

**REGULAR MEETING  
LAKE HELEN CITY COMMISSION  
November 6, 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 Robbins, Benton, and Cooke**. Also present were **Out-Going City Attorney Ken McIntosh, In-Coming City Attorney Lonnie Groot, City Administrator Don Findell and City Clerk Nancy Wilson**.

**INVOCATION AND PLEDGE OF ALLEGIANCE:**

**Mayor Duffy** asked **Mr. Ken McIntosh** to give the invocation and pledge of allegiance.

**INSTALLATION CEREMONY**

The City was to hold an installation ceremony to swear in the City Commissioners elected on November 4, 2008. **Mayor Duffy** explained that the county has called for a recount of ballots which will take place tomorrow. Certification of the ballots will take place on Saturday.

**DELETIONS OR MODIFICATIONS TO AGENDA**

There are none.

**COMMISSION ANNOUNCEMENTS**

**1. MINUTES:** September 25, 2008; October 2, 2008, October 16, 2008.

**Commissioner Benton** motioned to approve the minutes of September 25, 2008.  
**Commissioner Cooke** seconded the motion.

**Motion** passed unanimously.

**Commissioner Robbins** motioned to approve the minutes of October 2, 2008.  
**Commissioner Benton** seconded the motion.

**Motion** passed unanimously.

**Commissioner Benton** motioned to approve the minutes of October 16, 2008.  
**Commissioner Robbins** seconded the motion.

**Motion** passed unanimously.

## **COMMISSION ANNOUNCEMENTS**

**Commissioner Robbins** stated she had a letter to read from Ms. Dene Masters to the City of Lake Helen as follows:

Dear Mayor & Commissioners:

Please make this commendation part of the Employment file for Sefe Mendoza for his exceptional work mowing, trimming & edging the Lake Helen/Cassadaga Cemetery where so many of our loved ones deserve this fine level of care & maintenance provided by our City taxes. Such pride in one's work is an impressive and unfortunately, all too rare, a sight to see; & should be recognized and appreciated in a public forum.

Respectfully submitted, Dene Masters

**Commissioner Robbins** noted that out of state visitors remarked about how beautiful the cemetery was and left a donation for additional paint that was needed for the new fencing.

**Mayor Duffy** remarked that Sefe has been doing a wonderful job and is Lake Helen's lawn man.

## **CONSENT AGENDA:**

### **a. Bills – November 6, 2008:**

**Mayor Duffy** asked if there was any discussion concerning the bills.

**Commissioner Robbins** said she questioned the bill for DJ Andy Ferrari for the Halloween party. **Chief of Police Keith Chester** said that the bill was for both the Halloween party and the Teen Program following the party so the billing would be split between the two events.

**Commissioner Robbins** then questioned the bill for Pat Chadwick. She said that **City Clerk Nancy Wilson** had explained to her there were five (5) meetings in September and Ms. Chadwick helped her with the over-load by doing minutes for some of those meetings.

**Commissioner Robbins** noted that the matter had not been brought before the Commission for approval but Ms. Wilson clarified the issue with her privately.

**Commissioner Robbins** motioned to accept the bills of \$28,434.79 from the General Fund , \$76, 970.56 from the Utility Fund, and \$15,055.39 Creative Arts Cafe.

**Commissioner Benton** seconded the motion.

**Motion** passed unanimously.

**b. Mayor proclaiming “National American Indian Heritage Month”:**

**Mayor Duffy** read the proclamation:

**MAYOR’S PROCLAMATION  
NATIONAL AMERICAN INDIAN HERITAGE MONTH  
CITY OF LAKE HELEN**

**WHEREAS**, the history and culture of our great nation have been influenced significantly by American Indians and indigenous peoples; and

**WHEREAS**, the contributions of American Indians have enhanced the freedom, prosperity and greatness of America today; and

**WHEREAS**, their customs and traditions are respected and celebrated as part of a rich legacy throughout the United States; and

**WHEREAS**, “Native American Awareness Week” began in 1976, and recognition was expanded by Congress and approved by President George Bush in August 1990, designating November as “National American Indian Heritage Month”; and

**WHEREAS**, in honor of National American Indian Heritage Month, community celebrations and cultural, artistic, educational and historical activities have been planned;

**NOW, THEREFORE, I**, Joan L. Duffy, by virtue of the authority vested in me as Mayor of Lake Helen, do hereby proclaim November 2008 as:

**“NATIONAL AMERICAN INDIAN HERITAGE MONTH”**

in the City of Lake Helen and urge citizens to observe this month with appropriate programs, ceremonies and activities.

**IN WITNESS WHEREOF**, I hereunto set my Hand and cause the Seal of the City of Lake Helen to be affixed this 6th day of November, 2008 A.D.

**Commissioner Benton** motioned to pass the proclamation.

**Commissioner Robbins** seconded the motion.

**Motion** passed unanimously.

**3. PRESENTATIONS:** none for this meeting

**BI-MONTHLY REPORTS:**

- a. **City Engineer** - None
- b. **Local Planning Agency (PLDRC)** - None
- c. **Historic Preservation Board** - None
- d. **Parks and Recreation Board** - None
- e. **Ad Hoc Cemetery Committee**- None

**5. PUBLIC FORUM:**

**Von Russell**, 850 East Kicklighter: Ms. Russell explained there were two (2) rapes and four (4) robberies in Deltona, which she said was in her back yard and they “scared her to death”. Because of this, she would like to start a Neighborhood Watch program. She said she wanted Neighborhood Watch signs and asked **City Administrator Don Findell** if he was in charge of signs this week. She said Neighborhood Watch was needed in the corridors of Lake Helen and six streets inside of the city. Ms. Russell said she had people lined up to help with the Neighborhood Watch. She said **Officer Patrick Clarino** told her to find him a watch and find him a neighborhood but she felt the city needed to stick together and help one another. She volunteered to go through the corridors and find people for the Neighborhood Watch program. Lake Helen was too small not to have one.

Ms. Russell then said her next issue was a drug awareness program. She said there were new Commissioners coming to the Commission and she wanted them to be aware that Lake Helen will not tolerate non-drug awareness.

She turned to the audience and told everyone that wanted more drug awareness to stand up. “We want more drug awareness and that includes cigarette smoking, that includes drinking under age, whatever high-falooting drug there is to keep our kids unsafe in our neighborhood. We need drug awareness and that especially means our adults, not just me looking out for our children. It is everyone of you (the Commission) and it is everyone of you (the audience). Who is looking out for my children? We need more drug awareness. I want a man in uniform looking out for drug awareness. Chief, I demand that our men in uniform are promoting drug awareness. No cigarette smoking (unclear). No cigarette smoking at the cafe. No cigarette smoking at the stores. All we ask is that out of uniform you do what you want but not at our stores in uniform.”

Ms. Russell then said that she doesn't smoke around the school or around her children. “Myself and my husband set an example. There's no drugs around my children and there's no drugs around the children that come to my house. And I promise you that I have more kids coming to my house than to your cafe. And so, I would just like the Commission to take it into their thoughts – Drug Awareness and Neighborhood Watch.”

**Mayor Duffy** asked Ms. Russell if she had volunteered to start up a Neighborhood Watch. Ms. Russell said she had been “all over the place” about Drug Awareness and Neighborhood

Watch. She then told Chief Chester that she had been to many districts of Florida and she was told that police are not allowed to smoke while on duty.

**Mayor Duffy** asked Ms. Russell if she were willing to get the names of the people for Neighborhood Watch. She agreed to do whatever was necessary.

**Commissioner Benton** said there was training and education that was necessary, rules to obey, and laws to follow.

**Mayor Duffy** indicated that she thought there were Neighborhood Watch signs in Lake Helen but **Mr. Findell** said he was unaware of any such signs. He added that he only acts upon the direction of the City Commission and would need the Commission to support the Neighborhood Watch concept and for it to be constituted before such actions could take place.

Ms. Russell named several surrounding cities with Neighborhood Watch.

**Commissioner Benton** indicated that Lake Helen was number one in solving crimes.

Ms. Russell talked about four (4) boys who had their bikes stolen and they still haven't been found. "Where is the salvation there?"

After a few more minutes of talking, **Mayor Duffy** thanked Ms. Russell and asked her to sit down.

**Mary Dickinson**, 333 South Lakeview Drive: Ms. Dickinson said she agreed with Ms. Russell concerning Neighborhood Watch. **Mayor Duffy** agreed. Ms. Dickinson asked if there was going to be a discussion concerning 7.D. She was answered in the affirmative.

Ms. Dickinson then said she wanted everyone to know that Heather Lindsay was attacked at her front door yesterday and the man has been served with a no trespass. She said that she believed that when the police finish with their report, it will be going to the State Attorney's office for prosecution.

**Vernon Burton**, 690 West Ohio Avenue: Mr. Burton said he wanted to say that his campaign for Commission had been one of the highlights of his life so far and thanked Cookie. He then spoke about a bike ride that had been going on Sunday and noticed a very long line of people waiting to get into the bathrooms at Macy Park. He spoke about men and women "relieving" themselves in the bushes. He wondered why there hadn't been port-a-potties available for the riders.

**Mayor Duffy** said the city was unaware of bicyclists coming to Lake Helen since it wasn't a planned event. "This is the first I've heard of it, Vernon."

**Commissioner Benton** noted he saw the same thing happening. He said he saw the bike riders running through all the stop signs in Lake Helen. Mr. Benton indicated that was why

the City did not support the bike people who had been here previously.

**Commissioner Robbins** concurred after witnessing the same type of incident where bike riders did not stop at the stop signs.

**Mayor Duffy** said the MPO has told her that bicyclists must obey the traffic rules including stop signs, like everyone else.

**Commissioner Cooke** suggested the city find out who these bicyclists were and instruct them through their organization that they must report to the Police Department prior to riding through and/or around Lake Helen.

**City Administrator Don Findell** said there was a time when Lake Helen allowed bicycle races in town and on an annual basis but they were planned events with the City having full knowledge of when they were going to happen. However, this incident/event was not planned through the City so no one knew it was going to take place.

**Commissioner Benton** said that the city couldn't prevent them from riding on our roads but they must obey our ordinances.

**Mr. Findell** said the incident should have been reported to the police so they could have addressed or resolved the issue.

Mr. Burton said that the magnitude of the bicyclists gave the appearance of it being an event that had gone through the Commission so people wouldn't necessarily call the police. He said he thought the situation should be addressed.

**City Attorney Ken McIntosh** said, "I heard a friend of mine who is a circuit judge, who was telling how wonderful it was to come through Lake Helen last week. I will take care of your bike problem in the morning with that circuit judge."

Von Russell began yelling from the audience and **Mayor Duffy** asked her to be quiet.

**James Tyler**, 217 North Lakeview Drive: He said he requested a stop sign to be placed at the corner of New York Avenue and Lakeview Drive several months ago to slow the people down that are cutting through Lake Helen. "We've had a couple of dogs hit during the last couple of months." He said he was worried about the kids and wondered if the matter had been attended to.

**Mayor Duffy** said the county did a survey and determined that a stop sign there was not necessary. She explained that it is a county road so they did the survey. Mr. Tyler suggested that a police car should be parked on his property during the early morning so they'll be able to see the cars traveling early in the morning are not going thirty (30) miles an hour. He said, "I'll pay for it."

**Commissioner Cooke** said he agreed with Mr. Tyler as he's seen the situation himself.

**City Administrator Don Findell** said the county is very strict concerning their requirements under state statutes for their study before they place a traffic device on a road. He indicated a stop sign was not warranted there under the state statutory provisions. He said he would be happy to obtain a copy of the study (if the city did not already have it), evaluate it, and contact the county if it seems something is amiss.

**Commissioner Cooke** asked **Chief Chester** if it was possible to place a police car in the area a few evenings to ticket the speeders in hopes it would discourage other speeders.

**Mayor Duffy** then asked Mr. Tyler what he wanted to address the Commission about concerning the Halloween party. Mr. Tyler answered he hoped next year the party would take place a little earlier or on a different day so the kids would have time to trick-or-treat.

**Mayor Duffy** then asked Mr. Tyler what he wanted concerning a timer for the tennis courts. Mr. Tyler responded he wanted to know if it would be feasible to put in a timer so the lights wouldn't be on when no one was playing and/or when it was raining.

Von Russell began yelling from the audience again as **Mayor Duffy** asked her to be quiet once again.

**Commissioner Robbins** said she had brought up the same subject previously as she has witnessed the lights on at the tennis courts when it was raining. She doesn't understand the rationale of leaving lights on when it's raining.

Mr. Tyler said he was requesting a timer so that when people want to play tennis, they can turn the timer on so the lights would come on for an hour at a time.

**Commissioner Benton** said there was a timer on the tennis court lights and that possibly the timer wasn't reset for Daylight Savings Time.

Mr. Tyler insisted the tennis court lights are on at night though no one is playing tennis.

Von Russell began yelling from the audience again as **Mayor Duffy** asked her to be quiet once again.

**Mayor Duffy** told Mr. Tyler that she was going to hold his other two cards over for the next meeting and then called on Mr. Hayes.

**Tom Hayes**, 691 North High Street: He asked if the Commissioners get a chance to review the bills before they are "rubber stamped." **Mayor Duffy** explained that they are open for review prior to them being paid. **Mr. Findell** said the Commission has the bills for a week prior to the meeting. He questioned the USDA food bill for the cafe of \$8,900 and another one for \$4,100 for business cards. **Commissioner Robbins** explained it was to pay for the credit card purchase of food, not business cards.

He then said he thought the city could benefit and prosper by having bicyclists in the city. He said the city should encourage the bicyclists to return instead of trying to stop or discourage them.

Mr. Hayes concurred with **Commissioner Cooke** that the police should ticket the speeders on New York. He told the Commission they needed to demand the police enforce the laws, not ask them.

Mr. Hayes then complained about the city not having a Comprehensive Plan and that it isn't approved by the state. He blamed the City Commission and Mayor for this. He said he didn't want excuses, he wanted to know why it isn't done since Mr. Findell was given a year off to do it with pay.

**Mayor Duffy** said it was not the Commission's fault or Mr. Findell's fault. Until the school board decided what they were going to do, Lake Helen could not complete the Comp Plan.

**Mr. Findell** said he would like to address the issue. "Mr. Hayes is incorrect in what he said. Where he is incorrect is with his assumption that we don't have a Comprehensive Plan and that we don't have a Comprehensive Plan that has been accepted and approved by the state or the Volusia Growth Management Commission for that matter. We, in fact, do. That Comprehensive Plan was adopted in 1992. The Future Land Use Element was amended in 2005. The Comprehensive Plan is a dynamic document. It's not a static document. That Plan gets amended periodically, from time to time as the City Commission sees fit to amend it. The City Commission has amended the Comprehensive Plan, as far as I know, twice in eighteen (18) years."

"What Mr. Hayes should be more appropriately speaking to is a number of elements relating to the Comprehensive Plan, one of which is the Evaluation and Appraisal Report. But that's not a specific element. It's not a component. It's exactly what it says it is. It's an evaluation and an appraisal of the 1992 Comprehensive Plan which ultimately provides one base for the city to make a determination as to whether. . . .

Mr. Hayes interrupted but **Mr. Findell** said he wanted to finish. Mr. Hayes said, "I don't want to hear anything more from you Don." He reiterated that he wanted to know when it was going to be completed so the city could "move on." Mr. Hayes insisted that Mr. Findell has not corrected a thing. He said **Mr. Findell** stopped growth, which was fine but insisted that the city did not have a balanced Comprehensive Plan or Ordinances to support it. "So, I'm demanding the Commission have that done. It's not complete and it's not in compliance with the state of Florida and it's your fault. It's not his fault because you're not demanding it, just like you're not demanding **Chief Chester** to give speeding tickets to speeders here in town."

Everyone began speaking at once. **Mayor Duffy** told Mr. Hayes his time was up but he continued to speak saying that Mr. Findell took up his three (3) minutes. He then left the podium.

**Mayor Duffy** asked **Mr. Findell** to continue with what he had been saying.

**City Administrator Don Findell** said, "What I was saying was there were a number of elements of the Comprehensive Plan and there is a separate study related to the Comprehensive Plan that remains to be done. Mr. Hayes was entirely correct in that regard.

What I was saying was the Evaluation and Appraisal Report is done every eight (8) years or so. The Evaluation and Appraisal Report is one document that ultimately provides a base or a basis for the City to reflect upon the Comprehensive Plan that is in effect, and make a determination as to whether amendments to that Plan are warranted across all of the elements of the Plan. The other elements of the Comprehensive Plan that are in progress or working their way through the system are the Public Schools Facility Element, which was completed quite some time ago. The Public School Facility Element related amendments to the Capital Improvements Element of the Comprehensive Plan and the Inter-Governmental Coordination Element of the Plan also were completed quite some time ago. The final element is the Water Element of the Comprehensive Plan and as we advised the state, the Water Element of the Comprehensive Plan cannot and will not be completed until such time as the City is able to receive its Consumptive Use Permit from the Water Management District because the data that goes into the Consumptive Use Permit approval and the approval itself becomes part and parcel of the Water Element of the Comprehensive Plan."

"The Public School Facility Element has gone through the Planning Commission but has not gone through the City Commission simply because we're trying to save some money for the city and bundle all of our Elements together."

"That's the story on the Comprehensive Plan. Now one of the things that Mr. Hayes forgot to say in his analogy of Lake Helen with other communities is that other communities have multiple individuals on their planning staffs. And other communities have hired consultants to the tune of several hundreds of thousands of dollars to prepare their Evaluation and Appraisal Report. We've chosen not to burden the taxpayer with that and as a result of not burdening the taxpayer with that cost, quite frankly it takes us longer to get the job done. We do it as we're able to do it – as we have time to do it with one person."

**Mayor Duffy** thanked **Mr. Findell** and asked if everyone understood the situation now.

**Commissioner Robbins** said, "I think what Mr. Hayes was getting at is when you submitted your resignation to be effective in November, that it was with the understanding, I think **Commissioner Cooke** put those stipulations in there, that it was for you to stay home to work on that."

**Mr. Findell** replied, "And I appreciate that distinction because that is a very important distinction. My resignation and the addendum to my resignation said very specifically that is what I would concentrate on unless I was asked to do other things by this **City Commission**. I did start on those things. I did complete the Public School Facility Element. And I was asked on a daily basis to do other things for this very **City Commission**."

**Commissioner Cooke** said, "Like the budget, etc."

**Commissioner Benton** indicated his concern for speeders on Lake Pearl and New York Avenue. He said that the prior mayor for Lake Helen wrote one letter requesting stop signs on Volusia Avenue and it was done. He added that is why he always says, "If you do it for one, you should do it for all." He considered the Volusia stop sign incident as the "good ol' boy" system.

**Mayor Duffy** thanked **Commissioner Benton** and added that she had received another card for a resident who wished to speak.

**Ann Nehrig**, 160 Rose Avenue: She said that a lot of people walk around the lake and the curves going around the lake from Michigan Avenue to Orange Avenue are fifteen (15) miles an hour but people speed around there at thirty miles per hour (30 mph) plus. She said that in other areas around the lake, people are going forty-five (45 mph) to fifty (50 mph) miles per hour and if someone tries to let the speeders know they should slow down, the speeders become aggressive. Ms. Nehrig said the speeders are not just outsiders driving through either. She agrees something needs to be done.

A general inaudible discussion took place concerning speeders and what to do about them.

## **7. COMMISSION CONSIDERATION:**

### **A) Consideration of Resolution 2008-17 expressing the city's gratitude to Attorney Ken McIntosh.**

**Mayor Duffy** asked **City Attorney Ken McIntosh** to join her at the podium and he consented.

**Mayor Duffy** read Resolution 2008-17 as follows.

#### **RESOLUTION 2008-17**

#### **A RESOLUTION OF THE CITY OF LAKE HELEN, FLORIDA, EXPRESSING THE CITY'S GRATITUDE TO ATTORNEY KEN MCINTOSH, FOR THE ABLE AND EXPERT SERVICE THAT HE HAS PROVIDED AS LAKE HELEN'S CITY ATTORNEY.**

**WHEREAS**, Attorney Ken McIntosh accepted the Lake Helen City Commission's request on October 1, 2007 to serve as Lake Helen's City Attorney; and,

**WHEREAS**, the City Commission's request for Attorney McIntosh to serve as City Attorney was based upon the Commission's knowledge of Attorney McIntosh's vast experience in, and knowledge of, municipal government law, as frequently exhibited when Attorney McIntosh provided legal services to the City when former City Attorney Lonnie Groot was unable to attend City Commission meetings; and

**WHEREAS**, the City Commission's respect for Attorney McIntosh has grown even more during Attorney McIntosh's tenure as City Attorney; and

**WHEREAS**, Attorney McIntosh has represented the City in an outstanding manner, both personally and professionally, bringing to bear his considerable knowledge and expertise, his desire to assist and his most gentlemanlike demeanor; and

**WHEREAS**, the City Commission, and participants and spectators at City Commission meetings, have enjoyed Attorney McIntosh's directness, forthrightness, integrity, common-sense, and humor in representing the City; and

**WHEREAS**, the City Commission, and participants and spectators at City Commission meetings, have enjoyed Attorney McIntosh's command of the English language and obvious love for the language of the Law; and

**WHEREAS**, Attorney McIntosh has consistently and openly expressed his affection for the City of Lake Helen; and

**WHEREAS**, Attorney McIntosh now desires to transition from the full-time practice of Law; and

**WHEREAS**, the City of Lake Helen wishes to express its most sincere appreciation of, and gratitude to, Kenneth W. McIntosh, and to wish for him good health, joy, happiness, peace and success in whatever future endeavors he chooses to participate.

**NOW, THEREFORE BE IT RESOLVED**, that this Resolution shall take effect immediately upon passage and adoption.

**THIS RESOLUTION DULY PASSED AND ADOPTED ON THIS 6<sup>th</sup> DAY OF NOVEMBER, A. D. 2008**, by the City Commission of the City of Lake Helen, Florida, at its Regular Meeting duly assembled.

**Mr. McIntosh** thanked **Mayor Duffy** as the audience applauded.

"As I said tonight in the opening invocation, we must all be the change that we want in the City of Lake Helen and I hope you will remember that. I hope that I have made a little change in my relationship with you as citizens as I indicated in the letter that I shared with the mayor. I have learned to love each one of you and I've learned to love the City of Lake Helen. I don't always love you when you gather together in this hall but I love each of you tremendously as a direct result of your contribution to this city."

"At this juncture, **Mr. Groot** pursuant to section fourteen (14) of the Charter of the City of Lake Helen, as a Charter officer will now be taking responsibility for that job and I will finally get home to have supper on time."

**Commissioner Cooke** said to **Mr. McIntosh** that the Commission wanted to do something personally for him so they decided to give him a book about the history of Lake Helen, which was presented to **Mr. McIntosh**.

The meeting was paused as pictures were taken of **Mr. McIntosh** and the **City Commission**. Then **Mr. McIntosh** left the meeting to go home and have his supper on time. The new **City Attorney Lonnie Groot** sat down in the City Attorney's chair.

**Mayor Duffy** introduced **Mr. Lonnie Groot** to everyone and welcomed him to the City of Lake Helen.

**B) Consideration of request by Commissioner Benton to market for sale the Murphy property on the corner of Day Care Drive and Ohio Avenue**

**Commissioner Benton** said he simply wanted to put the property on the market for \$36,000 and let it sit. He said he disagreed with the appraiser but added it didn't matter since there is no law that says the city has to sell it for the appraised amount. He felt the \$36,000 would pay back the reserves, all the money that had been borrowed.

**Mayor Duffy** said she saw no problem putting a for sale sign on the property.

**Commissioner Robbins** said she would like to see a letter sent to the owner of the adjacent property, which would give him a whole ten (10) acre block. She thought he should have the first right of refusal for that price.

There was a short discussion as to who owned the property next door and **Mr. Findell** said it could be researched but whatever the Commission decided to do, it needed to go through the motion process.

**Commissioner Benton** said he didn't have a problem with what **Commissioner Robbins** wanted to do and stated that he agreed with her. He just wanted the city to get back the \$36,000.

**Commissioner Benton** motioned to put the property up for sale for \$36,000 and the city will notify the adjacent property owner of the availability of said property giving him first right of refusal.

**Commissioner Robbins** seconded the motion.

**Mayor Duffy** asked if there was any discussion.

**Commissioner Cooke** said the appraisal value is \$9,000 to \$12,000 and wondered why **Commissioner Benton** thought the city could get \$36,000 for it.

**Commissioner Benton** said that appraisals change and that this was Lake Helen not DeLand.

**Commissioner Cooke** said the appraisal from the state was about \$20,000 and he felt that if the property was offered closer to the state appraisal price, someone might actually buy it.

**Mayor Duffy** said she spoke to the appraiser and nothing is selling at a decent price.

**Commissioner Benton** told **Commissioner Cooke** that he would never sell the property for what the appraiser has it appraised at and that the city needs to recoup the money paid out

for the Murphy properties. To put a for sale sign on the property doesn't cost the city anything and it will sell sooner or later. It's not like the city needs to make the money so it can afford to wait it out.

**City Administrator Don Findell** said he would like to give the issue some perspective and add some historical information. "The historical information is that when we first began the pursuit of the Murphy Act properties, the appraisal that we got from the state's property appraiser for the five parcels was in excess of three hundred thousand dollars (\$300,000) and that was several years ago. It was at a time of historical highs for real estate property. They hadn't reached their historical highs but they were reaching toward it. After a considerable amount of negotiations and the providing of information regarding each one of the properties, the state reduced the appraisals for all five (5) properties from the excess of three hundred thousand dollars (\$300,000) to \$36,500. So that gives you the historical perspective as to how it relates to all of the properties. This was one of the more valuable properties because it was a buildable lot and it had road access and that sort of thing."

"Now, the perspective I want to provide to you on how it relates to the appraisal that we have received lately: Number one, as has been mentioned, the appraisal is low. The appraisal is low for two reasons; because of the condition of the market at the present time and because of the lack of comparables on which to base the appraisal. The appraisal has value at this moment in time and that value is if the city was forced to sell the property or the city wanted to make the property available at a "fire sale" price, the appraisal provides the basis for that price – the lowest amount the city would take for the property in that particular situation. The reason that you do that is to protect the tax payers ultimately, so that you do not receive less than the appraised property."

Someone called out something from the audience (inaudible).

**Mayor Duffy** responded, "Please."

**Mr. Findell** said, "Mayor, excuse me, if someone has something to say or a question to ask, they need to come up to the podium, and they need to identify who they are for the record. They also need to be recognized by the Mayor. That being said I'm at your direction."

**Mayor Duffy** said the Commission had a motion and a second on the floor. There was a conversation as to what the motion was exactly. **Mayor Duffy** said that before she closed the discussion, she had a card to call on Mary Dickinson.

**Mary Dickinson**, 336 South Lakeview Drive: She asked why the Commission would want to put a piece of property on the market when the market was in decline. She advised they should listen to their appraiser. "Nobody in their right mind is going to pay \$36,000 for a property that cannot appraise for \$36,000. You will not get anybody that will get financed so you're better off to hold on to the property until the market starts to move back up. Then have another appraisal done and then put it on the market."

**Mr. Findell** said, "I believe what **Commissioner Benton** was saying and **Commissioner**

**Robbins** agreed to was to place the property on the market for \$36,000. It's not to say it's going to sell at all as we all recognize the condition of the market but if an individual did wish to purchase the property or to make an offer, they then have the opportunity to do so. The city doesn't have to sell the property. They're simply putting a sign on the property indicating that it is for sale."

**Commissioner Robbins** said she believed the adjoining property owner is out of town or out of state. It was more valuable to him than to anybody else. "That's why I said we should write him a letter. It's been Murphy Act property since Hector was a pup and it's now available to him but it's not available to him unless he wants to pay the going price. So now by writing him a letter, he could get his hands on it."

**Commissioner Cooke** said that he agreed with **Commissioner Robbins** but wanted to know what price the city was going to tell him.

**Mr. Findell** answered, "\$36,000 is what is on the table at the moment."

**Commissioner Cooke** said he felt \$36,000 was too much.

**Mayor Duffy** responded, "Well, then we negotiate."

**Commissioner Cooke** indicated that no one would look at it for that price.

**Mayor Duffy** called for a vote.

Zone 1 – yes; Zone 2 – no; Zone 3 – no; Zone 4 – yes; Mayor – yes. The **motion** passed.

**Mayor Duffy** asked Vernon Burton what the card was for.

He replied that it wasn't controversial but he lived across the street from that property. He began talking about other empty lots in his neighborhood that no one was buying and couldn't understand why the city thought this particular lot would be attractive to anyone.

**Mr. Findell** said, "**Commissioner Robbins** brought up an important point during her discussion and the point that she brought up was that if you (adjoining land owner to this property) combine that piece with the remainder of the property, it creates a ten-acre parcel. The importance of that is, is that it makes that (almost ten-acre) parcel more valuable because it can be subdivided into more units with that seven-thousand (7,000) sq. ft. parcel added to it. . ." He added, "So it's more valuable to the person who owns the adjacent property than it is to the average person."

Mr. Burton wondered why there seemed to be so much attention paid to this certain individual that owns the property adjoining the property the city wants to sell when there are many pieces of property available that are not being addressed.

**Commissioner Robbins** responded, "Because it's more valuable to him than it is to anyone

else.”

**Mr. Findell** said, “Let me take it one step further. First off, because the city owns the property so we exercise control over it. Secondly, because whether it's the individual that owns the adjacent property or somebody that wishes to buy the adjacent property in the future and subdivide it, the addition of the seven thousand square foot (7,000 sq. ft.) parcel to the remainder of the parcel, creates a more divisible piece of property than currently exists as two separate pieces of property. It's the assemblage of the pieces of properties is what makes it more valuable.”

Mr. Burton questioned where the larger parcel of property was and **Commissioner Robbins** explained that it was on the south-east side. He then left the podium.

### **C. Consideration of request to update city facility rental rates.**

**Mayor Duffy** explained that Wendie Levings had prepared a comparison of rental rates throughout the county so she and **Mr. Findell** met with her to learn that Lake Helen was very low on their rental rates.

Melissa Park: Lake Helen currently rents it for \$35 for the full day with a \$35 deposit but the recommendation is for \$50 for a ½ day with a \$50 deposit and a full day for \$100 with a \$100 deposit. That includes the kitchen, tables and chairs, etc.

Shuffleboard Court: Lake Helen currently rents it for \$50 for the full day with a \$50 deposit and that includes the kitchen, tables and chairs, etc. The suggested increase is \$50 for ½ day with a \$50 deposit, \$100 for a full day with a \$100 deposit.

City Hall rooms: \$50 for ½ day with a \$50 deposit because there are no fees set for that.

**Mayor Duffy** explained the effort was to make the rates the same for all the city facilities.

Hopkins Hall: Currently it's been \$85 for three hours with a \$100 deposit and \$135 for a full day with a \$100 deposit. The suggested increase is \$150 for ½ day and \$300 for a full day with a \$300 deposit. That includes kitchen facilities, tables and chairs.

Hopkins Hall Library Porch Room: That's extra for another \$50 for ½ day with a \$50 deposit and \$100 for a full day with \$100 deposit.

**Mayor Duffy** said that the new suggested rates are pretty much in line with what other cities are doing with their rentals. It would give the city the opportunity to have funds to maintain the facilities.

**Commissioner Benton** said that would be good but currently the fees are deposited into the General Funds Account. He said no one gave him a list of how many people from Lake Helen rent the facilities. He insisted that the people in Lake Helen make less money than people in larger cities. He said the information provided does not tell him how large the facilities are in

the larger cities in comparison to Lake Helen's smaller facilities.

A general discussion took place concerning the above – population of different cities, size of buildings, etc.

**Commissioner Benton** wanted to know how many people in Lake Helen rent the facilities compared to people that don't live here. **Commissioner Robbins** answered that she thought it was half and half. **Commissioner Benton** disagreed with the rates and wanted to see more information concerning who rents the facilities and the size of the facilities in other cities.

A discussion took place concerning the Shuffleboard Court building and **Commissioner Benton** wanted to know when this facility began being rented out because of past dealings with the Shuffleboard Club. He explained that prior to Chris Craft being mayor, the Shuffleboard Club controlled the building because they had literally built it years ago. **Commissioner Benton** said he believed that it was in 1999 or 2000, the Shuffleboard Club members came before the Commission to give the Shuffleboard building to the city because the club was having difficulty maintaining the building. There never was a rate set to rent it out.

**Commissioner Robbins** said she remembered that the Shuffleboard Club seemed to have a monopoly on the building and no one else ever used it.

**Commissioner Benton** said it was because the club built the building.

The subject was brought up that different clubs have used various facilities without paying a fee. The food co-op uses the Shuffleboard building without paying a fee now.

**Mayor Duffy** asked **Commissioner Benton** what he wanted to do and he responded that he thought the rates needed to be lower.

**Commissioner Robbins** asked about the group that rent the yellow room in City Hall over the weekends. **Mr. Findell** said they have City Commission approval and the City receives about \$2,000 a year from them.

**Commissioner Benton** reiterated his above statements.

**Mr. Findell** continued, "The Commission asked for this work product to be prepared quite some time ago to address two situations. One (1) – the maintenance of the facilities and second (2) – the generation of revenue for the city. The city staff and the Mayor have done the best job I think they can do based upon the information they had available to them. The City Commission just needs to decide what has been provided to them is sufficient for them to make a decision regarding the provision of rates"

**Commissioner Benton** said his argument wasn't against the people that put the rates together, but he was against the amount of money being requested in rental fees.

**Commissioner Robbins** indicated that during the Commission's budget discussions it was concluded that one of the ways to increase revenue was to increase the rates of facility rentals to help defray the cost of maintenance. She said, "They're really not out of line."

**Commissioner Robbins** added, "To rent Hopkins Hall for \$150 for ½ day – I don't feel that's out of line for a building of that magnitude."

**Commissioner Cooke** noted that the amount of rental time had increased from three (3) hours to four (4) hours, which he approved of. He wanted to know if he was correct about that. **Mayor Duffy** and **Commissioner Robbins** answered in the affirmative.

**Commissioner Benton** indicated that he agreed with **Commissioner Cooke's** point but that the time increase needed to be spelled out – such as, instead of ½ a day where someone could interpret that to mean twelve (12) hours, simply say four (4) hours. **Mayor Duffy** and **Commissioner Robbins** concurred. **Commissioner Cooke** noted that was already spelled out and thus, he answered his own (previous) question.

**Mayor Duffy** called on a lady in the audience who wished to speak.

**Raphene Pierce**, 800 Sand Crane Lane: Ms. Pierce said she has had several family celebrations this past year at her house because they couldn't rent a place for less than \$500. "Your prices are great." She encouraged the city to promote the facilities instead of raising the rates as she would have rented the Shuffleboard building if she would have known she could have.

**Commissioner Benton** noted that the refrigerators, tables and chairs, etc., in the Shuffleboard building belong to the Shuffleboard Club.

**Commissioner Cooke** said that Wendie Levings has been renting the facilities for a long time and he feels comfortable with her suggested price structure.

**Von Russell**, 850 East Kicklighter Road: Ms. Russell suggested that the city only rent the facilities to Lake Helen citizens.

**Commissioner Robbins** motioned to approve the proposed increased rental rates for the city facilities.

**Commissioner Cooke** seconded the motion.

**Motion** passed unanimously.

#### **D) Consideration of request to remove a member of the Lake Helen Planning and Land Development Regulation Commission (PLDRC)**

**Commissioner Benton** said he wanted to ask **City Attorney Lonnie Groot** what the state statutes says pertaining to that issue.

**Mr. Groot** answered that he looked at the allegations set forth in the letter. He said he didn't know if they were true or not but assuming they are true, the statute that is applicable to

removing board members, is section 112.501 of the Florida Statutes. "That statute limits removal on several bases: they are malfeasance, misfeasance, neglect of duty, habitual drunkenness, incompetence, or permanent disability to perform his or her official duty. So those have to relate to what occurred in the office, which these allegations don't relate to what is in the office."

"As to conduct, that's not associated with the office, the removal power only relates to conviction of a felony, or misdemeanor of a federal nature or a felony, or misdemeanor of a state crime. So, allegations in this particular case don't relate to a conviction of a state or federal felony or misdemeanor."

"So really what you have before you are allegations of a Code Enforcement type nature. If you were to find there was probable cause, the process you would have to go through would be the adoption of a resolution, a public hearing, basically a trial, but on the very face of the complaint these are Code Enforcement matters that don't relate to a person's actions within their public office and obviously aren't a conviction of a felony or misdemeanor. That's the law on the matter."

**Mayor Duffy** asked Mr. Groot if Florida Statutes supersedes City Ordinances.

**Mr. Groot** answered, "Actually what the statute says in this section applies in the absence of a Charter provision and there is no Charter provision relating to this type of allegation or this type of process in the City Charter."

**Mayor Duffy** asked about the City Ordinances.

**Mr. Groot** answered, "The Ordinance talks about cause, so actually the cause is not in the Charter it's in the Code, you have to read them together. So the statute is what your causes would be and the causes are as I outlined." He repeated them.

**Ann Nehrig** approached the podium and requested to speak on the issue since she was the one to request this item be placed on the agenda.

**Mr. Groot** asked if he could go on a bit further with what he was saying. **Mayor Duffy** concurred.

**Mr. Groot** said, "The allegations are there. The allegations are submitted. As I identified what the statute says, there's also a process. If you were to find that these allegations even give rise to the statute and if you find they give rise to the things I've outlined in the statute, what you would then do is not hear evidence, you would determine to potentially hear a resolution at some future date. The resolution would announce the charges and announce the hearing date. Then you would have a hearing later on after Mr. Troy is given an opportunity to garner his defense and any opponents would have an opportunity to garner their evidence. Then you would have a trial, as I mentioned earlier. At this point, it's not the time to argue evidence or argue anything in terms of proof, it's just a time to look at the allegations on their face. You can actually assume they're true and assuming it's true, does it give rise to the statute?"

**Mr. Groot** added, "I can tell you as a legal matter, it doesn't."

**Mayor Duffy** asked, "If we were to gather proof on this topic for a Public Hearing – is that what we have to do to have a Public Hearing? Our Ordinances say that they can be removed from the Planning Board for cause."

**Commissioner Benton** said that there was no cause. "So what's the cause?"

**Mayor Duffy** responded, "If we were to gather evidence of cause, we could have a Public Hearing?"

**Mr. Groot** said, "Let me back up again. What you really have in this document and what you can do – there shouldn't be proof heard tonight. You just assume that this all is true. Assume these are all violations. Okay? And if you make that assumption, you then look at the statute and ask – is it any of these things? If it's not, it stops. It doesn't go forward. If it is, then what you would do is have a resolution prepared alleging that these things are violations within the statute. The resolution would be adopted setting a hearing date and then later on, on that hearing date, you would have the trial with all the evidence and proof of what I just referred to."

"Your preliminary first decision is to assume all of this is true but then does it meet the statute?"

**Ann Nehrig** said, "I'm only asking to be heard. I think I have that right."

**Mayor Duffy** concurred.

**Mr. Groot** said, "One more thing." The audience began yelling and making noises.

**Mayor Duffy** and **Commissioner Cooke** asked **Police Chief Chester** to remove the woman yelling.

**Mr. Groot** said, "What the lady's comments should be limited to is why these allegations constitute offenses under this statute and that's all."

**Ann Nehrig** asked, "Why? You mean me as a citizen that lives and dwells in Lake Helen, I do not have a right to come before my Commission and my Mayor and request to have a gentleman who sits on a board, who makes decisions for everybody else (all the citizens here in Lake Helen) and makes them abide by them, the ordinances and codes of this city, when he breaks them? He should be a prime example."

**Mr. Groot** answered, "Ma'am, that's not what I said at all. What I said was . . ."

**Ms. Nehrig** said, "Yes you are. You're holding me, sir to these Florida Statutes. I don't give a rip about these Florida Statutes tonight. I am coming before my Commission with a complaint and I'd like to be heard. I know the Florida Statute and I know what you're trying to say."

Please give me the courtesy. I sat here for five (5) minutes listening to you and I'd appreciate having my three (3) minutes of time."

**Mr. Groot** said, "Mayor, there's no issue about anything being said except it does need to be limited to protect Mr. Troy's and any other board members' rights – and they have rights under the statute. . ."

**Ms. Nehrig** said, "They have a right to break the law and the Codes?"

**Mr. Groot** responded, "The discussion tonight should be limited to whether these allegations constitute allegations that rise to this statute and then if they do, you can pursue it through the statute."

**Ms. Nehrig** said, "This is disgusting."

**Mayor Duffy** said, "I still don't understand why the ordinance, which gives direction on how to remove a member from the PLDRC (Planning Board) using the Public Hearing process, doesn't supersede the Florida Statute."

**Commissioner Benton** asked, "So what is it you don't understand?"

**Mayor Duffy** answered, "I don't understand why we by-pass our own laws – the City's laws."

**Ms. Nehrig** asked, "Why have an ordinance when you don't use it?"

**Mr. Groot** responded, "The legislature has, in its wisdom or lack of wisdom, determined that in the absence of a charter provision, this statute controls. So, it's not my decision, it's not your decision, it's the legislature's decision. It's not in the Charter, so the statute controls."

**Mayor Duffy** asked for the statute number again. **Mr. Groot** answered "112.501".

**Commissioner Robbins** suggested that this might be something to consider during the time of the Charter Review. "It's not perfect."

**Commissioner Benton** said, "This whole thing is nothing but a vendetta. This has been going on for how many months? Some of the allegations on here are totally wrong."

**Mr. Groot** said, "I respect your position **Commissioner Benton**, but this is one of those situations, not to use a cliché, but "What's good for the goose is good for the gander" and nobody should decide guilt or innocence right now. Like I've said and I won't go over it again, do the allegations relate to the statute?"

**Mayor Duffy** said, "In your opinion, they do not?"

**Mr. Groot** said, "I think you really ought to ask the lady to express her argument as to why they do but that is my opinion."

**Mayor Duffy** asked Ms. Ann Nehrig to present her three minutes.

**Ms. Nehrig** said, "I think it's appalling that an elected or appointed member of a commission in the City of Lake Helen is allowed to get away with breaking the Codes and Ordinances. I think that's appalling. The Commissioners' who are elected or appointed, sit up here – they make the Ordinances, they make the Codes – they enforce them – I think they should be an example to the rest of the citizens to uphold those Codes and Ordinances. Lou (Commissioner Benton), this is not a vendetta. I don't believe in that. And if there is a vendetta, it's not coming from me and I really don't appreciate you saying that to me."

"May I ask when Mr. Troy's term ends? Does anybody know?" She turned to the audience and asked, "Mr. Troy, when does your term end?" (He answered but it was inaudible.) Ms. Nehrig continued, "Because I'm going to ask for your resignation. That's the gentlemanly thing to do – is to resign because a lot of people don't like what you're doing in this town."

**Mr. Groot** said, "Madam Mayor." **Mayor Duffy** said, "Please," and hit the gavel.

**Ms. Nehrig** continued, "This has not happened once, it's happened several times and I just think that people that sit up here need to be a prime example for all the other citizens. That's all I'm asking and I do call for his resignation. Thank you."

**Mayor Duffy** then asked Mary Dickinson if she wished to speak.

**Mr. Groot** said, "Madam, I hate talking so much, I really do. What I heard was Mr. Troy intends or expressed an intention to speak. All speakers, in my judgment and my recommendation to you, should limit their discussions – and this includes Mr. Troy – only whether this letter relates to the offensives under the statute."

**Mayor Duffy** thanked **Mr. Groot**.

**Mary Dickinson**, 336 South Lakeview Drive:

**Commissioner Benton** asked her to give her home address. "You don't live in Lake Helen."

**Ms. Dickinson** said, "I'm sorry, that's the address I live at."

**Commissioner Benton** asked, "You live at the office?"

**Ms. Dickinson** answered, "Just about."

**Commissioner Benton** said, "Well, that's not your home address."

**Ms. Dickinson** responded, "I'm there more hours than I am at home and you work for Mr. Troy."

**Commissioner Benton** said, "I do not work for Mr. Troy."

**Ms. Dickinson** asked, "You've never worked for Mr. Troy?"

**Commissioner Benton** responded, "I'm not an employee of Mr. Troy's."

**Ms. Dickinson** asked, "Are you a subcontractor?"

**Commissioner Benton** answered in the affirmative.

**Ms. Dickinson** responded, "Well, you better look it up in the dictionary – what a subcontractor is." She continued, "I am going to quote the Constitution of the United States that all laws have to be enforced equally. **Mr. Groot**, you can find out where that is in the Constitution and I do – **Lou (Commissioner Benton)**, you said something very important tonight. **Lou** said, "Do it for one, do it for all." That means that if Mr. Troy can go and make renovations, put a roof on, put in an aircon, have electricity hooked up to a house, that has no permits pulled for it, put eighteen (18) loads of concrete in, which I have the thing here." She indicated that Mr. Troy paid \$10,000 for eighteen (18) loads of concrete and said she would love to be able to pay that amount for eighteen (18) loads of concrete.

She added, "If you decide not to do anything about Mr. Troy's blatant disregard for getting permits – he is a licensed contractor – isn't that what they do? They pull permits when they're going to do work. Okay, that means that since the Constitution should be in effect in this town as in every town in the United States of America – nobody in this town needs to pull permits any longer so you can balance your budget now because you can get rid of your person that does your permitting. If Mr. Troy doesn't have to pull a permit, why should anybody in this town do it? And there's always an excuse why he hasn't? Why his subdivision doesn't have a street in it?" She went on to talk about Mr. Troy waiting for the water lines to be installed but now there was no excuse. "He's not concurrent with his subdivision and this week we're going by the state statutes. Well, that's only because it's convenient this week."

"This Commission has not always gone by the state statutes. You walk outside of Lake Helen - DeLand does not want to even be involved with anything here. You don't abide by what the county or the state says and this state does have statutes that if you're going to put up a building, you're going to pull a building permit. That is a state statute and that's what we're here for. The permitting that is not being pulled by Tony Troy to do all of these renovations – to do what he wants to do. You don't pour eighteen (18) loads of concrete for your own personal drive-way and then decide in August – in March you pour it, August you're gonna put in a little application for a permit. October 31, 2008 you take and go down to Volusia County and put in a Notice of Commencement in but the point is, nothing was ever paid. Nothing was ever paid for the permit. Nothing. So until he shows up with a certified copy of the Notice of Commencement – I think everybody here would love to see a check. But I think the check should be more than \$155.14 because . . ." She reiterated her previous comments about the eighteen (18) loads of concrete.

"Basically, that's what everybody is upset about Mr. Groot – why the laws in this city do not

apply to everybody. The honest people in this city have to pull permits. If they don't – Code Enforcement – knock, knock, knock. Basically, it's a no-brainer.”

**Mayor Duffy** thanked Ms. Dickinson who returned to her seat.

**Mayor Duffy** called on Heather Lindsay.

**Mr. Groot** said, “Madam Mayor, the legal concept here is to assume that all of this is true and all of this is a violation. There's not an issue if it's a violation or not. Assume that it is – that's the test. Does it meet the statute?”

**Mayor Duffy** acknowledged Ms. Lindsay.

**Ms. Heather Lindsay**, 222 Tangerine Avenue: “This is nothing personal against Mr. Troy. It's June (Mrs. Troy) whom I'm being told is behind all of this. I don't know. I'm sorry Mr. Groot you've come in on all of this but I really don't understand how you can argue the case for a man that is costing the taxpayers of Lake Helen a lot of money. Are we supposed to look up to you – a new attorney on the Commission and respect them? Respect is earned, not given – it's earned. And you have to show by example.”

“What our attitude tonight is – what we're asking – us taxpayers, and I'm one of them, not the biggest as Mr. Findell said, we're not the biggest, but I am having violations constantly and if you want to go on about a vendetta **Mr. Benton**, then you listen to everyone in your zone. There is a lady with a hole in her roof that could do with your help.”

“And **Mr. Cooke**, we know everything about **Mr. Cooke** and **Mr. Benton** – but if I have to abide by the laws – I have been put through hell for two years. I have not broken any laws – if I have broken any laws it's because I'm from England – I'm ignorant. But I am having them right, left, and center. I don't want to be on the board. I don't want to be involved in any politics. I would love to invite June to the gym with me and have a drink of wine. But if I have to abide by them – I'm sorry, but it's beyond belief that you can't find a way to help the Commissioners sort out the people that are representing the citizens of Lake Helen. And again, the law should be consistent for every single taxpayer in Lake Helen whatever their taxes are – the biggest taxpayer or the elderly lady that can't afford anything. The law should be for every single person – let alone a person who is on a board who can tell everybody what they can build and can't build. Thank you.”

**Mayor Duffy** called on Mr. Troy to approach the podium.

**Tony Troy**, 421 Roseville Lane: “I remember how nice it was living here before this issue came up about the bed and breakfast. I do have a right to what I'm doing. I don't know if you know that within the last twelve (12) months, a group of people in town, Heather, Ann Nehrig, Mary Dickinson, Susan Callahan, Eddie Robbins, and others behind the scenes, have been harassing me verbally at meetings and in writing, accusing me of lying and making false claims and accusations. . .”

**Mr. Groot** said, "Madam Mayor I'm going to exercise my right to admonish everybody I guess. I'm sorry to interrupt Mr. Troy because I really believe that Mr. Troy should confine his comments to whether or not these allegations, if true, give rise to what is required under the statute to start a process that leads to his removal from office."

**Mr. Troy** responded, "The allegations do not meet anything nor do they show cause. What I have here – Item number one (1), Ann Nehrig's . . ."

**Mayor Duffy** said, "We don't need to go through each of them"

**Mr. Troy** responded, "I would like to state the facts because . . ."

**Mr. Groot** said, "Madam Mayor, Mr. Troy, everybody else, members of the Commission this is not the time for an evidentiary hearing. I hate to be redundant but I've said what . . ."

**Mayor Duffy** said, "You really don't have to do that tonight, Tony. . ."

**Commissioner Cooke**, "Tony, you do not have to defend yourself tonight . . ."

**Mr. Troy** responded, "Well, I would like to at least get – I'm dealing with a group of people – some are open and some are behind the scenes – life used to be nice – they're taking out a . . ."

**Mayor Duffy** called out, "Ralph – Mr. Kelley please sit down. Sit down please!"

**Mr. Troy** continued, "Because I'm involved in litigation, I have people watching everything I do. I know what's going on. I mean if I roll through a stop sign, they're going to call the police. If I go over the speed limit . . ."

**Mayor Duffy** said, "I think we all know what's going on."

**Mr. Troy**, "I have a right. If this gets to court I don't think it meets any of the statutes for them to try to get me off the Planning Board (PLDRC). I hope I get a chance at some point in time where I can actually try to clear my name because I have three copies of Ethics Board complaints against me and they're full of – basically, they are trying to tarnish my reputation and ruin my name. They're trying to get me off the PLDRC and their complaints are really non-factual. They're speculations, they're jibberish, and there are type-o's all over it. It's like I'm dealing with people who are doing everything they can to me to ruin my reputation."

**Mr. Groot** said, "I think his position is very clear. I think the positions of both sides are very clear. One side is saying that the allegations, assuming they're true, equal everything that the statute says it must. Mr. Troy is saying the allegations, assuming they're true, don't meet the requirements of the statute."

**Mayor Duffy** thanked **Mr. Groot** as **Commissioner Cooke** told **Mr. Troy** that he didn't have to say another thing. **Mayor** concurred with **Commissioner Cooke**.

**Mayor Duffy** said, "Because the allegations, according to our attorney, do not meet any criteria."

**Mr. Troy**, "May I say something about the eighteen (18) loads of concrete that Mary's caught up on?"

**Mr. Groot**, "Madam Mayor I recommend you don't get into evidentiary. . ."

**Mayor Duffy** answered **Mr. Troy**, "No. Thank you, Tony." Mr. Troy thanked the mayor and left the podium.

Someone called out from the audience and **Mayor Duffy** responded, "No. No more comments. You've all heard the attorney." People continued to call out from the audience. **Mayor Duffy** said, "We don't need to hear anymore from anyone. This is not an open debate."

**Commissioner Benton** indicated to **Mayor Duffy** that she needed to abide by what the attorney recommended or she was inviting a lawsuit. **Commissioner Cooke** concurred.

**Mayor Duffy** asked **Mr. Groot** what his recommendation was at this point. **Mr. Groot** said, "Basically you have one of two options – one is to just end this matter. You don't need to take a vote. You don't need to do anything and nothing happens. The other is to – which would require a vote – vote to have the City Administrator and me prepare a resolution that would basically be a bill alleging that these activities in the letter constitute these activities, that are required by statute, and set a hearing date. Those are basically your two options." He reiterated what he said but added the resolution would basically be an indictment for information.

**Mayor Duffy** asked the Commissioners if she should table it for a resolution date.

**Commissioner Benton** responded, "I think you're making a big mistake because it doesn't meet the criteria of the Florida Statute." **Mayor Duffy** said, "Well, I realize that."

**Commissioner Benton** continued that she would be spending money and for what? "You're opening the doors because the criteria is not there."

**Commissioner Robbins** said, "**Mr. Groot** said early on that these were allegations of Code Enforcement." **Commissioner Benton** concurred. **Commissioner Robbins** added, "So let's just have the Code Enforcement officer do his job." **Commissioner Benton** concurred.

**Mr. Groot** added, "Absent a motion to do something, this just ends and that is a perfectly legitimate result as is the other result."

**Mayor Duffy** decided to go back to the agenda.

**8. COMMISSION DISCUSSION:** None for this meeting.

**9. Staff Reports:**

- a. City Attorney: Mr. Groot** thanked the Commission for allowing him to return. "I dedicate myself to giving you straight legal advice."
- b. Police Chief: Chief Chester** said he'd like to delay his discussion about speeders until the next meeting. He said he would meet with **Mr. Findell** to see what the best option would be to bring to the Commission.
- c. City Administrator: Mr. Findell** said the negotiations with the tower company have been competed at the staff level. "The result of the negotiation will be provided to you in the form of a proposed lease agreement." He added, "The agreement, if adopted and approved, would provide the city with an annual lease payment of \$24,000 for the ground lease for the tower. That lease amount would escalate at 5% per year. The tower provider would be allowed to have two co-locators on the tower initially. The revenue that would be generated for the city on those two providers would be 50% of anything that was greater than \$2,500 per co-locator. If the tower provider was able to secure or if the city was able to secure a 3<sup>rd</sup> or 4<sup>th</sup> provider, the city would receive 1/3 of the payment made by the 3<sup>rd</sup> and 4<sup>th</sup> co-locator and any co-locator beyond the 4<sup>th</sup> co-locator, the revenue derived by the city would be 50% of the lease payment of that co-locator." The stealth tower would be located in the ball field and it will look something like a large flagpole. **Commissioner Benton** asked if it would interfere with the ball fields. **Mr. Findell** said that the Commission would have to approve the lease agreement, the design of the stealth tower, and approve the location. **Commissioner Robbins** asked if the tower company had done any testing to find out if that would be a good location. **Mr. Findell** said that they had not so they will have to do some sub-surface testing to determine if that location will actually be suitable to support a tower. **Commissioner Robbins** said she brought a picture of the water tower in Lake Alfred and noted that the city was receiving \$130,000 a year. **Mr. Findell** explained that the value of a tower is based on location and the market area that it serves. He noted that Lake Alfred serves a very large market area. It also owns the tower. Lake Helen will not own the tower and will not be responsible for any of the risk. "How much risk are you willing to assume verses how much reward? Most communities take the less risk, less reward approach." **Commissioner Cooke** said he thought the Lake Alfred tower was hideous but he was willing to go in the direction that **Mr. Findell** has set forth. **Commissioner Snowden** cautioned the city about the location of the tower because of the fears of microwaves and the proximity to the school and ball field. He said he thought there should be some investigation and/or research into that issue so the Commission would feel safe in a decision they may come to in that regard. **Mr. Findell** said there is ample information on the Internet regarding cellular towers and radiation or health risks associated with cell towers. He added, "**Commissioner Snowden** is correct. There are two schools of thought. The prevailing school of thought is there is no risk or the risk is less than minimal. The counter school of thought, that is not prevailing, is they do pose a risk." **Commissioner Robbins** said she wasn't suggesting having a tower to the detriment of children.
- Mr. Findell** said that he would be off the next week and that City Clerk Nancy Wilson would be acting in his behalf until he returns. He will be available by cell phone.

**James Tyler**, who spoke earlier approached the podium and asked to make a comment. He said he didn't want to see the Lake Helen water tower used as a cell tower. **Mayor Duffy** told him they weren't considering that. Mr. Tyler went back to his seat. **Mr. Findell** responded that the water tower had been requested by a provider awhile back but the discussions ended.

**Mayor Duffy** said she's seen the co-locators on church steeples. **Mr. Findell** concurred.

**d. Code Enforcement Officer:** None.

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

**Zone 1 – Commissioner Robbins:** **Commissioner Robbins** said she had been assured that all the problems concerning I-4 and the landscaping had been worked out through Mr. Cooke and that no wall was needed. She said, “Well, I am here to tell you that there are people that still want a wall, Cookie. I don't care what you say, they want a wall, they want the aesthetics of the corridor coming into Lake Helen. They want a wall to protect them from the noise so they're going to continue to work with me on that.”

“I also had two or three calls about the garbage bills and I proceeded to tell these people that the contract was decided upon a couple of years ago before Joan (**Mayor Duffy**) and my administration. I urged the people who call with this kind of complaint to come to the City Commission meetings so they know what's going on.”

She said she had something to say to Mr. McIntosh but he had left already. “In my book, Mr. McIntosh was top. He was here the night I was sworn in and it meant a lot to me. And I will always consider him a friend. He had that father image and yet, he was stern to the point – I don't think the man ever gave us bad advice. I'm going to miss him.” **Mayor Duffy** said that he give them their yearly calendars and she forgot to thank him.

**Zone 2 – Commissioner Cooke:** **Commissioner Cooke** said he had been working diligently with the county and DOT to get our trees and plantings (\$850,000 worth) done on our entrance way. They had been discussing sharing the responsibility. He named several county and/or state people he has been working with on the landscaping and possibly moving the freeway sign. He said he wasn't going to give up. He also said to **Commissioner Robbins**, “When you get ready to put the wall in, you can get ready to tear the trees down, okay?” **Commissioner Robbins** said she wasn't working against him but noted that most of the area of concern is in her zone. “I'm representing my people because that's what my people are telling me.” She told **Commissioner Cooke** that there are people in his zone that are being affected by the interstate noise, too.

**Commissioner Cooke** said the recount from the election was going to happen tomorrow and he hoped the best man wins. However, he added that he would miss being a Commissioner if it worked out the other way.

**Zone 3 – Commissioner Snowden:** **Commissioner Snowden** said he would miss **Mr. McIntosh**. He added that **Congressman Mica** had told **Commissioner Snowden** that he

was sorry that he couldn't build the wall. **Commissioner Robbins** said the last time she talked to him, he had said he had not put it to rest and that was in February or March. A general conversation concerning this took place.

**Zone 4 – Commissioner Benton:** **Commissioner Benton** said he agreed with **Commissioner Robbins**. He disagreed with the amount of money being spent on plants when a wall is what is needed for a safety reason more than anything. He expressed his concerns on the cell tower and the cables running to it. He questioned **Mr. Findell** about the company not testing the ball field to date. **Mr. Findell** explained that the area is in a “dead zone” so it's a good area but the testing is a geological test determining if the company can physically put a tower on that property. **Commissioner Benton** spoke about electrolysis and how it rusts metal.

**Mayor Duffy** said she would like to thank the people of Lake Helen for their wonderful turnout on election day. (1,407 per **Commissioner Cooke** out of 1,938 registered voters) She said that there would be a mandatory recount by the county tomorrow because of how close the election results were. She said she wished each candidate well.

**Von Russell** began yelling from the audience but was inaudible. She continued to yell as Mayor Duffy adjourned the meeting.

## 11. ADJOURNMENT

The regular meeting of the City Commission of the City of Lake Helen, Florida was adjourned by **Mayor Duffy** at 10:07 pm.