



LAKE MARY CITY COMMISSION

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

**Special Called Meeting
AGENDA
THURSDAY, SEPTEMBER 22, 2022, 7:00 PM**

1. Call to Order

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

2. Moment of Silence

3. Pledge of Allegiance

4. Roll Call

David Mealor, Mayor
Jordan Smith, Commissioner
George F. Duryea, Commissioner
Sidney Miller, Deputy Mayor
Justin York, Commissioner
Kevin Smith, City Manager
Stephen Noto, Assistant City Manager
Michael Biles, Police Chief
Michael Johansmeyer, Fire Chief
Michelle McCurdy, City Clerk
Krystal Clem, Community Development Director
Bruce Paster, Public Works Director
Bryan Nipe, Parks and Recreation Director
Brent Mason, Finance Director
Wanda Broadway, Human Resources Manager
Sabreena Colbert, City Planner
Pedro Ramos, Information System Analyst
Neysa Borkert, City Attorney

City Commission
September 22, 2022, 1

5. Approval of Minutes

A. Draft Special Called City Commission Meeting Minutes - September 8, 2022

Commissioner York made a motion to approve the Draft City Commission Meeting Minutes of September 8, 2022. Deputy Mayor Miller seconded the motion, and the motion carried unanimously.

6. Special Presentations

A. Proclamation - National Fire Prevention Month (Michael Johansmeyer, Fire Chief)

Mayor Mealor stated that on behalf of the City Commission and the City Manager, it is his pleasure to present this proclamation to Chief Johansmeyer and his team. Lake Mary enjoys one of the fastest public safety response times in the region. It is a complement to Chief Johansmeyer's leadership and the new team he has put together.

Michael Johansmeyer, Fire Chief, came forward and thanked the Commission and City Manager. He stated that we have an operation second to none that responds to emergencies. He stated that what is so important about this month and being recognized is that we are trying to prevent things from happening that are bad for people, and fire is one of those. Most of the time people do not realize how fast fire can progress and how life threatening it can get. The message this year for the National Fire Prevention Week, is "Fire won't wait, plan your escape". He stated that it is so important to plan an escape, especially if you have children. There are several activities planned for the month. One of those will be an open house on October 8th at Station 37.

Chief Johansmeyer announced that the Florida Fire Marshals and Inspectors Association's Fire Inspector of the Year is our very own, Tina O'Brien. He stated that he can't be any more proud or think of any one more deserving. Tina goes way beyond her scope of duties as a Fire Inspector and Investigator. One of the biggest things near and dear to her heart is our peer support group. She helps her peers out when they are having difficult times from the many things our public safety team sees on a day-to-day basis. She is one of the major parts of that in the state of Florida, our regional co-chair, and we are very proud.

Mayor Mealor also recognized Mrs. O'Brien's role model Deputy Chief Wendy Niles. She is also a past recipient of the Fire Marshal of the Year for the state of Florida. Mayor Mealor stated it is a reason to extend our gratitude and appreciation. You go far beyond the call of duty and that is recognized statewide.

B. Proclamation - National Community Planning Month (Krystal Clem, Community Development Director)

Krystal Clem, Community Development Director, came forward. Mayor Mealor stated that he's so appreciative of the reputation and the recognition that she has statewide. We are very fortunate that Mrs. Clem is a part of this team.

Mrs. Clem thanked the Mayor and Commission and City Administration for recognizing Community Planning Month. She also thanked her staff, Sabreena Colbert, and Chris Carson for all that they do. She stated that she appreciates the opportunity to serve this community.

7. Citizen Participation - This is an opportunity for anyone to come forward and address the Commission on any matter relating to the City or of concern to our citizens. This also includes: 1) any item discussed at a previous work session; 2) any item not specifically listed on a previous agenda but discussed at a previous Commission meeting or 3) any item on tonight's agenda not labeled as a public hearing. Items requiring a public hearing are generally so noted on the agenda and public input will be taken when the item is considered.

Rich Schultz, 175 Broadmoor Rd. came forward with concerns of his community, Le Tourneau Acres. All owners have deed restrictions, stating that the homes must be single family homes, with one residence, one garage, and a fifty-foot setback between the neighboring community, Cardinal Oaks. He stated that he is aware the City isn't able to enforce deed covenants. He would like to request that the City directs staff to have deed restrictions noted in the system and as people come in to ask for building permits or other uses for their properties to notify them of any deed restrictions that may exist. This way it can be brought up to the forefront and citizens are aware that there are other restrictions besides the City ordinances. He also stated that they've met with City staff a couple of times and the City made a recommendation for them to create a Development Agreement. The agreement requires 100% agreement of all of the owners, which will take some time. Knowing that they have a civil dispute that needs to be resolved he would like to ask the City to halt any further development at 435 S. Country Club Road until it can work its way through the appropriate channels. He also asked staff to update code definitions to determine what residential garages are listed as.

Commissioner Duryea stated that the agreement between the original owner and subsequent owners can change if 75% of the people want it that way. Therefore, this is an agreement among property owners, not an agreement between a property owner and the City of Lake Mary. He asked if it would not be easier for them to get an injunction against building this based on that agreement.

Mr. Schultz stated that yes, it would be. But they did not want to go the route of making it a full-blown legal issue. They had discussions with the Mayor to try to come to a resolution that didn't require beginning a lawsuit.

Susan Sherman, 477 Cardinal Oaks Ct. came forward with concerns of staff knowledge regarding permits that have been pulled. She stated that the City is allowing a homeowner

with their main dwelling of 3,100 square feet to build two garages over 3,600 square feet each. She stated it was explained to them that this is the biggest accessory unit that has been built on a residential property in the City. She stated that her concern is this should have been a huge red flag and all hands should have been on deck. She also asked the City to put a halt on it and is worried about the drainage from the building.

James Milligan, 440 S. Country Club Rd. came forward. He lives directly across the road from the property in question. He stated that it is his understanding that the garages were built to start a hobby business dealing with Swedish automobiles and these warehouses will be a business. He is upset that an acre of trees was cut down and that the City allowed that to happen. He also stated that currently that property drains between his and his neighbor's property. He wants to know where all the water is going to go when it rains with those trees gone. He also asked to have the work halted by the City.

Susan Sherman came forward again. She stated that what the new owner is planning to do doesn't meet what the City has in their code regarding off street parking requirements.

Jason O'Neal, Attorney for the property owners at 435 S. Country Club Rd. came forward. He stated that what the previous speakers invite the City to do is in plain error. They invite the City to interfere in a "civil matter", by their own words; not to mention based on hearsay, rumors, and failed underpinnings. Specifically, the requests to halt, hold, slow down, redefine or interfere are ultra vires requests. He does think it is important for the Commission to be apprised on the Florida Marketable Record Title Act. There is a dispute as to whether the 1977 document that has been presented is enforceable, valid, or even applicable to his client's property.

Mayor Mealor thanked Mr. O'Neal for being there and stated that Mrs. Borkert is considered one of the better Land Use attorneys in the state as you are aware. He thinks when trying to find a resolution, the client, is willing to try to work with the homeowners near or adjacent to the property. He asked Mr. O'Neal if that was a correct representation. Mr. O'Neal stated that all options are on the table, as it pertains to talking to the residents here tonight or anything else. The only purpose of him speaking is to just ensure that the record reflects the owner's position.

Noal Day, 709 Commerce Circle Longwood, FL came forward. He is the licensed contractor for the project. He stated that there are five open permits on this job. Permits have been approved and they are moving forward at this point. There has been some misspeaking. They are not putting up a five-foot retention wall. There have been multiple misspoken items and some lack of communication. He assures the City this is a high-quality project, and everything is being done by the book. He's spoken with Engineering, met with Building Officials, and he's prewalked it for trees. They took down less trees than allowed. The homeowner wants to save the trees, and they are saving every one that they can. They are doing their best to keep the neighborhood looking good and will work with the City any way they can.

Rich Schultz came forward again. He stated that at the meeting they were told about a retention wall installation and a drop in the building of five feet.

Commissioner Duryea stated he hadn't been on the property, but it seems to him that they are complying with City Code. The only alternative that the homeowners have is to try to get some sort of legal document that will slow this down, where no more construction is going on, until court decides that the agreement is valid/invalid. The agreement states that there has to be a fifty-foot buffer between the end of the property and the structure. As far as our code goes, it's fine. He thinks that they have no choice but to use legal methods to rectify the situation.

Commissioner York stated that he has had some discussions with Mrs. Sherman and thanked her for alerting him to the situation. He also spoke with another homeowner as well. He thinks that from Commission's standpoint they must balance the rights of both the private property owner and the rights of the residents speaking tonight. He stated that Commission must adhere to the letter of the law, both by our code and state law. He thinks that there have been some interesting suggestions raised tonight. He stated that the discussion of tree clearance is a chronic source of frustration for the Commission because the state law is far more permissive than many of them want. He thinks that working with the current property owner may be the best route for them to take. It is the most neighborly thing to do. It is the most Lake Mary thing to do.

Commissioner Smith thanked the residents for coming out. He too met with Mrs. Sherman, Mr. Irish, and Mr. Schultz, along with staff. So far everything is by the book. He knows that is not what they'd like to hear, but he agrees with Commissioner York. The best route right now is to try to sit down with the property owner and come up with a resolution. Lake Mary is a great City and we want to see the community and neighborhood be successful.

Mayor Meador stated it is frustrating when we find ourselves in these situations. In his first term in the Florida Legislature he won the Florida League of Cities Defender of Home Rule Award. For the very reason that we would not allow some of the things that are in place today at that time. It's a different time, a different legislature. He asked Mrs. Borkert if it is her understanding that municipalities have no standing with anything related to deeds, covenants, or restrictions is accurate.

Mrs. Borkert stated that she thinks the property owners recognize, and have said, that this is a civil matter. With deed restrictions on property, challenges to those can only be brought by those private parties that entered them. The City's authority is to enforce our own codes, rules, and regulations, not to enforce those private ones. She stated that she would caution the property owners, as she understands that they don't want to be involved in litigation. What they are failing to see is, if the applicant is following the letter of the law and all of our rules, and the City puts a stop work order in place, that opens us up for potential liability as the applicant's attorney stated. The City doesn't want to get involved in a litigation either. It's one of those things that is a very difficult situation. Unfortunately, the City just has to enforce our regulations. She stated that Commissioner York put it right. In addition to the big push from legislature for private property rights, you probably remember that more recently the Florida statutes were amended to require local jurisdictions to include a private property rights element in their Comprehensive Plans. That really honed in on allowing property owners to utilize their property if they are within the law and recognizing those private property rights. Unfortunately, in this case, we are hamstrung because we are not able to enforce these deed restrictions, but

we are making sure, and staff has done a great analysis of why and how this is permitted on the property.

Mayor Mealor thanked Mr. Schultz and stated he has been an incredible asset to the City. He has served on a number of boards and brings collective expertise to the knowledge base that has helped the City over the years. He stated that the City very much appreciates that. He continued with saying he thinks this is an opportunity for the community group to come together. Unfortunately, the Bert Harris Private Property Rights Act, coupled with new legislation, really does tie the City's hands as this is a civil issue. Mayor Mealor stated, one thing about Lake Mary, is we are different. Any person in this community, regardless of their address, income, or background will be treated with respect when you come before us. He thanked those who took time out tonight to come to the meeting. The City greatly appreciates it. He knows this is a difficult issue but hopefully it is one that we can find a satisfactory resolution for or at least be able to move forward.

No one else came forward and the citizen participation section was closed.

8. Unfinished Business

A. Ordinance No. 1672 - FY 2023 Millage Rate (Public Hearing - Second Reading) AND Ordinance No. 1673 - FY 2023 Budget (Public Hearing - Second Reading) (Kevin Smith, City Manager)

Both ordinances will be heard simultaneously but will be voted on separately.

Neysa Borkert, City Attorney, read Ordinance No. 1672 and Ordinance No. 1673 by title only.

Mayor Mealor stated that the millage rate of 3.5895 mills is an increase of 8.18% over the rolled back rate of 3.3181 mills.

Mr. Smith stated we are completing the process of the adoption of our FY 2023 budget. Procedurally we need to announce what the Mayor just announced, so we've checked that box. There are no changes since the first readings of each ordinance, so accordingly he would request approval of Ordinance No. 1672 to approve the FY 2023 millage rate and rolled back rate, and then by separate vote the approval of Ordinance No. 1673 to approve the fiscal year 2023 budget.

Ordinance No. 1672 and Ordinance No. 1673 were both opened for public hearing.

Robert Bagley, 245 Meadow Bay Court, came forward and asked about the 8% rolled back rate increase. He wanted to know if this is happening across the board in the County and if the City is commensurate with that.

Mr. Smith answered that the millage rate we are adopting is unchanged from last year and has been the same for the past ten years. The 8.18% is the increase over what's known as the

rolled back rate. The rolled back rate is required by TRIM law and is defined as the rate that would generate the same amount of taxes as the prior fiscal year.

Mr. Bagley asked if we are balanced or if the City is in a deficit.

Mr. Smith stated that we are balanced and must be balanced by Florida Statutes.

Mr. Bagley asked if the City's revenues are more or the same as the expenditures. He said that he has seen the budget online but wondered how that is going to work going into 2023.

Mr. Smith answered that the revenues, other financing sources, transfers, and carry forwards are the same as the expenditures, other financing uses, and transfers out.

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

Commissioner Duryea made a motion to approve Ordinance No. 1672 - FY 2023 Millage Rate (Public Hearing - Second Reading). Commissioner Smith seconded the motion, and the motion carried 5-0 by roll-call vote. Commissioner Smith, Yes; Commissioner Duryea, Yes; Deputy Mayor Miller, Yes; Commissioner York, Yes; Mayor Mealor, Yes.

Deputy Mayor Miller made a motion to approve Ordinance No. 1673 – FY 2023 Budget (Public Hearing – Second Reading). Commissioner York seconded the motion, and the motion carried 5-0 by roll-call vote. Commissioner Duryea, Yes; Deputy Mayor Miller, Yes; Commissioner York, Yes; Commissioner Smith, Yes; Mayor Mealor, Yes.

B. 2022-RZ-07, Ordinance No. 1675 - A request for rezoning of property located at the southeast corner of W. Wilbur Ave. and N. Fourth St. from C-1, General Commercial, and R-1A, Single Family Residential to DC, Downtown Centre. Applicant: ACC Trust (Quasi-Judicial – Public Hearing - Second Reading) (Chris Carson, Project Manager)

Mrs. Borkert read Ordinance No. 1675 by title only.

Mrs. Clem came forward to say staff has no additional comments regarding this item.

There were no questions related to this item. The item was then opened for public hearing. Nobody came forward and the public hearing section was closed.

Commissioner Smith made a motion to approve 2022-RZ-07, Ordinance No. 1675 - A request for rezoning of property located at the southeast corner of W. Wilbur Ave. and N. Fourth St. from C-1, General Commercial, and R-1A, Single Family Residential to DC, Downtown Centre. Commissioner York seconded the motion, and the motion carried 5-0 by roll-call vote. Deputy Mayor Miller, Yes; Commissioner York, Yes; Commissioner Smith, Yes; Commissioner Duryea, Yes; Mayor Mealor, Yes.

Mayor Mealor thanked the applicant for their patience and for their investment in the Lake Mary community. He wished them the best.

9. New Business

There was no new business, and this section was closed.

10. Other Items for Commission Action

11. City Manager's Report

A. Items for Approval

a. Annual approval request for P.O.'s over \$35,000

Mr. Smith requested approval of the City's routine annual allocation for blanket Purchase Orders for the upcoming FY 2023. He stated that most, if not all, are items that the Commission is already familiar with. Unless there are any questions, he would like to request Commission to approve the above listed purchase orders for FY 2023 and authorize himself to execute the same.

Deputy Mayor Miller made a motion to authorize City Manager to approve and execute the listed purchase orders for FY 2023. Commissioner York seconded the motion, and the motion carried unanimously.

B. Items for Information

a. Monthly Finance Report

Mr. Smith stated that everything is trending normal.

C. Announcements

12. Mayor and Commissioners Report - 1

A. Confirmation of the 5th member of the Police Pension Board

Mayor Mealor stated that the first item is the confirmation of the 5th member of the Police Pension Board. Mr. Louis DiPaolo is currently on the board, but his term expires on September 30, 2022. In accordance with our state statutes, the City Commission as a ministerial duty shall appoint him if that is Commission's pleasure.

Commissioner Duryea made a motion to approve Mr. Louis DiPaolo as the 5th member of the Police Pension Board. Deputy Mayor Miller seconded the motion, and the motion carried unanimously.

B. Proclamation - Providing for November 8, 2022, Election

Mayor Mealor read the Proclamation providing for a November 8, 2022 election, in accordance with state statutes and Section 34.03 of our Code of Ordinances.

C. Commissioner Smith

He thanked the City Manager, Finance Director, and the Department Heads for presenting a budget that allows the Commission to continue to enhance the City's services while also allowing them to do some needed improvements and projects in the City. He would also like to thank Mrs. Clem, Mrs. Koury, and Mr. Noto for all their help assisting the residents of Cardinal Oaks. He thanked them for their dedication and hard work.

D. Commissioner Duryea

No report.

E. Deputy Mayor Miller

No report.

F. Commissioner York

He would like to associate himself with the comments of Mr. Smith.

13. City Attorney's Report

No report.

14. Adjournment

There being no further business, the meeting adjourned at 8:03.