



CITY OF HOLLY HILL, FLORIDA

CITY COMMISSION

MINUTES • FEBRUARY 14, 2017

City Commission Chamber

Regular City Commission Meeting

7:00 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
Arthur J. Byrnes	District 1 - Commissioner	Present	
Penny Currie	District 2 - Commissioner	Present	
John C. Danio	District 3 - Commissioner	Present	
Chris Via	District 4 - Commissioner	Present	
John Penny	Mayor	Present	

B. Invocation

Commissioner Danio led the Invocation.

C. Pledge of Allegiance to the Flag

Commissioner Danio led the Pledge of Allegiance to the Flag.

2. PRESENTATION

1.

Proclamation - Life Saving Efforts

(Requested by Valerie Manning, City Clerk)

PROCLAMATION

HONORING

**MARK JULIANO, BETH WRENN AND STEVE JUENGST
FOR THEIR LIFE SAVING EFFORTS**

WHEREAS, it was an ordinary Monday on January 30, 2017 when Mark Juliano, Beth Wrenn and Steve Juengst arrived at the Public Works Complex to begin their work day; and

WHEREAS, Walt Smyser was sitting at his office desk conducting business as usual and without any indication, suffered cardiac arrest and fell to the floor; and

WHEREAS, Steve Juengst immediately went to Walt's office and identified the emergency and contacted 911 to begin the lifesaving process; and

WHEREAS, Mark Juliano and Beth Wrenn quickly tended to Walt by placing him in a position to assess his condition and recognized that Walt had stopped breathing and did not have a pulse; and

WHEREAS, Mark and Beth alternated providing the lifesaving procedure Cardiopulmonary Resuscitation (CPR) until professionally trained police and fire rescue personnel arrived to stabilize Walt and transport him to the hospital; and

WHEREAS, Mark Juliano, Beth Wrenn and Steve Juengst deserve our sincere thanks, recognition

and praise for their quick response and excellent judgment going beyond the call of duty to help save the life of their co-worker Walt Smyser.

NOW, THEREFORE, I, John Penny, Mayor of the City of Holly Hill, Florida, and on behalf of the City Commission, do hereby acknowledge and sincerely thank Mark, Beth and Steve for their lifesaving efforts and their service to the Holly Hill community.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City to be affixed this 14th day of February, 2017.



3. **RECESS THE CC MTG & CONVENE AS THE CRA**

4. **CRA AGENDA**

1.

Resolution 2017-R-12 A Resolution of the Community Redevelopment Agency (CRA) of the City of Holly Hill, Florida, Amending the Purchase and Sale Agreement and the Incentive Agreement with Fountainhead, LLC; Extending the Deadline for Final Approval of the MPUD Rezoning by the City Commission to March 15, 2017; and Providing for Severability; and Providing for an Effective Date.

(Requested by Valerie Manning, City Clerk)

RESOLUTION 2017-R-12

A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY (CRA) OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING THE PURCHASE AND SALE AGREEMENT AND THE INCENTIVE AGREEMENT WITH FOUNTAINHEAD, LLC; EXTENDING THE DEADLINE FOR FINAL APPROVAL OF THE MPUD REZONING BY THE CITY COMMISSION TO MARCH 15, 2017; AND PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission and the Community Redevelopment Agency had approved a Purchase and Sale Agreement and an Incentive Agreement with Fountainhead, LLC on January 24, 2017, which provided for a deadline of February 28, 2017 for final approval of the MPUD rezoning; and

WHEREAS, to meet the February 28, 2017 deadline, the BOPA would have had to take action on the Fountainhead MPUD at February 6, 2017 regularly scheduled meeting, but the BOPA did not have a quorum to hear the Fountainhead MPUD rezoning; and

WHEREAS, the BOPA has set a special called meeting for February 22, 2017 to hear the Fountainhead MPUD rezoning; and

WHEREAS, the City Staff is requesting an extension of the deadline for the MPUD approval to March 15, 2017 as it is not possible for Fountainhead MPUD to be approved by the City Commission by February 28, 2017 due to the delay caused by the lack of quorum of BOPA on February 6, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMUNITY REDEVELOPMENT AGENCY (CRA) OF THE CITY OF HOLLY HILL,

FLORIDA:

SECTION 1. The Community Redevelopment Agency (CRA) hereby approves the amendment to the Purchase and Sale Agreement and the Incentive Agreement with Fountainhead LLC to extend the deadline for approval of the MPUD rezoning to March 15, 2017.

SECTION 2. SEVERABILITY If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

SECTION 3. EFFECTIVE DATE This Resolution shall take effect immediately upon adoption by the City Commission.

APPROVED AND AUTHENTICATED on this 14th day of FEBRUARY, 2017.

Mr. Forte stated the reason this is being requested to be extend to March 15, 2017 is because there were three members at the Board of Planning and Appeals meeting on February 5th and one of those members has conflict of interest and has to sit down from the meeting for the Fountainhead project, thereby leaving the board without a quorum. At no fault to the Fountainhead and Synergy Billing application, the staff is requesting that these two items, both the Incentive Agreement and the Purchase and Sale Agreement be extended with the final deadline date being March 15th rather than February 28th.

Mayor Penny opened public participation. No one spoke.

*Commissioner Via made a motion to **APPROVE Resolution 2017-R-12**, seconded by Commissioner Byrnes.*

PASSED, 5-0 unanimously.



2.

Resolution 2017-R-13 A Resolution of the Community Redevelopment Agency of the City of Holly Hill, Florida, Authorizing the City Manager to Enter into an Agreement with Quentin L. Hampton and Associates, Inc., to Provide Professional Services for the Electrical Design and Bidding Services for the Bold Landscaping Improvements to the Medians Along US1; and Providing for Severability; and Providing for an Effective Date.

(Requested by Mark Juliano, Public Works)

RESOLUTION 2017-R-13

A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY (CRA) OF THE CITY OF HOLLY HILL, FLORIDA, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH QUENTIN L. HAMPTON AND ASSOCIATES, INC., TO PROVIDE PROFESSIONAL SERVICES FOR THE ELECTRICAL DESIGN AND BIDDING SERVICES FOR THE BOLD LANDSCAPING IMPROVEMENTS TO THE MEDIANS ALONG US1; AND PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN

EFFECTIVE DATE.

WHEREAS, The City Commission of the City of Holly Hill has entered into a Joint Project Agreement with the Florida Department of Transportation for Bold Landscaping Improvements for US-1 within the City Limits of Holly Hill; and

WHEREAS, The City has submitted full landscaping plans to FDOT for review; and

WHEREAS, In anticipation of approval from FDOT to bid the project, the City now wishes to contract with Quentin L. Hampton and Associates, Inc., for electrical design and bidding services; and

WHEREAS, The City has a continuing services agreement with and has received a proposal from Quentin L. Hampton and Associates, Inc., to perform the requested engineering services.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMUNITY REDEVELOPMENT AGENCY (CRA) OF THE CITY OF HOLLY HILL, FLORIDA:

SECTION 1. That the Community Redevelopment Agency (CRA) of the City of Holly Hill does hereby authorize the City Manager to enter into an agreement with Quentin L. Hampton and Associates, Inc., to provide professional services for electrical design and bidding services for the Bold Landscaping Project on US1 not to exceed \$9,275.00.

SECTION 2. SEVERABILITY. If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

SECTION 3. EFFECTIVE DATE. This Resolution shall take effect immediately upon adoption by the Community Redevelopment Agency.

APPROVED AND AUTHENTICATED this 14th day of FEBRUARY, 2017.

Mr. Forte stated this is the agreement authorizing him to enter into an agreement with Quentin L. Hampton and Associates to provide the engineering services so that the city can run electrical power from the side of the road on US1 to the medians so that the city can provide electric to light up the Gateway signs when those get installed. They will be responsible for the engineering, for the bidding process, and review.

Mayor Penny opened public participation. No one spoke.

*Commissioner Currie made a motion to **APPROVE Resolution 2017-R-13**, seconded by Commissioner Danio.*

PASSED, 5-0, unanimously.



5. **ADJOURN AS THE CRA & RECONVENE AS THE CC MTG**

6. **PUBLIC COMMENTS**

The following individual spoke to the Mayor and City Commissioners:

Brad Perdue, 1307 Jarecki Avenue, Holly Hill, stated he lives next to Daytona Plumbing and Woody's Septic, which back in 1988 the City Commission gave a variance to use for parking but they didn't give a variance to Woody's Septic or Deltona Septic or Rayco Properties or anybody else. It only says Daytona Plumbing. He has pictures from the other day of how many people are using that property from those businesses in the morning. He complained 17 months ago now about the noise. It's still noisy every day; nothing has ever been done about it. The parking in there is unbelievable. The noise, the dust, and everybody in his neighborhood, they can't get around in the morning because of all the trucks. The business is just way too big for the size of the property that it's on. The owner, also years ago, moved the fence from that commercial property into that residential lot. Mr. Perdue stated he was told that the owner had 30 days to move it but now he sees they are putting it there like it's going to stay right where it's always been since he's moved it. When the owner moved it out of that commercial property into the residential lot, there's been no industrial taxes paid on that strip of ten foot land that he's using as industrial property and there's no one from Daytona Plumbing that uses Daytona Plumbing to park anymore. They use the residential lot. All the company trucks, all the employees, that's allowed them to add Woody's Septic and Deltona Septic to the business. Mr. Perdue stated he doesn't think that was the intention of the City Commission to give the owner a variance to park every vehicle from that business into that residential lot so he could add two other businesses to the existing property but that's what's happened. Mr. Perdue stated he is just wondering if the city is going to do anything about this. He brought this up many times. The noise, about the fence being moved, the dust in their neighborhood and everything and it doesn't seem like he's getting anywhere.

Mayor Penny stated he understands that staff is aware of it and working on a solution.

Mr. Forte stated he did meet with Mr. Purdue several weeks ago and there are some things that are, unfortunately, out of his control. There was an agreement that was put in place a number of years ago when it was the plumbing company, Daytona Plumbing, and that agreement allowed for the fence to be moved ten feet or so over so that there was additional parking of vehicles on the property.

Mr. Perdue asked can the city legally just allow an industrial property to add ten foot of their property in a residential lot? His property never touched industrial property before, now he has ten foot of it touching his residential lot and the noise coming out of it is incredible. If the Code Enforcement Office was here...he has videos that he gave them of 78 decibels in his yard that's not supposed to be over 60.

Mayor Penny stated he understands Mr. Perdue's concerns. They will not solve his concerns tonight. The best process is probably to stay in touch with Mr. Forte and meet with him and he will direct staff to address your concerns. Mayor Penny stated he knows that Mr. Perdue is upset. If I lived next to that I'd be upset too.

Mr. Perdue stated he bought that house off my parents in 1977. Back then it was only Daytona Plumbing.

Commissioner Currie stated the ten feet of fence that Mr. Perdue was talking about, that there was an agreement for, is that into residential or is that still commercial?

Mr. Forte stated, no. The property that the plumbing and the septic trucks are on is an industrial property. The property to the west is a residential property. They moved the fence ten feet on the residential property. The city had received a letter from the business owner where there was an agreement that he would put in additional landscaping, the fence would be moved and he would be able to park certain vehicles on the commercial site and then my interpretation would be that the employee parking would be on the residential site, which they can park on the adjacent site. Should that agreement been put in place? I don't know.

Commissioner Currie asked is that an actual legal agreement that the city needs to stand by now?

Mr. Forte stated it's a letter and it's a letter that's only signed by them not by the city.

Commissioner Currie asked can staff look into that because she doesn't want...

Mr. Forte stated sure, he is looking into it.

Commissioner Currie stated, okay.

Mr. Forte stated the biggest problem that the city is having is the septic tank trucks, the septic trucks that are on the property, and whenever a commercial and industrial property abuts a residential property the decibel levels is not supposed to exceed 60 DBI and they are in excess of that, probably closer to 80 DBI. That's one of the problems that staff is trying to figure out what to do and how to resolve it and he doesn't know if putting a different type of buffer or a wall up there will do it but that's something that the Code Enforcement officers are working with the commercial property owner on.

Commissioner Currie stated, okay.

Mr. Perdue stated also in that agreement it said that there would be visual buffering, basically where you couldn't see that lot. In 1988 those bushes were planted, they are as tall as the hood and cars now. It's going to take until 2050 before they can hide the cars?

Commissioner Currie stated well, Mr. Perdue, if they business owner is not going to concede by the letter, whatever the agreement was to make things sufficient for the residents of that neighborhood, then she would say the city doesn't allow them to stand by that letter and that the city...

Mr. Forte stated it's not that simple. The city can, if we want to go against that letter, we can have them move the fence 10 feet but it's an industrial zone property.

Commissioner Currie stated we need to do whatever's necessary that we can do to allow our residential people there to have some peace and quiet.

Mr. Forte stated what we need to do is understand all the conditions and not conclude it here tonight.

7. APPROVAL OF MINUTES

1.

Minutes - January 10, 2017 - Regular City Commission & CRA Meeting January 12, 2017 - Commission Day January 24, 2017 - Regular City Commission & CRA Meeting
(Requested by Valerie Manning, City Clerk)

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Chris Via, District 4 - Commissioner
SECONDER:	John C. Danio, District 3 - Commissioner
AYES:	Byrnes, Currie, Danio, Via, Penny

Enacted and approved this 14th day of February, 2017, in Holly Hill

**8. CONSENT AGENDA - ITEMS (1 - 4)**

Mayor Penny asked if any member of the Commission would like to pull an item from the Consent Agenda for further discussion and if any member of the audience would like to discuss any item on the Consent Agenda. No one spoke or pulled an item.

1. Resolution

Resolution 2017-R-14 A Resolution of the City Commission of the City of Holly Hill, Florida, Authorizing the City Manager to Approve a Budget Reappropriation Creating a Budgetary Line Item of \$40,000 in Account 140-4172-572-6300; Authorizing the City Manager to Fund This Line Item with Revenues from Account 140-0000-331-5010; and Providing for Severability; and Providing for an Effective Date.

(Requested by Mark Juliano, Public Works)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Penny Currie, District 2 - Commissioner
SECONDER:	Chris Via, District 4 - Commissioner
AYES:	Byrnes, Currie, Danio, Via, Penny

RESOLUTION

Enacted and approved this 14th day of February, 2017, in Holly Hill

2. Resolution

Resolution 2017-R-15 A Resolution of the City Commission of the City of Holly Hill, Florida, Appointing a Member to the Firefighters Pension Fund Board of Trustees;

Setting Forth the Term and Expiration Date for Said Member; and Providing an Effective Date.

(Requested by Valerie Manning, City Clerk)

Debra Snow was appointed to the board unanimously.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Penny Currie, District 2 - Commissioner
SECONDER:	Chris Via, District 4 - Commissioner
AYES:	Byrnes, Currie, Danio, Via, Penny

RESOLUTION

Enacted and approved this 14th day of February, 2017, in Holly Hill



3.

Volusia County Law Enforcement - Mutual Aid Agreement

(Requested by Steve Aldrich, Police)

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Penny Currie, District 2 - Commissioner
SECONDER:	Chris Via, District 4 - Commissioner
AYES:	Byrnes, Currie, Danio, Via, Penny

Enacted and approved this 14th day of February, 2017, in Holly Hill



4.

Police Department - Thomson Reuters (CLEAR for Law Enforcement Plus) Contract

(Requested by Steve Aldrich, Police)

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Penny Currie, District 2 - Commissioner
SECONDER:	Chris Via, District 4 - Commissioner
AYES:	Byrnes, Currie, Danio, Via, Penny

Enacted and approved this 14th day of February, 2017, in Holly Hill



9. REGULAR AGENDA

1. Resolution

Resolution 2017-R-16 A Resolution of the City Commission of the City of Holly Hill, Florida, Amending the Purchase and Sale Agreement and the Incentive Agreement with Fountainhead, LLC; Extending the Deadline for Final Approval of the MPUD Rezoning by the City Commission to March 15, 2017; and Providing for Severability; and Providing for an Effective Date.

(Requested by Valerie Manning, City Clerk)

Mayor Penny opened public participation. No one spoke.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Arthur J. Byrnes, District 1 - Commissioner
SECONDER:	Chris Via, District 4 - Commissioner
AYES:	Byrnes, Currie, Danio, Via, Penny

RESOLUTION

Enacted and approved this 14th day of February, 2017, in Holly Hill



2. Resolution

Resolution 2017-R-17 A Resolution of the City Commission of the City of Holly Hill, Florida, Authorizing the City Manager to Enter into an Agreement with Quentin L. Hampton and Associates, Inc., to Provide Professional Services for the Electrical Design and Bidding Services for the Bold Landscaping Improvements to the Medians Along US1; and Providing for Severability; and Providing for an Effective Date.

(Requested by Mark Juliano, Public Works)

Mayor Penny opened public participation. No one spoke.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John C. Danio, District 3 - Commissioner
SECONDER:	Arthur J. Byrnes, District 1 - Commissioner
AYES:	Byrnes, Currie, Danio, Via, Penny

RESOLUTION

Enacted and approved this 14th day of February, 2017, in Holly Hill



3. Resolution

RESOLUTION 2017-R-18 A Resolution of the City Commission of the City of Holly Hill, Florida, Amending the Fiscal Year 2016-2017 Solid Waste Budget; and Providing for Severability; and Providing for an Effective Date.

(Requested by Kurt Swartzlander, Finance)

Mr. Forte stated this is the budget transfer. Moving money from the Solid Waste department into the General Fund so that the city can pay the balance of the debris removal and monitoring services as a result of Hurricane Matthew. This is a \$700,000 transfer. This should close out what the city is paying for the debris removal and monitoring and now staff is going forward with the reimbursements from FEMA.

Mayor Penny opened public participation. No one spoke.

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

RESOLUTION

Enacted and approved this 14th day of February, 2017, in Holly Hill



4.

Marina Grande MPUD 6Th Amendment SIXTH AMENDMENT TO MARINA GRANDE RESIDENTIAL BASED MIXED USE PLANNED UNIT DEVELOPMENT (MPUD) DEVELOPMENT AGREEMENT

(Requested by Thomas Harowski, Board of Planning and Appeals)

Tom Harowski, City Planner, stated this is an item that's been before the Commission several times. He will quickly summarize the request as he thinks they have it constituted now so they all understand where they're going. The subject property, Marina Grande is regulated by a Planned Unit Development Agreement and as they know the PUD gives the city substantial latitude in terms of developing regulations that are appropriate to the project and appropriate to the site. The applicants in this case are asking the Commission for an amendment to the PUD Agreement to provide some advertising signage on a temporary basis. They are looking for a three year time frame for approval. The request includes three, two panel signs located along Riverside Drive, the Riverside Drive frontage from one north of the park entrance, one at the main entrance, and one across the street at the intersection. They are looking for three flutter flags located on the dock, they are looking for a banner sign located on the south tower that would be approximately 100 feet long and that agreement also includes the removal to nonconforming signs are actually left over from the days when the shopping center was there. That's the program that's been asked of the Commission. When considering provisions under a PUD the process allows the city and the Commission to identify and adopt regulations that may not be appropriate in all areas of the community but are appropriate for the site because of specific character of the site or the specific character of the project. In looking at the city's code or looking at the Comprehensive Plan there is only one policy that gives the staff any guidance in terms of a standard for making a decision and that's Policy 1.2.8 for the Comprehensive Plan, which states, "Such regulations shall ensure that new and replacement signs shall adhere to the community standard for aesthetics and minimize

confusion that results from visual disarray, while allowing reasonable identification and promotion of businesses." That's the policy and they can interpret and apply that standard as they see best to the particular project. Essentially, that's the situation at the request before the Commission is for that package of signage that he referenced in opening and as he indicated, the Commission certainly has a latitude to approve that amendment to the development agreement so long as they find it to be consistent with the Comprehensive Plan policy. It's really a community standards issue. It's not a right or wrong. There's not a particular right answer or a wrong answer as far as a specific planning principle or something like that as a concern.

Mayor Penny stated a couple things have come to his attention Mr. Harowski and he thinks there might be misinformation or some misunderstanding. He had several phone calls and several people were under the impression that this is a variance. This is not a variance, correct?

Mr. Harowski stated, correct.

Mayor Penny stated this is an amendment to a PUD.

Mr. Harowski stated, that's correct. This is essentially a regulation that we are adopting into the PUD.

Mayor Penny stated and some mention about signs and banners being scattered about the property but Mr. Harowski has described that there's seven signs that will be in place including the three which are flutter flags and then, did you say two or three are actually going to be removed?

Mr. Harowski stated, two.

Mayor Penny stated two will be removed. The last thing was that there seems to be some confusion about the verbiage on the proposed banner that there's some impressions that it might be highlighting rentals and it's his understanding that there will be no mention of rental, that it's only to promote the sales of the units, is that correct?

Mr. Harowski stated when you start talking about the city regulating content on the signs, it's a challenging and dangerous area.

Mr. Forte stated he's not regulating, he's asking what the request is.

Mayor Penny stated but the MPUD allows the city to negotiate this.

Mr. Harowski stated the applicant can restrict the language and he believes they have proposed to do that.

Mayor Penny stated because the material he has it just says "now selling units from 180's."

Mr. Harowski stated right and believes in previous meetings MG has indicated that all of

the signs would emphasize sales, which states sales.

Mayor Penny asked approximately, how tall is that building?

Brett Dill, Marina Grande on the Halifax stated, 260 feet.

Mayor Penny stated, 260 feet. And then approximately, how long is that southern façade of that building? Two hundred? His questions were approximately how tall is that building and how long is that one side?

Brett Dill, President of Swerdlow Group stated the buildings are 260 feet to the roof. That probably doesn't include the decorative stuff on the top so maybe it's 270 or 280 and they would probably only deduct 30 or 40 feet off of that so they are somewhere in the 230, 240 feet would be that façade between the windows.

Mayor Penny stated 240 tall and about how long is that side of the building? Two-hundred feet? If they went from the edge...

Mr. Dill stated probably not. That's probably more like 160 maybe.

Mayor Penny stated he's trying to find out the square footage of that building. Two hundred and forty times one hundred and sixty is 38,400 square feet, approximately. For the Commission, the method to the madness is why do we care that it's 38,400 square feet on that side of the building and my question to Mr. Harowski, which is going to be, we can't apply it to this because a PUD is a special zoning but if you had the capability, in John's world, to just imagine, they pick this building up and they put it on US1 in the CC-1 corridor, it's my understanding that signs on the side of buildings can be up to 10% of the square footage of the façade of that building. Is that correct?

Mr. Harowski stated, that is correct.

Mayor Penny stated so that the long way around for the Commission why he's trying to get there. Ten percent would be 3,840 square feet would be if this were in the math world, 3,840 square feet would be the allowable square footage of a sign located on US1.

Mr. Harowski stated if it were a commercial. Each side would be calculated independently.

Mayor Penny stated if it were a commercial. His question is, there was some reference to the sign being 60 feet long, 100 feet long, as he understands it, this proposed banner is 100 feet x 3.5 feet.

Mr. Harowski stated that's what he understands. Yes.

Mayor Penny stated 100 x 3.5 is 350 square feet or less than 10% of the allowable size if this were on US1.

Commissioner Currie stated one of the main questions she needs to know is that she has seen documentation that shows a blue sign and documentation that shows a gold sign. She would prefer the gold sign because that looks more classy.

Rob Merrill, Cobb Cole, 149 S. Ridgewood Avenue, Daytona Beach, stated it's not just about these few signs they're talking about. He thinks most of the Commission is probably aware of the project. It's pretty hard to miss it. About 12 years ago he was here on behalf of Marina Grande, Brett Dill was here with him and there were a lot of doubts raised. It was a very active meeting, which lasted into the night and there were a lot of questions and concerns raised about whether this project would become what it actually is now. The good news for them is, he can stand here and have a 12 year track record with this facility, at least half of it is built or maybe a little bit more. That gives him a lot of help in trying to bring forward a request like they have tonight. He thinks all of the Commissioners understand what the country and the world went through when this bubble burst and certainly delayed the sales that they had hoped for with this project but it's still an unbelievable project. What it's done for Holly Hill within terms of tax base, opportunity for new residents, etc. It goes without saying. He thinks the Commissioners know where they are about the project. These signs that they are bringing forward, as Mr. Harowski has characterized in his written report to the Commission, he thinks to squarely lineup with the Comprehensive Plan policy that Mr. Harowski read to the Commission earlier, in terms of things like the appropriate scale for the signage, the way that it won't confuse people, the way that actually informs as its intended to, the tastefulness of it, but these are all things that they look at when they are talking about signage. He thinks the picture in front of the Commission speaks a thousand words. To answer Commissioner Currie's question, the sign will be gold. Colors is one of those things that, like what Mr. Harowski was saying, when you're talking about content they have to be careful with.

Commissioner Currie stated she understands that but it's very important to her at this point. The blue one looks tacky but the gold one looks classier. She doesn't want to offend anyone but these buildings are very classy looking so the sign should be classy.

Mr. Dill stated he wanted to tell everybody and he's told the residents as well, nobody cares more about the appearance to that place than he does. That's why with a lot of things that residents want as it relates to security and stuff, he can see but it always hurts him just a little bit if he thinks somehow it has changed the look. He doesn't like these signs. He wishes they weren't there. It will be the happiest day when MG pulls them down but the reality from others, they track every visitor that comes and how they came in, probably second only to advertising, which is extremely expensive that they are doing in the local publications and things, he thinks probably their second biggest source of traffic is that sign and when buildings have been there as long as those buildings are, so many times people tell him and when he talks to customers they will say they had no idea. They saw those buildings six years ago. They can't imagine that there still a developer in there that's selling units. That's why these things are fairly essential. The building is in a great location for visibility when people cross the Seabreeze Bridge and he considers it the gateway to Holly Hill. They will pull those signs down as soon as they can get rid of these units and hopefully, start on next door.

Mayor Penny asked how many purchasing opportunities does MG still have?

Mr. Dill stated, 180. It's somewhere between 180 and 190. Hopefully, they sold some units today but there's 486 units so they are 2/3 of the way now and excited about that.

Hopefully, their projection or their hope is that they could get this done in two years, it might be three but they hope they get it done sooner.

Commissioner Currie stated I, personally, like the idea of a two-year agreement with you coming back to us and showing us that these signs have been a critical part to your being able to sell units and us, at that time, seeing that data, give you another year if you've been able to show us that data and then extending it another year instead of just flat out giving you three years.

Mr. Dill stated that doesn't bother him in the slightest.

Commissioner Currie stated, okay.

Mr. Dill stated he thinks it's actually, he doesn't mind like coming here, it's kind of like a little bit like report card day, "How have you been doing"? He may not be able to show them straight "A's" but he guesses he was coming here with Attorney Merrell all these twelve years as well and he has always been treated fairly here and he doesn't mind seeing the Commission.

Commissioner Currie stated so two years...

Mr. Dill stated two years is fine.

Attorney Merrell stated he wanted to remind the Commissioners that there are two more of these buildings approved to be built so Mr. Dill's (inaudible) and his time frames may change in the future. Attorney Merrell stated he is very hopeful that future, actually. With that, he has several pages that he wanted to go through that Mr. Dill blazed right through....

Commissioner Byrnes stated he wanted to clarify something Commissioner Currie said. He wanted ask because she was talking about the two year part, are we talking about the two years for just the side sign or for the entire sign package because we are talking about more than just that sign tonight if I understand it correctly.

Mayor Penny stated they're talking about the entire signage.

Attorney Merrell stated they are okay with all of them for that two years. At this time Attorney Merrell went through the handouts and PowerPoint presentation pertaining to the signs and the banner on the side of the building that will be promotions for the selling of the units only and not for leasing with the Mayor and Commissioners.

Mayor Penny opened public participation.

The following individuals spoke to the Mayor and Commissioners about the signage request for Marina Grande: William Conley, 241 Riverside Drive and just purchased 231 Riverside Drive, Holly Hill; Jeff Hurd, 231 Riverside Drive, Holly Hill; Mr. Sandy Smith, 231 Riverside Drive, Holly Hill; Cheryl Covito, 241 Riverside Drive, Holly Hill.

Mayor Penny closed public participation.

Mayor Penny stated he thinks everyone in this room has the same goal. They want to see all those units sold as soon as possible. The overwhelming concern that he has heard is the concern over the flapping of the large wall sign. The flutter flags the Commissioners were talking about are at the end of the dock. They are not by the sales office. Attorney Simpson, what could we do, Commissioner Currie already brought up let us do this for two years and extend it for a third year if that works, what recourse would these residents have if the engineer blows it? If they approve this tonight, what recourse do these residents have because they are now going to come to the Commission. What recourse do these residents have? Is there a decibel level that everyone can agree on? He wants to protect the residents, somehow.

Attorney Simpson stated if that blows down or breaks off, the city's recourse is Code Enforcement. They would go out there and they would site it for being in a dilapidated shape as they have done in other things with sign situations. The contractual relationship is between Marina Grande and the engineer. Whether or not there can be some type of a third party beneficiary to that, he is not really sure but the engineer is Marina Grande's engineer and if Marina Grande has to go in and redo the sign because it broke then they would have an issue with their engineer for designing it.

Mayor Penny stated his concern is not so much if it's going to break, he thinks it's going to stay there. His concern is when you go to Marina Grande, you hear the sound of the flutter sale signs. He believes there is going to be so much tension on this thing that it's not going to flutter but if Marina Grande, if the HOA calls the developer and says, "you got it wrong Mr. Dill, it's flapping, what are you going to do?" Mr. Dill said tonight not to worry, they will take care of it but if the Commission approves this, Mr. Dill can say he's not going to fix it. How does the Commission make everybody happy?

Attorney Simpson stated noise is a tough thing to regulate in any situation but that particular situation would almost be impossible regulate. This is not something they can measure with decibels or that sort of thing.

Mr. Dill stated what he will tell the Commission, if Marina Grande starts getting complaints and he thinks the representative from Don Bell Signs will tell them they will be up there trying to figure the thing out.

Mayor Penny stated he heard an alternative. Someone proposed painting it on the building, which absolutely would make no flutter but does it make economic sense to get a sign painter to paint this thing and paint it white in two years from now.

Mr. Dill stated he is sure that there is some kind of thing they can paint or some giant sticker that they could put on there. It's probably a cheaper alternative, he has no idea.

Attorney Merrell stated the idea that he had was, kind of following what Attorney Simpson was saying, there is going to be a separate permit issued for this sign for the city's benefit and that engineer's seal will certify the 140 mile an hour wind resistance. Flapping will happen after 140 at some point. If the engineer is wrong about that, the city

absolutely can rely on it. The city is going to issue a building permit based on that engineer's certification.

Attorney Simpson stated the city can rely on it but the city won't go back and sue them and say, "you damaged this".

Attorney Merrell stated no, his point is, the city would be issuing a building permit based on the engineer's certification and his seal and that's what's coming forward today.

Commissioner Byrnes stated his thought was that, Commissioner Currie was fairly generous, he would have seen this that the city would give Marina Grande a six month permit, if the sign is all flappy and noisy after six months then the people could come in and say that sign is all flappy and noisy, they don't want the city to approve for the next year and then Marina Grande would have to take it down.

Attorney Simpson stated the other option is the city can always make this subject to review. The city can always have this amendment but it is subject to termination by the city if they find that there is excessive noise.

Attorney Merrell stated it won't flap against the building until it breaks and hits. Commissioner Currie stated but she thinks that's what the concern is because the last banner did.

Attorney Merrell stated, sure. Don Bell signs is giving the Commission the certification on the banner for 140 mile per hour wind resistance. He knows the engineer. He knows that not only is the engineer well-educated, he's well-qualified and has done work in very windy places because he did work in Maui for years. The city has somebody here who is going to certify this and that's what you rely on.

Commissioner Currie stated Attorney Merrell, quite frankly, he could be the best engineer in the State of Florida, however, he can't necessarily predict if it's going to flap and make noise against the building next to the bedrooms of some of these people that I've heard from. So, I have to have a little more guarantee for these people that that's not going to happen and if it has to do with something along the lines of Commissioner Byrnes train of thought then that's what it's got to be. There just has to be something there to give me a little more guarantee about that flapping.

Attorney Simpson asked you don't have a comfort level that if they put language in there that in the event there are complaints from the residents and the city's staff, Code Enforcement, goes out and validates and documents excessive noise, that will then have a public hearing on terminating the addendum?

Mayor Penny stated, yes.

Mr. Forte stated first of all, he doesn't think it's going to flap. They are talking about tension, twelve feet apart.

Mayor Penny stated it's going to be tight.

Mr. Forte stated he thinks that if there is a flapping issue, the first phone call goes to the building's facility people. He doesn't want to field calls at City Hall. If they call the facilities people and they can resolve the issue instead of trying to get the government involved, with what could be very easy solution.

Attorney Simpson stated he was talking about if the residents go to Mr. Dill and he doesn't do anything...

Mr. Forte stated so if after a certain number of official notices to the facilities people that it's not fixed then they come to the city and say, "we've notified them three times, it still flapping and their facilities person came up and identified it's flapping and they're not fixing it", then the city will issue a Code Enforcement notice. The process would be the residents have so many days, seven days, ten days to fix the problem and if not MG goes to the Special Master and the Special Master will issue a fine. That's what is going to happen.

Mayor Penny stated he wants to make sure that any complaints are verified by the Code Enforcement. He doesn't want seven people to get into a room and say, "let's get the developer", and they all call Mr. Dill.

Mr. Forte stated Code Enforcement will have to be up there to witness it and MG's facilities inspector should also be involved. That's the first step. That the facilities gets involved.

Attorney Simpson stated there is a Code Enforcement process that the City has now but Mr. Dill can make the decision he'd rather pay the fine, let it flap. It cost more to fix it than flap.

Commissioner Currie stated that's what she doesn't like.

Attorney Simpson stated that's a business decision. Attorney Simpson stated what he is suggesting is once they go through Code Enforcement and that doesn't work, this body has the ability...and it's not going to go straight to the city to terminate this agreement and make them take down the sign, if the residents can't work it out, Mr. Forte will call Mr. Dill and ask him to get down there and fix it or it's going to keep escalating. Eventually, though, if all else fails and they don't respond to Code Enforcement, they don't respond to the residents, then it's, let's have a hearing here at City Hall before the Commission and the Commission decides whether or not this is making excessive noise and if it is the Commission has the right to cancel this agreement and they have to take the sign down. That gives the Commission a review. But let's not have an automatic we're going to have them come back and look at it in six months. If it's fine, why would the Commission look at it?

Mayor Penny and Commissioner Via agreed.

Attorney Simpson stated let's just create a conflict resolution process because if they come back and have a meeting here, they may find someone to complain about

something about Marina Grande who is going to come here and complain about it.

Commissioner Currie stated she likes that much better than just depending on it going to the Special Master because fines could be paid all day long.

Attorney Simpson stated and it would add up.

Commissioner Currie stated she understands that but in some cases as the city has seen, they're not paid.

Attorney Simpson stated it's a tough thing for Code Enforcement because they don't have a measure, they don't have a decibel level. What's excessive? What's excessive to one person may not be to the next person. He thinks Code Enforcement is a good start but ultimately, he thinks if there is a problem with this particular sign or any of the other signs, the Commission just needs the ability to say they can terminate this addendum.

Mayor Penny stated it's either going to work or it's not. They will know really quick whether it's working or it's not working.

Attorney Simpson stated he can work on some language with Attorney Merrell on an addendum to say if there's...after exhausting communication and dialogue and Code Enforcement, if it's not resolved to the reasonable satisfaction of all the parties, the city has the option to have a public hearing to decide whether it needs to come down.

Commissioner Currie stated that's what she would feel comfortable with.

Attorney Merrell stated what he wanted to add to what Attorney Simpson is saying is they are talking about zoning law here when they are talking about this contract that they are talking about because a PUD agreement is a contract and all of the exhibits the Commission are seeing are exhibits to that contract and it's based on nuisance law and if the Commission finds that this is a nuisance, it's an illegal zoning. So, that's the city's handle.

Attorney Simpson stated, yes.

Attorney Merrell stated so if they have a nuisance here, a legal nuisance, it that thing is flapping and it's waking somebody up in one of the two bedrooms they were just talking about, it's a nuisance by definition, legally, under zoning laws. It is something that is easily back in the Commission's court and be able to say it's an illegal zoning, it's a nuisance.

Commissioner Currie stated she likes that the city gives Mr. Dill the chance to resolve the issue.

Attorney Simpson stated trust me, even if that...

Attorney Merrell stated they won't come back here. It won't ever come back here. The sign will come down before they come back here. That's what will happen.

Attorney Simpson stated it would only come back to the Commission as a last ditch effort.

Commissioner Byrnes stated but the Commission will still have the applicant agree to the process of the Commission being able to...

Attorney Simpson stated, absolutely.

Commissioner Currie stated that's what she feels comfortable with.

Attorney Simpson stated it will be in the amendment.

Commissioner Byrnes stated because as much as the Commissioners know there are legal ways to do everything, there are many fabulous attorneys who can keep the city in court for a long time and things don't get fixed.

Attorney Simpson stated he wants it in writing because a week from now Mr. Dill may sell it to somebody and then you have a totally different developer.

Attorney Merrell stated and they will stipulate the fact that the Commission will be the judge and jury as opposed to a Code Enforcement officer or a Magistrate because this is something that the city has already invested in by saying...

Attorney Simpson stated they will come up with something.

Attorney Merrell stated, yes. They will be able to do that. He is giving that to the Commission for the record tonight.

Mayor Penny allowed one more person to speak to this item.

John Covito, 241 Riverside Drive, Holly Hill, President of the Homeowners Association spoke to the Mayor and City Commissioners.

*Commissioner Via made a motion to **APPROVE with the added language that Attorney Simpson spoke about earlier and to include reference to selling units only and no leasing**, seconded by Commissioner Currie.*

PASSED, 5-0, unanimously.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Chris Via, District 4 - Commissioner
SECONDER:	Penny Currie, District 2 - Commissioner
AYES:	Byrnes, Currie, Danio, Via, Penny

Enacted and approved this 14th day of February, 2017, in Holly Hill



10. PUBLIC HEARINGS - NONE

None.

11. COMMUNICATIONS**A. City Manager and Staff Comments**

Mr. Forte stated with regards to the properties along US1, the city lost a lot of signs on the businesses along US1 and Nova Road after Hurricane Matthew came through. The Commission was generous enough for the businesses to acquire a permit at no cost up to December 31, 2016. If they drive up and down US1 there are still a number of properties that are not in compliance with their signs. In December 2016 he had a Code Enforcement officer go up and down US1 and Nova Road and notify all the property owners and business owners that they can get a permit at no cost before the end of the year, December 31, 2016. He is not seeing a lot more activity out on the street and he doesn't know if it's because maybe they pulled a permit and the sign companies are busy but he drives around some of the other cities and he's not seeing the level of misplaced signs as he is seeing in Holly Hill. What he wanted to do is have a conversation with his Code Enforcement officers and send them back out and enforce this section of the code that these signs need to be, these temporary signs need to come down. He has 8 x 8 pieces of picket fence that has signs that are tacked to it, that are painted on it, it just looks quite terrible. In addition to that, a lot of the business on US1, in the redevelopment corridor, have landscape requirements when those businesses were put in and the landscaping has died off and they have not replaced it. You can pull up to many other cities, you can pull up to State Road 40 in Ormond Beach, you pull up to Dunlawton in Port Orange, and you look and their landscaping is pristine. He is getting a number of complaints from people who do not like to conditions along US1. The city is so lackadaisical about enforcing this, we're getting a bad reputation. The reason he is bringing it up is because if we start to enforce it, you are going to get phone calls. You are going to get phone calls from businesses on how unfriendly we are. But he can tell the Commission, the businesses that are being sited are being complained about by some of your good businesses that are tired of looking at it.

Commissioner Currie stated she would like to see US1 cleaned up because she thinks that would help to improve the city's image. She would like to see if some of those sign issues are because sign companies are busy. She is not against taking down the temporary signs Mr. Forte is speaking about, but if Mr. Forte needs to bring back maybe to extend the free permitting...

Mr. Forte stated he doesn't think they need to do that. He doesn't think they need to extend the free permit.

Commissioner Currie stated if the sign companies are slammed and not able to get out is what she's talking about. Maybe that would be an issue.

Mr. Forte stated if they have a permit in hand and they have a contract with a sign company and an installation date within the six month period of the time the sign was pulled then that's fine. But if they don't have a permit or they have a permit but don't have a contract then they just pulling the wool over our eyes and that's what we're known

for. Just tell the city you're going to do it and they'll leave me alone. It has to stop at some point.

Commissioner Currie stated, okay.

Mayor Penny stated he agrees with Mr. Forte. The city is getting ready to spend hundreds of thousands of dollars on the city's medians, millions of dollars in undergrounding utilities, and the buildings that sit beside it look like trash.

Commissioner Currie stated so if they have a contract...what if it's outside of the date?

Mr. Forte stated the permit is good for six months?

Commissioner Currie stated she knows.

Mr. Forte stated if they got a permit by the end of December 2016...

Commissioner Currie stated but what if the sign companies are busy and they do legitimately have a contract but the sign company can't get out there until...say, July or August...

Mr. Forte stated then the city will take that into consideration.

Mayor Penny stated he thinks that's going to be few and far between. He thinks people are being lazy. Most of the signs that you see that are in disrepair were not insured and they don't want to spend the money to fix them.

Commissioner Currie asked if they can take those case-by-case?

Mr. Forte stated, yes. If they have a contract in place, the city will take that into consideration but he finds it hard to believe that Holly Hill is the only place where sign companies can't get too.

Commissioner Currie stated that's all she's asking. The rest of it, she agrees. It needs to be cleaned up.

Mr. Forte stated landscaping...if you look at some of the landscaping and it's dying, the bushes are dying and they're being torn out and yet, you go down State Road 40 and their landscaping is lush. It's beautiful. Their Palm Trees are wonderful.

Mayor Penny stated he's glad Mr. Forte is bringing up signs and landscaping but there is something else they need to discuss on US1 and citywide is trash. The city needs to hold business owners accountable for the trash that they don't put in bags when they put it in their debris receptacle, the garbage truck dumps them, their patrons throw their crap all over the place. If you go to Dollar General, my wife won't even go in that store because when you pull up in there and it looks like a dump. It's so convenient to our house and she went there the other day and walked away frustrated. The city needs to do strong Code Enforcement on the debris, the trash. He has to give credit to Robin Hanger. He goes out every morning at 6:30 and picks up trash whether it's on his side of the street or not. If more people would do that...

Commissioner Currie stated but unfortunately, there's not many business owners that would do that.

Mayor Penny stated if Code Enforcement hits them over the head with a fine and tells them to pick up their stuff, they'll get it picked up.

Commissioner Currie stated it's the entire stretch of US1 that needs to be addressed.

Mayor Penny stated he agrees.

Commissioner Danio asked didn't the Commission talk about a program for residential cleanup?

Mr. Forte stated it's for everything, residential and commercial.

Mayor Penny stated yes, that's coming soon.

B. City Attorney Comments

None.

C. Mayor's Comments

Mayor Penny introduced Debra Snow to everyone. She was appointed tonight to the Firefighters Pension Board. Mayor Penny informed everyone about the upcoming ribbon cutting for McDonald's this Saturday morning at 11:00 am; spoke about the pier at Marina Grande and the two pavilions that are there but no picnic tables; there was consensus from the Commission to go ahead and install two picnic tables under each pavilion at Riverfront Park next to Marina Grande.

*Commissioner Currie made a motion to **APPROVE two picnic tables under the two pavilions at the Riverfront Park**, seconded by Commissioner Via.*

PASSED, 4-1. (Opposed, Byrnes)

D. City Commission Comments

Commissioner Danio congratulated Mark, Beth & Steve; will be keeping Commissioner Currie's grandson in his prayers.

Commissioner Currie appreciates all the well wishes and prayers for her grandson; congratulated Beth, Mark and Steve; glad they were able to come up with a compromise with MG and the residents.

Commissioner Byrnes asked Mr. Forte for an update on the dog park; Mr. Forte informed the Mayor and Commissioners that a purchase order was completed for A1A fence and the repairs are done; congratulated Beth, Mark, and Steve; nice to see McDonald's investing in our city; and congratulated Ms. Snow on her appointment to the Firefighters Pension Board.

Commissioner Via gave a brief report on the TPO meeting he attended; met with Diana Phillips from the County who is the manager for housing and grants administration with Mr. Forte; talked about how to become a homeowner and how to get assistance; over the last five years \$725,000 have been given to Holly Hill residents for assistance, information on this will be on the city's website; more homeownership is needed in Holly Hill; dog park looks great; attended the souper bowl last week, thank you to staff.

12. ADJOURNMENT

The meeting adjourned at approximately 9:00 PM.


Valerie Manning, City Clerk CMC 2/14/2017


John Penny, Mayor 2/14/2017