



CITY OF HOLLY HILL, FLORIDA

CITY COMMISSION

MINUTES • MAY 24, 2016

City Commission Chamber

Regular City Commission Meeting

7:00 PM

CITY HALL
1065 RIDGEWOOD AVENUE
HOLLY HILL, FL 32117

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

1. CALL TO ORDER

A. Roll Call

Attendee Name	Title	Status	Arrived
Arthur J. Byrnes	District 1 - Commissioner	Present	
Penny Currie	District 2 - Commissioner	Present	
John F. Capers	District 3 - Commissioner	Present	
Elizabeth Albert	District 4 - Commissioner	Present	
John Penny	Mayor	Present	

B. Invocation

Commissioner Albert led the invocation.

C. Pledge of Allegiance to the Flag

Mayor Penny led the Pledge of Allegiance to the Flag.

2. PRESENTATION - NONE

None.

3. PUBLIC COMMENTS

No one spoke.

4. APPROVAL OF MINUTES

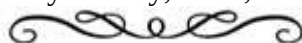
1.

Minutes - May 10, 2016 - Regular City Commission and CRA Meeting

(Requested by Valerie Manning, City Clerk)

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Penny Currie, District 2 - Commissioner
SECONDER:	Elizabeth Albert, District 4 - Commissioner
AYES:	Byrnes, Currie, Capers, Albert, Penny

Enacted and approved this 24th day of May, 2016, in Holly Hill



5. CONSENT AGENDA - ITEM (1)

Mayor Penny asked if any member from the audience would like to discuss any item on the Consent Agenda and if any member of the Commission would like to pull an item to further discuss it. There was no one who discussed or pulled an item from the Consent Agenda.

1. Resolution

Award and Authorize the City Manager to Execute a Contract with MCG Services for the Installation of a Multi-Use Path at the 7Th Street Park for the Bid Price of \$38,320.00 - Resolution 2016-R-21

(Requested by Mark Juliano, Public Works)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Arthur J. Byrnes, District 1 - Commissioner
SECONDER:	Elizabeth Albert, District 4 - Commissioner
AYES:	Byrnes, Currie, Capers, Albert, Penny

RESOLUTION

Enacted and approved this 24th day of May, 2016, in Holly Hill

**6. REGULAR AGENDA****1. Ordinance**

An Ordinance of the City of Holly Hill, Florida Amending Chapter 42, Pensions and Retirement; Article Iii, Firefighters' Pension; Division 1. Generally of the Code of Ordinances of the City of Holly Hill, Florida; Amending Section 42-61, Definitions by Amending the Definitions of "Actuarial Equivalent", "Credited Service", "Firefighter", "Salary" and "Spouse"; Amending Section 42-62, Membership, Amending Section 42-66, Benefit Amounts and Eligibility; Amending Section 42-68, Disability; Amending Section 42-70, Optional Forms of Benefits; Amending Section 42-75, Maximum Pension; Amending Section 42-87, Prior Fire Service; Amending Section 42-88 Deferred Retirement Option Plan; Adding Section 42-90, Supplemental Benefit Component for Special Benefits; Chapter 175 Share Accounts; Providing for Severability of Provisions; Providing for Codification; Repealing All Ordinances in Conflict Herewith and Providing an Effective Date.

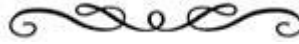
(Requested by Kurt Swartzlander, Finance)

Mayor Penny opened public participation. No one spoke.

RESULT:	APPROVED AT 1ST READING [UNANIMOUS]	Next: 6/14/2016 7:00 PM
MOVER:	Arthur J. Byrnes, District 1 - Commissioner	
SECONDER:	John F. Capers, District 3 - Commissioner	
AYES:	Byrnes, Currie, Capers, Albert, Penny	

ORDINANCE

Enacted and approved this 24th day of May, 2016, in Holly Hill



2.

Towing Agreement Award

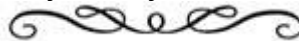
(Requested by Kurt Swartzlander, Finance)

Mr. Forte stated this was sent out for an Request for Proposal (RFP) and the city received 4 bids back. Three of the bids were determined to be non-responsible bidders. One bid came back as acceptable. Their bid was in the amount of \$39,351.48. In the packets the Mayor and Commissioners can see the reasons for determining a non-responsible bidders. Staff is recommending that the Commission accept the staff report and authorize the City Manager to execute an agreement with Arrow Towing Services.

Mayor Penny opened public participation. No one spoke.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John F. Capers, District 3 - Commissioner
SECONDER:	Penny Currie, District 2 - Commissioner
AYES:	Byrnes, Currie, Capers, Albert, Penny

Enacted and approved this 24th day of May, 2016, in Holly Hill



3.

1103 State Avenue Variance: The Applicant and Property Owner is Seeking a Variance of 250 Feet from the 250-Foot Setback Defining a Block Adjacent to LPGA Boulevard to Allow Establishment of an Automotive Repair Use.

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

Mr. Forte stated this is a variance request to the Code not to the property. This is a property that was once not adjacent to LPGA Blvd., but since they did widening of LPGA Blvd., it is now adjacent because they took down a building when they did the road widening. After Mr. Harowski does his explanation, he just wants to reiterate to the Commission that if you decide to approve this request that the request comes with the caveat that the owner of the property needs to bring the property into compliance. There are several corrective actions that need to take place. That list of items is in their agenda

packets so the Commission would be authorizing this upon completion of bringing these items into compliance.

Mayor Penny asked in what time frame?

Mr. Forte stated there are time frames that are associated with some of the repairs. Some of them are immediate repairs and some of them may be up to seven or thirty days but the applicant should not be authorized to get his Local Business Tax Receipt until these items are completed.

Tom Harowski, City Planner, stated the issue they are dealing with arose when the property owner was attempting to lease the building in question for use of an automotive repair facility. Because the property now abuts LPGA Blvd., as a result of the widening, it came under the provision in the city's redevelopment district overlay which prohibits new automotive repair businesses on properties that front US1 and LPGA Blvd. For properties that front LPGA Blvd., the city established a depth of 250 feet beyond which the prohibition against automotive repair would not apply that the city had some properties that were very deep. So it was either the property that adjacent to the road of 250 feet or whichever is less. The variance that the Commission is being asked to consider is essentially to take that 250 foot prohibition and reduce it to zero. The Planning Board heard this case at their regular meeting in May and they made a series of conclusions and they are:

1. The restrictions imposed on the property by the Redevelopment District Overlay (RDO) "moved" to the property with the purchase of additional LPGA Boulevard right-of-way which is unique along the street.
2. The RDO limitation did not result from any action of the applicant.
3. The granting of the variance will allow use of the property for a business that had been legal at this location and would still be legal but for the shift in the right-of-way.
4. The building is designed to accommodate an automotive repair business, and the application of the RDO prohibition is limiting the full economic use of the building.
5. The variance is the minimum relief necessary to mitigate the RDO limitation.
6. The elimination of the RDO restriction will allow a use that is consistent with the character of the immediate neighborhood and will allow a use that had previously been established at the site.

Mayor Penny asked if the Planning Board put a time limit on the code violations?

Mr. Harowski stated they did not. At the time of the Board hearing, he doesn't believe that all of the inspections had been completed.

Mr. Forte stated they were not.

Commissioner Albert stated because what the Commission is looking at in their packets, the code violations list is quite lengthy.

Mr. Forte stated that is the list. This is an opportunity and he thinks the city lost this opportunity on a previous action that the Commission took but when a business or a property is out of compliance and they are coming in and asking for favor of the

Commission, he thinks its only right that the property be brought into compliance. This is one of the opportunities, one of the very few opportunities they have to bring a property into compliance and if they want a favor from the city, its the city's chance to bring it up. It is an excessive list, there are twelve items on the list, some are minor, some are a little bit more significant but the city will never bring a property into compliance unless they have opportunities like this. Except through stricter code enforcement and people always seem to find their way around it. Not necessarily this property but just in general.

The tenant spoke on behalf of the applicant John Oliva because he is in New York at this time. At the zoning meeting Mr. Oliva explained that he would not be here for this meeting tonight. Officer Hutchison has been over to the property about a week ago, they went through the code violations list and they are working on the property right now.

Mayor Penny asked what do you think is a realistic time frame to have all these twelve items taken care of?

The tenant stated 30 days would be fine.

Mayor Penny asked 30 days would be fine?

The tenant stated, yes. That would be fine.

Commissioner Currie asked Mr. Forte what it was he recommended?

Mr. Forte stated he didn't make a recommendation for the time frame. As far as he is concerned, the time frame could be indefinite. They are not going to get their Local Business Tax Receipt until they are done. If they want to get it done in 30 days then they will get their Local Business Tax Receipt. If they want to get it done in 60 days then they will get their Local Business Tax Receipt but there are some things on there that may end up going to the Special Master because they are not in compliance based on what the code officers general time to repair is.

Mayor Penny stated they have until July 20th according to this before they go to Special Master.

Mr. Forte stated this was a courtesy notice that they were given. It wasn't a formal write up.

Mayor Penny stated, okay.

Commissioner Albert stated she thinks is pretty commendable if they think they can do it in 30 days she thinks they should give them a shot.

Mayor Penny stated he thinks they should go with staffs recommendation upon completion of all the code violations.

Commissioner Byrnes stated he's not going to go for that. He thinks the applicant....the applicant agrees to 30 days. He doesn't want to see the city dragging its feet on a property that is in such disrepair. Commissioner Byrnes stated he is concerned that the garage doors are a big repair item but to leave it open-ended, as much as he respects Mr. Forte's recommendation, the city could have a property that sits there for a month or a year.

Mayor Penny stated he doesn't think Commissioner Byrnes understood what Mr. Forte said. The applicant has been put on notice and the time frames, irregardless of what this body does tonight, are set in motion by Code Enforcement. If the applicant is not in compliance with the letter of the law they will go to Special Master. The applicant is asking for this relief so that they can get the variance. They are not going to get their Business Tax Receipt until all of these twelve items are in compliance.

Mr. Forte stated if the Commission puts a time frame on it and the applicant doesn't meet that time frame, they will be coming back to the Commission for the special exception request again. If the Commission approves it as submitted with the applicant having to come into compliance, they will fall under the Code Enforcement's time frame. This is kind of an exchange for getting the Local Business Tax Receipt, otherwise, they still have to come into compliance or they are going to go to the Special Master because they are not in compliance.

Commissioner Byrnes asked if the city is going to be able to monitor that the applicant is not using the building for that period of time?

Mr. Forte stated, yes. There has been a notice placed on the building and they have been monitoring them.

Commissioner Currie stated basically, all the Commission would be doing by attaching a time limit would be dual limit.

Mr. Forte stated its going to actually put a great restriction on the applicant if they don't meet that time limit because they would have to come back to the Commission.

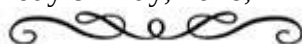
Commissioner Currie stated, okay.

*Commissioner Currie made a motion to **APPROVE** the **Variance Request as long as the applicant comes into compliance as submitted by staff**, seconded by Commissioner Albert.*

Mayor Penny opened public participation. No one spoke.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Penny Currie, District 2 - Commissioner
SECONDER:	Elizabeth Albert, District 4 - Commissioner
AYES:	Byrnes, Currie, Capers, Albert, Penny

Enacted and approved this 24th day of May, 2016, in Holly Hill



4.

919 Newcastle Variance Request: The Applicant is Requesting a Variance of 12 Feet One Inch from the Required 25-Foot Front Yard Setback and a Variance of 12 Feet Three Inches from the Required 30-Foot Rear Yard Setback to Permit Construction of a One-Car Garage.

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

Mr. Harowski showed the location map of the property, 919 Newcastle to the Mayor and City Commission. Mr. Harowski stated immediately to the left of the property is The Mirage development, there's a lake area in there now. The property owner owns both sections of the family unit at 917 and 919 Newcastle is requesting a variance of 12 feet one inch from the required front yard setback of 25-feet and a variance of 12 feet three inches from the required rear yard setback of 30-feet to allow construction of a garage.

Commissioner Albert stated currently, part of their driveway is in the grassy area.

Mr. Harowski stated the stripped area would be the new driveway. The Board of Planning and Appeals heard this case at their regular meeting on May 2, 2016. The staff report provided for the Planning and Appeals Board and the application with supporting materials provides the background detail for the requested variance. Both setbacks are currently non-conforming so any addition will require relief from the regulations. The proposed addition is placed so it will not impact adjacent properties, and as noted the existing structure is non-conforming for both the front and rear yard setbacks. The current placement of the structure is consistent with other similar lots in the subdivision, so the regulations may have changed since the subdivision was developed in the mid to late 1970s. Based on the criteria for a variance the Planning Board made the following conclusions:

1. The impact to the property from either a change in regulations or an incorrectly applied rule, created conditions and circumstances that support the granting of variance.
2. The applicant did not own the property at the time the unit was constructed or at the time one garage space was converted to living area.
3. The variance will enable the property owner to develop the property with a standard garage.
4. A literal interpretation of the code will forestall any improvement on the property and would require complete reconstruction of the existing building if the units need to be replaced.
5. The requested variance results in a garage that is reasonable in size and extends the existing front and rear walls of the building in line with the existing construction.
6. The placement of the proposed addition will have minimal impact on neighboring properties and will not be detrimental to the public welfare.

Mr. Harowski stated the Board of Planning and Appeals recommended the City Commission grant a variance of 12-feet 1-inch from the required front yard setback of 25 feet and 12-feet 3-inches from the required rear yard setback of 30 feet.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Penny Currie, District 2 - Commissioner
SECONDER:	Elizabeth Albert, District 4 - Commissioner
AYES:	Byrnes, Currie, Capers, Albert, Penny

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7. **PUBLIC HEARINGS - NONE**

None.

8. **COMMUNICATIONS**

a. City Manager & Staff Comments

1. -DOC-2016-10

Movies in the Park

(Requested by Joseph Forte, City Manager)

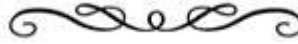
Mr. Forte stated there was a request for a non-profit to show some movies in Sunrise Park. In the audience is Wesley Stewart and Mark Conroy who are future business owners of Urban Surf 4 Kids and what they are trying to do is bring some community events back into the city and they came to him and requested to utilize Sunrise Park to show some PG and PG-13 movies. At this point, three times during the summer during June, July and August. They have a for profit business but they also have a non-profit business in which they support foster children. In some of the emails that he has received, he is trying to put them in touch with some of the foster agencies here in Volusia County. Last weekend they had an event up in Flagler County and he understands it was a great success. They are asking to have the ability to show movies on June 18, Disney's Inside Out, July 16, The Legend of Eddie Aikau, and August 20, The Avengers. It will be free for the kids, they may be having free food for the kids that show up and the city would like to give this a shot and an opportunity to see if they get some of the kids out there and participate in this program. Both of these men did go through the background check because they will be dealing with kids and everything came back satisfactory. Mr. Forte stated he is looking for the Commission to support this project and those specific dates.

Mayor Penny stated he thinks its a fantastic idea. He met both the gentlemen in the past and it seems nothing but positive.

There was **CONSENSUS** from the Commission to move forward with the movies in the park as submitted by staff.

RESULT:	PRESENTATION
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Enacted and approved this 24th day of May, 2016, in Holly Hill



2. -DOC-2016-11

Job Description - Economic Development Director / CRA Administrator and Class Plans

(Requested by Valerie Manning, City Clerk)

Mr. Forte discussed the job description for the Economic Development. In the past the Commission may not have been involved in acknowledging new positions that were created. He's not hiring any additional fulltime equivalent positions but what staff is doing is Lisa O'Neal has taken the position of the Executive Assistant to the Police Chief when Pat retires so that's going to free up his CRA Grants Coordinator position and as they know he hasn't filled Lynn Dehlingher's Economic Development position. He thinks there might be an opportunity to combine the two into one position and hire a person who can do both economic development and CRA coordination and this is a copy of that job description and he just wants to present it to the Commission and see if anyone has any objection. If not, he is going to go ahead and proceed with advertising for that position.

Commissioner Capers asked what is the salary range on it?

Mr. Forte stated it will fit into what would be the exempt salaries scale which would probably be either the pay code 20 or pay code 24 and that's based on surrounding cities paying salaries. He hasn't quite determined that yet.

There was **CONSENSUS** from the Commission to move forward with the job description for the Economic Development and CRA Coordinator position as submitted by staff.

Mr. Forte stated at one of the city's previous discussions, they had a little bit of conversation about ambulance and fire engine response to certain calls and Fire Chief Bland has been very heavily involved as not only the City's Fire Chief but as representing the Fire Chiefs Association in Volusia County on how that all came to be. There was a lot of talk of what was happening and what I heard was not necessarily accurate so I have asked Chief Bland to come up and do a quick presentation to tell the Commission what's happening countywide with the responses and if they have any questions, they can certainly direct them to Chief Bland.

Fire Chief Jim Bland discussed the following with the Mayor and Commissioners:
Effective 08:00 hours Monday, May 16, 2016, requests for medical incidents prioritized as non-emergency to physical addresses not identified on the "pre-approved list" shall receive a single unit response from the agency having jurisdiction. The assigned county or municipal asset may be non-transport or transport capable. Following arrival, the agency shall assess the patient and make the determination of whether the patient desires ambulance transport.

If ambulance transport is requested by the patient with a non-emergency medical condition:

- Field personnel in Edgewater and Ponce Inlet may initiate transport or request a municipal transport unit under the established parameters of the non-emergency transport program presently in place. Additionally, VCFS districts that are designated to provide transport may initiate transport or request additional transport units as needed.
- Field personnel with all other agencies shall contact the Volusia County Sheriff's Office communications center and request Volusia County Emergency Medical Services (VCEMS) be dispatched.
- In the event that the patient meets the parameters of the contingency emergency medical transport program, participating agencies may execute transport under program guidelines.
- Requests for medical incidents prioritized as non-emergency to physical addresses pre-identified will receive a single unit response from Volusia County Emergency Medical Services. Currently this list consists of approximately 75 locations identified by the Volusia County Fire Chiefs Association. Additional address will be placed on the list as they are identified by each Department.
- If an agency is assigned to respond to a medical request for service that is prioritized as non-emergency and anticipates an unreasonably protracted response due to workload, the agency last assigned to the incident is responsible for conveying to the communications center the need to assign another asset. (this applies to single station departments only). Example: Engine 96 is currently on a call and a non-emergency call comes in district 96. Dispatch will hail E96 and advise them of the non-emergency call. E96 will make the determination to hold the call or request the next due to respond.
- If information received or interpreted by any component of the system during a response suggests the need for a more urgent response, it is expected that the response configuration and/or priority be changed to reflect a more conventional and appropriate response.
- In order to responsibly implement the above changes and objectively measure the value of this if any agency encounters a problem with the revised response configuration, it needs to be articulated in writing within five business days to myself.
- A transport unit may be requested to respond at any time.
- In lieu of the discussed changes above, all previous response configurations indicating fire- or ambulance-only responses for various incident types are suspended.

RESULT:	PRESENTATION
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Enacted and approved this 24th day of May, 2016, in Holly Hill



Riviera Estates Access Standards Discussion and Action on Development Standards for the Riviera Estates Unrecorded Subdivision.

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

Mr. Forte asked the Mayor if they can delay this item until the City Attorney gets here.

Mayor Penny stated, okay.

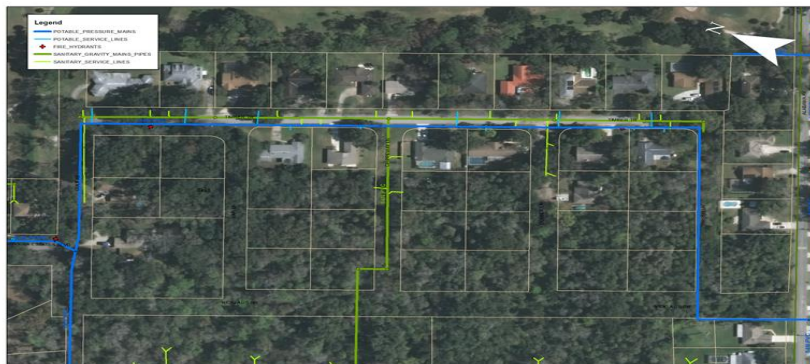
(This was mentioned at the beginning of the meeting).

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This item was discussed at the end of the meeting as staff and the Commission was waiting on Attorney Simpson to arrive. Mr. Forte decided to get started on the agenda item while Attorney Simpson was on his way.

Mr. Forte stated they will go ahead and get started. Between himself and Mr. Harowski they can bring the Commission up to date on where the city is at. Mr. Forte stated if the Commission recalls back on February 9th they had this conversation in a workshop setting where they talked about Mr. Bass who owns several of the properties in the Riviera Estates subdivision and was looking to either build or sell the properties to someone who would build and one of the options that he was considering was a shell gravel road and the Commission at that time said they did not want to see a lesser standard than the city's road program. Staff has been talking to Mr. Bass over the last several months and we've come up with what he thinks is a reasonable solution to a difficult problem. Its not the best solution but he thinks its a reasonable solution. In their packet they will see a letter that was sent out to all of the property owners in the subdivision and it lists all of the requirements that anyone who owns a piece of property in there has to comply with. Everything from domestic water services, sewer service, stormwater service, compensatory stormwater onsite, access to the building, other utilities, surveying, etc. The letter talks about the unit construction and the trash collection. There is still the problem of the access. When they're talking about access, instead of the original proposal where they just talked about a shell road, Mr. Bass is proposing to put in a driveway. Mr. Forte stated he has provided Mr. Bass with the driveway standards which would be on a concrete driveway, it would be a six inch base with a six inch reinforced concrete driveway or on an asphalt driveway it would be a six inch sub-base with an inch in a half asphalt. This would provide access to the properties which the city's code allows. It allows access from a property to a road. What staff is talking about to refresh the Commissions memory, Mr. Bass owns three properties which would be joined into one property and these other three properties which would be joined into one. Whoever builds on the property would build a driveway from Timber Trail, 100 feet down to this area and then 25 feet on to the properties over here. That would be the access point.

(Mr. Forte was discussing and going over the location map of the Riviera Estates Subdivision).



The same would happen down on Timber Lane. Mr. Bass owns that property. Whoever builds on this would be required to bring a driveway from Timber Trail 25 feet from the property. Mr. Forte stated what they are talking about is coming into compliance with all of the city's standards and in lieu of road standards, it would be a driveway standard and the driveway would be built. As he mentioned, staff did deliver to Mr. Bass what a driveway standard would be. It would be the property owner who abuts that driveway that would be responsible for its maintenance in the future. The only reason the driveway wouldn't last as long as the road would is because basically they are same depth of the road, its not the same width and it doesn't have the curbing gutter aspect to it. He doesn't know if Mr. Harowski has much more to add to that but that's the difference between tonight's conversation and the conversation they had on February 9th which was a shell road versus putting in a driveway. For example, this driveway will be ten or twelve feet wide coming down 25 feet onto the property. This driveway (referring to the map) each side will be ten or twelve feet but they will match so it will look like one single driveway once its completed if both sides are developed. One this driveway (referring to the map) it will be one side of the road so it will be a single driveway access this property.

Commissioner Byrnes asked what is the zoning on those properties?

Mr. Forte stated zoning on this property (referring to the map) he believes is multi-family zoning.

Mr. Harowski stated zoning on the entire subdivision is R4A zone. It allows single-family, two family and townhouse development and he thinks, without checking the code, he thinks the density is up to eight units an acre.

Commissioner Byrnes stated because every where else is one unit an acre already built. When he sees only one driveway coming down here and he hears that these properties are going to be joined together (referring to the map) he is concerned that there is going to be an apartment building or something.

Mr. Harowski stated he believes there are deed restrictions over those properties that limit them to single-family construction.

Commissioner Byrnes stated so it would eventually need a driveway to come off for each of these others unless they are going to say this is one house with a big lot.

Mr. Harowski stated once you get back about that second tier of lots the challenge becomes not just for the access but utility extensions. What staff has said in here is that they need to be served by a minimum two inch main which is sufficient for individual house use and based on our analysis what's existing in terms of fire protection works for that. Staff has indicated that the properties need to be served by gravity sewer. Once they get to the third lot and the fourth lot down, they're talking about some fairly substantial dollars to extend water and sewer utilities and what's involved in terms of the wash systems, electric, telephone, cable tv, that's a private requirement.

Commissioner Byrnes stated right but his big concern is the density because of the drainage problems that are historically in the abutting areas. He would hate to see these lots paved over and such.

Mr. Harowski stated its staff's understanding that the deed restrictions limit them to single-family houses. He guesses there is some debate about that.

Mr. Forte stated he wants to be clear about that. "I cannot confirm that these properties are restricted to single-family". Mr. Forte stated the only document that he saw reflected a single-family deed restriction along the properties along the golf course. Somebody would have to prove one way or the other whether or not there is a single-family deed restriction on this property. Staff did see a document that had a single-family deed restriction but to his knowledge it reflected the properties here (referring to the map) along the golf course not necessarily the properties here (referring to the map). Until such time that somebody has provided him a document that truly shows the deed restriction here (referring to the map), he is not going to go on record confirming that has a deed restriction. Mr. Forte stated he wants to make that very clear.

Mr. Harowski stated for single-family development what staff is saying is each of those lots, individually, needs to provide, onsite, sufficient stormwater retention to meet the normal stormwater or whatever impervious area that they are building there. In addition, if they bring in fill and some of those lots drop off pretty severely as they go towards the west to elevate the house above the flood plain requirement. Staff is saying not only do they have to provide retention area for the individual property's runoff but they have they have to provide sufficient storage capacity for whatever volume of fill they're bringing in and that's pretty standard for placing fill in the flood plain. There are other options to elevate construction.

Commissioner Byrnes stated they've seen that occur when houses that were built twenty, thirty years ago and suddenly they have new houses with the newer requirements, they have to build them higher, the runoff goes onto other properties and the neighbors would be highly impacted.

Mr. Forte stated but there's a requirement to onsite stormwater and compensatory stormwater on that property and that has to get done through a site plan.

Commissioner Byrnes stated but multi-family units, there's going to be a lot more

paving and a lot more work

Mr. Forte stated it doesn't matter what they put on it, their engineering has to show that all of the stormwater is staying onsite. They cannot push stormwater off.

Commissioner Byrnes stated the engineering can show that but when the 100 year storm comes along every ten years...

Mr. Forte stated they are supposed to show an engineer drawing that is going to compensate for all of the stormwater and whatever the required, 100 year, 50 year, 25 year, onsite. That's a requirement.

Commissioner Byrnes stated he just hates to cause more problems for more people for someone to just make money developing property. If this was a place that somebody was going to buy it and live and they're building their dream home, he might have a little different opinion.

Mr. Forte stated this could be somebody building their dream home. The owner of these properties is selling the property to someone who wants to build their home. Mr. Bass is not developing these properties. Mr. Bass is getting them ready so that when somebody comes in to buy, they know what all the restrictions and limitations are. If someone wants to come in and buy this parcel (referring to the map) or this parcel, they will have this letter, they will know all of their code compliance requirements, they know what the driveway is, they know what the water and sewer is so when they buy it there's no surprise. The attempt is really to try and notify any future property owners with the development requirements will be.

Commissioner Byrnes stated his only concern was is that these properties were going to be combined (referring to the map).

Mr. Forte stated all three of them.

Commissioner Byrnes stated and that's what concerns him because if they are all combined that gives them an ability to have a higher density living quarter than...

Attorney Simpson stated its still single-family.

Commissioner Byrnes stated they're not sure about that.

Commissioner Capers stated until they know they can't make a decision. Maybe they can but I can't. They need to know if the Commissions actions are going to create a possible apartment complex in there.

Mr. Forte stated he doesn't think the Commissions actions changes that. If its zoned for multi-famil or an R4 anyone can put in....combine those lots at any time. This action doesn't change that process. If its zoned an R4, its always been an R4. If there's a single-family deed restriction, in order to impose that he has to see it and he hasn't

seen it specifically.

Commissioner Byrnes asked was there not a subdivision done for this originally?

Mr. Forte stated, no.

Mayor Penny stated that's the problem.

Attorney Simpson stated he thinks what's important, a little summary of why did staff bring this to the Commission the first time and why is staff coming back this time. All of this subdivision is private streets and he knows they see the lines on the map (referring to the map), from his perspective, that's one parcel with multiple owners. They've never been legally subdivided except for where the houses are. Up where the houses are those are all private driveways. They are driving into and out of this subdivision. This is not a legal subdivision and these are not public roads and they are not public right-of-ways. They are private streets. The city's code says you're allowed to have private streets two ways. One is, if the private street serves a parcel of property under single ownership, well that wasn't going to happen. The other way, is if the City Commission proves otherwise with the recommendation of the city planner, the city attorney and the engineer. Looking at it if this was going to be developed with private streets its going to have to come before the Commission for approval. Staff brought it to the Commission in that workshop on February 9th to bring the Commission up to speed as to where the city was to get some input back from the Commission and staff got that. At the time the land owner in question was proposing shell road, that's his understanding, and now they have hard surface road. When staff went back and looked at it we started saying, "are these really streets or if they were submitted as driveways, do they meet our code?" Attorney Simpson stated because that's really what the question is. Is, what's being proposed meet the city's code? As a private street, it has to be subject to the Commissions approval but if they talk about Chippewa Trail, Mr. Bass is taking...the Commission views them as three lots, I view them as one and making one lot out of it for single-family residential. Its not clear in that agreement the city did, they can make it clear.

Commissioner Byrnes asked that is not a legal right-of-way?

Attorney Simpson stated, no.

Commissioner Byrnes stated its just where they decided to lay the pipe.

Attorney Simpson stated its not a legal right-of-way. There may be a stormwater or underground utility easement but everything in there is covered by easements. Each owner has a private right to drive across another property owners driveway to get ingress and egress. There is no public road. He doesn't know how far they have to go to get to the public right-of-way but for sure where the green line starts on the left side of the map, it may be part way down on the blue line too, he doesn't know.

Mr. Forte stated its part of Golf Avenue.

Attorney Simpson stated all that is private. When he looks at the drawings of Chippewa Trail with two hard surface access ways, one to each lot, these are driveways. The question, legally he has in talking with staff, does what is being proposed does Chippewa Trail meet our code?

The answer is yes. Honestly, it doesn't really need the Commissions approval. Its something that meets the city's code.

Commissioner Capers asked if these aren't streets or roads and the existing home has a driveway that comes down and goes to their house and someone farther down wants to do the same, do they use their driveway to that point and they extend down to their point? Are they sharing? Are they putting them side-by-side?

Attorney Simpson stated that's the situation on Dubber Lane.

Commissioner Capers stated he would think the driveway would be private then, would it not?

Attorney Simpson stated the question is, can a driveway serve more than one parcel? He looked in the code, we don't have anything in our code that says a driveway can serve a single parcel. We have in our code the definition of a driveway that references multiple premises, plural. Giving the indication that you can have a driveway that serves more than one structure. That's the only indication in there. Attorney Simpson stated if they look at Dubber Lane as a driveway and the city's code does not prohibit one driveway from serving more than one lot then Dubber Lane is also driveways and as driveways what is being proposed meets the city's code.

Commissioner Capers stated to go one step further, under the same type of a thought, if the first property brings down a 2 inch water main and it stops at their property and now farther down the road they need it, do they extend from that one?

Attorney Simpson stated most likely.

Commissioner Capers stated because this is the problem that he sees the city has is that this whole thing is so substandard, we don't have where....they can tie into the road, they can tie into the sewer they can tie into the water. Its a hodgepodge of a mess so lets keep, keeping it a mess. That's what it seems to him. The whole thing should come up to code. The whole thing should have roads, should have plumbing from one end to the other. People come in and they tie into it.

Mr. Forte stated its not possible.

Commissioner Capers stated well then maybe it needs to stay as a park or whatever it is.

Mr. Forte stated its not a park.

Attorney Simpson stated its not a park, its privately owned land.

Mr. Forte stated but to answer Commissioner Capers question, the 2 inch waterline and he will use the Dubber Lane property as an example, will run to the back end of his lot (referring to the map) so that if the last...if this person wants to tie into the water, they will tie into where that 2 inch waterline is and will end here. The waterline will come to the back of his property right here (referring to the map) where if this property needs to tie into it, they will tie into it this way. These other properties can tie into it if they already exists.

Commissioner Capers stated once the Commission has come to a conclusion on this and we'll just say it goes in favor, so for every future piece of property in there only has to do the driveway...

Mr. Forte stated they will have to comply with everything that's in this letter. This letter applies to every parcel of land that's there not just these (referring to the map).

Attorney Simpson stated all they're really talking about here is the access way. Everything else they have to do, they have to meet the city's code. The city is not giving a building permit with this. The city is trying to make the best of a bad situation. The city inherited it when the city annexed the property. There may be some people who would love for it to stay like that. Legally, the city can't say it has to stay like that. He guesses if you want to go buy it then we can do that but if the city buys it or the residents over there get together and go out there and the land, the city can't say they have to leave it as raw land. Some people may like to see it developed in that unrecorded subdivision plat. Realistically, that couldn't happen...once the property was sold multiple times but then the owners didn't pay the taxes on it and then the property appraiser transferred out sections without going through a subdivisional process based on that unrecorded subdivisions so now the city has multiple owners in there, the likelihood of someone coming in and getting all these people together to sign one subdivision plat to finish out the unrecorded subdivision is unlikely. Attorney Simpson stated and he even isn't sure that what is reflected on that unrecorded subdivision meets the city's code today. If they wanted to finish what was started and record the subdivision, he isn't sure they all meet the city's codes. He doesn't know if the roads are wide enough, he doesn't know any of that. The way he has been looking at it, the way he has indicated, they can't really focus on what they would like to see, what they want to see, the question is, what is being submitted does it legally comply? As private streets the only way it happens is with the Commissions blessing. However, individual driveways don't need the Commissions approval. That's a different situation. He thinks Chippewa Trail is pretty clear, those are driveways. What's being proposed meet the city's requirements. Dubber Lane is a little different because they have multiple parcels. They have two areas that get a little grayer but like he indicated, the city's code doesn't say one driveway, one parcel. It gets hard to say what's being proposed is not compliant with the city's code. Now, they are just talking about access. Everything else still has to be complied with and by the time someone wants to comply, even though this is "legally a developable lot" by the time they go in and try to legally develop it under the rules, it may not be marketable. They have to meet all the requirements they have for everybody else. There's no leeway being granted here. Its just confirmation trying to find a way to

acknowledge the city has legal access to this property.

Commissioner Capers asked about the Planning Board. Has this been brought to the Planning Board for their opinion or their evaluation?

Attorney Simpson stated, no.

Mayor Penny stated Attorney Simpson, based on your opinion if the applicant were to apply for a driveway permit, the city would have to issue it to them?

Attorney Simpson stated for sure on the...

Mayor Penny stated if Mr. Bass withdrew this tonight and applied for a driveway permit, would the city have to grant him a driveway permit?

Attorney Simpson stated he is basing it on what Mr. Bass has submitted. What Mr. Bass has proposed, meets the requirements.

Mayor Penny stated meets the requirements for a driveway permit.

Attorney Simpson stated it meets the requirements for a driveway for sure, he thinks in his opinion, its questionable. He even spoke with Mr. Forte today and said maybe the city can do a special assessment and put the roads in, but we can't do that. They're not public right-of-ways. These are private right-of-ways. The city can't, even if this Commission unanimously said, "city, go finish that subdivision as it should", we can't do it. The city has no legal right to do that. No legal right to access that. There are all kinds of problems with this and to the extent that the parcels do not meet the city's code, that's the property owners issue. The question is are they meeting the city's code in what's proposed and when we started focusing on this being driveways we had a concern with it. It went to the Commission, the public was here and when they left things were going to get built. So, you may ask, why are you bringing this back if you're saying it meets the city's code but we didn't want to start issuing permits out there for things to start getting built when everyone was under the impression nothing was so we wanted to have another discussion about it. Chippewa Trail is very straight forward according to him. Dubber Lane and Timber Trail, he still thinks they're driveway accesses because of the way the city's code is written and what's being proposed there is still driveways. Is it ideal? No its not.

Commissioner Byrnes stated so the applicant gets a permit to build a driveway, they build a driveway. Now they say, I got all this money invested in the driveway you're not letting me use my property the other way. The applicant is going to be fully informed of all of the expenses for meeting the current code...

Attorney Simpson stated no, absolutely not. That is not the city's responsibility. No, the city is not going to tell them what its going to cost.

Commissioner Byrnes stated we're already here because this doesn't meet...

Attorney Simpson stated no, you are here, only because...as I indicated, if we were viewing this as a private street when we first started the discussion, it required your approval. The only way a private street goes in is either it serves a parcel under single ownership or it has your approval. So if it had to have your approval, we might as well have had your discussion process earlier on. We had that discussion, based on the discussion staff went back and we started looking at....we went from shell road, hard surface and started designing and looking at this as a driveway. But we are not going to tell this individual that this is what its going to cost you to develop this site because what it cost today and what it cost in five years may be totally different. We may adopt new regulations.

Commissioner Byrnes stated so as the City with a heart, so they don't come back and say, well look I built a driveway in good faith because you said I had to do that, they're going to be...

Mayor Penny stated they don't have to build the driveway now. No one is going to build a driveway until they sell the lot and build a house.

Mr. Forte stated nobody is going to build a driveway first, they're going to develop the house first.

Attorney Simpson stated he isn't even sure that the city would issue a driveway permit right now. That's an accessory structure, not a permanent structure. The driveway is the last thing that gets done. This whole discussion goes around are these developable per the city's rules, lots? If they put in these hard surface access ways, will they meet our developable standards? What the property owner has to do is for each parcel, he has to submit...and everybody not just Mr. Bass, everybody who wants to develop there needs to submit a minor subdivision plat and subdivide out each lot they own and to address all these issues that are in the subdivision plat. Everybody has to do that.

Mr. Forte stated and that's an administrative action so it will not come back to the Commission just so that they're aware of that.

Commissioner Byrnes asked if he could ask Deputy Public Works Director Walt Smyser a question. Commissioner Byrnes stated he's a little bit familiar with 2 inch, 4 inch, 6 inch waterlines. If suddenly the economy got great and every one of those lots was sold, is a 2 inch line enough to keep my pressure from going down when the neighbor turns on their water? Is a 2 inch waterline sufficient for the whole property?

Mr. Smyser stated the basis for the 2 inch line is sufficient to provide potable water service it is not sufficient to provide fire flow. The evaluation was that the hydrants on Timber Trail would provide the fire flow, the Fire Department said they could come down with more hoses. If there was a house all the way to the west end where Mr. Bass was combining the properties, he would be putting in the design the house would be on the east side of the properties, that is feasible and the 2 inch line is more than enough to provide a potable water service to each of those properties. If fire flow was needed and he had to put a hydrant on the west side, Nicholas Drive would be on

the west side then they would need a 6 inch line to serve a fire hydrant and that would have to be looped.

Commissioner Capers asked are the hydrants private that are there now?

Mr. Smyser stated the entire water system in there is owned by the city, including the hydrants.

Mr. Forte stated they're not private hydrants.

Attorney Simpson stated when we annexed them in part of the annexation agreement was we would provide them water and sewer and we went through the process of getting underground utilities so we can run water and sewer through where those homes are because there is not a public right-of-way so we had to get underground utility easements from every property owner.

Commissioner Byrnes stated, okay. He's looking at a 2 inch line is about that big a round, right?

Mr. Forte stated Commissioner Byrnes, we have a lot of 2 inch water supply lines to residential communities in the city.

Mr. Smyser stated the normal water service to a single-family home is three quarter inch. In fact, that's what is on Dubber Lane right now is a three quarter line on the property there. The 2 inch lines normal he can do an entire block of houses off of a 2 inch line as long as its just single-family homes.

Mayor Penny asked if there were any more questions of Mr. Forte?

Attorney Simpson stated he thinks its real important that they still go back to the understanding that all they are talking about here is that these are developable lots and what's being proposed is driveways. If the city's standards for developing those single-family homes, they have to meet those and if it ends up requiring a 3 inch line they have to put it in. If minimum pressure goes up that the city has to meet...all those requirements are in place when they pull their building permit to build a home, they have to meet all those requirements we're talking about during this time. These are private driveways and these aren't private streets. These are private driveways and these lots, therefore, are developable lots as long as you meet all of the other requirements.

Mayor Penny stated Attorney Simpson, I heard talk of the possible formation of a home owners association in that community. If that were to happen, a home owners association could impose rules and regulations above and beyond the city's requirements, right? By a majority vote?

Attorney Simpson stated he doesn't know that answer to that part of it.

Mayor Penny stated, okay.

Attorney Simpson stated usually your HOA's are all put in place when there's a single owner and that person can put on the developer and that person puts on all the regulations that bind everybody.

Mayor Penny stated, okay.

Attorney Simpson stated you're asking after the fact, after you have all these multiple owners, can a majority of the property owners in an HOA...can you form an HOA without unanimous approval and secondly, can you impose restrictive covenants without unanimous approval. He doesn't know the answer to that.

Mayor Penny stated, okay.

Commissioner Albert stated before she asks her question, she must disclose that she lives in this area and any changes may positively or negatively impact her property value so therefore she will not be voting but she has a question. ***(City Clerk gave Commissioner Albert FORM 8B Memorandum of Voting Conflict for County, Municipal, and other Local Public Officers to complete and be placed with the minutes)***. Commissioner Albert asked it seems as the discussion has developed here, they hit upon the fact that there are multiple gray areas involved in this potential subdivision (referring to the map). One of which was the restriction to single-family, although she knows that is something that the city is not currently not going to be talking about tonight...

Attorney Simpson stated its not really a city issue.

Commissioner Albert stated but she thinks for development purposes the people who live in the neighborhood are wanting an answer to that question.

Mr. Forte stated that's a due diligence that it exists regardless of the driveway access and like he said before he doesn't have that answer.

Commissioner Albert stated, okay. That folds into her next question. Because that is sort of out there lingering, she is questioning and curious about accountability. So a buyer purchases one of these properties and as they begin the process of unpeeling this onion, if you will, about what has to happen in order to build their dream home, they find all of these requirements, what is the level of accountability, is there a time table in place? She knows that there are certain properties around the city that things get started but then they seem to linger and are never completed. One of our own lives next to a property that, for a long time, was not finished it was being rehabed and how unfortunate that is so she is wondering about a time table when somebody's wanting to build, she's wondering about accountability for any access way paving that is put in, what will the maintenance requirement be. Particularly, in a situation where there are multiple people on the same driveway who maintains it, what happens and then what if something is just not completed? What if the homeowner gets started and do they not get a certificate of occupancy? How does that all unfold?

Attorney Simpson stated if someone pulls a permit, a permit is good for a certain period of time and if they don't finish within that period of time or they abandon the project it becomes a code enforcement issue. If they have a situation where the person received a construction loan to start construction and didn't do it then ultimately the bank will foreclose, finish the house or tear it down, whatever, the bank will take it back. If not, the city will have Code Enforcement fines levying on it. Obviously, its not homestead the city would be able to pursue foreclosure on that property depending on what other liens there were. In terms of a time table, that's your time table. That's governed by the Florida Building Code in terms of how long a building permit is good for. A lot of the issues Commissioner Albert discussed are the due diligence any buyer would have to do before they come buy a lot and build a house. Before you close on the lot you are going to get a title insurance report that would show any restrictions that are of record in the chain of title so before you ever buy you'll know everything that's of record. The city can take this development agreement that we're going to ultimately have here and we could think about putting it on all of the properties, he has to think whether they should or shouldn't, but everybody knows that you are going to have to comply with the local government's building regulations when you go and build a house. When somebody goes and contacts a builder, a contractor to come in build, they will get the information that they need to develop that's when they will have all this information.

Commissioner Byrnes asked if he could add on to that question. Since this property has been purchased by the applicant they should have that information as to whether this is a single-family only or not.

Mr. Forte stated this is brought off a tax deed there was no title work.

Commissioner Byrnes stated, oh there was no title work.

Commissioner Albert stated so then the accountability issue on the paved access way. She is still curious about and then something Attorney Simpson said with the development agreement, will everything that we are discussing tonight be written and explicitly stated so that ten years from now or twenty years from now when one of these other pieces sells, someone can actually look this up and verify what was discussed in 2016?

Attorney Simpson stated he will have to think about it. He doesn't know if they want to record this to bind properties to people who aren't here. He doesn't want to put a restriction on their title that could expose the city to liability but he thinks it might be a good idea so they have knowledge but will he put everything they discussed in this development agreement? No. Because 90% of what they talked about is based on the development regulations has in place and the Florida Building Code at the time the permit is issued. However, the fact that its a developable lot, the fact that it has to be a paved access way those types of things will be put in the development agreement. In terms of maintenance of the roadway, its a little bit of a unique situation because he doesn't know how many other private roadways or private driveways we deal with.

Mr. Forte stated in this case, its not an issue.

Attorney Simpson stated its not an issue.

Mr. Forte stated its one property owner, one driveway.

Attorney Simpson stated and Dubber Lane, he would think, that issue should be resolved by the three people who have access to it. However, its a private driveway and the government should only step so far in to resolving these. This is a private property owner dispute. Now, if there's an HOA, ultimately put in place and everybody agrees to it and it goes into place, that would really be the best place to address that issue but he thinks if we...he would have to look at...if somebody has a cracked sidewalk or driveway on their house do they get fined from Code Enforcement? He doesn't know the answer to that.

Mr. Forte stated not a driveway or sidewalk. If its in the right-of-way its the city's.

Attorney Simpson stated that's a different issue, that's the city's. But if its on a private driveway, do we site property who's driveway is cracked a lot. They will need to address that. He knows everybody looks at that and they see asphalt and they think its a public road, no its not. Its a private driveway. All the way from where the blue line starts (referring to the map) all the way to other end. Those are all private driveways. The city doesn't have any control over them. The city has no maintenance responsibility over them. The city can't even issue them speeding tickets on them. The city can't patrol them. They're private driveways.

Commissioner Albert asked so you are or are not going to put in the development agreement about the paved access way?

Attorney Simpson stated, yes. Absolutely. The paved access way...and the city is certainly going to record it on the properties that Mr. Bass owns without a doubt and those things will be paved access way combining these three lots...

Commissioner Albert stated but it should be for all, in the future...

Attorney Simpson stated its going to apply to them all but the question is do we record it on everybody's land deed or not. He has to think about that because we're putting a encumbrance if you will on their property that they're not aware of. They're going to have to comply with it whether its on their property or not because these are going to be the city's rules.

Mayor Penny stated he just worries that the next buyer that...if its not on there and someone wants to buy it and doesn't do their due diligence, they're slammed.

Commissioner Albert asked what happens in the farthest corner off of Timber, what happens to that guy? And she doesn't know if that's owned currently by a whole building entity or if its a private ownership. What happens with that because its not as

reasonable for that person to build a paved driveway down to Timber its more reasonable to go out right to Alabama.

Mr. Forte stated if they chose they can make a proposal to bring their driveway to Alabama. They can come to Alabama to Nicholas Drive to their property.

Commissioner Byrnes stated it would require Commission approval for that type of a change.

Mr. Forte stated not if this is a driveway (referring to the map). This is a driveway off of Alabama.

Commissioner Byrnes stated because one of the biggest complaints he has heard from those residents they don't want their subdivision to connect to Alabama.

Mr. Forte stated they didn't want Nicholas Drive opened up so that it would be a cut through.

Attorney Simpson stated and it wouldn't be connected to their subdivision. It would be a private drive from that lot (referring to the map) to their lot.

Commissioner Byrnes stated eventually when those other people moved in their driveway would connect it altogether.

Attorney Simpson stated they could go the other way.

Commissioner Capers stated let's say the first house that exists has a three quarter inch line comes down to their house, now the third, fourth, fifth house needs a two inch pipe so the third, fourth and fifth house that runs the two inch pipe all the way down and now they still have a three quarter coming in, does that get removed and the three quarter gets tied in to the two inch and other owners are paying for that?

Mr. Forte stated the three quarter that exists could remain or that property owner could choose to tap into the two inch.

Commissioner Capers stated he's trying to decipher that we don't have five individual lines coming down the road branching off.

Mr. Forte stated the whole point of this is under today's circumstances you can have six waterlines, six three quarter inch waterlines coming down any one of these access points. We don't want that. We just want one, two inch waterline that each house would tie into as you would see in a traditional neighborhood.

Commissioner Capers stated and that's part of the problem of this entire thing not being standard.

Mr. Forte stated there's a requirement now for them to put in a two inch line. No more three quarter inch line. It has to be a two inch line.

Commissioner Capers stated if there's six lots, this ones existing and the very bottom guy comes in now, he's got to come up with the money to come all the way down and everybody else just gets to kind of bite into it.

Mr. Forte stated that's right. Tap into him.

Commissioner Capers asked or does he own that? Is it his own line and they can't bite into it?

Mr. Forte stated no because what will end up happening is if its a two inch line, he'll double check with Mr. Smyser, does that become part of the public water system?

Mr. Smyser stated unless the water meter was at Timber Trail which is what we would not recommend under development design criteria, we would ask for a two inch line with a five eight three quarter meter at the property. Everything from Timber Trail to that meter would have to be deeded over to the city through a bill of sale.

Mr. Forte stated the two inch lines would become the city's.

Commissioner Byrnes asked who would pay for it?

Mr. Smyser stated it would be paid for by the developer.

Mr. Forte stated the line goes in by the developer, the meter is part of the development costs.

Commissioner Byrnes stated and the people that move in after that get to tap into that for free.

Mr. Forte stated they don't get to tap into it for free. They have to pay for their connection fee. They don't have to install the line but the first person that goes in puts the line in.

Commissioner Byrnes stated that's exactly what Commissioner Capers is asking.

Mr. Forte stated that's the decision that the builder has to make.

Commissioner Byrnes stated, okay.

Mr. Smyser stated that is correct. That's the decision of that builder. If he's the first property he only has to go to his western end of his property. If he's the last property he has to go all the way down.

Mr. Forte stated if somebody wants to build here (referring to the map) yes, they have to run the line all the way down to the end of the property.

Commissioner Albert stated Mr. Smyser, when we talk about the gravity flow sewer system, when Timber wraps around and goes behind Alabama back there not just for Mr. Bass property but all those other properties back there and the properties moving toward the back end there (referring to the map), what would you anticipate and if you don't know that's fine, the amount of fill that would have to be brought in and how would the gravity...

Mr. Smyser stated there's actually two ways that the properties on Timber Lane could be sewerred. It could either be set up to go by gravity up to Timber Trail or they could be set up by gravity to go down to Nicholas Drive and over to Alabama because believe it or not that entire system goes down to Alabama. On Alabama there is a sewer main. It all runs to the west and then over by the western part across from the Mirage's lift station.

Commissioner Albert stated her concern is the amount of fill and she knows that Commissioner Byrnes spoke about it and we talked about the engineering and the stormwater retention and all of that business that will have to be maintained on the properties.

Mr. Smyser stated as far as will there be fill necessary, he doesn't know.

Mr. Forte stated in order to maintain that slope for the gravity, is that what Commissioner Albert is talking about?

Commissioner Albert stated yes because it is very wet.

Mr. Forte stated the question should really be what's the finish floor elevation requirement of that house rather than the slope of the sewer.

Commissioner Albert stated she's not so much concerned about that. Perhaps she asked the wrong question. Her concern is bringing in the fill and what's going to happen to everybody.

Mr. Forte stated again, if they look at the letter it talks about a compensatory storage....

Commissioner Albert stated she knows that.

Mr. Forte stated and that's an engineering issue that if they're going to bring in fill onto the property they have to provide compensatory storage for that stormwater on that property.

Commissioner Albert stated, okay.

Commissioner Byrnes stated he thinks what Commissioner Albert is talking about is if you have a pipe that has to go from the middle of the property to one of those tie-ins the pipe has to slope in order for it to be gravity feed.

Mr. Smyser stated and that's correct. There's two ways it can be done. It can either be sloped if its all gravity feed or if they put in what's called looped low pressure sewers they would put in a grinder station that's about the size of a trash can. They are legal under Florida code and they are about a half amp...

Mr. Forte stated that's a requirement that they have to meet and they have to meet the engineering to take care of their stormwater so they have to comply with the code.

Attorney Simpson stated this may make it all not reasonable to build. We can't resolve all of their problems. They have development issues to resolve.

Commissioner Byrnes stated but from Commissioner Albert's question, we both thought that...as gravity feed you would have to add fill to have the pipe higher so you're telling us no. The pipe has to....

Mr. Smyser stated he is saying he does not know. The reason being is he does not know what the actual elevations are out there until they have a surveyor go out there and take fix elevations. He doesn't know if there's available rise to get to the manhole on Timber Trail.

Commissioner Byrnes stated, right. But if there's not available rights then...

Mr. Smyser stated then they would look at other ways to get their sewer to our system and under current Florida law they can't build there without bringing it to the city's sewer.

Commissioner Currie stated there's been a lot of questions that have been asked and viable questions. However, she needs to know for herself, in looking at the documents that she is voting on, she is quite certain, at least she believes, that what she is voting on doesn't really take in to account or have any affect on what the cost is going to be for a developer or some of the discussion has been, the later part of this...

Mr. Forte stated, no. They don't know if its cost prohibited or cost permissive.

Commissioner Currie stated that is really not of her concern.

Mr. Forte stated its not the Commissions decision.

Commissioner Currie stated because a lot of this can sort of get mingled then and we can kind of become, she guesses, our thoughts on what we're actually voting on become a little unfocused and so she needs to make sure of what she is actually voting on. So that is not of her concern. Its only this document that she's looking at.

Mr. Forte stated the Commission is not even voting on the document because the document is only reflective of today's development requirements.

Commissioner Currie stated, okay.

Mr. Forte stated that's what is in their agenda packet. These are all the requirements that anyone in that subdivision must comply with except for the driveway.

Commissioner Currie asked so the only thing she is voting on then is the driveway?

Mr. Forte stated and we can argue that they are not even voting on the driveway on Chippewa because its permissible as a single access so really what they would be voting on is the driveway for Dubber Lane because he can legally put a driveway in here without permission.

Commissioner Byrnes stated but it has to meet code.

Commissioner Currie stated so its not even the documents.

Mr Forte stated the driveway has to meet the driveway code, yes, not the roadway.

Commissioner Capers stated the question is, is the driveway compared to a road? They are saying a driveway is acceptable compared to forcing them to put roads in. That's what they're voting on?

Attorney Simpson stated just on Dubber Lane because Chippewa is one driveway serving one parcel.

Mr. Forte stated its two driveways serving two parcels.

Attorney Simpson stated yes, one for each one. He guesses if the Commission wanted to over rule staff's interpretation that a driveway could serve more than one parcel the Commission could say no, we view this as a private street we're not authorizing it. Not sure what legal support you have for that but you could obviously do that.

Mr. Forte stated in that regards, if Mr. Bass is permitted to put in a driveway from Timber Trail down to Timber Lane, this property and its only to service one parcel, does that mean if this person comes in and wants to develop we can't allow them to use this driveway?

Attorney Simpson stated that's why he said he wouldn't recommend it. It has to be addressed for cars passing and all that kind of stuff, its not ideal. There's no doubt about that. The question is, is what's being submitted consistent with or inconsistent with the city's development standards right now and all that's really being submitted is those two lots on Chippewa with individual access. No question there.

Commissioner Currie stated and what's within the city's code.

Attorney Simpson stated, yes.

Commissioner Currie stated and you're telling me that the document that's been presented for the driveway is permitted within the city's code?

Attorney Simpson stated yes it is.

Commissioner Currie stated, okay.

David Bass, applicant for Riviera Estates Access parcels, stated thank you for revisiting this. Mr. Bass wanted to point out to the Commission that this is very low density so when they talk about three residences using a driveway...he has spoken to a concrete company and an asphalt company in what would be durable. The concern was it would break up if it wasn't thick enough it would break up when they bring in heavy trucks in it would be damaged and he confirmed with them that the six inch concrete and the inch in a half asphalt would be sufficient for dump trucks or whatever was coming in. So they wouldn't have short-term problems with something tearing up or breaking so they addressed that issue and he lowered the density on Chippewa, again, because the sewer line is there but there's restrictions and so it became apparent to him that it was a very messed up situation. The surveys are off, something's in the wrong place. There's a whole array of issues and deeds and all kinds of stuff out there because he has done extensive research on it. He came to the realization on his part that why don't I reach out and compromise and solve some of these issues because I think what has to happen once this is established that the other owners won't really have any reason to dispute it. In other words, it's a good standard and it's something that's been investigated. Mr. Bass stated what he is willing to do, at least on his properties and he can't assure this for the other owners, is he is willing to do restrictions in the deeds that are issued when staff and himself talked about that to make it single-family because the only thing that would make it reality to do roads or private roads would be to make it multi-family. So it came down to his decision he can either go for the multi-family 8 units per acre or he can restrict it to the buildings of the lots that he sells to be single-family. He went with the single-family as an option that he will put that in the deed and he can also provide for an easement for the city for the sewer. In whatever way he can accommodate the city. He thinks Attorney Simpson and Mr. Forte can tell the Commission they have had conversations about how do we just solve these problems that have been existing for a decade. He has to commend the city's staff. They really worked diligently on this and we've had several conversations and I've reached out and spent, what I felt was the time and the financial resources to come up with honest answers so everything that's been presented is straight up. He just wants the Commission to realize on the single-family issue versus multi-family and the quality of the construction, he can also put in the deeds and attach even a copy of this letter to whatever he does sell. He has lowered the acquisition cost of the property to accommodate the improvements so where a lot may be worth \$20,000 or \$25,000 he may sell it for \$10,000 so they can accommodate doing these improvements to be able to make it marketable. It's not a big money issue for him but it is sadly made a lot of problems at one time.

Commissioner Byrnes asked Mr. Bass a question. You're primary plan is to build a driveway to serve these two...

Mayor Penny stated he doesn't think Mr. Bass is building any driveways. He's going to sell the property.

Mr. Bass stated he didn't want to sell to someone without them knowing what is going to be expected.

Mr. Forte stated the future builder of that property will be building the driveway.

Commissioner Byrnes stated the future builder of these two properties is going to have a driveway going to them and since these are all combined, what happens to these two properties?

Attorney Simpson stated Commissioner Byrnes, you really need to look at in the eyes of the law, to him, those are not separate parcels. We are going to legally create one parcel.

Commissioner Byrnes stated so there's only going to be two houses built on those lots.

Attorney Simpson stated there's one parcel being created.

Commissioner Byrnes stated that changes a little bit of his view.

Attorney Simpson stated and that's what the unrecorded subdivision plat looked like but because it was unrecorded and because it didn't go through their...those lot lines were fictitious until the property appraiser started selling property based on those lot lines but they were never legally created. In the eyes of the law this is one big parcel (referring to the map) with multiple tenants, in common, owners. What we're talking about is for each lot on either side of Chippewa, he is going to have to submit a plat, a minor replat, a subdivision plat, to create that one lot legally.

Mr. Forte stated and what he's hearing Mr. Bass say is he is going to create this with a single-family deed restriction.

Mr. Bass stated that will be issued in the deed when its transferred.

Mr. Forte stated, right. So, that would answer that question that I had earlier.

Attorney Simpson stated and actually, what the city will end up doing is enter into a development agreement for Mr. Bass's properties and in that development agreement it will address the issues that the Commission has talked about that should be in there, single-families, and the city will record that so whoever buys it is now subject to that.

Mr. Bass stated it will set up precedent.

Attorney Simpson stated, yes.

Mr. Bass stated and he thinks that's quite an accomplishment from his perspective will solve a lot of the city's issues as well as what he is going through as well.

Mayor Penny opened public participation.

The following people spoke to the Mayor and Commissioners:

Charlotte Myers, 2 Timber Trail, Holly Hill, stated she has a question for Mr. Bass and she guesses for Attorney Simpson also. Because they have had issues with developers before concerning that property out there, what we were told would be done and what was not done, basically lied to us, please understand Mr. Bass, its nothing against you, its against what we've gone through before and the thought that he is going to make those single-family helps our attitude quite a bit. Mrs. Myers stated the other point she wanted to make was...

Attorney Simpson stated to answer her first question, the city is going to do a development agreement like he just stated and the city will record that development agreement in public records on his lots so that development agreement will be a single-family, concrete driveway will be a covenant on those lots so anybody who buys it has to develop that way. He can't tell her that someone is ever going to build a house there, it may never happen. If its going to happen its going to be pursuant to that development agreement.

Mrs. Myers stated okay, good. Wonderful. When did this whole thing change from single-family to multi-family?

Attorney Simpson stated he doesn't know the answer to that.

Mr. Forte stated its zoned an R4. He will tell Mrs. Myers that Mr. Harowski provided him with a document that indicated that there were deed restrictions. Mr. Forte stated but I didn't do the survey on that he believes Mr. Bass actually did the survey work on that and that particular deed restriction reflected the properties only along the golf course and not the other areas. Mr. Forte stated I just want to go on record that I don't want the Commission or you, in the future, saying, "By golly, you said single-family and somebody built multi-family because I want to go on record saying I don't know what it is."

Mrs. Myers stated she knows that those of us out there, she guesses you should never assume anything, they always felt that those were roads, to be roads and to be single-family.

Mr. Forte stated again, he wishes they had been properly recorded and that would have resolved 85% of the problems they have today but it never was so what they have today is substantially different what everyone out there thought they had because it wasn't recorded.

Mrs. Myers stated she thinks maybe it was changed during this other developer's time. She thinks it was changed for him.

Mr. Forte stated he doesn't think so.

Mrs. Myers asked before Kevin Rainey?

Mr. Forte stated he will do a little research just to find out how far back he can determine it was R4.

Mrs. Myers stated it doesn't matter.

Mr. Forte stated well it will give you peace of mind. It will be peace of mind to know it was there a year ago or fifteen years ago. He can do that research.

Mrs. Myers stated, okay. Thank you. And like Mr. Bass, she appreciates all the time they have spent on this very much. Thank you.

Eric Myers, 2 Timber Trail, Holly Hill, stated he thinks our questions have pretty much been answered based on what he hears about the description will go in, as far as single-family with the six lots he is talking about. Mr. Myers stated he can, at this point though, pretty much confirm that yes, back in the late 60's there was supposed to be some deed restrictions and Mr. Bass is right, I think they only apply to the east side of Timber Trail. The zoning, he thinks, probably goes back forty years.

Mr. Forte stated he thinks its '73.

Mr. Myers stated its an unrecorded subdivision and everything is sold by metes and bounds, with like what they say, the right-of-way egress and those 50 foot right-of-ways. It makes him feel a little bit better that those six lots might only have one house on it, single-family, that type of thing. His question would be there are some homes on Timber Trail that actually don't have their driveways coming off of Timber Trail. They will cut in on the side of their lot. Now, what Mr. Bass is proposing is that going to affect them to say they have to bring it up to code and pay...

Mr. Forte stated the city isn't going back to anyone who is already in existence.

Mr. Myers stated, okay.

Mr. Forte stated this house (referring to the map) and this house has a side driveway...

Mr. Myers stated, correct.

Mr. Forte stated he doesn't know when those driveways were put in. They may have been put in when it was in the unincorporated area. The city is not going back to tell them they are not in compliance.

Mr. Myers stated, okay. Thank you for your time.

Commissioner Albert stated however though, what happens if those parcels, what if someone purchases those, where is the access driveway going to be for that and then wouldn't that affect the owners there?

Mr. Myers stated the O'Sullivan's own that lot behind them.

Commissioner Albert asked they own all the way to Nicholas Drive?

Mr. Myers stated, no. Just the property right behind them.

Mr. Forte stated anyone that's building in the future will be required to put in an impervious driveway.

Attorney Simpson stated if the easements go in, everybody has a ingress egress easement so if somebody buys that third lot down to the west they have a legal right to drive back up to Timber and then go out. They have a legal right to. Everybody has an easement to drive over everybody's property.

Mayor Penny closed public participation.

*Commissioner Currie made a motion to **APPROVE the proposal based on the three parcels on either side, the north and south side of Chippewa, that all access drives have to be by a solid surface - asphalt or concrete as outlined in the staff report and that staff's interpretation that more than one parcel can access a single drive is correct and all of this will be incorporated into a development agreement to be recorded**, seconded by Commissioner Byrnes.*

Mr. Forte asked the City Clerk to pull up the two examples of the driveways. One being asphalt the other being concrete.

Commissioner Capers asked what happens if the first house decides he likes concrete?

Mr. Forte stated they have to be consistent.

Commissioner Capers stated, okay. Once the first person lays out what he does everyone else has to blend into it and match?

Mr. Forte stated, yes. The lines will have to match up. Let's say the asphalt driveway goes to the house on the right then the houses on the left will be developed, when that driveway goes in the base has to be the same, the sub-base has to be the same and then they do a match sign. When they pave a road they only do half at a time then they match the lines up so it becomes a smooth surface and that's what would have to happen when you put the new driveways down the one access point.

Commissioner Capers asked is it wide enough for cars?

Mr. Forte stated it will be ten feet. A typical road is twelve feet so they have plenty of

room. If they have two driveways it would be twenty four feet which is wider than many of the roads in the city.

Commissioner Capers asked does this general property fall into a category where it may be beneficial for the city to purchase it and make it a retention pond area or something?

Mr. Forte stated, no.

Commissioner Capers stated he is just trying to think if there is something the city can do.

Mr. Forte stated Commissioner Capers, we did try. I did try. I tried to negotiate a price with Mr. Bass. There were even five other parcels that Mr. Bass didn't own that we tried to acquire that were in that period of ownership to the bank taking over and the bank selling and I lost the opportunity during my due diligence period where the bank took them over and sold them. I was trying to go down that road to see if the city would look to acquire as many as those parcels as possible not to put in a retention pond but it could be kept as a preserve or any number of things but we just couldn't get it done.

Commissioner Capers asked are there grants that the city could get to help pave properly?

Mr. Forte stated no, not on private roads.

Attorney Simpson stated the problem is its private road. It's not a public right-of-way.

Commissioner Capers stated its just strange to him that it's a private road and the city can't do this or that yet the city can enforce things and there's certain things the city can't do. That's what he doesn't understand.

Attorney Simpson stated its because we're entering an agreement with the property owner and we're recording it on his land. So Mr. Bass is agreeing to put those restrictions on there. We're not imposing these restrictions. We're not saying, "you have to build single-family", because if he submitted a multi-family idea and if it met all the codes, he could do it. Mr. Bass is agreeing to do single-family, to put in this type of asphalt driveway or concrete driveway. We're putting that into a...in essence a restrictive covenant on his land. It will have to be developed that way in addition to meeting all development requirements that apply to the city's regulations.

Mr. Forte stated he would have more concern, Commissioner Capers, that somebody bought up all those parcels, put in roads and put a bunch of apartments back there. That's possible. He doesn't know if its practical but that's what Mr. Bass alluding to that in order to make it cost affective to put in the infrastructure you would have to put multi-family housing in there. This is one way that the city is kind of assuring that at least on the parcels that Mr. Bass owns will be single-family homes.

Commissioner Byrnes stated he had the same idea Commissioner Capers because the applicant said he might drop his price from \$25,000 to \$10,000 per lot and I'd say okay we'll buy them both at \$12,000 and then we can zone it, conservation and not have to worry about that ever happening again and I would much rather do that than burden the neighbors with...

Attorney Simpson stated but Mr. Bass is not the only person who has contacted the city. Mr. Bass is the only one who has gone this far. Mr. Harowski will tell the Commission that the city has had other people contact the city for the other lots. We are trying to come up with a solution that can apply to everybody who wants to come forward and develop. Now the solution is, everybody that comes forward, buy them out. He doesn't know how much that would cost but that's clearly in the city's authority.

Mayor Penny stated that could get expensive.

Commissioner Currie stated just to finite for her, if we were to say, "no, Mr. Bass we're not accepting your offer, we're going to reject it", and he's out of here. Mr. Bass could turn around, go to his property, build apartments and the city would have no say over it.

Attorney Simpson stated the city would have say over it.

Commissioner Currie stated well, yes, we have...she understands but Mr. Bass is able to put the multi-family units in there.

Attorney Simpson stated he has development rights. He can go and build single-family homes on Chippewa regardless of what the Commission says.

Commissioner Currie stated and he can put apartment units.

Attorney Simpson stated if its zoned right but he will tell them single-family, there's other requirements that come with multi-family and there's a lot of things that come into play there.

Commissioner Currie stated, and he really doesn't have to come to the Commission for this driveway issue. By approving his driveway issue, we're actually gaining more by doing that because we're getting this development agreement that could satisfy some of the concerns of the citizens that she's hearing speak tonight that she didn't hear the same thing from the last time (referring to February 9, 2016 workshop) saying that its satisfies a lot of their concerns. To her it's a win-win.

Mayor Penny stated there's been a lot of negotiating to get here, a lot of give and take and it all hasn't been as pleasant as it is tonight as Mr. Forte alluded too. Sometimes the conversations got heated but I think we have tried to make the best of a really bad situation.

Attorney Simpson stated let him put it to the Commission this way. He thinks they have a really good proposal before them and if they don't accept it the end result could look a whole lot worse.

Commissioner Currie stated and that's what she was trying to say.

Commissioner Byrnes stated and that's nice to hear in words but the person that's been there for twenty years with no house behind him, tell them.

Attorney Simpson stated I just did.

Mr. Forte stated you can't assume that a vacant lot is going to stay vacant.

Attorney Simpson stated we all would love to have no development around us. Fine, go buy the land. If you don't want to buy the land somethings going to come forward.

Commissioner Currie stated the very same thing happened to her.

Attorney Simpson stated we're talking about 100 x 300 lot. That's a huge lot. That's a very big single-family lot. When the people bought there someone showed them this unrecorded subdivision plat and they thought they were going to have three neighbors behind them, any reasonable person would. May six if they count the other side of the street, now we're down to just one. One on each side so two. He thinks we have about as good of a proposal we can with that situation. I'm afraid if you don't approve it, it may end up being a development you like a whole lot worse that we can't stop.

Commissioner Albert asked if they could go back to one thing. She just needs clarification on one issue (referring to the map). When they talked about the third one down on Dubber Lane and they talked about the driveway and the requirement for that driveway, can you show me again please where you're anticipating it will go.

Mr. Forte stated twenty-five feet on to the property and seventy-five feet down (referring to the map).

Commissioner Albert stated so seventy-five feet down onto the driveway that is already servicing other residents? Can you explain to her why it's going seventy-five feet closer to Timber Trail?

Mr. Forte stated he will explain it and if they have an alternative, by all means, he would like to hear it but his thought process was if the owners of this property (referring to the map) ever decided they wanted to put a driveway in they would be required to put in from twenty-five feet on their property and make the connection. We wouldn't require them to the back of their property only twenty-five feet making this person responsible for that seventy-five feet.

Commissioner Albert asked are you not, in a sense, encroaching on that resident's...

Attorney Simpson stated, no.

Commissioner Albert asked why not?

Attorney Simpson stated because that person has an ingress egress easement over where that will be.

Commissioner Albert asked but does ingress egress mean that you're allowed to put a concrete or asphalt...

Attorney Simpson stated it does everywhere else. All the other roads are the same thing. Everybody has the same exact right, the same exact language in their deeds.

Mr. Forte stated, access.

Commissioner Capers stated but they also have a private person building that driveway. It's not a city public road.

Attorney Simpson stated nor was the other road that was put in.

Mr. Forte stated if they wanted to limit it to the twenty-five feet here (referring to the map) and keep the remaining as it currently is, he is certain Mr. Bass would agree to that but that's a burden on this property owner in the future to make the connection if they ever wanted it.

Mayor Penny opened public participation based on the motion.

The following individual spoke to the Mayor and City Commissioners:

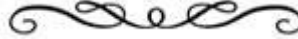
Eric Myers, 2 Timber Trail, Holly Hill, stated they all raised good points and good questions that the residents had about multi-family and things of that nature. Listening to the Commission and Mr. Forte, it has been a mess for many years and he thinks before them they do have a solution, a compromise. It's not going to solve all the problems because they're never going to be solved all the way but it is the lesser of evils when you can take three lots and you get the restrictions in and say, "okay, we're going to have one home on 100 x 300 foot lot over here and over here", the residents know that then. If it's in writing then they can pursue that way he thinks the residents, himself, would be more appreciative to that than saying, "okay, Mr. Bass, I'm sorry. Go try to figure out another way", then all of a sudden you have builders and applicants for apartments, who knows what's going to happen. They still have to come to the city and say this is what we want to build, it still is going to fall under all those ordinances and restrictions. He thinks they worked diligently and have got some solution that's going to appease most everyone to some extent. That's his feeling. He hopes that's the feeling and the sentiment of the residents there.

Mayor Penny closed public participation.

The motion PASSED, 4-1. - Capers, voted No.

RESULT:	APPROVED [4 TO 1]
MOVER:	Penny Currie, District 2 - Commissioner
SECONDER:	Arthur J. Byrnes, District 1 - Commissioner
AYES:	Byrnes, Currie, Albert, Penny
NAYS:	Capers

Enacted and approved this 24th day of May, 2016, in Holly Hill



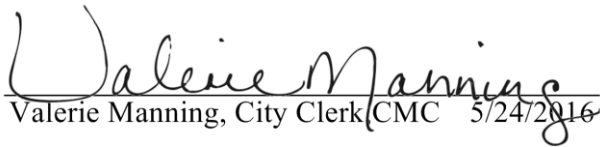
b. City Attorney Comments
None.

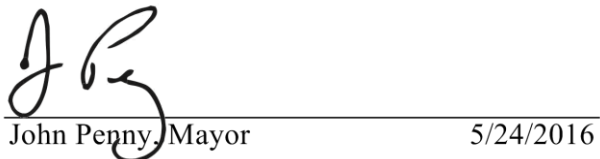
c. Mayor's Comments
Mayor Penny thanked the Commission for excusing him from the last Commission meeting. Movies in the Park is going to be amazing. UBIC will be celebrating their 50th Anniversary on Sunday. Memorial Day will be a ceremony at the boxcar at 9:00 am. Thanked everyone who was involved with the Riviera Estates decision.

d. District Commissioners Comments
Commissioner Byrnes thanked everyone for coming out to the meeting.
Commissioner Currie thanked the neighborhood for getting involved, staff, Mr. Bass.
Commissioner Capers thanked everyone. Looking forward to the movies in the park.
Commissioner Albert gave Police Chief cards from the students for Law Enforcement Week. Kids on the Hill on June 3 from 5 to 7 at Hollyland Park. She won't be at the next Commission meeting so she would like to be excused. Summer Literacy Lab will be starting soon.

9. ADJOURNMENT

The meeting adjourned at approximately 9:20 PM.


Valerie Manning, City Clerk CMC 5/24/2016


John Penny, Mayor 5/24/2016