



CITY OF HOLLY HILL, FLORIDA

CITY COMMISSION

MINUTES • MARCH 28, 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	Absent	
John C. Danio	District 3 - Commissioner	Present	
Chris Via	District 4 - Commissioner	Present	
John Penny	Mayor	Present	

B. Invocation

C. Pledge of Allegiance to the Flag

*Commissioner Via made a motion to **EXCUSE Commissioner Currie**, seconded by Commissioner Danio.*

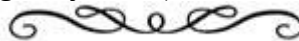
PASSED, 4-0.

2. PRESENTATIONS

1.

Proclamation - Water Conservation Month - April 2017

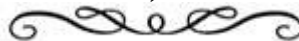
(Requested by Valerie Manning, City Clerk)



2. Resolution

Cynthia A. "Cindy" Mitchell Retirement - 35 Years of Service

(Requested by Kurt Swartzlander, Finance)



3. RECESS THE CC MTG & CONVENE AS THE CRA

4. CRA AGENDA

1.

Resolution 2017-R-25 A Resolution of the City of Holly Hill, Community Redevelopment Agency, Florida, Approving the Sale of 9.42 Acres Located at 1200 Center Avenue, Holly Hill, Florida.

(Requested by Joseph Forte, City Manager)

Mr. Forte stated this revised contract reflects the changes that they discussed at the previous meeting. It pushes the closing date out to August 31st, which allows time for the developer to formulate the engineer drawings so that he can get it to the banks and then the bank can come up with a value in order to issue a loan for the development of the project. It also clarifies what is contained in the development of Phase 1, the first section of Phase 1 and additional deposit. There is a deposit owed tomorrow, a non-refundable deposit of \$15,000 and then on May 31st there is an additional \$25,000 for the extension contract. That summarizes the changes.

Mayor Penny opened public participation. No one spoke.

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

Enacted and approved this 28th day of March, 2017, in Holly Hill



5. ADJOURN AS THE CRA & RECONVENE THE CC MTG

6. PUBLIC COMMENTS

No one spoke.

7. APPROVAL OF MINUTES

1.

Minutes - February 28, 2017 - Regular City Commission & CRA Meeting / March 14, 2017 - Regular City Commission & CRA Meeting

(Requested by Valerie Manning, City Clerk)

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

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8. CONSENT AGENDA - ITEMS (1 - 2)

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.

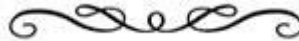
1.

RFP for Compensation and Classification Study

(Requested by Kurt Swartzlander, Finance)

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

Enacted and approved this 28th day of March, 2017, in Holly Hill



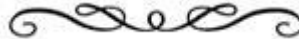
2.

Special Law Enforcement Trust Fund Expenditure - Florida FBI NAA Training

(Requested by Steve Aldrich, Police)

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

Enacted and approved this 28th day of March, 2017, in Holly Hill

**9. REGULAR AGENDA**

1. Resolution

Resolution 2017-R-26 A Resolution of the City of Holly Hill, Florida, Approving the Sale of 9.42 Acres Located at 1200 Center Avenue, Holly Hill, Florida.

(Requested by Joseph Forte, City Manager)

Mayor Penny opened public participation. No one spoke.

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

RESOLUTION

Enacted and approved this 28th day of March, 2017, in Holly Hill



2. Resolution

Resolution 2017-R-27 A Resolution of the City of Holly Hill, Florida, Approving the Submittal of an Application to the Volusia Transportation Planning Organization (TPO) for XU Bicycle/Pedestrian Funding for the Center Avenue Phase 1 Sidewalk Project; Providing for Severability; Providing for Conflicting Resolutions; and Providing for an Effective Date.

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

Mr. Harowski stated the Resolution they have before them is authorizing submission of the sidewalk project on Center Avenue, which would extend from LPGA to Flomich. It's one of five projects that the city is trying to work on improvements around the elementary school and serving that neighborhood. The Resolution authorizes the submittal and he will point out that the city will be responsible for 10% of the design and construction cost. The costs that the Commissioners see in the agreement are based on a preliminary version of the study. We're expecting a final study in a week or so and they may change a little bit. They would not impact budget until probably 2018/2019 fiscal year. So, they have some time to plan for that going forward. The other unresolved item in here is who is ultimately going to do the design work and serve as the LAP Agency (Local Agency Program) and we're still negotiating with DOT and Volusia County to try and get one of them to fill that role.

Commissioner Byrnes asked if the LAP Agency looks promising?

Mr. Forte stated, no.

Commissioner Byrnes stated, okay.

Mayor Penny asked the County has said no and DOT has said no?

Mr. Forte stated the DOT is taking it into consideration. They are going to take a week or two to get back to us on a response but in an email as of this evening, another area of the DOT is basically say to the TPO, "We haven't gotten Holly Hill's LAP certification letter, therefore, it's going to be taken off the list and pushed out until you get one." Another department of theirs that we're talking to is trying to negotiate with them to take over the LAP portion of this. They may not be communicating with this portion of the

DOT and they're putting these projects at risk, quite frankly, and he will be sending a letter off to the County Manager tomorrow and asked him why the County can't step up to the plate for us on this, instead of losing a million dollars' worth of sidewalk projects.

Commissioner Via asked with the TPO keep this in their rotation? Can we ask them to extend any of that?

Mr. Forte stated it gets pushed out to the next year.

Mr. Harowski stated but the project that is being pushed out is actually, the Flomich Street Phase 1, which is Nova Road to approximately Center Avenue. That one is a little further along in that it had the design study and the city put it in a couple of years ago for funding. They did allocate design money for that in fiscal year 2017/2018, the State fiscal year, and what they are saying is that at this point we don't have a LAP Agreement in place, they can't spend that money on that project and so they will reassign it to another project. That project will still remain on the priority list, he believes and the city will be able...

Commissioner Via stated because the city is next on the priority list with TPO, those projects. They are right there, right?

Mr. Harowski stated the two projects that they are talking about submitting tonight will be individually ranked as construction projects and go on the construction list with that Flomich project. His plea to the TPO is, on that particular one, is going to be give the city until June 1st and if we can't get it resolved then we understand they are going to have to reprogram that money. So, we'll see if they will go with that or not.

Mayor Penny opened public participation. No one spoke.

Commissioner Byrnes stated he thinks it's crazy that a simple project like this gets held up by bureaucracy that will add nothing, nothing is added to this project by having that so-called certification. All it does is delay things and cause the citizens of Holly Hill to possibly lose the ability to get a sidewalk where it's badly needed in a school zone,

Mayor Penny asked what's the total of these two projects, about \$1 million?

Mr. Harowski stated more than that. Center Avenue, on the preliminary estimate is \$937,000, the one that will be coming up next is \$767,000 and those will probably go a little higher when they see the final plan.

Commissioner Byrnes stated and the city's share is about 10% of that.

Mr. Harowski stated a minimum of 10%.

Mr. Forte stated what the Commissioner need to understand is that the city's share of that will probably come out of the gas tax monies which are allocated for road resurfacing and sidewalks. Those dollars will be set aside that should this go through, the city will be able to meet its match.

Mayor Penny asked if they can use CDBG money to match that.

Mr. Forte stated, no. CDBG money has to be designated to CDBG target areas. He's not sure if this fits that or not but the city has so much CDBG area that it may but at least he knows they have it in the gas tax money to do it.

Mayor Penny stated, okay.

Mr. Harowski stated on the Center Avenue project, just so they are clear, the primary improvement will be adding sidewalk on the east side of Center Avenue where there is none now and then improving sidewalk on the west side where there is deficiency.

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

RESOLUTION

Enacted and approved this 28th day of March, 2017, in Holly Hill



3. Resolution

Resolution 2017-R-28 A Resolution of the City of Holly Hill, Florida, Approving the Submittal of an Application to the Volusia Transportation Planning Organization (TPO) for XU Bicycle/Pedestrian Funding for 15Th Street Sidewalk Project; Providing for Severability; Providing for Conflicting Resolutions; and Providing for an Effective Date.

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

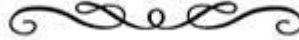
Mr. Harowski stated this sidewalk project goes from Nova to Center and it again, is to try and improve the existing sidewalk and add sidewalk on the south side where they don't have it now. Everything else he said about the Center Avenue project, ditto on this one.

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, Danio, Via, Penny
ABSENT:	Currie

RESOLUTION

Enacted and approved this 28th day of March, 2017, in Holly Hill



10. PUBLIC HEARINGS

1. Ordinance

Ordinance 2992 An Ordinance of the City of Holly Hill, Florida, Approving the Sixth Amendment to Marina Grande Residential Based Mixed Use Planned Unit Development (MPUD) Agreement; Providing for Conflicting Ordinances; Providing for Severability; and Providing for an Effective Date.

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

Mr. Harowski stated this is the program the Commission considered, he thinks, it was three meetings ago and then they had to come back and do it in an Ordinance form. He was advised that one of the graphics might still show the signs on the seawall, they are NOT part of the program. Those were excluded and if they got it on the graphic, they will fix that and take that out.

Mayor Penny opened public participation.

The following individual spoke to the Mayor and Commissioners: John Caveto, resident at MG on the Halifax, Holly Hill.

Mayor Penny closed public participation.

Commissioner Byrnes stated he thinks it's important, this Commission did talk about possibly relating it to sales and found that the logistics was just a little bit hard to work with, at least from his gathering of the discussion because of the variabilities involved. So, that's why the city went with a time certain that it's going to come down and if there are any mechanical problems with it then it would be brought down by order of Code Enforcement.

Mayor Penny stated any problems will be addressed by the property manager.

Commissioner Byrnes stated, yes and the city.

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

ORDINANCE

Enacted and approved this 28th day of March, 2017, in Holly Hill



2. Ordinance

Ordinance 2987 An Ordinance of the City of Holly Hill, Florida, Amending Section 82-322 (Evaluation of Request for Accommodation Pursuant to the Fair Housing Act) of the City of Holly Hill Code of Ordinance to Incorporate Recent Changes in Federal Law Regarding the Review and Approval of Group Homes; Providing for Conflicting Ordinances; Providing for Severability; and Providing an Effective Date.

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

Mr. Harowski stated as the title says, they are proposing an amendment to the city's Fair Housing section of the code relating to Group Homes to add an additional criteria, which is a spacing criteria between similar types of uses. This is something that has been relatively, recently added to the Federal Statute. The city is making an adjustment to bring the city's into line with it.

Commissioner Byrnes asked if they look on the map, does this affect any current properties that might not have been done if this had been in effect? Basically, this keeps them from two being on the same block or something similar to that.

Mr. Harowski stated yes, there's a distance requirement. He does not know whether or not it would affect any existing properties.

Commissioner Byrnes stated because he thinks about Bishop's Glen and just up the street from that is the other low income...

Mr. Harowski stated he's not sure those all fall within the scope of this particular...

Mr. Forte stated just the group homes. Residential group homes.

Mayor Penny opened public participation. No one spoke.

RESULT:	ADOPTED AT 2ND READING [UNANIMOUS]
MOVER:	John C. Danio, District 3 - Commissioner
SECONDER:	Arthur J. Byrnes, District 1 - Commissioner
AYES:	Byrnes, Danio, Via, Penny
ABSENT:	Currie

ORDINANCE

Enacted and approved this 28th day of March, 2017, in Holly Hill



3. Ordinance

Ordinance 2988 An Ordinance of the City of Holly Hill, Florida, Adopting a Twelve (12) Month Moratorium on the Approval of Any Development Order or Issuance of Any

Business Tax Receipt for the Growing, Processing, Manufacturing, Distribution, Dispensing and Selling of Medical Cannabis Within the City Limits; Providing for Conflicting Ordinances; Providing for Severability; and Providing an Effective Date.

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

Mr. Harowski stated the Ordinance is simply what it says. Simply, asking for a moratorium on approving units to sell medical marijuana. Basically, what the city is waiting here for is the legislature to finish their requirements under the recent State Constitutional amendment and give the city whatever guidance that they are going to share. He can tell the Commissioners that staff is regularly getting calls from people who are interested.

Commissioner Byrnes asked interested sellers?

Mr. Harowski stated, sellers.

Mayor Penny opened public participation. No one spoke.

Commissioner Via stated he hopes that the city can, once the State determines what they want to lay out, hopefully the city can get this moving forward faster than twelve months. Like he said last month, he's in favor of this.

Commissioner Byrnes asked if someone calls now, once this has passed, what would be staffs answer to them be?

Mr. Harowski stated we have a moratorium in place and we don't have any approval at this point.

RESULT:	ADOPTED AT 2ND READING [UNANIMOUS]
MOVER:	John C. Danio, District 3 - Commissioner
SECONDER:	Arthur J. Byrnes, District 1 - Commissioner
AYES:	Byrnes, Danio, Via, Penny
ABSENT:	Currie

ORDINANCE

Enacted and approved this 28th day of March, 2017, in Holly Hill



4. Ordinance

Ordinance 2989 An Ordinance of the City of Holly Hill, Florida, Amending the Land Development Regulations, by Rezoning the Parcels Described in Exhibit "A" from City of Holly Hill R-7 Medium Density Multi-Family Residential to City of Holly Hill R-3 Medium Density Single-Family; Providing for Conflicting Ordinances; Providing for Severability; and Providing an Effective Date.

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

Mr. Harowski stated the subject property is on the north side of Walker Street, opposite the Fountainhead project location. There's a residential unit and a nonconforming business unit. At one time those two were in common ownership and they have since been divided into two separate ownerships. Under the R7 zoning the only use they can qualify for either site of those locations is single-family use and one of those lots are substandard for the R7 requirements, lot width is the issue. The proposal is to rezone from R7 to R3, which is also a single-family zone so the city is not changing the use and the city is making those lots consistent with the rest of the single-family lots along that side of the street. He believes there is a little bit of R2 right at the intersection at Center and Walker but the balance of that strip is R3. That will make the two lots there conforming as to minimum lot size and it will not affect the business activity as that will continue as a nonconforming businesses.

Commissioner Byrnes stated you said it has been divided or are they waiting for our...

Mr. Harowski stated no, they have sold. They are under separate ownerships.

Commissioner Byrnes asked they can make a nonconforming lot without...

Mr. Harowski stated apparently, the city in past years had agreed to allow that subdivision and the city honored that agreement and now the city is making it conforming. So, that issue basically goes away, the lots will be conforming.

Commissioner Byrnes asked both of them?

Mr. Harowski stated, yes.

Commissioner Byrnes stated he thought one was going to be conforming and the other one was...

Mr. Harowski stated, no. Both will be conforming as to lot size for single-family use and one has a nonconforming use on it, which will continue.

Commissioner Byrnes asked does the nonconforming use go with the property or with the owner?

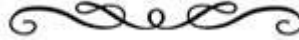
Mr. Harowski stated the property.

Mayor Penny opened public participation. No one spoke.

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

ORDINANCE

Enacted and approved this 28th day of March, 2017, in Holly Hill



5. Ordinance

Ordinance 2990 An Ordinance of the City of Holly Hill, Florida, Amending the Land Development Regulations by Rezoning the Parcels Described in Exhibit "A" to City of Holly Hill CC-1 Commercial Corridor; Providing for Conflicting Ordinances; Providing for Severability; and Providing for an Effective Date.

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

Mr. Harowski stated the property that's the subject of this ordinance is on the west side of Parque Avenue north of Calle Grande, between Parque and the railroad tracks. The city's Comprehensive Plan has identified this as a wholesale warehouse and industrial property. It currently has no city zoning. When it was annexed it was not given city zoning at that time and they need to go ahead and give it a city zoning. The choices from the city's Comprehensive Plan are I1, I2, CC1 or a residential PUD. The applicant is proposing a development that would be basically, a rental warehouse base and with the possibility of maybe a limited amount of retail up at the south end of the property. They have asked for CC1 Commercial Corridor Zoning. It is the least intensive of those zones that the city has, other than, depending on how the city might restrict an IPUD. The Planning Board reviewed it and recommended it to the Commission. They believe that the proposed zoning is consistent with the Comprehensive Plan.

Commissioner Byrnes asked how wide is that again?

Mr. Harowski stated, 180.

Mayor Penny opened public participation. No one spoke.

RESULT:	ADOPTED AT 2ND READING [UNANIMOUS]
MOVER:	Chris Via, District 4 - Commissioner
SECONDER:	Arthur J. Byrnes, District 1 - Commissioner
AYES:	Byrnes, Danio, Via, Penny
ABSENT:	Currie

ORDINANCE

Enacted and approved this 28th day of March, 2017, in Holly Hill



6. Ordinance

Ordinance 2991 An Ordinance of the City of Holly Hill, Florida, Approving the Fountainhead Mixed Use Planned Unit Development (MPUD) Agreement; Providing for Conflicting Ordinances; Providing for Severability; and Providing an Effective Date.

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

Mr. Harowski stated he thinks by this time, they are all familiar with the project and have heard a number of presentations and the applicant has been before the Commission a number of times. He thinks they hashed out at the first reading all of the issues and he thinks the only item to yet come in is the building designs. The applicant submitted today some more current versions of that and he thinks Mr. Forte may be prepared to go over some of those with the Commission.

Mr. Forte stated what staff will put up on the screen is what was delivered today, that the developer had submitted. (*showing elevation designs on the overhead*). Mr. Forte stated they're kind of...he kind of calls them vanilla. He knows that's not overly fancy but it meets the intent but he met with Mr. Meyer just prior to the meeting and he kind of enlightened himself and the Mayor with something they will call Rocky Road. (*referring to the elevation designs that Mr. Meyer showed the Mayor and Mr. Forte before meeting*). Mr. Forte stated he had an opportunity to meet with Mr. Meyer before the meeting and what he brought in, this is the same...these are the pictures that the Commission saw in the color version but this gives them a better idea of what the Commission can expect on the development of these three buildings. It's a little bit more exciting now when they get to see it in this version. He is glad that they had that twenty minutes prior to the meeting to get this snapshot because it certainly changed the perspective quite a bit. It still has work to be done. This is in the right direction of where Fountainhead needs to go. Mr. Meyer is showing the mezzanine on the second floor, he's showing the floating staircase that he had talked about earlier, this is just an example of what some work spaces would be. (*referring to the snapshot of the design from Mr. Meyer*).

Commissioner Byrnes asked if he could give some idea of orientation because he is trying to figure out...

Mr. Forte stated this is the media center, this is Center Street and this is LPGA (*referring to the design*), this is the media center, this would be the gymnasium and this is the third building, about 11,000 to 12,000 square foot building if he recalls. Mr. Forte stated and again, this is just showing another detail of just the gymnasium building where Mr. Meyer is showing how he is going to have office spaces around the outside, this is first floor storage, this is Mr. Meyer's assembly area on the first floor looking at it from the overhead, the collanade, they actually had a little opportunity to do check on Google and see some example of what that actually is going to be and the type of roof structure that's in there, then the restrooms. For the most part, the administrative offices is what Mr. Meyer is looking at to be on the second floor. It's hard to see on these pictures and he knows that might be a little bit confusing but from the staff perspective, this is kind of what they were hoping to see. He is glad they had the opportunity to come in just before the meeting to get some more clarification on them.

Commissioner Byrnes asked if he could give some idea of orientation because he is trying to figure out...

Mr. Forte stated this is the media center, this is Center Street and this is LPGA (*referring to the design*), this is the media center, this would be the gymnasium and this is the third

building, about 11,000 to 12,000 square foot building if he recalls. Mr. Forte stated and again, this is just showing another detail of just the gymnasium building where Mr. Meyer is showing how he is going to have office spaces around the outside, this is first floor storage, this is Mr. Meyer's assembly area on the first floor looking at it from the overhead, the collanade, they actually had a little opportunity to do check on Google and see some example of what that actually is going to be and the type of roof structure that's in there, then the restrooms. For the most part, the administrative offices is what Mr. Meyer is looking at to be on the second floor. It's hard to see on these pictures and he knows that might be a little bit confusing but from the staff perspective, this is kind of what they were hoping to see. He is glad they had the opportunity to come in just before the meeting to get some more clarification on them.

Attorney John Ferguson, Cobb Cole, 914 Riverside Drive, Holly Hill and Jayson Meyer, 1410 LPGA Blvd., Daytona Beach present. Attorney Ferguson stated one thing he wants to make sure everyone is clear on and he is sure they are, they built in to the PUD Agreement that the architectural plans will be coming back before this Commission. No one is asking to approve these now. These are just for informational purposes.

Mr. Meyer stated he didn't want to come before the Commission empty handed. When they spoke last time, they talked about bringing some elevations and showing them at an 80% completion level and they've been working diligently since their last meeting to flush out everything that will go inside the buildings, they've been sourcing materials and they looked at just the outside elevations, they weren't ready to just finalize those just yet but he wanted to demonstrate to the Commission the progress that they had made so they brought copies of the plans and they have been delivered today to take a look at each of the individual buildings. As the Commission recalls, they have two rehabs and one new construction building. They spent a lot of time going through the different uses and who would physically be in different locations, looking at different materials. So, when he comes back before the Commission next time, he will be presenting to the Commission very in depth elevations that are calling out all of the materials and they will show the Commission from different views from each of the perspectives of the new buildings. What the Commission saw before they went to these architectural diagrams here, these were examples of the evolution of those. So, this evening he wanted to come before the Commission to show the progress, to show the Commission that they have hit the ground running but they are not quite ready to show the Commission at 80% completion. Mr. Meyer stated he understands, per their agreement with the city, they will be back before the Commission to review all of the architecture before the actual commencement.

Mayor Penny stated he wasn't sure if these drawings need to be part of the PUD. Are these in the PUD or out of the PUD.

Attorney Simpson stated he thinks there is an exhibit for them. He thinks their intent is that they are a guide to what will be coming in the future.

Mr. Meyer stated that's his understanding as well.

Attorney Ferguson stated because they will be coming back with the final.

Attorney Simpson stated with the final stuff but this is kind of like a guide of what the final will look like.

Mr. Forte asked do they want to call them the exhibit for the PUD?

Attorney Simpson asked there was an exhibit number wasn't there?

Mr. Forte stated de doesn't know if it's F or G.

Mayor Penny stated there's a blank page there now. He doesn't know if these go into page or just leave it blank.

Mr. Meyer stated he thinks when they come back before the Commission with the elevations at the 80%, calling out the materials then...

Mr. Forte stated that's going to come during the site plan.

Attorney Simpson stated yes, they don't want to do that because...

Mayor Penny stated the PUD will be done tonight.

Attorney Simpson stated the PUD will be done. He would attach these as the exhibit as a guide and then the finals can come back later. They won't have to amend the PUD again.

Attorney Ferguson stated because the PUD already has provision in there for them to make changes between now and then.

Attorney Simpson stated, exactly.

Attorney Ferguson stated and it still has to be approved by the Commission.

Attorney Simpson stated, right.

Mayor Penny stated they're all on the same page.

Attorney Simpson stated if Attorney Ferguson and Mr. Meyer are happy with the pictures, he's good to go.

Commissioner Byrnes stated he has a question for Attorney Simpson and there may be some input from Mr. Meyer. In all the years I've been doing this, whenever we've done a PUD it's been, "Okay, this is it." And, then they would come back and say, "Well, this has changed, we need an amendment." Are you sure the wording is here so that we can have control over this if...

Attorney Simpson stated, yes and that language is still in there too if they want to come back and they want to change...and that's more dealing with the text of the language or the site plan. The layout in the site plan and those types of changes will have to come back either as a minor amendment, which staff can approve or a major amendment,

which would have to go to the Planning Board for a recommendation and then back to the Commission. Basically, the same approval this went through. But in addition to the way it's been done before, typically elevations don't come to the Commission for approval. What they are doing in addition to what they've done in all the other approvals, they put a provision in there that the final elevations will come back to the Commission for approval. They didn't do that for Marina Grande, for instance. The final elevations didn't come to the Commission.

Commissioner Byrnes stated, okay. They saw a lot of stuff from Marina Grande that were a lot more solid than what they are seeing in here and that's why he had a question. He has no trust issues with the applicant, he just wants to make sure legally that the city is not...

Attorney Simpson stated that's why we're bringing the final elevations back here.

Commissioner Byrnes stated, okay.

Attorney Simpson stated because the details for certain are not known as of yet and there are other things that are going to come back to the Commission that didn't come back through with Marina Grande. Subdivisions, the Commission is going to see subdivision of land are going to have to come back to the Commission relatively soon between now and August. As parcels are sold, they have to go through a subdivision process. If they need to modify the layout of the site plan, that might come back to the Commission for approval as well. So, there is going to be more coming back to the Commission for approval than with Marina Grande.

Commissioner Byrnes stated, okay.

Commissioner Via stated going off of what Commissioner Byrnes said. He has a little bit of heartburn about it as well. Meaning, his main question is, how can the Commission approve an MPUD on second reading if they don't know really what's in it? For instance, and Mr. Meyer knows he's been 100% for this project, one of his biggest supporters, can't wait to create hundreds of careers but this is the first time he has seen the elevations. He was expecting, like Commissioner Byrnes was stating, to have some elevations for the first reading, hopefully, and then by the second reading. He digs into every single page of their packet and he really wants to see this and he still can't see it because it's out there and he doesn't have it in front of him. So, his question is, how can the Commission approve the MPUD if they don't really know what they're approving with elevations? What if the Commission disagrees with the way that Mr. Meyer wants to go ahead and change this?

Mayor Penny asked at the site plan?

Attorney Simpson stated well, he guesses the way to look at it is, the Commission has just as much information as they had going through Marina Grande. He means, the same information that was with Marina Grande is here in that they had a preliminary site plan, they have a preliminary site plan here that lays out everything. If that gets modified, minor changes staff can approve; major changes are going to have to come back to the

Commission. The only difference is Fountainhead doesn't have final elevation drawings and he's never gone back to look at Marina Grande's final elevations, compared to what were in the documents. He doesn't know if they're the same or not to be honest with them. If deviations were made, if any. So, the only thing that staff made the difference in is that final elevations because they weren't in a final product form for an MPUD and understand, that's an artist rendering. That is not...final construction plans do not come back to this body on any project; ever or for a long, long time, let's put it that way. So, the Commission never see the final site plan, the final construction plans, the final construction drawings of what it's going to be for any type of project for Marina Grande, straight zoning, or any other type of MPUD including this one.

Commissioner Via stated but the Commission was told that they would have 80% of the elevations by the first reading and then the second reading. He understands they don't have 80% elevations tonight, correct?

Mayor Penny stated those were the first...and that's...

Attorney Simpson stated that's why it's coming back to the Commission.

Mayor Penny stated he understands Commissioner Via's concerns and he appreciates Mr. Meyer coming right before the meeting and luckily, he was with Mr. Forte when Mr. Meyer came so he saw the plans. It's easier to see up close. But the one thing that the Commission does have is that when it comes back to site plan review. The Commission has ultimate control at that point. It will come back to the Commission for final review. What came up in discussions was, what is their expectation of an 80% elevation? What is it? For him, Mr. Meyer and himself talked about an architect in town that did the black and white print like that but put pastel water colors on it. That's what in his brain would love to see but when they Googled it, it's really black and white, flat, two dimensional drawing, pretty much like what they see there (*referring to the pictures presented to the Commission*) because it's not construction drawings. It's an artist's rendering of what it could be and so, not being here for Marina Grande, he thinks this Commission has another layer of control than the past Commission had with Marina Grande because it is going to come back for final site and review and then all those details are in there at that point. So, that's where his comfort level is. Is that the Commission does have an additional layer of control at that point. He was sharing Commissioner Via's concerns until a half hour before the meeting because the drawings that they saw were a little simplistic in his opinion. Mr. Forte took a picture to get as much detail to the Commission in a very quick time frame as possible.

Attorney Simpson stated just to correct on thing the Mayor said. He said the final site plans come back to this body. That's not what this document says. Final elevations are coming back to this body for review.

Mayor Penny asked at site plan?

Attorney Simpson stated whenever they get it done.

Mayor Penny stated, okay.

Attorney Simpson stated but final site plan approval, that's a staff decision.

Mayor Penny stated, okay.

Attorney Simpson stated that's administratively handled. IF the final site plan deviates from the preliminary plan, which is attached to this PUD agreement then the question is, is it a major amendment or a minor amendment, there's a little judgment in making that decision but if it's a major amendment, it has to go back through the whole rezoning process again; notice, everything and then it will come back before the Commission. So, only very small changes will be made at staff level and anything of significance will be made at this level. If they do a site plan that's identical to what's in the PUD the Commission won't see it again. The Commission will see elevations but not the final site plan.

Mayor Penny stated, okay.

Mr. Forte stated there were no issues with the site plan.

Attorney Simpson stated, no.

Mayor Penny stated no and he should have said elevations instead of site plan. He misspoke.

Mr. Meyer stated just a quick question, Attorney Simpson, based on your experience, at this stage of the development process, is it typical to have final elevations presented?

Attorney Simpson stated no, it's an architectural rendition.

Mr. Meyer stated, right.

Attorney Simpson stated is what you have and honestly, I don't know what a final elevation would look like because I don't get involved in site plan review either. I'm assuming a true, final elevation is the construction plans.

Mr. Meyer stated, right.

Attorney Simpson stated and the construction plans just get reviewed by the building department.

Mr. Meyer stated so, since this is a partnership between Fountainhead, Synergy and the City of Holly Hill and this is property that is not just within the City of Holly Hill but also as owners of the property, he wanted to go that extra distance to show the Commission what they are building and creating. So, it wouldn't be typical to provide the elevations at this level of detail at this stage. It typically comes, once they get this approval then architecture really begins. They wanted to show the Commission what they were creating and through this process, the architectural process, the elevations would typically come at a later stage. He wanted to show the Commission that he didn't take the

Commissions concerns and the things they talked about in vain and disregarded them but the process of creating those, it doesn't normally happen at the beginning of the cycle. He wanted to mention that and also let the Commission know that in the MPUD Agreement, there's a specific clause in there as the Mayor alluded to and Attorney Simpson, that the Commission has the final say on the architecture to say whether it meets the guidelines outlined in the MPUD. What they are presenting to the Commission today is, still it's conceptual but it's forming but before they actually build these buildings, he will come back before the Commission and they will see these specked out, the diagrams and it will show the Commission what the different materials are and that's what they agreed to. It's just today, at this point, those are not prepared but it also, would not be typical to have them prepared at this point so, he wants the Commission to understand that he is not trying to circumvent in any way or not fulfill a promise or commitment.

Commissioner Via stated he understands that but the Commission was also told that they would have 80% elevations numerous times by his attorney not Attorney Ferguson. So, that's the only reason why he is bringing this up just because the Commission was told over and over. He thought that before this meeting, before they totally said yes to this MPUD, the Commission would really be able to see how it is, they would be able to publicly put it into their agenda, the taxpayers who really, actually are Mr. Meyer's investors in this, the Commissioners are representing the taxpayers here, should be able to look at what they are investing in and put in their input through each of the Commissioners. That's what he was looking at. That's what his understanding was. So, now he is sitting here kind of surprised. He's really surprised to be honest with them.

Mr. Meyer stated and he completely understands that, he's sorry to disappoint him. In the MPUD it does call...there are two options. One is, present the elevations at 80% approval, at MPUD approval and then they don't come back before the Commission to get the final say or the second option is, if the elevations are not already prepared, they come back before the Commission and the Commission gets to decide and approve the architecture. It does call that out in the agreement.

Commissioner Via stated Attorney Simpson...

Attorney Simpson stated yes, the elevations come back for approval.

Commissioner Via stated so the Commission comes back and if at that point, say they want to paint the building purple and put an elephant on the side of it, does the Commission still have...be able to put their thumb print on it and say, "Look..."

Attorney Simpson stated it still has to go through the Commission for approval. His example, he doesn't know if they put color in here as a material....

Commissioner Via stated he's just saying...

Attorney Simpson stated it has to meet the description that's in the written agreement, that outlines this is the type of architecture and when they start talking about architectural styles, it's kind of tough. It's not...and he's glad they are putting pictures and drawings to say, "Look, this is generally what we're talking about" but when they start talking about

particular types of architectural style it's very more of a subjective standard than (?) and it's hard and they put in here as much as they can objectively.

Mayor Penny asked would it help to pull those pictures back up?

Commissioner Via stated this is the time though, where they negotiate that, right? Where, the Commission makes sure they like the way...

Attorney Simpson stated, no.

Commissioner Via stated where they like the way this development is looking.

Attorney Simpson stated, no. What they negotiated is the criteria.

Commissioner Via stated, okay.

Attorney Simpson stated now when Mr. Meyer comes in, we say that doesn't meet the criteria. That's what the city's judgment is.

Commissioner Via stated, okay.

Attorney Simpson stated we've negotiated the criteria and we put examples in, however far along they are, that's generally what we're talking about as a guide so, it comes back to our judgment to say that doesn't meet, you have to make some other changes to meet it.

Commissioner Via stated so, his whole entire conversation, what this boils down to, his question is, will the Commission be pigeon-holed, if they approve this tonight, will they be backed into a corner to go ahead and approve this even if they somehow...it changes a little bit and the Commission doesn't like it? Are they backed into a corner?

Attorney Simpson stated, no. You're not backed into a corner. He doesn't know what changes Commissioner Via is talking about. If Mr. Meyer goes, and all of a sudden builds a southern colonial there, well, that's totally different then the city can say, "That's not what we're talking about." If all of a sudden something that was a window in this picture is now a wall, that might be hard to say that's not an architectural style. It just depends on the change you're talking about and that's what he is saying. He would say, historically...

Commissioner Byrnes stated he needs some clarification.

Attorney Simpson stated historically, this city has not gotten into architectural issues.

Commissioner Byrnes stated but this is a special project.

Attorney Simpson stated no more than Marina Grande was.

Commissioner Byrnes stated this is a special project. From the beginning of the discussion and now it's changed, the beginning of the discussion the applicant and

everybody says the elevations are coming back before the Commission and he thought he heard the words “for approval”.

Attorney Simpson stated, right.

Commissioner Byrnes stated that’s different than just review. For approval, the Commission can look at the pictures and if they see a purple elephant and don’t want that, the Commission can say no, they have to change it. That’s the kind of control that he wants to make sure that they have coming back because it’s going to be important. It’s a special project.

Mayor Penny stated when they go to the PUD, Chapter 10E, Building Design Standards, Buildings of Fountainhead, “*Building design standards: Buildings within the Fountainhead MPUD on the PROPERTY shall comply with "Contemporary Architecture."* There are thirteen sub-paragraphs that describe what that architectural style is. If the applicant came back and wanted to build a Crackle Barrel style architecture there, that clearly does not meet these definitions in here and we would have that element of control but if they wanted to use brushed aluminum and you liked brushed bronze, you’re going to get what they want. That’s the level of control the city has.

Commissioner Byrnes stated but he doesn’t think that’s...he’s not going to speak for Commissioner Via but when he hears the words coming back to the Commission “for approval”, we don’t like brushed aluminum and we say that then there’s negotiations with the applicant, it’s not just a “get it”. That’s what he is trying to determine here and as he thinks he understands Commissioner Via, he thinks that’s the same level of approval that Commissioner Via wants.

Mr. Meyer stated Commissioner Byrnes, if I may, within the MPUD we have outlined it in very specific details and narrative format the can’s and cant’s.

Commissioner Byrnes stated, okay.

Mr. Meyer stated as it relates to architecture. So, those parameters it outlines different stylings, architecture style, window styles, all those things are outlined. When they come back before the Commission, the Commission will be utilizing their judgment against the backdrop of that MPUD to determine whether what he is presenting to the Commission meets that. That document represents the negotiation and it outlines can’s and cant’s, it is the framework for everything that they will do on the property. It’s outlined there. It’s up to the Commission’s judgment to determine whether what he presents meets those guidelines or not.

Attorney Simpson stated what they can do to just make it clear because he’s reading paragraph H and paragraph H, subpart A & B says, “*To ensure the consistency described above, this MDP provides for an additional step in the review process to address the elevations of the buildings to be constructed on the Property. The process shall be as follows:*

- a. *Elevations for the Corporate Headquarters Building, which shall be the first building permitted under this MDP, are attached hereto and incorporated herein as Exhibit "G". With the approval of this MDP, the elevations for said building shall be approved and the following paragraph shall not apply for said building.*

- b. *If elevations for the Corporate Headquarters Building have not been submitted as part of the approval of this MDP or as final renderings for subsequent buildings are not available at the time of the MDP adoption, the standard site plan approval process shall now require that the architectural elevations for any building constructed on the Property, other than the structural elevations approved by this MDP, shall be brought before the Holly Hill City Commission for review and approval.*”

Attorney Simpson asked do you just want a provision in there saying that you are NOT finally approving any architecture styles elevations with the approval of the MDP? That all of them have to come back to you?

Commissioner Via stated because then that will give the Commission negotiations.

Attorney Simpson stated it would have to come back through for review and approval. Paragraph A talks about Corporate Headquarters and if they are attached as *Exhibit “G”* then with the approval of this agreement the elevations are approved and they don’t come back to this body. Paragraph B says, “If elevations for the Corporate Headquarters Building have not been submitted as part of the approval of this MDP or for other buildings then the elevations have to come back to the City Commission for review and approval. So, the question is, have the Corporate Headquarters buildings been submitted for final approval elevations right now? He is hearing them, the applicant, say no. It’s what he’s hearing. Are you all intending to do final approval of the Corporate Headquarter tonight, elevations?

Mr. Meyer stated, no and we’re not asking for that either.

Attorney Simpson stated, okay but that’s what’s in here.

Mr. Meyer stated and it says, if not that then it says...

Mayor Penny stated then it comes back.

Attorney Simpson stated it then comes back to the second but the problem is we do have Corporate Headquarter buildings elevations attached as Exhibit “G”, going to be attached, and this is saying that’s been finally approved. So, what he is saying is they can either strike “A” to say they all come back or they make it clear that no final elevations have been approved.

Mayor Penny stated just take the drawings out as exhibits then it comes back.

Attorney Ferguson stated why don’t they just take the drawings out.

Attorney Simpson stated, okay. They can take the drawings out.

Attorney Ferguson stated and then that way...

Mayor Penny stated then that way it comes back.

Attorneys Ferguson and Simpson stated, okay.

Attorney Simpson stated if there’s no Exhibit “G” then everything comes back.

Attorney Ferguson stated, which was the intention.

Attorney Simpson stated, okay.

Mr. Harowski stated just for clarification, what he thinks they ought to do is take that Exhibit “G” page and just write on there “NONE”.

Attorney Simpson stated okay, that’s fine.

Mr. Harowski stated because somebody down the road looking at it will know that there was no exhibit, not that there was an exhibit and it just didn’t get attached.

Attorney Simpson stated, sure.

Mr. Meyer stated he’s fine with that.

Attorney Simpson stated and he thinks when that language was written, they intended to have some final renditions and not others.

Mr. Meyer stated, yes.

Attorney Simpson stated so there is no final renditions. So they will have no Exhibit “G” so everything comes back to this body.

Mayor Penny asked if everybody was on the same page now? Does that address the Commissions concerns?

Commissioner Via stated it seems so.

Commissioner Byrnes stated, yes.

Mayor Penny opened public participation.

The following people spoke to the Mayor and City Commissioners: Maureen France, 1144 Riverside Drive, Holly Hill; Jim Legary, 342 Burleigh Avenue, Holly Hill; Jim Cameron, Senior Vice-President Government Relations Daytona Regional Chamber of Commerce.

Mayor Penny closed public participation.

Mayor Penny stated this is quasi-judicial so they need to disclose any ex parte communication with the applicant. Him, himself have had countless meetings with Mr. Meyer, Mr. McMann, Ms. Duerr, he thinks everyone on this side of the room he has talked too at least three times at different times concerning this project. He was in a private meeting, it wasn't closed-door but it was a meeting right before this meeting when Mr. Meyer came in most recently with Mr. Forte and saw the close up views. He has had, he can't tell them how many one-on-one contacts with the applicant and the representative, as well as, meetings in the conference room with the applicant, numerous attorneys, traffic study engineers and landscape engineers, architects. He has had a lot of outside communication on this project. He hopes that satisfies the intent of his disclosure. Commissioners Byrnes and Via nodded that they have had no ex parte communications.

Mr. Forte stated when they modified the PUD and the Ordinance they had at one point put down that the PUD was going to be effective at a later date. Then they went back and said no, they will go ahead and amend the Ordinance so it's effective immediately. With this new computer system (ACCELA program), he wants to make sure that the right Ordinance is in there. The only difference is the effective date. The effective date was immediately and the other was effective at a time that had to do with the financing.

Mayor Penny asked can the motion state that?

Attorney Simpson stated, yes. Make the motion state clearly that the Ordinance becomes effective immediately upon date of adoption.

Mr. Forte stated and also that there are no exhibits in Exhibit "G". If the Ordinance is reflective of those two things, it's in there. He just wants to make sure it's worded that way.

Commissioner Via stated his motion reflects the changes that they just talked about.

Commissioner Byrnes agreed. Commissioner Byrnes asked Mr. Forte if he was satisfied.

Mr. Forte stated he will be satisfied when a shovel goes in the ground but at this point, he thinks Mr. Meyer has met the expectation of what they said the deliverables were going to be.

Commissioner Byrnes stated, thank you.

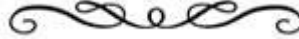
Mayor Penny stated he forgot a couple of people he had contact with, he wanted to be in full disclosure. Last week he had a conversation with Team Volusia and Volusia Economic Development Department and the Governor of the State of Florida about this project.

Commissioner Via stated he is excited to have Mr. Meyer here and is one of his biggest supporters throughout this and with these questions, he's here as a representative of the taxpayer and that is his job to ask these questions and to make sure that the Commission is doing their due diligence and make sure that all of our questions get answered. Thank you for coming to the city, we look forward to partnering with you and let's create 500 jobs and really put Holly Hill on the map.

RESULT:	ADOPTED AT 2ND READING [UNANIMOUS]
MOVER:	Chris Via, District 4 - Commissioner
SECONDER:	Arthur J. Byrnes, District 1 - Commissioner
AYES:	Byrnes, Danio, Via, Penny
ABSENT:	Currie

ORDINANCE

Enacted and approved this 28th day of March, 2017, in Holly Hill



11. COMMUNICATIONS

a. City Manager and Staff Comments

A. City Manager and Staff Comments

1.

Volusia County Mosquito Division - Spraying in COHH

(Requested by Valerie Manning, City Clerk)

Just for informational purposes; no vote needed.

RESULT:	INFORMATION ONLY
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Enacted and approved this 28th day of March, 2017, in Holly Hill



B. City Attorney Comments

None.

C. Mayor's Comments

Mayor Penny gave an update on the FAITH Assembly meeting that he attended; proud to represent Holly Hill; the city has committed \$13,800 to HOPE Place which is a homeless community for families; Mr. Forte sits as a board member on the First Step Corporation which will be a new shelter out on Red John Road and the city has over \$60,000 in the budget to address the homeless situation and this Commission will have to decide how to divide that \$60,000; attended Bishop's Glen this afternoon at a gathering.

D. City Commission Comments

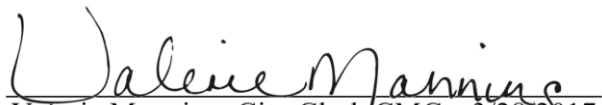
Commissioner Byrnes stated it was a fine celebration at Bishop's Glen; clarified his comment on the marijuana moratorium.

Commissioner Danio apologized for not feeling his best; Easter Egg event on Saturday, April 8th at 10:00 AM.

Mayor Penny spoke about the Mile417 bumper stickers; #mile417 is something that they are going to spread around; great marketing idea; cool idea.

12. ADJOURNMENT

The meeting adjourned at approximately 8:30 PM.


Valerie Manning, City Clerk CMC 3/28/2017


John Penny, Mayor 3/28/2017