

1 MINUTES OF THE LAKE MARY CITY COMMISSION MEETING held February 5,
2 2015, 7:00 P.M., Lake Mary City Commission Chambers, 100 North Country Club Road,
3 Lake Mary, Florida.

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1. Call to Order

The meeting was called to order by Mayor David Mealor at 7:05 P.M.

2. Moment of Silence

3. Pledge of Allegiance

The pledge of allegiance was led by Boy Scout Troop No. 854 of Holy Cross Lutheran Church.

4. Roll Call

- | | |
|-------------------------------|---|
| Mayor David Mealor | Jackie Sova, City Manager |
| Commissioner Gary Brender | Dianne Holloway, Finance Director |
| Deputy Mayor George Duryea | John Omana, Community Development Dir. |
| Commissioner Sidney Miller | Gary Schindler, City Planner |
| Commissioner Jo Ann Lucarelli | Bruce Paster, Public Works Director |
| | Bryan Nipe, Parks & Recreation Director |
| | Tom Tomerlin, Economic Development Mgr. |
| | Wanda Broadway, Human Resources Mgr. |
| | Steve Bracknell, Police Chief |
| | Frank Cornier, Fire Chief |
| | Katie Reischmann, City Attorney |
| | Mary Campbell, Deputy City Clerk |

5. Approval of Minutes: January 15, 2015

Motion was made by Commissioner Brender to approve the minutes of the January 15, 2015, meeting, seconded by Commissioner Lucarelli and motion carried unanimously.

6. Special Presentations

There were no special presentations at this time.

7. Citizen Participation

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

8. Unfinished Business

1
2 There was no unfinished business to discuss at this time.

3
4 9. New Business

5
6 A. Variance from §160.07, Resource Protection Standards/City Code of
7 Ordinances, 112 Channel Drive; Christ Van Buskirk, applicant (Public
8 Hearing) (Gary Schindler, City Planner)
9

10 Mr. Schindler said this is a request for a variance from Chapter 160 which deals with the
11 environmental protection areas. It is a request for a variance of 55 feet from the
12 minimum 75-foot setback. This is a quasi-judicial issue and as such we take any and all
13 people to comment on this.
14

15 Mr. Schindler said the location is north of the Downtown and west of Country Club
16 Road. There are criteria by which staff must judge the request for the variance. This
17 home has a cement pad in the rear of the house and the lots along Channel Drive back
18 up to the connector between East Crystal Lake and West Crystal Lake. Most of the
19 time that is dry but it is still environmentally sensitive and requires the Commission to
20 review and take action upon the request.
21

22 Mr. Schindler said in the past you have had two other properties along Channel Drive
23 that have requested variances: 116 and 120 Channel Drive, the two properties
24 immediately to the west of this property. Rather than have existing development such
25 as the existing concrete pad, they have asked for new construction to build swimming
26 pools and in the past you have granted those variances. There is a precedent for taking
27 this action.
28

29 Mr. Schindler showed the lot on the graphic. What is required is you find whichever line
30 is most landward—the 100-year flood line or the wetlands. In developed lots we found
31 that the wetlands generally are a very narrow line adjacent to the water. He pointed out
32 the 100-year flood line and is the one most landward. Code says there is a 25-foot
33 environmental buffer and then a 75-foot building setback. This property was developed
34 before the City adopted these regulations. The 75-foot setback runs through the middle
35 of the house. Had these regulations been in place when the subdivision was being
36 proposed it may not have been developable, but that is not the case. We had the
37 subdivision in place and then we adopted the regulations.
38

39 Mr. Schindler said there are six criteria we have to address and we have answered
40 affirmatively in each of the criteria. The seventh criteria is that staff finds that the
41 applicant has met all of the criteria as stated to grant a variance of 55-feet from the
42 minimum 75-foot setback.
43

44 Mr. Schindler said on January 13, 2015, the Planning & Zoning Board voted
45 unanimously to recommend approval.
46

1 Deputy Mayor Duryea said the two houses to the west have been granted the same
2 variance. He asked in either of those cases did we require some sort of hold harmless
3 agreement or some sort of agreement to indemnify the City against any encroachment
4 of water.

5
6 Mr. Schindler said he didn't believe so because the 100-year floodplain is still a good
7 distance from the structure. What we have now is a concrete slab and they intend to
8 put a roof and screen sides on it. It's probably at or close to grade now. It's a good bit
9 away from the 100-year floodplain. If we were to get a 500-year storm it would be a
10 different story. If we got a 500-year storm all the homes there could be in trouble.

11
12 Mr. Omana said those types of agreements were more common in the areas that were
13 encumbered by the Soldiers Creek Basin and variances associated with those.

14
15 Commissioner Brender said on the graphic showing the floodplain, he asked if the black
16 area directly connected to the house is where the pad is.

17
18 Mr. Schindler answered negatively. It does not encroach into the environmental buffer.
19 There are 25 feet between the edge of the pad and the environmental buffer so there is
20 still a good separation. There is at least 50 feet from the 100-year flood line.

21
22 Mayor Mealor asked if anyone wanted to speak in reference to this request. No one
23 came forward and the public hearing was closed.

24
25 **Motion was made by Commissioner Lucarelli to approve the variance to include**
26 **the seven findings of fact from staff, seconded by Commissioner Miller and**
27 **motion carried by roll-call vote: Commissioner Brender, Yes; Deputy Mayor**
28 **Duryea, Yes; Commissioner Miller, Yes; Commissioner Lucarelli, Yes; Mayor**
29 **Mealor, Yes.**

30
31 B. Ordinance No. 1523 – Amending, moving and repealing portions of Chapter
32 91: Health and Public Safety, Sections 91.30 through 91.60 Solid Waste
33 Collection – First Reading (Public Hearing) (Dianne Holloway, Finance
34 Director)

35
36 The City Attorney read Ordinance No. 1523 by title only on first reading.

37
38 Ms. Holloway said as we move closer to the effective date of the franchise agreement
39 with Waste Pro we adopted on November 6th that becomes effective March 1st, we find
40 it necessary to amend the solid waste ordinance that regulates our solid waste
41 collection.

42
43 Ms. Holloway said she reviewed the ordinance similar to the utility ordinance. We had
44 to take away all the stuff that doesn't apply any more and put the new stuff in. We
45 made the franchise agreement the governing document so we could eliminate conflicts
46 that were in the current ordinance. We got rid of the sections that don't apply, we

1 updated the data, and we did definitions. Because the garbage is billed on the utility
2 bill, when we amended the utility ordinance what I did was align the same
3 circumstances that apply—due dates, deposits—everything we amended on Ordinance
4 No. 1513 that governs the utility bill. We made everything consistent. We are looking to
5 that section of the utility code to make everything on the same playing field in terms of
6 the billing.

7
8 Ms. Holloway said the additional item we did was because the franchise agreement is
9 subject to renewal options, terms, provisions to adjust rates, we are asking to make any
10 rate modifications by resolution as we did with the utility ordinance.

11
12 Mayor Mealor asked if anyone wanted to speak in reference to Ordinance No. 1523. No
13 one came forward and the public hearing was closed.

14
15 **Motion was made by Commissioner Brender to approve Ordinance No. 1523 on**
16 **first reading, seconded by Commissioner Lucarelli and motion carried by roll-call**
17 **vote: Deputy Mayor Duryea, Yes; Commissioner Miller, Yes; Commissioner**
18 **Lucarelli, Yes; Commissioner Brender, Yes; Mayor Mealor, Yes.**

19
20 10. Other Items for Commission Action

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

23
24 11. City Manager's Report

25
26 A. Items for Approval

27 1. Surplus item – Wallace Court AC Unit

28
29 Ms. Sova said she had one item for surplus and that is an air conditioning unit from
30 Wallace Court. We replaced it but we kept the old unit so we can sell it for the scrap
31 value and we need to declare that unit surplus.

32
33 **Motion was made by Commissioner Lucarelli to declare the air conditioning unit**
34 **at Wallace Court surplus and authorize the City Manager to dispose of, seconded**
35 **by Commissioner Duryea and motion carried unanimously.**

36
37 Ms. Sova welcomed Fire Chief Frank Cornier who was sworn in on Monday. We had a
38 nice celebration Monday morning welcoming him.

39
40 Ms. Sova said the Shred-A-Thon last weekend was a success. The vehicle count was
41 929; 48,000 pounds of material shredded; and donations of \$9,800. Those donations
42 are used to operate the Senior Center. She thanked all the volunteers that came out.

43
44 Ms. Sova said Lake Mary Celebrates is scheduled for March 7th in Central Park from
45 10:00 A.M. to 3:00 P.M. with artists, artisans, kids' games, crafts, activities and
46 entertainment. It is a free event and there will be food available for purchase.

1
2 Ms. Sova said Verizon is holding a free e-waste recycling rally on February 19th from
3 7:30 A.M. to 2:00 P.M. at 899 Heathrow Park Lane where residents and the entire
4 community can dispose of their unwanted electronics and electrics for free. They are
5 looking for people to donate laptop computers, desk top computers, televisions,
6 computer games, old phones, alarm clocks, cameras, remote controls. All electric
7 equipment they are willing to take at that site. This will be their first one. They have
8 done this at their other headquarters locations. They have opened this up to the entire
9 community.

10
11 Mayor Mealor asked if that was something they could put on our website.

12
13 Ms. Sova said it is on the website and we will be running it on our Facebook page.

14
15 Ms. Sova said the Strategic Planning Session is scheduled for February 26th at 2:00
16 P.M. in the chambers.

17
18 12. Mayor and Commissioners' Reports (4)

19
20 Commissioner Lucarelli said Leadership Seminole Class 24 had a fundraiser at one of
21 the airport hangars for the Boys and Girls Club and it was fun time. Numbers are still
22 coming in but it looks like they raised \$25,000.

23
24 Commissioner Lucarelli said the Lake Mary/Heathrow Arts Festival was moved to
25 November 14th and 15th. We felt like it conflicted with less goings on around town. We
26 are making some other changes to try to make it a better venue and draw more people.

27
28 Commissioner Brender said CALNO met last night at the City of Casselberry. They
29 introduced us to their neighborhood grant program. Theirs is more extensive. They
30 have a \$50,000 budget set up but have added the additional program where they can
31 make improvements to individual homes, replacing roofs or something like that. He
32 questioned the City Attorney how city money gets put into private property. They say
33 they have that figured out because it is some kind of matching program.

34
35 Commissioner Brender said the City of Lake Mary would be hosting CALNO next month
36 on March 4th. The request was brought up from the City of Sanford that we try to meet
37 at the Events Center but the Events Center is booked. Half the reason they wanted to
38 meet there was because it is so successful they wanted to make sure everybody had
39 seen it and get some background on how well it is doing, how much it costs and that
40 sort of thing. County Commissioner Constantine had requested Tom Tomerlin give an
41 update on economic development not only within the City of Lake Mary but other areas
42 that he may have privy information to. He said he was trying to put together a program
43 where we will meet here and take advantage of WineART Wednesday and the food
44 trucks. He said Mr. Nipe hopefully can help us out with an update on the Events Center
45 and Mr. Tomerlin with an update on economic development.

1 Deputy Mayor Duryea said he would like to make a comment for the benefit of the
2 gentlemen in the audience. Undoubtedly each of you have seen the display the
3 employees put on here at City Hall during the holiday season. That is one of the things
4 that they take very much pride in because it adds to the quality of life in the City. He
5 said he would be really disappointed if we didn't do that. That's what makes the City
6 great—its employees, staff and people that live in it.

7
8 Commissioner Miller said the Municipal Advisory Committee met this morning and there
9 was some moderately stressful news about SunRail. The extensions of SunRail from
10 Debarry to Deland and also the southern extension are in the president's budget but they
11 are in there under a category called "not rated". Harry Barley presented this to us and
12 there is plenty of money in that category but a not rated category is something new and
13 we have no idea what they mean by that so there is a question now as to whether the
14 federal government's 50% support of the completion of SunRail's next two legs is really
15 there or not. All of our members of the legislature are fully aware of this and are
16 supporting us to try to make it happen.

17
18 Commissioner Miller said he recently suffered a personal loss and thanked everyone for
19 their support.

20
21 Mayor Meador said that was a very difficult time for us. When Commissioner Miller's
22 wife Martha passed away, the testament to her influence on this community is you could
23 not get into the church for the reception, you couldn't get into the church for the service
24 because there were so many people there. He said Commissioner Miller and his wife's
25 involvement in the community, her work with the Chamber, their fingerprints are on so
26 many of the positive things throughout this community and for that we will remain
27 forever grateful.

28
29 Mayor Meador welcomed Troop 854. This is merit badge evening for them and is also
30 part of an Eagle Scout activity. Any scout group is welcome to come here. Any
31 member of the Commission or staff will gladly work with them. We have representatives
32 from scouting, we have representatives from Valencia College, Seminole State College,
33 and University of Central Florida as well as our high school students. If at any time you
34 may be working on a project and we may be helpful just know that we stand ready.

35
36 Mayor Meador thanked the representatives of the Forest community for taking time to be
37 with us this evening.

38
39 Mayor Meador said scouting is celebrating their 105th anniversary. His wife's
40 grandfather, a Lake Mary resident, was in Troop 1 out of Jacksonville, Florida, in the
41 year 1910. There is a legacy in this community of scouting. He wished them continued
42 success and thanked them for taking the time to be with us this evening. After the
43 meeting we will pose for a photo with them.

44
45 13. City Attorney
46

1 Ms. Reischmann said she wanted to bring up one case out of South Florida. There is a
2 case where they talked about ex parte disclosures and the court found that the
3 commission had not given enough detail in their disclosures. They said there wasn't
4 enough substantive detail for the different parties to get any information. From now on
5 that is something that might be on the radar.

6
7 Mayor Meador said ex parte is a Latin term and asked the City Attorney to say what ex
8 parte means.

9
10 Ms. Reischmann said ex parte means outside of the meeting or courtroom. If you are
11 talking to people about a matter that's going to come before the City outside of this
12 room then the other parties don't know what is being said. You are supposed to come
13 here and say what you talked about elsewhere so when it is heard here in front of the
14 City Commission then everybody knows what everybody else has heard.

15
16 Commissioner Lucarelli said when they say not enough detail, give me an example. If I
17 said I met with John Parker regarding this issue, she asked if she had to go into detail
18 about what they discussed.

19
20 Ms. Reischmann answered affirmatively. That is exactly what the commissioners in this
21 case did was they said I met with John Smith last week. The court made the point that
22 that didn't really give anything to go on. They needed at least some kind of substance.

23
24 Commissioner Brender said this is the kind of thing we get from the courts in
25 Tallahassee. If I say I met with Mr. Parker and discussed this item would that suffice or
26 am I recording it on my phone and going through some long process of telling
27 everybody exactly what was said. This could get carried away quickly. Most of you
28 heard what the Mayor has to say before we have public participation. That little speech
29 he gave is a requirement now. It's not plain enough if you've got something to say you
30 come up to the microphone and say it, we have to explain it. Knowing how the courts
31 work and knowing how Florida works, how carried away is this thing going to get.

32
33 Ms. Reischmann said this was the first time she had ever seen a decision like this
34 where they drill down into what the commission said. She didn't know if it was
35 becoming a trend or if it's just one time. It would seem to her that they needed to say a
36 little more than I spoke with Mr. Parker about the site plan. She would not suggest that
37 you record or try to give a lot of information. She would just say I spoke to Mr. Parker
38 about the site plan and discussed setbacks. The best idea is to say that you can't
39 speak to anyone about a matter that is coming before you. That is very difficult because
40 those are your constituents.

41
42 Commissioner Miller said if we are working a project with a staff member and we spend
43 an hour or so talking with them about where the project is, what the issues are, he
44 asked if it was necessary to divulge that at a commission meeting.

1 Ms. Reischmann said so far the courts have not held that that's an ex parte
2 communication.

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4 14. Adjournment

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6 There being no further business, the meeting adjourned at 7:35 P.M.

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10 _____
11 David J. Meador, Mayor

Mary Campbell, Deputy City Clerk

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15 ATTEST:

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19 _____
20 Carol A. Foster, City Clerk