

**REGULAR MEETING
LAKE HELEN CITY COMMISSION
September 17, 2009
7:00 P.M.**

MINUTES

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

CALL TO ORDER: Mayor Duffy

INVOCATION AND PLEDGE OF ALLEGIANCE

Commissioner Lane 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 29, 2009; August 6, 2009; August 20, 2009

Commissioner Robbins made a motion to accept the minutes as presented
Commissioner Lane seconded

All zones and the Mayor voted yes

Mayor Duffy said she recommends that the minutes not be word for word since they are recorded and available online. **Commissioner Lane** said he'd be glad to put that in the form of a motion and move that we go to action minutes instead of verbatim minutes. He asked if it needs to be agendaed. **City Administrator Findell** said, "It's simply a policy decision by the City Commission. We will just follow your direction in that regard." **Mayor Duffy** said, "I don't know of any other city or at any of the meetings I go to where they do verbatim minutes especially when there are recorded minutes available hours after the meeting. So let's put it on next agenda and we can discuss it then."

CONSENT AGENDA:

Proclamation for "Constitution Week"

Mayor Duffy read the proclamation:

WHEREAS, September 17, 2009 marks the 222nd anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention in 1787; and

WHEREAS, it is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary, and to the patriotic celebrations which will commemorate the occasion; and

WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17th through September 23rd as "Constitution Week".

NOW, THEREFORE, I, Joan L. Duffy, Mayor of the City of Lake Helen, Florida, on behalf of the Lake Helen City Commission, do hereby proclaim the week of September 17th through September 23rd as:

"CONSTITUTION WEEK"

In the City of Lake Helen and call upon our citizens to reaffirm the ideals of the Framers of our Constitution by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties, remembering that lost rights may never be regained.

IN WITNESS WHEREOF, I hereunto set my Hand and cause the Seal of the City of Lake Helen to be affixed this 17th day of September, 2009.

Commissioner Burton made a motion that the Proclamation for Constitution Week be accepted as read.

Commissioner Robbins seconded

All zones and the Mayor voted yes

Bills – September 17, 2009

Commissioner Burton said, "The Volusia County Health Department annual license fee - is that for the Café?" **City Administrator Findell** answered that it's for the water utility. **Commissioner Robbins** said the next one is for the Café - \$150. "There are two items, one for Garcia M.D. and Quest Diagnostics, they should be moved from the CAC to the General Fund. They are for Officer Dempsey." Mr. Findell said, "Several of the annual assessments that are noted on here are here for Commission approval and are to be paid after the first of the year. The annual assessments or quarterly assessments, like our insurance assessment, is not due until October 1st. Also, the Volusia Council of Governments assessment, the MPO assessment and the Volusia League of Cities membership fees are on here for Commission approval but they'll actually be paid after the first of the fiscal year."

Commissioner Robbins made a motion to accept the bills as modified.
Commissioner Burton seconded

All zones and the Mayor voted yes

PRESENTATIONS

None for this meeting

BI-MONTHLY REPORTS

City Engineer – no report

Local Planning Agency (PLDRC) – no report

Historic Preservation Board – no report

Parks and Recreation Board

Sean Abshire, Vice-chairman: "I have a few things. At our last Parks & Rec meeting, we decided that we're not going to do Founder's Day this year. We weren't able to get a committee together fast enough so we're going to put a committee together this year for next year and start on it next year. We discussed the Christmas parade and tree lighting and we are recommending that we have it on December 13th which is a Sunday. Kickball closing ceremonies went well on Monday." **Mayor Duffy** added that the tree lighting will be early so that the tree is illuminated for the biennial home tour.

PUBLIC FORUM

Mary Lorenz

230 Water Street

"I've lived here 35 years. Before the construction of the building took place on the corner of Cassadaga Road and North Euclid Avenue, there was a meeting of the PLDRC on May 31, 2001 for local residents to ask questions regarding what the building would or could be used for. At that meeting, it was stated that it was visualized the building would be used for office use. Mr. Findell added that it could be used for small shops. Mr. Findell also added that businesses that will occupy the property would be low-key with little traffic. A bar is not low-key and if it is successful it will generate much traffic. Using table 2-4 in the Land Use..... **City Attorney Groot** interrupted, "The first part of what Ms. Lorenz said is absolutely fine but we are transitioning into specific comments about the decision that will be before you maybe sometime in the future. It is pending right now administratively. Unless the applicant is here, you ought not to hear anything. When the applicant is here, everybody can make their arguments and you can make a decision, but right now it's not the appropriate time to hear anything about that particular issue." Ms. Lorenz asked when she will be able to speak. **Mr. Findell** said, "There will be at least two points on which the City Commission will have to make a decision regarding this proposed use. One regards a lot binding agreement between this property and another property, the City is party to that agreement. That agreement then will come to the City Commission for their review and consideration. The second would be an anticipated development agreement that will establish provisions for some of the operational parameters regarding use. If the development

agreement materializes, the City Commission will also have to consider that.” **Mr. Groot** said, “What Mr. Findell said is that we may not have to make an argument because it may not come back before the Commission, you may not have to make an argument because these people may not ever reach a deal and there may not be anything brought before the Commission.” **Commissioner Burton** said, “This is a public forum and according to our agenda, any individual wishing to speak about any issue not on the agenda may do so but they will be limited to three minutes. The fact that she was making a statement was what she's entitled to do. The fact that we were to engage in debate then that would be something else, but I really believe she should be able to make her statement and be heard. The bar doesn't have a rubber stamp as yet. What the attorney is saying is that the possibility that it may not even go forward is probably or may be very high. I understand wanting to get your point out and you should be able to read your statement, but it wouldn't be a debate or a back-and-forth. Correct me if I'm wrong.” **Mr. Groot** said, “I don't want to say you're wrong but my recommendation is that you not listen to the statement because this is not the correct forum for that kind of statement.” **Commissioner Lane** asked if the reason is because the other party is not here. **Mr. Groot** answered, “That is exactly right. Let me ask Don: ‘Would you put this matter before the Commission without making it an agenda item?’ The answer is no, of course not. Which means that anybody who objects, could come and object. On the other hand, you don't have people come up and say anything when the applicant's not here. If you're going to make a decision and you're going to hear the evidence, you have to have all parties present. That's the law of the State of Florida.” **Commissioner Robbins** said, “I think she just wants to make a point and we just adopted a proclamation for Constitution Week. It's her constitutional right, I believe, for her to be able to make a point. It's not debatable. We're not going to have anything, but I think.....” **Mr. Groot** continued, “It's the will of the Commission but as a matter of state law and due process, quasi-judicial process, that type of statement should only be heard in the context of a hearing. That's my recommendation and that's all I've got to say about it.” **Commissioner Burton** asked, “Would it have been a little less formal if she would have stated her opinion as opposed to having it in writing?” **City Attorney Groot** answered, “No.” **Mr. Burton** continued, “So if someone began to speak in the middle of their three minutes up here, who would make the decision that this might be somewhat prejudicial to someone who is not here. I'm looking for guidance so in the future if someone gets to that podium and they run their three minutes and they may be talking about something that could be a conflict, who up here would make the decision that you should stop talking?” **Mr. Groot** answered, “I can tell you that what I just did tonight, I've done here before. What I've done here tonight, I did in Sanford Monday night because of something very similar. This is not unusual. Basically, what the attorney will say is that you're going into an area where you shouldn't be hearing evidence, you should only hear it when everybody is present. And that is my recommendation.” **Commissioner Burton** said, “That answers my question and that's why you're sitting in that seat.” **Mayor Duffy** asked Mr. Findell if this issue is coming back before the Commission. **Mr. Findell** answered, “There will be at least one opportunity, if the owners of the property where the bar is proposed to locate were able to execute a lot binding agreement with an adjoining property owner because the City would be a party to that agreement. At that point, the agreement would come back to the City Commission for consideration. The other potential opportunity would be if there

was a development agreement that was written to establish the parameters or potential parameters of operation of the proposed bar. That development agreement would also come back to the City Commission for consideration.” **Mr. Groot** added, “I don't want Ms. Lorenz to take what I said the wrong way. The last thing you would ever want is to make your argument, have the City Commission agree with you, and then have somebody appeal and ask the judge to overrule the decision because Ms. Lorenz made a statement prior to the hearing and the other parties weren't present. You wouldn't want that and that's what my job is, to prevent the City Commission from ending up in that type of situation.” **Mayor Duffy** told Ms. Lorenz, “I will make sure that you are notified when this is put on the agenda.” **Commissioner Lane** told Ms. Lorenz that she can speak to any of the Commissioners at any time.

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

“I'm just coming to speak with you guys tonight to let you know that our Torch Club is actively campaigning right now for their board President, Vice-President, Treasurer and Secretary. Elections are being held on October 30th at the Club and I encourage all of you to come. I'd like to bring the kids to a Commission meeting some night so they can see how they're run and to get a little bit of experience and exposure. Torch Club is the program that teaches kids leadership skills and helps build their character. With that said, we are still actively seeking community service projects so if any of you have any ideas, please let us know. We have one idea from Vice-mayor Snowden so far. Also, we are going to be soliciting some of the businesses in the area for donations for our 'making strides against breast cancer walk' on October 24th. I'll be speaking to you guys about that at a later date. Those are just a couple things we are doing at the club. I'll put invitations in your boxes as a reminder for Election Day at the Club on October 30th at 4 p.m.”

PUBLIC HEARINGS:

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

Mayor Duffy read the ordinance by title:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE HELEN, FLORIDA, AMENDING PROVISIONS OF ARTICLE 34.02.02, CODE OF ORDINANCES OF THE CITY OF LAKE HELEN, RELATING TO HISTORIC PRESERVATION BOARD; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR AMENDMENTS; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

City Administrator Findell said, “The purpose of this was to change the terms of office to be consistent with other boards. It means that each Commissioner's term of office will run for a three-year period from October 1 to September 30. This makes the terms of office begin on October 1st and end on September 30th for the three active Boards.”

Commissioner Lane made a motion to adopt ordinance 2009-07 as read
Vice-mayor Snowden seconded

All zones and the Mayor voted yes

COMMISSION CONSIDERATION:

Consideration of request by Boy Scout Troop 590 to operate a small food concession at this year's Christmas Tree Lighting Ceremony

This agenda item has been rescheduled for the next regular Commission Meeting.

Consideration of applications for PLDRC appointments

Mayor Duffy said, "Our memo states that the following board member terms are expiring on September 30th: Ed Blackman, Tura Schnebly and Michael Woods. Applications for the term beginning October 1, 2009 and ending September 30, 2012 have been received from: Ed Blackman, Michael Woods, Lou Benton and Roger Sonnenfeld. Tura Schnebly is resigning from the board. Her letter of resignation is attached. She's been on this board, which is a very active board, for 10 years. She certainly has been a good member of the PLDRC with her legal knowledge and everything else so it's a shame she's leaving."

Vice-mayor Snowden made a motion that the sitting Commissioners on the PLDRC who have expressed a desire to continue, be reappointed to the PLDRC
Commissioner Lane seconded

There was some discussion about whether all members should be voted on at the same time and it was decided that the two people who had sat on the PLDRC would be voted on separately from the new applicants.

All zones and the Mayor voted yes.

City Attorney Groot asked if Mr. Sonnenfeld is still on the VGMC and indicated that there would be a conflict if so – he can't serve on both boards. **Mr. Findell** said his assumption is that Mr. Sonnenfeld's preference is to be on the local board, the PLDRC." **Mr. Groot** responded to Mayor Duffy's comment that she had served on both boards at the same time as did others by saying, "There's been a recent Attorney General decision regarding dual office holding; he can't serve on both." **Mr. Findell** said, "The way this has been handled in the past is that if an individual is serving on a board and he desires to be on a 'superior' board, then he automatically would no longer serve on the 'inferior' board."

Vice-mayor Snowden made a motion to table this item until the following meeting to find out what Mr. Sonnenfeld would like to do.
Commissioner Lane seconded

All zones and the Mayor voted yes

Consideration of applications for Parks & Recreation Board appointments

Mayor Duffy said, "The following board members terms of office are expiring on September 30: Bart Gawlikowski and Betty O'Laughlin. Applications for the terms beginning October 1st and expiring September 30th have been received from those two individuals."

Commissioner Burton made a motion to reappoint Bart Gawlikowski and Betty O'Laughlin to the Parks & Recreation Board.

Commissioner Robbins seconded

All zones and the Mayor voted yes.

Vice-mayor Snowden said, "Before we leave this topic, we do have a retiring PLDRC member who has served the city very capably and very well for the last ten years."

Vice-mayor Snowden made a motion for the City to consider a proclamation honoring the service of Tura Schnebly.

Commissioner Burton seconded

All zones and the Mayor voted yes.

Consideration of applications for Historic Preservation Board appointments

Mayor Duffy said, "The following board members terms of office are expiring on September 30, 2009: Terra Hope, Pamela Kump and Richard Taylor. No applications for the terms beginning October 1, 2009 and ending September 30, 2012 have been received. Terra Hope has submitted a letter of resignation. Pamela Kump did not submit a new application and Richard Taylor is moving from Lake Helen city limits and is not eligible for reappointment. Though not up for renewal, Oscar Brock has also submitted a letter of resignation. We effectively have no one on the board except Norma Blackman and Don Waldrop. There have been no other applications received so we do not have an effective Historic Board." **Vice-mayor Snowden** said, "I would submit that each Commissioner try to recruit someone who might have an interest in serving. This is one of the Boards that is critical at times to the City and I think the decisions made in the past have served us well. We have a number of people who have an interest in the history of our community and preserving historical data and historical homes.

Vice-mayor Snowden made a motion to table this item until the next meeting and urged fellow Commissioners to try to recruit some applicants for that Board.

Commissioner Burton seconded

All zones and the Mayor voted yes

Commissioner Robbins said she has somebody she'd like to nominate after she talks to them. **Mayor Duffy** suggested that copies of the Historic Preservation Board ordinance and an application be put in each Commissioner's box.

COMMISSION DISCUSSION

None for this meeting

STAFF REPORTS:

City Attorney – no report

Police Chief – no report

City Administrator Findell

“I don't know if you all have noticed but the landscaping has begun at the I-4 interchange area. Many trees have already been planted. It's also my understanding that the bid openings for County Road 4139 repaving project is supposed to be the second week of October, maybe October 8th. I don't know on which end they'll be starting.”

Code Enforcement Officer – no report

MAYOR'S REPORT AND COMMISSIONERS' REPORTS BY ZONE

Zone 1/Commissioner Robbins

“A couple of meetings back, I mentioned that I had had a call from Mr. Morris on John Street and he was very happy that the city crew... (Mr. Morris's note: 'please see that Ricky and his crew get this note of thanks for doing a very good job of cleaning the lot across the street from my house. It was a very good job and thank you for getting it started.' I'm going to pass around some pictures that Mr. Morris had taken before the work was done. He's very happy to get that work done because it was very, very much overgrown. Also, in light of that, the scenic road signs have gone up and there is one near 303 Summit Avenue, near the corner of New York and right before you get to it, there is an abandoned house that is pathetically overgrown, such as this (picture). It does not look good, as it is not scenic. I have names of the absentee owners which I will give to Don and I feel we should bring it to their attention. While on the scenic road subject, the ribbon cutting ceremony will be at the corner of Woodland and New York Avenues on September 26th in connection with the Rivertown Art Festival. The ribbon cutting will be at 11 a.m. The refreshments for elected officials, etc., will follow at Chess Park. I will be away and I would like the Mayor or the Vice -mayor or my alternate delegate, Cameron, to represent the city. I received an e-mail today from Nancy Maddux and from Cindy Sullivan who are on that board. 'This is just a friendly reminder that we still need information booth spaces from certain areas of the Scenic Highway. The CME wants to show the entire county the support we have from all our communities. In order to do that, we need to have a large turnout on New York Avenue and have the street lined with all the great things that make our community special. For instance pictures, signs, models, plants, banners, whatever showcases your community.' Ms. Robbins continued reading the letter submitted by Cindy Sullivan who is on that board. “So if anybody wants to possibly do something similar to what the Legion is doing at the fairgrounds and put up the blanket and pass out the walking tour,

things that highlight Lake Helen. Like I said, I'm not going to be able to be there. We have had meetings every single month and it's a really good group of people."

Zone 2/Commissioner Burton

"Last meeting I brought up that on Ohio, the waterway under the bridge was overgrown. That same day our grounds crew got out and they cut it back tremendously. However, cutting it back only made it back about 25-30 feet and beyond that it's still packed. I mentioned it to Ricky and to Don the idea of maybe having some of the inmates that the county has, to have them come down and clean out the area as a project. I think the cost of the inmates is a lot cheaper than having to pay some other organization to do it. Also, there was a police chase of a stolen car that came through Church Street and turned the corner northbound toward Ohio, the person lost control of the car and ran into the fence in front of Vivian Griffin's house. At four or five o'clock in the morning, helicopters were flying over, looking for the individual. I don't know the outcome, but there was a lot of police activity in the neighborhood. Also, there is a property on the corner of Ohio and Day Care Drive and the owners of the property live near Fort Lauderdale. There is a house that was torn down and that corner has now become a neighborhood gathering place so I just want to make note of that. They are congregating on private property and it could become a nuisance."

Commissioner Robbins said, "A while back I brought up the Lake Macy area where it comes across Macy Avenue and that too should be looked at because the bridge there deteriorated during the hurricanes when it was flooded over with water. I think we should possibly contact the county to have them look at that before we have a disaster and it becomes flooded again. And across Kicklighter, if that's flooded, those two areas could make us not have an entrance way or an exit out of. So before that happens I think County Roads & Bridge should be contacted to look at that situation and perhaps now is the time to do it when they're going to be resurfacing 4139." **Commissioner Burton** said, "I'd just like to add to that because that was the underlying cause for a lot of the flooding in Daytona. Because of the deferred maintenance of their canals and their retention pond areas, when the water came, the ground was already saturated as a result of several days of rain. Without the ability of having the groundwater be absorbed and with the waterways congested, those waters overflowed and houses were flooded. There were 4,300 people affected. Our organization has knocked on the doors of at least 2,000 of those people and everything we've heard has shown that most of the people in those areas that were flooded, were not in flood zones. They had a waterway system that was designed to alleviate flooding but they were not maintained, they were not properly serviced and when the water came, the rains came, they overflowed and people got seriously displaced. I keep bringing this up because of the two storms I've been working, T.S. Fay and a weather event which was a flood. A storm and a flood crippled most of three counties. We have not had a hurricane yet. We have not had a wind event. Lake Helen, with all the lakes that we have, for the most part has the ability to absorb a lot of water. We are a tree city and as a tree city we know that when we get hit with wind, trees fall. These are all underlying things that on the surface, on a good day, on a sunny day don't seem to be a problem but four days of rain and everything changes. The county also has a program in place that they'll have \$5,000 to assist a person who is in arrears of their mortgage by 30 days. They will pay the arrears taxes, attorney's fees and any other associated fees. This

program was just implemented to assist people in the foreclosed areas and in areas that were originally emergency disaster areas. Part of the emergencies that people are tackling are financial emergencies, so this was a good opportunity to put some serious money in place. The program is run out of Daytona and Deland.”

Zone 3/Vice-mayor Snowden

“I appreciate the comments made by Commissioners Robbins and Burton regarding Lake Macy. Back during the last floods, we had the county engineering staff come out. We have a serious problem because the more we open up the flow of that water, the more prone we are to flooding everybody south of us. During the last storms, we went over to McCracken Road and just the migration of the water going south was rising into the homes on that road and beyond that in Ewing Woods, over Sixma Road, over Catalina Road and those people in Deltona on the north and at our border. Unless the water moves slowly, it will flood those people. The more we open our floodgates, the more we flood those south of us. The county is well aware of it and we spent a lot of time going back and forth with county personnel. I know Commissioner Cooke did and I did and so did Don. We certainly have a bottleneck on Kicklighter Road and Macy Avenue is not any better. Hopefully the paving will address that.”

Zone 4/Commissioner Lane

“I would like to report on the trip I took to Washington especially given the proclamation about Constitution Week we had tonight. It was a wonderful event. There were about 10,000 signs I saw and many were about the Constitution and taking us back to the basics of this country. There was strong support for that wonderful document and the ideals contained in it. That's what this country is about and it was very refreshing.”

Mayor/Mayor Duffy

“I want to remind people there is a dinner for Sean Stiller who is the young man who is still in a coma after an accident. There's a spaghetti dinner for him on Saturday. Tickets are \$10. It's in Cassadaga in the reception hall behind the store. Those of you who sent me good wishes during my recent illness, I thank you and I want you to know that I am a miracle child. The budget meeting is next Thursday, September 24 and it's the final reading for the budget.

The meeting was adjourned at 7:55 p.m.