

**MINUTES OF THE REGULAR MEETING
OF THE LADY LAKE TOWN COMMISSION
LADY LAKE, FLORIDA
February 1, 2010**

The Regular Meeting of the Lady Lake Town Commission was held in the Town Hall Commission Chambers, 409 Fennell Blvd., Lady Lake, Florida with Mayor James Richards presiding. The meeting convened at 6:00 p.m.

- A. **CALL TO ORDER:** James Richards, Mayor/Commissioner
- B. **INVOCATION:** Dr. Paul Harsh, First Baptist Church of Lady Lake
- C. **PLEDGE OF ALLEGIANCE:** James Richards, Mayor/Commissioner
- D. **ROLL CALL:** Tony Holden, Commissioner Ward 2
Paul Hannan, Commissioner Ward 4
Ruth Kussard, Commissioner Ward 1
James Richards, Mayor/Commissioner Ward 5

ABSENT: Ty Miller, Commissioner Ward 3

STAFF MEMBERS PRESENT: Kris Kollgaard, Interim Town Manager/Town Clerk; Derek Schroth, Town Attorney; Chief Ed Nathanson, Police Department; Cindy Diemer, Senior Code Enforcement Officer; C.T. Eagle, Public Works Director; Butch Goodman, Utilities Supervisor; Mike Burske, Parks & Recreation Director; Wendy Then, Growth Management Technician; and Jayne York, Staff Assistant to Town Clerk

E. **CONSENT:**

1. **Minutes**

Special Meeting – January 8, 2010 (on file in the Town Clerk’s office)

2. **Consideration for the Historical Society to Host Their Annual Yard Sale on March 6, 2010 (Mike Burske)**

The background summary for this agenda item is on file in the Town Clerk's office. It states that the Lady Lake Historical Society is seeking permission to host a rummage sale in front of the museum. The Historical Society will rent tables to vendors and will also sell donated items. The anticipated date for this sale will be on March 6, 2010 from 8:00 a.m. – 2:00 p.m. with set-up beginning around 6:00 a.m. The Parks & Recreation Director will be at the event to help set up and take down the tables and chairs and may be assisted by another Parks & Recreation Staff Member.

2a. Consideration of Scope of Services Agreement from Progressive Inspections, Inc. for Inspection Services and Threshold Engineering Services for the New Town Library

The background summary for this agenda item is on file in the Town Clerk's office. It states that at the January 8th Special Commission meeting, the Lady Lake Town Commission approved utilizing the services of Progressive Inspections Inc. to provide a full-time fully-licensed Building Inspector for a fee not-to-exceed \$137,000 and a licensed Threshold Inspector for a fee not-to-exceed \$20,000.

Commissioner Kussard asked that Consent Item #2a be pulled for discussion.

Upon a motion by Commissioner Holden and seconded by Commissioner Kussard, the Commission approved Consent Items #E-1 and #E-2, by a vote of 4 to 0.

Commissioner Kussard stated that the approximate timeframe for the Library project is 14 months but the Inspection Services are going to be invoiced in 12 equal monthly installments. She suggested changing that to 14 monthly installments for the Building Inspector as opposed to 12 months but leaving the Threshold Engineer at 10 months.

Mayor Richards asked when the construction was to begin.

Ms. Nesbitt stated that the day the permit is pulled will be the official start date of the project.

Kris Kollgaard, Interim Town Clerk, stated that they have gotten their NOC and their bond which still needs to be recorded.

Commissioner Kussard stated that, according to the construction bids, the project would be completed in 13 months but the Town added the extra month. She stated that she would not want the payment for Inspector Services to be totally paid up in 12 months which would be ahead of the completion date.

Mr. Schroth stated that could be changed and asked if the Commission also wanted to specify the actual requirements that the Building Inspector is to be on site during any construction.

Ms. Kollgaard stated that he will be a full-time Inspector and that he will be following the same work schedule as the contractors whether it is during the week, week-ends or holidays.

Mr. Schroth stated that the Commission may want to include that the Inspector will be present at all times any construction is taking place. He also asked if Ron Frank von Frankenstein would be the one performing the work or if he would be assigning this to another party.

Ms. Kollgaard stated that he is assigning this to another party and that he was also providing the licensed Threshold Inspector.

Upon a motion by Commissioner Kussard and seconded by Commissioner Hannan, the Commission approved the Scope of Services Agreement from Progressive Inspections Inc. for Inspection Services for the New Town Library for a Full-Time Fully-Licensed Inspector That Will be Present at All Times Any Construction is Taking Place for an Amount Not-to-Exceed \$137,000 (to be Paid in 14 Monthly Installments) and for Threshold Engineering Services for an Amount Not-to-Exceed \$20,000 (to be Paid in 10 Monthly Installments), by a vote of 4 to 0.

F. OLD BUSINESS:

There was no Old Business.

G. NEW BUSINESS:

3. Consideration to Reduce Accrued Code Enforcement Lien from \$24,837 to \$500 for Abandoned/Vacant Commercial Property Located at 127 Griffin View Drive (Case No. 09-1827) (Cindy Diemer)

Cindy Diemer, Senior Code Enforcement Officer, gave the background summary from the agenda item cover sheet (on file in the Town Clerk's office). She stated that DBR Lease Exchange LLC (original owner) was cited for sign maintenance requirements pursuant to the Land Development Regulations Chapter 17, Section 3 (d), which was ultimately heard by the Special Magistrate on September 28, 2009 and negotiated with the new owner. The property failed to come into compliance and an Order of Enforcement was recorded on October 27, 2009. At the January 25, 2010 Special Magistrate Meeting, an abatement order recommendation was executed to reduce the accrued Code Enforcement lien from \$24,837 to \$500. The proposed reduction will be due and payable in thirty (30) days following the action of the Town Commission.

Ms. Diemer noted that this property will be in compliance by the time the 30 days are up as this property was involved in some civil litigation and it was only until about 3 weeks ago that this current owner took possession of the property. He is willing to do all of the requirements – he is putting up the blank sign faces, the interior and exterior of the site are clean and there are several more violations that will be corrected; he has also had contractors give him prices and he is putting up barricades to prevent anyone from parking on the site until such time that they actually put this site back into a more productive use. She added that this company also owns the vacant gas station on US Hwy 27/441 and the Town will see the same kind of positive productive use of that property as well.

Mayor Richards asked why the lien is calculated at \$250 per day if the Town never follows through with that.

Ms. Diemer stated that it is more of an enticement to achieve compliance but, in some cases, it is difficult because there are properties in transition due to civil litigation or foreclosures so sometimes you can't get compliance until you get to the correct party or get through the process. In this case, there were new owners that were holding the mortgage and waiting for the civil litigation case to be complete before they could get

possession of the property and then take action; also, they had no idea that some of this was going on because notices were being sent to the owners of record and they were not being filtered back to the mortgage holder. Once they became aware of the situation, the attorney and property owner came from Ft. Lauderdale to look at the site and they were appalled and apologetic that this had continued that way; once they knew about the situation, they took steps to take care of it. It's a good faith effort on their part to try to resolve this.

Ms. Kollgaard stated that the Town's main goal is to recoup whatever money the Town has invested in the process and to have the property come into compliance; this is what Ms. Diemer has been able to achieve.

Commissioner Kussard confirmed that the Town has not spent anymore than \$500 on this.

Ms. Diemer stated that there has been Staff cost and the cost of the Special Magistrate Hearing but that would be inclusive in the \$500.

Commissioner Hannan asked if Ms. Diemer was comfortable with the \$500.

Ms. Diemer stated that she was very comfortable.

Upon a motion by Commissioner Holden and seconded by Commissioner Hannan, the Commission approved the Recommendation of the Special Magistrate to Reduce the Accrued Code Enforcement Lien (Case No. 09-1827) from \$24,837 to \$500 for the Abandoned/Vacant Commercial Property at 127 Griffin View Drive, by a vote of 4 to 0.

4. Consideration to Reduce Accrued Code Enforcement Lien From \$50,065 to \$750 for Abandoned/Vacant Residential Property Located at 612 First Avenue (Cindy Diemer)

Cindy Diemer, Senior Code Enforcement Officer, gave the background summary from the agenda item cover sheet (on file in the Town Clerk's office). She stated that Sheon Franks was cited for exterior property maintenance requirements pursuant to Town of Lady Lake Code of Ordinances Chapter 20, Section 20 (a) (2). The case was ultimately heard by the Special Magistrate on June 23, 2008. The property failed to come into compliance and an Order of Enforcement was recorded on July 17, 2008. The property was in foreclosure and the new owner, US Bank National Association, brought the property into compliance on January 19, 2010. At the January 25, 2010 Special Magistrate meeting, an abatement order recommendation was executed to reduce the accrued Code Enforcement lien from \$50,065 to \$750. The proposed reduction will be due and payable in thirty (30) days following the action of the Town Commission.

Ms. Diemer stated that his property is in compliance. When the bank actually had an opportunity to gain title to the property, they contacted Code Enforcement and went in and cleaned it up to get it ready to sell. This has already taken place and the bank has made their offer to the Special Magistrate for the reduction to \$750; the Special Magistrate has recommended that and Staff does agree.

Commissioner Kussard stated that she has seen this property and that it looks like a very nice little house.

Upon a motion by Commissioner Holden and seconded by Commissioner Kussard, the Commission approved the Recommendation of the Special Magistrate for the Reduction of the Accrued Code Enforcement Lien (Case No. 08-926) from \$50,065 to \$750 at 612 First Ave., by a vote of 4 to 0.

5. Consideration for the Parks & Recreation Director to Apply for a Tree Grant for the Rolling Acres Sports Complex Through the Forest Health Improvement Initiative Grant Program (Mike Burske)

Mike Burske, Parks & Recreation Director, gave the background summary from the agenda item cover sheet (on file in the Town Clerk's office). He stated that he is seeking permission to apply for a grant through the Forest Health Improvement Initiative Grant Program. This grant, funded with stimulus dollars, will allow the Town to apply for up to \$24,000 for tree plantings on Town property. The proposed trees will be Live Oak Trees which will be planted along the north side of the golf cart path at the Rolling Acres Sports Complex. The next plantings will be a mix of Live Oaks and Claudia Wannamaker Magnolias along the proposed fence behind the concession stand. There will also be several East Palatka Hollies planted between the concession stand and the lower soccer field. Mr. Burske noted that this is a no-match grant.

Commissioner Hannan asked about the estimated costs of employee hours to implement the American Recovery Investment Act for 2009.

Mr. Burske stated that he didn't know those costs but the initial irrigation along the golf cart path will take Town Staff roughly a week to install which would be approximately 120 man hours. He noted that can be done much cheaper in-house than bidding it out.

Commissioner Hannan also asked how many hours it takes, in terms of employee costs, for Staff to apply for these grants.

Mr. Burske stated that he spent about 30 – 35 hours applying for this grant.

Ms. Kollgaard stated that when the grant is under \$25,000, there are not as many requirements on the financial reporting aspect of the grant.

Upon a motion by Commissioner Kussard and seconded by Commissioner Holden, the Commission approved the Request for the Parks & Recreation Director to Apply for a Tree Grant for the Rolling Acres Sports Complex Through the Forest Health Improvement Initiative Grant Program, by a vote of 4 to 0.

6. Update of the Safe Routes to School Grant Program (Judi Jankosky/Mike Burske)

Mike Burske, Parks & Recreation Director, stated that Steve Cockerham was present and that he was vital in assisting with this grant. Mr. Burske gave the background summary

from the agenda item cover sheet (on file in the Town Clerk's office). He stated that, at the direction of the Commission, he and Town Planner Judi Jankosky submitted a Safe Routes to School Grant to the Florida Department of Transportation. In asking for \$799,000, the Town was awarded \$836,434 for this project. This grant is for the first part of a three-part series to improve sidewalks within two miles of The Villages Elementary of Lady Lake. At this point, money will be allocated for the design phase in 2011 and construction is anticipated to begin in 2013. Both he and Ms. Jankosky have become Project L.A.P. Certified in order to manage this project. It was also noted that the contracts from FDOT will be brought back to the Commission for approval when received and that this is a no-match grant.

7. Consideration to Reject All Bids for the Guava Street Little League Concession Stand Roof Project (Mike Burske)

Mike Burske, Parks & Recreation Director, gave the background summary from the agenda item cover sheet (on file in the Town Clerk's office). He stated that on November 16, 2009, the Town Commission directed Staff to put the Little League Concession Stand Roof Project out for bid but the bids came in higher than the solicited quotes obtained by Mr. Burske. As this project will come in under \$5,000, the lowest of three quotes will be presented at the February 17, 2010 Commission meeting for the Commission's consideration. At this time, Mr. Burske asked the Commission to reject all bids that came in under RFQ Bid No. 2010-0001.

Kris Kollgaard, Interim Town Manager, stated that it was the Town's option whether to bid this project or not because, according to Town policy, anything under \$5,000 does not have to be bid out. Staff knew that this would come in under \$5,000 and was just hoping to get some competitive prices.

Commissioner Holden asked if this roof project requires a tear-off.

Mr. Burske stated that he suspected that some of the plywood underneath needed to be replaced and that is why he went for the tear-off in order to start new.

Upon a motion by Commissioner Kussard and seconded by Commissioner Hannan, the Commission Rejected All Bids for the Guava Street Little League Roof Project, by a vote of 4 to 0.

8. Consideration to Reject the Bid from Randy's Fence for the Rolling Acres Sports Complex Fence Project (Mike Burske)

Mike Burske, Parks & Recreation Director, gave the background summary from the agenda item cover sheet (on file in the Town Clerk's office). He stated that he is asking the Commission to reject the lowest bid for the Rolling Acres Sports Complex Fence Project. Randy's Fence was unable to meet all of the Town's requirements to complete this project. Mr. Burske stated that he will have a contract for the Commission's review and consideration at the next Commission meeting.

Commissioner Hannan asked if there were any legal implications in rejecting this bid.

Derek Schroth, Town Attorney, stated that this bid had been approved but a formal contract had not been signed with the Town yet. Even if the owner were to rely on that approval and had purchased materials, those materials could be easily returned. Mr. Burske also spoke to the gentleman about this and the gentleman understood that he would not be selected and didn't really object to that.

Commissioner Kussard asked if the Town would then go to the next lowest bid, which was Tarpon Bay.

Mr. Burske stated that it would be Tarpon Bay and that they have agreed to meet Randy's Fence price.

Mayor Richards stated that he appreciates Staff checking into the original low bidder as far as the performance issues.

Upon a motion by Commissioner Kussard and seconded by Commissioner Holden, the Commission Rejected the Bid from Randy's Fence for the Rolling Acres Sports Complex Fence Project, by a vote of 4 to 0.

9. Consideration to Pursue Energy Efficient Grant Application, Coordinated by Neel-Schaffer (Judi Jankosky/Mike Burske/C.T. Eagle)

Mike Burske, Parks & Recreation Director, gave the background summary from the agenda item cover sheet (on file in the Town Clerk's office). He stated that the energy grant is proposed to include revitalizing Town Hall, the Police Department and the Public Works building with new energy efficient LED lights, hurricane-proof tinted windows, motion sensors in offices and conference rooms, insulation of doors and replacement of the existing HVAC units with a more energy-efficient unit. The proposal also includes the replacement of all of the Town's street lights and all three ballfields with new energy-efficient LED lights. Also requested is the replacement of eight (8) old, outdated and high mileage vehicles with more energy-efficient vehicles and a 16-panel solar farm to be located at the Parks & Recreation facility.

Neel-Schaffer Engineering, a town engineering consultant, has kept track of past grant requirements and is expecting the third round of energy grant funds to be released for application in early April. Upon release of the grant, the deadline for filing the grant application is typically 3-4 weeks so it is imperative to get the Commission's authorization to apply at this time. If funding terms, conditions and requirements remain the same as the two prior energy grant awards, the money must be spent within 12 months so there is not a long-term accounting process. The grant funding does include administrative costs such as audits and report generations which can be budgeted to be performed in-house or by hiring an outside consultant.

Mr. Burske stated that, if the Town is awarded a grant and the terms, conditions and requirements of the grant are not something the Commission feels would benefit the Town, the grant can be rejected. Frank Watanable and Steve Cockerham with Neel-Schaffer have put together this information to date at no cost to the Town and Town Planner Judi Jankosky will be the point person writing the grant application from this

point forward. The cost is estimated at \$1.86 million for the projects plus, if allowed as previous grants did, 10% of the grant or \$75,000, whichever is greater, for administrative costs for an approximate total cost of \$2.04 million.

Mr. Burske also noted that included in the packet was the energy audit for Town Hall, the Police Department, the Public Works Facility and the WWTP which was used to help determine projects that would benefit the Town.

Commissioner Hannan asked if the Town requested this report from Neel-Schaffer.

C.T. Eagle, Public Works Director, stated that Neel-Schaffer actually approached the Town in order to get the grant going. Mr. Eagle stated that the Town is under no obligation to pay Neel-Schaffer anything unless the grant is approved for the Town.

Commissioner Hannan commented that there was a lot of work involved in this report.

The tape was changed to Side “B” at 6:30 p.m.

Mr. Eagle explained that there is diversity in the items being sought through the grant; when the Department of Energy (DOE) looks at these grant applications, they want to see an initiative in an overall revamping of Town facilities and that is why vehicles, indoor lighting, outdoor lighting, street lights, etc. were included – it’s the whole comprehensive green initiative. There are many facets to the Town’s grant so this application will stand apart from other communities that are just trying to accomplish one big thing such as a solar farm.

Commissioner Hannan stated that he was concerned because there has been talk of adding on to the Town Hall building in the future once the Library is paid off and he can’t see doing some of this and then tearing it out several years later.

Commissioner Kussard stated that she believes energy efficiency is the way of the future and to possibly receive \$2.04 million for the Town to do all of these upgrades is great.

Mayor Richards stated that he was glad to see the solar panels included in the grant; this is the “sunshine” state and he thinks that there should be a solar panel on every roof of every house. He also commented that the Library won’t be paid off for 7 seven years out and the solar units that are currently on Town Hall are already 10 years old; they don’t last forever and anything beyond 5 years could be borrowed time.

Upon a motion by Commissioner Holden and seconded by Commissioner Kussard, the Commission approved the Request to Apply for Grant Funds When Available, by a vote of 4 to 0.

10. Consideration of Proposal from Kimley-Horn & Associates Inc. for Spencer’s Lane/Crank Parcel Utility Extension Project (C.T. Eagle)

C.T. Eagle, Public Works Director, gave the background summary from the agenda item cover sheet (on file in the Town Clerk's office). He stated that in efforts to correct a

problematic water distribution line located on Spencer's Lane, Public Works recommends replacing and upsizing the existing water line. Sanitary sewer service is located on the north side of the project area but Public Works recommends that the sewer service be extended to the south side of the project on Caroline Drive for future use. In addition, a gravel access road is recommended as a part of the project since excavation and site work will be taking place. This project is not budgeted for this fiscal year but impact fees are available to fund this project that is certified to be impact fee eligible as indicated in the Engineer's Certification Letter from Kimley-Horn & Associates.

Commissioner Hannan asked Mr. Eagle to elaborate on the problematic water distribution line.

Mr. Eagle stated that there was a water line break about a year ago right between the two subdivisions where this road is recommended to be. Public Works had a hard time finding the valves and the lines because there is no real record of where the lines are. He stated that Utility Staff did a great job trying to chase down how to turn the water off as it was a major water line break and there was a lot of water going into the subdivision and property damage was eminent if the water wasn't turned off in a reasonable amount of time. During that process, it became evident that Public Works needed to do something about that water line; instead of turning off the water to half of the Town, they can fix that problem by placing an isolation valve on that water line to keep everybody else in water except for maybe a block. At the time of the water line break is when Mr. Eagle realized that there was an easement that crossed between the two subdivisions where right now there is no access. This proposed gravel road will allow access for utility service and will also meet a lot of safety concerns that Public Works has in regards to accessing Spencer's Lane.

Commissioner Holden asked about the width of the easement.

Mr. Eagle stated that Public Works recently improved the gravel side of Spencer's Lane. There are two (2) 25' easements on the Caroline Drive side and a 30' right-of-way from the fence to Spencer's Lane.

Commissioner Holden stated that he thinks this is a very good move.

Commissioner Kussard agreed.

Mayor Richards confirmed that the funding for this project would be coming from impact fees.

Mr. Eagle replied that was correct; he added that the project costs will be a 60%/40% split between the water and the sewer, which was determined by to the Engineer.

Upon a motion by Commissioner Kussard and seconded by Commissioner Holden, the Commission approved the Proposal from Kimley-Horn & Associates for the Spencer's Lane/Crank Parcel Utility Extension Project to be Paid by Water and Sewer Impact Fees, by a vote of 4 to 0.

11. Consideration of Agreement Between Florida Department of Law Enforcement (FDLE) and the Lady Lake Police Department (LLPD) Regarding Obtaining a License as Well as Use of the Distributed Factual Analysis Criminal Threat Solution (dFACTS) (Ed Nathanson)

The background summary for this agenda item is on file in the Town Clerk's office. It states that the Florida Department of Law Enforcement (FDLE) has selected the Lady Lake Police Department to receive one license to the *distributed Factual Analysis Criminal Threat Solution (dFACTS)* database. The *dFACT* database consists of certain publicly obtained information as well as confidential law enforcement-only data that can be added to any agency's investigative section. This information is not designed to be a replacement of any existing database; instead offered as another way to quickly help solve crimes, provide photo searches and lineups and supply case linking and mapping features. It was also noted that the Town Attorney has reviewed and approved this document.

Commissioner Hannan confirmed that it was not going to cost the Town anything to have the people trained.

Chief Nathanson stated that the training is minimal and will be done in-house and that he can handle the training within his budget.

Mayor Richards stated that he thinks this is a good idea and that sharing information is very valuable in law enforcement.

Upon a motion by Commissioner Kussard and seconded by Commissioner Holden, the Commission approved the Authorization for Chief Nathanson to Sign the Distributed Factual Analysis Criminal Threat Solution (dFACTS) between the Florida Department of Law Enforcement and the Lady Lake Police Department, by a vote of 4 to 0.

12. Authorization to Submit an Application and Accept an Award from the United States Department of Justice Through the Florida Department of Law Enforcement for Federal Fiscal Year 2009 Edward Byrne Memorial Justice Assistance Grant (JAG) Program (Ed Nathanson)

Chief Ed Nathanson gave the background summary from the agenda item cover sheet (on file in the Town Clerk's office). He stated that the Lady Lake Police Department requests to apply for the 2009 Edward Byrne Memorial Justice Assistance Grant in the amount of \$3,144. This grant, if awarded, would be used to purchase a Morovision Night Vision MV-300 Monocular Gen 3 to effectively conduct surveillance in order to deter crime and detect crimes in progress during all hours of day and night and under varying conditions. This proactive resource will aid with the identification and successful prosecution of offenders. The total cost of this equipment would be \$3,144 and the amount of this grant is \$3,144. The Lady Lake Police Department is requesting to purchase an additional Night Vision Lens (1X Commercial Lens – MVA-1X-LENS) at a cost of \$85 to be funded from the Forfeiture Account.

Commissioner Kussard confirmed that there was enough money in the Forfeiture Fund.

Chief Nathanson responded yes.

Upon a motion by Commissioner Kussard and seconded by Commissioner Holden, the Commission approved the Authorization for Chief Nathanson to Apply and Accept an Award of the 2009 Edward Byrne Grant Totaling \$3,144 and to Utilize \$85 of Forfeiture Funds for Equipment Enhancement in Accordance with Florida Statute 932.7055, by a vote of 4 to 0.

H. TOWN ATTORNEY'S REPORT

Derek Schroth, Town Attorney, stated that the Commission had asked him to look into the assets of Richards Hendricks. He stated that he sent an e-mail to the Commission regarding those assets and is seeking direction on how the Commission wants him to proceed at this point. Mr. Hendricks did agree to the order that had been previously discussed regarding him being prohibited from filing a lawsuit against the Town again.

Commissioner Hannan stated that it didn't look like he has too much in regards to assets.

It was the consensus of the Commission to move forward with executing the document that would prohibit Mr. Hendricks from filing a lawsuit against the Town again.

13. Resolution No. 2010-102 for the ARRA Forest Health Improvement Initiative Grant Program (Mike Burske)

Derek Schroth, Town Attorney, read the resolution by title only.

The background summary for this agenda item is on file in the Town Clerk's office.

Mike Burske, Parks & Recreation Director, stated that this resolution is one of the formalities of this grant; they wanted a resolution that the Town was committed to this grant.

Mayor Richards asked if there was a match to this grant.

Mr. Burske replied that this is a no-match grant.

There were no questions or comments from the public.

Upon a motion by Commissioner Hannan and seconded by Commissioner Holden, the Commission approved Resolution No. 2010-102 for the ARRA Forest Health Improvement Initiative Grant Program, by the following roll call vote:

HOLDEN	YES
HANNAN	YES
KUSSARD	YES
RICHARDS	YES

14. Ordinance No. 2010-04 – Second/Final Reading – Amending Cure Plan Ordinance No. 2009-08 – Chapter 3, Sections 16-17 (Judi Jankosky)

Derek Schroth, Town Attorney, read the ordinance by title only.

The background summary for this agenda item is on file in the Town Clerk's office. It states that on May 18, 2009, the Lady Lake Town Commission adopted Ordinance No. 2009-08 to establish a process of Eminent Domain Relief through the creation of the "Cure Plan" procedure. This process was put in place in recognition that expansion of rights-of-way in the Town of Lady Lake are certain to occur and that by the right-of-way acquisition process, certain properties may be affected to the extent that their operation would be forced to desist based on non-conformities with the Town's Land Development Regulations.

Prior to the adoption of Ordinance No. 2009-08, James Ellicott of the Florida Department of Transportation (FDOT) had contacted Growth Management Staff in December of 2008 to determine if the Town would be interested in adopting an ordinance regarding eminent domain takings in the Town of Lady Lake. It was conveyed that such an ordinance would give assurance to property owners that they would still be able to operate once a taking has occurred, even in the event that a non-conforming situation had arisen from the taking (given that public safety had not been compromised to an unacceptable degree).

Since the time that Ordinance No. 2009-08 was adopted, the FDOT as well as Lake County has been contacting the Town of Lady Lake to utilize this procedure in their eminent domain proceedings. To date, there have been no complications; however, the takings to date have been minor relative to future right-of-way acquisitions on US Hwy 27/441.

As the ordinance presently stands, it is not clearly stated that property owners subject to property takings need to be notified when FDOT or another governmental agency is approaching the Town to seek a "Cure Plan" adoption. In addition, under Ordinance No. 2009-08, the adopted "Cure Plan" would be deemed binding regardless of whether or not the land owner consented to the plan's approval. In hindsight, Staff and the Town Attorney have realized that these two items as adopted in the original ordinance may result in undesirable legal concerns for the Town if the Town Commission adopted such a "Cure Plan" without notification or consent of the land owner. While the new ordinance allows such plans to be adopted without the land owners consent, it does provide for a notification to the land owner or other party (condemning authority) when applications are filed. In addition, such plans adopted by the Town Commission without the land owners consent shall be deemed non-binding.

Given that these two areas of the prior ordinance (Ordinance No. 2009-08) are being amended, the new language should provide for a more legally defensible document going forward. Other language in Ordinance No. 2009-08 has been amended as well, such as the timeframe tied to the issuance of the Development Order after a "Cure Plan" has been adopted. This was removed, realizing that ROW acquisition may occur well before improvements commence; thus, a fixed timeframe for the Development Order would not

be desirable for such procedures. Other language has also been amended and provided in strikethrough-underline format for the Commission’s review. The number of changes to Ordinance No. 2009-08 is to the degree that it was the Town Attorney’s opinion that Ordinance No. 2010-04 shall serve to replace the affected sections of the Land Development Regulations, Sections 16 and 17 of Chapter 3, in their entirety.

Wendy Then, Growth Management Director, stated that originally the Town had adopted Ordinance No. 2009-08 which was the eminent domain relief mechanism for 2 main reasons – to address non-conformities due to the right-of-way acquisitions and expansions and to assure property owners that their businesses and properties will continue operation to minimize the damage of the right-of-way acquisition. So far, successfully, FDOT and Lake County have been able to use this procedure but in anticipation of more right-of-way acquisitions, two items have been determined to be needed to be added to this cure plan. Basically, the changes are summarized as the notification to the landowners or other parties when an application is filed with the Town and the other change being that applications without landowner’s consent shall be non-binding to the procedure. Also, it was determined that a fixed timeframe was impractical in many cases so that has been deleted and it will just be a continuation of submittal and procedures as far as that is concerned.

There were no questions or comments from the Commission or the public.

Upon a motion by Commissioner Holden and seconded by Commissioner Hannan, the Commission approved Ordinance No. 2010-04 – Deleting and Replacing Section 16 and 17 of Chapter 3 to Provide the Process of “Cure Plans” to Assist in Eminent Domain Relief to Allow Businesses to Remain on Tax Rolls with Non-Conforming Site Plans and to Compliment the Efforts of Right-of-Way Acquisition for Local, County and State Roads, by the following roll call vote:

<i>HOLDEN</i>	<i>YES</i>
<i>HANNAN</i>	<i>YES</i>
<i>KUSSARD</i>	<i>YES</i>
<i>RICHARDS</i>	<i>YES</i>

I. TOWN MANAGER’S REPORT:

Kris Kollgaard, Interim Town Clerk, stated that in an effort to improve the level of customer service, she is working with the I.T. Department to hook up a spare computer in front of the Clerk’s Office in the lobby whereby citizens will be able to access the Clerk’s Index. The citizens currently have access on the website to the minutes that go back two years but the Clerk’s Index has a search mechanism and currently there are minutes in the Clerk’s Index that go back to 1985 and Staff is working to continue back to 1925. This will allow citizens to do a word search and pull up every set of minutes where the desired subject is discussed; this should be beneficial to the citizens and will also help Staff by alleviating Staff time spent on research. There will be no cost to the Town to do this.

Commissioner Kussard wanted to be sure no confidential information would be able to be accessed on this computer.

Ms. Kollgaard responded no and stated that this computer would be independent of the Town's server; also, there would be no worry of a virus.

Ms. Kollgaard also mentioned that Commissioner Holden had recently sent out an e-mail suggesting that the Commission schedule a Workshop to discuss the Town Manager's contract and what the Commission wants to include in the Town Manager's job description in regards to hiring a new Town Manager. She stated that she would be glad to check with surrounding communities to get copies of their contracts, job descriptions and salary ranges; she also suggested that it would be better to have this workshop prior to any advertising so this information can be included in the advertising.

Commissioner Hannan thought that it would be a good idea for the Town Attorney to be present at the workshop; also some of Staff.

Ms. Kollgaard stated that some of the department heads could be included and that the workshop would be open to the public.

It was the consensus of the Commission to schedule this workshop for February 17, 2010 at 4:00 p.m.

Commissioner Holden stated that he realizes there is no rush to hire a new Town Manager but it is always better to stay out in front and that people applying for the position will want to know what is available.

J. MAYOR/COMMISSIONERS' REPORT:

15. Appointment/Reappointments (2) to the Planning & Zoning Board (Kris Kollgaard)

The background summary for this agenda item is on file in the Town Clerk's office. It states that, currently, the Planning & Zoning Board has two members (Bill Scott and Mike McKenzie) whose terms are expiring this month. These two members have advised that they wish to be reappointed. In addition, there is also one new application (Chryle Lowers) for consideration for appointment.

The Commissioners were advised to mark their two choices on the Nomination Form that was included in their packets. The votes were tallied and it was announced that Bill Scott and Mike McKenzie received 4 votes each.

The tape was changed to Tape #2 at 7:00 p.m.

Commissioner Hannan suggested that the new applicant be contacted to see if she would be willing to serve on other committees or Boards and to see if she wanted the Town to keep her application on file.

Commissioner Hannan asked what responsibility the Town had for correcting road problems that belong to the County or gate and wall problems that belong to the VCCDD other than passing a resident's request to the County and the VCCDD.

Ms. Kollgaard stated that is it and that is what Staff does.

Commissioner Hannan stated that Commissioner Kussard has stirred up her community and has sent 20 e-mails to Ms. Kollgaard in the past week or so alleging a dangerous situation at the La Zamora gate but he has not seen any response from Staff so far. If it is as dangerous of a situation as the Del Mar/Avenida Central intersection was portrayed with one accident in a year and this Commission has spent thousands of dollars to correct, he asked if anyone could show him some actual numbers that prove that the La Zamora gate is dangerous.

Ms. Kollgaard stated that the Commission could check with Chief Nathanson in regards to accidents at that intersection. She also stated that, in regards to Commissioner Kussard sending the e-mails, she forwarded those to the County as well.

Chief Nathanson stated that there were no more accidents reported.

Commissioner Hannan stated that the Commission does not react on hearsay or emotion and that this is not Lady Lake's problem.

Commissioner Kussard addressed some comments made at the last Commission meeting. She stated that the Commissioners are voted into office by the residents in their wards to represent them in the best way possible. This is not about what we, as Commissioners, want; it's about the safety and welfare of the residents and about listening to their concerns. She feels that if a resident comes to her with a concern or problem or complaint, it is her responsibility and duty as a Commissioner to address those issues and, at times, bring it before the Commission.

Commissioner Kussard also stated that the Commissioners will not always agree with one another; the Commissioners need to work as a team and accomplish what is best for the residents in this town. It is her duty to address the citizens' concerns about dangerous situations that exist in her ward; that is why she has been forwarding all the e-mails that she is receiving about the La Zamora gate just as she did for the Avenida Central/Del Mar intersection situation. These are 2 areas in her ward that the residents in the ward feel are extremely dangerous.

Commissioner Holden had nothing to report.

Mayor Richards stated that he found out recently that Public Works is taking over the roadway patching in The Villages for all of the water and sewer breaks. He had been concerned for a while that these roads were not getting put back together and they were settling and sinking. He stated that he is very pleased that The Villages and Public Works have worked out an agreement that Public Works will be doing this and will be reimbursed by The Villages for the time and materials. There will be no expense to the Town but the Town will have control over these situations in regards to patching since the roads are the responsibility of the Town.

Commissioner Hannan asked if the Town could have an agreement like this with the County for the enclaves.

Ms. Kollgaard stated that Staff could try.

Mayor Richards stated that he appreciates what Staff is doing in these regards.

K. OPEN FORUM:

- Bill Calhoun, Lady Lake, stated that 2 years ago the VHA had a meeting with the County in regards to the roads in the enclaves and the County was set to finish those roads but there is no money available right now and all repairs have come to a halt unless it is an emergency.

Mr. Calhoun also commented about the lack of safety at the La Zamora gate. He stated that there are several times during the day that this is a very dangerous situation – early morning, late afternoon and at night. All that is being asked for is a street light that will extend far enough over into the intersection so that people will recognize that it is an intersection. The current light is set back about 15’ from the point of the median and it doesn’t throw any light out on Hwy 466; also there are dips in the roads in both directions that limit visibility for drivers exiting out of the gate. He stated that the power is already there and suggested that the Commission follow up on this.

Mayor Richards stated that the County is aware of this concern.

Commissioner Hannan asked if the Town could be paying for any of the electrical bills for street lights in the enclaves.

Ms. Kollgaard stated that as far as she knows, the Town is not; but she will check on that.

- Phil Mathias, Lakes of Lady Lake, asked about the status of the energy audit on the Scout Hut.

Ms. Kollgaard stated that Parks & Recreation Mike Burske is still waiting on that report and has asked that the supervisor call him back.

L. ADJOURN: There being no further discussion, the meeting was adjourned at 7:15 p.m.

Kristen Kollgaard, Town Clerk

James Richards, Mayor

Minutes transcribed by Jayne York, Staff Assistant to Town Clerk