

SPECIAL MEETING
LAKE HELEN CITY COMMISSION
CITY COMMISSION CHAMBERS

April 10, 2008

7:00 p.m.

MINUTES

A SPECIAL MEETING of the City Commission of the City of Lake Helen, Florida was called to order by Mayor Joan Duffy at 7:00 p.m. Present were Vice Mayor Buddy Snowden, Commissioner Lou Benton, Commissioner Alan Cooke, and Commissioner Ann Robbins; City Administrator Don Findell; and City Attorney Ken McIntosh; and Recording Secretary, Ashley King.

The other attendees at the meeting were Attorney Bill Osborne representing Phillip and Heather Lindsay and Attorney Robert Riggio representing June and Anthony Troy.

INVOCATION AND PLEDGE OF ALLEGIANCE:

Attorney Ken McIntosh led the invocation and pledge of allegiance.

Comm. Benton discussed a recent complaint made on him regarding a possible conflict of interest with Mr. Troy and Cabin on the Lake. He sent a letter to the ethics board. The ethics board suggested for Mr. Benton to disqualify himself for voting on any matters regarding Mr. Troy and Cabin on the Lake. Comm. Benton did not admit to violation of any ethics, but due to the Ethics committee not being able to finish researching the inquiry in time, Mr. Benton will only discuss matters regarding Cabin on the Lake during the special meeting and will not vote on any matters regarding Cabin on the Lake during the special meeting.

COMMISSION DISCUSSION

(A) Review City Attorney's opinion as to the applicability of the original Litigation Settlement Agreement to the Proposed Residential Expansion of 222 Tangerine Ave.

Atty. Ken McIntosh introduced Attorney William Osborne, the attorney for the Lindsay's. He also introduced Attorney Robert Riggio, the attorney for the Troy's. Each of the attorneys agreed to 20 minutes for each presentation. He introduced this meeting as a Quasi Judicial Hearing.

Mr. McIntosh brought attention to Pg. 10, the Attorney Opinion dated December 28, 2007. Par. 3 mentioned Section 4a of the Litigation Settlement Agreement limits development of the

property on 222 Tangerine Ave. to improvements of the foot print of the structure and uses that do not expand or increase the intentions of use of the property in section 4a12.

Other parts of the agreement are for commercial (Bed and Breakfast portion) use properties. The agreement contemplates additional improvements not covered in the agreement. It mentioned that as long as the improvements are consistent with the Code of Ordinance and the City of Lake Helen Comprehensive Plan the expansions can be made.

Lastly, the conclusion would be for the property owners to not be able to add anything onto the property without the amendment of the litigation agreement. Mr. McIntosh stated Attorney Groot and City Administrator Don Findell, the drafters of the agreement, have confirmed this result of the agreement was not intended.

Mr. McIntosh discussed all declarations containing the Litigation Settlement Agreement and opined that it would not be inconsistent with the intent of the agreement for the commission to grant the Lindsay's residential expansion as long as it is consistent with the Code of Ordinance and the City of Lake Helen Comprehensive Plan.

Due to all of the concerns regarding the interpretation of the Litigation Settlement Agreement, the commission should condition the approval for the residential improvements for the execution of the amendment to the Litigation Settlement Agreement. The amendment will address any conflicts within the language of the agreement and also strengthen the enforcement of the provisions of the amendment. The City Attorney should be directed to drafting of the amendment.

Mr. McIntosh discussed recommendations would be for the commission to 1) deny the appeal filed by the Troy's and 2) grant the proposed residential expansion subject to the City Administrator ensuring the expansion is consistent with the Code of Ordinance and the City of Lake Helen Comprehensive Plan, and the execution of the amended Litigation Settlement Agreement that address existing ambiguities in the agreement and provide for increase penalties if the property owners of Cabin on the Lake fail to adhere to the terms of the agreement.

Atty. McIntosh discussed the Lake Helen City Commission Regular Meeting held on January 3, 2008 at 7:00p.m. Pg. 12 indicated a motion by Comm. Robbins, seconded by Comm. Snowden to deny Tony Troy's Notice of Appeal. In addition, there was a motion by Comm. Benton, seconded by Comm. Robbins, to grant the proposed residential expansion/improvement to the Cabin-on-the-Lake property subject to several items referenced on Pg. 13 and 14 of the January 3, 2008 minutes.

Mr. McIntosh discussed an amendment to the Litigation Settlement Agreement which was submitted to Mr. Osborne. Atty. Osborne requested a redraft of the Litigation Settlement Agreement because he was not in agreement with the original amendment. The agreement was presented at the meeting "as is" and was not amended.

Atty. McIntosh discussed the overall order of the special meeting and indicated for section C of the meeting agenda, ***Coordination of potential issuance of permit for removal of Camphor Tree with the plan for residential expansion of 222 Tangerine Ave. and verification by registered land surveyor as to the tree location on private or public property***, that verification from a registered land surveyor needs to be accomplished with reference to the location of the Camphor Tree regarding if it is on private or public property. If the tree is on private property, the permit can proceed, if the tree is on public property there has to be public hearing to remove the property because it is under the ownership of the City of Lake Helen.

Mr. McIntosh instructed the commission to discuss any 3rd party information received by mail, email, phone, or personal contact that will interfere or influence with listening and making decisions on the evidence and presentations provided during the current meeting. Each commissioner was to discuss their influences by zone.

Zone 1- Ms. Robbins did not receive any information that influenced her decision.

Zone 2- Mr. Cooke did not receive any other information that influenced his decision.

Zone 3- Mr. Snowden received correspondence from attorneys and other individuals but none that would influence his decision.

Zone 4- Mr. Benton spoke to a few residents and received those same correspondences as the other commissioners but none that would influence his decision.

Mayor- Mayor Duffy had received numerous emails, phone calls, and letters but none that would influence her decision. She emphasized the evidence presented tonight will be the only evidence used in the decision making process.

(B) Consideration of Amendment to Litigation Settlement Agreement

(1) Discussion of Attorney Osborne's suggested redraft of Litigation Settlement Agreement.

Attorney Osborne discussed the agreement did not affect the residential expansion. He mentioned Mr. Groot's letter said the agreement does not preclude the property owners from applying and getting approval for development of the subject property for additional residential uses that are consistent with Codes and Ordinances of the City of Lake Helen.

He mentioned Mr. McIntosh's thoughts were the declarations were consistent with the intent to grant the application for the Lindsay's to have a residential expansion as long as it is consistent with the Codes and Ordinances of the City of Lake Helen.

Atty. Osborne emphasized his thoughts were agreeing with Mr. Groot's and Mr. McIntosh's thoughts and stated the Lindsay's are no different from any other resident wanting to make an expansion except there is a nonconforming (Bed and Breakfast)

portion on the property in addition to a conforming (residential) portion on the property.

Atty. Osborne indicated the litigation was drafted because there was a dispute when the ordinance changed. He encouraged the commission to study the agreement and he mentioned that the agreement only applied to the conforming use. He also made the point under section 3 which says the uses permitted herein shall continue except for other wise set forth herein to be permitted as nonconforming uses for the benefits of the property owners unless the land development regulations of the city are modified such that the use of the property is deemed to be a conforming use which means that the litigation agreement is referring to the nonconforming use. He stated that the agreement will no longer be an issue if the City of Lake Helen's ordinance allowed Bed and Breakfast facilities in residential areas. This way, the Bed and Breakfast will no longer be nonconforming, but will change to conforming.

Atty. Osborne mentioned section 4 uses the term "existing foot print" and stated that it is taken out of context. All 12 sections that follow the "existing foot print" mention the bed and breakfast sections, and there was not anything after that mentioning conforming residential use.

There are many other sections pertaining to the Lindsay's having the right to expand on the property. The reason why the Lindsay's did not accept the amendment was because the city was placing a penalty as regards to the bed and breakfast facility. The Litigation Agreement has been passed and is apart of the code, and for the commission to state an expansion on this property will consequence in penalties is unacceptable and the amendment is not accepted by Mr. and Mrs. Lindsay.

(2) Discussion of Attorney Riggio's opinion on Proposed Amendment to Litigation Settlement Agreement.

Attorney Riggio mentioned Mr. and Mrs. Troy will be adversely impacted if there is an expansion on the property in question. Attorney Riggio cited 3 statements as follows: 1) Contract zoning refers to an agreement between a property owner and the local government where the owner agrees to certain conditions in return for the governments rezoning or the enforceable promise to rezone. 2) Contracts have no place in the zoning plan and a contract between a municipality and property owner should not enter into the enactment or enforcement of zoning regulations 3) The residential owner would never know if he was protected against commercial encroachment.

He proposed the city is promoting further commercial growth in a residential area. He emphasized there were only slight differences between a small motel and a Bed and Breakfast. He mentioned there was not a problem with the Bed and Breakfast until the amendment came along for expansion of the property.

Atty. Riggio expressed his clients concerns of not knowing what will go on in the expansion. He emphasized that the proposed added expansion could be used for more commercial use as opposed to using the expansion for family and friends to reside in while visiting. He suggested for the City to reconsider penalty provisions.

Atty. Riggio mentioned that in order for the bed and breakfast to be nonconforming there will have to be substantial competent evidence. What is being said is something that was illegal because of the ordinance change is entitled to continue because of certain circumstances.

Atty. Riggio mentioned the problem with the agreement is not the recognized nonconforming use but the expansion. The argument is that the residential portion is being expanded, not the bed and breakfast. He finished by stating there were no major complaints as of the moment because there was not an expansion, but there will be complaints if the expansion is added to the property. He closed and suggested the commission to think about the other residents living in the area and how they would feel with an expansion of the Lindsay's property.

Atty. Ken McIntosh questioned whether there was any rebuttal from Atty. Osborne.

Atty. Osborne did not have any rebuttal.

Tape was played from a June 3, 2002 meeting with Mr. Groot concerning the agreement presented by Commissioner Benton.

Public Participation

> **Richard Tamburro** (160 Tangerine Ave.) was sworn in by Atty. McIntosh. Mr. Tamburro discussed Mr. Riggio's experience as a land use attorney and is an expert at these types of cases. He encouraged the commission to put more weight on Atty. Riggio's advice than Atty. Osborne's. The Florida Supreme Court considers a Bed and Breakfast as a motel and this property is considered as spot zoning.

The original litigation agreement does allow for residential expansion but it is limited to 25% of the square foot of the main building (Section 7.04). So the Lindsay's can do an expansion but it would have to be limited to 500 sq. ft. He mentioned that he, a resident on Tangerine Ave., is okay with the pool and all other added features, but only requests that the expansion conform with the laws of the ordinance of 25%.

> **Joe Hammet** (289 Garden St.) was sworn in by Atty. McIntosh. Mr. Hammet mentioned residents that live around the Bed and Breakfast establishment are complaining and do not want the expansion on the property, but the residents that do not live in the area are okay with the expansion. The Bed and Breakfast brings no benefit to the City. It only has 30-35% occupancy rate and have a lot of room for their family and friends to visit in the original structure. He believed there will be a hidden agenda in the expansion.

Mr. Hammet read a letter given to the commission suggesting to not allow the expansion because this street will no longer be the quiet environment it once was. He finished by stating if the city is going to be sued no matter what decision is granted, the city has a better chance of winning by being sued by the Bed and Breakfast and the courts will see the expansion will look more like a hotel.

> **Anthony Troy** (421 Roseville Lane) was sworn in by Atty. McIntosh. Mr. Troy presented an original sketch from Heather Ford from December 2006, and a sketch of a concept plan that was approved January 4, 2007. The residential expansion that is allowed by the City of Lake Helen can be allowed but to a detached structure. The Lindsay's have a right to do a residential Mother-in-law apartment. The Lindsay's bought the property with the original settlement agreement and would like for it to be amended. Mr. Troy emphasized if the agreement is amended he will file suit with the City of Lake Helen.

The settlement agreement should have died when the Ballard's sold the home, but the Lindsay's requested it, which was a gift from the city. The Lindsay's should only be allowed to expand with a detached structure.

> **Cheryl Gotbaum** (840 Pleasant St.) was sworn in by Atty. McIntosh. Ms. Gotbaum mentioned if the Lindsay's specified to Don Findell they wanted a three guest room expansion, Don Findell may not have agreed with the expansion so quickly. She mentioned the Bed and Breakfast will be a nuisance in the community and agreed with the Troy's in mentioning the original agreement stated there will be no change to the foot print or additional guest rooms on the property.

> **Ralph Kelly** (170 Tangerine Ave.) was sworn in by Atty. McIntosh. Mr. Kelly encouraged the city to listen to the attorneys by voting for or against the expansion of the property. The city is going to be sued regardless on what decision is made, so a decision should be made tonight because 18 months is too long to be deciding on this matter.

> **Paul Holt** (335 N. Boundary, North Deland) was sworn in by Atty. McIntosh. Mr. Holt addressed the issue of the septic system and the tree. The application went to the State of Florida Health Department with the understanding that it was a residence. The health department came back with the determination that this building is a residence, and is not an expansion of a Bed and Breakfast. When the engineer performed the calculation for the water flow, the property was considered as a residence.

Mr. Holt presented pictures of Camphor Tree roots. He discussed after measuring the tree, he concluded the tree is on public property. A Camphor Tree in the state of Florida is considered as a noxious weed or plant and is not a tree. Camphor Tree roots spread and destroy drain fields.

> **Ann Nehrig** (160 Rose Ave.) was sworn in by Atty. McIntosh. Ms. Nehrig appreciated Cheryl's comments. She discussed before the Lindsay's bought the property on 222 Tangerine Ave., there was a meeting with Mr. Findell, and the Lindsay's stated the addition to the property was

going to be a 3 room expansion. Mr. Findell stated there would not be a problem as long as it was on the residential portion.

Ms. Nehrig mentioned if the expansion was to be used as another Bed and Breakfast portion, the Lindsay's would fall under the codes of a State of Florida Bed and Breakfast, which would require a lot more changes to the property. If the Lindsay's allowed people other than family and friends to live in the expansion, they would be faced with losing their license, and the Lindsay's will not go through the expense.

Ms. Nehrig finished by stating it would be unfair for the city to go back on the word that the Lindsay's could have an expansion before they bought the property and now they bought it, they cannot have an expansion.

> **Phillip Lindsay** (222 Tangerine Ave.) was sworn in by Atty. McIntosh. Mr. Lindsay agreed with Ms. Nehrig and stated Don Findell confirmed adding on the residential portion of the property was okay according to the Litigation Agreement. Mr. Findell also stated if there was a desire to add on the Bed and Breakfast, there would be a problem.

Mr. Lindsay stated they only wanted to add onto the residential area only. They went to the neighbors and explained what they wanted to do. The commissioners came out and agreed that everything was fine. He reassured to the residents on this street that everything added would be for residential use. During the commission meeting January 2007, no objections from the neighbors were brought up and the commissions voted at a 5 to 0 vote.

Mr. and Mrs. Lindsay then proceeded to inquire environmental, septic, and pool permits, and building quotes, one of which was done by Mr. Troy. They submitted 2 sets of plans required by the city ordinances and it was for the residential portion only. Then, there was an appeal by Mr. Troy opposing. At January 2008, there was a public hearing about the residential expansion and it was voted 4 to 1. He finished by stating they are here now, stating the expansion is for residential use only.

> **Heather Lindsay** (222 Tangerine Ave.) was sworn in by Atty. McIntosh. Mrs. Lindsay mentioned when Mr. Troy gave them the quote he was reminded that the concept idea was for residential only. Mrs. Lindsay disagreed with the comment made about the Bed and Breakfast holding only 30-35% occupancy. She stated the Bed and Breakfast is occupied most of the time. She emphasized that a Bed and Breakfast and a Motel are not the same or similar.

The letter the Troy's sent out about the appeal is false. She presented building plans for the commission to consider as evidence proving the layout of the Bed and Breakfast. One of the plans was 40% less than the other plan with no room above the garage.

She stated that they understand the rules regarding only 3 rooms of nonconforming use in the litigation agreement and have no desire to break those rules.

> **Rebuttal: Anthony Troy** (421 Roseville Lane) was still under oath. Mr. Troy gave Mrs. Lindsay a budget based on a computer sketch. He emphasized that he is not changing his mind about the

budget he gave Mrs. Lindsay. He finished by stating the city will never know if paying guests are going to end up sleeping in the residential expansion area.

Commission Debate

Commissioner Benton: "That tape did reverse the opinion of the attorney here because Lonnie did say it. The typed minutes aren't verbatim. The tape has all the information you need to know. That was supplied to me and the other commissioners. I do agree with Tony Troy and I mentioned this at the last commissioners meeting. My issue was when they came in with the concept plan, if we'd had the original agreement this would never have happened. The original agreement should never have happened. Mr. Troy was never notified nor was anybody else in the neighborhood. I can't picture Don saying that they can do it. I don't think Mr. Findell made a decision that it could be done, especially knowing that there was an agreement. The language might have been misunderstood. Don wouldn't say that. I agree with Tony Troy. I don't have a problem with them putting a garage and mother-in-law apartment behind there. Everybody has that right. It's in our ordinance. Let me give you some history. Six years ago this was fought. I was one of the people fighting against it. Barbara Ballard went on the PLDRC, the main reason why is because we were having problems with the other B&B issue. Then it was changed to mixed commercial. Lonnie Groot asked the Ballard's, "did anybody sitting on the board have any interest in the B & B". Barbara Ballard had no problem with it. The next thing we know Barbara Ballard went in front of the commission. In the city commission she asked for this B & B. The city commission said she could not have a B & B. The commission also said that we can't stop you from building your home because the ordinance says that you have to have a building there before you can have a B&B. Barbara Ballard did not have a house or anything on that property. Then she threatened to sue the city. The city didn't want to be sued so they negotiated this agreement. This caused a lot of problems with a lot of neighbors. The neighbors didn't want to fight each other, they want to get along with each other because we live in a small community. They all said the same thing. The city commission promised them that the footprint of the structure is going to be that way and that's why the footprint of the structure is there. There's nobody in this city who would stop that. None of the residents would stop that. Their problem, which I brought up, was with spot zoning. There's case law concerning spot zoning. I also said to the commission back then that it's going to come back and bite you and here it is, it bit us six years later. I am and I hope most of my colleagues are listening to the neighbors, listening to the people - none of these people want this B&B expansion. I agree with Mr. Troy because I've been a contractor in the state of Florida. You can go in the health department with a set of drawings and you can put what you want on the drawing and they won't question you. It's done every day. But I really hope that we stick with this original agreement that stays with the footprint of the structure. I don't think we're violating any laws because attorneys represented Barbara Ballard back then. Her attorneys and Lonnie made a statement, the citizens asked questions and there it is on tape. Everybody can get the full tape and listen to it. I really hope the commissioners honor the original agreement. I have no trouble with a garage and mother-in-law apartment that is detached."

Comm. Robbins "I had two telephone calls from residents in the neighborhood this week. I also talked to Mr. Hammett at city hall and listened to what he had to say. I did say I would listen and I did listen, did I not, Joe? MR. Hammett answered "yes". Two of the residents who have lived in that neighborhood longer than the B&B, longer than the Roseville subdivision and longer than Mr. Hammett has owned his property, told me that they felt that they had been misled and they were afraid of retaliation. I did receive calls from people who are not in that neighborhood who are not against the expansion of the expansion of the residential permit. That is all I have at this time."

Comm. Cooke mentioned before he was a commissioner he attended most of the meetings regarding this matter. He explained to the Lindsay's that he was excited about the Bed and Breakfast and after reading it there is a lot of question in the agreement. There were several wordings stating the foot print cannot be changed or additions to this property in the agreement. He realized the situation is different from what he voted on. He thought since it was voted in, it should not be changed.

Mr. Cooke stated in the Bed and Breakfast ordinance, a resident is allowed up to 50% of the footage to be utilized as a bed and breakfast. Later on, the Lindsay's may want to add another room due to the rule of the ordinance. He finished by stating he does not live in the area of the Bed and Breakfast, but the residents whom live in the area of the Bed and Breakfast do not want the expansion and the commission should take into consideration the residents that have been living here long before the Bed and Breakfast was established.

Comm. Snowden mentioned that the citizens of Lake Helen should have been able to come to a resolution on this issue without receiving help from legal professionals. He mentioned since the voting, the residents in the neighborhood did not like the decision but trusted in the commission's decision. He had not heard of another complaint and welcomed the Lindsay's to having a Bed and Breakfast. He mentioned that individual property rights out weigh any other issue because if the rules are okay for one property owner, they should be okay for all individual property owners.

He questioned if the public is basing their feelings on what could potentially happen to the expansion or is the public intimidated by the Lindsay's expanding secretly to gain more revenue. Either way the commission votes, we would not be right because this city cannot come together as a team. He hoped that the decision does not degrade the spirit of the community.

Mayor Duffy agreed with Comm. Snowden and added that this decision has been extremely hard to make and understands both sides. She apologized to the citizens of the City of Lake Helen because there is no middle ground for each party to be able to agree with. She questioned whether the attorney's had any other comments to be made.

Attorney Ken McIntosh presented the commission with alternatives such as if the city concludes from substantial evidence that Litigation Settlement Agreement dated July 3, 2002 limits the Lindsay's from implemented the application for tree permit and the implementation

of the plan for residential expansion, the city should deny the Lindsay's application for permit and a motion to deny would be in order. Or if the Litigation Settlement Agreement does not limit the Lindsay's application residential expansion with the interpretations given from all the attorneys and all evidence presented, then the application of the Lindsay's for the residential expansion and the tree permit should be granted and a motion to approve would be in order. He reminded the commission that Comm. Benton will be abstaining from the vote.

Comm. Snowden questioned Atty. McIntosh when Comm. Benton will be granted the ability to vote on this subject matter.

Attorney Ken McIntosh replied according to the ethics opinion on April 4, 2008, Comm. Benton would be able to vote on this subject matter when he is no longer working, contracting, or waiting to be paid by Mr. Tony Troy and/or his company. When Mr. Benton is in between jobs with Mr. Troy is the only time he will be able to vote on this subject matter without conflict. The evidence has been presented today, and the vote will be taking place today.

Comm. Benton mentioned he know the Lindsay's will use the 3 bedroom expansion for more commercial use. Some residents are okay with it because they do not live near the bed and breakfast to observe what is going on. He agreed with the need for a "yes" or "no" vote.

Attorney Ken McIntosh directed the meeting back to the attorneys to give their closing statements.

Atty. Osborne brought attention to Page 4 par. 12 and par. 13, which mentions of a 3 guest room in the Bed and Breakfast facility and the paragraph 13 regards to any and all future developments of the property not to include the 3 room bed and breakfast. The property owner will have to apply for additional development orders, permits, or approvals will be subject to the Lake Helen Comprehensive Plan and the Code of Ordinances within the City of Lake Helen. The documents state that the Lindsay's are allowed to do future developments as long as it complies with the codes and ordinances. The Lindsay's have a right to a residential expansion.

Atty. Riggio agreed with Comm. Snowden with there being no real answer. The original agreement was not intended to be changed. The document was created to put restrictions on what can be done on this Bed and Breakfast property and to satisfy all parties involved. Atty. Riggio suggested for the commission to make the right decision.

Comm. Snowden faced a conflict between the representation of the tape of Mr. Groot and the representation of the city. Mr. Snowden remembered feeling confident on what Mr. Groot said during the meeting. Mr. Groot was representing the city as much as possible and don't think the issued was fully answered by Mrs. Schnebly's comments on the tape. His comments also do not correlate with what is mentioned in the agreement.

Atty. Ken McIntosh mentioned Mr. Groot communicated in writing exhibit E in the packet on December 28,2007.

Comm. Cooke mentioned he was not against cutting the tree as long as the septic tank will be put in after that.

Mayor Duffy requested for a motion.

MOTION by Comm. Robbins to approve. **SECOND** by Comm. Snowden

Comm. Robbins-- **Yes**; Comm. Cooke-- **No**; Vice Mayor Snowden-- **Yes**; and Mayor Duffy-- **Yes**

Comm. Benton abstained from voting.

Mayor Duffy hoped the Lindsay's obey and abide by the ordinances of Lake Helen and go through the proper channels to do what they choose to do on the property.

(C) Coordination of potential issuance of permit for removal of Camphor Tree with plan for residential expansion of 222 Tangerine Avenue and verification by registered land surveyor as to the tree location on private or public property.

City Administrator Don Findell mentioned there have been issues in previous meetings regarding if the Camphor Tree is on private or public property. The only way to determine that is to have a registered land surveyor determine if the tree is on private or public property the commission will have to move forward with the process by having the applicant provide a survey.

Comm. Snowden mentioned there was a motion in a previous meeting determining the tree was on private property then was directed to not issue a permit for removal.

City Attorney Ken McIntosh mentioned the motion is the declaration of the commission unless the tree is determined to be on public property instead of private property. A survey is going to be reassurance that the tree is labeled on the right property. The tree is connected with a plan from the city commission and the commission will need a survey for the tree for confirmation.

Mayor Duffy questioned whether the survey could be done by next week.

Ms. Heather Lindsay responded there is a survey done and the Camphor Tree is on city property.

Atty. Ken McIntosh stated their survey has to be validated, verified, and updated, place permanent reference marker, and flag it so the City Administrator can make a visual determination on whether the flag is on private or public property.

Atty. Riggio mentioned there were changes made by the City Attorney and suggestions made by Atty. Osborne. He questioned was the motion approved subject to the development agreement as per the City Attorney.

Atty. Ken McIntosh replied "No". The information shared was as indicated. The motion was approved with the litigation agreement as is, subject to a determination by a declaratory decree. The suggested changes made were rejected by Atty. Osborne.

When the final action is taken on the tree permit it will be the final action of the City of Lake Helen upon which action can be taken as desired.

City Administrator Don Findell questioned whether the survey issued should be put on the agenda.

Mayor Duffy replied "Yes" and a motion should be taken on it.

MOTION by Comm. Robbins to add the Camphor Tree matter on the agenda for next week.

SECOND by Comm. Snowden.

Comm. Robbins-- **Yes**; Comm. Cooke-- **Yes**; Vice Mayor Snowden-- **Yes**; Comm. Benton-- **Yes**, and Mayor Duffy-- **Yes**

Mayor Duffy wanted to add the discussion of the City Clerk position Applications on the agenda for the next Regular Meeting and needed a motion by the commission.

MOTION by Comm. Cooke to include the discussion of the City Clerk position Applications on the Agenda. **SECOND** by Comm. Benton.

Comm. Robbins-- **Yes**; Comm. Cooke-- **Yes**; Vice Mayor Snowden-- **Yes**; Comm. Benton-- **Yes**, and Mayor Duffy-- **Yes**

There was discussion on the interview process for the City Clerk position. The commission came to the conclusion for each commissioner to interview the applicants individually.

Tony Troy questioned whether the Lindsay's are getting additional code enforcements or penalties if they are caught with guests other than family and friends living in the residential expansion.

Atty. Ken McIntosh replied the motion as carried was clear to the commission and there were no conditions or penalty provisions for the plans that were submitted.

Comm. Snowden mentioned the provisions are stated in the actual agreement.

City Administrator Don Findell mentioned whatever enforcement provisions are in the original agreement will be the enforcement provisions applied to this property.

ADJOURNMENT

The Special Meeting of the City Commission of the City of Lake Helen, Florida was adjourned at approximately 9:57 p.m.

Joan Duffy

Mayor

Ashley King

Recording Secretary