

1 MINUTES OF THE LAKE MARY CITY COMMISSION MEETING held June 4, 2009, 7:00
2 P.M., Lake Mary City Commission Chambers, 100 North Country Club Road.

3
4
5 I. Call to Order

6
7 The meeting was called to order by Deputy Mayor Gary Brender at 7:07 P.M.

8
9 II. Moment of Silence

10
11 III. Pledge of Allegiance

12
13 The Pledge of Allegiance was led by Bill Gibbons.

14
15 IV. Roll Call

16
17 Mayor David Meador – Excused
18 Deputy Mayor Gary Brender
19 Commissioner George Duryea
20 Commissioner Shirley Gray
21 Commissioner Jo Ann Lucarelli

John Litton, City Manager
Carol Foster, City Clerk
Jackie Sova, Finance Director/
Assistant City Manager
John Omana, Com. Dev. Dir.
Gary Schindler, City Planner
Steve Noto, Planner
Peter Schaffer, Summer Intern
Bill Carrico, Parks & Rec. Dir.
Kathryn Zink, HR Administrator
Melissa Flippin, Events Coord.
Steve Bracknell, Police Chief
Craig Haun, Fire Chief
Katie Reischmann, City Attorney
Mary Campbell, Deputy City Clerk

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32
33 V. Approval of Minutes: May 21, 2009

34
35 **Motion was made by Commissioner Gray to approve the minutes of the May 21, 2009,**
36 **meeting, seconded by Commissioner Lucarelli and motion carried unanimously.**

37
38 VI. Special Presentations

39
40 A. Recognition – Bill Gibbons

41
42 Deputy Mayor Brender read and presented a proclamation to Bill Gibbons proclaiming June 4,
43 2009, as “William H. Gibbons Day” for his 14 years of service as a volunteer Fire Inspector.
44

1 Wendy Niles, Fire Marshal, presented to Mr. Gibbons his badge displayed in a shadow box
2 with a plaque that reads: "In appreciation for your 14 years of dedicated service, commitment,
3 and contribution to the Lake Mary Fire Department".
4

5 Mr. Gibbons said it was his great opportunity after he retired from the State Farm office to run
6 into Lynn Wright and she needed some help. He said he would give her a hand for a couple of
7 months. It was his pleasure to see the Lake Mary Fire Department raised to a first class
8 operation. He said to his staff he was "just one of the girls".
9

10 B. 10-Year Service Award – Fire Lieutenant/Paramedic Dan Keogh

11
12 Deputy Mayor Brender asked Lieutenant/Paramedic Dan Keogh to come forward.
13

14 Chief Haun said on April 4, 2009, Lieutenant/Paramedic Dan Keogh celebrated his 10-year
15 anniversary with the City of Lake Mary Fire Department. Dan started in fire service as a
16 volunteer with the Plantation Fire Department. Dan's father has also been a volunteer for the
17 Plantation Fire Department for the last 20 years. Dan has many accomplishments with the
18 Lake Mary Fire Department. Dan started out with the responsibility for extrication equipment,
19 evaluation and maintenance programs. Dan has been involved with our pre-fire planning and
20 mapping programs and is currently in charge of reporting to the state. Dan was promoted to
21 Lieutenant on April 1, 2007. Dan is a valued employee of the Lake Mary Fire Department.
22 Chief Haun extended congratulations.
23

24 Deputy Mayor Brender presented Fire Lieutenant/Paramedic Dan Keogh with a leather helmet
25 in recognition of 10 years of service with the Lake Mary Fire Department.
26

27 C. Update on the Senior Center – Melissa Flippin
28

29 Mr. Carrico said we have a lot of good people doing a lot of good things but Melissa has done
30 many. She is the Senior Center Manager, is in charge of the Farmer's Market and special
31 events, all of which have grown since she has taken over. We have so many people helping
32 the City in so many different ways and it is incredible.
33

34 Melissa Flippin, Senior Programs/Special Events Coordinator, came forward. She showed a
35 video of some of the senior activities. She recognized and thanked Betty and Lee Smith who
36 helped get the footage for the video. The video was put together by Todd Herbach who does
37 sound and design for Full Sail University and also works at Northland Church.
38

39 Deputy Mayor Brender said Betty and Lee (Smith) are wonderful for helping to put that
40 together. It is a treasured piece and was sure they would be able to see it on SGTV and a few
41 other places.
42

43 Mr. Litton announced there was a request to postpone Items 8-A and 8-C to July 9, 2009.
44

45 **Motion was made by Commissioner Gray to postpone Items 8-A and 8-C to July 9, 2009,**
46 **seconded by Commissioner Lucarelli and motion carried unanimously.**

1
2 Mr. Litton introduced Peter Schaffer, an intern from Appalachian State who lives in Lake Mary.
3 He said Peter's father is with AAA.

4
5 VII. Unfinished Business

6
7 A. Ordinance No. 1320 – Annex International Parkway lying between AAA Drive and
8 Lake Mary Boulevard – Second Reading (Public Hearing) (postponed 5/21/09)

9
10 The City Attorney read Ordinance No. 1320 by title only on second reading.

11
12 Mr. Noto said in the packets is a memo outlining some of the conditions we are recommending
13 to go with the annexation. We have two changes to that memo and are omitting Items 3 and 4.
14 He said Madam City Attorney has some items she would like to cover as well.

15
16 Ms. Reischmann said Colonial was hoping to mention under Paragraph 2 that the utilities that
17 are referenced there are for the most part County utilities so that has to be handled with the
18 County agreeing to maintain those utilities. Apparently there was never an easement granted
19 from Colonial to the County so we have to work that out, but it shouldn't delay the annexation.

20
21 Ms. Reischmann said the reference to the City maintaining the roadway surface, the pre-
22 annexation agreement also includes that the City will maintain the traffic control signal, STOP
23 signs, and operational aspects of the roadway.

24
25 Mr. Omana said under Provisions 1 and 2 it does provide for the indemnification of the City
26 with respect to the items outlined in 1 and 2.

27
28 Deputy Mayor Brender clarified that 1 and 2 are staying as is. Ms. Reischmann said that was
29 correct.

30
31 Deputy Mayor Brender asked if anyone wanted to speak on this item.

32
33 Eric Castleson of Shutts & Bowen came forward representing the applicant, Colonial
34 Properties. We are generally agreeable with the items. Some of the indemnification
35 provisions will need to be hammered out in an agreement after the reading.

36
37 Deputy Mayor Brender asked the City Attorney if they were okay with those details or would
38 there be any substantive changes to this that might have to come back.

39
40 Ms. Reischmann said there is going to be an easement that we are going to grant Colonial
41 access which is required by the pre-annexation agreement. We will have these two
42 requirements met in that easement as well as the indemnification and basically just carrying
43 out what is already in the pre-annexation agreement but just making it absolutely clear as to
44 the indemnification aspect. That is all to be completed by June 9th. She said when the
45 Commission adopts this ordinance to add as a condition that this easement agreement is to be
46 executed by Colonial by June 9th so that we can get the annexation finalized.

1
2 No one else came forward and the public hearing was closed.
3

4 **Motion was made by Commissioner Lucarelli to approve Ordinance No. 1320 on second**
5 **reading with the removal of Items 3 and 4 in the staff report and the condition that an**
6 **easement agreement be executed by Colonial Properties by June 9, 2009, seconded by**
7 **Commissioner Duryea and motion carried by roll-call vote: Commissioner Duryea, Yes;**
8 **Commissioner Gray, Yes; Commissioner Lucarelli, Yes; Deputy Mayor Brender, Yes.**
9

10 B. Ordinance No. 1323 – Small Scale Future Land Use Amendment from LMDR to
11 DDD, property on the north side of Lake Mary Boulevard, east of Country Club
12 Road, west of Palmetto Street, abutting the CSX Railroad; Quality Real Estate
13 Development Corporation/Axim Manji, applicant – Second Reading (Public Hearing)
14 (Legislative)
15

16 The City Attorney read Ordinance No. 1323 by title only on second reading.
17

18 Mr. Noto said he had no additional comments.
19

20 Deputy Mayor Brender asked if anyone wanted to speak on this item.
21

22 Dr. Terrence Ash, 1705 West Lake Mary Boulevard, came forward. He said his property was
23 across the street from this property about four blocks down. He said he wanted to make sure
24 that this was on the up and up. He asked who are the persons that are benefited from the
25 rezoning of this property, including who are the investors in this property, and what is the
26 relationship of this property to the State of Florida.
27

28 Ms. Reischmann said the person benefitting could be any number of people. We know the
29 applicant's name. She said she didn't know of any relationship to the State of Florida but staff
30 is indicating this property is not owned in any way by the State of Florida.
31

32 Deputy Mayor Brender asked Dr. Ash if he was talking about the relationship with SunRail and
33 that sort of thing.
34

35 Dr. Ash said he was primarily interested in who's got skin in the game and who's going to
36 benefit in that way.
37

38 Deputy Mayor Brender said the applicant is the only person that we have any knowledge of.
39 The relationship to the state is non-existent because this is not part of the FDOT buyout for
40 SunRail.
41

42 Dr. Ash said these would be the same questions for the next item too. He asked if that applied
43 to the next item.
44

45 Deputy Mayor Brender answered affirmatively.
46

1 Dr. Ash asked if any of the Commissioners, Mayor or family members or friends thereof have
2 any financial interest in the increased value of this property. If so, who and how so? He asked
3 who were the builders and investors in the development in the downtown area and what
4 benefits has the City received from these builders and investors.

5
6 Deputy Mayor Brender said if any of the Commission had any contact or if any of them had
7 anything to gain from the sale or change of this property then that would have to be announced
8 as a conflict. As far as the builders and investors, the benefits are to whoever and whatever
9 builders come into the City. That is not by any stretch any business of the government. This is
10 a free market enterprise. If a builder wants to come in and he wants to do something in the
11 downtown district, he is free to do that.

12
13 Dr. Ash asked Deputy Mayor Brender if he was speaking for all the other commissioners too.

14
15 Deputy Mayor Brender said if any of them had any contact with any of the property owners that
16 will be announced when we discuss the item.

17
18 Dr. Ash asked if that would be in a public hearing. Deputy Mayor Brender answered
19 affirmatively.

20
21 Ms. Reischmann said the question is talking about any family members and any friends and
22 the statute only requires you to refrain from voting if your relative as defined in the statute is
23 getting a benefit. The Commission does not have to disclose if any far distant relatives or
24 friends are benefitted. The Commission has a lot of friends and couldn't possibly abstain from
25 voting on every situation involving friends.

26
27 Dr. Ash asked if everything had been disclosed. Deputy Mayor Brender said it will be when we
28 discuss the item.

29
30 Axim Manji, 115 Timberlachen Circle, Suite 1005, Lake Mary, came forward representing the
31 owners.

32
33 Commissioner Gray asked Mr. Manji if he had tenants in line to rent any of his property when it
34 is built.

35
36 Mr. Manji said we are a real estate development company and this building was intended for
37 our use as offices.

38
39 No one else came forward and the public hearing was closed.

40
41 **Motion was made by Commissioner Duryea to approve Ordinance No. 1323 on second**
42 **reading, seconded by Commissioner Lucarelli and motion carried by roll-call vote:**
43 **Commissioner Gray, Yes; Commissioner Lucarelli, Yes; Commissioner Duryea, Yes;**
44 **Deputy Mayor Brender, Yes.**

45
46 Deputy Mayor Brender asked if anyone had any contacts or conflicts regarding this item.

1
2 Ms. Reischmann said they are not required to disclose ex parte communication on this item
3 because it is legislative.
4

5 C. Ordinance No. 1324 – Rezone from C-1 to DC, property on the north side of Lake
6 Mary Boulevard, east of Country Club Road, west of Palmetto Street, abutting the
7 CSX Railroad; Quality Real Estate Development Corporation/Axim Manji, applicant –
8 Second Reading (Public Hearing) (quasi-judicial)
9

10 The City Attorney read Ordinance No. 1324 by title only on second reading.
11

12 Mr. Noto had no further comments.
13

14 Deputy Mayor Brender asked if anyone wanted to speak in reference to this item.
15

16 Steven Debole came forward. He said he owned some vacant property on the Boulevard. He
17 said he was not opposed and thought it was a great thing. He said he was curious to
18 understand how this can be zoned this way since we don't have a sewer system on that side of
19 the railroad tracks. He asked if sewer would be required for that kind of development.
20

21 Mr. Omana said the infrastructure and utilities would be required and that assessment would
22 be done at the site plan stage. The rezoning and land use amendment before the Commission
23 this evening does not vest any entitlements. That will come through the site plan process at
24 which time we will make the analysis and assessments on infrastructure.
25

26 No one else came forward and the public hearing was closed.
27

28 Commissioner Duryea said this property is already commercial and by rezoning we are
29 downscaling it to a certain extent.
30

31 Commissioner Gray said at the last meeting she brought up vacant property at Lake Mary
32 Boulevard and Hollis. She asked where we stop and start with this. She asked if it was
33 previously residential here.
34

35 Mr. Omana said we had a workshop for the downtown master plan expansion. In three to four
36 weeks we should have a conceptual idea of the downtown master plan layout. At that point he
37 would get with Mr. Litton and staff and bring it back to the Commission to decide if this is
38 something we want to adopt. The second question will be do we take the angle of
39 administrative rezonings and land use approvals or do we take the strategy of let the individual
40 property owners come in who wish to rezone their own properties individually. When we did
41 the master plan in 2001 we took the second strategy. We set the regulatory table and let the
42 individual property owners come in and rezone their properties. The example being if we go in
43 and rezone administratively then we will have a lot of people knocking on our doors asking why
44 we rezoned their property and here's my new tax bill. As to how it's going to happen, his angle
45 would be to pursue the strategy we did of 2001.
46

1 Deputy Mayor Brender said this is already part of the transit oriented development. Mr.
2 Omana said it is within the boundaries of the area that we talked about.

3
4 Deputy Mayor Brender said now it is just a matter of whether or not we include the TOD into
5 the downtown district. Mr. Omana said that was correct.

6
7 **Motion was made by Commissioner Lucarelli to approve Ordinance No. 1324 on second**
8 **reading, seconded by Commissioner Duryea and motion carried by roll-call vote:**
9 **Commissioner Lucarelli, Yes; Commissioner Duryea, Yes; Commissioner Gray, Yes;**
10 **Deputy Mayor Brender, Yes.**

11
12 D. Ordinance No. 1322 – Final Planned Unit Development for Leisure Bay Commerce
13 Center, 2452 Lake Emma Road; Lake Mary Bay, LP, applicant – Second Reading
14 (Public Hearing) (quasi-judicial)

15
16 The City Attorney read Ordinance No. 1322 by title only on second reading.

17
18 Mr. Noto said the only change from the preliminary hearing until now is that the developer's
19 commitment agreement has been finalized. The general intent is the same. That will be the
20 governing document under the PUD. Under No. 2 is where most of the regulation is. Besides
21 that we have no other comments.

22
23 Deputy Mayor Brender asked if anyone wanted to speak on this item. No one came forward
24 and the public hearing was closed.

25
26 Commissioner Duryea asked if this ordinance was going to increase or decrease the amount
27 of traffic at that intersection.

28
29 Mr. Noto asked Commissioner Duryea if he meant the intersection of Emma Oaks Trail and
30 Lake Emma Road, the intersection where the entrance to the facility is, or in the general area.
31 As stated during the preliminary hearing the parking lot is generally half full when the building
32 is at full capacity. Whether or not the parking lot will be full after this PUD is approved is up in
33 the air. This is allowing them to modify the entitlements of the square footage allotments from
34 the original approval. If the parking lot does end up full then there would be more traffic.
35 When we get to that point we would trigger the mitigation measures that are outlined in the
36 agreement.

37
38 Commissioner Duryea said the traffic problem has been drawn up into the agreement. Mr.
39 Noto answered affirmatively. The traffic problem has more or less been defined as parking
40 and those would be related.

41
42 Commissioner Duryea said the history of this corner is such that we have had a lot of
43 discussions about the safety of the people coming in and out, especially in the morning and
44 late afternoon. He said he assumed the traffic element was taken into account with the PUD.

1 Mr. Noto said it was but wasn't outlined specifically in the agreement; however, additional
2 traffic and parking lot capacity are related so if the parking lot ends up being full we know there
3 is also a traffic problem. One will trigger the other and then we will trigger the mitigation
4 measures.

5
6 Deputy Mayor Brender asked what kind of mitigation measures.
7

8 Mr. Noto said it was under Item No. 2. We pointed out three but also noted that they shouldn't
9 be limited to just this. Those items are having the employees work in second or third shifts,
10 start a van pooling program, or complete a parking study. By leaving it open by saying it
11 shouldn't be limited perhaps a traffic study could also be taken care of at the time as well.
12

13 Deputy Mayor Brender said he agreed with Commissioner Duryea that it was a problem
14 intersection and with the widening of Lake Emma it's not going to get better in the next year or
15 so. He said he wanted to make sure that whatever traffic studies are done that it takes in a
16 much broader scope than just parking. Parking we can deal with but the key is taking in the
17 Emma Oaks Trail intersection with Lake Emma. As long as we've got protections in there for
18 that for some time in the future then if we need it and they don't have it we will have to figure
19 out something. He asked if that was correct.
20

21 Ms. Reischmann asked Deputy Mayor Brender if he was suggesting that if the parking
22 becomes a problem that not only do they need to undertake mitigation measures for parking
23 but they also need to provide a traffic study and make mitigation measures for the traffic.
24

25 Deputy Mayor Brender said Mr. Noto said one would trigger the other. He asked if that was
26 what Mr. Noto was talking about.
27

28 Ms. Reischmann said it was not in the agreement that way.
29

30 Commissioner Duryea asked how it was in the agreement that was different.
31

32 Ms. Reischmann said it just says that if the parking becomes a problem then they are required
33 to undertake one of the mitigations which would conceivably help with the traffic as well
34 because it involves shifts and carpooling. She said she thought that's what Steve (Noto)
35 meant when he said one follows the other. We would have to talk to the applicant about it but
36 we could state that should parking become a problem that it would trigger the need for a traffic
37 study. The mitigation of the parking kind of handles the traffic is what Steve (Noto) was
38 saying.
39

40 **Motion was made by Commissioner Gray to approve Ordinance No. 1322 on second**
41 **reading, seconded by Commissioner Duryea.**
42

43 Deputy Mayor Brender announced that he met with the developer prior to the meeting and his
44 decision would be based on information provided here.
45

1 **Motion carried by roll-call vote: Commissioner Duryea, Yes; Commissioner Gray, Yes;**
2 **Commissioner Lucarelli, Yes; Deputy Mayor Brender.**

3
4 E. Ordinance No. 1325 – Amending Retail Sales Establishment, changing name to
5 Convenience Business Security, and providing for new security regulations –
6 Second Reading (Public Hearing)
7

8 The City Attorney read Ordinance No. 1325 by title only on second reading.

9
10 Mr. Litton had no further comments.

11
12 Deputy Mayor Brender asked if anyone wanted to speak on this item. No one came forward
13 and the public hearing was closed.
14

15 **Motion was made by Commissioner Lucarelli to approve Ordinance No. 1325 on second**
16 **reading, seconded by Commissioner Gray and motion carried by roll-call vote:**
17 **Commissioner Gray, Yes; Commissioner Lucarelli, Yes; Commissioner Duryea, Yes;**
18 **Deputy Mayor Brender, Yes.**

19
20 VIII. New Business

21
22 A. Resolution No. 845 – Replacement of an off-site directional sign in the median of
23 Weldon Boulevard and U.S. Highway 17-92. (Request by staff to postpone to a date
24 certain of July 9, 2009.)
25

26 This item was postponed to July 9, 2009, earlier in the meeting (see Page 2, Line 45).
27

28 B. Request for abatement of fine/lien against the landlord of a business (Metro
29 Unlimited, Inc.) located in Driftwood Village who failed to renew their Local Business
30 Tax Receipt – C. William Harkins
31

32 Bill Roy came forward representing the applicant (C. William Harkins) who was unable to be
33 present tonight. He said Mr. Harkins is the landlord and Metro PCS was a tenant for about two
34 years. We recently terminated their lease for failure to pay rent. One of their former
35 companies, Metro Unlimited, had failed to renew its business license. We were not aware of
36 this until March 11th after the board's initial action. We took immediate action and demanded
37 they come into compliance, but they were already shutting down their store anyway and didn't
38 see any need to deal with it. Driftwood Village is now left with a lien from their failure to comply.
39 The problem has been solved by them leaving. He said he spoke to Mr. Fleming of Code
40 Enforcement and he indicated he had no objection to the abatement of the fine.
41

42 Commissioner Duryea said the fine was actually against Metro PCS. Mr. Roy answered
43 affirmatively.
44

45 **SIDE 1B**

1 Mr. Litton said the Code Enforcement Board imposed a \$200 per day fine which totaled \$9,200
2 before they came into compliance.

3
4 Mr. Roy said Mr. Harkins has owned this property in excess of 20 years without any significant
5 code problems.

6
7 Commissioner Lucarelli asked if the City typically notified the property owner as well as the
8 tenant in a situation like this.

9
10 Mr. Roy said we were first notified March 11, 2009, which was after the board's initial hearing
11 and findings of them being in violation. At that time the \$200 a day fine had already started to
12 accrue. We made demand on them through my office to come into compliance and
13 immediately get their license and become current. They failed to do that and terminated their
14 lease and moved out.

15
16 Bruce Fleming, Code Enforcement Officer, came forward. He said regarding this matter and in
17 all matters pertaining to landlord/tenants, it is our policy with the City of Lake Mary to ensure
18 that if there is going to be some type of issue where this property is going to be placed in
19 jeopardy, the property owner is notified. He was notified of an impending hearing where the
20 property owner is afforded the opportunity to appear and be heard before the Code
21 Enforcement Board. In this particular case, they were notified on March 11th of an impending
22 hearing for March 17th. On March 17th no one from Metro PCS or no one representing the
23 owner of the property showed up at the hearing. Therefore, the board proceeded with this
24 action of being fined at \$200 a day.

25
26 Mr. Fleming said after the hearing and the board issued its finding and order, he immediately
27 proceeded to send the property owner and Metro PCS the findings of fact and order from the
28 board. He said he had no response so approximately three weeks later he contacted the
29 property owner to make sure he was aware that there was an issue. He said at that time he
30 had no knowledge of any intentions of eviction of the tenant. He said he wanted to make sure
31 the owner was aware the fine was in place and continuing to grow. That is what started the
32 ball to roll on removing those people from that property as well as working through the issues
33 to get to the point where we are at now.

34
35 Deputy Mayor Brender said he knew Metro PCS was still out there.

36
37 Mr. Roy said Metro Unlimited, Inc. was the actual violator of this and through some
38 combination of mergers or buyouts the company is now PCS Partners, Inc. and was the actual
39 tenant on the lease, not Metro Unlimited. He said he didn't know if it got lost in the shuffle with
40 the property owner, Mr. Harkins, or what exactly occurred, but as soon as we found out there
41 was a problem we took corrective action. He said Mr. Harkins imposes high standards on his
42 tenants at Driftwood Village.

43
44 Deputy Mayor Brender said he tended to agree and for Mr. Harkins' sake all or part of this
45 should be forgiven, but at the same time hated letting Metro PCS (or whoever its successors

1 and assigns may be) completely off the hook. He said he didn't know if there was a way to do
2 that.

3
4 Mr. Roy said he sent a demand letter to PCS Partners demanding they pay the amount of the
5 fine but thought they were in the process of filing bankruptcy or shutting down stores. He said
6 he believed they never had any intention of paying it. He said he didn't know if the City had an
7 alternate enforcement mechanism to go after Metro Unlimited or PCS Partners. The City's
8 typical remedy is to go after the property owner which produces an inequitable result in this
9 case.

10
11 Commissioner Gray asked if this was leased to Metro PCS or was it a franchise.

12
13 Mr. Roy said he believed these were all corporate owned stores and believed their
14 headquarters is in Atlanta. The actual tenant on the lease that he removed was PCS Partners,
15 Inc. and a man named Jim Pack had personally guaranteed the lease. Metro Unlimited is a
16 name he believed they operate under. He said Metro Unlimited, Inc. was the named
17 respondent in the code enforcement action. He said he didn't know the relationship other than
18 they call themselves Metro PCS.

19
20 Commissioner Gray asked who had the business license that wasn't renewed. She asked if
21 that had a particular person's name on it or was it just Metro PCS.

22
23 Mr. Fleming said the business tax receipt was issued to the name of Metro Unlimited, Inc.
24 There was a contact person but was at a loss to try and figure out who it was at this time.

25
26 Commissioner Duryea said we could find out who the principals were in the corporation
27 through the State Department. He said he didn't know if we had a policy or whether we
28 wanted to do that. He said he had no problem abating the fine and release of lien with the fees
29 recommended by staff.

30
31 **Motion was made by Commissioner Duryea to abate fine/lien in the amount of \$9,200**
32 **with the landlord (C. William Harkins) paying the administrative fees in the amount of**
33 **\$209, seconded by Commissioner Lucarelli and motion carried by roll-call vote:**
34 **Commissioner Lucarelli, Yes; Commissioner Duryea, Yes; Commissioner Gray, Yes;**
35 **Deputy Mayor Brender.**

36
37 C. Ordinance No. 1326 – Providing regulations for abandoned property – First Reading
38 (Public Hearing)

39
40 This item was postponed to July 9, 2009, earlier in the meeting (see Page 2, Line 45).

41
42 D. Ordinance No. 1328 – Amending Election Code to comply with State Statutes,
43 providing for Seminole County Supervisor of Elections to hire poll workers and for
44 the County Canvassing Board to canvass stand-alone elections – First Reading

45
46 The City Attorney read Ordinance No. 1328 by title only on first reading.

1
2 Ms. Foster said this is updating the code to change the requirement for the canvassing board
3 as well as hiring the poll workers. We are putting in a provision where if the Supervisor does
4 not want to hire them then the City Manager would appoint them and the same with the
5 canvassing board. We are updating it to comply with State Statutes.

6
7 Deputy Mayor Brender asked if anyone wanted to speak on this item. No one came forward
8 and the public hearing was closed.

9
10 **Motion was made by Commissioner Duryea to approve Ordinance No. 1328 on first**
11 **reading, seconded by Commissioner Gray and motion carried by roll-call vote:**
12 **Commissioner Duryea, Yes; Commissioner Gray, Yes; Commissioner Lucarelli, Yes;**
13 **Deputy Mayor Brender, Yes.**

14
15 IX. Citizen Participation

16
17 No one came forward at this time and citizen participation was closed.

18
19 X. Reports

20
21 A. City Manager

- 22
23 1. Request Commission authorize Mayor to execute letters approving distribution of grant
24 funds by Seminole County for Anti-Drug Abuse Formula Grant Program

25
26 Mr. Litton said this is a request for the City's annual participation in the Anti-Drug Abuse
27 Formula Grant Program which is administered through Seminole County. It requires the
28 approval of each entity that participates. The total amount to be distributed is \$984,151 of
29 which the City of Lake Mary will get \$109,350. It is staff's recommendation that Lake Mary's
30 allocation be used for upgrades to both the security and radio systems in the Police
31 Department, and possibly a third radio console but we don't know if we can afford that. A
32 proposal he saw was \$84,000.

33
34 Commissioner Gray asked if this qualified for what we want to use the money for. Mr. Litton
35 answered affirmatively. It has already been approved and we have already received the
36 \$109,000.

37
38 **Motion was made by Commissioner Duryea to approve, seconded by Commissioner**
39 **Gray and motion carried unanimously.**

- 40
41 2. Request Commission reappoint Commissioner Duryea to the Police Pension Board

42
43 Mr. Litton said this is a request to reappoint Commissioner Duryea to the Police Pension
44 Board. His current term expires June 28th and he would be reappointed for a two-year term.

1 **Motion was made by Commissioner Lucarelli to reappoint Commissioner Duryea to the**
2 **Police Pension Board, seconded by Commissioner Gray and motion carried**
3 **unanimously.**

4
5 3. Request Commission approve insurance contracts for group health, vision, and dental
6 with Cigna Healthcare of Florida, and authorize City Manager to execute same
7

8 Mr. Litton said this is the group health, vision and dental insurance coverage for employees.
9 We have had ongoing negotiations and were talking as late as 6:15 this evening with the
10 current carrier (United Healthcare) trying to see if we could get to a mid point. Change in
11 insurance is always something you are skeptical of and afraid to do for a lot of reasons. It's a
12 whole new administration, we have to deal with enrollments and go through a whole process,
13 as does the employee. We were trying to see if there was any middle ground we could get to.
14 While United did come down considerably, they put some things on there such as a deductible
15 on prescriptions that he didn't think the lower classified employees could live with. That would
16 have been a \$300 deductible for prescriptions per family and there had to be three individuals.
17 You would then have to go through that again in January because it is based on a calendar
18 year. We couldn't get off on that without going up another 5%.
19

20 Mr. Litton said we considered the things we talked about during Strategic Planning of trying to
21 make the employee more responsible for not only the premium but the co-payments. For the
22 first time in a long time we are introducing deductibles. The overall savings to the City is going
23 to be approximately \$116,218.80. Currently we are paying about \$1,059,270.00 towards this
24 benefit. The new annual premium is \$934,605.60.
25

26 Mr. Litton said there are some benefit reductions or changes. There are some more co-pays
27 on diagnostic care that weren't there before. It is a step toward making the employee more
28 responsible for his/her health care without compromising the catastrophic or any event that
29 may be classified as that.
30

31 Mr. Litton said he received an e-mail from Commissioner Gray at 5:00 this afternoon but didn't
32 get it until 6:30. He asked Commissioner Gray if she wanted to discuss that.
33

34 Commissioner Gray said she was an independent insurance broker and her take has always
35 been that people need to share the cost. Employees need to share the cost. She read the e-
36 mail she sent to Mr. Litton and Ms. Sova:
37

38 "During the previous work sessions when reviewing our health insurance
39 proposals, I questioned several things and made some suggestions. I am
40 repeating those questions and suggestions knowing that they may be
41 uncomfortable to some employees. My questions and suggestions are targeted
42 to align the City's health care benefits more closely with private industry and save
43 money. As far as health care and other benefits, government entities have for
44 too long been self serving and the largest receiver of entitlements as far as
45 benefits. We need to take a harder look at these expenditures and have the
46 employees share more of the cost of the health benefits.

1
2 The following is for your review and consideration. Commissioners and the Mayor
3 should not receive health care benefits and health insurance. It could be offered
4 to them at the rate the City pays for the employees. What that means is I don't
5 think we should be getting health care benefits but we could be offered it and pay
6 whatever the City pays for each employee if we want it.
7

8 Medicare coverage should be the primary provider for all dependents who are 65
9 or older with the City coverage being the secondary provider.
10

11 For those employees who pay a discounted rate for their dependents because
12 they were hired before 2/1/1990, the question is how large is that universe. If my
13 calculations are correct, each of these employees will save at least \$712 next
14 plan period. I suppose the City is picking up the tab for the \$712. Seven
15 hundred twelve times that universe is what the City is paying for that. What is the
16 rationale for slicing out a group of employees and discounting their dependent
17 rate? The dependent rate should be uniform across the board for all employees."
18

19 Commissioner Gray said that was her take. It seems more in line with the private industry.
20

21 Mr. Litton said the question regarding the Mayor and Commission is a policy decision that was
22 voted on, passed, and is in place. They are eligible for the same benefits as other employees.
23

24 Mr. Litton said as for the discounted rate, at the time that was done the City used to contribute
25 a portion of the premium for dependent coverage. That was when insurance was cheaper.
26 Realizing it was going in an upward spiral, we froze it at that time and place and that's the
27 contribution that all those employees got. Today that equals 12 employees that have family
28 coverage that were hired prior to that date. The total premium is \$18,522.72. It's \$128.63 that
29 the City contributes to those 12 employees. To take that benefit away is not fair to those
30 people who were getting that when they came here. If you take it away they are being
31 penalized. We froze it at that time and nobody since then has gotten it, except on special
32 negotiation type stuff.
33

34 Commissioner Gray said to change that would have to be a policy decision or brought to this
35 Board.
36

37 Mr. Litton said the Commission could do what they want.
38

39 Deputy Mayor Brender said it was mentioned that discussions were going on as late as 6:30.
40 He asked if they wanted to go ahead with this item.
41

42 Mr. Litton answered affirmatively. He said it only got worse and didn't get any better. It was
43 very tough this year trying to do what the Commission wanted us to do yet understanding how
44 the budget is going to be next year. We are not planning any raises for employees but their
45 contributions if they choose to have dependent coverage are going up. They are going to have
46 deductibles and more and higher co-pays. We went through a lot of scenarios that weren't

1 pretty on possibilities like if a doctor says you have to have surgery and sends you for a CAT
2 scan, MRI or a combination of things it gets pretty expensive. That's not the case now. That's
3 more of a user fee than a premium that we all share. Hopefully this will encourage the
4 employees to be cognizant and not go running to the doctor every time they think they have a
5 problem. Prescriptions are okay on this plan. They will have different co-pays but there is no
6 deductible. He said the \$100 deductible concerned him and then you had to meet that three
7 times with three members of your family if you had dependent coverage and then do it again in
8 January because it is for the calendar year.

9
10 Deputy Mayor Brender said he was all for saving \$116,000 and asked if we saved \$60,000
11 could we significantly change some of those deductibles rather than doing it all at once.

12
13 Mr. Litton said the initial renewal comparing apples to apples based on what we have today
14 and what we would have next year was a 21% increase (with United). He said they then
15 started adding those other cost containment features that reduce the premium but it costs the
16 employee more money.

17
18 Commissioner Gray said \$116,000 was nothing to sneeze at.

19
20 Deputy Mayor Brender said if it's going to cost our employees \$200,000 to save us \$116,000
21 then he wasn't sure he wanted to do that.

22
23 Commissioner Duryea said the employees are actually saving \$17.00 per pay period.

24
25 Kathryn Zink, Human Resources Administrator, came forward. She showed the buy-up plan
26 on the overhead projector. There are no deductibles on the plan design we have right now.
27 That plan design is going to go to a \$500 deductible for individual and \$1,000 for family.

28
29 Deputy Mayor Brender said he was going to buy up and now have a deductible. He asked
30 how that was a buy up.

31
32 Ms. Zink said the plan we currently have is pretty rich. The employees if they so choose pay
33 the difference for the buy up plan. The City currently pays for the primary plan for employees.
34 If the employee wants the richer plan the employee pays the difference.

35
36 Ms. Zink said in trying to take direction from the Commission we did address making the
37 employees more responsible and paying more of their share and we introduced deductibles
38 into the plans. The primary plan has a deductible of \$250 for individual and \$500 for family
39 versus the \$500 and \$1,000, but the primary plan is also co-insurance which means after you
40 pay the deductible you are subject to 20% of certain costs. Even though the buy up is a higher
41 deductible, you have co-pays instead of co-insurance so the potential for out of pocket is
42 greater on the primary plan. She showed comparisons of the current and proposed plans.

43
44 Commissioned Duryea asked what happens when this plan turns over and you've already met
45 your deductible for the first part of the year.

1 Ms. Zink said because we are changing plan design and introducing deductibles in the middle
2 of the plan year, employees will be subject to these deductibles for the next six months. Come
3 January 1 they will be subject to them again. We went through this same exercise when we
4 introduced the HSA for the first time in the middle of a plan year. They were subject to their
5 deductible for that six-month period and then January 1 it started all over again.

6
7 Mr. Litton said those people who currently have the HSA will not have to meet a new
8 deductible and will get credit for the first six months even though it is with a different carrier.

9
10 Ms. Zink said for at least the last ten years we have not had plans with a deductible. Because
11 of the July 1 renewal for the first six months we can't get away from that. Next year if we were
12 to go with Cigna again or another plan that we had deductibles, anybody that paid deductibles
13 from January 1 forward would get credit for those and it would always be on a calendar year
14 deductible. Because this is a new plan design and introducing new deductibles, this next six
15 months is subject to be paid twice between now and December 31st and then January.

16
17 Commissioner Duryea asked if there was any guarantee about what's going to happen next
18 year or the year after. He asked if we were going to go through this every year.

19
20 Ms. Zink said there is absolutely no guarantee about anything next year but as long as we go
21 forward with this deductible plan, when you start paying your deductible on January 1 and
22 renew on July 1, part of the negotiation will be that you will be credited for whatever
23 deductibles you have already paid into the plan so you don't have to start over.

24
25 Deputy Mayor Brender asked if that could be negotiated this year. Mr. Litton answered
26 negatively but we tried.

27
28 Commissioner Gray said the guarantee she always makes with health insurance is when you
29 get your renewal next year that the premium will go up and your benefits will go down. She
30 said these are still very rich benefits that the City is offering.

31
32 Mr. Litton said we had a good year as it relates to experience.

33
34 Deputy Mayor Brender said we are saving the City \$100,000 but if you multiply 200 employees
35 by \$500 deductible that is \$100,000. He asked if we were switching a little tit for tat.

36
37 Commissioner Gray said we need to share the costs. Not everybody is going to be using that
38 \$500 deductible and that is how insurance makes their money. They make their money on the
39 healthy to pay for the sick. She said it is a good plan.

40
41 Mr. Litton said one of the reasons he didn't want to leave United other than we have had
42 excellent service was that he was afraid we were getting low balled by Cigna and then next
43 year they were going to come in and make up for it. He said that was one of his concerns.
44 Another reason we were able to save money with Cigna was a health risk assessment which
45 we have to have 75% of our employees complete. All that does is target people with certain
46 conditions and trying to get them to do the right thing or to take a generic.

1
2 Commissioner Duryea said recently we had a letter from the tax assessor's office that we
3 would be just under 9% decrease in ad valorem taxes and valuation for next year. That means
4 we have to come up with a 9% to 10% reduction as a bare minimum. He said everything we
5 can do to do that without raising taxes would be the greatest thing. This is a way to spread the
6 cost a little bit. He said he thought most people had more than \$500 on their cars.
7

8 Mr. Litton said the City is one entity in this equation but if you change the benefits the
9 employee's contribution is going to go up too. In a year when it's obviously going to be tight,
10 there will be no increases in the budget this year for salaries. We've got to look out for the
11 employees too. We have tried to come to a common ground. Do we like it? No, but thought
12 this is the only thing we could do right now based on what we know.
13

14 Mr. Litton recommended that the Commission authorize him to execute the contract with Cigna
15 Healthcare for the period of 7/1/09 through 6/30/10.
16

17 **Motion was made by Commissioner Duryea to approve, seconded by Commissioner**
18 **Gray and motion carried unanimously.**
19

20 Mr. Litton extended condolences to the Don Jackson family. Don was the first mayor of Lake
21 Mary and recently passed away.
22

23 Mr. Litton extended condolences to Assistant Public Works Director Dave Dovan and his family
24 on the loss of his father.
25

26 Mr. Litton said on Monday we will be demolishing the Lisa York house we purchased. It has
27 been stripped and trained in by both the fire and police.
28

29 Mr. Litton said the second "Red, Rock & Blue" celebration will be on Friday, July 3rd in Central
30 Park from 6:00 P.M. to 9:00 P.M. Bring your blankets and chairs for this free concert.
31

32 Mr. Litton said we received notice from the property assessor's office. The 2009 estimated
33 total taxable value in Lake Mary is \$2,077,267,519 which includes new construction and
34 annexation. The 2009 taxable value of new construction is \$29,471,952. The 2009 taxable
35 value of annexation is zero. Total extended 2008 tax roll is 8.268314 and the percent of
36 decrease from 2008 is minus 8.22%. That's a little less than a million dollars that we are going
37 to have to deal with.
38

39 Mr. Litton said they all know the debacle that happened on May 23rd when Waste Management
40 forgot to do their special pickup that they had promised. As a result of that we spent a lot of
41 time and some money and we intend to collect that money from Waste Management along
42 with the fine in the new franchise agreement. They apologized profusely for the
43 misunderstanding but that didn't help us, but we got through it.
44

45 Deputy Mayor Brender said they would do the Commissioners' reports before the Mayor's.
46

1 C. Commissioners (2)

2
3 Commissioner Duryea had no report at this time.

4
5 Commissioner Gray said she talked about the Economic Development Summit with Bill Fruth
6 who is a nationally known economist and was the speaker. He divided the United States into
7 336 metro areas and showed the ten strongest and the ten weakest in the nation. No Florida
8 areas were in either group. Of the 336, Metro-Orlando which is Seminole, Orange, Osceola
9 and Lake Counties was the 13th fastest growing in employment and the average wage is
10 \$42,000 a year. She said the data sounded boring but Mr. Fruth made it interesting and easy
11 to understand. From 2007 to 2009 construction in Seminole County went down 50%. Over
12 the last 18 months in Seminole County unemployment went from 4% to 9%, construction being
13 the main reason. It accounted for 29% of our economy in 2007. Local government is the ninth
14 largest employer in the United States. The federal government employs the highest paid in
15 Seminole County. Local government employees get the lowest pay in Seminole County.
16 Property values in Seminole County are down 9% to 10%. We are over built in Orange County
17 and it will take two to three years to fill up all those vacancies. For the past 39 years the
18 federal government has had an income increase of about 7% income but what they have been
19 doing is borrowing 23% against that every year. Every time it went up 7% they borrowed 23%
20 and was only paying back the interest and leaving the debt for our kids and grandchildren.

21
22 Commissioner Gray said she attended the Historical Commission meeting and they are having
23 a train exhibit at the museum and would be hosting a "Kids' Fun Day" on June 13th from 10:00
24 A.M. to 2:00 P.M. The train exhibit would open this Saturday. The kids can make train themed
25 Father's Day cards. The exhibit and kids' day are free but reservations are required. To make
26 reservations call 407-585-1481 or go to info@lakemaryhistory.org

27
28 **SIDE 2A**

29
30 Commissioner Gray said she attended the Metroplan Advisory Committee meeting and it just
31 goes on and on about all this funding. In Seminole County we are in a lot better shape for
32 funding highway projects than Orange and Osceola Counties and they accredit that to the one-
33 cent sales tax.

34
35 Commissioner Gray said SunRail is still on the wish list. Some of the questions were are you
36 willing to commit to transportation other than your personal car, are you willing to spend
37 highway dollars on other forms of transportation, etc. There were funds set aside for a bus
38 station in Lake Mary, mostly intended to go along with the commuter rail, but that could be
39 used for another bus station if the commuter rail doesn't happen. She said those were FDOT
40 dollars.

41
42 Commissioner Lucarelli said she attended CALNO. It was interesting what Mr. Barley had to
43 say about "SunFail" (SunRail) and the reasoning behind why it failed which is disturbing and
44 disgusting. She said she expressed her opinion to say the heck with it and let's just do it
45 ourselves.

1 Commissioner Lucarelli said she participated in the Lake Mary 5K race. They had a much
2 larger turnout than last year and are hoping to keep it growing and make it “The Lake Mary
3 Run”.

4
5 B. Mayor

6
7 Deputy Mayor Brender said he attended CALNO last night and the City of Sanford hosted. He
8 said Harry Barley presented an interesting discussion on the background of the SunRail. He
9 said he was ashamed to say that Tallahassee is a hellhole of horse traders and everybody is
10 paying back votes for everything else having nothing to do with what’s good for the state. All
11 they are doing is paying back each other for something they did years ago. He said he hated
12 to say it but on the part of both the republicans and democrats it was an example of what poor
13 government is all about.

14
15 Deputy Mayor Brender said SunRail is not dead. All agreements and funding are still in place.
16 The only thing that goes away on June 30th is the agreement between CSX and FDOT. There
17 will be some last minute negotiating going on for the next three weeks to see if there is a way
18 for the Central Florida governmental agencies to handle the liability issue exclusive of the
19 state. If that can be negotiated out then it may be possible that we don’t need Tallahassee.
20 Because of the other federal and local funding in place we can proceed on. There are some
21 leanings toward a special session for the legislature. While it would not be specifically for
22 SunRail, the thought process is the item that it would be for would be enough to get them up
23 there and they could add SunRail to the package. There are a couple of things to watch out
24 for over the next three weeks. All the FDOT money is still in the agreement. Nothing has
25 changed as far as the funding. The only thing we have not done is we have not been able to
26 address the liability issue.

27
28 Commissioner Duryea said the state was supposed to pick up the operating costs for the first
29 five to seven years.

30
31 Deputy Mayor Brender said he thought that got settled in the last part of the negotiations when
32 Lee Constantine was trying to get it through. The whole thing that was voted on and denied by
33 the state was the agreement of the liability issue.

34
35 Deputy Mayor Brender said they also had the Local Option Gas Tax passed last night. The
36 County came in and presented the numbers. Lake Mary is going to be getting an additional
37 .1%.

38
39 Deputy Mayor Brender said the City Manager mentioned taxable values for Lake Mary were
40 down 8.2% and believed Altamonte was down 27% and Sanford was down 21%. The rest of
41 the cities and the County generally were down between 10% and 14%. The big hit, particularly
42 for Sanford and Altamonte, was the condo conversions. They were converting apartments to
43 condos and selling them for \$200,000 and immediately they became worth \$50,000 and that’s
44 what brought the assessed values down so much. It is definitely a tough time.

1 Deputy Mayor Brender said he distributed Resolution No. 846. It is at the request of Metroplan
2 and Harry Barley to reaffirm the City's support for SunRail. This is going to be important as we
3 get into the process over the next couple of weeks. It was asked that this be done by all seven
4 of the cities prior to June 14th.

5
6 **Motion was made by Commissioner Duryea to approve Resolution No. 846, seconded**
7 **by Commissioner Lucarelli and motion carried unanimously.**

8
9 C. City Attorney

10
11 Ms. Reischmann said the Growth Management Bill passed so there is no more transportation
12 concurrency in the City of Lake Mary. There is a two-year extension of development orders
13 and building permits. It further erodes Home Rule power because there are a lot of mandates,
14 rules, and regulations.

15
16 Deputy Mayor Brender said as much as everybody seems to hate government, they seem to
17 be taking more and more authority. He said it astounded him.

18
19 Commissioner Duryea interjected that they are because they can.

20
21 XI. Adjournment

22
23 There being no further business, the meeting adjourned at 8:50 P.M.

24
25
26
27
28 _____
29 Gary L. Brender, Deputy Mayor

Mary Campbell, Deputy City Clerk

30
31
32 ATTEST:

33
34
35
36 _____
37 Carol A. Foster, City Clerk