagree with that but I would say the trigger would be whether those grass spaces are being used in addition to the paved spaces or as an alternative to the spaces but once those grass spaces are being used, that would be the trigger and that would cause the notification to go out that these spaces are being used and they need to be surfaced. It's not our issue to monitor the use of those spaces in the parking area but it is our concern and our issue as to when those spaces should be surfaced if they are being used. I was supporting the position of three members of the PLDRC as far as phasing was concerned because of some of the constraints on the operation of the business. At the same time, I think it's important to note that just because you are restricted or constrained to 14 seats, that may not mean the same as having 14 patrons. You may have an activity there that provides for more than 14 patrons to be on-site at any given time. That kind of speaks to the need of having the additional spaces - to have the full number of spaces as required by the code." **Vice-mayor Snowden** said that vagueness puts another issue into the mix. **Commissioner Lane** said, "Part of the reason the code is based on square footage is that you've got staff, you've got entertainment, etc., so you definitely have a requirement for much more than 14 cars if everybody brought their own car. There's a reason these codes have been developed. The parking to people ratios have been set up by some people who've been doing this stuff for a long time and who know what's reasonable." **Mr. Findell** said, "The code requires, for this type of activity, that you have one parking space for every 75 square feet of building area. That's how you get to 36 spaces." **Mayor Duffy** said, "I know Mr. Henry is going to lease the property and he needs a binding agreement for Mr. Roberts'

property for parking and we're talking about material to surface that parking area. This is not going to be cheap. He could get this parking area completed and Mr. Roberts could find a buyer for the whole piece. I don't understand why anybody would want to get into this mess. But what we are trying to do tonight, if he wants to go through with this and get a binding agreement, is decide what pervious surface he should use. Crushed concrete, stone, gravel, what else?" **Mr. Findell** said, "You don't need to specify what that surface material is going to be. That's why the recommendation was that it be a pervious, stabilized surface that's approved by staff and the City Engineer. The last area that I approved from a site plan or a building permit application standpoint, used a crushed concrete material that was basically formed into something the size of #57 stone. That is a stone that doesn't create dust, it's not friable and therefore it is stabilized, pervious, and it doesn't create additional runoff problems. It's an inadequate surface to run vehicles over on a continuous basis. So we'd be looking at something of that nature. Whether it ends up being that particular material or it ends up being an alternate material, such as pea gravel or larger gravel than pea gravel, as long as it's material that's not dust inducing, it's going to be acceptable. As long as it's a material that doesn't erode. That's why mulch and pine straw is not acceptable, because they deteriorate in time and they are not an appropriate material for long term parking without additional maintenance which then does become an administrative nightmare so that's why we specify what we do." **City Attorney Groot** said, "About the phasing issue. I can draft an agreement that says conclusively that the City determines when more pervious material is needed. What I can't draft is putting money into the pocket of the person who has to do it, so if you do go into a phased improvement, I think it would be good to at least consider whether or not you want to require a bond. So, if the City did decide that more parking was needed, there's a bond that the City could call in the event that the developer either refused or couldn't for financial reasons, do what they were obligated to do. I'm not arguing for phasing, I'm just saying if you do go with phasing, you should consider the requirement of a bond to ensure that the requirement is met at the time it's required." **Mayor Duffy** said, "So what we are saying now is that we should make a decision whether the off-site parking surface is pervious and just leave it up to any agreement that's reached between Mr. Henry and Mr. Roberts if he gets the property since we are only trying to decide if it's to be surfaced or not. Is that appropriate? Is that what we're trying to decide right now? We aren't making a decision on the kind of surface." **City Administrator Findell** said, "Here's what the code says and let me try to put this in perspective. What the code says is 'parking areas shall be surfaced with acceptable materials, shall be constructed in compliance with the City stormwater management regulations, shall contain wheel stops for individual parking space delineation and shall be constructed in compliance with the City's landscaping regulations, that's item 1. Item 2 says, acceptable materials means a durable all weather surface composed of concrete, brick, asphalt, permanent porous grading or other permanent dust free surfaces. So that's kind of the de facto default position. That's what you would be required to do when you submit a development plan if you are developing a new site. However, the City amended the code not so long ago to say the aforesaid, notwithstanding the City, may during the development review process and on an individual project specific basis, consider approval of the use of alternate parking surface area materials. Such consideration shall weigh such factors as surface material proposed, site location, site topography, environmental benefit, size of the parking area,

maintenance requirements, site aesthetics, potential impact on surrounding properties and potential impact on cities rights-of-way and facilities and the hours and days of use of the parking area. And what all that verbosity is saying is that when you consider a surface material that is an alternate to the de facto position of concrete, brick, asphalt, permanent porous grading or other permanent dust free surfaces, that you consider the intensity of use of that parking facility and you consider the topography of the parking facility and you consider long-term maintenance issues. So that's why staff and the City Engineer recommend when you consider alternate surface materials, that those surface materials be pervious because it addresses environmental issues - it allows water to soak into the ground rather than run off so much, and that you consider that they be dust free because you don't want to create a situation where you diminish the requirements of the code and create another problem in that diminishment. And that those materials be a stabilized surface so again if they are not maintenance-free they require minimal maintenance. That ties right back to our recommendation that the City Engineer and City staff determine what the most viable material would be if you wish to go with an alternate surface material. As I told you, the materials that we typically consider are going to be the gravels that are dust free such as crushed concrete. Mulch and pine are not acceptable.”

Mayor Duffy asked Mary Lorenz, who had submitted a card, if she would like to speak on the subject of parking. Mary Lorenz declined.

Victoria Holmes
240 Water Street

“First off, I'm not opposed to the bar I'm just opposed to the location. In the PLDRC meeting on May 31st, **Mr. Findell** added, ‘businesses that will occupy the property will be low key with light traffic’. If you put in 26 spaces then that lot will not be low-key with light traffic. That will create a lot of traffic. Also, I live on Water Street and I want to know what will stop people from parking behind the bar and cutting through - parking on my street, on my driveway - human nature, it's closer than Dane's property is. I have a great suggestion for Mr. Henry, instead of making this place a bar, get with Mr. Roberts and work with him to make his property into a bar then you will have plenty of parking.”

Heather Lindsey had filled out a card but declined to speak.

Lou Benton
Lake Pearl Drive

“The Commission is putting restrictions on a private citizen who wants to open a business when the City doesn't comply with their own ordinances. The parking over here at City Hall has six car bumpers, three of them on the grass. If you take the square footage of this building you would need a hundred parking spaces. The City doesn't comply with their own ordinances. I mentioned this at the PLDRC and what was said back then is that this parking is only used part-time. There's nothing in the ordinance for City Hall or Hopkins Hall that says you can park on the grass part-time. If it does, I'd like to see where it is. So, if the City wants to make the public come in compliance with the city ordinances, the City should come in compliance with its own ordinances to set an example. The City is not setting an example. That's my issue. Go out there and check how many cars are parked on the grass. You've got five employees that work in

City Hall and you've got six parking spaces so that leaves one open. Anybody else has got to park on the grass. There are three over there on the corner that are on the grass. The City is not in compliance. Years back, the City bought that piece of property next to Hopkins Hall for a parking lot. There's not a parking lot there. People park on the grass. You want the public to comply with the same ordinances that the City does not comply with. There's something wrong. I realize the taxpayers own the property and anybody who works in City Hall works for the public but it's still up to the City to comply with their own ordinances. When they remodeled this building, you were supposed to come into compliance. When you put the addition on Hopkins Hall and remodeled inside, you were supposed to come in compliance because the dollars were more than 50%. The City did not come into compliance. So my question is, how can you enforce the law on somebody else when the City does not come in compliance with its own ordinances? You all took an oath to come into compliance and to obey the law which is the ordinance book. There is no difference than when I sat up there and took the same oath. It's not to break the law, it's to come in compliance with the law. And you're sitting there and you're not doing it. You're breaking the law because you're not in compliance."

Alan Cook
792 Oak Tree Lane

"I would like to see a pub in this town. Thursday nights we always got together and had a drink and enjoyed each others' company and relaxed. I have a question. I've been involved with this whole thing with the health department on more than one occasion. In this situation, if the gentleman is only allowed 14 stools, why would he need 36 parking spots. I know you're going on square footage but my point is, if he's only allowed 14 people in that bar and he currently has 10 spots, why would he need 36, why wouldn't he just need 14 spots?" **Mr. Findell** said, "His occupancy rate is different than what he can serve. The health department is not going to monitor the number of people who are in that building at one time. To go one step further, you may have 14 seats but you may have an activity that basically provides entertainment for more than 14 people so there may be people that are standing. One of the options that I discussed with him early on to reduce his parking requirement was to not use the entire building but use half of the building, particularly as it related to the restriction of 14 seats. Mr. Henry indicated to me that that was not desirable by the owner of the building and so he basically felt that he was compelled to use the entire building which is then what triggered the requirement of the code." Mr. Cooke continued, "There are seven different places in the City that have grass parking. I won't mention all of them but there are seven - the Legion, churches, Hopkins Hall and others. When a group gets together in those locations, there are a lot of people. I know what the ordinance says. I just finished a church in Cassadaga not eight months ago and the county allowed all grass parking. As far as putting a surface down, for right now I think that we should try to work with them so they can get their business started. If he wants to get bigger and put in a bigger septic system, then he would enlarge as he goes. But I really think that the town should try to work with somebody who's working hard and putting a lot of money into something, thinking that he's in compliance and that everything was okay only to find out there's a parking problem. I don't think he thought that the parking would be such a huge issue. I think the town should take a little time and try to work with him. Like I say,

if it's a situation where we can require less parking right now until he gets bigger, then I think we should try to work with him."

Randall Henry

"As far as the lot binding agreements, I did fill out the initial ones and I have the other one. I did speak with Mr. Roberts today. We had a good talk and he said that I could still go ahead with it but we haven't signed the agreement yet. I'm still working with my landlords as far as that site goes. I'm just trying to get a small business going and help out the town here a little bit and give everybody a place to come and enjoy themselves. There are many places that have strictly grass parking so I was assuming I would be able to do the same thing with Mr. Roberts' parking. I found out afterwards that that's not code; I'll go by code. I feel that everybody else should go by the code too, though." **City Attorney Groot** said, "In order to make sure that all this goes according to your plan, you need to make sure, and I want to say this in front of the Commission so there are no surprises later on, that your landlord's mortgagee signs off on the deal and the other party's mortgagee signs off on the deal. It takes the mortgage companies to approve this too because what can happen is everything goes well, the owners agree then somebody gets foreclosed and the mortgagee says, 'I wasn't part of that' and everything unravels. So the lenders have to agree too." **Commissioner Burton** said, "That's also considering that the land has a mortgage on it." **Mr. Groot** continued, "If there's no lender, it's not an issue but if there is a lender, he needs to be a party to the lot binding agreement. Your options are to just say 'go ye forth' and comply with the default provisions of the code as to parking which means concrete, asphalt and all the things that go along with it. Or, staff recommendation is to allow an alternative surface which is pervious. Those are the two main options. Under each of those options is whether or not you want to allow phasing for 14 spaces, or whatever, and then more later as needed. Those are your options as presented." **Vice-mayor Snowden** said, "Certainly Lake Helen wants to be a business friendly community. My personal opinion is that there are a lot of hoops to jump through to get to that point. I don't think that we have sufficient detail to make a real decision. I don't think we've considered, either, that all of the behind-the-scenes work that has to be done by the City Administrator and the City Attorney is at the City's expense to accommodate a business that may or may not come into being. The more we tie up staff and legal counsel, the more expensive it is to the taxpaying public. My suggestion is that if Mr. Henry wants to go forth and can overcome all his hurdles, he should come back to the Commission at that time. I do think that the City Administrator can make the determination as to what kind of surface can be used because the code provides for that. My position is that if we are going to require that he have 'x' number of parking spaces, that he develop that area to accommodate all those spaces so we don't have an ongoing issue about parking."

Vice-mayor Snowden made a motion to give the City Administrator the latitude to make the determination of the parking material to use and that whatever parking area is required by the city code that it be completed with whatever surface is required before the business opens.

"I am concerned that if we keep beating this over and over again, we are costing the taxpayers' money. The more we involve ourselves and the more we debate this, the

more it costs the public. I don't think Mr. Henry is prepared at this point to fully assure us that he has all of his ducks in a row; that he has an agreement with the landowners; that he has evaluated the expense that he might incur. Even if we just allow grass parking, he still has to comply with the landscaping requirements the irrigation requirements, the lighting requirements and the ingress/egress. To me, it's a tremendous expense that he faces to accommodate, according to the Health Department, 14 seats in a tavern. If we have that kind of alcohol problem in Lake Helen then perhaps we need open up another business. I certainly don't oppose the concept of what you want to do and I want you to understand than. I just think, location, location, location. There are a lot of things that are against this plan that's before us." **Mayor Duffy** said, "I agree. I said that earlier. We don't have all the facts. We don't know if you have your lease for sure. We don't know if Mr. Roberts is going to make an agreement with you. There are so many unknowns, that's why we can reach any decision. If we knew there was definitely going to be a parking lot, it would be easier to work with. I'm just saying, we need everything pulled together – agreements with signatures – then we will have something more concrete to work with."

Richard Reddy, Randall Henry's partner

"Would the city be willing to work with Mr. Henry if he had all his signatures and his ducks in a row as far as the pervious surface goes? There's no way we can afford to pave a parking lot now, especially since it's not ours. Will the Commission give us some leeway as far as letting us have a grass parking lot, with adequate lighting, until the business gets off the ground and we start earning money? Mr. Henry has used his pension to start this business." **Mayor Duffy** said, "We have ordinances that we have to follow. The ordinance doesn't say we can allow grass parking so we can't move forward with that. The ordinance does give leeway with specific materials that can be used." **City Administrator Findell** said, "The question you are being asked is one that would require you to make an ad-hoc land-use decision and you don't have the ability to do that." **City Attorney Groot** said that's correct. "Vice-mayor Snowden, what I heard your motion to be, basically, is to not act officially on the application because everything was not before you but to express a general consensus among the Commission that if everything were presented, that the alternative pervious surface would be allowed with all parking spaces put in place at that time. So, there was a statement regarding working with them. But what Mr. Reddy is asking for is a waiver of the code or an ad-hoc decision. What I heard was that there was a consensus as to the alternative surfacing which is the pervious surfacing." **Mr. Findell** said, "That has not yet gotten a second."

Commissioner Burton said if the motion that Vice-mayor Snowden made is what Lonnie Groot just clarified, I would **second that motion**.

Commissioner Lane said, "I would agree with all of that except the phasing part. I really think it would be a reasonable thing to allow him to phase in that parking. I don't know how difficult - maybe I need more input on that - it would be to enforce in the future. It doesn't seem like it would be all that difficult from a common sense point of view." **Mr. Findell** answered, "It's not. I told you what I would do from a City Administrators standpoint in enforcing that provision. Lonnie told you what he would do

from the City Attorney standpoint in providing the legal language that would allow that enforcement to occur. What I would suggest you do, if you consider providing some advice through a motion, is that you make that consistent with the recommendation that's been provided to you by the PLDRC. They have recommended that it be a pervious, dust free, stabilized surface. I can work within the parameters of that but to give me carte blanche to allow whatever to go down there and we'll address that later is not going to work for me." **Commissioner Lane** said, "The recommendation from the PLDRC was part of the code, correct?" **Mr. Findell** said, "What they were doing is taking the section of the code that says you can allow an alternate surface material and they were recommending to you what the parameters of that allowance would be. Dust free, pervious and stabilized." **Commissioner Lane** said, "I move that we amend the motion allowing the City Administrator to make that determination of surface type based upon the recommendation of the PLDRC." **Commissioner Robbins** said, "Ultimately what I believe the actual PLDRC recommendation was is that it would be approved by City staff and the City Engineer, not just the City Administrator but by staff that would be the City Administrator and by the City Engineer." **Mr. Findell** said, "Which is exactly what I said at the beginning of this discussion." **Commissioner Lane** amended his amendment to include the City Engineer. **Vice-mayor Snowden** accepted the amendment to his motion.

**Zone 1/Robbins - yes; Zone 2/Burton - yes; Zone 3/Snowden - yes;
Zone 4/Lane - no; Mayor Duffy/yes**

Final motion was: to allow an alternate pervious surface, to be determined by the City Administrator and the City Engineer, for all parking spaces required by the code.

Vice-mayor Snowden said, "Can I ask that the Commission give the City Administrator and our City Attorney direction as to what we are going to do from this point on so that the City is not further burdened by trying to accommodate Mr. Henry's request until such time that Mr. Henry provides what's required of him and so we don't incur any additional expense." **City Attorney Groot** said, "From a legal perspective, there is nothing for me to review until there is an agreement." **City Administrator Findell** said, "It would be staff's intention that a development agreement be prepared that addresses the various issues that incorporates the lot binding agreement and addresses the other various issues related to the operation of this business. We would be bringing something back to you at a later date. As I said, this is one piece in the puzzle and one more bit of information that Mr. Henry can rely upon to make his financial decisions."

Consideration of request by Chief Chester to hire a Reserve Police Officer
"In years past, it was customary to start most of our officers out as reserves, in fact, at least four out of the seven officers in the department started out as reserve officers. We've had numerous reserves over the years. They came to us as rooky police officers as a way to get some experience. Typically, they've served us well and moved along but we were able to get the benefit of their service relatively inexpensively or free of charge. We've also had reserve officers come to us that were in law enforcement previously then went into the private sector and wanted to just keep their certificate

active so they volunteered with us. We haven't had the great opportunity to have many people from Lake Helen become part of our department. We now have that opportunity with a young man named John Dempsey who was actually raised in the community and went to school in this building. I don't know if you know John Dempsey. I didn't know him that well until recently, the reason why is because he was a good kid growing up and he didn't get in trouble. He was part of the Boys and Girls Club at one time. He has completed his coursework at the police academy and he has passed his state exam. He wishes to come aboard as a volunteer reserve police officer with the City of Lake Helen, the city that he loves, the city he grew up in, and serve us and the community as a reserve volunteer police officer. I wish to welcome him aboard and bring him on as a reserve officer but we need the Commission's approval to do that. There is some expense that will be incurred such as uniforms and things of that nature. We do have a lot of the equipment already so there would be minor things we would have to get for him. I would ask the Commission to please welcome Mr. Dempsey aboard and let him become a reserve officer and volunteer in this community and become part of our department and part of the City." Chief Chester asked John Dempsey and his father to stand. "Ordinarily when we have volunteers come aboard, we don't have to ask the Commission's permission but because it's a law enforcement position, we need your approval." **Vice-mayor Snowden** said, "The added benefit of having a volunteer far outweighs the cost to outfit him in uniform and other minor costs." Chief Chester added, "They also help us with other things such as running the cars and taking radar to be repaired. Our reserves help us with a multitude of things. We are down on volunteers. We've had a few civilian volunteers and we've had as many as five or six reserve officers but right now we have just one reserve officer."

Vice-mayor Snowden made a motion that the City of Lake Helen accept and authorize the appointment of Mr. Dempsey as a reserve police officer in the City of Lake Helen.

Commissioner Burton seconded

Commissioner Robbins asked, "One thing I'm wondering is, he would be a uniformed... able to carry a gun and all that?" The answer was yes. "Does he also have radar certification and that sort of thing?" The answer was that he will be sent to school for that. "When would you propose that he start?" Mr. Chester said, "Immediately. We've already conducted a background check, we're just waiting for fingerprints to come back." **Commissioner Robbins** asked, "Has an application been filled out? None of us have seen it." Mr. Chester answered that an application has been filled out and Officer Clarino has done a background check. **Commissioner Robbins** said, "So, basically, we have a uniform, a badge, business cards, gun, whatever." Mr. Chester said we already have some of what he needs. **Commissioner Robbins** said, "The memo said 'employee'. When I see employee, employment equals pay. I know Commander Walker had filled out for the COPS grant." Mr. Chester said the City didn't qualify for that grant. **Mayor Duffy** said she heard the new reserve officer was "a good man".

All zones and the Mayor voted yes.

COMMISSION DISCUSSION

None for this meeting

STAFF REPORTS:

City Attorney – no report

Police Chief – no report

City Administrator

“The revised NPDES permit application has been submitted. The local mitigation strategy final comments have been submitted and the draft local mitigation strategy is being prepared. The Southwest area regional transportation study semi-final comments have been submitted and we will have a meeting on that next week. Those are kind of the bigger picture things that are going on right now. One of the things that I wanted to mention tonight is that being the first meeting in September, we have a number of boards that have board members whose terms will expire at the end of the month. We have received some applications or letters of interest from individual board members, we have not received some from others. I would like some direction from the Commission as to what you would like to have presented to you over the next few days in terms of applications that we have received in the past in order that you might make a determination at the second meeting in September about how to fill those positions whose terms are expiring. We will give you the applications that we've received. We just want to know to what extent you want additional applications that were received prior to the latest advertisement.

Commissioner Burton made a motion that we have a cut-off date for the submission of applicants for the various City boards on September 10.

Commissioner Lane seconded

All zones and the Mayor voted yes

Code Enforcement Officer - no

MAYOR'S REPORT AND COMMISSIONERS' REPORTS BY ZONE

Zone 1/Commissioner Robbins

“Mine is a code enforcement complaint. Mr. Morris on John Street called me again and I had spoke to Don about it but he said his neighbor's property is approaching 4 feet in height and he's noticed some kind of a door notice. He doesn't know whether it's our notice that our code enforcement people have put on there but nobody lives there or comes there. He also stated, and I'm just saying exactly what he said, that if it was on Euclid Avenue it would have already been cleared up.” **Mr. Findell** disagreed with that assessment. “**Commissioner Robbins** said, “I'm only repeating. Don't shoot the messenger, Don, I'm just repeating what he said.” **Mr. Findell** said, “I'll shed some light on the notice. Patrick has noticed the property and noticed the property owners. The expiration date on the time that they had to clean the property is up on Sunday. Monday is a holiday, so Tuesday if it's not cleaned up, a work order will go to Public

Works asking them to address this as soon as possible.” **Commissioner Robbins** said she will relay that to him.

Zone 2/Commissioner Burton

“Last week I mentioned the canal or the viaduct on Church Street was overgrown and I mentioned it to Don. He said that was under the purview of the DOT. I took pictures today of that area and as you can see, it is turning into a jungle. The neighbors on both sides keep their grass cut. The feeling is that there are snakes and other vermin starting to come out of this because of the water that’s there and we’d just like to know at what point can we or what process is being undertaken to get this canal, or whatever it’s called, cutback. Hurricane season is here. This provides drainage to some extent and if there is a situation that we do have a very heavy rain, this will not help with draining. This should be addressed soon because it has become an eyesore. It’s supposed to be a canal but it doesn’t look anything like one. It does direct water away. It hasn’t been cut in a while.” **Mr. Findell** said, “Let me go out and look at this again because I may have assumed it was a different piece of property.” **Commissioner Burton** said, “This is where the water would come under the bridge (the Commissioners were looking at pictures.) There is flowing water now so I think the water is contributing to the growth on the other side of the bridge.” **Mr. Findell** continued, “I have not been able to reach the Maintenance Engineer who is the individual I need to talk to so I appreciate the pictures and I’ll pursue it.” **Commissioner Robbins** said, “Isn’t this the outflow from I-4 that goes under?” **Mr. Findell** said, “That’s what I was saying, that section through there is a DOT easement and I just want to verify where the property is.” **Commissioner Burton** continued with his report, “Just to give some voice to the citizens that have come out and signed petitions in regards to the tavern. It’s a shame that in some situations, we polarize ourselves. There are business aspects, there are personal decisions, whether you drink or not, but as small a town as we are, it’s always these little issues that divide us. Whatever is good for the town, is good for the community. I think back to when Sean wanted to show movies here in City Hall. His idea was shot down by the licensing requirements and the fees associated with that which could ultimately have landed us in a lawsuit if we didn’t comply. Same with New Wine Ministry. The people on one side decided that how New Wine Ministry wanted to use their property wasn’t conducive to their lifestyle. The City also said that there were requirements that they needed to follow. Former Commissioner Benton mentioned that there are ordinances that are not being followed by the City itself. I agree with that. I can also accept that there are a number of things in the City that were grandfathered in - things that had been working that way for a hundred years and then we come up with an ordinance to make things more uniform, we have to comply with the new code. We are bound by them and constricted by them. So this city, with all of its nuances, is trying to be small and trying to be part of the 21st century. We just had a young lady from the Boys and Girls Club very eloquently tell us about the grant they received – the 21st Century Learning grant. We’re coming into this 21st century kicking and screaming. It’s a shame that we haven’t been able to find common ground in some of the things that could assist the City. It’s just a shame. It’s also an indication of our society that people would rather build the bar than build the church. That’s not for me to make a judgment. Hopefully we can move forward.”

Zone 3/ Vice-mayor Snowden

"I admire and appreciate what you said, Mr. Burton, and I agree with you. That being said I have nothing further."

Zone 4/Commissioner Lane - nothing to report

Mayor/ Mayor Duffy

"Next Thursday is the first of two scheduled budget hearings, so if you care to be here, that's when the meeting will be, September 10, 2009."

Meeting was adjourned at 8:55 pm

Joan L. Duffy, Mayor

Nancy Wilson, City Clerk