



**LAKE MARY CITY COMMISSION**

**Lake Mary City Hall  
100 N. Country Club Road**

**Regular Meeting  
AGENDA  
THURSDAY, NOVEMBER 07, 2013 7:00 PM**

- 1. Call to Order**
- 2. Moment of Silence**
- 3. Pledge of Allegiance**
- 4. Roll Call**
- 5. Approval of Minutes: October 17, 2013**
- 6. Special Presentations**
  - A. Community Improvement Association**
  - B. Proclamation - Pancreatic Cancer Awareness Month**
- 7. Citizen Participation**
- 8. Unfinished Business**
- 9. New Business**

- A. Request from Feather's Edge Phase II for a Neighborhood Beautification Grant (Steve Noto, Senior Planner)**
- B. Ordinance No. 1499 - A Zoning Text Amendment Amending Section 154.09 and Adding Section 154.130 of the Zoning Code- First Reading (Public Hearing) (Catherine Reischmann, City Attorney)**
- C. Ordinance No. 1500 - Amending Appendix I: Sign Code, of Chapter 155, Subdivision Regulations- First Reading (Public Hearing) (Catherine Reischmann, City Attorney)**
- D. Resolution No. 926 - Amend FY 2012/2013 Budget (Dianne Holloway, Finance Director)**

**10. Other Items for Commission Action**

**11. City Manager's Report**

**A. Items for Approval**

- a. Zoll Monitors/Defibrillators**
- b. Power-LOAD Systems for Rescues**
- c. Water Treatment Plant Degasifier Packing Replacement**
- d. Elevated Water Storage Tank Painting**
- e. Heritage Park Development & Palmetto and Greenleaf Road Improvements**

**B. Items for Information**

- a. None**

**12. Mayor and Commissioners Report**

**13. City Attorney's Report**

**14. Adjournment**

**THE ORDER OF ITEMS ON THIS AGENDA IS SUBJECT TO CHANGE**

**Per the direction of the City Commission on December 7, 1989, this meeting will not extend beyond 11:00 P. M. unless there is unanimous consent of the Commission to extend the meeting.**

**PERSONS WITH DISABILITIES NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE CITY ADA COORDINATOR AT LEAST 48 HOURS IN ADVANCE OF THE MEETING AT (407) 585-1424.**

**If a person decides to appeal any decision made by this Commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Per State Statute 286.0105.**

**NOTE: If the Commission is holding a meeting/work session prior to the regular meeting, they will adjourn immediately following the meeting/work session to have dinner in the Conference Room. The regular meeting will begin at 7:00 P. M. or as soon thereafter as possible.**

**UPCOMING MEETINGS: November 21, 2013 - Canceled  
December 5, 2013**

1 MINUTES OF THE LAKE MARY CITY COMMISSION MEETING held October 17,  
2 2013, 7:00 P.M., Lake Mary City Commission Chambers, 100 North Country Club Road,  
3 Lake Mary, Florida.

4  
5  
6 I. Call to Order

7  
8 The meeting was called to order by Mayor David Mealor at 7:00 P.M.

9  
10 II. Moment of Silence

11  
12 III. Pledge of Allegiance

13  
14 IV. Roll Call

15  
16 Mayor David Mealor  
17 Commissioner Gary Brender  
18 Commissioner George Duryea  
19 Commissioner Allan Plank  
20 Deputy Mayor Jo Ann Lucarelli

Jackie Sova, City Manager  
Carol Foster, City Clerk  
Dianne Holloway, Finance Director  
John Omana, Community Dev. Dir.  
Steve Noto, Senior Planner  
Bruce Paster, Public Works Director  
Randy Petitt, Human Resources Mgr.  
Bryan Nipe, Parks & Recreation Dir.  
Gunnar Smith, Events Center Manager  
Radley Williams, Recreation Chief  
Steve Bracknell, Police Chief  
Craig Haun, Fire Chief  
Katie Reischmann, City Attorney  
Mary Campbell, Deputy City Clerk

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22  
23  
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25  
26  
27  
28  
29  
30  
31 V. Approval of Minutes: October 3, 2013

32  
33 **Motion was made by Commissioner Brender to approve the minutes of the**  
34 **October 3, 2013, meeting, seconded by Commissioner Plank and motion carried**  
35 **unanimously.**

36  
37 VI. Special Presentations

38  
39 A. Community Service Award – Lake Mary Resident Charles Risko

40  
41 Chief Bracknell said tonight we have the pleasure of recognizing Mr. Risko. Recently  
42 he became involved in an apprehension of felony suspects he happened to see stealing  
43 some merchandise.

1 Chief Bracknell said on September 9<sup>th</sup> at 4:50, Mr. Charles Risko was visiting the Home  
2 Depot store in Lake Mary. While walking towards the front entrance he observed two  
3 men running out of the garden center, exit the store pushing two shopping carts full of  
4 merchandise. He then observed a white van pull up and both men began loading the  
5 merchandise into the vehicle. An employee of the store came out and began yelling at  
6 both men to stop. They continued to load the merchandise into the van, got into the van  
7 and sped off. When it did it struck Mr. Risko causing him to bounce off the front of the  
8 van. Other witnesses were yelling for the van to stop and Mr. Risko, without regard for  
9 himself, got into his car and followed the van to try to get the license plate number.  
10 Unfortunately they had removed the license plate and he was unable to get that. He  
11 continued to follow the van and called 9-1-1. Mr. Risko was able to follow the van that  
12 eventually stopped in Volusia County where deputies made contact with the suspects.  
13 Through an investigation it was determined that the two male shoplifters stole \$1,500  
14 worth of merchandise from the Home Depot. All three suspects were arrested and  
15 charged with aggravated battery and grand theft. Due to Mr. Risko's selfless actions  
16 and willingness to get involved, his efforts directly resulted in the apprehension of a  
17 suspect, a return of the stolen merchandise, and a successful resolution to this case.  
18 Chief Bracknell said this is the type of involvement we truly appreciate.

19  
20 Mayor Meador presented a Community Service Award to Mr. Risko for his willingness to  
21 assist in capturing suspects during a crime in progress, in which he became a victim of  
22 aggravated battery. His actions in following suspects and notifying law enforcement  
23 resulted in their successful apprehension and return of the stolen merchandise.

24  
25 Chief Bracknell presented a plaque to Mr. Risko.

26  
27 B. Lake Mary Heathrow Festival of the Arts – DeLores Lash, Chairman

28  
29 DeLores Lash, Chairman of the Lake Mary Heathrow Festival of the Arts, came forward.  
30 She said this city has set examples for all cities in America. We have honest,  
31 awesome, noble leadership in our city government and not playing politics. We are an  
32 upscale city and are No. 1. She said Mayor Meador needed to invite Washington, D.C.  
33 down here to show them how it's done. She said she will serve the apple pie, the City  
34 Clerk will make the coffee, the Police Department will help, and the Fire Department will  
35 put out the fires. This city is a safe place to live and is clean. She said she enjoyed it  
36 and wore her pin proudly that was presented to her from the City.

37  
38 Ms. Lash said this is the 27<sup>th</sup> art festival and will be held at Oval Park on November 2<sup>nd</sup>  
39 and 3<sup>rd</sup>. Saturday it is from 9:00 A.M. to 5:00 P.M. and on Sunday 10:00 A.M. to 4:00  
40 P.M. We are proud that our city is a part of it. She showed the featured artwork. The  
41 artist is Steve Vaughn. She said Steve Vaughn years ago was the editor of the Sentinel  
42 and is now No. 1 in the state of art. The program will start at 11:00 A.M. on Saturday  
43 and we want our mayor and commissioners to be there. We have a VIP tent for food.  
44 They will be taking bids on the featured artwork.

45

1 VII. Citizen Participation

2  
3 Jeff Turner, 329 Wood Street, came forward. He said he wanted to talk about the  
4 variance issue on tonight's agenda.

5  
6 Mayor Mealor said we have a new format recommended by the state. He advised Mr.  
7 Turner that the Commission would take his input during the Wood Street item.

8  
9 No one else came forward and citizen participation was closed.

10  
11 Mayor Mealor welcomed students from Seminole State College that are here as part of  
12 a course requirement. It is not uncommon to have students here as well as scouts.  
13 Please know that with any assignment, any member of staff or City Commission stands  
14 ready to assist if we may be helpful.

15  
16 VIII. Unfinished Business

17  
18 A. Ordinance No. 1498- Establishing fees for the new Community Center –  
19 Second Reading (Public Hearing) (Radley Williams, Recreation Chief)

20  
21 The City Attorney read Ordinance No. 1498 by title only on second reading.

22  
23 Radley Williams, Recreation Chief, came forward. We received our first phone call for  
24 interest in renting the facility, so this is a good time to finish our finalization of the fees.  
25 Construction is still on track.

26  
27 Mayor Mealor asked if the recommendation to modify was included in this reading.

28  
29 Ms. Reischmann said that was correct.

30  
31 Commissioner Plank asked why they were going with a 60-day cancellation period at  
32 the Community Center when the Senior Center is 30 days.

33  
34 Mr. Williams said we were going with the 60-day cancellation because the Community  
35 Center's primary function is going to be renting the facility on the weekends, something  
36 the Senior Center hasn't seen much of. With those parties, staff feels that the 60-day  
37 timeframe gives us enough time to possibly re-rent the facility if there is a cancellation.

38  
39 Commissioner Plank said if he were to book a room at 45 days then he would default  
40 his deposit if he didn't make it.

41  
42 Mr. Williams answered affirmatively if the Commission wishes to stay with the 60-day as  
43 it is written now.

44  
45 Commissioner Plank said he would like to see it at 30 days.

1  
2 Commissioner Brender said generally these events would be birthdays and  
3 anniversaries. He was inclined to think that these kinds of things are going to be  
4 booked outside of 60 days. He asked if there was any data.

5  
6 Gunnar Smith, Events Center Manager, came forward. He said at the Events Center  
7 the cancellation policy is six months out when they don't receive anything back. We are  
8 finding we are having a hard time re-booking inside of six months. If we go with 30 days  
9 we will have to accept that we're probably not going to re-book.

10  
11 Commissioner Brender said that 30 days is so close that nobody is going to book it.

12  
13 Commissioner Plank said his concern is the Events Center has a high percentage of  
14 non-resident users. The purpose of the Community Center, first and foremost, is for the  
15 residents and that's the reason we are putting it in. We should have as much flexibility  
16 as possible. If it can be handled on an exception basis without creating a standing  
17 precedent then he was comfortable with 60 days as long as we can work something out  
18 if somebody books at 45 days and something happens and they can't fulfill their  
19 promise.

20  
21 Commissioner Brender said he felt like an airline that tells you there is no such thing as  
22 a refundable ticket but if you die or your parents die or something like that generally you  
23 will get a refund. If something happens within that 60 days then they can appeal to the  
24 Commission or have some process set up for an appeal to Parks.

25  
26 Mr. Smith said we do that on a case-by-case basis now.

27  
28 Commissioner Plank said as long as that was a factor he was comfortable with the 60  
29 days.

30  
31 Mayor Mealor asked if anyone wanted to speak in reference to Ordinance No. 1498. No  
32 one came forward and the public hearing was closed.

33  
34 **Motion was made by Commissioner Brender to approve Ordinance No. 1498 on**  
35 **second reading, seconded by Deputy Mayor Lucarelli and motion carried by roll-**  
36 **call vote: Commissioner Brender, Yes; Commissioner Duryea, Yes;**  
37 **Commissioner Plank, Yes; Deputy Mayor Lucarelli, Yes; Mayor Mealor, Yes.**

38  
39 IX. New Business

- 40  
41 A. Request for two variances to Chapter 160, Resource Protection Standards, to  
42 construct a new single-family residence, 328 Wood Street; ZDA, LLC/Allan  
43 Goldberg, applicant (Steve Noto, Senior Planner)

1 Mr. Omana said Mr. Noto would be handling this item but wanted to open up with some  
2 remarks to help set the table procedurally and guide the Commission in the review of  
3 the petition before them. There is a request for a number of setback variances. He  
4 directed the Commission's attention to the graphic on the ELMO showing the yellowish  
5 and maroonish areas. Those areas represent the 25-foot environmental buffer and the  
6 75-foot building setback as are mandated by the provisions of Chapter 160, Resource  
7 Protection Standards. The petitioner, Mr. Goldberg, is seeking a variance from the  
8 setback requirements of Chapter 160. He is not requesting variances from the drainage  
9 requirements of our code or other standards. The variance tonight involves setback  
10 standards and standards from Chapter 160. It does not involve exceptions or variances  
11 for any drainage requirements.

12  
13 Mr. Omana said the second item involves the setbacks. By employing this graphic, we  
14 were able to plot out the 25 and 75-foot setbacks respectively for the subject property  
15 which leaves zero area to develop the subject parcel. If you were to try to project a  
16 home on the property, he would be able to build it using these setbacks possibly  
17 somewhere in the middle of Wood Street. We have taken Chapter 160 very seriously in  
18 the past based on Commission direction. Given the legal opinions and guidance that  
19 has been provided during those sessions, we found that any time a zoning regulation  
20 deprives the owner of reasonable use of their property, we have to be careful because it  
21 could constitute a taking and/or Bert Harris claim. We are not in the business of writing  
22 people large checks and taking their properties.

23  
24 Mr. Omana said the third point is there are no variances to engineering standards. The  
25 engineering standards will be enforced at the building permit stage. When Mr. Goldberg  
26 or whoever develops the property is ready to come in for a building permit, they have to  
27 show us what has happened with respect to historical flow, what has happened with  
28 respect to compensating storage, and what is happening with respect to flows on the  
29 property. Our engineering staff will look at those issues to make sure they are  
30 compliant with applicable code.

31  
32 Mr. Omana said the last point he would like to introduce into the record involves the  
33 issue of putting a home on this property. We have taken this project through the  
34 Planning & Zoning Board and took it to two homeowners' association sessions. The  
35 issue of "that house shouldn't be there, we don't want it there, it doesn't belong there",  
36 he introduced into the record that this property has a Rural Residential land use  
37 designation. Our own comprehensive plan has assigned it a density and intensity so  
38 that potential for a vested right exists by the nature of our comprehensive plan. It is  
39 very important to keep in mind what our comprehensive plan mandates and try to  
40 manage the end result, i.e. a house, through the appropriate application of engineering  
41 standards and the appropriate review the Commission gives tonight to the variances  
42 involving only setbacks.

43  
44 Mr. Noto said Mr. Omana gave the 30,000-foot view of what's going on with this project  
45 and he would try to bring it down to the flight line. The exhibit on the overhead is our

1 standard exhibit that we make for these 160 variances. Based on the survey given to  
2 us by the applicant, you can see the outline of the placement of the home as requested  
3 by the applicant with the 25-foot front yard setback and approximately 28 feet from the  
4 side yard. The side yard setbacks in the A-1 zoning district, which this property has a  
5 zoning designation of A-1, is a combined 20 feet with a minimum of 8 feet in one side  
6 yard. That means you can have a minimum of 8 feet on one side yard and do 12 on the  
7 other or you can do 9/11 or 10/10. The current request shows 28 feet.

8  
9 Mr. Noto said this property is located three parcels to the south of the intersection of  
10 Van Buren and Wood and is currently vacant. It is just under five acres. He pointed out  
11 the property on the location map. The home requested to be built is approximately  
12 3,600 S.F. with a pool in the rear yard. With the application of Chapter 160 you have  
13 your wetlands limits and your 100-year flood plain boundary. The buffer and the  
14 setback are taken from the most landward of those two items. He noted the blue box on  
15 the exhibit indicated the flood plain. The 25-foot buffer is taken from that line and then  
16 there is the 75-foot building setback and as Mr. Omana said, the house would be in the  
17 middle of Wood Street. We have had over a dozen Chapter 160 variances come in  
18 over the last 12 or 13 years. They varied from a variance for a pool, screen room, shed  
19 and things of that nature. We have had three that have come in to build a single-family  
20 home on a vacant piece of property. Those three requests were approved by the  
21 Commission.

22  
23 Mr. Noto said for Chapter 160 we review against six criteria outlined in the staff report  
24 having to do with special conditions and circumstances, not as a result of the applicant,  
25 peculiar to the land, if straight application of the code would deprive them of use of the  
26 property. The tightrope walk we have to take with Chapter 160 is to make sure we do  
27 not get ourselves involved in a taking issue. Using the precedent that came before us  
28 over the last 12 or 13 years--Chapter 160 has been in effect for over 20 years--we take  
29 a look to see how we have treated previous applicants. We have had three that have  
30 been approved by the Commission that were vacant lots that had a home built on them  
31 and we had the others having to do with smaller accessory uses. We take those into  
32 account when we measure findings of fact. We found based upon the request that our  
33 review of the code, comprehensive plan, and previous files merited our  
34 recommendation for approval.

35  
36 Mr. Noto said we took the item to P&Z twice and at their September 24<sup>th</sup> meeting, they  
37 unanimously (4-0) recommended approval of the variance with three conditions. The  
38 first condition is there is some construction proposed in the 100-year flood plain area.  
39 When you do that you have to provide compensating storage so they will be required to  
40 give us documentation as to how they plan to do that. We will take care of that at the  
41 building permit stage. The second condition is that information be given to us by an  
42 engineer, signed and sealed. The third condition introduced at the P&Z meeting is that  
43 the applicant provide us with a hold harmless agreement. That is consistent with  
44 previous requests for Chapter 160 variances.

1 Mr. Noto said another thing that came up today in discussions with the applicant is that  
2 the applicant is going to provide us with a conservation easement over the remaining  
3 portion of the property. Details are underway. We will bring that before the  
4 Commission at a future meeting and will outline what can be done in that area.

5  
6 Mr. Noto said he mentioned previous approvals and one thing we have been extremely  
7 consistent on when developers come into our office looking to develop on property that  
8 is encumbered by Chapter 160 is to ask them if they were looking to subdivide the  
9 property. If they say yes then we say no, only one house. We have been consistent  
10 with that. There are properties along Longwood-Lake Mary Road that are encumbered  
11 by Soldiers Creek and Chapter 160. We have told them we would not support  
12 subdivision of these properties based on Commission direction. That is to avoid a  
13 taking issue. We will continue to be consistent on that in the future. The conservation  
14 easement will drive that point home further with this request before the Commission this  
15 evening.

16  
17 Mr. Noto said staff recommends approval of the variances as proposed with the three  
18 conditions and the note that the applicant will be providing a conservation easement  
19 that will come before the Commission in resolution form at a later date.

20  
21 Ms. Reischmann said the City's comprehensive plan, which is our constitution, as well  
22 as code Section 160.06(A) prohibits any development within the wetlands. That does  
23 severely restrict where the house can be placed on the lot. The code also requires in  
24 Chapter 154 that the variance that we permit be the very most minimum variance that  
25 can be allowed that still will prevent a taking of the property. The variance procedure is  
26 there in order to prevent a taking and to allow the reasonable use of the property.  
27 Courts are fairly liberal on what is a reasonable use of the property and don't get into  
28 details of how big the house can be and that sort of thing.

29  
30 Ms. Reischmann pointed out that this lot has been around for a long time and Mr. Noto  
31 indicated that staff would not support a subdivision, however, this is a lot of record that  
32 has been there for a long time. It's not like anyone can decide this is not a proper lot  
33 and it shouldn't be built on. She asked the Commission to mention any ex parte  
34 communication they have had with the applicant or residents.

35  
36 Mayor Mealor said three of the sitting commissioners were here in the '90's. Judge  
37 Donna McIntosh was the City Attorney and did a remarkable job of educating us on the  
38 Bert Harris Private Property Rights Act. This is an issue that is relevant and we have  
39 always been respectful of that in the decision-making process.

40  
41 Mayor Mealor said the issue before the Commission tonight is a request for two  
42 variances to Chapter 160—one is a 25-foot setback and the other for a 75-foot setback.  
43 The issue of a house being built on this property is a separate issue altogether and will  
44 come back to us. What is proposed is a 3,600 S.F. home. Meeting the expectations

1 that staff has and some of the other conditions, it is conceivable that it may not  
2 necessarily be that. He asked if that was correct.

3  
4 Mr. Noto said if he was understanding correctly, when the applicant gets to the building  
5 permit stage based upon work done by the engineers the house may be smaller.

6  
7 Mayor Mealor said based on the work of the engineers and meeting the expectations  
8 that staff has—historical flows, compensating storage, flows on property, rural  
9 residential usage—it may not be what is sketched out on the proposed drawing. He  
10 asked if that was correct.

11  
12 Mr. Noto answered affirmatively.

13  
14 Deputy Mayor Lucarelli asked staff to put up the drawing that shows Soldiers Creek and  
15 all the lots so she could see the lot in question. She asked where the culvert was  
16 located.

17  
18 Mr. Paster pointed out the 100-year flood plain. He said there were two culverts and  
19 pointed them out on the exhibit. He said these would help allow the water to flow from  
20 this neighborhood towards Soldiers Creek. The general flow is from east to west  
21 towards Soldiers Creek. From Soldiers Creek it goes south.

22  
23 Deputy Mayor Lucarelli announced that she has driven to the property multiple times but  
24 did not meet with anyone. She said she knew there were areas in the City with water  
25 and drainage issues. She said she believed in personal property rights and being able  
26 to develop your property. She expressed concerns with drainage issues. She asked  
27 staff if they knew what the issues are and if they were addressing them.

28  
29 Mr. Paster said any issue with putting additional impervious is handled during site plan  
30 review.

31  
32 Deputy Mayor Lucarelli asked if they would have to go through St. Johns.

33  
34 Mr. Paster said they may or may not depending on what they do. All those questions  
35 come up in site plan and building review. Depending on what the engineers come up  
36 with, staff will be assured there is no difference in drainage patterns, water flows in the  
37 same directions and does not hinder any neighboring properties.

38  
39 Commissioner Plank announced he had visited the site but did not talk to anyone.

40  
41 Commissioner Plank said there are two issues that need to be addressed. One is the  
42 flooding in the area. Secondly is the house, its placement and what effect it may or may  
43 not have on the flooding. He asked if we have identified everything that could be done  
44 to reduce or minimize that flooding.

1 Mr. Paster said when we speak of flooding in this area, there are wetlands and the 100-  
2 year flood plain which is a line in the sand. When we had Tropical Storm Faye, it was a  
3 500-year flood. The areas that were flooded during Tropical Storm Faye were greater  
4 than what's shown on the map. We can expect that to happen. The concern we have  
5 when someone builds is not to disrupt existing flow patterns. It doesn't create more  
6 water or less water. When it rains that's the amount of water you are going to have.  
7 What we try to do is keep the natural flow patterns that are in place to continue. When  
8 you add impervious you don't want to create a dam and cause areas not wet in the past  
9 to become wet. There is also compensating storage. That line in the sand is the 100-  
10 year flood plain. If the applicant chooses to put a pool or any type of structure in that  
11 area, for every cupful of sand he builds with a pool, he has to compensate somewhere  
12 else within the 100-year flood plain creating the equal amount of volume.

13  
14 Commissioner Plank said it was mentioned we were looking at additional installations  
15 for the culvert for the additional piping under the road to help the water flow more. He  
16 said he wanted to assure the residents we have done everything we can do. Beyond  
17 that Mother Nature has ultimate control over it.

18  
19 Mr. Paster said during those meetings there were concerns brought up that did not  
20 relate to this property. They were related to the property across the street. Those  
21 concerns have been addressed and we believe the situation is better today than before  
22 we had those meetings.

23  
24 Commissioner Plank asked if the placement of the house would negatively impact the  
25 water flow.

26  
27 Mr. Paster said we are assured that it won't during review of the engineering plans for  
28 the home.

29  
30 Commissioner Plank said that would be a factor for consideration.

31  
32 Mr. Paster said absolutely.

33  
34 Commissioner Brender said we require compensating storage. It looks like the house is  
35 taking up the entire area that is dry. He asked where there will be water retention  
36 because we can't put it in the wetlands.

37  
38 Mr. Paster said there is no water retention in that the rain that falls on this property  
39 today, the natural flow is towards the creek or the wetland area. The idea is if the  
40 applicant builds on this dry area that all the flow continues in that historical pattern  
41 towards the wetland area.

42  
43 Commissioner Brender asked if there was a certain amount of absorption that takes  
44 place.

45

1 Mr. Paster said you have to look at the large picture of the wetlands. We are talking  
2 acres of wetlands. The small amount of impervious that we are adding here is  
3 immeasurable the amount of impact because it is such a small amount of impervious  
4 over this huge wetland plain. We will look at all of that to see if there is an effect at all  
5 on this. The water that falls in this area is the same amount of water. The water that  
6 percolates in the ground, groundwater also flows in the same direction as the surface  
7 water. Any groundwater also ends up in the wetlands. Groundwater usually flows more  
8 horizontal than vertical.  
9  
10 Commissioner Brender asked if down spouts would have to be placed in order to make  
11 sure that the water is directed toward that flood area.  
12  
13 Mr. Paster said there are many engineering solutions to contain the water on property.  
14 We are going to make sure the water that's contained on property stays on property.  
15  
16 Mayor Mealor said if this proposed home is built, the City will make sure that in the  
17 design standards the property to the north will not be impacted. He asked if that was  
18 correct.  
19  
20 Mr. Paster said that is correct.  
21  
22 Mayor Mealor announced he had met with residents, had visited the site, and has left  
23 phone messages at the request of the residents.  
24  
25 Commissioner Brender announced he had visited the site.  
26  
27 Mayor Mealor said this is technically not a public hearing and as a courtesy would let  
28 the applicant speak last. We have a representative or others that would like to speak on  
29 the project. Everybody will have an opportunity to speak.  
30  
31 Scott Baker with Zimmerman, Kiser & Sutcliffe Law Firm came forward. He said he was  
32 representing Richard and Carolyn Portigiana. He said he was under the impression that  
33 this is a quasi-judicial public hearing in which we could cross examine some of the  
34 testimony.  
35  
36 Mayor Mealor said normally he would have that notation on the agenda. He asked the  
37 City Attorney if Mr. Baker was correct.  
38  
39 Ms. Reischmann said it's not a public hearing in the sense of the recent legislation but it  
40 is a public hearing and Mr. Baker is entitled to cross examine as the Mayor would like to  
41 set it up. She said Mr. Baker could direct the question to the Mayor and the Mayor  
42 could direct the question out to whomever Mr. Baker asks. Generally we don't have  
43 staff or the Commission cross examined.  
44

1 Mayor Mealor asked to let that notation be on the agenda in the future, particularly when  
2 there is citizen interest.

3  
4 Mayor Mealor asked Mr. Baker if he had a court reporter present this evening.

5  
6 Mr. Baker answered affirmatively. He introduced Anthony Trujillo of U.S. Legal Support.

7  
8 Mr. Baker said he didn't believe it was their burden to prove the variance has met all the  
9 elements. He didn't see what purpose it would serve for them to go first. It is the  
10 applicant's burden to show the Commission that he meets the criteria.

11  
12 Allan Goldberg, Manager of ZDA, LLC, 100 South Virginia Avenue, Winter Park, Florida,  
13 came forward. He said he concurred with staff's review, comments, and  
14 recommendation and was available for any questions.

15  
16 Mayor Mealor stated this request is consistent with requests in the past. He asked Mr.  
17 Baker to address his questions to him as chair and then he would direct the appropriate  
18 staff person to respond.

19  
20 Mr. Baker said he had a presentation to make. He wanted to make it clear that he didn't  
21 represent all the neighborhood folks or anybody who might be objecting to this case, but  
22 only his clients.

23  
24 Mayor Mealor asked Mr. Baker to point out on the map where his client resides.

25  
26 **SIDE 1B**  
27

28 Mr. Baker said the burden is on the applicant to prove that he has met all of the criteria  
29 and in addition has met some of the more general language in the code regarding  
30 variances. He read that language out of 154.06: The City Commission may grant the  
31 variance from the terms of other sections when (1) the variance will not be contrary to  
32 the public interest and (2) where owing to special conditions, a literal enforcement of  
33 provisions of that section would result in unnecessary hardship.

34  
35 Mr. Baker said the bottom line of our objection is the applicant has provided no  
36 competent substantial evidence, or any evidence at all that we have seen, to support his  
37 application and made his burden of proof. There are a number of reasons for that but  
38 one of them is just the brevity of what he just said that he concurs with staff's  
39 recommendation, which means we are going to be looking at staff's report as the only  
40 evidence submitted.

41  
42 Mr. Baker said the survey that we see in the report as evidence you are considering is  
43 not signed by a surveyor. It doesn't indicate whether a certified environmental  
44 professional or any kind of wetland professional drew the line. There is no certification.  
45 There is also mention of compensating storage. Approximately 500 S.F. of

1 compensating storage will be required. We've seen no evidence or any engineering  
2 calculations presented to the Board. Nothing is in the agenda packet with a  
3 professional engineer's seal backing up the statements made tonight. He submitted  
4 any statements about engineering calculations, any survey, the wetland line you're  
5 looking at with the map with the red and yellow is not competent substantial evidence  
6 and should not be considered tonight. If we consider the criteria, what we have is not  
7 evidence. What we have is conclusions of law. It's your staff simply saying it meets the  
8 rules. It doesn't list out reasons why it meets the rules and these are the rules we have  
9 to live by. We may all want to see development in Lake Mary. We may want to give  
10 every person a right to build a house, but the rules we set up are in the code. The time  
11 to change the code is somewhere else. It's amending the land development regulations  
12 or changing the zoning ordinance.

13  
14 Mr. Baker said as far as criteria No. 1, there is no evidence provided except to say that  
15 it's a property created as a parcel before the adoption of RP Standards.

16  
17 Mr. Baker said No. 2 is the special conditions and circumstances do not result from the  
18 actions of the applicant. What that's doing is going to the hardship element of what your  
19 variance code is all about. Florida law has dealt with what is a real hardship and what is  
20 a self-created hardship. We would argue that the Commission can find a self-created  
21 hardship when an applicant purchased this property knowing what the zoning code says  
22 and being aware of those regulations when they buy the property. The applicant is a  
23 homebuilder and we have no doubt he performed due diligence on the property. He  
24 paid \$20,000 for this lot. He purchased another lot down the street at 440 Wood Street  
25 which is only two acres and he paid \$110,000. He distributed printouts (copy attached)  
26 from the Seminole County Property Appraiser for both properties showing the current  
27 owner and the price paid for the properties.

28  
29 Mr. Baker asked the Commission to consider a recent case cited in Orange County  
30 dealing with just this issue. He distributed copies of the case (copy attached). They  
31 bought property in Winter Park knowing full well what the regulations were and then  
32 came to seek a variance. The City of Winter Park has almost identical variance  
33 language as Lake Mary. What the court found in dealing with the self-created hardship  
34 issue is that (1) the applicant has the burden to come before the Board of Adjustment or  
35 the Council/Commission and establish the requirements for a variance. What they also  
36 did was quote Florida district court law and Federal case law stating when a landowner  
37 acquires the land with knowledge of the zoning restrictions, he cannot cry hardship. In  
38 this case there was substantial evidence at the hearing to support a conclusion that the  
39 Beatties (the applicants in Winter Park) knew or should have known the need for a  
40 variance when they bought the property. They do not question such a finding. They  
41 tried to say it was irrelevant. The court went on to cite a controlling case in Florida,  
42 Thompson vs. the City of Jacksonville, in which the court stated the alleged hardship  
43 falls into the category of self-created hardship. Before purchasing the property the  
44 owners were fully aware of the size and shape but still designed a building which was

1 too large for the lot leaving deficient room for required parking. The hardship arose from  
2 their own conduct and expectations.

3  
4 Mr. Baker said likewise on the third criteria. It is a conclusionary statement offered as a  
5 finding of fact. It simply concludes that granting the variance will not confer a special  
6 privilege.

7  
8 Mr. Baker said criteria No. 4, we don't see how this would deprive this applicant's rights  
9 commonly enjoyed by other properties with similar conditions. It is not our job to  
10 provide those tonight; it is the applicant's job to provide the evidence.

11  
12 Mr. Baker said No. 5, staff states a variance is required to make reasonable use of the  
13 property for a single-family residence. There is one problem with this. A fallacy we  
14 have been operating under tonight is that they are entitled to build a single-family home  
15 on this property. It is zoned A-1 and not R-1, R-2 or R-3 where it would be a minimum  
16 reasonable use of the property. Your zoning code states A-1.

17  
18 Mr. Baker said other cases that have dealt with the hardship rule state that  
19 "unnecessary hardship" has been defined as a non-self-created characteristic of the  
20 property in question which renders it nearly impossible to use the land for the purpose  
21 or manner for which it is zoned. If we look at your zoning code, single family is one of  
22 the many uses allowed in A-1. It's not unreasonable to consider that there are other  
23 ways to use agriculture land besides a 3,600 S.F. home.

24  
25 Mr. Baker said criteria No. 6, there is the statement that granting the variance would be  
26 in harmony with the general intent and purpose of Ordinance No. 538 which is very  
27 stringent and designed specifically for protection of Crystal Lake and Soldiers Creek.

28  
29 Mr. Baker said the applicant nor staff have provided scientific evidence to back up these  
30 conclusions. He said Mr. Noto and Mr. Omana are not environmental scientists to his  
31 knowledge and they can't give you evidence tonight on whether the wetland line is  
32 where they say it is at. We are also going to assert and argue that if the Board grants  
33 this variance it would be inconsistent with the comprehensive plan, in particular future  
34 land use policies 1.2, 1.4, 4.4, 4.5 and 4.9. The conservation element policy is  
35 implicated which would be inconsistent with granting this variance 7.3, 7.4, 8.3, and 8.4.

36  
37 Mr. Baker said Mr. Omana brought up the specter of a taking and brought up the  
38 specter of Bert Harris Private Property Protection Act. We don't see how either one of  
39 these bodies of law can apply today. This is a property that has been zoned since 1991  
40 for the RP Standards. The taking would occur if we deprived the property owner of all  
41 reasonable uses of the property and also if he had reasonable investment and  
42 expectations to build a 3,600 S.F. home on the property. He paid \$20,000 for a 4.8-  
43 acre wetland. It is zoned A-1. Those are the expectations to have a property zoned A-  
44 1.

1 Mr. Baker said the point Mr. Omana made regarding putting a home on the property and  
2 the comp plan mandates allowing this development is simply not true. The comp plan  
3 sets a maximum density and it doesn't mandate that every parcel has to achieve that  
4 maximum density.

5  
6 Mr. Baker said Mr. Noto provided some background and a lot of what he talked about  
7 was precedent and a lot of what he talked about was policy, both of which are  
8 inappropriate for a variance hearing. Those are items that are more appropriate for this  
9 Commission sitting in a legislative role, making policy which would be amending the  
10 code, amending the zoning regulations, dealing with the comprehensive plan policy.  
11 What this Commission is doing tonight is considering facts and evidence as applied to  
12 this specific parcel of land. There has been no competent substantial evidence to  
13 support any finding that this variance is in compliance.

14  
15 Mr. Baker asked the Mayor to confirm with Mr. Omana and Mr. Noto that they are not  
16 wetlands scientists, that the survey is unsigned, and there is no environmental data  
17 provided by an environmental professional in your packet tonight.

18  
19 Mayor Meador said this is a bit unusual in that normally we don't have attorneys and  
20 court reporters at this type of request. Out of respect for the Portigianas and the fact  
21 that they have retained Mr. Baker, he asked the City Attorney to comment. He asked  
22 Mr. Baker if he had anything beyond that to please address it to him. He said Mr. Baker  
23 has done a good job of outlining the concerns of his client. He asked Ms. Reischmann  
24 to respond.

25  
26 Ms. Reischmann said we have a policy as a commission of an open, friendly  
27 environment for even our quasi-judicial proceedings and it has been our custom to not  
28 swear in witnesses, staff or citizens. However, if Mr. Baker would like we can have a  
29 swearing-in done for all those who will testify or have testified in order to be strictly  
30 exacting with requirements Mr. Baker is concerned about.

31  
32 Ms. Reischmann asked everyone who has testified or will testify in the future on this  
33 item to rise and raise their right hand. She swore in the witnesses.

34  
35 Ms. Reischmann said in response to the concern Mr. Baker had about credentials, she  
36 asked staff to come forward and give their credentials so Mr. Baker is clear. She also  
37 asked staff and the applicant to indicate the origin of the wetlands delineation.

38  
39 Mr. Omana said he had a master's degree in Urban & Regional Planning from Florida  
40 Atlantic University; a business degree from Florida Atlantic University; dispute resolution  
41 from Massachusetts Institute of Technology; project management from Massachusetts  
42 Institute of Technology; 25 years of experience in the land use and land development  
43 industry and the construction industry.

1 Ms. Reischmann asked Mr. Omana to address the origin of the wetlands delineation  
2 that was in the packet.  
3  
4 Mr. Omana said as standard procedure we ask any applicant who is seeking such a  
5 variance to submit documentation either from survey, a signed engineering statement  
6 which would also be sealed, and that would be a product of the applicant as requested  
7 by staff. We then take that forward into the process.  
8  
9 Ms. Reischmann asked Mr. Omana if he received that in this matter.  
10  
11 Mr. Omana answered affirmatively.  
12  
13 Ms. Reischmann asked Mr. Omana if he had that as part of this record.  
14  
15 Mr. Omana said we have it as part of the file. We have a certified statement from  
16 Chadwick Moorehead, Professional Engineer and Vice President of Madden,  
17 Moorehead & Glunt. Mr. Omana read the statement into the record. Madden,  
18 Moorehead & Glunt, Inc., Civil Engineers, dated August 13, 2013, regarding 328 Wood  
19 Street. It is addressed to Mr. Schindler. It states: "In regards to 328 Wood Street, the  
20 approximate fill within the flood plain is approximately 595 or .014 acre feet. This  
21 should be considered insignificant. If you have any questions, please do not hesitate to  
22 contact our office." Mr. Omana said they also submitted a survey depicting the 100-  
23 year flood plain and wetland lines. That is one of requirements to show which one is  
24 more landward.  
25  
26 Ms. Reischmann asked if that was being made as part of the record.  
27  
28 Mr. Omana answered affirmatively and is the drawing you saw in color.  
29  
30 Ms. Reischmann asked Mr. Noto to state his credentials.  
31  
32 Mr. Noto said he had an associate's degree in General Education from the college  
33 formerly known as Brevard Community College; a bachelor's degree in Public  
34 Administration from UCF; a graduate's certificate in Urban Regional Planning from UCF;  
35 and just over six years of professional experience in urban planning.  
36  
37 Ms. Reischmann asked Mr. Paster to give particular attention in his education recitation  
38 of any environmental education and knowledge regarding stormwater and wetlands and  
39 that sort of thing.  
40  
41 Mr. Paster said he was a licensed Professional Civil Engineer in the State of Florida,  
42 has been an engineer for 29 years, and has intensive experience with all areas of civil  
43 design: water, wastewater, saltwater, roads. He said he was very familiar with  
44 stormwater issues within the City of Lake Mary.  
45

1 Ms. Reischmann asked Mr. Paster to address criteria No. 6 about whether this variance  
2 is in harmony with the general intent and purpose of our ordinance or whether it would  
3 be injurious to the neighborhood or detrimental to the public welfare. She said Mr.  
4 Baker expressed concern that Mr. Omana's and Mr. Noto's is a conclusionary statement  
5 rather than someone with knowledge of the environmental issues.  
6

7 Mr. Paster said this is a very large wetland area. There are homes all along the edges  
8 of this wetland area and is very similar to this site. Those homes have not created any  
9 type of damages to the environment in this area. He said without seeing an engineering  
10 plan of what is proposed, he could only assume that what is being constructed would be  
11 similar in nature to the existing homes in that area and won't cause any type of  
12 damages to the environment. Without seeing an engineering plan of what is proposed it  
13 is hard to tell you for sure what could or could not happen.  
14

15 Ms. Reischmann asked Mr. Paster if it was his understanding that this is the point in  
16 time to consider the engineered plans for the home.  
17

18 Mr. Paster said this is not the point in time.  
19

20 Ms. Reischmann said the indication was made this is A-1 Agricultural and that  
21 reasonable use could be made of this as an agricultural use. He asked Mr. Omana if he  
22 would agree with that in his professional opinion.  
23

24 Mr. Omana said the A-1 zoning district allows for a variety of agricultural uses. It also  
25 allows for single-family development. The underlying land use designation of RR Rural  
26 Residential also allows for residential as the prominent use.  
27

28 Ms. Reischmann asked Mr. Omana if it would be a reasonable use for this property to  
29 be agricultural in light of the surrounding area.  
30

31 Mr. Omana said in looking at the overall pattern that has occurred in the area from a  
32 land use standpoint and given the types of homes that have been built in the area, it  
33 would be his opinion that residential would be more in keeping with the character of the  
34 area.  
35

36 Fred Ossowski, 416 Wood Street, came forward and spoke in favor. He said he  
37 originally owned ten acres south of this property. He said he sees the ecosystem and  
38 hoped the Commission sees it the same way as a tree with all the tributaries feeding  
39 into the trunk. At the top of a Christmas tree is a tiny little branch and on the branch is a  
40 little nub and that little nub is Soldiers Creek. Soldiers Creek starts behind the post  
41 office and goes down Longwood-Lake Mary Road and behind his property on Wood  
42 Street. This property was divided in 1968 and he bought it in 1969 and put a house in  
43 there. Nobody could find me so I put two signs up and called it Wood Street. We  
44 became a city in 1973. In 1977 a man has a piece of property south of my house and  
45 Soldiers Creek goes through it. He couldn't develop the land because of the valley so

1 he said he had to raise the land so he filled in the land. He had a 150-foot wide strip.  
2 He questioned how he could do that. We were a small city and didn't have a big staff  
3 but I argued with them and they sent somebody out to look at it and he said they should  
4 take the dirt back out. He sent the rep out and never told anybody anything and  
5 somebody went out there and checked it. He looked at it and said to dredge up the  
6 edges and put some grass down. He comes back a couple of weeks later and says  
7 everything is fine and a house was put on it. It blew my mind. I called them up and  
8 asked how can you do this. He said it was a minor tributary and doesn't impede the  
9 flow. They threw out all the rules based on the tributary. I said to myself this is a little  
10 trickle and like a bud on the side of a twig. It's not backing up any water. I mentioned to  
11 staff why don't we contact St. Johns but I got ignored. I feel that this gentleman here  
12 could add a little more dirt and put a house in the middle. I feel there would be no  
13 problem. The stream runs behind my house. We had a good rainy summer and the  
14 water was only six inches and hasn't come up. It is very shallow water. The only time it  
15 came up to about three feet was after some hurricane years ago. I don't think this thing  
16 is going to bother anybody if they fill it in. I don't want the house stuck in the corner. It  
17 looks out of place. I have no problem with the house but it should be more to the  
18 center. It is not a big impact on the ecosystem. I hope we can work out something to  
19 get his house in the middle.

20  
21 Jeff Turner, 329 Wood Street, came forward and spoke in opposition. He said he has  
22 been on that street for eight years and his property is across the street from where the  
23 applicant is going to build. He showed two photos illustrating that the property gets very  
24 wet. My main concern was that it is so wet. If you look at that street from both sides of  
25 Wood Street all the water is congregating right there. What it is doing is flowing across  
26 the street into the proposed property to build a home in. One of my big concerns is that  
27 if a house is built there it is going to add to an existing problem. I understand we've  
28 talked about potential compensation and other areas that we will address water issues  
29 but my issue has increased since all the houses around me have been built. I don't feel  
30 that building a house there and granting the variances is harmonious to the  
31 neighborhood. I agree it will be too close to the road and won't look right. It is going to  
32 add to the water issue and there are a lot of people in the community that are against it.

33  
34 Mr. Turner said another point he wanted to bring up that was stated about the property.  
35 I talked to the daughter of the owner of the property and she told me she just sold it and  
36 she was upset that they were trying to build a house on that because that was  
37 something they planned on doing but couldn't put a house other than on stilts. They  
38 held that property in the family a very long time and it then was purchased. The reason  
39 it was purchased was more or less for mitigation reasons or something like that. It was  
40 sold at a very low rate. I don't feel like he should be building a house there. I am  
41 opposed to the variance and opposed to building a home there.

42  
43 Richard Portigiana, 318 Wood Street, came forward and spoke in opposition. I am the  
44 neighbor directly abutting this property to the north. I love Lake Mary and enjoy it. We  
45 bought the house three years ago and it was a wreck. We bought the house because of

1 the land being A-1, we could have a horse on the property. We came to the City ahead  
2 of time and I was very concerned about just the protection of this and wanted to make  
3 sure I could do what I wanted to do on it. It was the smallest house on the block. I  
4 figured if I had a family I might want to expand it. I came to the City ahead of time and  
5 met with Mr. Noto and Mr. Omana. I looked at the lot and studied it before I purchased  
6 it. I had my environmental engineer look at it.  
7

8 Mr. Portigiana said I finance commercial real estate and am not opposed to  
9 development in general. There are a few things about this that are really not right.  
10 That's the reason I am here and taking the lengths I am taking. This property is 330  
11 feet long and is about the size of the football field. They want to start this development  
12 with this driveway at the one yard line. That is three feet from the property line. I'm not  
13 an engineer but feel like there is going to be water on my property. When you put an  
14 impervious surface of 3,600 S.F. plus a driveway and pool all at the very corner, how is  
15 this not going to get on my property? I know everyone has promised me it's not going  
16 to happen but I personally sweat and bled making my yard nice the last three years for  
17 my horse, for my wife and I continually will live there and make it better. This is a threat  
18 to me. It is very hard to understand this because this lot is 600 feet width and the length  
19 is 330 feet. We are squeezing this in. It will be the closest house to the road by far.  
20 There is not a single driveway that is three feet from the property line in this  
21 neighborhood. I understand Lake Mary will allow that, however, this is a rural  
22 neighborhood. There is a reason we have five acres, four acres, three acres. There is  
23 a reason there are horses on the property. This is the survey we were given. It  
24 specifically says it is not a survey, it specifically is not signed. It says the undersigned  
25 land surveyors and mappers make no reservation or guarantees as to the information  
26 requested hereon pertaining to the easements, rights-of-way, setback lines,  
27 agreements, and other matters and further this instrument is not intended to reflect or  
28 set forth all such matters. Such information should be obtained by others through  
29 appropriate title verification. I don't understand how we can sit here and bulldoze this  
30 through and pass this without getting a fair shot of looking at the reality.  
31

32 Mr. Portigiana showed a photo of what he pulled off the Seminole County Property  
33 Appraiser's website of wetland that St. Johns must have interpreted. It is easy to see  
34 that this particular lot is the largest wetlands in the road. There is an angle that comes  
35 down from the north, there is an angle that comes down from the south and the water  
36 goes into this property. We just put another culvert into the property so more water is  
37 going to this property. This culvert was just put in. He showed a photo from October 7<sup>th</sup>  
38 of standing water. October is not a rainy month and this is how much water came  
39 through the culvert and some of it is still sitting there today. He showed a photo from  
40 October 7<sup>th</sup> of the side of the property. There is water coming to this lot. Please don't  
41 pass this today without getting more information. I am not here to fight. I don't want a  
42 house directly next to my property line like that when there is not a single other house  
43 on a lot that way. I certainly don't want to have my land ruined after working extremely  
44 hard on it. I'm sorry; \$20,000 is a drop in the bucket. I spent more than that on

1 improvements on my house already and it's not a hardship. It's a calculated risk by a  
2 developer. I see it all the time, every day. He thanked the Commission for their time.

3  
4 Mr. Omana entered an exhibit of an aerial photograph into the record. He pointed out  
5 Wood Street and noted the area in yellow he was outlining with the red laser pointer is  
6 the subject property. He pointed out Mr. Portigiana's property to the north and pointed  
7 out his house. For reference purposes he pointed out the property line and then Mr.  
8 Portigiana's house.

9  
10 Dr. Storm Richards, Certified Environmental Professional, came forward and spoke in  
11 opposition. He said his wife was a Certified Environmental Professional for our  
12 company for 22 – 25 years. We do environmental assessments. He stated his  
13 company's address was 1804 Maple Avenue, Sanford, Florida. We have done the  
14 wetlands analysis for all of the development at the Orlando/Sanford International  
15 Airport. We do all the wetland and environmental analysis for the Melbourne  
16 International Airport. When the GreeneWay went in we worked with Hubbard  
17 Construction Company doing their environmental work. This is a span of 20+ years we  
18 have done environmental work. We have flagged wetlands, we have looked at the  
19 quality of wetlands, and planted mitigation sites throughout Central Florida. He said Mr.  
20 Portigiana asked him to look at his property where he lives three or four years ago. We  
21 flagged the wetlands, we stationed the wetlands, and we invited the City to come out  
22 and look at the wetland lines to determine where they were which is the standard  
23 method that an environmental professional uses when they delineate wetlands. I can't  
24 say that to be the case on this adjacent property. I didn't trespass onto the property but  
25 we saw one flag in the middle of a swamp that would indicate it may be a wetland line.  
26 With the exception of maybe 100 feet from Wood Street to the east with a triangle  
27 situation with laurel oaks and live oaks and some facultative species which means they  
28 can grow in the upland or the wetland, when we get past that small triangle, the entire  
29 property is a wetland. The technical term is called a seep slope system and it's  
30 because the topography tips and the water will sheet flow across the top and eventually  
31 drain and go to the lowest elevation. That elevation is easily seen with the ground  
32 vegetation which is predominantly, if not exclusively, fern—cinnamon fern, chain fern,  
33 royal fern—and the entire area stacks water.

34  
35 Dr. Richards said something that is very important to understand is that wetland  
36 delineation is based on soils, is based on vegetation, and is based on hydrology. The  
37 U.S. Corps of Engineers is very prominent, not for single-family residences but for  
38 delineating wetlands, says anything that has hydric soil, and that's black and organic  
39 has a tendency to be significantly wet. The majority of this property has wet soils and  
40 vegetation. If you go down Wood Street, you will notice that in the front of Wood Street  
41 there are cypress trees 50-foot tall that are inside the property. I would submit to each  
42 and every one of you that when you get off Wood Street in that area and you drop down  
43 three feet in elevation it's a swamp. It's Soldiers Creek. It's a tributary. That area holds  
44 water and it's not just the 100-year flood plain water. It holds water at any major event.  
45 To put a house in there and to do the clearing that would be necessary would change

1 the dynamics of that entire area. You say nothing of protected species, you say nothing  
2 of archeological investigations, and you say nothing of a detailed wetland survey that  
3 would have to be looked at. You have identified in comp plans and you've identified in  
4 things that say Soldiers Creek is important, I would submit to you to be very careful how  
5 you take that first step, or second, third or fourth.

6  
7 Benjamin Hoff, 308 Wood Street, came forward. He stated his property was at the  
8 corner of Van Buren and Wood. It is nearly a five-acre parcel with its own water  
9 retention. I have my own pond which is about an acre in size and yet I still flood. The  
10 area is a bit higher on my side and it is higher as you travel south down Wood Street but  
11 all the water runs to mainly one property and you can see by the highlighted maps  
12 where the biggest flood plain enters into the property land and that's going to be 328.  
13 He asked if Mr. Omana was still a commissioner or still worked for the City.

14  
15 Mayor Mealar said Mr. Omana has never sat on the Board and is the Community  
16 Development Director for the City.

17  
18 **SIDE 2A**

19  
20 Mr. Hoff said I have cattle, horses, goats, chickens, turkeys, pigs and he (Mr. Omana)  
21 came over to my property at the request of Terry Shaw. He came over with a  
22 congregation. I believe Gary Schindler was there as well as others and he stopped me.  
23 I am completely out of the 100-year flood plain. He had stopped me from building  
24 because he was concerned that I was going to affect the flow of water going to Soldiers  
25 Creek. I am practically entirely out of the 100-year flood plain. I am wondering why he  
26 is so eagerly trying to push this agenda being that it's almost entirely within the 100-year  
27 flood plain. I was merely building a road to allow my livestock to move to drier pasture  
28 on the property and he felt it was going to affect flow and damage the preserve that we  
29 are trying to embrace in Lake Mary for natural wildlife. I'm wondering why now is he so  
30 adamant about pushing this if he was concerned in 2004 that the little pasture, the little  
31 roadway I was putting in was going to affect so much. I think there's some significance  
32 going on there as to why that would be. That would be my question to him as to why he  
33 felt then but now he feels it won't do anything.

34  
35 Mr. Omana said if his recollection served him, he believed the gentleman had not  
36 applied for any permitting. When the moving of dirt and mud at the time was called in  
37 we took action to look into the matter. That's why he took the engineers and  
38 environmental specialist that the City had at the time and we went to his property. It  
39 was an issue of there was no permit applied for and is why we acted.

40  
41 Mr. Hoff said I don't know if it's relevant but from my understanding, and I might be  
42 wrong and there are a lot of legal minds in the room, that an agricultural grade A-1 piece  
43 of property that is under distress when animals are currently residing on the property  
44 didn't need to apply for permits, especially during an emergency timeframe, to build a  
45 structure to get...

1  
2 Mayor Mealar advised Mr. Hoff that because this is a public hearing we need to address  
3 the issue at hand.

4  
5 Mr. Hoff said the issue at hand would be that I have lived on this property for 29 years. I  
6 have seen the coming and test of time as well as the devastation a hard rain can do, let  
7 alone a hurricane. We know where the water flows, we know where it runs to. I'm not  
8 opposed entirely to a house being built on the property but I know with what we are  
9 seeing and what is being proposed is going to cause conflict for everybody involved.  
10 They are not the only people. The applicant, the defendants are not the only people  
11 that have livestock in the area or on the road and I know all of us share the concern that  
12 this is going to seriously and dramatically affect the rest of us. If you watch where the  
13 water flows now and you put a structure in the middle of that, run some water down a  
14 table and put something in the middle and it will go off to the sides. It will hit the rest of  
15 us.

16  
17 No one else came forward and the public hearing was closed.

18  
19 Mayor Mealar said this is an issue by the very nature of how it is being conducted, you  
20 have attorneys, you have a court reporter, and it appears to be somewhat  
21 confrontational. That is the nature of this and we are going to treat it very seriously. No  
22 one is pushing an agenda. We try to operate in a collaborative, respectful manner and  
23 that is how we are going to do that from this point forward.

24  
25 Commissioner Duryea said there have been a lot of allegations thrown around about  
26 environmental protection and water flow. He would like to make a motion to postpone  
27 this so we can get some competent adequate testimony as to where the flood plain is,  
28 what the types of soils are, so that issue is out of the way.

29  
30 **Motion was made by Commissioner Duryea to postpone this item.**

31  
32 **Motion dies due to lack of a second.**

33  
34 Commissioner Brender said he was looking at a survey that is signed. That is a legal  
35 survey, correct?

36  
37 Ms. Reischmann said that was correct.

38  
39 Commissioner Brender said there are two culverts under the road. He asked who put in  
40 those culverts and did they get permission from the landowner to drain all that water  
41 under the road to that piece of land.

42  
43 Mr. Paster said one culvert was put in years ago when the road was paved. It was well  
44 over ten years ago. The culvert was put in because there is a wet area on both sides of  
45 the road. There are cypress trees on both sides of the road. There is a historically wet

1 area on both sides of the road. When we put the road in they put a culvert under the  
2 road which is very typical. There was no permission needed from any of the property  
3 owners because none of the work was done on private property. There is a 50-foot  
4 right-of-way so you have a road down the middle and 15 – 20 feet on either side of the  
5 road that is City property and is part of the City of Lake Mary right-of-way. Any  
6 disturbances you see are inside the City right-of-way. A second pipe was put in two  
7 weeks ago. As part of the homeowners' meeting, separate from discussion about this  
8 property we are talking about tonight with the variances, there were other concerns  
9 about the single culvert not doing enough and not allowing water to move as quickly as  
10 they thought it should be.

11  
12 Commissioner Brender said both those culverts end up draining onto this property.

13  
14 Mr. Paster said both culverts are in the right-of-way across from the subject property.  
15 Across from the subject property is additional wet area within the 100-year flood plain  
16 where you see the cypress trees on Wood Street on the opposite side of the street. It is  
17 to equalize the flow on either side of the road. The two culverts are very close and they  
18 are at the bottom of Wood Street at a low spot. The culvert was put in not in relation to  
19 this property but for the benefit of the two properties across the street that explained to  
20 him that during large storm events the areas would fill up and drain slowly across the  
21 street.

22  
23 Commissioner Brender said we took care of the people on the east side of the road.  
24 We put in a westbound culvert under the road onto this property which now makes this  
25 property a problem for flooding because we put in culverts to it.

26  
27 Mr. Paster said the culverts are located in the wetland portion of this property, well away  
28 from the area where the variances are requested. The culvert doesn't direct any water  
29 towards the area that the variances are being requested tonight. They direct the water  
30 towards the wetland portion of that site.

31  
32 Deputy Mayor Lucarelli said for clarification this is not a survey and just a plot plan. It  
33 says that under General Notes.

34  
35 Ms. Reischmann said Mr. Goldberg has a signed and sealed survey. With the  
36 Commission's permission we will put that into the record.

37  
38 Deputy Mayor Lucarelli said she believed in private property rights. She understood the  
39 water issue. Because our procedure is A, B, C, D and engineering and that stuff comes  
40 later, it may end up he can't build on it. If he does fill she wanted to see those  
41 engineering plans and drainage such that it's not going to impact any of the neighboring  
42 property owners and that it is going to go backwards towards the wetlands as it should  
43 be and not towards any of the existing property owners to where it will cause them  
44 harm.

45

1 **Motion was made by Deputy Mayor Lucarelli to approve the two variances to**  
2 **Chapter 160 for 328 Wood Street with the three conditions, seconded by**  
3 **Commissioner Brender.**

4  
5 Commissioner Duryea said the issue that was brought up by Mr. Baker, the implication  
6 was that there was some confusion about where the 100-year flood plain was, where  
7 the setbacks are and so forth. He asked if that was something he should be concerned  
8 about or can we take whatever we have here at face value.

9  
10 Ms. Reischmann said the Commission's role right now is to listen to the evidence, which  
11 you did. You have seen what has been submitted and it delineates the wetland and the  
12 100-year flood plain on the documents submitted by Mr. Goldberg. You heard from  
13 their environmentalist who indicated that he didn't believe that was the correct  
14 delineation. Your job is to review what you have heard and decide what to give  
15 credibility to. Keep in mind that our variance code does not require a survey. That is  
16 something that staff has asked for in order to generally determine where the buffer and  
17 environmental protection area for the purpose of the 25 and 75 feet. In terms of exactly  
18 where you would delineate 75 feet and the 25 feet, it is not terribly relevant exactly  
19 where that wetlands line is drawn. If the entire property was wetlands then you would  
20 clearly have to make some accommodations unless you are going to declare the entire  
21 property is unbuildable. For this applicant to put a house on the lot, you have to grant  
22 some sort of variance from the 75 and 25. Is it essential that you know exactly where  
23 the wetland line be delineated? I don't believe staff is requiring that in order to get a  
24 variance you have to have total precision about that. They want to know generally  
25 where the applicant is going to put the house but the code doesn't require that you have  
26 to prove that that line is absolute.

27  
28 Commissioner Duryea asked where in the process does that occur.

29  
30 Mr. Omana said what is relevant in this particular case is the fact that the 100-year flood  
31 plain is the relevant factor. That is the most landward. The wetlands, albeit important,  
32 is on the back side. The 100-year flood plain delineation can be obtained from a  
33 number of sources which are certified and documented as an acceptable source.

34  
35 Ms. Reischmann said surveyors generally delineate those things. To clarify what  
36 Commissioner Duryea is asking, she asked if there would be a time when we will with  
37 absolute certainty know what is considered the wetland for purposes at building permit  
38 stage.

39  
40 Mr. Omana answered affirmatively. We will have that information.

41  
42 Ms. Reischmann asked Mr. Omana how he would get that.

1 Mr. Omana said that would be either shown on a specialized survey, a sketch of  
2 description signed and sealed by the appropriate professional and reviewed by our  
3 stormwater engineer, public works as well as our staff.

4  
5 Ms. Reischmann said it is correct what Commissioner Lucarelli states that this says it is  
6 not a survey. We have been calling it a survey. Mr. Goldberg will present us with the  
7 signed and sealed version. It is not technically a "survey" for all purposes.

8  
9 Commissioner Brender said but it fits our needs as far as the code goes for where we  
10 are tonight.

11  
12 Ms. Reischmann answered affirmatively. We don't have anything that says exactly  
13 what has to be presented to obtain a variance. We generally want to see where the  
14 house fits on the site in relation to the wetlands and the flood plain.

15  
16 Mr. Omana said that is correct and it fits to our purposes tonight.

17  
18 Commissioner Brender said water is one of these things where the lake is half full or the  
19 lake is half empty. He recalled years ago when Crystal Lake was too high for exactly  
20 one-half of the people and too low for exactly one-half of the people. In the span of the  
21 20 years that he has been sitting up here, we have seen enough places built and we  
22 have a good idea of where the water goes. Twenty years ago we didn't. St. Johns  
23 River Water Management District wasn't even here 30 years ago and if you wanted to  
24 drain your water onto your neighbor you just did. From an engineering capacity we will  
25 address these water issues. The key is it has to be according to our code at a later  
26 time. This is not a guarantee he is going to build a house. This is just a variance that  
27 allows him to go to the next step to try to build a house. After 20-something years he  
28 has a good idea that water flows downhill. The key is how you build it and which way  
29 you build it. We can control that. He recalled when the back section of Timacuan was  
30 built and everybody said it would cause Crystal Lake to go up eight feet and houses  
31 would be flooded, and it had no effect. We were very careful about calculating  
32 drainage, impervious surface and everything else. We went through months of  
33 reviewing data about how that water was going to flow. He said he was comfortable at  
34 this point for where we have to be at this point. I will assure you, staff, and the applicant  
35 that where this water flow is going to go is going to be intensely looked at at a later time.

36  
37 Judd Hedrick, attorney with Zimmerman, Kiser & Sutcliff Law Firm, came forward. We  
38 have gotten distracted with respect to the wetlands, water flow and all those things and  
39 lost sight of the point that we were trying to make that the variance requires a criteria to  
40 be met. There are six or seven prongs to the criteria. They haven't been met. Forget  
41 about where the water flows. The criteria for granting the variance have not been met.  
42 There is no competent substantial evidence. We are told the survey being shown is not  
43 signed.

44  
45 Mayor Mealor said the City Attorney responded to that item related to this request.

1  
2 Mr. Hedrick said this is a self-created hardship. This is a speculative purchase for a  
3 significantly discounted price, hoping that maybe you can build something on it and  
4 knowing exactly what you are getting. We gave you the recent case from Winter Park  
5 that went up on appeal. It is a self-created hardship. It is the same situation as in  
6 Winter Park on a lake. They had a setback from the lake and they had a setback from  
7 the driveway and it would only permit a 400 S.F. home. They wanted to build a 4,500  
8 S.F. home. It went up on appeal. The city denied the request saying it's a self-created  
9 hardship and the appellate court agreed. If the applicant had owned this property for a  
10 long time and then in '91 the ordinances were enacted then that would be a different  
11 story. This is not an unsophisticated party that didn't know what they were getting.  
12 They knew exactly what they were getting. That is the primary prong that has not been  
13 met. The other ones haven't been met either. He wanted to make sure the  
14 Commission understood the point they were trying to make. He said Ms. Reischmann  
15 was saying it doesn't matter where the wetlands line is and the survey is not required.  
16 How can you ask for a variance if you don't know what the variance is for? Typically  
17 you are asking for a five, ten or 20-foot variance into the setback. Here we are ignoring  
18 the buffer and the setbacks entirely.

19  
20 Ms. Reischmann said she was involved in that Winter Park case as she represents the  
21 Winter Park P&Z. She said she didn't think the situations are similar. You are talking  
22 about a reasonable use of property and what is a reasonable use. We have heard  
23 expert testimony on what a reasonable use is. Also how this code is interpreted by  
24 staff. There have been many variances granted to this particular code unlike the City of  
25 Winter Park.

26  
27 **Motion carried by roll-call vote: Commissioner Duryea, Yes; Commissioner Plank,**  
28 **Yes; Deputy Mayor Lucarelli, Yes; Commissioner Brender, Yes; Mayor Mealor,**  
29 **Yes.**

30  
31 Mayor Mealor said this is a difficult issue. The request for these two variances is only  
32 the first step in a multi-step process. He thought the applicant has heard loudly from the  
33 Commission as well as the P&Z minutes as to what our expectations are related to this  
34 particular area of our community.

35  
36 B. Consideration of Downtown Entry Feature – Fourth Street and W. Lake Mary  
37 Boulevard (Steve Noto, Senior Planner)

38  
39 Mr. Noto said for several years we have been talking about a lot of different branding  
40 and "entry feature" items for the Downtown. We expanded the Downtown boundaries in  
41 2009 in preparation of SunRail. This is a follow up to a discussion we had in 2009  
42 regarding our main entry into Downtown at Lake Mary Boulevard and Fourth Street and  
43 how to identify that spot. We have done a lot of work since this discussion in 2009. We  
44 have added parking off of Fifth Street, Mr. Shaw has added more buildings and it has  
45 become an activity center. We recently had a meeting with Mr. Shaw and the business

1 owners in the core and the No. 1 concern was identifying the entrance to Downtown.  
2 Folks are having a hard time getting into Fourth Street for a variety of reasons. We  
3 have talked about these columns in the past. He showed a conceptual drawing that is a  
4 few years old that has resurfaced as being the general concept as to what can be  
5 placed at the corner of Fourth Street and Lake Mary Boulevard.  
6

7 Mr. Noto said the general discussion point at this juncture is the placement of two  
8 columns at the corner of Fourth Street and Lake Mary Boulevard on either side of  
9 Fourth Street. We haven't talked about the finish yet.  
10

11 Mr. Noto said the second part is the branding of Downtown. We have talked about  
12 slogans, have made graphics and all sorts of things. The core has its own identity. It  
13 functions differently than other parts of Downtown and will continue to function that way  
14 even after SunRail goes live in May. The thought we had was calling it the "Fourth  
15 Street District", mainly because of Fourth Street being the main entry into Downtown.  
16 Multiple businesses have adopted that Fourth Street name into their name.  
17

18 Mr. Noto said we wanted to bring up a discussion point this evening to see where we go  
19 with this entry point. We have one cost estimate for these columns based upon a brick  
20 finish. He had another rendering without the pot on the top. We received a third photo  
21 shop job from Parks & Rec that takes this in a completely different direction but kind of  
22 that last step of what it looks like in a couple of years.  
23

24 Commissioner Duryea said we don't have this budgeted and thought it was premature.  
25 When we do the improvements on Crystal Lake all the way from Fourth Street to the  
26 railroad station, we will have a better idea of the atmosphere and what architecture will  
27 fit in better.  
28

29 Ms. Sova said what brings this up at this point are the business owners hearing over  
30 and over again that people are having trouble finding them. We have talked to the  
31 County about signage on Lake Mary Boulevard on the mast arms trying to get better  
32 recognition there but the County has their own standards on how they do things. That's  
33 also why we brought up branding this as the "Fourth Street District" so maybe we can  
34 do some things that isolate it and recognize it for what it is. People complain they can't  
35 find the Farmer's Market. We are looking for a designation other than Downtown.  
36

37 Commissioner Plank said he had no problem with the columns and had no problem  
38 identifying the area as the present core of our commercial district. Anticipating at the  
39 same time that we will be expanding down Crystal Lake Avenue and possibly a couple  
40 of blocks either way, he had a problem with the "Fourth Street District". It reminded him  
41 of years ago when the first controlled access lanes went in on the highways and the  
42 engineers and PR guys battled as to how to define. The engineers won so they then  
43 spent a fortune educating the public on what HOV -1 and HOV-2 was. He was  
44 confused because it seemed not too long ago we approved "Downtown Lake Mary  
45 Where Everybody's Waiting for You". This is the core of Downtown and as we expand it

1 will continue to be the core of Downtown. It does make more sense to bring the traffic  
2 through there. We are going to have problems on Country Club no matter what we do,  
3 whether we are doing roundabouts or traffic lights. He had no problem with the  
4 identification but did have a problem with the name.

5  
6 Commissioner Brender said the name is up to the businesses here. Naming and  
7 branding is a difficult thing to do and it should not be taken lightly. It needs to be  
8 considered at more than one meeting. These things stick. He said he didn't have a  
9 problem designating Fourth Street as an entrance to a district. He had a problem  
10 identifying Fourth Street as Downtown Lake Mary because he didn't know where  
11 Downtown is going to be. He thought Downtown was going to be farther to the east and  
12 Fourth Street is going to be on the west side of Downtown. He said he was encouraged  
13 by the fact that we can call this a separate district. One of the things he had been trying  
14 to avoid is take this concept because we have this on Fourth Street and we have to  
15 build everything to look exactly like it. He said his point is no it doesn't. He wanted the  
16 SunRail area to look and feel different than Fourth Street. If we call it the Fourth Street  
17 District or whatever we call it, he was okay with spending \$6,600. He said he didn't  
18 mind identifying that district but did have a problem calling it the Downtown entrance.  
19 He thought the Downtown entrance could be as far west as Palmetto but is probably  
20 going to be Country Club Road. When we see certain older buildings that line Country  
21 Club come down and we've got 200,000 S.F. of new commercial, retail and office space  
22 going up, people are going to have a significant problem saying Fourth Street is  
23 Downtown.

24  
25 Commissioner Plank asked if the branding issue was open for discussion by the  
26 Commission because he noticed in the memo of October 17<sup>th</sup> that Mr. Nipe is in the  
27 process of creating replacement banner signs going on the light poles Downtown that  
28 would say "Fourth Street District".

29  
30 Ms. Sova said it is open for discussion. That is why we have it in front of you before we  
31 did anything like that. We haven't ordered new banner signs but they do need  
32 replacing. The merchants have asked us to take a harder look at this and is what we  
33 are trying to do.

34  
35 Deputy Mayor Lucarelli said she concurred with Commissioner Plank. She liked the  
36 columns. She understood what the merchants are saying and if there is any way we  
37 can emphasize Fourth Street more is great, but if you look at the Downtown Master  
38 Plan, Downtown is going to be huge someday. She disagreed calling this the "Fourth  
39 Street District". This needs to be Downtown Lake Mary. If there is a way to do better  
40 signage or whatever to Fourth Street, she was all for that but to get the stigma of all of  
41 this being the Fourth Street District, she didn't agree with that.

42  
43 Commissioner Brender said his concern was everything from SunRail west ends up  
44 being called the Fourth Street District and that is not our intent.

1 Commissioner Brender said several years ago we looked at a variety of columns,  
2 arches and things that could go over Fourth Street. He recalled looking at things other  
3 than brick. He asked Mr. Noto if he had those other drawings.

4  
5 Mr. Noto said those were used during the original discussion in 2009 and based upon  
6 our direction this evening we will move forward with some additional conceptual  
7 renderings. He showed some of the previous renderings.

8  
9 Commissioner Brender said the column looks the same and it's just a matter of how we  
10 face it. If we face it with cultured stone instead of brick, he asked the difference in cost.

11  
12 Mr. Noto said he would have to look into that.

13  
14 Mayor Meador said staff is seeking direction on (1) columns and (2) branding. He  
15 thought branding would be back for further discussion. He asked the Commission  
16 about columns. There were no objections from the Board.

17  
18 Mr. Noto said he would come back with some extra designs.

19  
20 X. Other Items for Commission Action

21  
22 There were no items to discuss at this time.

23  
24 XI. Reports:

25  
26 A. City Manager

27  
28 Ms. Sova said the Orlando Magic are starting an initiative this season by recognizing  
29 first responders for exemplary service at the beginning of a Magic game. They have  
30 selected to recognize Police Officer Ritter for his lifesaving efforts in initiating CPR on  
31 an unresponsive male who was ultimately saved by his quick actions. He will be  
32 recognized during the Magic's first home game with the New Orleans Pelicans on  
33 November 1<sup>st</sup>. She congratulated Officer Ritter.

34  
35 Ms. Sova congratulated Sue Thorne who is the Employee of the Third Quarter.

36  
37 Ms. Sova reminded everyone that the Fire Department Open House at Station 37 is on  
38 Saturday, October 26<sup>th</sup> from 10:00 A.M. to 2:00 P.M. There will be games for kids, face  
39 painting, fire safety demonstrations, and station and fire truck tours.

40  
41 Ms. Sova said the Halloween Spooktacular will be held in Central Park on Thursday,  
42 October 31<sup>st</sup> from 5:30 P.M. to 7:30 P.M. There will be safe and fun trick or treating,  
43 music, games, kiddie train rides and a children's costume contest.

1 Ms. Sova said our 90-day trial period for sharing our health clinic with the City of  
2 Sanford will begin next week. We will see how that goes before we move forward with a  
3 formal agreement.

4  
5 Ms. Sova said WineART Wednesday will return November 6<sup>th</sup> from 5:00 P.M. to 9:00  
6 P.M. in Central Park.

7  
8 Ms. Sova said the Commission previously scheduled a swearing-in for Commissioners  
9 Duryea and Lucarelli for 6:30 P.M. on November 7<sup>th</sup> prior to the regularly scheduled  
10 meeting.

11  
12 Ms. Sova asked the Commission to cancel the November 21<sup>st</sup> meeting because we  
13 don't have any business coming forward.

14  
15 **Motion was made by Commissioner Brender to cancel the November 21, 2013,**  
16 **City Commission meeting, seconded by Deputy Mayor Lucarelli and motion**  
17 **carried unanimously.**

18  
19 B. Mayor

20  
21 Mayor Mealar thanked the boy scout troops in Lake Mary for the Eagle Scout Ceremony  
22 and the Speak to the Wolves at Grace United Methodist Church.

23  
24 Mayor Mealar thanked the men and women of the Lake Mary Fire Department for the  
25 invitation for he and his wife to join them at their awards ceremony.

26  
27 Mayor Mealar said yesterday we had the Industry Recognition Luncheon sponsored by  
28 the Chamber. He thanked those who made an investment in our community and our  
29 staff stands ready to work with them as they move forward.

30  
31 Mayor Mealar said Meals on Wheels is having a fundraiser. It is the Sanford Mayor's  
32 Bowl-A-Thon on November 10<sup>th</sup> at a nominal fee. He asked the City Manager to poll the  
33 Commission and any staff that would like to join a Lake Mary team to challenge the  
34 Sanford Mayor and his team. He asked the City Manager to coordinate that.

35  
36 C. City Commission

37  
38 Commissioner Plank said he had the pleasure of attending the Private Business  
39 Association of Seminole County meeting last week. There was a report from all seven  
40 mayors from all seven of our cities. They confirmed there is a lot going on.

41  
42 **SIDE 2B**

1 Commissioner Plank thanked the Fire Department for the invitation to their awards  
2 dinner. We have one of the best fire departments in the area. The camaraderie, the  
3 genuine caring is amazing.

4  
5 Commissioner Plank said the first Ghost Walk was held last weekend. It was a sellout  
6 at over 200 which is the maximum we can handle within the timeframe we have. It  
7 looks like this Saturday is going to be a repeat performance. On behalf of the museum  
8 he thanked the Police and Fire Departments for their backup. It has gone like a well-  
9 oiled machine this year and we appreciate it.

10  
11 Deputy Mayor Lucarelli said she attended the Boys and Girls Club Faces of the Future  
12 fundraising breakfast. It is a great event to see the talent and hear the amazing stories  
13 and successes of some of the kids there and how the Boys and Girls Club has helped  
14 them.

15  
16 Deputy Mayor Lucarelli said last weekend she went to two domestic violence walks.  
17 One in Baldwin Park with Harbor House and a new group, I Am Gladys Cabrera, who  
18 was the lady murdered in the Casselberry salon who was an innocent bystander. The  
19 family started their own group and they had a walk on Sunday that was very well  
20 attended. We had good media coverage at both of them.

21  
22 Deputy Mayor Lucarelli said Arts Festival opening ceremonies on Saturday, November  
23 2<sup>nd</sup> are at noon. She asked everyone to be at the stage and ready no later than 11:45  
24 A.M.

25  
26 Commissioner Brender said he attended the Alliance for Children meeting at the  
27 Sheriff's Office. Seminole County continues to be a leader in the state about how well  
28 we use what funds we have and how we manage the whole effort behind children and  
29 families in distress. He said it never ceases to amaze him how many people need the  
30 help. The number of calls that go into the Sheriff's Office and the number of calls where  
31 children are taken from their homes is shocking. We continue to work very well but it  
32 seems to be something we can never let up on.

33  
34 Commissioner Duryea apologized to the Fire Department for not attending the awards  
35 dinner at Timacuan.

36  
37 Commissioner Duryea said there was a light out on the tennis court. It is No. 5 on the  
38 street side.

39  
40 Mr. Nipe said he would take care of that.

41  
42 Commissioner Duryea asked Mr. Nipe if he could allocate some Christmas lights for the  
43 Tennis Club.

44  
45 Mr. Nipe answered affirmatively.

1  
2 Commissioner Brender said we have several areas, specifically AAA Drive, where there  
3 is a single left-turn lane coming off AAA Drive and then we have a light that stops traffic  
4 on Heathrow International Boulevard. He asked Chief Bracknell if he had a problem  
5 having a right-hand through lane when there is a single left-hand turn.  
6

7 Chief Bracknell said it does cause confusion in that area, especially with all the  
8 construction. He said he had not received any complaints.  
9

10 Commissioner Brender said he had driven that road a few times and was finding that  
11 light stops a fair amount of traffic at that point. There are several sites around the City.  
12 He thought there was a left turn off of Wallace Court that goes onto Rinehart Road and  
13 there is nothing possible to be built because of the neighborhood on the other side.  
14 That would be another place where conceivably you could have a through lane. The  
15 County does it off of Big Tree Park and 17-92. He asked if that was something they  
16 could look at.  
17

18 Chief Bracknell said we have received no complaints and there have been no accidents.  
19 We usually start looking at an area when it is a high accident location. He said he  
20 would be glad to look at it.  
21

22 Commissioner Brender said he wouldn't mind looking at some of these different areas  
23 to see if there is a way we can establish a through lane. It may not be a big problem  
24 now but it's coming.  
25

26 Commissioner Plank said he didn't disagree with what Commissioner Brender is saying  
27 but as a former employee of AAA, he advised a note of caution because the number of  
28 cars coming out of there and the apartment complex in the area is extremely heavy  
29 three or four times during the day. He said he would proceed slowly because you might  
30 be encouraging accidents by people doing rolling stops. He noticed the same thing is  
31 happening with Timacuan again and they are not stopping.  
32

#### 33 D. City Attorney 34

35 Ms. Reischmann asked the Commission to support and direct further work by staff to  
36 bring back some sign code amendments. We have always banned off-premises signs  
37 and electronic signs but the Commission is requested to direct staff to bring back a  
38 definition for the term "billboard" because that term is used in our code and also to state  
39 that billboards are prohibited without exception. She asked to beef up the definition of  
40 electronic signs as that as evolved, to beef up the definition of animated sign,  
41 intermittent sign, ground signs larger than 100 square feet and to show that all of those  
42 signs are expressly prohibited. Also to prohibit outdoor advertising as a land use under  
43 the zoning code and to adopt the state definition for destruction of a sign which will  
44 make our code more airtight since we will defer to the state rather than having our own

1 particular definition. She requested by consensus that the Commission agree to those  
2 code changes coming through the system.

3  
4 **It was the consensus of the Commission to direct staff to bring those code**  
5 **amendments forward.**

6  
7 Mayor Mealor said tonight was a bit unusual and he thanked Ms. Reischmann. He said  
8 her knowledge base is recognized statewide. We are very fortunate to have her. One  
9 of the things we have tried to do on this Commission is to agree with enthusiasm and  
10 disagree with respect. He thought her presence tonight was very helpful.

11  
12 XII. Adjournment

13  
14 There being no further business, the meeting adjourned at 9:37 P.M.

15  
16  
17  
18  
19 \_\_\_\_\_  
20 David J. Mealor, Mayor

\_\_\_\_\_

Mary Campbell, Deputy City Clerk

21  
22  
23 ATTEST:

24  
25  
26  
27 \_\_\_\_\_  
28 Carol A. Foster, City Clerk



## MEMORANDUM

DATE: November 7, 2013

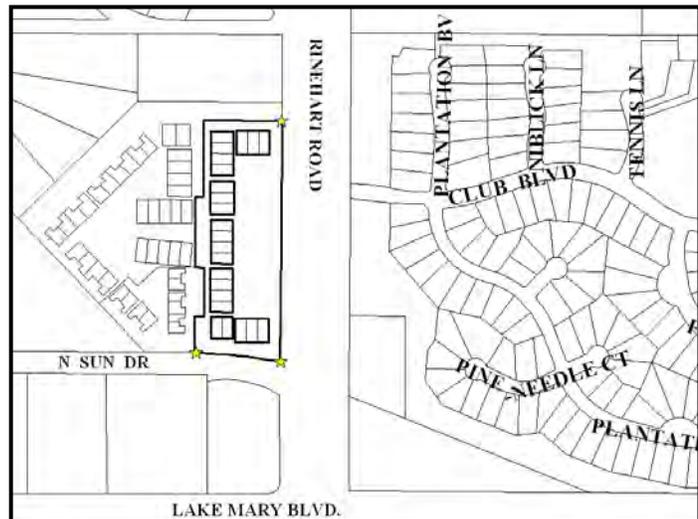
TO: City Commission

VIA: Jackie Sova, City Manager

FROM: Stephen Noto, Senior Planner

SUBJECT: Request from Feather's Edge Phase II for a Neighborhood Beautification Grant (Steve Noto, Senior Planner)

**BACKGROUND:** The purpose of the Neighborhood Beautification Grant (NBG) Program is to promote the undertaking of activities by City neighborhoods to beautify their developments, and to avoid blighted areas. The City Commission has approved project funding in the amount of \$25,000.00 per fiscal year, which would allow for organized neighborhood associations to apply to the City for monies to be used in executing a neighborhood beautification program. Promotion of high quality neighborhoods shows commitment by the City and its citizens in the areas of economic stability, exceptional quality of life, and community security. The program was approved by the City Commission on November 15, 2012, and has been reauthorized for the 2014 fiscal year.



**DESCRIPTION OF PROJECT:** Feather Edge Phase II was approved as its own subdivision in 2002. While there is joint access between Feather Edge Phase I and II, they each have their own HOA. This request is from the Feather Edge Phase II HOA.

The request is to beautify three entry points into the subdivision. The beautification process includes landscape and irrigation maintenance, as well as installation of new landscaping. Funding is being requested due to six budgetary hardships that have occurred over the last 6-8 years.

The total project cost, conceptually, is \$4,365.00 based upon two estimates received from local vendors. That said, the applicant has proposed to provide \$215.00 as their required 5% contribution, which would bring their Grant Amount Request to \$4,150.00, as seen on their application. However, 5% of \$4,365.00 is \$218.25. This staff recommended modification would bring the Grant Amount Request to \$4,146.75.

**Discussion:** This project qualifies within the NGB program as a Neighborhood Entry Beautification (NEB) Grant. Per the approved program, the maximum amount of funds that can be allotted for NEB requests is \$5,000.00 (The City Commission has the ability to approve funding above that amount on an as-requested basis). A minimum of 5% community contribution in the form of cash or in-kind services is required.

**Proposed Improvements:** The project will accomplish the following goals:

- General landscape trimming and site clean up
- Maintenance and replacement of irrigation lines
- Installation of new plantings, borders, and mulching

The landscape plans call for installation of Lorepetalum, viburnum, flax lily, orange bull bane, and St. Augustine grass. At this time, well water is used for irrigation. However, based upon Parks and Recreation staff direction, in the event that reclaimed water is used for irrigation, a substitute shall be found for the Lorepetalum. The applicant shall coordinate with City staff in finding an appropriate substitute.

The full application package has been found to be sufficient. The applicant was only able to acquire two bids for the landscaping work; however staff is satisfied with the documentation provided.

**FINDING OF FACT:** Staff has found that the request for a Neighborhood Beautification Grant for the Feather Edge Phase II entrances meet the requirements of the Neighborhood Beautification Program. Staff recommends approval of \$4,146.75 in grant funding, with the following conditions:

1. The applicant provides a 5% grant match of \$218.25 in lieu of \$215.00.
2. In the event that, in the future, reclaimed water is used for irrigation, a substitute shall be found for the Lorepetalum planting. The applicant shall coordinate with City staff in finding an appropriate substitute.

**PARKS AND RECREATION BOARD:** At their regularly scheduled October 7, 2013 meeting, the Parks and Recreation Board voted unanimously, 5-0, to recommend approval of the request for funding, per staff's recommendation.

**ATTACHMENTS:**

- Feather Edge Phase II Neighborhood Beautification Grant Application Package
- October 7, 2013 Parks and Recreation Board Synopsis

Feather Edge II – A Condominium  
c/o Specialty Management of Co. of Central Florida  
882 Jackson Avenue  
Winter Park, FL 32789  
August 6, 2013

Mr. Stephen Noto, Planner  
City of Lake Mary  
Community Development Department  
Planning & Zoning Division  
911 Wallace Court  
Lake Mary, FL 32746

RECEIVED  
AUG 06 2013  
CITY OF LAKE MARY  
COMMUNITY DEVELOPMENT DEPT.

Re: First Step Meeting for  
Neighborhood Beautification Grant (NBG)  
Feather Edge II Condominium  
Fiscal Year 2013-2014

Via Hand Delivery

Dear Mr. Noto:

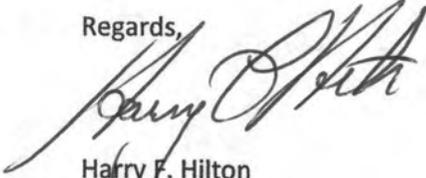
In accordance with the City of Lake Mary's permit and development assistance program, enclosed are the items needed for submission of the initial First Step Process for a Neighborhood Beautification Grants (NBG) to be considered for the 2014 fiscal budget. Attached please find the following for your review, approval and/or processing as follows:

1. A completed NBG Application attached as Exhibit "A" including Project Narrative on Page One and a Detailed Eligibility on Page Two.
2. Two (2) quotes for the proposed work, attached as
  - a. Ultimate Image as Exhibit "B" Quote #1, and
  - b. Baker Commercial Landscaping, Inc., as Exhibit "B" Quote #2
  - c. No Third Bid –as it is difficult to get three (3) bids.
3. Exhibit "B" – Quote #1 represents the Budget for the grant.
4. Photos of existing site conditions – attached as Exhibit "C" with
  - a. Existing Sun Drive Entrance and area along wall on Sun Drive.
  - b. Existing Signage at the Corner of Sun and Rinehart, and
  - c. Existing Rinehart Entrance.
5. A clean site plan showing locations of improvements to be made as Exhibit "D", with #1 at the Sun Drive entrance, #2 at the corner of Sun and Rinehart, and #3 at the Rinehart entrance.
6. Notarized minutes of the Board of Directors meeting authorizing this request attached as Exhibit "E".
7. Member of Project Action Team (PAT) – included in narrative in NBG Application on Exhibit "A", Page Two
8. A completed Grant Action Plan (GAP) – attached as Exhibit "F" along with renderings showing:
  - a. Rendering of Sun Drive Entrance and wall along Sun Drive.
  - b. Rendering of Sign area at the corner of Sun and Rinehart, and
  - c. Rendering of Entrance at the Rinehart side.

Please contact me for any additional information needed to complete this processing. We are anticipating that the submission would be submitted to the Parks & Recreation Advisory Board in either August or September, 2013 and if approved by the board, submitted to the City Commission for their first scheduled meeting for the new fiscal year in 2014.

Thank you for your time, attention, and consideration of this matter.

Regards,



Harry F. Hilton  
Board Member  
Feather Edge II – A Condominium

Encls – As Stated

Cc: Cathy Wasson, Specialty Management  
Board of Directors – Feather Edge Condominium Association

## CITY OF LAKE MARY NEIGHBORHOOD BEAUTIFICATION GRANT APPLICATION

Applicant Org. Name: <u>FEATHER EDGE II</u> Project Team Leader: <u>HARRY HILTON</u> Address: <u>101 LAKE EMMA COVE DRIVE</u> City/State/Zip: <u>LAKE MARY, FL 32746</u> E-Mail: <u>hh.hilton@gmail.com</u> Phone: <u>407.833.0337</u> Alt. Phone: <u>407.923.2555</u>	Alt. Contact: <u>JUSTIN KASHAN</u> Address: <u>105 Feather Edge Loop</u> City/State/Zip: <u>LAKE MARY FL 32746</u> E-Mail: <u>JKNY77@qol.com</u> Phone: <u>407.375.4878</u> Alt. Phone: <u>None</u>
---	---

Grant Requested:  Neighborhood Entry Beautification     Community Beautification

Name of Neighborhood: <u>FEATHER EDGE II</u> Location of Neighborhood (Roadway Boundaries): <u>SUN DRIVE &amp; RINEHART ROAD</u> Project Location (Address Required for Permitting): _____ Has the Neighborhood Won Grant Funding in the Past? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, When and How Much? <u>N/A</u>
--

Brief Description of Project: _____ The project will consist of improving three (3) specific areas of the Feather Edge II Condominium housing development. The use of the grant funds will allow us to beautify the entrances not only to the project, but will add improve the surrounding roadways – with Rinehart being a major roadway in the City of Lake Mary _____	
Grant Amount Requested: \$ <u>4,150.00</u>	Neighborhood Match Amount: \$ <u>215.00</u> <small>(min. 5% of Grant Amount)</small>

### REQUIRED ATTACHMENTS

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>• Three (3) quotes of all proposed work</li> <li>• A complete budget showing total cost of project</li> <li>• Photos of existing site conditions</li> <li>• A clean site plan showing the location of all improvements</li> </ul> | <ul style="list-style-type: none"> <li>• Notarized meeting minutes</li> <li>• Project Action Team (PAT) contact information</li> <li>• A completed GAP with Maintenance Agreement</li> <li>• Other documentation specifically requested by staff</li> <li>• First Step Meeting Synopsis</li> </ul> |
|--|--|

THE ABOVE INFORMATION IS SOLELY PROVIDED FOR PURPOSES OF APPLYING FOR THE NEIGHBORHOOD BEAUTIFICATION GRANT (NBG) AND UNDERSTAND IT DOES NOT IMPLY APPROVAL. I CERTIFY THE ABOVE INFORMATION TRUE. I HAVE RECEIVED, READ, AND AGREE WITH THE NBG PACKAGE.	Signed: <u>[Signature]</u> Print Name: <u>HARRY F. HILTON</u> Title: <u>BOARD MEMBER</u> Date: <u>8/6/13</u>
---	---

**EXHIBIT "A"**

**NEIGHBORHOOD BEAUTIFICATION GRANT (NBG)**

**PAGE 1 – PROJECT NARRATIVE**

**PAGE 2 - ELIGIBILITY**

EXHIBIT "A"

Project Narrative and Request for Grant

Feather Edge II – A Condominium

Re: Application and Request for a Neighborhood Entry Beautification Grant (NBG)

Amount of Request: \$4,150.00

Amount of Contribution by Association: \$215.00 (Required 5% contribution)

Fiscal Year: 2013-2014

Name of Project: Feather Edge II Condominium

Located at the NE Corner of Rinehart Road and Sun Drive in the City Limits of Lake Mary, Seminole County, FL with odd number only addresses including:

101 – 129 Lake Emma Cove Drive and

103-107, and

151-159 Feather Edge Loop

Total Number of Units – 23

Original Construction – Started in 2003

Significant Allocation of Homeowner Association Funds since inception:

- Had to redo irrigation system after developer turned over association – pump replaced, irrigation lines repaired and replaced, installed rust proofing system in 2005-2007.
- Established increased reserves and redid landscaping two times from 2008-2010 and the process is ongoing as a result of non-guaranteed work.
- Participated in replacing entrance signs in 2012 – per agreement with FEI.
- Had to repaint structures sooner than anticipated due to developer substandard finish without sealing buildings in 2012.
- Had to replace the fire prevention system as it had been malfunctioning on a continual basis since installation – every time it rained, system would automatically call – thereby creating a charge for every visit.
- 2013 – Must participate in repair, replace, and resealing of all interior road network resulting in depletion of reserves. Prior agreement with Feather Edge I by original developer.
- 2013 – Had a city water line break whereby one of the large trees at the Rinehart entrance had to be cut down and very small (3 - 3 gallon) replacements thereby leaving an unsightly telephone substation.

## EXHIBIT "A"

### ELIGIBILITY REQUIREMENT:

- Serve a public purpose – the request will significantly upgrade the two (2) entrances to the project – on both Rinehart and Sun Drive and the corner of Rinehart and Sun. The areas being improved are adjacent to one of the "gateway" entrances to the City of Lake Mary – along the Rinehart corridor intersecting with Lake Mary Boulevard. Pictures are attached as Exhibit "C" as to how the entrances are visible today and do not present an image that neither the Association nor the City could be proud of. So, we believe, the grant will enable us to upgrade and beautify not only the entrances, but the city routes along both Rinehart and Sun Drive. The renderings are attached as Exhibit "F" showing what the entrances and surrounding areas will look like after completion of the proposed grant monies.
- Attached as Exhibit "E" are authorized and notarized meeting minutes of the Board of Directors (BOD) of Feather Edge Condominium Association, dated July 29, 2013.
- Contained within this narrative and as required by this eligibility section is the need for the project as all of the current work is in disrepair and because of previous much needed costly repairs on behalf of this small association, it is a financial hardship.
- Project Action Team (PAT) consists of five (5) residents as outlined below:  
Harry Hilton – 101 Lake Emma Cove Drive – Phone 407.923.2555 – Lead  
Justin Kasman – 105 Feather Edge Loop – Phone 407.375.4878 – Alternate  
Greg Brown – 103 Lake Emma Cove Drive – Phone 386.299.2785  
Gary Brender – 113 Lake Emma Cove Drive – Phone 407.463.9931  
Cathy Wasson – Property Management – Phone 407.647.2622
- A Grant Action Plan (GAP) is attached as Exhibit "F" outlining how the project will be completed in the required 6 month timeline – the required five (5) year maintenance plan will be included as a requirement for our contracted landscape vendor.
- The project will be located in 3 distinct areas with all improvements located within the confinements of the designated common areas of the Feather Edge Homeowner Association. (Entrances at both Sun and Rinehart, are at corner of Sun and Rinehart, and brick wall along the Sun Drive corridor from entrance to the corner of Sun and Rinehart) See Exhibit "D".

### PLEASE NOTE THE FOLLOWING:

- This project is not part of our regular budget, but a special request, the ongoing maintenance will become part of our regular budget with our contractor vendor providing this service.
- There are no gifts of appreciation, nor work without receipts, no food is included, and all of the work does not include any reimbursement for purchases made prior to receiving this funding.
- The project consists of the following improvements:  
Landscaping, including shrubbery, flowers, ground plants, irrigation, mulching, and tree trimming.

**EXHIBIT "B"**

**QUOTES AND BUDGET:**

- 1. ULTIMATE IMAGE - \$4,365.00**
- 2. BAKER COMMERCIAL LANDSCAPING, INC., - \$5,872.00**

**QUOTE #1 – REPRESENTS BUDGET**



3310 CURRYVILLE ROAD  
 CHULUOTA, FL 32766  
 PHONE 407-704-1852  
 UILC@EARTHLINK.NET

# Estimate

Date	Estimate #
7/31/2013	2106

Name / Address
FEATHEREDGE CONDO HOA C/O SPECIALTY MGMT.INC. 882 JACKSON AVE. WINTER PARK, FL. 32789

			Project
Description	Qty	Cost	Total
3 GAL PLUM LORAPETULUM FOR ENTRY WAY AREAS	48	10.50	504.00
3 GAL VIBURNUM V/O	60	10.50	630.00
1 GAL FLAX LILLY	40	6.00	240.00
1 GAL ORANGE BULL BINE	12	6.50	78.00
FLORATAM ST AUGUSTINE SOD INSTALLED BY THE PALLET , DELIVERY AND PREP INC.	1	350.00	350.00
7 GAL VIBURNUM FOR IN FRONT OF UTILITY BOX	2	26.00	52.00
INSTALLATION OF ADDITIONAL IRRIGATION ZONE AT SUN BLVD ENTRANCE, PRICE INCLUDES VALVE AND ADDITIONAL HEADS		350.00	350.00
1 gal lirope	38	6.00	228.00
DARK BROWN MULCH INSTALLED BY THE CUBIC YARD	15	45.00	675.00
LANDSCAPER BLEND SOIL INSTALLED BY THE CUBIC YARD FOR NEW PLANTINGS	4	52.00	208.00
LANDSCAPE TIMBERS INSTALLED AT SUN BLVD SIGN AREA PRICE INCLUDES MATERIALS AND HARDWARE		200.00	200.00
LABOR , PICK UP DELIVERY, PREP, TREE TRIMMING ALONG WALL AREA		850.00	850.00
This is an estimate, no work will be completed until approval is provided. Thank you		<b>Total</b>	\$4,365.00

Phone #
407-704-1852

E-mail
uilc@earthlink.net



Baker Commercial Landscaping, Inc.  
 2699 N. Forsyth Road  
 Suite 111  
 Orlando, FL 32807

Phone: 407-339-8821  
 Fax: 407-339-5191  
 Email: info@bakerlandscaping.com  
 Web: www.bakerlandscaping.com

**Proposal**  
 11955

Page # 1 of 2  
 Proposal Created On: 07/18/2013

**Bill To:**

Feather Edge Condominium Association  
 c/o Specialty Management, Inc.  
 882 Jackson Avenue  
 Winter Park, FL 32789

**Work Location:**

Feather Edge Condominium Association  
 Feather Edge Loop  
 Lake Mary, FL 32746

Mr. Harry Hilton,

Please review the recommended selections below:

Recommended Landscape Upgrades - Property Enhancements			
Description	Qty	Product/Service	Amount
Entrance Marquee Enhancements A. Supply and install	36.0	3 gal Viburnum OD	\$504.00
Entrance Marquee Enhancements B. Supply and install	36.0	3 gal Loropetalum	\$504.00
Entrance Marquee Enhancements C. Supply and install	24.0	1 gal Flax Lily	\$216.00
Entrance Marquee Enhancements D. Supply and install	38.0	1 gal Liriope	\$342.00
Entrance Marquee Enhancements E. Supply and install	5.0	Designer Brown Mulch per yard	\$250.00
Entrance Marquee Enhancements G. Irrigation Modifications	1.0	Irrigation Parts	\$750.00
Entrance Marquee Enhancements H. Labor	1.0	Landscape Upgrades	\$800.00
Sinage Area - A. Supply and install	12.0	3 gal Loropetalum	\$168.00
Sinage Area - B. Supply and install	2.0	15 gal Yaupon Holly Tree	\$400.00
Sinage Area - C. Supply and install	24.0	3 gal Viburnum OD	\$336.00
Sinage Area - D. Supply and install	16.0	1 gal Flax Lily	\$144.00
Sinage Area - E. Supply and install	12.0	1 gal Bulbine	\$108.00
Sinage Area - F. Supply and install	3.0	Designer Red Mulch per yard	\$150.00
Sinage Area - G. Irrigation Modifications	1.0	Irrigation Parts	\$700.00
Sinage Area - H. Labor	1.0	Landscape Upgrades	\$500.00
<b>TOTAL COST:</b>			<b>\$5,872.00</b>

Notes:

Created by Mr. Ted Baker

**EXHIBIT "B" – QUOTE #2**

**EXHIBIT "C"**

**PHOTO'S OF EXISTING SITE**

**(THREE EXHIBITS)**



EXHIBIT "C" – EXISTING SIGNAGE CORNER SUN AND RINEHART



*Feather Edge*

— A CONDOMINIUM —

EXHIBIT "C" – EXISTING SUN DRIVE ENTRANCE AND ADJACENT WALL



EXHIBIT "C" – EXISTING RINEHART ENTRANCE

EXHIBIT "D"

A CLEAN SITE PLAN SHOWING THREE LOCATIONS

Search Owner | Address | Parcel | Advanced | <<< | Reset | Clear Measure | Clear Buffer |  Disable Identity P

Append Results  Show Identifier

Execute Search

Property Type: Real

X: 544788.33  
Y: 1608966.05

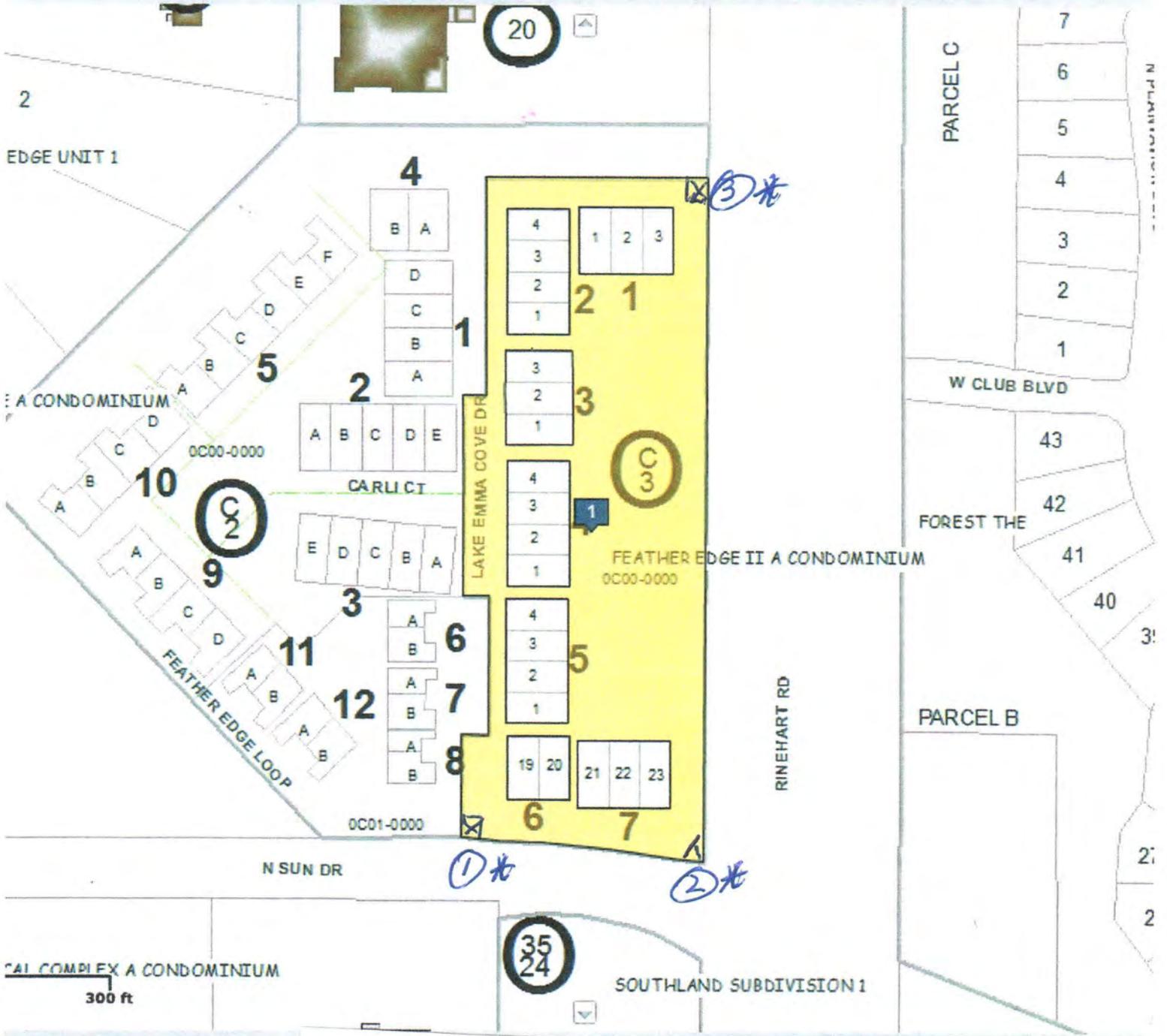


EXHIBIT "D" – SITE PLAN INDICATING 3 AREAS OF IMPROVEMENT

**EXHIBIT "E"**

**NOTARIZED MINUTES FROM BOARD OF DIRECTORS AUTHORIZING  
APPLICATION, DATED JULY 29, 2013**

# Feather Edge 2 Condominium Association, Inc.

## Board Meeting Minutes July 29, 2013

Call to Order: 4:35 p.m. by Gary Brender  
Verification of Quorum: Gary Brender, and Harry Hilton,  
Cathy Wasson/Specialty Management Co.

---

### New Business:

1. Discussion of developer issue involving Feather Edge Condominium (#1).
2. City of Lake Mary grant application:  
**Motion to approve submittal of Neighborhood Beautification Grant to the City of Lake Mary for the beautification of entrance amenities was made by Harry Hilton, 2<sup>nd</sup> by Gary Brender. All in favor.**  
Harry is working on the application and is the Board contact for this process.  
Minutes will be notarized for inclusion in the application.
3. Discussed progress towards paving, and Feather Edge Condominium (#1) is in the bid process.

**Motion to adjourn the meeting was made at 5:00 p.m. by Harry, 2<sup>nd</sup> by Gary. All in favor**

Submitted by Catherine Wasson

Catherine Wasson

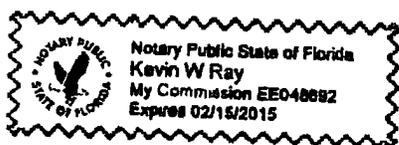
The foregoing instrument was acknowledged before me this 31 day of July, 2013,

by CATHERINE WASSON, who is personally known to me.

Notary Signature Kevin W. Ray

Print KEVIN W. RAY

Notary Stamp:



**EXHIBIT "F"**

**A GRANT ACTION PLAN FOR FIVE (5) MONTHS, AND  
RENDERINGS 1-4 SHOWING PROPOSED UPGRADES**

## **GRANT ACTION PLAN**

**MONTH ONE – APPLY FOR PERMIT, IF NECESSARY**

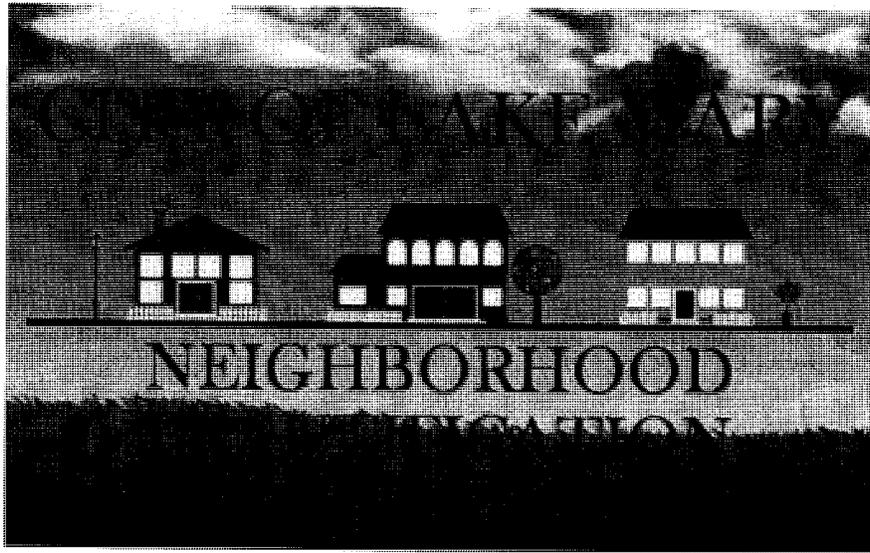
**MONTH TWO – REPAIR AND REPLACE IRRIGATION LINES AS NEEDED**

**MONTH THREE – TRIM TREES AND OTHER VEGATATION AS NECESSARY**

**MONTH FOUR – INSTALL PLANTS, BORDERS, AND MULCHING**

**MONTH FIVE – COMPLETE ANY UNFINISHED WORK**

**ATTACHED ARE THREE RENDERINGS SHOWING FINAL WORK**



NEIGHBORHOOD BEAUTIFICATION  
GRANTS



APPLICATION PACKAGE

CITY OF LAKE MARY  
COMMUNITY DEVELOPMENT DEPARTMENT  
NEIGHBORHOOD BEAUTIFICATION GRANT  
PACKAGE

TABLE OF CONTENTS

Program Description	3
Grant Match and Programs	3
Neighborhood Entry Beautification Grant	5
Community Beautification Mini-Grant	5
Application Process	6
Staff Contact	6



## **PURPOSE**

The purpose of the Neighborhood Beautification Grant (NBG) Program is to promote the undertaking of activities by City neighborhoods to beautify their developments, and to avoid blighted areas. The City Commission has approved project funding in the amount of \$25,000 per fiscal year, which would allow for organized neighborhood associations to apply to the City for monies to be used in executing a neighborhood beautification program. Promotion of high quality neighborhoods shows commitment by the City and its citizens in the areas of economic stability, exceptional quality of life, and community security.

## **WHO CAN APPLY?**

Neighborhood Beautification Grants are available to homeowners' associations and organized neighborhood organizations; this includes condominium associations and resident associations. These organizations must be registered with the City prior to submitting an application. Individual homeowners or unregistered organizations are not eligible.

A neighborhood association's Board of Directors (BOD) must vote on and approve the grant application prior to submitting to the City. Minutes from the meeting must be notarized, show the vote process, as well as:

- The name of the project
- Motion, Vote, and Action to submit project to the City
- Design specifications for landscaping, signage, and the like shall be provided as an exhibit to the minutes as stated and approved by the BOD
- A Project Action Team (PAT) shall be identified for the record, including the main Project Manager
- Minutes shall be notarized and attached to the application

The last Friday of every month, the PAT shall provide a detailed progress report to City staff. The reports shall outline all activity that has occurred over the previous month. Failure to submit a Progress Report may result in a loss of funding.

All NBG projects shall be completed within six (6) months of receiving funding. Projects shall be properly maintained after the process is completed, per the NBG Maintenance Agreement.

## **GRANT MATCH**

All grants require either a Cash or In-kind Goods and Services match. An 'In-Kind Good and Service' is defined as: Equipment, Professional Services by legitimate providers valued at "fair market value", and Supplies.



In the event an 'In-Kind Good and Service' is identified for the match, details shall be attached to the application describing the services and their cost. The total match required shall vary on the total grant amount awarded, but in no event shall the match be required to exceed 25% of the total award.

## **GRANT PROGRAMS**

The City offers two types of grants: Neighborhood Entry Beautification and Community Beautification Mini-Grant. Each grant type is subject to its own criteria, eligibility, and funding. An applicant may only apply for one grant at a time, and may not apply for the same grant in consecutive years. The City Commission reserves the right to expend all available funding on one project.

### ***ELIGIBILITY***

All projects must meet the following eligibility criteria:

- Serve a public purpose;
- The project must be approved by the applying organizations Board of Directors (*BOD; notarized meeting minutes must be submitted with the application, see page 3*);
- BOD must outline a need for the project (*physical disrepair, financial hardship, unique legal standing*);
- Have a Project Action Team (PAT) of 5 or more residents;
- Have a Grant Action Plan (GAP) outlining how the project will be completed within six (6) months or less. A maintenance plan of at least five (5) years is required to be attached to the GAP;
- Project shall occur on land(s) owned by the neighborhood association.

### ***GRANT ACTION PLAN (GAP)***

The GAP shall provide a detailed budget and timeline showing how the project will meet the six (6) month project timeline. The GAP may be modified after grant funds are awarded to more accurately show dates and times.

### ***MAINTENANCE PLAN***

The Maintenance Plan that is submitted with the GAP shall cover a five (5) year period. The Plan shall have a detailed budget and action plan on how the applicant will maintain all improved areas.

In no event shall project funds be used for:

- A neighborhood organization's regular budget
- Gifts of appreciation
- Expenses without receipts
- Food
- Reimbursement for purchases made prior to receiving funding



### ***NEIGHBORHOOD ENTRY BEAUTIFICATION (NEB) GRANTS***

In the event a neighborhood has a tract of land that is recorded as an entry feature, or has identified lands that could function as an entry feature, funding is available to improve/acquire those areas. Lands that are identified as an entry feature must be adjacent to the neighborhood and have past recordation as being planned as an entry feature. If a community is gated, the entry feature must be outside of the gates of the community and visible to all City residents.

The following is a list of projects that **may** be eligible for NEB Grant funding:

- Fence/Wall Construction
- Landscaping
- New Irrigation
- Land Acquisition
- Decorative Fountains
- Decorative Lighting
- Signage

The following is a list of projects that are **not** eligible for NEB Grant funding:

- Sidewalk construction
- Traffic calming devices
- Staff for project management
- Modifications to City owned infrastructure/structures
- Projects already underway
- Non-irrigated landscape improvements
- Imp. to private property not owned by the neighborhood org.

NEB Grant awards shall not exceed a total of \$5,000. In the event land acquisition is requested, the City Commission may award additional monies. A minimum 5% community contribution in the form of cash or in-kind services is required.

### ***COMMUNITY BEAUTIFICATION (COB) MINI-GRANT***

In the event a neighborhood has a tract of land that is recorded as common area or if there is landscaping in a City right-of-way, funding is available to improve those areas. Communities that are gated may not apply for COB grants unless all improvements occur outside the gates of the community.

The following is a list of projects that may be eligible for COB Grant funding:

- Cosmetic repairs
- Landscaping
- Gazebos, Picnic Tables
- Decorative Fountains
- Decorative Lighting
- Playground Equipment



The following is a list of projects that are **not** eligible for COB Grant funding:

- Sidewalk construction
- Traffic calming devices
- Staff for project management
- New fences/walls
- Modifications to City owned infrastructure/structures
- Projects already underway
- Non-irrigated landscape improvements
- Maintenance of drainage areas
- Irrigation repairs
- Imp. to private property not owned by the neighborhood org.

COB Mini-Grant awards shall not exceed a total of \$1,500. A minimum 5% community contribution in the form of cash or in-kind services is required.

### ***APPLICATION PROCESS***

The following items shall be attached to the Grant application:

1. Project narrative;
2. 3 quotes of all proposed work;
3. A complete budget showing total cost of project;
4. Photos of existing site conditions;
5. A clean site plan showing the location of all improvements;
6. Notarized minutes as previously described on page 3 of this package;
7. Project Action Team (PAT) contact information;
8. A completed GAP with Maintenance Agreement;
9. First Step Meeting synopsis;
10. Other documentation specifically requested by staff.

A First-Step Meeting with staff is required prior to submitting the grant application. After staff has reviewed the application, it will be presented to the Parks & Recreation Advisory Board who will make a recommendation on the application to the City Commission. The City Commission will make the final determination on the Grant application.

***NOTE: All vendors/contractors are required to submit applicable permits needed to perform work. Failure to do so may result in loss of funding.***

### **STAFF CONTACT**

For additional information on the NBG programs, or to schedule a First Step Meeting, you may contact Stephen Noto, Planner, at 407-585-1440 or [snoto@lakemaryfl.com](mailto:snoto@lakemaryfl.com).



# CITY OF LAKE MARY NEIGHBORHOOD BEAUTIFICATION GRANT APPLICATION

Applicant Org. Name: _____ Project Team Leader: _____ Address: _____ City/State/Zip: _____ E-Mail: _____ Phone: _____ Alt. Phone: _____	Alt. Contact: _____ Address: _____ City/State/Zip: _____ E-Mail: _____ Phone: _____ Alt. Phone: _____
--	---

Grant Requested:  Neighborhood Entry Beautification     Community Beautification

Name of Neighborhood: _____ Location of Neighborhood (Roadway Boundaries): _____ Project Location (Address Required for Permitting): _____ Has the Neighborhood Won Grant Funding in the Past? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, When and How Much? _____
--

Brief Description of Project: _____ _____ _____	
Grant Amount Requested: \$ _____	Neighborhood Match Amount: \$ _____ <i>(min. 5% of Grant Amount)</i>

- REQUIRED ATTACHMENTS**
- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>Three (3) quotes of all proposed work</li> <li>A complete budget showing total cost of project</li> <li>Photos of existing site conditions</li> <li>A clean site plan showing the location of all improvements</li> </ul> | <ul style="list-style-type: none"> <li>Notarized meeting minutes</li> <li>Project Action Team (PAT) contact information</li> <li>A completed GAP with Maintenance Agreement</li> <li>Other documentation specifically requested by staff</li> <li>First Step Meeting Synopsis</li> </ul> |
|--|--|

<p>THE ABOVE INFORMATION IS SOLELY PROVIDED FOR PURPOSES OF APPLYING FOR THE NEIGHBORHOOD BEAUTIFICATION GRANT (NBG) AND UNDERSTAND IT DOES NOT IMPLY APPROVAL. I CERTIFY THE ABOVE INFORMATION TRUE. I HAVE RECEIVED, READ, AND AGREE WITH THE NBG PACKAGE.</p>	Signed: _____ Print Name: _____ Title: _____ Date: _____
--	---



EXHIBIT "F" – RENDERING SHOWING CORNER SUN AND RINEHART



*Feather Edge*

A CONDOMINIUM

EXHIBIT "F" – RENDERING SHOWING SUN DRIVE AND WALL

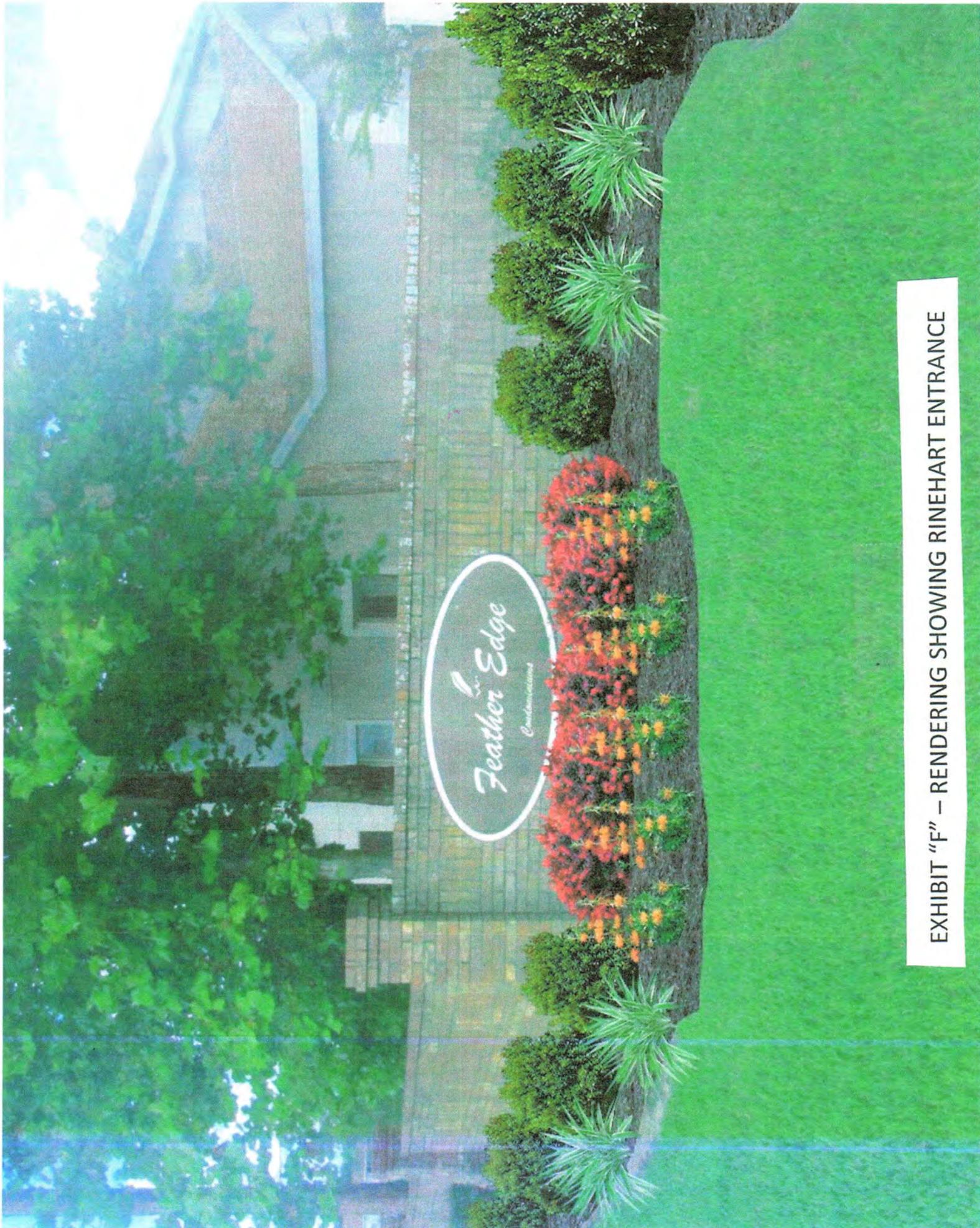


EXHIBIT "F" – RENDERING SHOWING RINEHART ENTRANCE



EXHIBIT "F" – RENDERING SHOWING RINEHART ENTRANCE

VIII. New Business

- A. 2013-NBG-02: Recommendation to the City Commission regarding a request from Feather's Edge, Phase II, for a \$4,146.75 Neighborhood Beautification Grant.

This item was unanimously approved by the Parks and Recreation Board 5-0 per the Staff Report.

**(NOTE: THIS BRIEF SYNOPSIS HAS BEEN PROVIDED IN LIEU OF FULL MINUTES DUE TO A TECHNICAL GLITCH)**

**OCTOBER 7, 2013-1  
PARKS AND RECREATION ADVISORY BOARD**



## MEMORANDUM

DATE: November 7, 2013

TO: City Commission

VIA: Jackie Sova, City Manager

FROM: Catherine D. Reischmann, City Attorney

SUBJECT: Ordinance No. 1499 - A Zoning Text Amendment Amending Sections 154.09 & 154.10(A)(4), and Adding Section 154.130 of the Zoning Code-First Reading (Public Hearing)

---

**REFERENCE:** City Code of Ordinances and Comprehensive Plan

**REQUESTS:** The City is requesting approval of amendments to the Zoning Code and Sign Code.

### **DISCUSSION:**

The City has employed a sign code expert, Bill Brinton, Esq., who has suggested the City update and revise Chapter 154, Zoning Code, and Appendix I: Chapter 155, Subdivision Regulations.

While the City has always banned off-premises signs, this Code revision will ensure that new billboards are effectively prohibited as a sign-type within the City. If adopted, the Sign Code will now include a definition for "Billboard", and provide that billboards should be included among the signs prohibited in the City without exception. The definition for "electronic sign" is also revised to provide more specificity. Finally, the definitions of "animated sign" and "intermittent sign" are revised, and animated signs and intermittent signs should be included among signs prohibited by the City. Ground signs greater than one hundred square feet in size (area) are also now explicitly included among the signs prohibited in the City.

In the Zoning Code amendment, the Code is amended to prohibit “outdoor advertising” as a permitted land use, and to include a definition for “outdoor advertising”. Section 154.09 (Nonconforming Uses) of the Zoning Code is amended to provide that a sign permitted under Chapter 479, Florida Statutes, is not “destroyed” unless the sign is destroyed within the meaning of Rule 14-10.007, Florida Administrative Code. This should provide clarity.

The ordinances include findings of consistency with the Comprehensive Plan, including the following:

1. It is a City objective to implement land uses consistent with the community’s character;
2. It is a City objective to continue to implement appropriate land use techniques which ensure that all future development activities protect natural resources including vegetation; and
3. It is a goal within the future land use element to promote, protect, and improve the public health, safety, and welfare of the City’s residents through the provision of appropriate land uses.

**PLANNING & ZONING BOARD ACTION:** At its October 22, 2013 meeting, the Board voted unanimously 5-0 to recommend approval of said amendments to the City Commission.

## **ATTACHMENTS**

- Ordinance Amending Zoning Code
- Ordinance Amending Sign Code
- P&Z Minutes

ORDINANCE NO. 1499

1  
2  
3 **AN ORDINANCE OF THE CITY OF LAKE MARY, FLORIDA,**  
4 **AMENDING SECTION 154.09 (DEFINITIONS) AND SECTION**  
5 **154.10(A)(4) (NONCONFORMING USES), CHAPTER 154,**  
6 **ZONING CODE, AND ADDING A NEW SECTION 154.130**  
7 **(OUTDOOR ADVERTISING), ZONING CODE; PROVIDING FOR**  
8 **CODIFICATION, CONFLICTS, SEVERABILITY, AND AN**  
9 **EFFECTIVE DATE.**

10  
11 **WHEREAS,** the City of Lake Mary finds and determines that it is  
12 appropriate to update and revise Chapter 154, Zoning Code, of its Land  
13 Development Code;

14  
15 **WHEREAS,** the City of Lake Mary finds and determines that it is  
16 appropriate to specifically include the business of outdoor advertising as a  
17 prohibited land use in all zoning districts, by adding a new section, Section  
18 154.130 (Outdoor Advertising), to Chapter 154;

19  
20 **WHEREAS,** the City of Lake Mary finds and determines that a definition  
21 for "Outdoor Advertising" should be included in Section 154.09 (Definitions) of the  
22 Zoning Code;

23  
24 **WHEREAS,** the City of Lake Mary finds and determines that Section  
25 154.10 (Nonconforming Uses) of the Zoning Code should be amended to provide  
26 that a sign permitted under Chapter 479, Florida Statutes, shall not be deemed  
27 destroyed under the Zoning Code unless the sign is destroyed within the  
28 meaning of Rule 14-10.007, Florida Administrative Code;

29  
30 **WHEREAS,** the City of Lake Mary finds and determines that Rule 14-  
31 10.007(6)(a), Florida Administrative Code, was promulgated to implement  
32 provisions of Chapter 479, Florida Statutes, insofar as those provisions pertain to  
33 nonconforming outdoor advertising signs;

34  
35 **WHEREAS,** the City of Lake Mary finds and determines that Rule 14-  
36 10.007(6)(a), Florida Administrative Code, defines destruction of a  
37 nonconforming sign in a manner that does not involve calculating the percentage  
38 of replacement value for the nonconforming sign, but instead follows a formula  
39 that evaluates the condition of the upright supports of the sign structure;

40  
41 **WHEREAS,** the City of Lake Mary finds and determines that Rule 14-  
42 10.007(6)(a), Florida Administrative Code, provides that a nonconforming sign  
43 will be considered "destroyed" if more than 60% of the upright supports of a sign  
44 structure are physically damaged such that normal repair practices of the  
45 industry would call for, in the case of wooden sign structures, replacement of the  
46 broken supports and, in the case of a metal sign structure, replacement of at

1 least 25% of the length above ground of each broken, bent, or twisted support,  
2 and further provides that a sign will not be considered "destroyed" where the  
3 destruction is caused by vandalism or other criminal or tortuous act;  
4

5 **WHEREAS**, the City of Lake Mary finds and determines that under the  
6 Zoning Code it is appropriate to define "destruction" of a nonconforming outdoor  
7 advertising sign utilizing the same definition that is currently utilized by the  
8 Florida Administrative Code, as set forth in the foregoing preamble;  
9

10 **WHEREAS**, the City of Lake Mary finds and determines that the  
11 amendments, as set forth herein, are consistent with all applicable policies of the  
12 City's adopted Comprehensive Plan;  
13

14 **WHEREAS**, the City of Lake Mary finds and determines that the  
15 amendments, as set forth herein, are not in conflict with the public interest;  
16

17 **WHEREAS**, the City of Lake Mary finds and determines that one of the  
18 City's goals under its comprehensive plan and included within the future land use  
19 element is to promote, protect, and improve the public health, safety and welfare  
20 of the City's residents through the provision of appropriate land uses;  
21

22 **WHEREAS**, the City of Lake Mary finds and determines that under its  
23 comprehensive plan it is a goal within the future land use element to promote,  
24 protect, and improve the public health, safety, and welfare of the City's residents  
25 through the provision of appropriate land uses;  
26

27 **WHEREAS**, the City of Lake Mary finds and determines that the  
28 prohibition of outdoor advertising within the city limits advances the public  
29 welfare;  
30

31 **WHEREAS**, the City of Lake Mary finds and determines that as far back  
32 as 1954 the United States Supreme Court recognized that "the concept of the  
33 public welfare is broad and inclusive," that the values it represents are "spiritual  
34 as well as physical, aesthetic as well as monetary," and that it is within the power  
35 of the legislature "to determine that the community should be beautiful as well as  
36 healthy, spacious as well as clean, well balanced as well as carefully patrolled"  
37 [Justice Douglas in *Berman v. Parker*, 348 U.S. 26, 33 (1954)];  
38

39 **WHEREAS**, the City of Lake Mary finds and determines that aesthetics is  
40 a valid basis for zoning, and that the prohibition of certain types of signs can be  
41 based upon aesthetic grounds alone as promoting the general welfare [see

1 *Merritt v. Peters*, 65 So. 2d 861 (Fla. 1953); *Dade Town v. Gould*, 99 So. 2d 236  
2 (Fla. 1957); *E.B. Elliott Advertising Co. v. Metropolitan Dade Town*, 425 F.2d  
3 1141 (5th Cir. 1970), *cert. dismissed*, 400 U.S. 878 (1970)];  
4

5 **WHEREAS**, the City of Lake Mary finds and determines that the  
6 enhancement of the visual environment is critical to a community's character and  
7 image;  
8

9 **WHEREAS**, the City of Lake Mary finds and determines that the zoning  
10 changes set forth herein further enhance a sense of character and ambiance that  
11 distinguishes the city as one with a commitment to maintaining and improving an  
12 attractive environment so as to improve the public welfare;  
13

14 **WHEREAS**, the City of Lake Mary finds and determines that another one  
15 of the City's goals under its comprehensive plan and included within the future  
16 land use element is to minimize threats to natural and manmade resources;  
17

18 **WHEREAS**, the City of Lake Mary finds and determines that in its  
19 comprehensive plan it is a City objective to implement land uses consistent with  
20 the community's character;  
21

22 **WHEREAS**, the City of Lake Mary finds and determines that in its  
23 comprehensive plan it is a City objective to continue to implement appropriate  
24 land use techniques which ensure that all future development activities protect  
25 natural resources including vegetation;  
26

27 **WHEREAS**, the City of Lake Mary finds and determines that Article II,  
28 Section 7, of the Florida Constitution, as adopted in 1968, provides that it shall be  
29 the policy of the state to conserve and protect its scenic beauty;  
30

31 **WHEREAS**, the City of Lake Mary finds and determines that the  
32 prohibition of the business of outdoor advertising within the zoning districts of the  
33 City is consistent with the policy articulated in Article II, Section 7, of the Florida  
34 Constitution, by conserving and protecting scenic beauty;  
35

36 **WHEREAS**, the City of Lake Mary finds and determines that the goals,  
37 objectives and policies from planning documents developed over the years have  
38 demonstrated a strong, long-term commitment to maintaining and improving the  
39 city's natural resources, including an attractive visual environment;  
40

1           **WHEREAS**, the City of Lake Mary finds and determines that the presence  
2 of outdoor advertising on parcels of an industrial nature does not preclude  
3 concerns over preventing the aesthetic deterioration of the highway or guarding  
4 against the deterioration of a city's character [see *Interstate Outdoor Advertising,*  
5 *L.P. v. Zoning Board of the township of Mount Laurel*, 706 F.3d 527, 532 (3rd Cir.  
6 2013)];

7  
8           **WHEREAS**, the City of Lake Mary finds and determines that, from a  
9 planning perspective, one of the most important community goals is to define and  
10 protect aesthetic resources and community character;

11  
12           **WHEREAS**, the City of Lake Mary finds and determines that the  
13 amendments herein are intended to maintain and improve the quality of life for all  
14 citizens of the City;

15  
16           **WHEREAS**, the City of Lake Mary finds and determines that the business  
17 of outdoor advertising, as defined herein, detracts from the natural and manmade  
18 beauty of the City;

19  
20           **WHEREAS**, the City of Lake Mary finds and determines that the presence  
21 of outdoor advertising along the federal interstate and the federal-aid primary  
22 highway systems will prevent public property from being used for beautification  
23 purposes due to view zones established by state law and administrative rule;

24  
25           **WHEREAS**, the City of Lake Mary agrees with the American Society of  
26 Landscape Architects' determination that billboards tend to deface nearby  
27 scenery, whether natural or built, rural or urban;

28  
29           **WHEREAS**, the City of Lake Mary finds and determines that states such  
30 as Vermont, Alaska, Maine, and Hawaii have prohibited the construction of  
31 billboards in their states and are now billboard-free in an effort to promote  
32 aesthetics and scenic beauty;

33  
34           **WHEREAS**, the City of Lake Mary finds and determines that the  
35 prohibition of outdoor advertising is consistent with the policy set forth in the  
36 Florida Constitution that it shall be the policy of the state to conserve and protect  
37 its scenic beauty;

38  
39           **WHEREAS**, the City of Lake Mary agrees with the courts that have  
40 recognized that outdoor advertising signs tend to interrupt what would otherwise  
41 be the natural landscape as seen from the highway, whether the view is

1 untouched or ravished by man, and that it would be unreasonable and illogical to  
2 conclude that an area is too unattractive to justify aesthetic improvement [see *E.*  
3 *B. Elliott Adv. Co. v. Metropolitan Dade Town*, 425 F.2d 1141 (5th Cir. 1970),  
4 *cert. dismissed*, 400 U.S. 878 (1970); *John Donnelly & Sons, Inc. v. Outdoor*  
5 *Advertising Bd.*, 339 N.E.2d 709, 720 (Mass. 1975)];

6  
7 **WHEREAS**, the City of Lake Mary finds that billboards attract the attention  
8 of drivers passing by the billboards, thereby adversely affecting traffic safety and  
9 constituting a public nuisance and a noxious use of the land on which the  
10 billboards are erected;

11  
12 **WHEREAS**, the City of Lake Mary recognizes that billboards are a form of  
13 advertisement designed to be seen without the exercise of choice or volition on  
14 the part of the observer, unlike other forms of advertising that are ordinarily seen  
15 as a matter of choice on the part of the observer [see *Packer v. Utah*, 285 U.S.  
16 105 (1932); and *General Outdoor Advertising Co. v. Department of Public Works*,  
17 289 Mass. 149, 193 N.E. 799 (1935)];

18  
19 **WHEREAS**, the City of Lake Mary acknowledges that the United States  
20 Supreme Court and many federal courts have accepted legislative judgments  
21 and determinations that the prohibition of billboards (outdoor advertising)  
22 promotes traffic safety and the aesthetics of the surrounding area [see  
23 *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490, 509-510 (1981); *National*  
24 *Advertising Co. v. City & Town of Denver*, 912 F.2d 505, 409 (10th Cir. 1990),  
25 and *Outdoor Systems, Inc. v. City of Lenexa*, 67 F. Supp. 1231, 1239 (D. Kan.  
26 1999)];

27  
28 **WHEREAS**, the City of Lake Mary recognizes that on-site business signs  
29 are considered to be part of the business itself, as distinguished from off-site  
30 outdoor advertising signs, and finds and determines that it is well-recognized that  
31 the unique nature of outdoor advertising and the nuisances fostered by billboard  
32 signs justify the separate classification of such structures for the purposes of  
33 governmental regulation and restrictions [see *E. B. Elliott Adv. Co. v.*  
34 *Metropolitan Dade Town*, 425 F.2d 1141, 1153 (5th Cir. 1970), *cert. denied*, 400  
35 U.S. 878, 91 S.C. 12, 27 L. Ed. 2d 35 (1970), quoting *United Advertising Corp. v.*  
36 *Borough of Raritan*, 93 A.2d 362, 365 (1952)];

37  
38 **WHEREAS**, the City of Lake Mary finds and determines that a prohibition  
39 on outdoor advertising as a permissible land use will reduce the number of driver  
40 distractions and the number of aesthetic eyesores along the roadways and  
41 highways bordering or passing through the city [see, e.g., *E. B. Elliott Adv. Co. v.*

1 *Metropolitan Dade Town*, 425 F.2d 1141, 1154 (5th Cir. 1970), *cert. denied*, 400  
2 U.S. 878 (1970)];

3  
4 **WHEREAS**, the City of Lake Mary finds and determines that outdoor  
5 advertising in the form of billboard signs are public nuisances given their adverse  
6 impact on both traffic safety and aesthetics;

7  
8 **WHEREAS**, the City of Lake Mary finds and determines that billboards are  
9 a traffic hazard and impair the beauty of the surrounding area, and the prohibition  
10 of outdoor advertising will reduce these harms [see *Outdoor Systems, Inc. v. City*  
11 *of Lenexa*, 67 F.Supp.2d 1231, 1239 (D. Kan. 1999)];

12  
13 **WHEREAS**, the City of Lake Mary hereby finds and determines that  
14 anything beside the road which tends to distract the driver of a motor vehicle  
15 directly affects traffic safety, and that signs, which divert the attention of the  
16 driver and occupants of motor vehicles from the highway to objects away from it,  
17 may reasonably be found to increase the danger of accidents, and agrees with  
18 the courts that have reached the same determination [see *In re Opinion of the*  
19 *Justices*, 103 N.H. 268, 169 A.2d 762 (1961); *Newman Signs, Inc. v. Hjelle*, 268  
20 N.W.2d 741 (N.D.1978)];

21  
22 **WHEREAS**, the City of Lake Mary finds and determines that the  
23 prohibition of the business of outdoor advertising as set forth herein will improve  
24 the beauty of the City, foster overall improvement to the aesthetic and visual  
25 appearance of the City, preserve and open up areas for beautification on public  
26 property adjoining the public roadways, increase the visibility, readability and/or  
27 effectiveness of on-site signs by reducing and/or diminishing the visual clutter of  
28 off-site signs, enhance the City as an attractive place to live and/or work, reduce  
29 blighting influences, and improve traffic safety by reducing driver distractions;

30  
31 **WHEREAS**, the City of Lake Mary finds and determines that in order to  
32 preserve, protect and promote the safety and general welfare of the residents of  
33 the City, it is appropriate to prohibit the business of outdoor advertising in all  
34 zoning districts, and to provide that the foregoing provisions shall be severable;

35  
36 IT IS HEREBY ENACTED BY THE CITY OF LAKE MARY AS FOLLOWS:

37  
38 **SECTION 1.** Section 154.09 of Chapter 154, Zoning Code, is hereby  
39 amended to add a definition for "Outdoor Advertising" as follows:  
40

1 "OUTDOOR ADVERTISING." The commercial business of utilizing a non-  
2 accessory sign on a parcel of land to display a commercial message relating to a  
3 business, product, service, event, or person located somewhere other than the  
4 parcel of land where the sign is located, whether as a wall sign or as a ground  
5 sign or in any other manner, including but not limited to any such commercial  
6 business that requires a state outdoor advertising license under Chapter 479  
7 (Outdoor Advertising, Florida Statutes).

8  
9 **SECTION 2.** Section 154.10(A) of Chapter 154, Zoning Code,  
10 Nonconforming Uses, is hereby amended to add the following underscored  
11 language:

12  
13 (4) Destruction. Should any nonconforming structure or nonconforming  
14 portion of structure be destroyed by any means to an extent of more than 50% of  
15 its replacement value at time of destruction, it shall not be reconstructed except  
16 in conformity with the provisions of these zoning regulations. In connection with  
17 any outdoor advertising sign regulated by Chapter 479, Florida Statutes, the sign  
18 shall only be considered destroyed if it is destroyed within the meaning of  
19 Chapter 479, Florida Statutes, and Rule 14-10.007(6)(a), Florida Administrative  
20 Code.

21  
22 **SECTION 3.** Chapter 154, Zoning Code, is hereby amended by the  
23 addition of Section 154.130, Outdoor Advertising, as follows:

#### 24 OUTDOOR ADVERTISING

25  
26  
27 The business of outdoor advertising is a prohibited land use in all zoning  
28 districts of the City. The "business of outdoor advertising" means the business of  
29 constructing, erecting, operating, using, maintaining, leasing, or selling outdoor  
30 advertising structures, outdoor advertising signs, or outdoor advertisements.

31  
32 Any existing land use on October 1, 2013 on a parcel where the business  
33 of outdoor advertising is conducted on an outdoor advertising structure by a  
34 person holding a license under Chapter 479, Florida Statutes, shall be deemed a  
35 nonconforming land use until the outdoor advertising structure is (a) removed, (b)  
36 discontinued, or (c) destroyed within the meaning of Chapter 479, Florida  
37 Statutes, or any associated administrative rules defining the term "destroyed" or  
38 "destruction".

39  
40 **SECTION 4. CODIFICATION.** It is the intention of the City Commission  
41 that the provisions of this Ordinance shall become and be made part of the Code

1 of Ordinances of the City of Lake Mary, Florida and the word "ordinance" may be  
2 changed to "section", "article", or other appropriate word or phrase and the  
3 sections of the Ordinance may be renumbered or re-lettered to accomplish such  
4 intention.

5  
6 **SECTION 5. CONFLICTS.** All ordinances or resolutions or parts of  
7 ordinances or resolutions in conflict herewith are hereby repealed to the extent of  
8 any conflict.

9  
10 **SECTION 6. SEVERABILITY.** If any section, sentence, phrase, word or  
11 portion of this Ordinance is determined to be invalid, unlawful or unconstitutional,  
12 said determination shall not be held to invalidate or impair the validity, force or  
13 effect of any other section, sentence, phrase, word, or portion of this Ordinance  
14 not otherwise determined to be invalid, unlawful, or unconstitutional.

15  
16 **SECTION 7. EFFECTIVE DATE.** This Ordinance shall take effect  
17 immediately upon passage and adoption.

18  
19 PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

20  
21 FIRST READING: \_\_\_\_\_, 2013

22  
23 SECOND READING: \_\_\_\_\_, 2013

24  
25 CITY OF LAKE MARY, FLORIDA

26  
27  
28  
29 \_\_\_\_\_  
MAYOR, DAVID J. MEALOR

30 ATTEST:

31  
32  
33 \_\_\_\_\_  
34 CITY CLERK, CAROL A. FOSTER  
35 For the use and reliance of the City  
36 of Lake Mary only. Approved as to  
37 form and legal sufficiency.

38  
39 \_\_\_\_\_  
40 CATHERINE REISCHMANN, CITY ATTORNEY

1 B. 2013-ZTA-04: Recommendation to the City Commission for a Zoning Text  
2 Amendment Amending Section 154.09 and Adding Section 154.130 of the  
3 Zoning Code, and Amending Appendix I: Sign Code, of Chapter 155,  
4 Subdivision Regulations: City of Lake Mary/Community Development  
5 Department  
6

7 Catherine (Katie) Reischmann, City Attorney, presented Item B. and the related  
8 Staff Report. She said that the City Manager has very kindly agreed to engage a  
9 sign expert, Mr. Bill Brinton, Esquire, who works all over the country and litigates  
10 against billboard companies a great deal; that he has a lot of interesting stories  
11 about Clear Channel and different companies. She stated that Mr. Brinton has  
12 spent just a little bit of time tweaking the City's Code, coming up with a few little  
13 holes that he found in it, and suggested that we continue all of our current  
14 prohibitions which we have on pole signs and electronic signs; however, he  
15 suggested that we add additional specificity for the electronic signs to reflect  
16 current technology. She said that you can see in the amendment current  
17 prohibition, of course, on off-site signs would remain, and we would add a  
18 definition of billboards since we had used that term in our sign code, which was  
19 kind of an add-on way back when we put our sign code together; that there was  
20 this add-on where we referenced billboards, but we are now prohibiting them  
21 without exception in this amendment, if you would agree to it.  
22

23 Ms. Reischmann stated that we have additional prohibitions that extend to what  
24 we call animated signs and intermittent signs; just kind of adding a little more  
25 teeth to that. She said that we have always treated billboards as nonconforming  
26 signs, but this sort of recognizes that. She stated that there is no amortization  
27 provision now in our code, as you know, that impacts the existing billboards  
28 along I-4; that she believed there were three of them and they are also  
29 nonconforming pole signs. She said that they do have a useful life, however, and  
30 we have added an additional definition of what it means when a sign is destroyed  
31 to match the state definition, which stands up to challenge and is a little more  
32 clear. She stated that it really has to do with how many of the structures break  
33 off – the poles break off, and so, of course, it's easier to implement that.  
34

35 Ms. Reischmann said, along with the sign code amendment, we also have a  
36 zoning code amendment to prohibit the business of outdoor advertising, which is  
37 looked on as a business. She stated, as a permitted land use in all areas, we  
38 want to make clear that the City of Lake Mary wants to have scenic areas even in  
39 our, if you will, industrial areas, and so forth; that we want to prohibit those  
40 billboards even in those areas.  
41

42 Ms. Reischmann said that the Staff Report also includes, with a little help from  
43 my planning friends, some quotes from our comprehensive plan showing that

1 these new regulations are consistent with our comprehensive plan and that we  
2 are implementing these land uses to be consistent with Lake Mary's character;  
3 that it is a City's objective to implement land use techniques which protect natural  
4 resources, including vegetation. She stated, as you know, the State law now  
5 protects billboards' viewing areas by banning cities from actually planting any  
6 vegetation that might block the view, so, what we are doing here is we are  
7 saying, no, in Lake Mary we like vegetation. She said, so, that's one reason why  
8 we're making clear that there is this ban on billboards, and also promoting public  
9 safety by continuing our ban on these pole signs and off-site signs because, as  
10 I'm sure you're aware, certainly billboards have been identified as a safety  
11 concern but especially the digital billboards have been identified as a safety  
12 concern. She stated that you would also get an argument from our friends at  
13 Clear Channel and CBS who would tell you that they're extremely safe; in fact,  
14 more safe than looking at cows, I think they said.

15  
16 Ms. Reischmann concluded by asking Mr. Omana if he had anything to add to  
17 her presentation.

18  
19 Juan (John) A. Omana, Jr., Community Development Director, added, with that, it  
20 is recommended that both ordinances be recommended for approval to the City  
21 Commission in the November cycle.

22  
23 Chairman Hawkins questioned, could we just have CBS and Clear Channel just  
24 put TV channels on the billboards? He said, I mean, that would save people  
25 from having to watch TV at home.

26  
27 Ms. Reischmann answered, yeah. And, actually, Mr. Brinton has a video, which I  
28 wish I had, I've asked him for it, but it shows Hollywood, California, and as you're  
29 driving around, you're looking at TVs everywhere. Basically, huge TV screens,  
30 and I don't know how people can possibly concentrate.

31  
32 Chairman Hawkins said, what does it matter whether you talk on the phone in  
33 your car or text on your phone if you can watch TV. I don't – anyway.....

34  
35 Chairman Hawkins then expressed his concern on page 7 of the Staff Report  
36 under Outdoor Advertising. He stated, it appears to me that you're regulating  
37 content, which I thought was a great big huge no, no when we redid the Sign  
38 Code ten years ago.

39  
40 Ms. Reischmann asked, are you talking about the reference to commercial  
41 message in the Outdoor Advertising?

1 Chairman Hawkins responded, somebody having a sign on a piece of property  
2 and the sign itself is legal and conforming but they are advertising about another  
3 product not related to that parcel.  
4

5 Ms. Reischmann replied, the reason for that is because the Court has said that  
6 the most protected speech of all is obviously non-commercial, it's political, and  
7 what most cities do to deal with that – the fact that that is the most precious thing  
8 in our nation, is our ability to have political speech, is that there is no such thing  
9 as an off-site, noncommercial sign, so that anytime you have a noncommercial  
10 message such as Save the Whales, that anywhere you put Save the Whales is  
11 considered onsite. That cannot be off-premise. So, it is true what you are saying  
12 that by indicating what we consider outdoor advertising to be, we are kind of  
13 stepping into a little bit of content-based, but balance that against the fact that we  
14 are addressing the Court's concern that we give total obeisance to the ability of  
15 anyone to put up a non-commercial sign anywhere.  
16

17 Chairman Hawkins questioned, so you're regulating content on commercial signs  
18 but not non-commercial signs?  
19

20 Ms. Reischmann answered, well, I'm not regulating content. I'm simply defining  
21 what constitutes an off-site sign. An off-site sign means that you're advertising  
22 something that you're not selling on your premise. That's all that's intended to  
23 do. But, then, I thought you were talking about the word, commercial.  
24

25 Chairman Hawkins said, no. I'm talking about you're regulating the words on a  
26 sign.  
27

28 Ms. Reischmann stated, I'm not intending to. What that's saying – relating to a  
29 business product, service, event, or person located somewhere other than the  
30 parcel where the sign is located is trying to tell you that it is not an on-premise  
31 sign. It's focused on – you know, it's on the interstate, but it's advertising Olive  
32 Garden.  
33

34 Chairman Hawkins said, I understand, but unless you take into – I guess we're  
35 splitting hairs. Unless you take into account the language on a sign, the words  
36 on a sign, you're not going to know that.  
37

38 Ms. Reischmann stated, you're hitting on one of the main problems in sign case  
39 law, which is that one court, the 11<sup>th</sup> Circuit, said if you have to read the sign to  
40 know whether it's regulated or not, then your sign code is invalid. So, if you were  
41 to take that literally, you would not know how to draft a sign code whatsoever.  
42 So, it sort of puts us all in a situation where we have to do the very best that we  
43 can without knowing for sure that we ever are really hitting the mark. But, I can

1 tell you that this is what everybody puts in their – not that that is a great  
2 reassurance, but there is just no way to write a sign code to where you don't  
3 have to read a sign to know whether it's allowed or not, but you do your best to  
4 not make distinction based on content other than between commercial and  
5 noncommercial because you want to give the very most protection to political  
6 signs and noncommercial.  
7

8 Chairman Hawkins asked, if somebody has a sign on their property advertising  
9 for a church down the street, a church is – I'm assuming a church is  
10 noncommercial?  
11

12 Ms. Reischmann responded, it gets into a fuzzy area there. If they are saying  
13 Pancake Breakfast at 11:00, \$25.00 – you know, is that commercial or  
14 noncommercial? That gets really messy, but, generally, if it's for a church, you're  
15 going to say it's noncommercial.  
16

17 Chairman Hawkins said, and my second instance is, at the corner of S. 5<sup>th</sup> Street,  
18 the southwest corner of S. 5<sup>th</sup> Street and Lake Mary Boulevard, there is a sign on  
19 a vacant piece of property that says visit this business across the street. He  
20 questioned, so, that's the typical sign that you're looking to prohibit?  
21

22 Ms. Reischmann replied, that's right. She asked, is that like a snipe sign? Is that  
23 a small.....  
24

25 Chairman Hawkins answered, no, it's a commercial sign. You-all will have to go  
26 over and look at it. I mean, I drive by it every day. It's just a sign that says visit  
27 us. We're across the street in the center on the southwest corner. It's a  
28 temporary sign.  
29

30 Ms. Reischmann stated, oh, I see. Okay. So, it was permitted as a temporary  
31 sign to go in that location. Yes, I guess under our rules, it's allowed, but.....  
32

33 Chairman Hawkins said, as a temporary sign it is, but not according to the way  
34 you're wording this.  
35

36 Ms. Reischmann stated, correct. It would not be allowed as a permanent sign,  
37 but I honestly couldn't tell you – I mean, I'm assuming what you're saying is right,  
38 that as a temporary sign, you're allowed to go off-premise if you're right next to  
39 your premises or something, or you're not supposed to, but they do, or.....  
40

41 Chairman Hawkins said, well, because we don't regulate content. Until now,  
42 we're not regulating content on any sign.  
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Ms. Reischmann stated, well, we've always regulated content in that you cannot have off-premise signs in the City of Lake Mary. You never have been able to. I mean, that is what the Code says. So, you're not supposed to have billboards. You're not supposed to have signs that are outside your premises advertising what is in your business if it's not on your property.

Chairman Hawkins stated, okay. You're the attorney, but I disagree. I don't think that's the way our code is written.

Ms. Reischmann said, that's what was originally intended. Whether that's actually worked out in practice, I can't tell you.

Chairman Hawkins stated, when we did this before, it was what was on the sign didn't matter as long as it wasn't offensive.

Ms. Reischmann said, you see, but you have to read the sign to know if it's a billboard or not. We don't allow billboards.

Chairman Hawkins stated, no. We don't allow billboards because they're so large.

Ms. Reischmann said, no. We don't allow billboards because we don't allow off-site advertising. Otherwise, you would have small signs along I-4 saying go see, you know, Appleton's Café, or.....

Chairman Hawkins stated, every parcel along I-4 is allowed to have a temporary sign along I-4 and they can put whatever they choose to put on it up until your writing this code. He questioned, am I not correct here? Right now, any parcel along I-4 can put up a 100 square-foot sign right along I-4 and they can put whatever they want to on it. Gary Schindler for President, a restaurant down the street, I don't like our City Attorney, whatever they want to put on it they can.

Stephen Noto, Senior Planner, said, historically, the temporary signs that we have approved for the properties like, for example, Sun Tech have been temporary real estate signs saying Space for Lease here on this piece of property. They haven't been Space for Lease at the old Work Force Central Florida building. So, those signs have had to advertise either Space for Lease on the parcel or a business that's on the parcel.

Chairman Hawkins stated, then you're not following the Code. By doing that, you're not following our current code.

Ms. Reischmann said, yes, they are. You can have real estate signs.

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Chairman Hawkins stated, okay. Then you're going to have to send me an e-mail showing me that.

Ms. Reischmann said, you have to allow real estate signs.

Chairman Hawkins stated, you have to allow a temporary sign. There is no such thing as a real estate sign. It is a temporary sign.

Ms. Reischmann said, that's correct. Yeah. She asked, I mean, I think we call it a real estate sign in our code; don't we?

Chairman Hawkins responded, we call it that, but it's not a definition. It's a temporary sign. You can put whatever you want to on it.

Ms. Reischmann stated, well, I'd have to check on that because you cannot put an off-premise sign regardless.

Chairman Hawkins said, yeah, you can.

Ms. Reischmann stated, okay. Well, I'll get back with you on it because we shouldn't be allowing it.

Chairman Hawkins said, you just admitted that I know more about this than you do.

Ms. Reischmann stated, well, I actually was involved when this was being written, too, believe it or not. I was working with Donna...

Chairman Hawkins said, you're the one who made signs content neutral. You're the one who insisted on that across the board for every sign.

Ms. Reischmann stated, that's right. You absolutely have to make it content neutral to the extent you can, but you still have to be able to look at a sign to know if it's allowed or not.

Chairman Hawkins said, okay. You-all are the ones who are changing the Code, and I don't necessarily disagree with this, but you're changing a big principle. You are regulating the content of a sign.

Ms. Reischmann stated, I can tell you that Mr. Brinton, who writes these codes all over the country, feels that this is a tweak. So, whether it's been administered exactly this way all the time, I can't tell you, but I can tell you that he's looking at our code and feeling that this is not a big change at all. In fact, this is a change

1 in our zoning code. This is just to make the business of outdoor advertising  
2 prohibited, this section you're looking at. So, that's not even to our sign code.  
3

4 Chairman Hawkins said, that's fine, Katie. I'm not disagreeing with what you  
5 want to change or how you want to change it. I just want everyone to be aware  
6 of the way it was. And, I'm not getting any backup from the people in the sign  
7 department, these three gentlemen.  
8

9 Ms. Reischmann stated, well, this area of law is just an enigma wrapped in a  
10 miasma, wrapped in – I mean, it's very difficult to navigate and understand and to  
11 get right, and that is partially why the City Manager was willing to spend a little  
12 extra and bring somebody in to kind of tweak this because – also, you certainly  
13 know a lot about it. I think that he is trying to protect us the best he can, which is  
14 not perfect.  
15

16 Chairman Hawkins okayed that.  
17

18 Vice Chairman Taylor said, and I think it's a form of a substance, so I don't think  
19 we're regulating the content of a sign, but you do have to identify the location to  
20 which it is addressing. Simply location-based as opposed to content-based.  
21 And, I think law is about nuances. It's about the application, and I see where you  
22 are going.  
23

24 Chairman Hawkins stated, I agree with you.  
25

26 Vice Chairman Taylor said, I don't know that I see it as that much of a change,  
27 but I think that in order to be practical, you have to be able to at least look into  
28 the location, which isn't necessarily the content. And I think that distinction could  
29 be made here without doing a major revision to the previous code.  
30

31 Chairman Hawkins stated, right. Well, I argued, for instance, when we changed  
32 the sign code about changeable copy, and I argued that gas stations have an  
33 advantage in that they are allowed to advertise using changeable copy whenever  
34 the price of gas changes. But, Wal-Mart and K-Mart aren't allowed to advertise  
35 when the price of apples changes. So, I argued against that and the City  
36 overturned that. But, a gas station sign that has changeable copy, whether it's  
37 an electronic sign – and some of these gas stations have an electronic sign that  
38 changes it, so, I'm assuming that those are going to be nonconforming. So, let's  
39 get back to that now.  
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41 Ms. Reischmann said, I wish you hadn't asked. That's a real conundrum.  
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Chairman Hawkins stated, I know. You're talking about a gas station who has an electronic sign. They push a button that says now gas is \$3.58 a gallon, and then tomorrow they change it and it says it's \$3.59 a gallon. That's a changeable copy sign, it's an electronic sign, and you're – he questioned, so, where do you stand on those?

Ms. Reischmann replied, well, I can tell you that you hear from the best businesses, the WaWa's and so forth, that that is a part of their sign, and they simply will not locate without being able to have those signs that have the changeable copy in that they must change so often. And it's unfortunately a fact of life that the gas prices do seem to change every hour. You can do it manually. You can require it be done manually instead of electronically in, say, no more than once every 24 hours. There are ways around it, but, unfortunately, that does not lend itself to a perfect answer either.

Chairman Hawkins stated, I mean, you're changing the sign code. You are making that part of the sign code much more specific. I mean, I agree with the billboards and the animated signs, but the electronic signs – if you're going to do that, you should exclude gas stations.

Ms. Reischmann said, well, that's another part of the sign code, and if the P & Z would like us to look at that, we can do that and bring back something on that, but I think we would need to talk about that a little.

Chairman Hawkins stated, okay. You've just gone to great lengths to list everything.

Ms. Reischmann said, understood.

Chairman Hawkins stated, okay. So, I just think we ought to be fair and just say that gas stations, as a use, will be exempt, which is going to open up a can of worms because if I was Wal-Mart, I'd want to be exempt too.

Ms. Reischmann said, I believe that that's already in there; gas stations, movie theatres. Unfortunately, I don't have my sign code with me.

Chairman Hawkins stated, it was just purposely overlooked. I brought it up and it was just purposely overlooked; we're just not going to go there. We're going to leave the conundrum where it is and – okay.

Ms. Reischmann said, okay. Well, we can certainly look at that, if you'd like.

1 Chairman Hawkins asked, are you opposed to putting at the end of electronic  
2 signs excluding gas stations, or do you want to just continue to let it go?  
3

4 Ms. Reischmann answered, well, I'll tell you -- I guess I -- this particular sign code  
5 was that the Commission asked that this be drafted Thursday night, and this was  
6 drafted by our outside expert, and I think it's a very opportune moment to get this  
7 through to the Commission. If I could ask the P&Z's indulgence to either give this  
8 an up or down. Certainly there are other parts of the sign code that could be  
9 looked at. It's certainly an ever-changing area, but if I could ask the indulgence  
10 that we sort of limit ourselves to what is here for right now.  
11

12 Chairman Hawkins stated, that's fine; I'm fine. But, what I think -- if you hired an  
13 expert, then you should ask -- between now and the City Commission meeting,  
14 you should send an e-mail to your expert you paid and ask him to  
15 include/exclude/differentiate, by definition, gas station price signs.  
16

17 Ms. Reischmann said, okay. Well, I'll tell you that it would be good for us to keep  
18 something of a low profile, and if we bring gas stations in, we're going to...  
19

20 **TAPE 1, SIDE B**

21  
22 ...-- you know, we don't necessarily want to bring out all the heavy artillery that  
23 the billboard industry has, and right now we don't have a lot of heavy artillery  
24 after us, which is very good.  
25

26 Chairman Hawkins stated, which is good. That's fine.  
27

28 Member Miller said, since it's so pervasive, I don't know why, but I thought that  
29 displaying gas prices was a regulatory requirement because it is pervasive and  
30 it's almost a service, where the other side of what Chief Hair Splitter is talking  
31 about here is not the same kind of issue. Some people are more able to split  
32 hairs than others.  
33

34 Chairman Hawkins stated, some people have more hairs to split (laughter).  
35

36 Member Miller said, I find this as a non-discussion.  
37

38 Vice Chairman Taylor stated, if you start going down the rabbit hole of gas signs,  
39 then you can end up in a situation like Orlando was in and they just spent untold  
40 hundreds of thousands, if not millions of dollars, creating/enforcing a code for gas  
41 stations, taking advantage of customers coming up on I-4, and I don't know if  
42 Lake Mary wants to be the next one. I'm not sure what regulatory realm covers

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that, but we have seen that play out through the opposite direction. So, I, as a board member, wouldn't want to follow down that rabbit hole at this time.

Chairman Hawkins said, I'm just playing the devil's advocate on these things.

Ms. Reischmann stated, no, you bring up an extremely – an issue very close to my heart, and I have had to work around these regulations and -- you know, for a Wawa. You know, everyone thinks Wawa is the greatest thing and have to have it, and so you are willing to kind of look the other way. So, no, I totally hear you. I just would ask, if we could, to deal with that another day.

Chairman Hawkins okayed that. He requested Ms. Reischmann send Mr. Brinton an e-mail asking him this question and, just for his information, how he has handled it, or should it be handled, or should it just be overlooked like we currently do.

Ms. Reischmann said, absolutely. Will do that.

Member Miller questioned Chairman Hawkins if he was in favor of approving this amendment.

Chairman Hawkins responded, yeah, yeah. I'm – yeah. I've already said that. I like all this.

Chairman Hawkins opened the hearing to public comment. Hearing none, he closed that portion and entertained board discussion and/or a motion.

**MOTION:**

**Member Schofield moved to recommend approval to the City Commission the request by the City of Lake Mary/Community Development Department for a Zoning Text Amendment Amending Section 154.09 and Adding Section 154.130 of the Zoning Code, and Amending Appendix I: Sign Code, of Chapter 155, Subdivision Regulations, consistent with the Staff Report. Member Miller seconded the motion, which carried unanimously 5-0.**

Mr. Omana announced this item will move forward to the City Commission's November cycle (November 7, 2013).



## MEMORANDUM

DATE: November 7, 2013

TO: City Commission

VIA: Jackie Sova, City Manager

FROM: Catherine D. Reischmann, City Attorney

SUBJECT: Ordinance No. 1500 - Amending Appendix I: Sign Code, of Chapter 155, Subdivision Regulations- First Reading (Public Hearing)

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**REFERENCE:** City Code of Ordinances and Comprehensive Plan

**REQUESTS:** The City is requesting approval of amendments to the Zoning Code and Sign Code.

### **DISCUSSION:**

The City has employed a sign code expert, Bill Brinton, Esq., who has suggested the City update and revise Chapter 154, Zoning Code, and Appendix I: Chapter 155, Subdivision Regulations.

While the City has always banned off-premises signs, this Code revision will ensure that new billboards are effectively prohibited as a sign-type within the City. If adopted, the Sign Code will now include a definition for "Billboard", and provide that billboards should be included among the signs prohibited in the City without exception. The definition for "electronic sign" is also revised to provide more specificity. Finally, the definitions of "animated sign" and "intermittent sign" are revised, and animated signs and intermittent signs should be included among signs prohibited by the City. Ground signs greater than one hundred square feet in size (area) are also now explicitly included among the signs prohibited in the City.

In the Zoning Code amendment, the Code is amended to prohibit “outdoor advertising” as a permitted land use, and to include a definition for “outdoor advertising”. Section 154.09 (Nonconforming Uses) of the Zoning Code is amended to provide that a sign permitted under Chapter 479, Florida Statutes, is not “destroyed” unless the sign is destroyed within the meaning of Rule 14-10.007, Florida Administrative Code. This should provide clarity.

The ordinances include findings of consistency with the Comprehensive Plan, including the following:

1. It is a City objective to implement land uses consistent with the community’s character;
2. It is a City objective to continue to implement appropriate land use techniques which ensure that all future development activities protect natural resources including vegetation; and
3. It is a goal within the future land use element to promote, protect, and improve the public health, safety, and welfare of the City’s residents through the provision of appropriate land uses.

**PLANNING & ZONING BOARD ACTION:** At its October 22, 2013 meeting, the Board voted unanimously 5-0 to recommend approval of said amendments to the City Commission.

## **ATTACHMENTS**

- Ordinance Amending Sign Code
- P&Z Minutes

ORDINANCE NO. 1500

1  
2  
3 **AN ORDINANCE OF THE CITY OF LAKE MARY, FLORIDA,**  
4 **AMENDING SECTION 3 (DEFINITIONS) OF APPENDIX I: SIGN**  
5 **CODE, OF CHAPTER 155, SUBDIVISION REGULATIONS;**  
6 **REPEALING SUBSECTION 5(B)(19), OF SECTION 5, EXEMPT**  
7 **AND PROHIBITED SIGNS, OF APPENDIX I: SIGN CODE, OF**  
8 **CHAPTER 155, SUBDIVISION REGULATIONS; ADDING NEW**  
9 **SUBSECTIONS 5(B)(19), (20), (21), AND (22), OF SECTION 5,**  
10 **EXEMPT AND PROHIBITED SIGNS, OF APPENDIX I: SIGN**  
11 **CODE, OF CHAPTER 155, SUBDIVISION REGULATIONS;**  
12 **PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY,**  
13 **AND AN EFFECTIVE DATE.**

14  
15 **WHEREAS,** the City of Lake Mary finds and determines that it is  
16 appropriate to update and revise Appendix I, Chapter 155, Subdivision  
17 Regulations, herein referred to as the "Lake Mary Sign Code" or "Sign Code"  
18 within its Land Development Code;

19  
20 **WHEREAS,** the City of Lake Mary finds and determines that the  
21 limitations on signs, as adopted herein, is based upon sign types and sign  
22 functions;

23  
24 **WHEREAS,** the City of Lake Mary finds and determines that the  
25 modification to the sign regulations adopted hereby still allow adequate  
26 alternative means of communications;

27  
28 **WHEREAS,** the City of Lake Mary finds and determines that the sign  
29 regulations adopted hereby allow and leave open adequate alternative means of  
30 communications, such as newspaper advertising, internet advertising and  
31 communications, advertising in shoppers and pamphlets, advertising in  
32 telephone books, advertising on cable television, advertising on UHF and/or VHF  
33 television, advertising on AM and/or FM radio, advertising on satellite radio,  
34 advertising on internet radio, advertising via direct mail, and other avenues of  
35 communication available in the City of Lake Mary [see *State v. J & J Painting*,  
36 167 N.J. Super. 384, 400 A.2d 1204, 1205 (Super. Ct. App. Div. 1979); *Board of*  
37 *Trustees of State University of New York v. Fox*, 492 U.S. 469, 477 (1989);  
38 *Green v. City of Raleigh*, 523 F.3d 293, 305-306 (4th Cir. 2007); *Naser Jewelers*  
39 *v. City of Concord*, 513 F.3d 27 (1st Cir. 2008); *Sullivan v. City of Augusta*, 511  
40 F.3d 16, 43-44 (1st Cir. 2007); *La Tour v. City of Fayetteville*, 442 F.3d 1094,  
41 1097 (8th Cir. 2006); *Reed v. Town of Gilbert*, 587 F.3d 866, 980-981 (9th Cir.  
42 2009); *Interstate Outdoor Advertising, L.P. v. Zoning Board of the township of*  
43 *Mount Laurel*, 706 F.3d 527, 534 (3rd Cir. 2013)];

44  
45 **WHEREAS,** the City of Lake Mary finds and determines that the  
46 amendments, as set forth herein, are consistent with all applicable policies of the

1 City's adopted Comprehensive Plan;

2  
3 **WHEREAS**, the City of Lake Mary finds and determines that the  
4 amendments, as set forth herein, are not in conflict with the public interest;

5  
6 **WHEREAS**, the City of Lake Mary finds and determines that the  
7 amendments, as set forth herein, will not result in incompatible land uses;

8  
9 **WHEREAS**, the City of Lake Mary finds and determines that one of the  
10 City's goals under its comprehensive plan and included within the future land use  
11 element is to promote, protect, and improve the public health, safety and welfare  
12 of the City's residents through the provision of appropriate land uses;

13  
14 **WHEREAS**, the City of Lake Mary finds and determines that another one  
15 of the City's goals is to minimize threats to natural and manmade resources;

16  
17 **WHEREAS**, the City of Lake Mary finds and determines that in its  
18 comprehensive plan it is a City objective to implement land uses consistent with  
19 the community's character;

20  
21 **WHEREAS**, the City of Lake Mary finds and determines that in its  
22 comprehensive plan it is a City objective to continue to implement appropriate  
23 land use techniques which ensure that all future development activities protect  
24 natural resources including vegetation;

25  
26 **WHEREAS**, the City of Lake Mary finds and determines that under its  
27 comprehensive plan it is a goal within the future land use element to promote,  
28 protect, and improve the public health, safety, and welfare of the City's residents  
29 through the provision of appropriate land uses;

30  
31 **WHEREAS**, the City of Lake Mary finds and determines that in order to  
32 preserve the city as a desirable community in which to live, vacation and do  
33 business, a pleasing, visually-attractive urban environment is of foremost  
34 importance;

35  
36 **WHEREAS**, the City of Lake Mary finds and determines that the regulation  
37 of signs within the city is a highly contributive means by which to achieve this  
38 desired end, and that the modification of sign regulations, as set forth herein, is  
39 prepared with the intent of enhancing the environment and promoting the  
40 continued well-being of the city;

1           **WHEREAS**, the City of Lake Mary finds and determines that Article II,  
2 Section 7, of the Florida Constitution, as adopted in 1968, provides that it shall be  
3 the policy of the state to conserve and protect its scenic beauty;  
4

5           **WHEREAS**, the City of Lake Mary finds and determines that the regulation  
6 of signage for purposes of aesthetics directly serves the policy articulated in  
7 Article II, Section 7, of the Florida Constitution, by conserving and protecting its  
8 scenic beauty;  
9

10           **WHEREAS**, the City of Lake Mary finds and determines that the regulation  
11 of signage for purposes of aesthetics has long been recognized as advancing the  
12 public welfare;  
13

14           **WHEREAS**, the City of Lake Mary finds and determines that as far back  
15 as 1954 the United States Supreme Court recognized that "the concept of the  
16 public welfare is broad and inclusive," that the values it represents are "spiritual  
17 as well as physical, aesthetic as well as monetary," and that it is within the power  
18 of the legislature "to determine that the community should be beautiful as well as  
19 healthy, spacious as well as clean, well balanced as well as carefully patrolled"  
20 [Justice Douglas in *Berman v. Parker*, 348 U.S. 26, 33 (1954)];  
21

22           **WHEREAS**, the City of Lake Mary finds and determines that aesthetics is  
23 a valid basis for zoning, and that the regulation of the size of signs and the  
24 prohibition of certain types of signs can be based upon aesthetic grounds alone  
25 as promoting the general welfare [see *Merritt v. Peters*, 65 So. 2d 861 (Fla.  
26 1953); *Dade Town v. Gould*, 99 So. 2d 236 (Fla. 1957); *E.B. Elliott Advertising*  
27 *Co. v. Metropolitan Dade Town*, 425 F.2d 1141 (5th Cir. 1970), *cert. dismissed*,  
28 400 U.S. 878 (1970)];  
29

30           **WHEREAS**, the City of Lake Mary finds and determines that the  
31 enhancement of the visual environment is critical to a community's image and its  
32 continued presence as a tourist destination;  
33

34           **WHEREAS**, the City of Lake Mary finds and determines that the sign  
35 control principles set forth herein create a sense of character and ambiance that  
36 distinguishes the city as one with a commitment to maintaining and improving an  
37 attractive environment;  
38

39           **WHEREAS**, the City of Lake Mary finds and determines that the goals,  
40 objectives and policies from planning documents developed over the years have

1 demonstrated a strong, long-term commitment to maintaining and improving the  
2 City's attractive and visual environment;

3  
4 **WHEREAS**, the City of Lake Mary finds and determines that, from a  
5 planning perspective, one of the most important community goals is to define and  
6 protect aesthetic resources and community character;

7  
8 **WHEREAS**, the City of Lake Mary finds and determines that the purpose  
9 of the regulation of signs is to promote the public health, safety and general  
10 welfare through a comprehensive system of reasonable, consistent and  
11 nondiscriminatory sign standards and requirements;

12  
13 **WHEREAS**, the City of Lake Mary finds and determines that the sign  
14 regulations are intended to enable the identification of places of residence and  
15 business;

16  
17 **WHEREAS**, the City of Lake Mary finds and determines that the sign  
18 regulations are intended to allow for the communication of information necessary  
19 for the conduct of commerce;

20  
21 **WHEREAS**, the City of Lake Mary finds and determines that sign  
22 regulations are intended to lessen hazardous situations, confusion and visual  
23 clutter caused by proliferation, improper placement, illumination, animation and  
24 excessive height, area and bulk of signs which compete for the attention of  
25 pedestrian and vehicular traffic;

26  
27 **WHEREAS**, the City of Lake Mary finds and determines that the sign  
28 regulations are intended to enhance the attractiveness and economic well-being  
29 of the city as a place to live and conduct business;

30  
31 **WHEREAS**, the City of Lake Mary finds and determines that the sign  
32 regulations are intended to protect the public from the dangers of unsafe signs;

33  
34 **WHEREAS**, the City of Lake Mary finds and determines that the sign  
35 regulations are intended to permit signs that are compatible with their  
36 surroundings and aid orientation, and to preclude placement of signs in a manner  
37 that devalue adjacent properties and land uses;

38  
39 **WHEREAS**, the City of Lake Mary finds and determines that the sign  
40 regulations are intended to encourage signs that are appropriate to the zoning

1 district in which they are located and consistent with the category of use to which  
2 they pertain;

3  
4 **WHEREAS**, the City of Lake Mary finds and determines that the sign  
5 regulations are intended to curtail the size and number of signs and sign  
6 messages to the minimum reasonably necessary to identify a residential or  
7 business location and the nature of any such business;

8  
9 **WHEREAS**, the City of Lake Mary finds and determines that the sign  
10 regulations are intended to preclude signs from conflicting with the principal  
11 permitted use of the site or adjoining sites;

12  
13 **WHEREAS**, the City of Lake Mary finds and determines that the sign  
14 regulations are intended to regulate signs in a manner so as to not to distract  
15 motorists;

16  
17 **WHEREAS**, the City of Lake Mary finds and determines that the regulation  
18 of signage was originally mandated by Florida's Local Government  
19 Comprehensive Planning and Land Development Regulation Act in 1985 (see  
20 Chapter 85-55, §14, Laws of Florida), and this requirement continues to apply to  
21 the City of Lake Mary through Section 163.3202(2)(f), Florida Statutes;

22  
23 **WHEREAS**, the City of Lake Mary finds and determines that in the 1980's  
24 model provisions for the regulation of signage by cities and counties in Florida  
25 were initially developed within Article VIII (Signs) of the Model Land Development  
26 Code for Cities and Counties, prepared in 1989 for the Florida Department of  
27 Community Affairs by the UF College of Law's Center for Governmental  
28 Responsibility and by a professional planner with Henigar and Ray Engineering  
29 Associates, Inc.;

30  
31 **WHEREAS**, the City of Lake Mary finds and determines that the City of  
32 Lake Mary has adopted the Lake Mary Sign Code in order to implement its  
33 comprehensive plan, and to comply with the minimum requirements in the State  
34 of Florida's Growth Management Act, at Section 163.3202, Florida Statutes;

35  
36 **WHEREAS**, the City of Lake Mary finds and determines that it is required  
37 to regulate signage;

38  
39 **WHEREAS**, the City of Lake Mary finds and determines that its signage  
40 regulations were and are intended to maintain and improve the quality of life for  
41 all citizens of the City;

1  
2       **WHEREAS**, the City of Lake Mary finds and determines that off-site  
3 commercial signs, referred to herein as billboards, detract from the natural and  
4 manmade beauty of the City;

5  
6       **WHEREAS**, the City of Lake Mary agrees with the American Society of  
7 Landscape Architects' determination that billboards tend to deface nearby  
8 scenery, whether natural or built, rural or urban;

9  
10       **WHEREAS**, the City of Lake Mary finds and determines that states such  
11 as Vermont, Alaska, Maine, and Hawaii have prohibited the construction of  
12 billboards in their states and are now billboard-free in an effort to promote  
13 aesthetics and scenic beauty;

14  
15       **WHEREAS**, the City of Lake Mary finds and determines that the  
16 prohibition of the construction of billboards and certain other sign types such as  
17 pole signs and electronic signs is consistent with the policy set forth in the Florida  
18 Constitution that it shall be the policy of the state to conserve and protect its  
19 scenic beauty;

20  
21       **WHEREAS**, the City of Lake Mary agrees with the courts that have  
22 recognized that outdoor advertising signs tend to interrupt what would otherwise  
23 be the natural landscape as seen from the highway, whether the view is  
24 untouched or ravished by man, and that it would be unreasonable and illogical to  
25 conclude that an area is too unattractive to justify aesthetic improvement [see *E.*  
26 *B. Elliott Adv. Co. v. Metropolitan Dade Town*, 425 F.2d 1141 (5th Cir. 1970),  
27 *cert. dismissed*, 400 U.S. 878 (1970); *John Donnelly & Sons, Inc. v. Outdoor*  
28 *Advertising Bd.*, 339 N.E.2d 709, 720 (Mass. 1975)];

29  
30       **WHEREAS**, the City of Lake Mary finds that local governments may  
31 separately classify off-site and on-site advertising signs in taking steps to  
32 minimize visual pollution [see *City of Lake Wales v. Lamar Advertising*  
33 *Association of Lakeland Florida*, 414 So.2d 1030, 1032 (Fla. 1982)];

34  
35       **WHEREAS**, the City of Lake Mary finds that billboards attract the attention  
36 of drivers passing by the billboards, thereby adversely affecting traffic safety and  
37 constituting a public nuisance and a noxious use of the land on which the  
38 billboards are erected;

39  
40       **WHEREAS**, the City of Lake Mary recognizes that billboards are a form of  
41 advertisement designed to be seen without the exercise of choice or volition on

1 the part of the observer, unlike other forms of advertising that are ordinarily seen  
2 as a matter of choice on the part of the observer [see *Packer v. Utah*, 285 U.S.  
3 105 (1932); and *General Outdoor Advertising Co. v. Department of Public Works*,  
4 289 Mass. 149, 193 N.E. 799 (1935)];

5  
6 **WHEREAS**, the City of Lake Mary acknowledges that the United States  
7 Supreme Court and many federal courts have accepted legislative judgments  
8 and determinations that the prohibition of billboards promotes traffic safety and  
9 the aesthetics of the surrounding area. [see *Metromedia, Inc. v. City of San*  
10 *Diego*, 453 U.S. 490, 509-510 (1981); *National Advertising Co. v. City & Town of*  
11 *Denver*, 912 F.2d 505, 409 (10th Cir. 1990), and *Outdoor Systems, Inc. v. City of*  
12 *Lenexa*, 67 F. Supp. 1231, 1239 (D. Kan. 1999)];

13  
14 **WHEREAS**, the City of Lake Mary acknowledges that the United States  
15 Supreme Court and many federal courts have held that a complete prohibition on  
16 offsite commercial billboards is constitutional [see *Members of the City Council of*  
17 *L.A. v. Taxpayers for Vincent*, 466 U.S. 789, 806-07 (1984) (noting that in  
18 *Metromedia* seven Justices had concluded that an aesthetic interest was  
19 sufficient to justify a prohibition of billboards; *City of Cincinnati v. Discovery*  
20 *Network, Inc.*, 507 U.S. 410, 425, n. 20 (1993) (seven Justices in the *Metromedia*  
21 case were of the view that San Diego could completely ban offsite commercial  
22 billboards for reasons unrelated to the content of those billboards); *City of Ladue*  
23 *v. Gilleo*, 512 U.S. 43, 49 n. 8 (1994) (a majority of the Members of the Court in  
24 *Metromedia* had approved of the city's decision to prohibit off-site commercial  
25 billboards while permitting on-site billboards); *Ballen v. City of Redmond*, 466 F.3d  
26 736, 744 (9th Cir. 2006) (the externalities of billboards include perdurable visual  
27 pollution that pervades a substantial volume of our eyesight and grows into an  
28 unignorable part of our cultural landscape); *RTM Media, L.L.C. v. City of Houston*,  
29 584 F.3d 220, 223 (5th Cir. 2009) (*Metromedia* unambiguously held that the city  
30 could discriminate between on- and off-premise commercial speech); *Coastal*  
31 *Outdoor Advertising Group, L.L.C. v. Township of East Hanover, N.J.*, 630  
32 F.Supp.2d 446, 456 (D.N.J. 2009), *aff'd*, 397 Fed. Appx. 794 (3rd Cir. 2010)  
33 (noting Supreme Court statement that a blanket prohibition on billboards may be  
34 the only effective way to solve the aesthetic and traffic problems that billboards  
35 create); *CBS Outdoor, Inc. v. Village Plainfield, Ill.*, — F.Supp.2d —, 2013 WL  
36 3975171 (N.D. Ill. 2013) (banning billboards has long been considered to be a  
37 reasonable regulation of expression that is narrowly tailored to serve interests of  
38 aesthetics and traffic concerns);

39  
40 **WHEREAS**, the City of Lake Mary recognizes that on-site business signs  
41 are considered to be part of the business itself, as distinguished from off-site

1 outdoor advertising signs, and finds and determines that it is well-recognized that  
2 the unique nature of outdoor advertising and the nuisances fostered by billboard  
3 signs justify the separate classification of such structures for the purposes of  
4 governmental regulation and restrictions [see *E. B. Elliott Adv. Co. v.*  
5 *Metropolitan Dade Town*, 425 F.2d 1141, 1153 (5th Cir. 1970), *cert. denied*, 400  
6 U.S. 878, 91 S.C. 12, 27 L. Ed. 2d 35 (1970), quoting *United Advertising Corp. v.*  
7 *Borough of Raritan*, 93 A.2d 362, 365 (1952)];  
8

9 **WHEREAS**, the City of Lake Mary finds and determines that a prohibition  
10 on the erection of off-site outdoor advertising signs will reduce the number of  
11 driver distractions and the number of aesthetic eyesores along the roadways and  
12 highways of the City [see, e.g., *E. B. Elliott Adv. Co. v. Metropolitan Dade Town*,  
13 425 F.2d 1141, 1154 (5th Cir. 1970), *cert. denied*, 400 U.S. 878 (1970)];  
14

15 **WHEREAS**, the City of Lake Mary finds and determines that billboard  
16 signs are public nuisances given their adverse impact on both traffic safety and  
17 aesthetics;  
18

19 **WHEREAS**, the City of Lake Mary finds and determines that billboards are  
20 a traffic hazard and impair the beauty of the surrounding area, and the prohibition  
21 of the construction of billboards will reduce these harms [see *Outdoor Systems,*  
22 *Inc. v. City of Lenexa*, 67 F.Supp.2d 1231, 1239 (D. Kan. 1999)];  
23

24 **WHEREAS**, the City of Lake Mary finds and determines that the presence  
25 of billboards along the federal interstate and the federal-aid primary highway  
26 systems has prevented public property in other jurisdictions from being used for  
27 beautification purposes due to view zones established by state administrative  
28 rule;  
29

30 **WHEREAS**, Scenic America, Inc. recommends improvements in the  
31 scenic character of a community's landscape and appearance by prohibiting the  
32 construction of billboards, and by setting height, size and other standards for on-  
33 premise signs [see Scenic America's Seven Principles for Scenic Conservation,  
34 Principle #5];  
35

36 **WHEREAS**, more than two hundred fifty Florida municipalities have  
37 adopted ordinances prohibiting the construction of billboards in their communities  
38 in order to achieve aesthetic, beautification, traffic safety, and/or other related  
39 goals;  
40

1           **WHEREAS**, the City of Lake Mary finds and determines that in order to  
2 preserve, protect and promote the safety and general welfare of the residents of  
3 the City, it is necessary to regulate off-site advertising signs, commonly known as  
4 billboard signs or billboards, so as to prohibit the construction of billboards in all  
5 zoning districts, and to provide that the foregoing provisions shall be severable;  
6

7           **WHEREAS**, the City of Lake Mary finds and determines that the  
8 prohibition of billboards as set forth herein will improve the beauty of the City,  
9 foster overall improvement to the aesthetic and visual appearance of the City,  
10 preserve and open up areas for beautification on public property adjoining the  
11 public roadways, increase the visibility, readability and/or effectiveness of on-site  
12 signs by reducing and/or diminishing the visual clutter of off-site signs, enhance  
13 the City as an attractive place to live and/or work, reduce blighting influences,  
14 and improve traffic safety by reducing driver distractions;  
15

16           **WHEREAS**, the City of Lake Mary wishes to assure that new billboards  
17 are effectively prohibited as a sign-type within the City;  
18

19           **WHEREAS**, the City of Lake Mary hereby finds and determines that  
20 anything beside the road which tends to distract the driver of a motor vehicle  
21 directly affects traffic safety, and that signs, which divert the attention of the  
22 driver and occupants of motor vehicles from the highway to objects away from it,  
23 may reasonably be found to increase the danger of accidents, and agrees with  
24 the courts that have reached the same determination [*see In re Opinion of the*  
25 *Justices*, 103 N.H. 268, 169 A.2d 762 (1961); *Newman Signs, Inc. v. Hjelle*, 268  
26 N.W.2d 741 (N.D.1978)];  
27

28           **WHEREAS**, the City of Lake Mary finds and determines that there should  
29 be a definition for "billboard" and that billboards should be included among the  
30 signs prohibited in the City without any exception;  
31

32           **WHEREAS**, the City of Lake Mary finds and determines that the definition  
33 of "electronic sign" should be revised so as to provide more specificity;  
34

35           **WHEREAS**, the City of Lake Mary finds and determines that there should  
36 be definitions for "animated sign" and "intermittent sign" and that animated signs  
37 and intermittent signs should be included among signs prohibited in the City;  
38

39           **WHEREAS**, the City of Lake Mary finds and determines that ground signs  
40 greater than one hundred square feet in size (area) should be included among  
41 the signs prohibited in the City;

1  
2 IT IS HEREBY ENACTED BY THE CITY OF LAKE MARY AS FOLLOWS:  
3

4 **SECTION 1.** Section 3, Definitions, of Appendix I: Sign Code, of Chapter  
5 155, Subdivision Regulations, is hereby amended to add a definition for  
6 "Animated Sign" as follows:  
7

8 "ANIMATED SIGN." A sign which includes action, motion, or color  
9 changes, or the optical illusion of action, motion, or color changes, including a  
10 sign set in motion by movement of the atmosphere, or made up of a series of  
11 sections that turn.  
12

13 **SECTION 2.** Section 3, Definitions, of Appendix I: Sign Code, of Chapter  
14 155, Subdivision Regulations, is hereby amended to add a definition for  
15 "Billboard" as follows:  
16

17 "BILLBOARD." A non-point-of-sale commercial sign which advertises a  
18 product, service, business, organization, event, person, place, or thing.  
19

20 **SECTION 3.** Section 3, Definitions, of Appendix I: Sign Code, of Chapter  
21 155, Subdivision Regulations, is hereby amended to revise the definition of  
22 "Electronic Sign" to add the following underscored language:  
23

24 "ELECTRONIC SIGN." A sign on which the copy changes automatically  
25 on a lamp bank or in a similar fashion, including but not limited to LED (light  
26 emitting diodes), LCD (liquid crystal displays), CEVMS (commercial electronic  
27 variable message signs), plasma displays, dynamic displays, projected images,  
28 or any other functionally equivalent technology, and which is capable of  
29 automated, remote or computer control to change the image, or through any  
30 electronically illuminated, scrolling or moving text, symbols or other images,  
31 utilizing LED, LCD, CEVMS, or other digital or electronic technology, commonly  
32 known as electronic message or reader boards, electronic marquees, message  
33 centers, moving message displays, or digital signs.  
34

35 **SECTION 4.** Section 3, Definitions, of Appendix I: Sign Code, of Chapter  
36 155, Subdivision Regulations, is hereby amended to add a definition for  
37 "Intermittent Sign" as follows:  
38

39 "INTERMITTENT SIGN." Any illuminated sign which contains, includes, or  
40 is illuminated by any intermittent light or lights, except those giving public service  
41 information such as time, date, weather, or similar information.

1  
2       **SECTION 5.** The current Subsection 5(B)(19), of Section 5, Exempt and  
3 Prohibited Signs, of Appendix I: Sign Code, of Chapter 155, Subdivision  
4 Regulations, is hereby repealed in its entirety.  
5

6       **SECTION 6.** New Subsections 5(B)(19), (20), (21), and (22), of Section 5,  
7 Exempt and Prohibited Signs, of Appendix I: Sign Code, of Chapter 155,  
8 Subdivision Regulations, are hereby added:  
9

10           (19) Billboards.

11  
12           (20) Animated signs.

13  
14           (21) Intermittent signs.

15  
16           (22) Ground signs greater than one hundred square feet in size (area).  
17

18       **SECTION 7. CODIFICATION.** It is the intention of the City Commission  
19 that the provisions of this Ordinance shall become and be made part of the Code  
20 of Ordinances of the City of Lake Mary, Florida and the word "ordinance" may be  
21 changed to "section", "article", or other appropriate word or phrase and the  
22 sections of the Ordinance may be renumbered or re-lettered to accomplish such  
23 intention.  
24

25       **SECTION 8. CONFLICTS.** All ordinances or resolutions or parts of  
26 ordinances or resolutions in conflict herewith are hereby repealed to the extent of  
27 any conflict.  
28

29       **SECTION 9. SEVERABILITY.** If any section, sentence, phrase, word or  
30 portion of this Ordinance is determined to be invalid, unlawful or unconstitutional,  
31 said determination shall not be held to invalidate or impair the validity, force or  
32 effect of any other section, sentence, phrase, word, or portion of this Ordinance  
33 not otherwise determined to be invalid, unlawful, or unconstitutional.  
34

35       **SECTION 10. EFFECTIVE DATE.** This Ordinance shall take effect  
36 immediately upon passage and adoption.  
37

38           PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

39  
40       FIRST READING: \_\_\_\_\_, 2013  
41

1 SECOND READING: \_\_\_\_\_, 2013  
2

3 CITY OF LAKE MARY, FLORIDA  
4

5  
6  
7  
8 ATTEST:

\_\_\_\_\_  
MAYOR, DAVID J. MEALOR

9  
10  
11  
12 CITY CLERK, CAROL A. FOSTER  
13 For the use and reliance of the City  
14 of Lake Mary only. Approved as to  
15 form and legal sufficiency.  
16

17  
18 CATHERINE REISCHMANN, CITY ATTORNEY  
19  
20  
21

1 B. 2013-ZTA-04: Recommendation to the City Commission for a Zoning Text  
2 Amendment Amending Section 154.09 and Adding Section 154.130 of the  
3 Zoning Code, and Amending Appendix I: Sign Code, of Chapter 155,  
4 Subdivision Regulations: City of Lake Mary/Community Development  
5 Department  
6

7 Catherine (Katie) Reischmann, City Attorney, presented Item B. and the related  
8 Staff Report. She said that the City Manager has very kindly agreed to engage a  
9 sign expert, Mr. Bill Brinton, Esquire, who works all over the country and litigates  
10 against billboard companies a great deal; that he has a lot of interesting stories  
11 about Clear Channel and different companies. She stated that Mr. Brinton has  
12 spent just a little bit of time tweaking the City's Code, coming up with a few little  
13 holes that he found in it, and suggested that we continue all of our current  
14 prohibitions which we have on pole signs and electronic signs; however, he  
15 suggested that we add additional specificity for the electronic signs to reflect  
16 current technology. She said that you can see in the amendment current  
17 prohibition, of course, on off-site signs would remain, and we would add a  
18 definition of billboards since we had used that term in our sign code, which was  
19 kind of an add-on way back when we put our sign code together; that there was  
20 this add-on where we referenced billboards, but we are now prohibiting them  
21 without exception in this amendment, if you would agree to it.  
22

23 Ms. Reischmann stated that we have additional prohibitions that extend to what  
24 we call animated signs and intermittent signs; just kind of adding a little more  
25 teeth to that. She said that we have always treated billboards as nonconforming  
26 signs, but this sort of recognizes that. She stated that there is no amortization  
27 provision now in our code, as you know, that impacts the existing billboards  
28 along I-4; that she believed there were three of them and they are also  
29 nonconforming pole signs. She said that they do have a useful life, however, and  
30 we have added an additional definition of what it means when a sign is destroyed  
31 to match the state definition, which stands up to challenge and is a little more  
32 clear. She stated that it really has to do with how many of the structures break  
33 off – the poles break off, and so, of course, it's easier to implement that.  
34

35 Ms. Reischmann said, along with the sign code amendment, we also have a  
36 zoning code amendment to prohibit the business of outdoor advertising, which is  
37 looked on as a business. She stated, as a permitted land use in all areas, we  
38 want to make clear that the City of Lake Mary wants to have scenic areas even in  
39 our, if you will, industrial areas, and so forth; that we want to prohibit those  
40 billboards even in those areas.  
41

42 Ms. Reischmann said that the Staff Report also includes, with a little help from  
43 my planning friends, some quotes from our comprehensive plan showing that

1 these new regulations are consistent with our comprehensive plan and that we  
2 are implementing these land uses to be consistent with Lake Mary's character;  
3 that it is a City's objective to implement land use techniques which protect natural  
4 resources, including vegetation. She stated, as you know, the State law now  
5 protects billboards' viewing areas by banning cities from actually planting any  
6 vegetation that might block the view, so, what we are doing here is we are  
7 saying, no, in Lake Mary we like vegetation. She said, so, that's one reason why  
8 we're making clear that there is this ban on billboards, and also promoting public  
9 safety by continuing our ban on these pole signs and off-site signs because, as  
10 I'm sure you're aware, certainly billboards have been identified as a safety  
11 concern but especially the digital billboards have been identified as a safety  
12 concern. She stated that you would also get an argument from our friends at  
13 Clear Channel and CBS who would tell you that they're extremely safe; in fact,  
14 more safe than looking at cows, I think they said.

15  
16 Ms. Reischmann concluded by asking Mr. Omana if he had anything to add to  
17 her presentation.

18  
19 Juan (John) A. Omana, Jr., Community Development Director, added, with that, it  
20 is recommended that both ordinances be recommended for approval to the City  
21 Commission in the November cycle.

22  
23 Chairman Hawkins questioned, could we just have CBS and Clear Channel just  
24 put TV channels on the billboards? He said, I mean, that would save people  
25 from having to watch TV at home.

26  
27 Ms. Reischmann answered, yeah. And, actually, Mr. Brinton has a video, which I  
28 wish I had, I've asked him for it, but it shows Hollywood, California, and as you're  
29 driving around, you're looking at TVs everywhere. Basically, huge TV screens,  
30 and I don't know how people can possibly concentrate.

31  
32 Chairman Hawkins said, what does it matter whether you talk on the phone in  
33 your car or text on your phone if you can watch TV. I don't – anyway.....

34  
35 Chairman Hawkins then expressed his concern on page 7 of the Staff Report  
36 under Outdoor Advertising. He stated, it appears to me that you're regulating  
37 content, which I thought was a great big huge no, no when we redid the Sign  
38 Code ten years ago.

39  
40 Ms. Reischmann asked, are you talking about the reference to commercial  
41 message in the Outdoor Advertising?

1 Chairman Hawkins responded, somebody having a sign on a piece of property  
2 and the sign itself is legal and conforming but they are advertising about another  
3 product not related to that parcel.  
4

5 Ms. Reischmann replied, the reason for that is because the Court has said that  
6 the most protected speech of all is obviously non-commercial, it's political, and  
7 what most cities do to deal with that – the fact that that is the most precious thing  
8 in our nation, is our ability to have political speech, is that there is no such thing  
9 as an off-site, noncommercial sign, so that anytime you have a noncommercial  
10 message such as Save the Whales, that anywhere you put Save the Whales is  
11 considered onsite. That cannot be off-premise. So, it is true what you are saying  
12 that by indicating what we consider outdoor advertising to be, we are kind of  
13 stepping into a little bit of content-based, but balance that against the fact that we  
14 are addressing the Court's concern that we give total obeisance to the ability of  
15 anyone to put up a non-commercial sign anywhere.  
16

17 Chairman Hawkins questioned, so you're regulating content on commercial signs  
18 but not non-commercial signs?  
19

20 Ms. Reischmann answered, well, I'm not regulating content. I'm simply defining  
21 what constitutes an off-site sign. An off-site sign means that you're advertising  
22 something that you're not selling on your premise. That's all that's intended to  
23 do. But, then, I thought you were talking about the word, commercial.  
24

25 Chairman Hawkins said, no. I'm talking about you're regulating the words on a  
26 sign.  
27

28 Ms. Reischmann stated, I'm not intending to. What that's saying -- relating to a  
29 business product, service, event, or person located somewhere other than the  
30 parcel where the sign is located is trying to tell you that it is not an on-premise  
31 sign. It's focused on – you know, it's on the interstate, but it's advertising Olive  
32 Garden.  
33

34 Chairman Hawkins said, I understand, but unless you take into – I guess we're  
35 splitting hairs. Unless you take into account the language on a sign, the words  
36 on a sign, you're not going to know that.  
37

38 Ms. Reischmann stated, you're hitting on one of the main problems in sign case  
39 law, which is that one court, the 11<sup>th</sup> Circuit, said if you have to read the sign to  
40 know whether it's regulated or not, then your sign code is invalid. So, if you were  
41 to take that literally, you would not know how to draft a sign code whatsoever.  
42 So, it sort of puts us all in a situation where we have to do the very best that we  
43 can without knowing for sure that we ever are really hitting the mark. But, I can

1 tell you that this is what everybody puts in their – not that that is a great  
2 reassurance, but there is just no way to write a sign code to where you don't  
3 have to read a sign to know whether it's allowed or not, but you do your best to  
4 not make distinction based on content other than between commercial and  
5 noncommercial because you want to give the very most protection to political  
6 signs and noncommercial.

7  
8 Chairman Hawkins asked, if somebody has a sign on their property advertising  
9 for a church down the street, a church is – I'm assuming a church is  
10 noncommercial?

11  
12 Ms. Reischmann responded, it gets into a fuzzy area there. If they are saying  
13 Pancake Breakfast at 11:00, \$25.00 – you know, is that commercial or  
14 noncommercial? That gets really messy, but, generally, if it's for a church, you're  
15 going to say it's noncommercial.

16  
17 Chairman Hawkins said, and my second instance is, at the corner of S. 5<sup>th</sup> Street,  
18 the southwest corner of S. 5<sup>th</sup> Street and Lake Mary Boulevard, there is a sign on  
19 a vacant piece of property that says visit this business across the street. He  
20 questioned, so, that's the typical sign that you're looking to prohibit?

21  
22 Ms. Reischmann replied, that's right. She asked, is that like a snipe sign? Is that  
23 a small.....

24  
25 Chairman Hawkins answered, no, it's a commercial sign. You-all will have to go  
26 over and look at it. I mean, I drive by it every day. It's just a sign that says visit  
27 us. We're across the street in the center on the southwest corner. It's a  
28 temporary sign.

29  
30 Ms. Reischmann stated, oh, I see. Okay. So, it was permitted as a temporary  
31 sign to go in that location. Yes, I guess under our rules, it's allowed, but.....

32  
33 Chairman Hawkins said, as a temporary sign it is, but not according to the way  
34 you're wording this.

35  
36 Ms. Reischmann stated, correct. It would not be allowed as a permanent sign,  
37 but I honestly couldn't tell you – I mean, I'm assuming what you're saying is right,  
38 that as a temporary sign, you're allowed to go off-premise if you're right next to  
39 your premises or something, or you're not supposed to, but they do, or.....

40  
41 Chairman Hawkins said, well, because we don't regulate content. Until now,  
42 we're not regulating content on any sign.

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Ms. Reischmann stated, well, we've always regulated content in that you cannot have off-premise signs in the City of Lake Mary. You never have been able to. I mean, that is what the Code says. So, you're not supposed to have billboards. You're not supposed to have signs that are outside your premises advertising what is in your business if it's not on your property.

Chairman Hawkins stated, okay. You're the attorney, but I disagree. I don't think that's the way our code is written.

Ms. Reischmann said, that's what was originally intended. Whether that's actually worked out in practice, I can't tell you.

Chairman Hawkins stated, when we did this before, it was what was on the sign didn't matter as long as it wasn't offensive.

Ms. Reischmann said, you see, but you have to read the sign to know if it's a billboard or not. We don't allow billboards.

Chairman Hawkins stated, no. We don't allow billboards because they're so large.

Ms. Reischmann said, no. We don't allow billboards because we don't allow off-site advertising. Otherwise, you would have small signs along I-4 saying go see, you know, Appleton's Café, or.....

Chairman Hawkins stated, every parcel along I-4 is allowed to have a temporary sign along I-4 and they can put whatever they choose to put on it up until your writing this code. He questioned, am I not correct here? Right now, any parcel along I-4 can put up a 100 square-foot sign right along I-4 and they can put whatever they want to on it. Gary Schindler for President, a restaurant down the street, I don't like our City Attorney, whatever they want to put on it they can.

Stephen Noto, Senior Planner, said, historically, the temporary signs that we have approved for the properties like, for example, Sun Tech have been temporary real estate signs saying Space for Lease here on this piece of property. They haven't been Space for Lease at the old Work Force Central Florida building. So, those signs have had to advertise either Space for Lease on the parcel or a business that's on the parcel.

Chairman Hawkins stated, then you're not following the Code. By doing that, you're not following our current code.

Ms. Reischmann said, yes, they are. You can have real estate signs.

1 Chairman Hawkins stated, okay. Then you're going to have to send me an e-  
2 mail showing me that.

3  
4 Ms. Reischmann said, you have to allow real estate signs.

5  
6 Chairman Hawkins stated, you have to allow a temporary sign. There is no such  
7 thing as a real estate sign. It is a temporary sign.

8  
9 Ms. Reischmann said, that's correct. Yeah. She asked, I mean, I think we call it  
10 a real estate sign in our code; don't we?

11  
12 Chairman Hawkins responded, we call it that, but it's not a definition. It's a  
13 temporary sign. You can put whatever you want to on it.

14  
15 Ms. Reischmann stated, well, I'd have to check on that because you cannot put  
16 an off-premise sign regardless.

17  
18 Chairman Hawkins said, yeah, you can.

19  
20 Ms. Reischmann stated, okay. Well, I'll get back with you on it because we  
21 shouldn't be allowing it.

22  
23 Chairman Hawkins said, you just admitted that I know more about this than you  
24 do.

25  
26 Ms. Reischmann stated, well, I actually was involved when this was being  
27 written, too, believe it or not. I was working with Donna...

28  
29 Chairman Hawkins said, you're the one who made signs content neutral. You're  
30 the one who insisted on that across the board for every sign.

31  
32 Ms. Reischmann stated, that's right. You absolutely have to make it content  
33 neutral to the extent you can, but you still have to be able to look at a sign to  
34 know if it's allowed or not.

35  
36 Chairman Hawkins said, okay. You-all are the ones who are changing the Code,  
37 and I don't necessarily disagree with this, but you're changing a big principle.  
38 You are regulating the content of a sign.

39  
40 Ms. Reischmann stated, I can tell you that Mr. Brinton, who writes these codes all  
41 over the country, feels that this is a tweak. So, whether it's been administered  
42 exactly this way all the time, I can't tell you, but I can tell you that he's looking at  
43 our code and feeling that this is not a big change at all. In fact, this is a change

1 in our zoning code. This is just to make the business of outdoor advertising  
2 prohibited, this section you're looking at. So, that's not even to our sign code.  
3

4 Chairman Hawkins said, that's fine, Katie. I'm not disagreeing with what you  
5 want to change or how you want to change it. I just want everyone to be aware  
6 of the way it was. And, I'm not getting any backup from the people in the sign  
7 department, these three gentlemen.  
8

9 Ms. Reischmann stated, well, this area of law is just an enigma wrapped in a  
10 miasma, wrapped in – I mean, it's very difficult to navigate and understand and to  
11 get right, and that is partially why the City Manager was willing to spend a little  
12 extra and bring somebody in to kind of tweak this because – also, you certainly  
13 know a lot about it. I think that he is trying to protect us the best he can, which is  
14 not perfect.  
15

16 Chairman Hawkins okayed that.  
17

18 Vice Chairman Taylor said, and I think it's a form of a substance, so I don't think  
19 we're regulating the content of a sign, but you do have to identify the location to  
20 which it is addressing. Simply location-based as opposed to content-based.  
21 And, I think law is about nuances. It's about the application, and I see where you  
22 are going.  
23

24 Chairman Hawkins stated, I agree with you.  
25

26 Vice Chairman Taylor said, I don't know that I see it as that much of a change,  
27 but I think that in order to be practical, you have to be able to at least look into  
28 the location, which isn't necessarily the content. And I think that distinction could  
29 be made here without doing a major revision to the previous code.  
30

31 Chairman Hawkins stated, right. Well, I argued, for instance, when we changed  
32 the sign code about changeable copy, and I argued that gas stations have an  
33 advantage in that they are allowed to advertise using changeable copy whenever  
34 the price of gas changes. But, Wal-Mart and K-Mart aren't allowed to advertise  
35 when the price of apples changes. So, I argued against that and the City  
36 overturned that. But, a gas station sign that has changeable copy, whether it's  
37 an electronic sign – and some of these gas stations have an electronic sign that  
38 changes it, so, I'm assuming that those are going to be nonconforming. So, let's  
39 get back to that now.  
40

41 Ms. Reischmann said, I wish you hadn't asked. That's a real conundrum.  
42

1 Chairman Hawkins stated, I know. You're talking about a gas station who has an  
2 electronic sign. They push a button that says now gas is \$3.58 a gallon, and  
3 then tomorrow they change it and it says it's \$3.59 a gallon. That's a changeable  
4 copy sign, it's an electronic sign, and you're – he questioned, so, where do you  
5 stand on those?  
6

7 Ms. Reischmann replied, well, I can tell you that you hear from the best  
8 businesses, the WaWa's and so forth, that that is a part of their sign, and they  
9 simply will not locate without being able to have those signs that have the  
10 changeable copy in that they must change so often. And it's unfortunately a fact  
11 of life that the gas prices do seem to change every hour. You can do it manually.  
12 You can require it be done manually instead of electronically in, say, no more  
13 than once every 24 hours. There are ways around it, but, unfortunately, that  
14 does not lend itself to a perfect answer either.  
15

16 Chairman Hawkins stated, I mean, you're changing the sign code. You are  
17 making that part of the sign code much more specific. I mean, I agree with the  
18 billboards and the animated signs, but the electronic signs – if you're going to do  
19 that, you should exclude gas stations.  
20

21 Ms. Reischmann said, well, that's another part of the sign code, and if the P & Z  
22 would like us to look at that, we can do that and bring back something on that,  
23 but I think we would need to talk about that a little.  
24

25 Chairman Hawkins stated, okay. You've just gone to great lengths to list  
26 everything.  
27

28 Ms. Reischmann said, understood.  
29

30 Chairman Hawkins stated, okay. So, I just think we ought to be fair and just say  
31 that gas stations, as a use, will be exempt, which is going to open up a can of  
32 worms because if I was Wal-Mart, I'd want to be exempt too.  
33

34 Ms. Reischmann said, I believe that that's already in there; gas stations, movie  
35 theatres. Unfortunately, I don't have my sign code with me.  
36

37 Chairman Hawkins stated, it was just purposely overlooked. I brought it up and it  
38 was just purposely overlooked; we're just not going to go there. We're going to  
39 leave the conundrum where it is and – okay.  
40

41 Ms. Reischmann said, okay. Well, we can certainly look at that, if you'd like.  
42

DRAFT

1 Chairman Hawkins asked, are you opposed to putting at the end of electronic  
2 signs excluding gas stations, or do you want to just continue to let it go?  
3

4 Ms. Reischmann answered, well, I'll tell you – I guess I -- this particular sign code  
5 was that the Commission asked that this be drafted Thursday night, and this was  
6 drafted by our outside expert, and I think it's a very opportune moment to get this  
7 through to the Commission. If I could ask the P&Z's indulgence to either give this  
8 an up or down. Certainly there are other parts of the sign code that could be  
9 looked at. It's certainly an ever-changing area, but if I could ask the indulgence  
10 that we sort of limit ourselves to what is here for right now.  
11

12 Chairman Hawkins stated, that's fine; I'm fine. But, what I think – if you hired an  
13 expert, then you should ask – between now and the City Commission meeting,  
14 you should send an e-mail to your expert you paid and ask him to  
15 include/exclude/differentiate, by definition, gas station price signs.  
16

17 Ms. Reischmann said, okay. Well, I'll tell you that it would be good for us to keep  
18 something of a low profile, and if we bring gas stations in, we're going to...  
19

20 **TAPE 1, SIDE B**  
21

22 ...-- you know, we don't necessarily want to bring out all the heavy artillery that  
23 the billboard industry has, and right now we don't have a lot of heavy artillery  
24 after us, which is very good.  
25

26 Chairman Hawkins stated, which is good. That's fine.  
27

28 Member Miller said, since it's so pervasive, I don't know why, but I thought that  
29 displaying gas prices was a regulatory requirement because it is pervasive and  
30 it's almost a service, where the other side of what Chief Hair Splitter is talking  
31 about here is not the same kind of issue. Some people are more able to split  
32 hairs than others.  
33

34 Chairman Hawkins stated, some people have more hairs to split (laughter).  
35

36 Member Miller said, I find this as a non-discussion.  
37

38 Vice Chairman Taylor stated, if you start going down the rabbit hole of gas signs,  
39 then you can end up in a situation like Orlando was in and they just spent untold  
40 hundreds of thousands, if not millions of dollars, creating/enforcing a code for gas  
41 stations, taking advantage of customers coming up on I-4, and I don't know if  
42 Lake Mary wants to be the next one. I'm not sure what regulatory realm covers

1 that, but we have seen that play out through the opposite direction. So, I, as a  
2 board member, wouldn't want to follow down that rabbit hole at this time.

3  
4 Chairman Hawkins said, I'm just playing the devil's advocate on these things.

5  
6 Ms. Reischmann stated, no, you bring up an extremely – an issue very close to  
7 my heart, and I have had to work around these regulations and -- you know, for a  
8 Wawa. You know, everyone thinks Wawa is the greatest thing and have to have  
9 it, and so you are willing to kind of look the other way. So, no, I totally hear you.  
10 I just would ask, if we could, to deal with that another day.

11  
12 Chairman Hawkins okayed that. He requested Ms. Reischmann send Mr.  
13 Brinton an e-mail asking him this question and, just for his information, how he  
14 has handled it, or should it be handled, or should it just be overlooked like we  
15 currently do.

16  
17 Ms. Reischmann said, absolutely. Will do that.

18  
19 Member Miller questioned Chairman Hawkins if he was in favor of approving this  
20 amendment.

21  
22 Chairman Hawkins responded, yeah, yeah. I'm – yeah. I've already said that. I  
23 like all this.

24  
25 Chairman Hawkins opened the hearing to public comment. Hearing none, he  
26 closed that portion and entertained board discussion and/or a motion.

27  
28 **MOTION:**

29  
30 **Member Schofield moved to recommend approval to the City Commission**  
31 **the request by the City of Lake Mary/Community Development Department**  
32 **for a Zoning Text Amendment Amending Section 154.09 and Adding Section**  
33 **154.130 of the Zoning Code, and Amending Appendix I: Sign Code, of**  
34 **Chapter 155, Subdivision Regulations, consistent with the Staff Report.**  
35 **Member Miller seconded the motion, which carried unanimously 5-0.**

36  
37 Mr. Omana announced this item will move forward to the City Commission's  
38 November cycle (November 7, 2013).



## MEMORANDUM

DATE: November 7, 2013

TO: City Commission

VIA: Jackie Sova, City Manager

FROM: Dianne Holloway, Finance Director

SUBJECT: Resolution No. 926 - Amend FY 2012/2013 Budget (Dianne Holloway, Finance Director)

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Resolution No. 926 summarizes budget amendment activity for FY 2013.

In the General Fund, there is a total increase of \$60,496 in both revenues and expenditures to account for:

- \$33,400 of insurance proceeds received for equipment damaged at City Hall from a lightning strike on October 8, 2012.
- \$2,096 for the JAG grant to purchase Communication Center computers.
- \$25,000 to fund the Neighborhood Beautification Grant Program.

In the Police 2<sup>nd</sup> Dollar Education and Training Fund, there is an increase in training expenditures and forfeiture revenue of \$1,300 to fund additional training needs.

To fund Law Enforcement Trust Fund expenditures in the amount of \$12,970 approved during the year, forfeiture revenue of \$5,455 received and fund balance of \$7,515 will be appropriated.

In the Police Impact Fee Fund, \$90,000 will be appropriated from fund balance for the purchase of in-car cameras for the new police officer positions and equipment needed for radio flashing to the P-25 platform. This project was approved in the FY 2014 budget, however the equipment became available in September 2013.

In the Fire Impact Fee Fund, an additional \$1,100 of impact fees are needed to fund unanticipated equipment needs for the EMS Special Events cart.

In the Capital Projects Fund, \$334,717 is needed to fund FY 2012 carryforward projects. The City also received \$28,534 in grant revenue for the AFG Radio Grant and a JAG grant to purchase a Storage Area Network (SAN) for the Police Department. The net use of available fund balance is \$306,183.

The 2nd Generation Sales Tax Fund's FY 2012 carryforward projects amounted to \$788,000.

The Stormwater Utility Fund's FY 2012 carryforward projects need \$75,000 of funding.

The Vehicle Maintenance Fund received insurance proceeds of \$33,475 for two police vehicles that were totaled in traffic accidents. An additional \$30,000 of fund balance is needed to replace both cars.

**Recommendation:**

The City Commission adopt Resolution No. 926 amending the FY 2013 budget.

RESOLUTION NO. 926

A RESOLUTION OF THE CITY OF LAKE MARY, FLORIDA,  
AMENDING THE FISCAL YEAR 2012-2013 BUDGET;  
PROVIDING FOR CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, the City Commission of Lake Mary, Florida, finds it desirable, in order to properly reflect new information and changes made during the year, to amend the Budget for the City of Lake Mary for the Fiscal Year 2013, beginning October 1, 2012 as provided herein; and

WHEREAS, Ordinance No. 1470 adopting the City's budget for Fiscal Year 2013, provides for amendment by Resolution.

NOW, THEREFORE BE IT RESOLVED by the City Commission of the City of Lake Mary, Florida:

1. The following funds are revised as specified herein:

**General Fund**

**Revenues:**

001-0000-314-11-00	Utility Tax	\$ 25,000
001-0000-334-00-00	State Grants	2,096
001-0000-369-00-00	Miscellaneous Revenue	33,400

**Expenditures:**

001-0119-419-58-20	General Administrative – Discretionary Fund	\$ 14,000
001-0119-419-64-50	Capital Outlay	13,000
001-0119-419-82-00	Contributions	25,000
001-0321-421-64-50	Capital Outlay	2,096
001-0519-419-46-20	Facilities – Repair & Maintenance - Buildings	6,400

**Police 2<sup>nd</sup> Dollar Education and Training Fund**

**Revenues:**

101-0000-351-20-00	Forfeitures	\$ 1,300
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**Expenditures:**

101-0321-421-40-30	Training	\$ 1,300
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**Law Enforcement Trust Fund**

**Revenues:**

102-0000-351-20-00	Forfeitures	\$ 5,455
102-0000-399-01-00	Cash Balance Forward	7,515

**Expenditures:**

102-0321-421-52-10	Operating Supplies	\$ 1,210
102-0321-421-65-10	Capital Outlay	11,010
102-0321-421-82-00	Donations	750

**Police Impact Fees**

**Revenues:**

110-0000-399-01-00	Cash Balance Forward	\$ 90,000
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**Expenditures:**

110-0321-421-65-10	Capital Outlay	\$ 90,000
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**Fire Impact Fees**

**Revenues:**

111-0000-363-20-00	Impact Fees	\$ 1,100
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**Expenditures:**

111-0322-422-65-10	Capital Outlay	\$ 1,100
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**Capital Projects Fund**

**Revenues:**

301-0000-331-00-00	Federal Grants	\$ 12,975
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301-0000-334-00-00	State Grants	15,559
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301-0000-399-01-00	Cash Balance Forward	306,183
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**Expenditures:**

301-0119-419-65-25	SunRail Enhancements	\$ 100,848
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301-0119-600-13-07	IT Disaster Recovery Plan	35,632
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301-0224-600-06-40	Downtown Land Acquisition	201,287
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301-0224-600-06-55	Downtown/Stairstep Parks	68,643
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301-0321-421-65-28	Laptop Computers	21,499
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301-0432-432-65-30	Streetlighting Additions	40,758
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301-0119-419-99-01	Other Project Costs/Contingency	(133,950)
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**2<sup>nd</sup> Generation Sales Tax Fund**

**Revenues:**

307-0000-399-01-00	Cash Balance Forward	\$ 788,000
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**Expenditures:**

307-0432-432-65-15	Downtown R-O-W Upgrades	\$ 341,000
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307-0432-432-65-20	Street Resurfacing	297,000
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307-0437-437-63-36	Cold Mix Paving	150,000
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**Stormwater Utility Fund**

**Revenues:**

402-0000-399-01-00	Cash Balance Forward	\$ 75,000
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**Expenditures:**

402-0437-437-63-37	Downtown 4 <sup>th</sup> Street Rehab	\$ 100,000
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402-0437-437-63-45	Downtown Stormwater Upgrades	( 25,000)
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**Vehicle Maintenance Fund**

**Revenues:**

501-0000-369-00-00	Miscellaneous Revenues	\$ 33,475
501-0000-399-01-00	Cash Balance Forward	30,000

**Expenditures:**

501-0490-490-65-00	Capital Outlay	\$ 63,475
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2. That all ordinances or resolutions or parts of ordinances or resolutions in conflict herewith shall be and the same are hereby repealed.

3. This Resolution shall take effect immediately upon passage and adoption.

PASSED AND ADOPTED this 7th day of November, 2013.

CITY OF LAKE MARY, FLORIDA

\_\_\_\_\_  
MAYOR, DAVID J. MEALOR

ATTEST:

\_\_\_\_\_  
CITY CLERK, CAROL A. FOSTER

**City of Lake Mary, Florida  
2013 Operating Budget  
General Fund  
Summary of Revenues and Expenditures**

Description	2013 Current Budget	Current Amendment	2013 Amended Budget
<b>Revenues:</b>			
Ad valorem taxes	\$ 5,943,112	\$ -	\$ 5,943,112
Franchise and utility taxes	6,081,614	25,000	6,106,614
Licenses and permits	974,415	-	974,415
Fines and forfeitures	47,686	-	47,686
Intergovernmental	1,382,427	2,096	1,384,523
Charges for services	1,195,250	-	1,195,250
Other	264,000	33,400	297,400
Operating transfers in	900,000	-	900,000
Cash Balance Forward	-	-	-
<b>Total Revenues</b>	<u>16,788,504</u>	<u>60,496</u>	<u>16,849,000</u>
<b>Expenditures and Other Uses:</b>			
General Government	\$ 2,124,585	\$ 52,000	\$ 2,176,585
Finance	579,599	-	579,599
Building	471,913	-	471,913
Police	5,643,436	2,096	5,645,532
Fire	4,733,369	-	4,733,369
Public Works	660,436	-	660,436
Parks & Recreation and Facilities			
Maintenance	2,539,397	6,400	2,545,797
Transfers out	882,330	-	882,330
<b>Total Expenditures and Other Uses</b>	<u>17,635,065</u>	<u>60,496</u>	<u>17,695,561</u>
<b>Increase (Decrease) in Fund Balance</b>	(846,561)	-	(846,561)
Use of Carryforward Fund Balance		-	
Fund Balance Beginning of Year	14,418,585		14,418,585
Fund Balance End of Year	<u>\$ 13,572,024</u>		<u>\$ 13,572,024</u>

**Purpose of Amendment:**

1. Insurance proceeds and expenditures related to City Hall lightning strike.
2. Grant revenue and expenditures related to a JAG Grant to purchase Communication Center computers.
3. Neighborhood Beautification Grant funding approved by Resolution No. 909.

**City of Lake Mary, Florida**  
**Fiscal Year 2013 Operating Budget**  
**Police 2nd Dollar Education and Training Fund**  
**101-0321-421**

Description	2013 Current Budget	Current Amendment	2013 Amended Budget
<b>Revenue:</b>			
Police Education Revenue	\$ 7,000	\$ 1,300	\$ 8,300
Interest Income	500	-	500
Total Revenue	<u>7,500</u>	<u>1,300</u>	<u>8,800</u>
<b>Expenditures and Other Uses:</b>			
Training Expenditures	18,000	1,300	19,300
Total Expenditures	<u>18,000</u>	<u>1,300</u>	<u>19,300</u>
<b>Increase (Decrease) in Fund Balance</b>	(10,500)	-	(10,500)
Use of Carryforward Fund Balance		-	
Fund Balance Beginning of Year	<u>117,224</u>		<u>117,224</u>
Fund Balance End of Year	<u>\$ 106,724</u>		<u>\$ 106,724</u>

**Purpose of Amendment:**  
 Additional training needs.

**City of Lake Mary, Florida  
Fiscal Year 2013 Budget Amendment  
Law Enforcement Trust Fund  
102-0321-421**

Description	2013 Current Budget	Current Amendment	2013 Amended Budget
<b>Revenue:</b>			
Forfeitures	\$ -	\$ 5,455	\$ 5,455
Interest Income	800	-	800
Total Revenues:	<u>800</u>	<u>5,455</u>	<u>6,255</u>
<b>Expenditures and Other Uses:</b>			
DARE Program	\$ 7,500	\$ -	\$ 7,500
Operating Expenditures	3,000	1,210	4,210
Capital	38,633	11,010	49,643
Donations	12,000	750	12,750
Total Expenditures	<u>61,133</u>	<u>12,970</u>	<u>74,103</u>
<b>Increase (Decrease) in Fund Balance</b>	<b>\$ (60,333)</b>	<b>\$ (7,515)</b>	<b>\$ (67,848)</b>
Use of Carryforward Fund Balance		(7,515)	
Fund Balance Beginning of Year	<u>197,050</u>		<u>197,050</u>
Fund Balance End of Year	<u>\$ 136,717</u>		<u>\$ 129,202</u>

**Purpose of Amendment:**

Appropriate expenditures approved through the fiscal year.

**City of Lake Mary, Florida**  
**Fiscal Year 2013 Operating Budget**  
**Police Impact Fees Fund**  
**110-0321-421**

<u>Description</u>	2013 Current Budget	Current Amendment	2013 Amended Budget
<b>Revenue:</b>			
Impact Fees	\$ 78,364	\$ -	\$ 78,364
Interest	1,500	-	1,500
Total Revenue	<u>79,864</u>	<u>-</u>	<u>79,864</u>
<b>Expenditures and Other Uses:</b>			
Equipment	\$ 58,002	\$ 90,000	\$ 148,002
Total Expenditures	<u>58,002</u>	<u>90,000</u>	<u>148,002</u>
<b>Increase (Decrease) in Fund Balance</b>	21,862	(90,000)	(68,138)
Use of Carryforward Fund Balance		(90,000)	
Fund Balance Beginning of Year	<u>361,971</u>		<u>361,971</u>
Fund Balance End of Year	<u>\$ 383,833</u>		<u>\$ 293,833</u>

**Purpose of Amendment:**

1. Purchase of In-car cameras for new police officer positions.
  2. Radio Flashing to P-25 Platform for mobile and portable police radios.
- Approved in FY14 Budget, equipment became available in September 2013.

**City of Lake Mary, Florida**  
**Fiscal Year 2013 Operating Budget**  
**Fire Impact Fees Fund**  
**111-0322-422**

Description	2013 Current Budget	Current Amendment	2013 Amended Budget
<b>Revenue:</b>			
Impact Fees	\$ 84,038	\$ 1,100	\$ 85,138
Interest	1,000	-	1,000
<b>Total Revenue</b>	<u>85,038</u>	<u>1,100</u>	<u>86,138</u>
<b>Expenditures and Other Uses:</b>			
Vehicle & Equipment	\$ 11,884	\$ 1,100	\$ 12,984
<b>Total Expenditures</b>	<u>11,884</u>	<u>1,100</u>	<u>12,984</u>
<b>Increase (Decrease) in Fund Balance</b>	73,154	-	73,154
Use of Carryforward Fund Balance		-	
Fund Balance Beginning of Year	<u>91,017</u>		<u>91,017</u>
Fund Balance End of Year	<u>\$ 164,171</u>	<u>\$</u>	<u>\$ 164,171</u>

**Purpose of Amendment:**

Funding for unanticipated equipment needed for EMS Special Events Cart.

**City of Lake Mary, Florida  
Fiscal Year 2013 Operating Budget  
Capital Projects Fund**

Description	2013 Current Budget	Current Amendment	2013 Amended Budget
<b>Revenue:</b>			
Interest	\$ 4,000	\$ -	\$ 4,000
Donations	375,000	-	375,000
Grants	-	28,534	28,534
Sale of Surplus Property	2,232,500	-	2,232,500
Transfers in:			
From General Fund	-	-	-
<b>Total Revenue</b>	<u>2,611,500</u>	<u>28,534</u>	<u>2,640,034</u>
<b>Expenditures:</b>			
Other Project Costs/Contingency	133,950	(133,950)	-
Capital Projects	2,755,781	468,667	3,224,448
<b>Total Expenditures</b>	<u>2,889,731</u>	<u>334,717</u>	<u>3,224,448</u>
<b>Increase (Decrease) in Fund Balance</b>	<b>\$ (278,231)</b>	<b>\$ (306,183)</b>	<b>\$ (584,414)</b>
Use of Carryforward Fund Balance		(306,183)	
Fund Balance Beginning of Year	<u>846,836</u>		<u>846,836</u>
Fund Balance End of Year	<u>\$ 568,605</u>		<u>\$ 262,422</u>

**Purpose of Amendment:**

1. Fund FY 2012 Carryforward Projects.
2. Grant revenue and expenditures related to the AFG Radio Grant awarded in FY12.
3. Grant revenue and expenditures related to the JAG Grant for the purchase of a Storage Area Network (SAN).

**City of Lake Mary, Florida**  
**Fiscal Year 2013 Operating Budget**  
**2nd Generation Sales Tax Fund**  
**307-0432-432**

Description	2013 Approved Budget	Current Amendment	2013 Amended Budget
<b>Revenues:</b>			
Interest	\$ 7,000	\$ -	\$ 7,000
Carryforward Fund Balance	-	788,000	788,000
<b>Total Revenue</b>	<u>7,000</u>	<u>788,000</u>	<u>795,000</u>
<b>Expenditures:</b>			
Downtown R-O-W Upgrades	\$ 50,000	\$ 341,000	\$ 391,000
Street Resurfacing	420,000	297,000	717,000
Cold Mix Paving	180,000	150,000	330,000
<b>Total Expenditures</b>	<u>650,000</u>	<u>788,000</u>	<u>1,438,000</u>
<b>Increase (Decrease) in Fund Balance</b>	(643,000)	-	(643,000)
Use of Carryforward Fund Balance			
Fund Balance Beginning of Year	<u>729,716</u>		<u>729,716</u>
Fund Balance End of Year	<u>\$ 86,716</u>		<u>\$ 86,716</u>

**Purpose of Amendment:**  
Fund FY 2012 Carryforward Projects.

**City of Lake Mary, Florida  
Fiscal Year 2013 Operating Budget  
Stormwater Utility Fund  
307-0432-432**

Description	2013 Current Budget	Current Amendment	2013 Amended Budget
<b>Revenue:</b>			
Stormwater Fee	\$ 378,320	\$ -	\$ 378,320
Interest	5,000	-	5,000
<b>Total Revenue</b>	<u>383,320</u>	<u>-</u>	<u>383,320</u>
<b>Expenditures</b>			
Operating Expenses	\$ 255,524	\$ -	\$ 255,524
Capital Projects	60,000	75,000	135,000
<b>Total Expenses</b>	<u>315,524</u>	<u>75,000</u>	<u>390,524</u>
<b>Increase (Decrease) in Fund Balance</b>	67,796	(75,000)	(7,204)
Use of Carryforward Fund Balance		(75,000)	
Fund Balance Beginning of Year	<u>524,891</u>		<u>524,891</u>
Fund Balance End of Year	<u>\$ 592,687</u>	<u>\$</u>	<u>\$ 517,687</u>

**Purpose of Amendment:**

Fund FY 2012 Carryforward Projects.

**City of Lake Mary, Florida**  
**Fiscal Year 2013 Operating Budget**  
**Vehicle Maintenance Fund**  
**501-0490-490**

Description	2013 Current Budget	Current Amendment	2013 Amended Budget
<b>Revenue:</b>			
Vehicle Rental Income	\$ 524,636	\$ -	\$ 524,636
Vehicle Maintenance Fees	267,250	-	267,250
Contracted Maintenance	102,325	-	102,325
Interest	6,000	-	6,000
Miscellaneous Revenue	-	33,475	33,475
Sale of Assets	50,000	-	50,000
<b>Total Revenue</b>	<u>950,211</u>	<u>33,475</u>	<u>983,686</u>
Net Assets Reserved for Vehicle Replacements Beginning of Year		3,115,094	3,115,094
<b>Total Revenues and Balances</b>	<u>\$ 950,211</u>	<u>\$ 3,148,569</u>	<u>\$ 4,098,780</u>
<b>Expenditures:</b>			
Maintenance Operations	\$ 234,574	\$ -	\$ 234,574
Contracted Maintenance	35,465	-	35,465
Vehicle Replacements	575,500	63,475	638,975
Machinery & Equip for Operations	8,500	-	8,500
<b>Total Expenditures</b>	<u>854,039</u>	<u>63,475</u>	<u>917,514</u>
<b>Increase (Decrease) in Fund Balance</b>	96,172	(30,000)	66,172
Use of Carryforward Fund Balance		(30,000)	
Fund Balance Beginning of Year	3,115,094		3,115,094
<b>Fund Balance End of Year</b>	<u>\$ 3,211,266</u>		<u>\$ 3,181,266</u>

**Purpose of Amendment:**

Replace two police vehicles totaled in traffic accidents with insurance proceeds and available fund balance.



## **CITY MANAGER'S REPORT**

DATE: November 7, 2013  
TO: City Commission  
FROM: Jackie Sova, City Manager  
SUBJECT: City Manager's Report

---

### **ITEMS FOR COMMISSION ACTION:**

1. Zoll Monitors/Defibrillators.
2. Power-LOAD Systems for Rescues.
3. Water Treatment Plant Degasifier Packing Replacement.
4. Elevated Water Storage Tank Painting.
5. Heritage Park Development & Palmetto and Greenleaf Road Improvements.



## **CITY MANAGER'S REPORT**

DATE: November 7, 2013  
TO: City Commission  
FROM: Craig E. Haun, Fire Chief  
SUBJECT: Zoll Monitors/Defibrillators

---

### **Background:**

We are requesting to purchase two new X Series Zoll Monitors. They are needed to replace monitors that are greater than nine years old. The technology is outdated and unable to provide more precise life saving measures. We were unable to secure a grant for the purchase this year.

We had budgeted \$70,000.00 for this purchase. The cost of the monitors is \$69,964.99.

### **Requested action:**

Request Commission approve purchase of 2 new X Series Zoll Monitors from Zoll Medical Corporation, sole source, in an amount not to exceed \$69,964.99.

# ZOLL®

269 Mill Road  
Chelmsford, Massachusetts 01824-4105  
978-421-9655 (main)  
978-421-0025 (fax)  
www.zoll.com

October 3, 2013

Scott Berner, EMS Chief  
Lake Mary Fire Department  
911 Wallace Court  
Lake Mary, FL 32746-2177

Dear Chief Berner:

We appreciate your selection of ZOLL® products for Lake Mary Fire Department. This letter serves as confirmation that ZOLL® Medical Corporation at 269 Mill Road in Chelmsford, Massachusetts, is the sole manufacturer and source of X Series® Defibrillators and supplies for the EMS Market. ZOLL® or Brent Brooks, Sr. Account Executive, will not sell an X Series® Defibrillator and supplies to Lake Mary Fire Department through any vendor or dealer.

Should you have any questions or require additional information please contact me at 800-348-9011 x 9514.

Sincerely,



Heidi Eckhardt  
Bids Coordinator



**GUIDELINES  
2010 READY**

75692

**ZOLL Medical Corporation**

Worldwide Headquarters  
269 Mill Rd  
Chelmsford, Massachusetts 01824-4105  
(978) 421-9655 Main  
(800) 348-9011  
(978) 421-0015 Customer Support  
FEDERAL ID#: 04-2711626

**TO: Lake Mary Fire Department**

911 Wallace Court  
Lake Mary, FL 32746-2177

Attn: **Scott Berner, EMS Chief**

email: [sberner@lakemaryfl.com](mailto:sberner@lakemaryfl.com)  
Tel: 407-585-1470

**QUOTATION 150050 V:2**

DATE: October 03, 2013

TERMS: Net 30 Days

FOB: Destination \*\*

FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
1	601-2221011-01	<p><b>X Series @ Manual Monitor/Defibrillator \$14,995</b> with 4 trace tri-mode display monitor/ defibrillator/ printer, comes with Real CPR Help®, advisory algorithm, advanced communications package (Wi-Fi, Bluetooth, USB cellular modem capable) USB data transfer capable and large 6.5"( 16.5cm) diagonal screen, full 12 ECG lead view with both dynamic and static 12-lead mode display.</p> <p><b>Accessories Included:</b></p> <ul style="list-style-type: none"> <li>• Six (6) foot 3- Lead ECG cable</li> <li>• MFC cable</li> <li>• MFC CPR connector</li> <li>• A/C power adapter/ battery charger</li> <li>• A/C power cord</li> <li>• One (1) roll printer paper</li> <li>• 6.6 Ah LI-Ion battery</li> <li>• Carry case</li> <li>• Declaration of Conformity</li> <li>• Operator's Manual</li> <li>• Quick Reference Guide</li> <li>• <b>One (1)-year EMS warranty</b></li> </ul> <p><b>Advanced Options:</b></p> <p>Real CPR Help Expansion Pack \$ 995 CPR Dashboard quantitative depth and rate in real time, release Indicator, Interruption timer, perfusion performance indicator (PPI)</p> <ul style="list-style-type: none"> <li>• See - Thru CPR artifact filtering</li> </ul> <p><b>ZOLL Noninvasive Pacing Technology: \$2,550</b></p> <p><b>Masimo Pulse Oximetry</b></p>	2	\$37,275.00	\$30,520.40	\$61,040.80 *

This quote is made subject to ZOLL's standard commercial terms and conditions (ZOLL T's + C's) which accompany this quote. Any purchase order (P.O.) issued in response to this quotation will be deemed to incorporate ZOLL T's + C's. Any modification of the ZOLL T's + C's must be set forth or referenced in the customer's P.O. No commercial terms or conditions shall apply to the sale of goods or services governed by this quote and the customer's P.O unless set forth in or referenced by either document.

Page 1 Subtotal **\$61,040.80**

1. DELIVERY WILL BE MADE 60-90 DAYS UPON RECEIPT OF ACCEPTED PURCHASE ORDER.
2. PRICES WILL BE F.O.B. DESTINATION-FREE FREIGHT
3. PRICES QUOTED ARE VALID FOR 60 DAYS.
4. APPLICABLE TAX ADDITIONAL
5. ALL PURCHASE ORDERS ARE SUBJECT TO CREDIT APPROVAL BEFORE ACCEPTANCE BY ZOLL.
6. FAX PURCHASE ORDER AND QUOTATION TO ZOLL CUSTOMER SUPPORT AT 978-421-0015 OR EMAIL TO [ESALES@ZOLL.COM](mailto:ESALES@ZOLL.COM).
7. ALL DISCOUNTS OFF LIST PRICE ARE CONTINGENT UPON PAYMENT WITHIN AGREED UPON TERMS.
8. PLACE YOUR ACCESSORY ORDERS ONLINE BY VISITING [www.zollwebstore.com](http://www.zollwebstore.com).

Brent Brooks  
Sr. EMS Account Executive  
352-551-4743



**GUIDELINES  
2010 READY**

**ZOLL Medical Corporation**

Worldwide Headquarters  
269 Mill Rd  
Chelmsford, Massachusetts 01824-4105  
(978) 421-9655 Main  
(800) 348-9011  
(978) 421-0015 Customer Support  
FEDERAL ID#: 04-2711626

**TO: Lake Mary Fire Department**

911 Wallace Court  
Lake Mary, FL 32746-2177

Attn: **Scott Berner, EMS Chief**

email: [sberner@lakemaryfl.com](mailto:sberner@lakemaryfl.com)

Tel: 407-585-1470

**QUOTATION 150050 V:2**

DATE: October 03, 2013

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\*\*

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
		<b>SP02 \$1,795</b> • Signal Extraction Technology (SET) • Rainbow SET <b>NIBP Welch Allyn Includes: \$3,495</b> • Smartcuff 10 foot Dual Lumen hose • SureBP Reusable Adult Medium Cuff  <b>End Tidal Carbon Dioxide monitoring (ETCO2)</b> <b>Oridion Microstream Technology: \$4,995</b> Order required Microstream tubing sets separately  <b>Interpretative 12- Lead ECG: \$8,450</b> • 12-Lead one step ECG cable- Includes 4- Lead limb lead cable and removable precordial 6- Lead set				
2	8000-0341	SpO2/SpCO/SpMet Rainbow Resuable Patient Cable: Connects to Single Use Sensors (4 ft)	2	\$225.00	\$168.75	\$337.50 *
3	8000-000371	SpO2/SpCO/SpMet Rainbow DCI Adult Reusable Sensor with connector (3 ft)	2	\$495.00	\$405.90	\$811.80 *
4	8000-0580-01	Six hour rechargeable Smart battery	2	\$495.00	\$420.75	\$841.50 *
5	8300-0500-01	SurePower 4 Bay Charging System including 4 Battery Charging adapters	1	\$2,583.00	\$2,195.55	\$2,195.55 *

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**Page 2 Subtotal \$65,227.15**

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Brent Brooks  
Sr. EMS Account Executive  
352-551-4743



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2010 READY**

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**TO: Lake Mary Fire Department**

911 Wallace Court  
Lake Mary, FL 32746-2177

Attn: **Scott Berner, EMS Chief**

email: [sberner@lakemaryfl.com](mailto:sberner@lakemaryfl.com)  
Tel: 407-585-1470

**QUOTATION 150050 V:2**

DATE: October 03, 2013

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\*\*

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
<b>Rewards Charger Rebate</b>						
6	8700-0752-01	AutoPulse® Li-Ion Battery - for use with the AutoPulse Platform.	4	\$825.00	\$825.00	\$3,300.00
7	8700-0753-01	AutoPulse SurePower Charger, U.S. Charges and automatically conditions two (2) NIMH or Li-Ion batteries and automatically verifies battery charge level. Includes User Guide and U.S Power Cord. Standard one (1) year warranty	2	\$1,795.00	\$1,795.00	\$3,590.00
8	DI SC	On Invoice Autopulse Rewards Charger Rebate	2	\$0.00	(\$1,795.00)	(\$3,590.00)
<b>Li-Ion Battery Rebate</b>						
9	8700-0752-01	AutoPulse® Li-Ion Battery - for use with the AutoPulse Platform.	1	\$825.00	\$825.00	\$825.00
10	DI SC	On Invoice Li-Ion Battery Transition Rebate	1	\$0.00	(\$825.00)	(\$825.00)
11	8700-0712-01	AutoPulse® Soft Stretcher - Extrication stretcher suitable to move patient while AutoPulse is deployed.	2	\$129.00	\$126.42	\$252.84 *

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**Page 3 Subtotal \$68,779.99**

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Brent Brooks  
Sr. EMS Account Executive  
352-551-4743



**GUIDELINES  
2010 READY**

**ZOLL Medical Corporation**

Worldwide HeadQuarters  
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Chelmsford, Massachusetts 01824-4105  
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**TO: Lake Mary Fire Department**

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Lake Mary, FL 32746-2177

Attn: **Scott Berner, EMS Chief**

email: [sberner@lakemaryfl.com](mailto:sberner@lakemaryfl.com)  
Tel: 407-585-1470

**QUOTATION 150050 V:2**

DATE: October 03, 2013

TERMS: Net 30 Days

FOB: Destination

FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE	
12	8700-0706-01	LifeBand® 3 pack - Single-use chest compression band. (3 per package)	2	\$375.00	\$367.50	\$735.00 *	
13	8900-0701	30 pouch round liquid gel ECG electrodes (600 electrodes, 1.5" diameter)	5	\$120.00	\$90.00	\$450.00 *	
*Reflects National Association of State Procurement Officials (NASPO) contract pricing.							
						<b>TOTAL</b>	<b>\$69,964.99</b>

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Brent Brooks  
Sr. EMS Account Executive  
352-551-4743



## **CITY MANAGER'S REPORT**

DATE: November 7, 2013  
TO: City Commission  
FROM: Craig E. Haun, Fire Chief  
SUBJECT: Power-LOAD Systems for Rescues

---

### **Background:**

This system is a total lift system that eliminates any chance of a patient stretcher being dropped or overturned while loading into a unit. It eliminates an employee from physically having to lift the stretcher, and reduces the City's potential exposure to liability and Workman's Comp claims from the back injuries. LMFD has had multiple back injuries over the last few years which have increased the amount of overtime needing to be filled as well as medical expenses. LMFD is running approximately 87% medical calls, which amounts to the stretcher being moved in and out sixteen times a shift or 5,840 times a year. With each lift, we take a chance on injuring an employee or citizen.

We had budgeted \$57,000.00 for this purchase. The cost for two systems is \$54,183.68. The installation cost which is included in the budgeted amount is \$2,867.20. This brings the total cost to \$57,050.88.

### **Requested action:**

Request Commission approve the purchase of two Power-LOAD Systems from Stryker Medical, sole source, for a total amount not to exceed \$57,050.88.



**Comprehensive Quotation**

Sales Account Manager  
 PAUL ROVINSKY  
 Paul.Rovinsky@stryker.com  
 Cell 407-288-5614

Remit to:  
 P.O. Box 93308  
 Chicago, IL 60673-3308

End User Shipping Address  
 1092956  
 LAKE MARY FIRE DEPT  
 911 WALLACE CT  
 LAKE MARY, FL 32746

Shipping Address  
 1092956  
 LAKE MARY FIRE DEPT  
 911 WALLACE CT  
 LAKE MARY, FL 32746

Billing Address  
 1063539  
 CITY OF LAKE MARY  
 PO BOX 958445  
 ACCOUNTS PAYABLE  
 LAKE MARY, FL 32795

Customer Contact	Ref Number	Date	PO Number	Reference Field	Quote Type
Chief Berner	3204603	10/01/2013	QUOTE		

Line #	Quantity	Item Description	Part #	Unit Price	Extended Price	Item Comments
1.00	2	PowerLOAD	6390000000	\$21,555.00	\$43,110.00	
		Options				
	2	PowerLOAD	6390000000	\$21,555.00	\$43,110.00	
	2	Standard Comp 6390 Power Load	6390026000			
	2	English Manual	6390800000			
	2	1 year parts, labor & travel	7777881660			
2.00	2	KIT, XPS RETROFIT	6506700004	\$1,850.00	\$3,700.00	
3.00	2	6500/6510 STRLOCK RETROFIT KIT	6500700060	\$610.50	\$1,221.00	
4.00	2	6500 PWRLOAD COMP UPGRADE KIT	6500700049	\$2,178.34	\$4,352.68	
5.00	6	ProCare Upgrade \$300 Charge	77100003	\$300.00	\$1,800.00	

Note:

Product Total	\$54,183.68
Freight	\$0.00
Tax	\$0.00
<b>Total Incl Tax &amp; Freight</b>	<b>\$54,183.68</b>

Signature: \_\_\_\_\_ Title/Position: \_\_\_\_\_ Date: \_\_\_\_\_

**Deal Consummation:** This is a quote and not a commitment. This quote is subject to final credit, pricing, and documentation approval. Legal documentation must be signed before your equipment can be delivered. Documentation will be provided upon completion of our review process and your selection of a payment schedule.  
**Confidentiality Notice:** Recipient will not disclose to any third party the terms of this quote or any other information, including any pricing or discounts, offered to be provided by Stryker to Recipient in connection with this quote, without Stryker's prior written approval, except as may be requested by law or by lawful order of any applicable government agency.  
**Terms:** Net 30 Days, FOB origin. A copy of Stryker Medical's standard terms and conditions can be obtained by calling Stryker Medical's Customer Service at 1-800-STRYKER.  
**Cancellation and Return Policy:** In the event of damaged or defective shipments, please notify Stryker within 30 days and we will remedy the situation. Cancellation of orders must be received 30 days prior to the agreed upon delivery date. If the order is cancelled within the 30 day window, a fee of 25% of the total purchase order price and return shipping charges will apply.

Date: April 29, 2013

Re: Power-LOAD Cot Fastener Sole Source Information

To Whom It May Concern:

Stryker Medical certifies that we are the sole manufacturer of the Stryker EMS Power-LOAD (Model 6390). This correspondence is to inform you of the unique characteristics of the Power-LOAD Cot Fastener. These characteristics can be broken down into two primary categories: Independent Qualification, and Ease of Use.

The Stryker EMS Power-LOAD (Model 6390) cot fastening system is mounted within the patient compartment and is intended to aid in the loading/unloading of patients. The Stryker Power-LOAD is the only powered cot fastening system that meets the following:

#### Independent Qualification

- IPX6: The system is rated to withstand powerful water jets.
- IEC 60601-1 and IEC 60601-1-2: This certification indicates that Power-LOAD conforms to industry standards for mechanical and electrical safety for medical electrical devices, as well as electromagnetic compatibility and immunity.
- BS EN-1789 clause 4.5.9: This is a European dynamic crash test which subjects a 50<sup>th</sup> percentile dummy to a nominal 10g deceleration for a minimum of 50ms. Following the test there shall be no sharp edges or danger to the safety of persons in the road ambulance.

#### Ease of Use

- Device must provide a linear guide when loading and unloading the cot
- Device must allow for remote actuation from Power-PRO foot end controls
- Device must engage to the cot during loading and unloading, providing a means of lifting and lowering
- Device must allow for manual back-up operation in the event of power failure or system error
- Device must have a safe working load of 870 lbs and be capable of lifting patients weighing up to 700lbs.
- Device must be mounted inside the patient compartment to prevent environmental exposure and corrosion
- Device must be power washable
- Device must be capable of inductively charging the Stryker SMRT cot battery

Please contact your Stryker Sales Representative for further information.

Stryker Medical  
3800 E. Centre Ave,  
Portage, MI 49002

<http://ems.stryker.com>

**stryker**<sup>®</sup>

**Medical**

Date: March 16, 2013

Re: Expandable Patient Surface (XPS) Sole Source Information

To Whom It May Concern:

Stryker Medical is the sole manufacturer of the Stryker EMS Expandable Patient Surface (XPS). This correspondence is to provide the unique characteristics of the XPS system. These characteristics can be broken down into two primary categories: Independent Qualification, and Ease of Use.

Independent Qualification

- Power-PRO XT and Power-PRO TL maintain IEC 60601-1 certification.
- Certified to BS EN 1789: 2007 with Power-PRO XT<sup>1</sup>, Performance-PRO XT<sup>1</sup>, and Power-PRO TL.

Ease of Use

- Integrated into cot – Always there
- Increased patient surface area
- 7 locking positions
- Adjustability for patients and environments
- Easily retrofitted to existing compatible cots<sup>2</sup>
- Enhanced safety built into release handle
- Durable aluminum over-mold design
- Mattress design reduces transfer gap
- Enhanced patient comfort

Please contact your Stryker Sales Representative for further information.

<sup>1</sup> Only applicable when used with Power-LOAD.

<sup>2</sup> Compatible with Power-PRO XT (model 6500/6506), Power-PRO TL (model 6550), and Performance-PRO XT (model 6085/6086).

Jason Wender  
Marketing Manager  
EMS

3800 E Centre Ave  
Portage, MI 49002  
t: 269 389 8173 f: 888065109156  
jason.wender@stryker.com

**stryker®**

**Medical**

Date: April 3, 2012

Re: Power-PRO XT Ambulance Cot Sole Source Information

To Whom It May Concern:

Stryker Medical certifies that we are the sole manufacturer of the Stryker EMS Power-PRO XT (Model 6506). This correspondence is to inform you of the unique characteristics of the Power-PRO XT Ambulance Cot. These characteristics can be broken down into two primary categories: Independent Qualification, and Ease of Use and Maintenance.

#### Independent Qualification

- IPX6: The system is rated to withstand powerful water jets.
- IEC 60601-1 and IEC 60601-1-2: This certification indicates that Power-PRO conforms to industry standards for mechanical and electrical safety for medical electrical devices, as well as electromagnetic compatibility and immunity.
- BS EN-1789 clause 4.5.9: This is a European dynamic crash test which subjects a 50<sup>th</sup> percentile dummy to a nominal 10g deceleration for a minimum of 50ms. Following the test there shall be no sharp edges or danger to the safety of persons in the road ambulance.<sup>1</sup>

#### Ease of Use and Maintenance

- The cot has a weight capacity of 700lbs.
- When unloading with the manual release handle, the cot utilizes hydraulic dampening. Thus, the cot will not abruptly jar the operator or the patient.
- The battery is placed at the foot-end of the stretcher.
- The cot legs power-retract in 2.4 seconds which speeds load times.
- The cot provides the highest possible load height of any cot on the market at 36" and is operator-adjustable to match the deck height of individual ambulances.
- The foot-end of the cot provides lifting bars and operator controls at two different heights, thus providing optimum ergonomics to most operator heights.
- The foot-end of the cot contains a large battery indicator light which displays amber or green which indicates battery level. A warning is given by a flashing amber light, providing the operator the time to change the battery before full depletion of power.
- The Model 6506 has 6" x 2" sealed bearing casters – the largest in the industry.

<sup>1</sup> Only conforms when used with Power-LOAD (model 6390).

- The cot features a foot-end-mounted hourly usage meter. This is an easy tool to determine the timing of preventative maintenance checks.
- The cot features powder-coating of the entire aluminum frame (including the patient handling surfaces), thus eliminating aluminum oxidation throughout the cot.
- All caster bearings are sealed, eliminating timely and costly lubrication.
- The cot is power-washable.

Please forward any further questions to your Stryker sales representative.

Sincerely,

Jason Wender  
Marketing Manager – Stryker Medical



## **CITY MANAGER'S REPORT**

DATE: November 7, 2013  
TO: City Commission  
FROM: Bruce Paster, P.E., Director of Public Works  
SUBJECT: Water Treatment Plant Degasifier Packing Replacement

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**DISCUSSION:** In 2001, the City installed three packed tower degasifying vessels (air strippers) at the water treatment plant to treat well water affected by contamination found at the Siemens property on Rinehart Road. In 2005, the City entered into a Settlement Agreement with Siemens and Marconi Holdings to pay for the construction and operating costs of the air stripper treatment system.

The plastic media, also known as packing, inside each air stripper are cleaned periodically with an acid wash. Over time washing becomes less effective and eventually the packing needs to be replaced. Air stripper unit #1 has reached this point and we are requesting that the original packing be replaced at a cost of \$71,233.00. We plan on replacing the packing in air stripper units #2 and #3 in the following two years respectively.

The project is budgeted in the Water and Sewer Fund in the amount of \$75,000.

**RECOMMENDATION:** City Commission authorizes the City Manager to execute a purchase order with Jacobs Air Water Systems (sole source vendor for the treatment system manufacturer) for the replacement of the packing in air stripper unit #1 in an amount not to exceed \$71,233.00.



# Duall Division

*Air & Water Quality Control Systems*

February 1, 2012

Janet Appel  
235 Rienhart RO  
Lake Mary, FL

Dear Ms. Appel

I am writing this letter to inform the necessary persons that TSC-Jacobs, Inc. of Tampa, FL is the exclusive representative in the state of Florida for Met-Pro Corporation/Duall Division municipal market products. They are the sole source in the state of Florida for all products designed and manufactured by Met-Pro Corporation/Duall Division for the municipal market. The product line includes Duall corrosion resistant fans and Duall air quality control and water treatment systems.

This exclusivity applies to all new equipment sales as well as start-up, testing, maintenance, and upgrade services provided by Jacobs Air Water Systems (JAWS), a sister company to TSC-Jacobs. The companies can be reached at the following addresses:

TSC-Jacobs, Inc.  
11021 Countryway Blvd.  
Tampa, FL 33626  
813-888-5556

Jacobs Air Water Systems  
11023 Countryway Blvd.  
Tampa, FL 33626  
813-854-2354

We look forward to a continued relationship and service. Should you have questions or need additional information, please do not hesitate to contact me.

Respectfully,

Met-Pro Corporation, Duall Division

Dan Ching  
Project Manager



# Jacobs Air Water Systems

11023 Countryway Blvd. Tampa, FL 33626  
 (P) 813-854-2354 (F) 813-854-2487  
 Email: Sales@JacobsAirWater.com

## QUOTE

Date	Quote No.
10/14/2013	6458
Terms	Rep
Net 30	02-PW

**Customer:** Lake Mary, City of  
 Attn: Janet Appel  
 PO Box 958445  
 Lake Mary, FL 32795-8445

Contact	Janet Appel	Phone	407.333.8209
E-mail	JlAppel@lakemaryfl.com	Fax	407.585.1455

*Customer is responsible for checking all information in detail to insure correct items are being quoted.  
 Shipping and Handling charges are not included in price quotation, unless noted.  
 Prices are valid for thirty (30) days only.*

*A Tax Exempt Certificate must accompany your purchase order if applicable, otherwise, taxes will be charged and charges will not be reversed.*

Qty	Description	Availability	Unit Price	Total
2,000	2" JaegerTri Pack, Main Bed	2-4 weeks	23.50	47,000.00T
118	2" JaegerTri Pack, Mist Eliminator	2-4 weeks	23.50	2,773.00T
1	Estimated Freight		3,500.00	3,500.00
	Sales Tax		0.00%	0.00

**Total** \$53,273.00

*Prices quoted are based on our current material cost. Manufacturer reserves the right to change the prices during the validity of this quotation if the metal surcharge costs rise appreciably.*

*If an order should emanate from this quotation, the Purchase Order should be issued to:* Jacobs Air Water Systems  
 11023 Countryway Blvd.  
 Tampa, FL 33626

*If a credit card is used please provide the following information:*

Name on credit card: \_\_\_\_\_  
 Type of credit card: \_\_\_\_\_  
 Credit card number: \_\_\_\_\_  
 Credit card expiration date: \_\_\_\_\_  
 Tax Exempt No: \_\_\_\_\_

*Additional information required:* "Bill To" Address: \_\_\_\_\_  
 "Ship To" Address: \_\_\_\_\_

*Thank you for your inquiry; it has been a pleasure working with you. If I can be of further assistance, please do not hesitate to call.*



# Jacobs

## Air Water Systems

11023 Countryway Blvd. Tampa, FL 33626  
 (P) 813-854-2354 (F) 813-854-2487  
 Email: Sales@JacobsAirWater.com

# QUOTE

Date	Quote No.
10/14/2013	6459
Terms	Rep
Net 30	02-PW

**Customer:** Lake Mary, City of  
 Attn: Janet Appel  
 PO Box 958445  
 Lake Mary, FL 32795-8445

<b>Contact:</b>	Janet Appel	<b>Phone:</b>	407.333.8209
<b>E-mail:</b>	JlAppel@lakemaryfl.com	<b>Fax:</b>	407.585.1455

*Customer is responsible for checking all information in detail to insure correct items are being quoted.  
 Shipping and Handling charges are not included in price quotation, unless noted.*

*Prices are valid for thirty (30) days only.*

*A Tax Exempt Certificate must accompany your purchase order if applicable, otherwise, taxes will be charged and charges will not be reversed.*

Qty	Description	Availability	Unit Price	Total
1	LABOR ONLY - 1 Degasifier Vessel Remove and dispose the existing packing. Pressure wash the vessel interior Installation of new packing		17,960.00	17,960.00T
	Sales Tax		0.00%	0.00

**Total** \$17,960.00

*Prices quoted are based on our current material cost. Manufacturer reserves the right to change the prices during the validity of this quotation if the metal surcharge costs rise appreciably.*

*If an order should emanate from this quotation, the Purchase Order should be issued to:* Jacobs Air Water Systems  
 11023 Countryway Blvd.  
 Tampa, FL 33626

*If a credit card is used please provide the following information:* Name on credit card:

Type of credit card:

Credit card number:

Credit card expiration date:

Tax Exempt No:

*Additional information required:* "Bill To" Address:

"Ship To" Address:

*Thank you for your inquiry; it has been a pleasure working with you. If I can be of further assistance, please do not hesitate to call.*



## **CITY MANAGER'S REPORT**

DATE: November 7, 2013  
TO: City Commission  
FROM: Bruce Paster, P.E., Director of Public Works  
SUBJECT: Elevated Water Storage Tank Painting

---

**DISCUSSION:** The City's 500,000 gallon elevated steel water storage tank was completed in 2002. As required by FDEP and in order to preserve the integrity of the tank periodic cleaning and inspection are required. The last inspection was performed by Underwater Solutions Inc. in February 2012. It was recommended to re-coat the entire exterior of the tank in the near future to preserve the integrity of the steel. It was also recommended to re-coat the interior of the tank to halt corrosion and to prevent fatigue of the steel.

The City of Lake Mary advertised for bids for Elevated Storage Tank Rehabilitation as specified by our engineering consultant, Hoyle Tanner & Associates per BID 13-10. On October 9, 2013 we received submittals from the following eight firms:

Caldwell Tanks	TMI Coatings
Classic Protective Coatings	Tank Pro
Razorback	Utility Service Co.
Spensieri Diversified, LLC	Worth Contracting

The most responsive bid (see attached bid summary) was received from Spensieri Diversified, LLC with a base bid of \$219,741. Hoyle Tanner checked references provided and all were positive. The budgeted amount for this project is \$280,000. The work includes a fifteen year warranty.

**RECOMMENDATION:** Commission authorize the City Manager to enter into an agreement with Spensieri Diversified, LLC in an amount not to exceed \$219,741 for the rehabilitation of the elevated storage tank.



## CITY OF LAKE MARY, FLORIDA

### ELEVATED STORAGE TANK REHABILITATION, ITB #13-10

Bids were opened at approximately 2:02 PM on Wednesday, October 9, 2013 Jill J. Alvarez, Purchasing Coordinator and Bruce Paster, Public Works Director.

	Vendor Name	Total Base Bid Amount
1	Caldwell Tanks, Inc	\$ 283,690.00
2	Utility Service Co, Inc	\$ 236,300.00
3	Tank Pro, Inc	\$ 227,453.00
4	TMI Coatings, Inc	\$ 308,900.00
5	Spensieri Diversified, LLC	\$ 219,741.00
6	Razorback, LLC	\$ 229,000.00
7	Worth Contracting, Inc	\$ 243,000.00
8	Classic Protective Coatings, Inc	\$ 271,950.00

Bids will be evaluated for responsiveness and a recommendation will be made to the City Commission upon completion of said evaluation.



## **CITY MANAGER'S REPORT**

DATE: November 7, 2013

TO: City Commission

FROM: John Omana, Community Development Director  
Kathy Gehr, Assistant Director of Parks and Recreation

SUBJECT: Heritage Park Development & Palmetto and Greenleaf Road Improvements

---

### **Heritage Park**

Heritage Park construction documents are at 100% and are bid ready. The construction portion of the project has been split into two phases. Phase One is to be completed in FY 2013-14 and Phase Two is to be completed in FY 2014-15. Phase One consists of clearing/demolition, site work/utilities, landscaping/irrigation, paving/walkways, interpretive signs and electrical. Phase One is proposed to be bid in a package with Palmetto and Greenleaf Road improvements project. Public Works and Community Development have under design in the area to get volume pricing. Construction costs for Heritage Park Phase One are estimated at \$185,000. The FY 2013-14 budget for construction has been approved for \$220,000. (See attached exhibits from CPH, Inc.)

### **Palmetto and Greenleaf Road Improvements**

In conjunction with the Heritage Park project, the abutting roadway at Palmetto and Greenleaf will be improved with an at grade intersection modification in the form of a circle to aid in vehicular and pedestrian circulation (see attached exhibits from CPH, Inc.). These construction documents are at 100% and are bid ready as well and include stormwater drainage; force main extension and landscaping. It is planned to merge this project with Phase I of the park for bidding, so as to take advantage of economies of scale. Construction costs for these improvements are estimated at \$140,000. The FY 2013-14 budget for construction has been approved for \$150,000.

**Recommendation**

Staff recommends the Mayor and City Commission approve final plans for Palmetto and Greenleaf Road Improvements and Heritage Park projects and authorize the City Manager to proceed with the bid process for construction of Palmetto and Greenleaf Road Improvements and Heritage Park Phase One projects simultaneously.

**Preliminary Opinion of Probable Construction Cost  
CPH, Inc.**

**Project Name** Heritage Park Phase 1 OPC  
**Date** 29-Oct-13

Item	Number	Unit	Unit Cost	Total Price	Notes
<b>GENERAL CONDITIONS</b>					
	1	LS	\$16,846.00	\$16,846.00	
					\$16,846.00
<b>EROSION CONTROL</b>					
Silt Fence Perimeter	620	LF	\$1.25	\$775.00	
					\$775.00
<b>CLEARING/DEMOLITION</b>					
Clearing	1	LS	\$1,500.00	\$1,500.00	
Tree Protection	1	LS	\$1,000.00	\$1,000.00	
Fence Removal	12	LF	\$10.00	\$120.00	
Strip Grass	3000	SY	\$1.00	\$3,000.00	
					\$5,620.00
<b>SITE WORK/UTILITIES</b>					
Pipe	125	LF	\$20.00	\$2,500.00	
Yard Inlets	5	EA	\$1,000.00	\$5,000.00	
Type 'C' Inlet	1	EA	\$2,500.00	\$2,500.00	
18" RCP	20	LF	\$36.00	\$720.00	
Site Grading	1	LS	\$8,000.00	\$8,000.00	
Backflow assembly	1	LS	\$1,500.00	\$1,500.00	
2" PE waterline	210	LF	\$8.00	\$1,680.00	
Wet Tap	1	LS	\$1,500.00	\$1,500.00	
Open Cut Roadway	1	LS	\$3,000.00	\$3,000.00	
					\$26,400.00
<b>SITE AMENITIES</b>					
Bench	4	EA	\$2,500.00	\$10,000.00	
Trash Can	3	EA	\$1,500.00	\$4,500.00	
Drinking Fountain	1	LS	\$4,000.00	\$4,000.00	
4' Decorative Fencing	280	LF	\$35.00	\$9,800.00	
Signage-Entry	1	EA	\$4,000.00	\$4,000.00	
Signage-Interior	7	EA	\$1,500.00	\$10,500.00	
					\$42,800.00
<b>LANDSCAPING/IRRIGATION</b>					
Sod	7500	SF	\$0.25	\$1,875.00	
Trees, Shrubs and Groundcover	1	LS	\$20,000.00	\$20,000.00	
Irrigation	1	LS	\$500.00	\$500.00	Using Intersection Timer/Controller
					\$22,375.00
<b>Paving/Walkways</b>					
4" Thick Concrete	240	SF	\$9.00	\$2,160.00	
Flexi-Pav Walkway	1610	SF	\$10.00	\$16,100.00	Colored Concrete Panels
Brick Paver Walkway	1949	SF	\$10.00	\$19,490.00	
12" Ribbon Curb	716	LF	\$15.00	\$10,740.00	
					\$48,490.00
<b>ELECTRICAL</b>					
Lighted Bollards	6	EA	\$2,000.00	\$12,000.00	
Service	1	EA	\$10,000.00	\$10,000.00	
					\$22,000.00
<b>SUBTOTAL</b>					<b>\$185,306.00</b>
<b>+40% Contingency</b>					<b>\$74,122.40</b>
<b>+10% O&amp;M</b>					<b>\$18,530.60</b>
<b>Construction TOTAL</b>					<b>\$277,959.00</b>

Preliminary Opinion of Probable Construction Cost  
CPH, Inc.

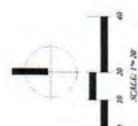
Project Name Palmetto and Greenleaf Intersection Improvements  
Date 7-Oct-13

Item	Number	Unit	Unit Cost	Total Price	Notes
<b>GENERAL CONDITIONS</b>					
	1	LS	\$12,755.00	\$12,755.00	
					\$12,755.00
<b>EROSION CONTROL</b>					
Silt Fence Perimeter	600	LF	\$1.25	\$750.00	
					\$750.00
<b>CLEARING/DEMOLITION</b>					
Strip Grass	1100	SY	\$1.00	\$1,100.00	
Driveway Removal	1	LS	\$1,500.00	\$1,500.00	
Remove Pavement (Full Depth)	900	SY	\$5.00	\$4,500.00	
					\$7,100.00
<b>SITE WORK/UTILITIES</b>					
18" RCP	160	LF	\$36.00	\$5,760.00	
Manhole	1	EA	\$3,500.00	\$3,500.00	
Type 'C' Inlet	1	EA	\$2,500.00	\$2,500.00	
Type 'D' Inlet	1	EA	\$3,000.00	\$3,000.00	
Site Grading	1	LS	\$5,000.00	\$5,000.00	
Concrete Curb Type 'F'	400	LF	\$16.00	\$6,400.00	
Concrete Ribbon Curb 6"	240	LF	\$12.00	\$2,880.00	
Sidewalk	890	SF	\$4.00	\$3,560.00	
Brick Pavers	2200	SF	\$10.00	\$22,000.00	
Concrete Pavement	320	SY	\$60.00	\$19,200.00	
Asphalt, Base, Stabilized	800	SY	\$26.00	\$20,800.00	
Concrete Driveway Apron	1	EA	\$1,500.00	\$1,500.00	
					\$96,100.00
<b>LANDSCAPING</b>					
Irrigation	1	LS	\$4,000.00	\$4,000.00	
Trees, Shrubs, Groundcover	1	LS	\$15,000.00	\$15,000.00	
Sod	4000	SF	\$0.25	\$1,000.00	
					\$20,000.00
<b>Utility</b>					
Force Main Extension	180	LF	\$20.00	\$3,600.00	
					\$3,600.00
<b>GRAND TOTAL</b>				<b>\$140,305.00</b>	
-10% Contingency				\$14,030.50	
-10% CEI				\$14,030.50	
<b>Construction TOTAL</b>				<b>\$168,366.00</b>	



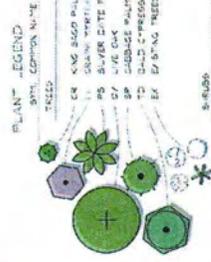


- PLAN LEGEND**
- BY COMMON NAME
- TREES
- 01 KING BIRD PALM
  - 02 ORANGE TREE
  - 03 BUREN WHITE PALM
  - 04 LIVE OAK
  - 05 SAGE PALM
  - 06 BALD CYPRESS
  - 07 SPYRING TREES
- SHRUBS
- 10 SWEET / BURNING
- GROUNDCOVER
- 11 SANDY PALM
  - 12 BLUEBERRY PLANT
  - 13 AMERICAN NIS
  - 14 OAK BARK
  - 15 SPYRING
  - 16 SHARP BURDED HULL
  - 17 ORANGE BURNING
  - 18 MARY GRASS
  - 19 PLUMBAGO
  - 20 PINEAPPLE
  - 21 RED KNOX
  - 22 SAND CROISSANT
  - 23 SAND PALM
  - 24 FLOUNDER
  - 25 COONITE



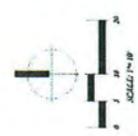
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 Miami  
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 West Palm Beach  
 Ft. Myers  
 Naples  
 Sarasota  
 Venice  
 Clearwater  
 Dunedin  
 St. Petersburg  
 Lakeland  
 Gainesville  
 Ocala  
 Leesville  
 Marianna  
 Panama City

*Heritage Park Exhibit*



**SPONGEFOAM**

18	BRANDY HILL
27	BURBERRY PALM LILY
37	SPRING BELL
42	SPRING BELL
43	SPRING BELL
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**eph**  
 Environmental Planning & Design  
 10000 E. 1st Avenue, Suite 100  
 Denver, CO 80231  
 Phone: 303.733.1111  
 Fax: 303.733.1112  
 Website: www.eph-denver.com

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 LANDSCAPE ARCHITECT  
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 DATE  
 DRAWN BY  
 CHECKED BY  
 APPROVED BY

*Heritage Park*

