CITY OF HOLLY HILL, FLORIDA

CITY COMMISSION

MINUTES • OCTOBER 12, 2021

City Commission Chamber	Regular City Commission Meeting	6:00 PM

CITY HALL
1065 RIDGEWOOD AVENUE
HOLLY HILL, FL 32117

City Clerk’s office: (386) 248-9441 - Fax: (386) 248-9448

1. CALL TO ORDER

a. Roll Call

Attendee Name	Title	Status	Arrived
Chris Via	Mayor	Present	
John Penny	District 1 - Commissioner	Present	
Penny Currie	District 2 - Commissioner	Present	
John C. Danio	District 3 - Commissioner	Present	
Roy Johnson	District 4 - Commissioner	Present	

b. Invocation by City Commissioner Roy Johnson
Commissioner Johnson led the invocation.

c. Pledge of Allegiance
Mayor Via led the Pledge of Allegiance.

2. PUBLIC COMMENTS

The following individual came before the Mayor and City Commissioners: Jayson Meyer, owner of Synergy Billing/Fountainhead.

3. APPROVAL OF MINUTES

1.

Minutes - September 28, 2021 Regular City Commission, CRA and Second Public Hearing on Budget Meeting

(Requested by Valerie Manning, City Clerk)
Mayor Via opened public participation. No one spoke.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	John C. Danio, District 3 - Commissioner
SECONDER:	Penny Currie, District 2 - Commissioner
AYES:	Via, Penny, Currie, Danio, Johnson

Enacted and approved this 12th day of October, 2021, in Holly Hill

4. CONSENT AGENDA - ITEMS (1 - 3)

Mayor Via asked if there was anyone in the audience who wished to speak on any item on the Consent Agenda or if any member of the Commission would like to further discuss any item. There was no one.

1. –DOC-2021-64

Memorandum of Understanding (MOU) is Made by and Between FINDER Software Solutions, LLC, Hereinafter Referred to as "FSS", and the Holly Hill Police Department for the Usage of the FINDER Database System for FY 2021-2022

(Requested by Jeff Miller, Police)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Roy Johnson, District 4 - Commissioner
SECONDER:	Penny Currie, District 2 - Commissioner
AYES:	Via, Penny, Currie, Danio, Johnson

Enacted and approved this 12th day of October, 2021, in Holly Hill

2. –DOC-2021-65

FDOT Grant 2022 Speed / Aggressive Driving Enforcement Program Project Number : SC-2022-00040 FDOT Contract

(Requested by Jeff Miller, Police)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Roy Johnson, District 4 - Commissioner
SECONDER:	Penny Currie, District 2 - Commissioner
AYES:	Via, Penny, Currie, Danio, Johnson

Enacted and approved this 12th day of October, 2021, in Holly Hill

3. –DOC-2021-66

Florida DHSMV MOU for DAVID System 2022

(Requested by Jeff Miller, Police)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Roy Johnson, District 4 - Commissioner
SECONDER:	Penny Currie, District 2 - Commissioner
AYES:	Via, Penny, Currie, Danio, Johnson

Enacted and approved this 12th day of October, 2021, in Holly Hill

5. REGULAR AGENDA

1. –2021-R-83 Resolution

A Resolution of the City of Holly Hill, Florida, Amending the Fiscal Year 2021-2022 Annual Operating Budget, Appropriating Project Carry Over Funds for the Purchase of a Fire Truck from the Fiscal Year 2020-2021 to the Fiscal Year 2021-20221 Budget; Setting Forth Revenues and Expenditures; Providing for Severability; and Providing for an Effective Date.

(Requested by Stella Gurnee, Finance)
Mayor Via pulled Resolution 2021-R-83 from the agenda.

RESULT:	**PULLED BY MAYOR**

2.

Fountainhead Reqestions for Time Extention to Rolling Option

(Requested by Joseph Forte, City Manager)
Mr. Forte informed the Mayor and Commissioners that he will be reading from his staff report. ***(A copy of the full discussion on this agenda item and the entire meeting is available upon request in the City Clerk's Office.)***
In July, 2021, Fountainhead developers approached the city with a request to have the deadline of exercising the purchase option extended. The agreement states: *"If the Developer exercises and closes the Initial Option as required in Paragraph 8, the Developer shall have four (4) years measured from the date of acquisition of Parcel 2 to exercise and close the next option (the "Rolling Option")."* This timeline amounts to August 30, 2021.
At the time the staff felt that the project had made enough progress that a 6-month extension would be acceptable. However, once the staff and the developers entered into more detailed negotiations with regard to the extension, other issues were brought up, by the developer, that have now clouded the staff's ability to make a recommendation to support the extension.
First and foremost, it must be understood that the request from the developer is being made because a performance milestone has not been met. It is important to remember that the Incentive Agreement was to protect the City from two issues. First, Fountainhead was not a developer and did not have a portfolio of completed projects that the City could see comparable to what was being proposed. Therefore, all incentives were based on performance. Secondly, the City did not want Fountainhead to just flip the property purchased for a profit. The City wanted Fountainhead to develop the property as was being promised and created incentive, based on performance. The basis of the incentive agreement is twofold.

First, all TIF money generated as a result of the development would be returned to the developer minus debt service, to reimburse for certain capital expenditures paid for the development of the project. The amount of TIF money is based on the Volusia County Property Appraisers taxable valuation of the property. To date, the developer has received all TIF dollars they are entitled to. Second, the money the developer pays to purchase the property would be held aside for reimbursement of eligible jobs created and maintained on the property. This incentive is available conditioned upon, the completion and certificate of occupancy being issued for all of Phase 1, Parcel 2 as defined on Exhibit "C"; and the headquarters and all employees of Synergy Billing, LLC being permanently relocated to Phase 1, Parcel 2.

To date, no job reimbursement money has been delivered to the developer. Initially, the City expected approximately 130 Synergy Billing jobs would be transferred to Fountainhead upon obtaining a certificate of occupancy for Phase 1, Parcel 2. However, Synergy Billing occupied the project prior to obtaining a certificate of occupancy (which still has not been issued) so the city issued a temporary certificate of occupancy. Therefore, I do not know the number of jobs transferred at the time the facility was occupied, however, the most recent employee roster the City received indicated approximately 65 current jobs with 42 eligible for reimbursement upon the issuance of the certificate of occupancy. While this is a performance standard reimbursed based on the actual number of employees, the city is disappointed that the number of employees currently listed are nearly half of what was supposed to be originally transferred and about 10% of what was promised in the presentation of the developer to have 500 jobs by 2020, which is also indicated in the attached Economic Impact Statement provided to the City by Jayson Meyer on January 22, 2020.

On July 29, 2021 a meeting was held at Fountainhead where the request for an extension to the rolling option was brought forward. Three conditions were initially discussed and verbally agreed to.

1. Commit incentive dollars back to the project
2. Use Jobs money for FHFC local match
3. Jobs on parcel 3 can be reimbursed for Fountainhead employees not 3rd party developer.

The first item that was discussed was immediately taken off the table at that meeting, which was the commitment incentive dollars back into the project so that was no longer an item to be contended with. As staff and the developer entered into the negotiations, other issues came to light. The developer wanted to extend the repayment of the loan to the FHCF beyond the 2026 deadline of the CRA. A significant change to the initially agreed upon conditions which also caused a delay to our negotiations. Since the FHFC local match is being covered by Volusia County this matter is no longer an issue. The developer also wanted the city to reimburse for jobs transferred to the project under the temporary certificate occupancy although many of those jobs are not be in existence and will not be at the time the certificate of occupancy. The developer has concede that the initial jobs transferred are not eligible unless the jobs are still in existence as of the issuance of the certificate of occupancy with a least one year of employment history. The last item that was brought up was how the $190,000 credit was to be applied to the purchase of parcel.

You have been provided email communication from both the City Manager and Patrick Kennedy, attorney for Fountainhead, with regard to our separate and distinct interpretations of this language. The staff and the developer are still not in agreement with how this language is to be interpreted and since it is directly involved in how parcel 1 is to be purchased which is the catalyst for the rolling option and purchase of parcel 3, I do not feel it is in the City's interest to grant an extension to the rolling option without resolving this important factor.

It remains clear that until paragraph 8 is resolved this matter will be an on-going issue with regard to the purchase of parcel 1.

On September 17, 2021 I received an email from Jayson Meyer suggesting the parties seek a Declaratory Judgment. I provided my feed back to that email and questioned the length of time a declaratory Judgment would take and requested confirmation from the Fountainhead attorney of this direction. On September 29th I received an email from Patrick Kennedy indicating that a Declaratory Judgment would be premature at this time and that Fountainhead would move forward with their request for a time extension of the rolling option. So, the question came up, why six (6) weeks ago did I support the request for the extension but today I don't. So my answer to that is six (6) weeks ago the issue on the table was primarily the Florida Housing Finance Corp opportunity to develop on to parcel 4. In order for the developer to gain access to the funds that would be generated from parcel 4, it would have to have owned parcel 3 to get to that. It's only fair that they be able to get to parcel 4 to get to the monies owned parcel, that was part of this whole project. Well, since then staff has learned that power-ball for that project ranked beyond what's being funded and according to Kenny from Beneficial, there's a very slim chance that, that project is going to get any funding even going through the appeals process. So, that raises a question in my mind is, why does the developer need to purchase parcels 3 and 4? The option to purchase parcel 1 continues through 2026, there's no question about that. And the only feedback I have received from some of you (the Commission) who have visited the project within the last couple of weeks, was that parcels 3 and 4 would be purchased to be leveraged to use to get monies to finish developing parcels, possibly parcel 1 phase 2 on parcel 2. So, his question is, is it in our interest, is that the purpose that we would sell the land at a discounted rate to the developer for the purpose of leveraging the money to develop on another parcel? These are public lands that are supposed to be developed and we didn't incentive an option to have the land leveraged for the purpose of developing on other parcels. That's my position and I've told Mr. Kennedy whatever this Commission takes I will support 100% without question. If you support the request, I support it and I will not argue one thing against it. If you don't support it, I also support that. That's my position. You can hear from Mr. Kennedy now if you like and I think we'll follow up with Mr. Simpson after that.

Mayor Via called up Mr. Patrick Kennedy, attorney representing Fountainhead. At this time there was discussion amongst staff, Mr. Kennedy, Attorney Simpson, and Mr. Meyer. ***(A copy of this meeting in its entirety is available upon request in the City Clerk's Office.)***

Jayson Meyer stated just a quick comment on this discussion. There's a lot of questions about "why" parcel 3, why this option matters. I've made life and business decisions based on this agreement. Thinking certain things, our interpretation of the agreement and based on trying to realize the full vision for this project and so the option, it's not about buying it right not. It's not about having to own parcel 3 but it's about making sure we don't lose it so the vision doesn't fall apart. That's why it's so important. I don't need to take parcel 3 to the bank or take parcel 4 to the bank but I don't want to lose what we've built so far. So, I've been operating under the assumptions of everything that's in those agreements just like we would in private business and if the door is open to renegotiate all those terms, every bit of it, I can't see us pursuing parcel 3 and that just tears me apart because that means that my vision for the Fountainhead is essentially dead. So, that's kind of where I'm on it. I think if the decision of this Commission, whatever it is, I will respect but I can tell you if the decision is to not allow the extension then I don't think…I think we'll focus on our business in trying to create jobs and doing everything that we've committed to do but I don't think that we would be interested in renegotiating in order to secure an option. I just don't think so. I think the issues that are on the table can be resolved. I think that we can work through them but I don't think for us there's interest in renegotiating everything. Thank you for the opportunity.

Commissioner Currie made a motion to ***DENY THE EXTENSION BUT DIRECT STAFF TO BRING BACK AN AGREEMENT THAT STAFF HAS CONCLUDED AMONGST BOTH PARTIES BY THE FIRST MEETING IN JANUARY, WHICH IS JANUARY 11, 2022, WOULD LIKE TO SEE AN AGREEMENT BY THEN AND MAINTAIN THE SALE PRICE AT $60,000 AN ACRE IN THE AGREEMENT****, seconded by Commissioner Danio.*

Attorney Simpson clarified for the Commission that staff will renegotiate an incentive agreement, denying the extension for options of parcels 3 and 4, included in the negotiation will be a new incentive agreement or options to purchase 3 and 4 and they will not exceed $60,000 per acre.

PASSED, 3-2 (Commissioners Penny and Johnson, voted Nay)

RESULT:	**DENY [3 TO 2]**
MOVER:	Penny Currie, District 2 - Commissioner
SECONDER:	John C. Danio, District 3 - Commissioner
AYES:	Via, Currie, Danio
NAYS:	Penny, Johnson

3. –DOC-2021-67

Fountainhead Land Lease (Renewal)

(Requested by Joseph Forte, City Manager)

Mayor Via mentioned that this item will be taken before the Fountainhead Request for Time Extension to Rolling Option.

Commissioner Currie included in her motion for ***APPROVAL of the FOUNTAINHEAD LAND LEASE RENEWAL AGREEMENT to HAVE THE LEASE PAID ANNUALLY****, seconded by Commissioner Penny.*

Mayor Via opened public participation. No one spoke.

PASSED, 5-0.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Penny Currie, District 2 - Commissioner
SECONDER:	John Penny, District 1 - Commissioner
AYES:	Via, Penny, Currie, Danio, Johnson

Enacted and approved this 12th day of October, 2021, in Holly Hill

6. PUBLIC HEARING

1. -2021-O-3043 Ordinance

SECOND READING - an Ordinance of the City of Holly Hill, Volusia County, Florida, Annexing by Voluntary Petition Approximately 1.23 Acres Identified as Parcel Number 4244-01-07-0081 Contiguous to the City of Holly Hill; Redefining Boundaries of the City of Holly Hill to Include Said Property and the Adjacent Right-Of-Way of 8Th Street; Directing the City Clerk to File the Ordinance with the Clerk of the Circuit Court, with the Chief Administrative Officer of Volusia County and with the Department of State; Providing for Conflicting Ordinances; Providing for Severability; and Providing for an Effective Date.

(Requested by Brian Walker, Board of Planning and Appeals)
Mayor Via opened public participation. No one spoke.

RESULT:	**ADOPTED AT 2ND READING [UNANIMOUS]**
MOVER:	Roy Johnson, District 4 - Commissioner
SECONDER:	John C. Danio, District 3 - Commissioner
AYES:	Via, Penny, Currie, Danio, Johnson

ORDINANCE
2021-O-3043
SECOND READING - AN ORDINANCE OF THE CITY OF HOLLY HILL, VOLUSIA COUNTY, FLORIDA, ANNEXING BY VOLUNTARY PETITION APPROXIMATELY 1.23 ACRES IDENTIFIED AS PARCEL NUMBER 4244-01-07-0081 CONTIGUOUS TO THE CITY OF HOLLY HILL; REDEFINING BOUNDARIES OF THE CITY OF HOLLY HILL TO INCLUDE SAID PROPERTY AND THE ADJACENT RIGHT-OF-WAY OF 8TH STREET; DIRECTING THE CITY CLERK TO FILE THE ORDINANCE WITH THE CLERK OF THE CIRCUIT COURT, WITH THE CHIEF ADMINISTRATIVE OFFICER OF VOLUSIA COUNTY AND WITH THE DEPARTMENT OF STATE; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

AN ORDINANCE OF THE CITY OF HOLLY HILL, VOLUSIA COUNTY FLORIDA, ANNEXING BY VOLUNTARY PETITION APPROXIMATELY 1.23 ACRES IDENTIFIED AS PARCEL NUMBER 4244-01-07-0081 CONTIGUOUS TO THE CITY OF HOLLY HILL;

REDEFINING BOUNDARIES OF THE CITY OF HOLLY HILL TO INCLUDE SAID PROPERTY AND THE ADJACENT RIGHT-OF-WAY OF 8th STREET; DIRECTING THE CITY CLERK TO FILE THE ORDINANCE WITH THE CLERK OF THE CIRCUIT COURT, WITH THE CHIEF ADMINISTRATIVE OFFICER OF VOLUSIA COUNTY AND WITH THE DEPARTMENT OF STATE; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Bon-Properties FT LLC, owner of the real property described herein; and

WHEREAS, the owner filed, pursuant to Florida Statue 171.044, a petition for voluntary annexation of said property as described in Attachment “A” into the municipal limits of the City of Holly Hill; and

WHEREAS, the City Commission of the City of Holly Hill, has determined all of the property which is proposed to be annexed into the City of Holly Hill is within an unincorporated area of Volusia County, is contiguous to the City of Holly Hill, and is reasonably compact; and

WHEREAS, the map attached hereto as Exhibit “B” shows the property, which is proposed to be annexed into the City of Holly Hill; and

WHEREAS, Exhibit “A” is the legal description of the property, which is proposed to be annexed into the City of Holly Hill;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA:

SECTION 1. The City Commission of the City of Holly Hill, based upon the above findings, hereby annexes into the City of Holly Hill by voluntary petition the following described property:

LEGAL DESCRIPTION: See Attached Exhibit "A".

(Tax Parcel Number 4244-01-07-0081 and the adjacent right-of-way of 8th Street)

SECTION 2. The City of Holly Hill city boundary is hereby amended to incorporate the above described property.

SECTION 3. That within seven (7) days of the adoption of this Ordinance, the City Clerk shall file a copy of said Ordinance with the Clerk of the Court, with the Chief Administrative Officer of Volusia County, and with the Department of State.

SECTION 4. That upon approval on first reading, the City Clerk is hereby directed to publish the Notice of Annexation required by Section 171.044(2), Florida Statues, at least once each week for two (2) consecutive weeks in a newspaper of general circulation in the City of Holly Hill.

SECTION 5. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

SECTION 6. That all ordinances made in conflict with this Ordinance are hereby repealed.

SECTION 7. That this Ordinance shall become effective immediately upon its adoption.

APPROVED AND AUTHENTICATED on this 12th day of OCTOBER, 2021 for second and final reading.

ATTACHMENT "A"
LEGAL DESCRIPTION

The easterly ½ of the westerly ½ of the southerly ½ of Lot 8, Block 7, Mason & Carswell, Holly Hill, according to map in Map Book 2, page 90, Public Records of Volusia County, Florida. Except that portion in the road.

Enacted and approved this 12th day of October, 2021, in Holly Hill

7. COMMUNICATIONS

A. City Manager & Staff Comments

Mr. Forte spoke about Biketoberfest and Bike Week and the length of time for those events. In 2019 the Commission allowed for Biketoberfest to run for 10 days and it was only for 2019. The purpose of that was to see how the 10 day period would affect the community, if there would be a problem. As applications for it came in this year, the city granted the same time period of 10 days. If the Commission supports that, he will ask the City Clerk to, the next time we set the special events calendar, by way of the calendar date, the city will make Biketoberfest 10 days since Bike Week is already 10 days. ***There was consensus from the Commission to keep both events for 10 days.***

Mr. Forte spoke of the holidays towards the end of the year for Commission meetings.

Commissioner Penny made a motion to ***APPROVE CANCELING THE SECOND MEETING IN DECEMBER DUE TO THE CHRISTMAS HOLIDAY****, seconded by Commissioner Currie.*

Mayor Via opened public participation. No one spoke.

PASSED, 5-0.

Mr. Forte asked about the Holiday Gift Cards for the employees. ***There was consensus from the Commission to give the $50 holiday gift cards for this year and revisit it for next year's budget.***

Mr. Forte explained to the Mayor and Commissioners about the binders they received tonight for the Brokers Services that they will be hearing from for benefits at the next meeting and how they will be scoring them and bringing back their results at the workshop coming up.

B. City Attorney Comments

None.

C. City Commission Comments

Commissioner Johnson agreed about National Night Out; job opportunities in Holly Hill; will be hard to control car washes because kids do them too; the Fountainhead project - back on the tax roll.

Commissioner Danio agreed that National Night Out was a great turnout; handful of these meetings over the last five years for him that are sometimes not enjoyable and someone may walk away not happy but he would like to think that Jayson was speaking from emotions and hopefully things can work out.

Commissioner Currie mentioned that the goal is and was to protect the public interest but also be able to continue the relationship and allow Jayson the opportunity to continue his project and she believes that the city did the very best we can do given the circumstances, especially doing the motion the way we did. Mandy, the PD's Police Victims Advocate has officially taken over the Christmas Club and is on the board. The boxing of the food is Saturday, December 11th at 9:00 AM at R & R Roofing. National Night Out was phenomenal.

Commissioner Penny agreed that tonight's meeting was good. What he wanted to accomplish is pretty much the same, hopefully the comments from Jayson were emotional and will still cooperate. In my opinion, they didn't lose anything that I was asking for. This Commission was saying the same thing but in a little direction but the end result was the same and ended up in the same destination.

Mayor Via mentioned the Christmas Lights Challenge again for this year.

Commissioner Penny mentioned that there is a few cities that use an App that can be used, Port Orange may have done that. Mr. Forte mentioned he will look into it.

D. Mayor's Comments

Mayor Via mentioned public private partnerships; appreciated tonight's discussion; National Night Out was outstanding, amazing event.

8. ADJOURNMENT

The meeting adjourned at approximately 9:15 PM.

Valerie Manning, City Clerk,CMC 10/12/2021

Chris Via, Mayor 10/12/2021