



# City of Lake Helen

Volusia County, Florida

## City Commission Appeal Hearing

August 22, 2016 at 7:00pm

City Commission Chambers

### MINUTES

#### **Present:**

Mayor Buddy Snowden

Commissioner Tom Wilson

Commissioner Tura Schnebly

City Clerk Becky Witte

Vice Mayor Vernon Burton

Commissioner Michael Woods

City Attorney Scott Simpson

City Administrator Jason Yarborough

#### **Appellant Representatives:**

Chris Williams, 375 Garden Street

Jeremy Davidson, 410 W. Michigan

#### **Builder Representatives:**

Scott A. Cookson, Esq, Shuffield Lowman Attorneys and Advisors

Sudesh K. Ganesh (Desh), Area Sales Manager, Emerald Homes

Neil Gwinn Architect, DR Horton

#### **Call to Order**

Mayor Buddy Snowden called to order the August 22, 2016 Appeal Hearing at 7:00pm.

#### **Ceremonial Matters**

Legislative Prayer led by Lewis Long followed by the Pledge of Allegiance.

#### **City Attorney Comments (Audio Minutes: 04:58 )**

**MOTION** by **Commissioner Tura Schnebly** to change the order of questioning under Items 6,7,8 and 9 to place the City Commission questions last after each presentation. **SECOND** by **Commissioner Tom Wilson**. **MOTION CARRIED UNANIMOUSLY.**

**City Attorney Scott Simpson** outline the procedure of the appeal hearing.

**Attorney Scott Cookson** asked about the Order that will be developed at the end of the meeting and if the appeal could come back to the City Commission. City Attorney Scott Simpson answered no.

**Appellant Chris Williams** questioned the City Attorney about swearing in of citizens.

**Mayor Buddy Snowden** asked for disclosure of any ex parte communications, which are any communication, either written or verbal, with any person after the appeal was filed (Tuesday, July 26, 2016) regarding the subject of the appeal.



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## **Disclosure of ex parte communications: (Audio Minutes: 16:35)**

**City Commissioner Tom Wilson:** No ex parte Communication

**Vice Mayor Vernon Burton:** Noted an email on August 18, 2016 from Appellant Chris Williams which he sent to the City Attorney.

**Commissioner Michael Woods:** On July 26, 2016 an email was forwarded to the Appellant Chris Williams. On July 28, 2016 Appellant Chris Williams emailed that he had filed the appeal with the City Clerk containing 11 signatures in which Commissioner Woods replied that no more communication on the topic since it would qualify as ex parte communication. On July 29, 2016 he was copied on an email. On August 18, 2016 he received an email from Appellant Chris Williams addressed to Mayor Snowden.

**Commissioner Tura Schnebly:** On August 18, 2016 she received an email from Appellant Chris Williams which she sent to the City Attorney. August 22, 2016 she saw Mr. Chris Williams at City Hall and said hello.

**City Commissioner Tom Wilson:** Noted that he did not see the email in which the other Commissioners discussed but he may have been copied.

**Mayor Buddy Snowden:** On August 18, 2016 received email from Appellant Chris Williams. On August 16, 2016 Planning and Land Development Regulation Commissioner Ann Nehrig asked about the hearing in which he responded that he couldn't comment on it because it would classify as ex parte communication.

## **Swearing in of persons who wish to speak**

City Clerk Becky Witte asked all those wishing to speak "Do you swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?"

**Appellant Chris Williams** asked if any ex parte communication with City Administrator. City Attorney Scott Simpson noted that it would not be necessary.

*Commission Discussion*

## **City Administrator Presentation (Audio Minutes: 26:12)**

City Administrator Jason Yarborough presented his case.

## **Questions to the City Administrator by the Appellant**

**Appellant Chris Williams** questioned City Administrator Jason Yarborough.

**City Attorney Scott Simpson** asked for clarification if Chris Williams was the speaker for the appellants which he answered yes as well as Jeremy Davidson.

**Appellant Jeremy Davidson** questioned City Administrator Jason Yarborough.

**Commissioner Tura Schnebly** requested that City Clerk place the items under discussion on the overhead projector.



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## **Questions to the City Administrator by the Builder**

**Attorney Scott Cookson** questioned City Administrator Jason Yarborough.

## **Questions to the City Administrator by the Commission**

**Mayor Buddy Snowden** asked the City Attorney for guidance.

**City Attorney Scott Simpson** said the questions should be based on the determination, the evidence presented and the architectural styles as approved.

**Commissioner Tom Wilson** questioned City Administrator Jason Yarborough.

**Vice Mayor Vernon Burton** questioned City Administrator Jason Yarborough.

**Commissioner Michael Woods** questioned City Administrator Jason Yarborough.

**Commissioner Tura Schnebly** questioned City Administrator Jason Yarborough.

**Mayor Buddy Snowden** questioned City Administrator Jason Yarborough.

**Commissioner Tom Wilson** questioned City Administrator Jason Yarborough.

## **Appellant Presentation (Audio Minutes: 1:32:03)**

**Appellant Chris Williams** presented his case. Exhibit B: Preface and Slides and Exhibit C: an updated appeal with additional signatures were presented.

**No Questions were asked to Appellant Chris Williams by the City Administrator.**

**Questions to the Appellant Chris Williams by the Builders Attorney, Mr. Scott Cookson.**

**Questions to the Appellant Chris Williams by the Commission:**

**Commissioner Michael Woods** questioned Appellant Chris Williams.

**Vice Mayor Vernon Burton** questioned Appellant Chris Williams.

**Commissioner Tura Schnebly** questioned Appellant Chris Williams.

**Commissioner Tom Wilson** questioned Appellant Chris Williams.

**Vice Mayor Vernon Burton** read from the Appeal Hearing Procedure to Appellant Chris Williams with input from **City Attorney Scott Simpson**.

**Appellant Chris Williams** questioned **City Attorney Scott Simpson**.

**Mayor Buddy Snowden** questioned Appellant Chris Williams.

**Appellant Jeremy Davidson** presented his case.

**No Questions were asked to Appellant Jeremy Davidson by the City Administrator.**

**No Questions were asked to Appellant Jeremy Davidson by the Builders Attorney, Mr. Scott Cookson.**

**No Questions were asked to Appellant Jeremy Davidson by the Commission.**



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## **Builder Presentation (Audio Minutes: 2:53:34)**

**Attorney Scott Cookson** presented the case on behalf of DR Horton/Emerald Homes by introducing **Neil Gwinn architect for DR Horton.**

**No Questions were asked to Neil Gwinn architect for DR Horton by the City Administrator**

**Questions to Neil Gwinn architect for DR Horton by the Commission:**

**Commissioner Tura Schnebly** questioned Neil Gwinn architect for DR Horton.

**Commissioner Michael Woods** questioned Neil Gwinn architect for DR Horton.

**Vice Mayor Vernon Burton** questioned Neil Gwinn architect for DR Horton.

**Mayor Buddy Snowden** questioned Neil Gwinn architect for DR Horton.

**Questions were asked to Neil Gwinn architect for DR Horton by the Appellant Chris Williams.**

**Attorney Scott Cookson** presented the case on behalf of DR Horton/Emerald Homes by introducing **Sudesh K. Ganesh (Desh), Area Sales Manager, Emerald Homes.**

**No Questions were asked to Sudesh K. Ganesh (Desh), Area Sales Manager, Emerald Homes by the City Administrator.**

**No Questions to Sudesh K. Ganesh (Desh), Area Sales Manager, Emerald Homes by the Commission.**

**Questions were asked to Sudesh K. Ganesh (Desh), Area Sales Manager, Emerald Homes by the Appellant Chris Williams.**

***Recess from 10:28pm until 10:37pm***

## **Public Comment (Audio Minutes: 03:37:48)**

James Goodman (391 W. Michigan Avenue)

Jim Connell (271 Tangerine Avenue)

Ernest DeBoliac (391 Garden Street)

Betty Doherty (Villas)

Mark Shuttleworth (340 New York Avenue)

**Commissioner Tura Schnebly** asked Mark Shuttleworth for his background and questioned him on his expertise.

**Commissioner Michael Woods** questioned Mark Shuttleworth.

**Mark Shuttleworth** questioned Jason Yarborough, City Administrator.

**City Administrator Jason Yarborough** questioned Mark Shuttleworth.

Greta Tibbetts (450 W. Michigan Avenue) read a letter from Lou and Steve Gutshall (160 S. Euclid Ave)

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**Commissioner Tura Schnebly** noted the letter from Lou and Steve Gutshall (160 S. Euclid Ave) was included in the Appellant's presentation (Exhibit B).

Stephen Shaw (491 Garden Street)

David Winters III (291 W. Michigan Avenue)

**City Administrator Jason Yarborough** asked David Winters if he was within the Historic District.

Commissioner Tura Schnebly questioned David Winters regarding an email – Exhibit D (Email)

*Melissa Mong was sworn in by the City Clerk.*

Melissa Mong (316 N. Lakeview Drive)

David Winters Jr (1535 Covered Bridge Drive)

Lewis Long (176 N. Euclid Avenue)

### **Closing Comments** (Audio Minutes: 04:53:20)

**City Administrator Jason Yarborough** presented closing comments.

**Appellant Chris Williams** presented closing comments.

**Attorney Scott Cookson** on behalf of Builder DR Horton/Emerald Homes presented closing comments. He noted a case.

For the Record Case quoted: 69-MAR Fla. B.J. 42, **Florida Bar Journal**, March, 1995, "QUASI-JUDICIAL LAND USE HEARINGS: DOES YOUR EVIDENCE PASS MUSTER?"

### **Close of the Public Hearing**

### **Closing Comments from City Attorney** (Audio Minutes: 05:06:36)

City Attorney Scott Simpson

### **Commission Discussion** (Audio Minutes: 05:10:28)

**MOTION by Commissioner Tom Wilson** that the City Administrator's decision is supported by substantial competent evidence for the reasons:

1. GAI correspondence in March says the homes substantially complies.
2. City Administration acted in good faith with direction from City Commission.
3. At the Joint meeting in January with PLDRC, Homeowners, GAI, Historic Preservation Board, DR Horton, Adams Homes there was no recollection of any objections to the DR Horton Elevations.
4. Appellant failed to present substantial evidence and any support in their arguments.

**MOTION FAILED FOR LACK OF A SECOND.**



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**MOTION** by **Commissioner Tura Schnebly** to table to a future time and date. **SECOND** by **Vice Mayor Vernon Burton**.

*Discussion*

**MOTION CARRIES 4-1 WITH COMMISSIONER TOM WILSON VOTING NO**

Discussion with **Attorney Scott Cookson** on behalf of Builder DR Horton/Emerald Homes.

**MOTION** by **Commissioner Tura Schnebly** to continue until Regular City Commissioner Meeting on Thursday, September 8, 2016 at 7:00pm in these chambers (City Hall Commission Chambers, 327 S. Lakeview Drive, Lake Helen, Second Floor). **SECOND** by **Vice Mayor Vernon Burton**.

*Discussion with input from City Attorney Scott Simpson*

**MOTION CARRIES 4-1 WITH COMMISSIONER TOM WILSON VOTING NO**

**Appellant Chris Williams** questioned the City Commission and asked that City Administrator not speak with commissioners on this topic. **City Attorney Scott Simpson** said the City Administrator will not lobby the City Commission or provide any additional evidence. Appellant Chris Williams questioned relinquishing his right to appeal.

**Commissioner Michael Woods** questioned City Attorney Scott Simpson about the hearing procedure.

**Jim Connell** (271 Tangerine Avenue) questioned the City Attorney on the process.

## **ADJOURNMENT**

**Mayor Buddy Snowden** adjourned the August 22, 2016 Appeal Hearing at 12:38 am on August 23, 2016.