CITY OF HOLLY HILL, FLORIDA

CITY COMMISSION

MINUTES ● FEBRUARY 26, 2019

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
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
Commissioner Danio led the invocation.

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

_____

Mayor Via welcomed the students and teachers that were present from the Holly Hill K-8 School as they were there to watch how a City Commission meeting was run.

2. POSITIVITY AWARD - AMERICAN LEGION POST 120 - BRIAN CARTER

1.

Positivity Award - American Legion Post 120 - Brian Carter

(Requested by Valerie Manning, City Clerk)

3. RECESS THE CC MTG AND CONVENE AS THE CRA

4. CRA AGENDA

1. -2019-R-15

A Resolution of the Community Redevelopment Agency of the City of Holly Hill, Florida, Authorizing the Agreement with the Florida Department of Transportation to Install and Maintain Certain Landscaping Within the Right of Way of State Road 430.

(Requested by Antoine Khoury, Public Works)
Mayor Via opened public participation. No one spoke.

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

Enacted and approved this 26th day of February, 2019, in Holly Hill

2. –2019-R-16

A Resolution of the Community Redevelopment Agency of the City of Holly Hill, Florida, Awarding Change Order #6 in the Amount of $101,750 to RJ Landscape Contractors, Inc.; and Authorizing the City Manager to Execute the Appropriate Contract Documents for Same; and Providing for Severability; and Providing for an Effective Date.

(Requested by John McKinney, Finance)
Mayor Via opened public participation. No one spoke.

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

Enacted and approved this 26th day of February, 2019, in Holly Hill

5. ADJOURN AS THE CRA AND RECONVENE THE CC MTG

6. PUBLIC COMMENTS

The following individuals spoke to the Mayor and City Commissioners:

Jim Legary, 342 Burleigh Avenue, Holly Hill, asked about the recycling issue and if there were any latest developments and mentioned that it's almost Bike Week so he was wondering if there was going to be anything done about the bike wash girls? Are there any plans that the city has come up with?

Mr. Forte stated nothing has changed as far as recycling in the City of Holly Hill; bike washes are not prohibited in the city but the city has asked those businesses that participate with bike washes is to be sure that their ladies that are soliciting for bikes to come in are wearing shorts with a bikini top when they are out on the edge of the property and if they're

going to wash the bikes they will do that a little bit more on the private property.

Mr. Legary asked if this is a permitted thing?

Mr. Forte stated, yes. They have to receive a special event permit to do that. When they come in and get the special event permit, they are given a paper that says that but it's really a courtesy, it's not mandatory. He can't enforce it. He ask the businesses to play nice and the city will continue to do this if and if they don't play nice then he will come back and make a recommendation to the City Commission that the city doesn't allow bike washes during special events. So far for the last couple of years, everyone has been playing along.

Lynne Smith, 107 7th Street, Holly Hill, stated everyone is thrilled with the fitness court at Sunrise Park and while she is there she talks with people; she has helped a few people with the APP for the fitness court and she helps whomever she can. The question came up, since this is an APP driven apparatus, is there going to be any Wi-Fi available for people or charging for their phones and does the city have any thoughts of cameras for monitoring the safety of the equipment and preventing any kind of vandalism and stuff like that?

Mayor Via stated himself and Mr. Forte have talked about the Wi-Fi in the park and at this point it's really not doable. Is he understanding that correctly?

Mr. Forte stated it's doable but there's a cost to it. Free Wi-Fi is free to some but somebody else has to pay for it. Right now there is no Wi-Fi in the park and they can find a vendor that can do it with so many megabits for free then you pay for something after that but staff hasn't looked into that. As far as cameras, he will talk to Chief Aldrich about that. Staff will do routine visits out there. Good ideas.

7. APPROVAL OF MINUTES

1.

Minutes - February 12, 2019, Regular City Commission Meeting and February 12, 2019 Goals Setting Workshop

(Requested by Valerie Manning, City Clerk)

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

Enacted and approved this 26th day of February, 2019, in Holly Hill

8. CONSENT AGENDA - ITEMS (1 - 4)

Mayor Via asked if anyone in the audience or any member of the Commission would like to speak to any item on the Consent Agenda or pull any item for further discussion? **There was no one.**

1. –2019-R-17 Resolution

Resolution of the City of Holly Hill, Florida, Adopting the 2019 City of Holly Hill Personnel Rules and Regulations; Providing for Severability; Providing for Conflicting Resolutions; and Providing an Effective Date.

(Requested by John McKinney, Finance)

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

RESOLUTION
2019-R-17
RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, ADOPTING THE 2019 CITY OF HOLLY HILL PERSONNEL RULES AND REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, ADOPTING THE 2019 CITY OF HOLLY HILL PERSONNEL RULES AND REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Holly Hill adopted Personnel Rules and Regulations to provide consistent guidelines for Employees; and

WHEREAS, on Tuesday, December 11, 2018, the Holly Hill City Commission approved the 2018 Personnel Rules and Regulations; and

WHEREAS, the 2019 Personnel Rules and Regulations corrects scriveners errors, certain department references and clarifies intra-city travel.

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

SECTION 1. That the City Commission hereby adopts the 2019 City of Holly Hill Personnel Rules and Regulations, attached hereto for reference.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Resolution, 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 3. REPEAL. That all resolutions made in conflict with this Resolution are hereby repealed.

SECTION 4. EFFECTIVE DATE. That this Resolution shall become effective immediately upon its adoption.

APPROVED AND AUTHENTICATED on this 26th day of FEBRUARY, 2019.

Enacted and approved this 26th day of February, 2019, in Holly Hill

2. -2019-R-18 Resolution

A Resolution of the City Commission of the City of Holly Hill, Florida, Approving an Agreement with Mead and Hunt to Perform Engineering Design for the Project "Cordova / Ridge Exfiltration" in the Amount Not to Exceed $104,694.00 and Agreements with Zev-Cohen to Perform the Engineering Design for the Projects "Espanola Avenue North", "State Avenue", and "Tuscaloosa Avenue" in the Amounts Not to Exceed $28,150.00, $17,000.00, and $16,300.00, and Authorizing the City Manager to Execute the Agreements; Providing for Severability; and Providing for an Effective Date.

(Requested by Walt Smyser, Public Works)

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

RESOLUTION
2019-R-18
A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, APPROVING AN AGREEMENT WITH MEAD AND HUNT TO PERFORM ENGINEERING DESIGN FOR THE PROJECT "CORDOVA / RIDGE EXFILTRATION" IN THE AMOUNT NOT TO EXCEED $104,694.00 AND AGREEMENTS WITH ZEV-COHEN TO PERFORM THE ENGINEERING DESIGN FOR THE PROJECTS "ESPANOLA AVENUE NORTH", "STATE AVENUE", AND "TUSCALOOSA AVENUE" IN THE AMOUNTS NOT TO EXCEED $28,150.00, $17,000.00, AND $16,300.00, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, APPROVING AN AGREEMENT WITH MEAD AND HUNT TO PERFORM ENGINEERING DESIGN FOR THE PROJECT "CORDOVA/RIDGE EXFILTRATION" IN THE AMOUNT NOT TO EXCEED $104,694.00 AND AGREEMENTS WITH

ZEV-COHEN TO PERFORM ENGINEERING DESIGN FOR THE PROJECTS "ESPANOLA AVENUE NORTH," "STATE AVENUE", AND "TUSCALOOSA AVENUE" IN AMOUNTS NOT TO EXCEED $28,150.00, $17,000.00, AND $16,300.00, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The Hazard Mitigation Grant Program (HMGP) provides funds after a disaster declaration to protect public or private property through various mitigation measures. Hazard mitigation includes long-term efforts to reduce the impact of future events. HMGP is authorized by Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Although the Hazard Mitigation Grant Program is federally funded, the program is administered by the Florida Division of Emergency Management; and

WHEREAS, The City received authorization to move forward with engineering design; and

WHEREAS, In accordand with CCNA the proposals were negotiated with Mead and Hunt (Cordova/Ridge Exfiltration), and with Zev-Cohen (Espanola Avenue North, State Avenue, Tuscaloosa Avenue) to perform the designs; and

WHEREAS, This is a cost-reimbursement Agreement, subject to the availability of funds. Payment under this Agreement is contingent upon an annual appropriation by the Legislature, and subject to any modification; and

WHEREAS, funds are available in the Stormwater Program.

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

SECTION 1. That the City Commission of the City of Holly Hill, Florida, does hereby approve an agreement with Mead and Hunt to perform engineering design for the project "Cordova/Ridge Exfiltration" in the amount not to exceed $104,694.00.

SECTION 2. That the City Commission of the City of Holly Hill, Florida, does hereby approve an agreement with Zev-Cohen to perform engineering design for the project

"Espanola Avenue North," in amount not to exceed $28,150.00.

SECTION 3. That the City Commission of the City of Holly Hill, Florida, does hereby approve an agreement with Zev-Cohen to perform engineering design for the project "State Avenue, " in amount not to exceed $17,000.00.

SECTION 4. That the City Commission of the City of Holly Hill does hereby approve an agreement with Zev-Cohen to perform engineering design for the project "Tuscaloosa Avenue" in amounts not to exceed $16,300.00 and authorizing the City Manager to execute the agreement.

SECTION 5. That the City Manager of the City of Holly Hill is hereby authorized to execute the agreements with Mead and Hunt and with Zev-Cohen to perform the engineering design.

SECTION 6. 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 7. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

APPROVED AND AUTHENTICATED on this 26th day of FEBRUARY, 2019.

Enacted and approved this 26th day of February, 2019, in Holly Hill

3. -2019-R-19 Resolution

A Resolution of the City Commission of the City of Holly Hill, Florida, Approving the Agreement with GML Coatings, LLC to Perform the Project "Resurface/Sea Walls of Manholes" in the Amount Not to Exceed $48,805.00 and Authorizing the City Manager to Execute the Agreement; Providing for Severability; and Providing for an Effective Date.

(Requested by Walt Smyser, Public Works)

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

RESOLUTION
2019-R-19
A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, APPROVING THE AGREEMENT WITH GML COATINGS, LLC TO PERFORM THE PROJECT "RESURFACE/SEA WALLS OF MANHOLES" IN THE

AMOUNT NOT TO EXCEED $48,805.00 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, APPROVING THE AGREEMENT WITH GML COATINGS, LLC TO PERFORM THE PROJECT "RESURFACE/SEAL WALLS OF MANHOLES" IN THE AMOUNT NOT TO EXCEED $48,805.00, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, most of these manholes in the City of Holly Hill were installed in the 60's and 70's and were built of brick; and

WHEREAS, Due to the condition of the manholes rehabilitation is required to repair structural defects, eliminate infiltration and correct corrosion deterioration of the manhole walls; and

WHEREAS, the City of Holly Hill desires to start a multi-year rehabilitation program; and

WHEREAS, for 2019, 13 manholes have been selected that are in serious need of structural and sealing rehabilitation; and

WHEREAS, the FY 2018-2019 has identified funding for this project and LS#18 wet well rehabilitation as projects in the Wastewater Renewal and Replacement Fund; and

WHEREAS, this resolution will remove the LS#18 wet well rehabilitation from the list of projects to be completed for FY 2018-2019 and deferred to future years and re-appropriate the funding allocated from LS#18 wet well rehabilitation to Refurbish/Seal Sewer Manholes; and

WHEREAS, GML Coatings, LLC will perform the repairs under a contract issued through the City of Punta Gorda for $48,805.00; and

WHEREAS, City staff recommends approval of the award to GML Coatings, LLC.

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

SECTION 1. That the City Commission of the City of Holly Hill does hereby approve the agreement with GML Coatings, LLC to perform the project Resurface/Seal Walls Of Manholes.

SECTION 2. That the City Manager of the City of Holly Hill is hereby authorized to execute the agreement with GML Coatings, LLC to perform the project Resurface/Seal Walls Of Manholes.

SECTION 3. 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 4. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

APPROVED AND AUTHENTICATED on this 26th day of FEBRUARY, 2019.

Enacted and approved this 26th day of February, 2019, in Holly Hill

4.

Disposal of Fixed Assets

(Requested by John McKinney, Finance)

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

Enacted and approved this 26th day of February, 2019, in Holly Hill

9. REGULAR AGENDA

1. –2019-R-20 Resolution

A Resolution of the City Commission of the City of Holly Hill, Florida, Authorizing the Agreement with the Florida Department of Transportation to Install and Maintain Certain Landscaping Within the Right of Way of State Road 430.

(Requested by Antoine Khoury, Public Works)
Mayor Via opened public participation. No one spoke.

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

RESOLUTION
2019-R-20
A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, AUTHORIZING THE AGREEMENT WITH THE FLORIDA

DEPARTMENT OF TRANSPORTATION TO INSTALL AND MAINTAIN CERTAIN LANDSCAPING WITHIN THE RIGHT OF WAY OF STATE ROAD 430.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, AUTHORIZING THE AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION TO INSTALL AND MAINTAIN CERTAIN LANDSCAPING WITHIN THE RIGHT OF WAY OF STATE ROAD 430.

WHEREAS, the FDOT has jurisdiction over and maintains State Road 430 as part of the State Highway System; and

WHEREAS, the City seeks to install and maintain certain landscaping within the right of way of State Road 430, particularly, the water retention pond parcel located at the corner of Mason Avenue and North Beach Street; and

WHEREAS, FDOT agrees to allow the landscaping only under certain conditions necessary to protect the traveling public using said right of way; and

WHEREAS, the City shall not change or deviate from conformance with Florida Administrative code Rule 14-40.003 without written approval of FDOT.

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

SECTION 1. That the City Commission of the City of Holly Hill, Florida, does hereby authorize the City Manager to enter into an agreement with the FDOT to install and maintain certain landscaping within the right of way of State Road 430.

SECTION 2. FDOT agrees to allow the landscaping only under certain conditions necessary to protect the traveling public using said right of way.

SECTION 3. The City shall not change or deviate from conformance with Florida Administrative Code Rule 14-40.003 without written approval of FDOT.

SECTION 4. 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 5. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

APPROVED AND AUTHENTICATED on this 26th day of FEBRUARY, 2019.

Enacted and approved this 26th day of February, 2019, in Holly Hill

2. –2019-R-21 Resolution

A Resolution of the City Commission of the City of Holly Hill, Florida, Awarding Change Order #6 in the Amount of $101,750 to RJ Landscape Contractors, Inc.; and

Authorizing the City Manager to Execute the Appropriate Contract Documents for Same; and Providing for Severability; and Providing for an Effective Date.

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

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

RESOLUTION
2019-R-21
A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, AWARDING CHANGE ORDER #6 IN THE AMOUNT OF $101,750 TO RJ LANDSCAPE CONTRACTORS, INC.; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPROPRIATE CONTRACT DOCUMENTS FOR SAME; AND PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, AWARDING CHANGE ORDER #6 IN THE AMOUNT OF $101,750 TO RJ LANDSCAPE CONTRACTORS, INC.; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPROPRIATE CONTRACT DOCUMENTS FOR SAME; AND PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The City of Holly Hill received a Bold Landscaping Grant from FDOT for an amount not to exceed $860,233.00 in 2016 to re-landscape the median on US1; and

WHEREAS, The City of Holly Hill awarded a contract to RJ Landscape Contractors, Inc., in the amount of $839,000.00 on October 16, 2017 to perform contracted landscape improvements to the medians of US1; and

WHEREAS, The City of Holly Hill desires to utilize the existing contract unit pricing to authorize additional landscaping for a total increase of $101,750.

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

SECTION 1. That the City Commission of the City of Holly Hill, Florida does hereby desire to utilize the existing contract unit pricing to authorize additional landscaping resulting in Change Order #6.

SECTION 2. That the City Commission does hereby award Change Order #6 in the amount of $101,750 to RJ Landscape Contractors, Inc., and authorizes the City Manager to execute the appropriate contract documents.

SECTION 3. 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 4. EFFECTIVE DATE. This Resolution shall take effect immediately its upon adoption.

APPROVED AND AUTHENTICATED on this 26th day of FEBRUARY, 2019.

Enacted and approved this 26th day of February, 2019, in Holly Hill

10. PUBLIC HEARINGS

1. –2019-O-3015 Ordinance

SECOND READING - Amending Ordinance 3011, Amending Chapter 58, "Streets, Sidewalks and Certain Other Public Places," of the City Code of Ordinances by an Ordinance of the City of Holly Hill, Florida Amending Ordinance No. 3011 to Adopt Changes to Procedures for Issuing Trespass Warnings from Public Property

(Requested by Steve Aldrich, Police)
Mayor Via opened public participation. No one spoke.

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

ORDINANCE
2019-O-3015
SECOND READING - AMENDING ORDINANCE 3011, AMENDING CHAPTER 58, "STREETS, SIDEWALKS AND CERTAIN OTHER PUBLIC PLACES," OF THE CITY CODE OF ORDINANCES BY AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA AMENDING ORDINANCE NO. 3011 TO ADOPT CHANGES TO PROCEDURES FOR ISSUING TRESPASS WARNINGS FROM PUBLIC PROPERTY

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING ORDINANCE 3011 TO ADOPT CHANGES TO PROCEDURES FOR ISSUING TRESPASS WARNINGS FROM PUBLIC PROPERTY; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City adopted Ordinance No. 3011 creating a procedure for issuing trespass warnings from public property when violations of laws or regulations occur on

public property; and

WHEREAS, the City has determined that certain changes are necessary to the procedures adopted, but the regulation has not been codified in the City's Code of Ordinances, therefore the initial adopting ordinance must be amended.

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

SECTION 1. The City Commission of the City of Holly Hill hereby amends Ordinance No. 3011 to read as follows:

Section 58-134 (Trespass warnings on public property and other property generally open to the public).

(a) The City Manager, code enforcement officers and officers of the Holly Hill Police are authorized to issue a trespass warning to any individual who violates any city ordinance, rule or regulation or state law, which violation was committed while on or within a city facility, building, or outdoor area, including municipal parks, but excluding public right-of-way. The trespass warning shall be limited to the specific property where the violation occurred.

(b) For the purpose of this section "right-of-way" shall only include those sidewalks, which are adjacent to a paved street, if the street-side edge of the sidewalk is within 20 feet of the curb line.

(c) Trespass warnings shall be issued as follows:

(1) For the first violation, the individual may be issued a trespass warning for one year.

(2) For a second or subsequent violation which occurs within five (5) years of the issuance of the first trespass warning, the individual may be issued a trespass warning for two

years.

(d) A copy of the trespass warning shall be provided at the same time as the arrest or citation by hand deliver and if this is not possible, the copy shall be delivered by mail. The written trespass warning shall advise of the right to appeal and the location at which to file the appeal.

(e) Any person found on or within any city facility, building, or outdoor area, including municipal parks, in violation of a trespass warning may be arrested for trespassing, except as otherwise provided in this section. If the individual is found guilty or pleads no contest to the charge that was the basis of the trespass warning, the trespass warning shall remain in full force and effect, unless otherwise determined on appeal. If the individual is found not guilty or the charges are otherwise dismissed or dropped, and if the individual desires to have the trespass warning rescinded, the individual shall provide all necessary documentation evidencing the outcome of the underlying court case and the City shall submit it to the special Master with notice provided to the individual of the date of the hearing.

(f) The City Manager may authorize an individual who has received a trespass warning to enter the property or premises to exercise his or her First Amendment rights if there is no other reasonable alternative location to exercise such rights or to conduct necessary municipal business. Such authorization must be in writing, shall specify the duration of the authorization and any conditions thereof, and shall not be unreasonably denied.

(g) This section shall not be construed to limit the authority of any city employee or official to issue a trespass warning to any person for any lawful reason for any city property, including rights-of-way when closed to general vehicular or pedestrian use, when necessary or appropriate in the sole discretion of the city employee or official.

(h) This section shall not be construed to limit nor expand the authority of officers of the

Holly Hill Police Department or Holly Hill Code Enforcement Officers to cite or arrest individuals for violating any section of the Holly Hill Code of Ordinances or Florida Statutes.

(i) Appeal of trespass warning. A person to whom a trespass warning is issued for a state law violation under this section shall have the right to appeal as follows:

(1) An appeal of the trespass warning must be filed, in writing, within ten (10) days of the issuance of the warning, and shall include the appellant's name, address, and phone number, if any. No fee shall be charged for filing the appeal.

(2) The appeal shall be filed at the location specified in the trespass warning.

(3) A Special Master with whom the city contracts to provide this service shall hear appeals.

(4) Within five (5) days following the filing of the appeal, the City shall schedule a hearing. Notice of the hearing shall be provided to the appellant in the following ways:

(a) By posting the notice at the Holly Hill City Hall, and

(b) By mail if an address has been provided. In the event of non-delivery, then the notice posted at the Holly Hill City Hall shall be sufficient.

(5) The Special Master shall hold the hearing as normally scheduled monthly. In no event shall the hearing be held sooner than seven (7) days following the filing of the appeal and no later than forty-five (45) days from the filing of the appeal.

(6) Copies of documents in the city's control which are intended to be used at the hearing, and which directly relate to the issuance of the trespass warning to the appellant, shall be made available upon request to the appellant at no cost.

(7) The appellant and the city shall have the right to attend with an attorney, the right to testify, to call witnesses, to cross-examine witnesses, and to present evidence. The

appellant shall have the right to bring a court reporter, at his or her own expense.

(8) The Special Master shall consider the testimony, reports or other documentary evidence, and any other evidence presented at the hearing. Formal rules of evidence shall not apply, but fundamental due process shall govern the proceedings.

(9) The city shall bear the burden of proof by clear and convincing evidence that the trespass warning was properly issued pursuant to the criteria of this section. The Special Master shall not consider evidence or argument about the underlying charge that was the basis for the trespass warning.

(10) If the appellant fails to attend a scheduled hearing, the Special Master shall review the evidence presented and determine if the trespass warning was properly issued pursuant to the criteria of this section.

(11) Within five (5) days of the hearing the Special Master shall issue a written decision on the appeal, which shall be mailed, to the appellant at the address provided. If no address is provided, a copy of the decision shall be posted at the Holly Hill City Hall.

(12) The decision of the Special Master shall be final and the appellant shall be deemed to have exhausted all administrative remedies. Such decision may be subject to judicial review in the manner provided by law to the appellant. The city may not appeal any decision of the Special Master.

(13) The trespass warning shall remain in effect during the appeal and review process, including any judicial review and all judicial proceedings on any underlying charge that is the basis for the trespass warning.

j. For trespass warnings issued for violation of city codes, rules or regulations that is enforced without a city citation, the trespass warning shall be presented to the special Master as

part of the code enforcement case. Upon a finding of violation, the Special Master shall consider any grounds for appeal of the trespass warning and rule accordingly. If the person is found not in violation, the Special Master shall consider revocation of the trespass warning.

k. For trespass warnings issued for violation of City codes, rules or regulations enforced by City Citation, payment of the fine amount shall constitute consent and acceptance of the trespass warning and waiver of all appeal rights and the citation shall so state. If the citation is challenged and the person is found in violation, the Special Master shall consider any grounds for appeal of the trespass warning and rule accordingly. If the person is found not in violation, the Special Master shall consider revocation of the trespass warning.

SECTION 2. 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 3. That all ordinances made in conflict with this Ordinance are hereby repealed.

SECTION 4. That this Ordinance shall become effective immediately upon its adoption.

APPROVED AND AUTHENTICATED on this 26th day of FEBRUARY, 2019 for second reading.

Enacted and approved this 26th day of February, 2019, in Holly Hill

2.

Request for a Variance from the Front Yard Setback Requirement of Section 114-765 of the Land Development Regulations Titled, "Schedule of Dimensional Requirements." Specifically a Variance from the Required Front Yard Setback of 30 Feet to 19 Feet.

(Requested by Brian Walker, City Planner)
Mayor Via opened public participation.

David Patrick, applicant - Agent/Consultant for the property, 189 Woodland Avenue, Ormond Beach, stated he is happy to be able to do build on that property and looking to improve that location for the city.

Mayor Via closed public participation.

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

Enacted and approved this 26th day of February, 2019, in Holly Hill

3.

Special Exception Approval to Allow a Kid City USA School/Daycare on a Parcel in the B-2 Zoning District

(Requested by Brian Walker, City Planner)
Mayor Via opened public participation.

Richard Jaffe, President of The Jaffe Corporation, a family-run Ormond Beach company, spoke in favor of the Special Exception request to allow Kid City USA daycare to take over the vacant retail building located at 1501 North Nova Road, located in the Winn-Dixie Holly Hill Plaza center. The applicants, Audrey Bruner and Jeri Walker were present at the meeting if any questions by the Commissioner were asked.

Mayor Via closed public participation.

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

Enacted and approved this 26th day of February, 2019, in Holly Hill

11. COMMUNICATIONS

A. City Manager & Staff Comments

a.

Sunrise South Pier Demolition Communication Regarding the Issuance of a Purchase Order for the Demolition of the Pier

(Requested by John McKinney, Finance)
Mr. Forte mentioned this doesn't need any approval; just for information purposes only because this is within his spending authority but he wanted to share with the City Commissioners since this has to do with the demolition of the south dock at Sunrise Park as they had previously agreed to having completed. Within their agenda packets is the FY 2019-2020 Budget Calendar for them to hold onto and to be mindful of the Commission workshops if they were planning any vacations, etc., to try to be available for them and reminded them that the first reading/public hearing for the budget is always on a Monday in September (following Labor Day holiday) so this year it will be Monday, September 9, 2019. Mr. Forte gave a brief update following the last meeting with backflow devices and BSI providing the software. At the last meeting the Commission talked about a donation to the DAV for a van that they needed for the Veterans and at the end of that meeting, staff was graciously approached by Dennis and Lynne Smith who own Mighty Mite Construction and made a donation of $600 on behalf of the City of Holly Hill and he wanted to publicly thank them for their contribution and donation. The city's logo will be placed on the van for the donation. Mr. Forte reminded them about the upcoming Volusia League of Cities dinner that the city is hosting at MG on The Halifax and the *Whac-A-Mole* arcade game that's here in City Hall will be brought over for the other elected officials and those attending the dinner can see it and play it.

b.

Fiscal Year 2019-2020 Budget Calendar Calendar for the Upcoming Fiscal Year Budget Cycle

(Requested by John McKinney, Finance)

B. City Attorney Comments
None.

C. City Commission Comments
Commissioner Currie thanked everyone for coming out and encourages them to invite their neighbors; enjoyed seeing the kids from the school; hopes to see them again.

Commissioner Danio thanked the American Legion Post 120 Brian Carter for coming out tonight and accepting the Positivity Award on behalf of the Post; thanked the Smith's for their donation and enjoyed seeing the kids from the school.

Commissioner Johnson reminded them about Bike Week coming up; After Hours event at the Riviera this Thursday; mentioned the panhandling situation in Daytona.

Mr. Forte mentioned that the city has seen a decrease in the number of panhandlers in this area. The city has had two panhandlers that it has had encounters with. He has spoken to all of the Commissioners and possibly bringing that same panhandling ordinance here but what we're reading now is that ordinance in Daytona is going to be challenged. He wanted to get the Commission's thoughts tonight as to whether or not Holly Hill should just stand down and let this kind of play its role out with the challenges that the City of Daytona Beach may need to battle or if the Commission wants staff to move forward and pay the expense of going through that process.

Commissioner Penny stated let Daytona get sued first. Let them defend it and then we can copy the ordinance later.

Commissioner Currie stated she thinks the smarter route is let Daytona pay the attorney's fees instead of Holly Hill paying the attorney fees.

Mr. Forte stated Holly Hill has had only two encounters that are on record so far.

Mayor Via stated it's not a pressing issue right now. Chief Aldrich, can you keep Mr. Forte apprised so the Commission can know if there's more problems with that?

Mr. Forte stated the message that Holly Hill has to get out there is stop giving money to panhandlers. If you don't give money to panhandlers there's no reason for them to be here and they will move on.

Commissioner Johnson stated the other thing he wanted to say is that LPGA is getting so busy with people coming off the Interstate and it would be so easy to recognize where Holly Hill is if we can put a vinyl sticker on the other side of that water tower. Is that water tower in the CRA?

Mr. Forte stated, yes.

Commissioner Johnson asked Mr. Forte if he can see if the city can put a vinyl sticker on there? If it had nothing but the decal of the city's logo on there…

Mr. Forte stated he would like to get the new logo on there. He will look into getting a quote.

Commissioner Johnson stated, yes because you can see it from the other side of Derbyshire when you come off of the Interstate, people will know this is Holly Hill.

Mayor Via stated he would like to see the new logo on there.

Commissioner Johnson stated Bob's Space Racers has always told him going vinyl is cheap. Maybe Bob's Space Racers can make the decal for us. Finally, he spoke about the Veterans and their families and encouraged everyone to stop by the American Legion Post 120. Remember the families as well as the Veterans.

Commissioner Penny stated he had the opportunity to go into the city's Building Department and see all the building permits and it's exciting. There's a lot of good things

happening in our city. Thanked Mr. Patrick for coming into Holly Hill and investing in our city to purchase and build on the vacant lot on Burleigh Avenue. It's exciting to see the Kid City Daycare come to Holly Hill; there's just a lot of good things happening. The exercise Fitness Court at Sunrise Park will be completed on Friday.

Mr. Forte stated it should be completed by this weekend. The city isn't going to host the Grand Opening until March 30th. Staff is working on the public relations for that.

Commissioner Penny stated reminded everyone about the Holly Hill Arts Festival coming here on April 6 - 7, 2019 in front of City Hall. Encouraged everyone to come out and support that.

D. Mayor's Comments

Mayor Via thanked Commissioner Danio for honoring American Legion Post 120 tonight for the Positivity Award and next month it will be Commissioner Johnson's turn and the invocation as well. Mayor Via stated that he will be attending his IEMO III training this coming weekend and hopefully he can bring some good ideas from that. On March 7th there is a Neighborhood Watch meeting at Sica Hall, which they have every month on the first Thursday of the month, and this one on the 7th is a special one because the City Commission has publicly noticed it that they will be in attendance and some discussion on the Half Cent Sales Tax and the city's infrastructure plans will be presented to get public input. This isn't going to be a venue where the Commission really speaks about it. We will be there to listen and to get feedback. The potluck starts at 6:00 PM and the meeting begins at 7:00 PM. If you want to come and eat, bring a dish or come by at 7:00 PM for the meeting. He thanked the Knight House Council from the Holly Hill K-8 School for attending the meeting tonight.

12. ADJOURNMENT

The meeting adjourned at approximately 8:00 PM.

Valerie Manning, City Clerk,CMC 2/26/2019

Chris Via, Mayor 2/26/2019