

**REGULAR MEETING
LAKE HELEN CITY COMMISSION
September 4, 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, and Cooke**. Also present were **City Attorney Ken McIntosh, City Administrator Don Findell** and **City Clerk Nancy Wilson**. **Commissioner Robbins** is on vacation.

INVOCATION AND PLEDGE OF ALLEGIANCE:

Mayor Duffy asked if the Boy Scouts leader of Troup 535 would like to come forward to give the invocation and pledge of allegiance.

Mayor Duffy then addressed the audience instructing them that if they would like to speak, they must fill out a card and they'll have three minutes to address the Commission.

DELETIONS OR MODIFICATIONS TO AGENDA

Mayor Duffy said there was a bill she wanted to add when they come to the Consent Agenda. She said that **Commissioner Cooke** would also like to add, under "Commission Consideration" 7D - permission for the Deland Mustangs to use the Little League field.

MINUTES: August 25, 2008

Mayor Duffy asked if there were any comments regarding the minutes for August 25, 2008.

Commissioner Benton motioned to approve the minutes for August 25, 2008.
Commissioner Snowden seconded the motion.

All zones and the Mayor voted yes.

CONSENT AGENDA:

a. Bills for September 4, 2008

Mayor Duffy said that there is an addition to the bills for Chris Lemoine, who is working on the cemetery fence, in the amount of \$735. There was a discussion regarding the manner of billing. **Mayor Duffy** asked if anyone knew if this amount of money was for just this week.

Commissioner Benton motioned to approve the September 4, 2008 bills with the addition of \$735 for Chris Lemoine for the Lake Helen (Cassadaga) Cemetery fence labor.

Commissioner Snowden seconded the motion.

Commissioner Cooke noted that Tammy Johns was in the audience and asked him if he had turned in a bill for his labor. Mr. Johns answered in the negative. **Commissioner Cooke** asked him if he would turn it in prior to the next meeting. Mr. Johns agreed. **Commissioner Cooke** thanked Mr. Johns for all his work on the fence and added, "It looks good."

All zones and the Mayor voted yes.

PRESENTATIONS:

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

Mayor Duffy explained that Mr. Woods cancelled the presentation again because his job requires him to travel. The presentation will be placed on the next agenda.

4. BI-MONTHLY REPORTS:

- a. *City Engineer*** No Report.
- 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.

Mayor Duffy said that she understood that quite a bit of the fencing has been put up and it was agreed that progress is being made.

PUBLIC FORUM:

Ernest Mulford, 532 Sidney Drive

He said that he was appearing for his mother who couldn't attend the meeting. He and his mother are concerned about a large oak tree that could possibly fall on their house. The tree is on an empty lot behind her house. She sent a certified letter to the owner after going to the tax office to get his name and address but the letter was returned so she has no way of contacting him. **Commissioner Snowden** asked if there was an address. Mr. Mulford said there wasn't because it was an empty lot but that the lot is located on Virginia. **City Attorney Ken McIntosh** asked if there were any limbs or parts of the tree that are over his mother's property. The man wasn't sure. **Mr. McIntosh** told the man that if he would provide him the Volusia County Tax Appraiser identification number, he would move quickly to aid in protecting his mother's property.

Vernon Burton, 690 W. Ohio

He said that he had made a statement at the previous meeting that he would like to clarify. This is in regard to the city audit. He then went into detail about accounting methods utilized by the state, followed by his reading of sections of the audit and its recommendations. He mentioned the "management letter" and said that it did state that the "management letter" was intended solely for the City Commission, City Management, and for the Florida's Auditor General and that it was not intended for use by others. He then went on reading in detail from the report.

Mayor Duffy interrupted Mr. Burton by telling him his three minutes was over. He then said that he was going to continue because the previous gentleman took longer than three minutes. **Mayor Duffy** told Mr. Burton that it was difficult to understand him. Mr. Burton continued speaking as Mayor Duffy said, "Thank you. Thank you." Mr. Burton indicated that the City Commission had not discussed the audit so he wanted people to know what it said.

City Administrator Don Findell and **Mayor Duffy** said that the report had been discussed. **City Administrator Don Findell**, "Did you miss the part where the auditor spoke specifically to that issue and spoke to the reasons for a statistical decline to occur? Is that not part of that section that you just read?" **Mr. Findell** explained to Mr. Burton how to interpret the report and cautioned him about reading lines out of context. Mr. Burton said, "Thank you, Don. Thank you" but **Mr. Findell** continued to speak saying, "The other thing - that the statement that the auditor's report is not meant for the average persons' viewing - that's not true. That's not the intent of that statement. The auditor's report is, in fact, a public document and we've published the auditor's report on the city's website for the public to view. We have the audit report in-house here, for the public to also come in and look at as well. So, it's not a secret document by any stretch." **City Administrator Don Findell** explained, "It is for the city - a document that is prepared for the city as required by law. It is for the City Commission to review, evaluate and take action upon." **City Attorney Ken McIntosh** said, "Every audit report has a similar disclaimer in it. The only individual that is to reap the benefit of the audit report is the City of Lake Helen through its City Commission. Other individuals that have any questions about it should be in communication with the auditor for additional information so that we are not accused of trying to interpret the audit report. The disclaimer is in every audit report in the state of Florida pursuant to statutes." Mr. Burton thanked **Mr. McIntosh** but then **Commissioner Snowden** explained to Mr. Burton that the City Commission sees the audit report a little bit different than the format that it is written in. Mr. Burton thanked **Commissioner Snowden** but then **Commissioner Benton** explained that for several years there was money spent that FEMA would repay so there would be a fluctuation in the reserves. He also explained that sales of water had dropped off as indicated in the audit report but that was because there was a restriction on the use of water. Mr. Burton indicated he understood and thanked **Commissioner Benton**. Then **City Administrator Don Findell** explained how revenue may show a decline in an audit but that the reality is that the City of Lake Helen has been in the midst of several projects and will continue to be involved in projects so there will be a continued fluctuation. As Mr. Burton was leaving the podium,

City Clerk Nancy Wilson told Mr. Burton that the verbatim minutes of the auditor's report from that meeting is on the website and that may help him.

7. COMMISSION CONSIDERATION:

A) Consideration of request to change date of the joint Charter Review Committee/City Commission meeting from September 18th when Mr. McIntosh will be available.

Commissioner Benton motioned that the joint Charter Review Committee/City Commission will be held on September 16, 2008 at 7:00 p.m. at City Hall.

Commissioner Cooke seconded the motion.

Zone 2 "yes", Zone 3 "no", Zone 4 "yes", and Mayor Duffy voted "yes".

Mayor Duffy then said she needed a motion to add "Consent of the City Commission for the traveling baseball team to use the ball field twice a week. They would use the back field. This would be item 7D.

Commissioner Cooke motioned to include the traveling baseball team to use the back ball field twice a week to be added to the agenda as 7D.

Commissioner Snowden seconded the motion.

All zones and the Mayor voted yes.

B) Consideration of request to approve the proposed Embarq phone system.

Mayor Duffy then asked **City Clerk Nancy Wilson** to explain this matter to the City Commission. **City Clerk Nancy Wilson** said that the monthly charges would be approximately the same but the main consideration would be the \$9,000 outlay. She pointed out that there are telephone charges to the city that no one knew existed such as a phone line at Melissa Park that costs about \$60 a month, a line at the ball field that costs about \$43 a month, and Hopkins Hall has a line that costs about \$40 a month. She indicated that the Hopkins Hall line could be reduced to about \$20 and the other two lines could be eliminated so that would save the city \$120 a month. **City Clerk Nancy Wilson** concluded that after the initial three year service contract is concluded, the new phone system monthly charges will be less than what the city is paying now. She said, "So the main question really is the \$9,000 for the system." **Commissioner Benton** asked about the North or John Street well and Lemon Street well and their telephone lines. **City Clerk Nancy Wilson** said that when the new system is in, Ricky (Mullen) indicated the city would not need the automatic dialers. She added that the phone lines at the North well and Lemon well may be eliminated but said she wasn't sure about that yet. **Commissioner Benton** said that he realized that the city needed a new phone system because of an incident that happened at the police department. A police officer gave a man a ticket and then later the man that received the ticket bought himself a gun. An anonymous threatening phone call came into the police station regarding this situation but the officer who took the call was unable to perform a "star 69" to get the phone

number of the caller because of the antiquated system. **Commissioner Benton** said he agreed that the city needed a new phone system and that the unnecessary phone lines at various facilities should be eliminated. **City Clerk Nancy Wilson** added that there is a lot of static on the phone lines and that the cable Internet service is "deplorable." **Commissioner Cooke** asked if the phone lines at facilities such as Melissa Park are ever used. **Commissioner Snowden** explained that there had been computers there at one time but they were destroyed and not replaced. **Mayor Duffy** said that Orange City had a phone line at one of their parks but added that it was paid for by Little League. **Commissioner Benton** said that he felt it was unnecessary for the city to pay for unused phone lines when everyone has cell phones. **Commissioner Cooke** said he didn't have a problem doing away with the unused phone lines but thought it would warrant speaking to Little League about it first. **Commissioner Snowden** asked if a contract would come before the City Commission for approval but **City Clerk Nancy Wilson** said that the contract had been placed in the City Commissions' packets at a prior meeting. A general discussion took place regarding the proposal and subsequent contract.

Commissioner Benton motioned to approve the contract with Embarq subject to its approval by **City Administrator Don Findell** and **City Attorney Ken McIntosh** and the removal of the phone lines at Melissa Park and the ball field.

City Attorney Ken McIntosh asked if Embarq would amortize the initial outlay of \$9007.23 and **City Administrator Don Findell** said that they would but the finance charges would be substantial.

Commissioner Snowden seconded the motion.

All zones and the Mayor voted yes.

C) Consideration of request to approve Resolution 2008-15 relating to the City's opposition of a Florida constitutional amendment that would require voters to approve amendments to a local government's comprehensive plan.

Mayor Duffy said that the resolution was sponsored by the League of Cities to oppose an amendment to the Florida constitution that would require voters to decide all changes to a city or a county's comprehensive plan. **City Administrator Don Findell** said that this matter had been brought before the **City Commission** previously as a discussion item so that the City Commission would be fully aware of what the League of Cities position was. He indicated that requiring voters to approve amendments to a local government's comprehensive plan would diminish the power of the local government when it came to land use decisions. **Mr. Findell** explained that it would inhibit the process in both time and efficiency to an already lengthy, expensive, and cumbersome process.

Commissioner Snowden motioned to approve Resolution 2008-15 as presented in item 7C. **Commissioner Benton** seconded the motion.

Commissioner Benton indicated that he didn't want the League of Cities dictating to Lake Helen what kind of growth it should have. **City Administrator Don Findell** explained that the decision of whether or not to require the citizens to vote to approve or disapprove every change the local government makes to the comprehensive plan is time consuming and expensive. A detailed discussion took place regarding Resolution 2008-15 and what it meant, at which time **Commissioner Snowden** explained that the citizens are never left out of the process. **Mayor Duffy** said that she doesn't know of any city that agrees that the citizens should be required to vote on every comprehensive plan change. **City Administrator Don Findell** asked Ms. Susan Callahan (who had asked for clarification) if she represented a client who wished to propose to the City Commission that something in the comprehensive plan be amended, would she as a representative of that client wish to lengthen the time-frame and the expense necessary for that review to occur and that decision to be made? **Mayor Duffy** explained that the matter would have to go on the ballot and wait for an election. Ms. Callahan indicated that she would rather do that than have it turned down by somebody that isn't listening. **Commissioner Benton** indicated that the citizens of Lake Helen attended several meetings to give the **City Commission** their input in regard to the comprehensive plan. He added that someone may be turned down concerning a proposed change to the comprehensive plan, not because no one is listening but possibly because the person requesting the change is doing it for personal gain or possibly because the citizens in that area do not want the change. **Commissioner Benton** indicated that he had mixed feelings concerning Resolution 2008-15 because he doesn't want to give government any more control than it already has or eliminate the taxpayer from any process.

City Administrator Don Findell indicated that **Commissioner Benton** had expressed his thoughts of having a "super majority" approval on an amendment to the comprehensive plan, instead of a "simple majority". This would probably require a charter amendment. However, **City Administrator Don Findell** indicated that the idea has merit and worth consideration given the protective nature of the **City Commission** and recent Commissions in preserving and protecting the quality of life in Lake Helen.

Ms. Callahan referred to the "visioning" meetings and especially one of the meetings at Hopkins Hall. She noted that there wasn't any voting and added that there were three different incidences where people came and said, "no, no, no," but it was voted, "yes, yes, yes." **Commissioner Benton** said that he wasn't on the Commission at the time but he was on the PLDRC. During the time (almost a year) the PLDRC worked on the comprehensive plan, he noted that few people came to the meetings to give their input.

City Attorney Ken McIntosh indicated that he wanted to make some suggestions. He said, "The onset, the resolution title – the last line should say "County's Comprehensive Land Use Plan". Go with me to page number two (2), the Resolve Declaration should say, "Therefore be resolved by the City of Lake Helen, Florida that..." He continued, "Please see that section one (1) has been added by **Mr. Findell** to give you advanced, smarter, managed growth in the City of Lake Helen, which is the matter that bothered us with reference to the last resolution. But we need those two changes made, so that everyone knows the way the City of Lake

Helen stands on this project.” **Major Duffy** asked for clarification so **Mr. McIntosh** began reading the resolution.

Commissioner Snowden withdrew his motion and amended the motion to include the language as described by **Mr. McIntosh** (in the above paragraph).
Commissioner Cooke seconded the motion.

Zone 2 “yes”, Zone 3 “yes”, Zone 4 “no”, and Mayor Duffy voted “yes”.

D. Consideration to allow the traveling baseball team to use the back ball field twice a week.

Mayor Duffy noted that this was the newly added item.

Commissioner Cooke read a letter that explained that the DeLand Mustangs traveling baseball team was requesting permission to practice and play baseball games on the city's back baseball field twice a week, the team members and coaches are insured, and the team would be responsible for clean-up after the use of the back field. **Commissioner Benton** expressed his concern that there might be a problem with Little League games.
Commissioner Snowden asked **Commissioner Cooke** if they realized the back field needed some repairs and **Commissioner Cooke** answered in the affirmative. He said they were willing to try to make the repairs so that they could use it. **Mayor Duffy** said that she would like to hear from the Little League officers since they are the ones that work so hard on the ball field. **Commissioner Benton** concurred. **City Attorney Ken McIntosh** suggested that a representative of the DeLand Mustangs should appear before the City Commission to answer any questions that the Commissioners might have. He said that he would like to validate their insurance, hear them commit to using the back ball field, hear them commit to giving Little League preference to using the field, hear them commit to Commissioner Snowden's concern regarding the water condition of the back field, maintenance, and the “fixing” of the field to the satisfaction of the city. **Mr. McIntosh** recalled a time when permission had been granted under very similar conditions in another city and the city later regretted ever giving permission in the first place. **Commissioner Benton** said he would like a letter from Little League regarding this, too. **Commissioner Snowden** said that he certainly supports the use of the city facilities but concurred with **Mr. McIntosh** on the matter.

Commissioner Benton motioned to table the request by the DeLand Mustangs.
Commissioner Snowden seconded the motion.

All zones and the Mayor voted yes.

The matter is tabled until the next City Commission meeting.

8. COMMISSION DISCUSSION:

A) Discussion to amend sign ordinance to restrict subdivision identification signs.

Commissioner Benton said that he was the one who asked to put this matter on the agenda because he was a member of the PLDRC when they worked on the Gateway Corridor Ordinance. He noted that D.L. Horton and Tony Troy have signs posted, which they are allowed to do during the build-out phase of the subdivision. **Commissioner Benton** said that it could take many years before the subdivision is built-out, if ever. He indicated that the city should develop an ordinance against subdivision signs. **City Administrator Don Findell** indicated that when this matter originally surfaced the city and the PLDRC went to great lengths to make sure the Woods of Lake Helen was fully integrated with the city though that was not the intent of the developer. He noted that there was a prohibition against permanent subdivision signs. **Commissioner Snowden** said he would like to "mull over" the matter and obtain further information on it. **Commissioner Benton** said that during the process of the planning of the subdivision, the developer wanted to make the park within that subdivision private to the residents of the Woods of Lake Helen. **Commissioner Benton** reasoned that all the parks in Lake Helen were for the use of all the residents, so it didn't make sense to him that the residents of the Woods of Lake Helen would have a private park that other residents would not be able to use. He explained that it was during this time that the city made it clear the subdivision would not have walls or signs indicating they were separate from the city proper. **Commissioner Benton** said that the sign ordinance only covers the Gateway Corridor but the rest of the city needs to have a similar sign ordinance so that subdivisions can't try to set themselves apart by putting up signs. He pointed out DeBary and 17-92, which contains separate subdivisions and walls. He said, "There's nothing but walls and signs." **Mayor Duffy** concurred and recommended that the city look into a new sign ordinance for the entire city. **Commissioner Cooke** didn't agree and reminded his fellow commissioners that if he were building a development and selling homes, he would definitely want to put a sign out front. He said he agreed with not allowing walls but disagreed about signage. People need to be able to find the development and signs help the people to locate it. **City Administrator Don Findell** said that he knew that **Commissioner Benton** agreed that during development and the selling of homes, temporary signage is important but after a certain amount of time, the signs should be removed. **City Administrator Don Findell** said that if the City Commission wished to develop a new sign ordinance, they would need to make a motion to that affect and if passed, he would write the ordinance, the PLDRC would review it, and **City Attorney Ken McIntosh** would also review it prior to presenting it to the **City Commission** for their review.

Commissioner Benton motioned to amend the sign ordinance to restrict subdivision signs outside of the Gateway Corridor.

Commissioner Snowden seconded the motion.

All zones and the Mayor voted yes.

9. STAFF REPORTS:

a. City Attorney No report
b. Police Chief No report

c. Ad Hoc City Administrator No report
d. Code Enforcement Officer No report

10. MAYOR'S REPORT AND COMMISSIONERS' REPORTS BY ZONE

Zone 2: No report

Zone 3: Commissioner Snowden addressed the camera and greeted Commissioner Robbins and her husband who are on vacation.

Zone 4: Commissioner Benton said he was happy that Lake Helen has taken the position of slow growth and said he felt that was why the city fared so well during the latest tropical storm compared to other cities. A short discussion took place between **City Administrator Don Findell** and **Commissioner Benton** regarding the water flow to Lake Colby and storm water equipment in general.

Mayor Duffy commented that she had received several calls concerning Lake Helen's growth management and land use plan. She said their questions were, "How do you do it? How do you keep your city like it is?" She said that she realizes that the city has **Mr. Findell** to thank for that.

Mayor Duffy then added that nothing more can be added to the agenda after the Thursday afternoon (one week prior to the next meeting) before the Commission Meeting.

11. ADJOURNMENT

The regular meeting of the City Commission of the City of Lake Helen, Florida was adjourned by **Mayor Duffy** at approximately 8:50 pm.