

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  
21

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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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.  
44

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.  
45

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

3  
4 Mayor Meador 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 Meador 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 Meador 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 Meador 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.

44

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 Mealor 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 Mealor 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 Mealor 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 Mealor 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 David J. Mealor, Mayor

\_\_\_\_\_

Mary Campbell, Deputy City Clerk

20  
21  
22  
23 ATTEST:

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