



CITY OF HOLLY HILL, FLORIDA

CITY COMMISSION

MINUTES • JULY 26, 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 Byrnes led the invocation.

C. Pledge of Allegiance to the Flag

Mayor Penny led the Pledge of Allegiance to the Flag.

2. RECESS THE CC MTG & CONVENE AS THE CRA

3. CRA AGENDA ITEM

1. Resolution

US-1 Median Landscaping (16CRA1) Design and Construction Phase Engineering - Resolution 2016-R-26

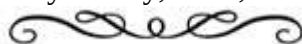
(Requested by Mark Juliano, Public Works)

Mayor Penny opened public participation. No one spoke.

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

RESOLUTION

Enacted and approved this 26th day of July, 2016, in Holly Hill



4. ADJOURN AS THE CRA & RECONVENE THE CC MTG**5. PUBLIC COMMENTS**

Mayor Penny opened public comments. No one spoke.

6. APPROVAL OF MINUTES

1.

Minutes - July 12, 2016 - Budget Workshop & Regular City Commission Meeting
(Requested by Valerie Manning, City Clerk)

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

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**7. CONSENT AGENDA - ITEMS (1 - 5)**

Mayor Penny asked if anyone from the audience wished to speak to any item on the Consent Agenda. No one spoke.

Commissioner Albert stated that she will not be able to vote on the Riviera Estates item and will need to complete FORM 8B - Voting Conflict form with the City Clerk. Commissioner Albert asked if they could remove this item so she can vote on the Consent Agenda.

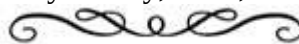
1.

Renewal of Continuing Services Agreement with TMH Consulting, Inc.

(Requested by Joseph Forte, City Manager)

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Elizabeth Albert, District 4 - Commissioner
SECONDER:	John F. Capers, District 3 - Commissioner
AYES:	Byrnes, Currie, Capers, Albert, Penny

Enacted and approved this 26th day of July, 2016, in Holly Hill



2.

Payroll & Holiday Calendar FY 2016-2017

(Requested by Valerie Manning, City Clerk)

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Elizabeth Albert, District 4 - Commissioner
SECONDER:	John F. Capers, District 3 - Commissioner
AYES:	Byrnes, Currie, Capers, Albert, Penny

Enacted and approved this 26th day of July, 2016, in Holly Hill



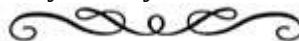
3.

Volusia County Fire Mutual Aid Agreement - Renewal

(Requested by Valerie Manning, City Clerk)

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Elizabeth Albert, District 4 - Commissioner
SECONDER:	John F. Capers, District 3 - Commissioner
AYES:	Byrnes, Currie, Capers, Albert, Penny

Enacted and approved this 26th day of July, 2016, in Holly Hill



4.

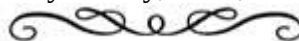
Riviera Estates Agreement / Development Order for Lots 0300, 0310, 0320, 0270, 0250, 0260, 0180, and 0130

(Requested by Joseph Forte, City Manager)

Commissioner Albert abstained from voting on this item. FORM 8B will be completed and turned in to the City Clerk.

RESULT:	APPROVED [3 TO 1]
MOVER:	Arthur J. Byrnes, District 1 - Commissioner
SECONDER:	Penny Currie, District 2 - Commissioner
AYES:	Byrnes, Currie, Penny
NAYS:	Capers
ABSTAIN:	Albert

Enacted and approved this 26th day of July, 2016, in Holly Hill



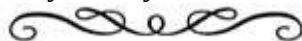
5.

Special Assessment Stormwater Agreement

(Requested by Kurt Swartzlander, Finance)

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Elizabeth Albert, District 4 - Commissioner
SECONDER:	John F. Capers, District 3 - Commissioner
AYES:	Byrnes, Currie, Capers, Albert, Penny

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8. REGULAR AGENDA

1. Ordinance

Ordinance No. 2977 An Ordinance of the City of Holly Hill, Florida, Amending Chapter 62 (Taxation), Article II (Local Business Tax Receipt), Section 42 (Schedule of Tax Rates) to Increase the Tax Rate; Providing for Conflicting Ordinances; Providing for Severability; and Providing an Effective Date.

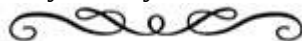
(Requested by Kurt Swartzlander, Finance)

Mayor Penny opened public participation. No one spoke.

RESULT:	APPROVED AT 1ST READING [UNANIMOUS]	Next: 8/9/2016 7:00 PM
MOVER:	John F. Capers, District 3 - Commissioner	
SECONDER:	Elizabeth Albert, District 4 - Commissioner	
AYES:	Byrnes, Currie, Capers, Albert, Penny	

ORDINANCE

Enacted and approved this 26th day of July, 2016, in Holly Hill



2. Ordinance

Ordinance No. 2976 An Ordinance of the City of Holly Hill, Florida Amending, the Land Development Regulations, by Amending Section 114-765 Schedule of Dimensional Requirements to Amend the Front Yard Setback of the R-1 Single-Family Zoning District ; Providing for Conflicting Ordinances; Providing for Severability; and Providing an Effective Date.

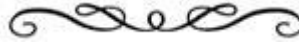
(Requested by Thomas Harowski, Board of Planning and Appeals)

Mayor Penny opened public participation. No one spoke.

RESULT:	APPROVED AT 1ST READING [UNANIMOUS]	Next: 8/9/2016 7:00 PM
MOVER:	Penny Currie, District 2 - Commissioner	
SECONDER:	John F. Capers, District 3 - Commissioner	
AYES:	Byrnes, Currie, Capers, Albert, Penny	

ORDINANCE

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3. Resolution

Lease of City Owned Land on Riverside Drive for the Purpose of Building a Private Dock and Boat Lift - Resolution 2016-R-28

(Requested by Joseph Forte, City Manager)
Mayor Penny opened public participation.

The following individuals spoke to the Mayor and City Commissioners:

Ray Plate, 1580 Riverside Drive, Holly Hill, gave the Mayor, Commissioners and Mr. Forte a copy of his speech as it pertains to this agenda item. Mr. Plate shared his concerns about the leasing of river rights in our City park across from 1570 Riverside Drive. Citizens of the 1500 block and Holly Hill, Florida ask the council why we weren't asked our opinions of variance of property which is currently a public park located across from 1570 Riverside Drive and other properties. Property at 1570 Riverside is currently being leased as a multiple dwelling residence but is listed with the Volusia County Property Appraiser as a single-family home and is currently homesteaded. Does this property have a property management license for leasing and proper safety inspection and is it insured as rental property? With this being said, is it in the best interest of the citizens, whom are also taxpayers of Riverside Drive, Holly Hill, Florida and our park systems to give rights to build another possibly unsafe structure in our community to someone that isn't even following current standards that govern our city of Holly Hill? We, the citizens of Holly Hill, request that if this lease is granted to 1570 Riverside Drive, shall not ever be transferable if the property at 1570 Riverside should be sold in the future and we request that this is documented in case of future sale of property. If this lease is acceptable, other law abiding citizens of Riverside Drive would like to have the available options granted to them at the same lease price which at that time would have to meet the same insurance coverage that hopefully has been set in place by the City Commission. If above requests are not met, for the safety and value of Holly Hill, please leave our public park systems alone to be used by our community, which in essence, is fair for all tax paying citizens. To help our police officers and community, leaving public park systems in place helps to fight against 15 unwanted predators, it is therefore, in the best interest of our community to leave the property across from 1570 Riverside Drive as a public park without leasing any part of our parks. Furthermore, the police have been called there over and over

because it's just like a rotation of people moving in and out. It doesn't do anything for his home and it doesn't do anything for his safety by no means. They caught a burglar in there when he said that he knew someone in there, the police let him go. There's been two wrecks in front of the place, he doesn't believe anybody ever called the police because maybe it was uninsured motorists, he doesn't know but he ran out there. His neighbor that is next to him now, the one before him, a female, is the one that alerted him that there is someone breaking in the house and he said call 911. All he is saying is he had to have a variance, he had to talk to everybody in the community and send them a registered letter to get his five feet out which is now okay but that's not the point. The point is, is he did it in the proper way and he does abide by Holly Hill's statutes that there is no multiple dwelling in his home but there is on his block. The zoning people, he has pictures of the handrails, and they are not even connected and part of it doesn't even have handrails for the second floor. That's not safety. There's children, there's dogs, there's everything else always over there and all he can say is if somebody gets hurt on your dock that you lease, who are they coming after? The leaser. He has three properties in Holly Hill and he thinks about that every day and he does pay his insurance. He doesn't know that the dock would be built safely. He doesn't know that it would bring up the value of anything. Once again, if they are able to do something like this, and then turn right around and put it back up for sale just to line their pockets, once again, it does nothing for our community, does nothing for the safety. Right there is the Police Chief and he can tell them that, he believes that he would tell them, schools, parks, libraries sexual predators and other kinds of predators are not allowed there and if they happen to know them and see them, they can immediately use that as a vice to arrest people he doesn't want in his community and he doesn't think anybody in this room would. If the Commission approves that to people that don't live at these properties or don't take care of their fellow community people, he thinks this Commission has failed. That's his personal opinion.

Commissioner Byrnes asked Mr. Plate about his five feet. Do you have a dock in front of your property?

Mr. Plate stated no, sir.

Commissioner Byrnes stated, okay. I didn't understand the five foot reference.

Mayor Penny stated Mr. Plate put an addition on.

Mr. Plate stated at one time, someone told him that something was wrong and he worked it out and he paid for a variance and he sent letters to all his neighbors and they responded and some didn't and the city allowed him to do it. If anything, they can go look at his house, he isn't bragging because he was a part of it but if it doesn't bring up the value of his neighbors...

Commissioner Byrnes stated that's what he was trying to understand. If he was complaining about the lease or the current condition of the property.

Mr. Plate stated he is complaining that the city would lease a park property for one person. It's always been a park and the people the city wants to lease it to don't live in the community. All they do is gather money. He has, which is public record, that shows the...

Commissioner Byrnes stated they're going too far. Mr. Plate answered his question.

Eric Krolenger, 630 S. Beach Street, Holly Hill stated his parents owned the property next door to that property, 1570 Riverside Drive, and they owned it for quite a while and

that property has never been a park. There was never a fence around it before. He is not sure how that came about but the fence around it now has caused it to be a park or something but it was never a park. That's pretty much riverfront property and we would like to have the riparian rights because if you have a house on the river you can have a dock and a boat on the river and its part of what goes along with having something on the river. A few years back all the properties going south there was an issue with who owned property on the river and it ended up that the County gave them all the riparian rights, all those properties except for these two, which he thinks was Ms. Albright's and his parents. He would have liked to have that as well. He doesn't understand what...the city has no benefit for riparian rights so it would only benefit like these two houses that's pretty much all they want. Just down the street there's a park, Flomich Park. If the issue is access to the river, all the streets that come into Riverside Drive, the best way for people to have access is that little area in front of the streets cleaned out and a bench there and that would give everybody access that lives in walking distance portion of the river. He doesn't think this piece of property is that big of an issue. There's a nice park off of LPGA Blvd., there's Flomich Park and up in Ormond in there's another park. He doesn't see why it should be a real big issue to allow us to have riparian rights and allow Ms. Albright to have that lease.

Jeff Martin, 934 Jasmine Avenue, Holly Hill, stated all he is asking is a layman's clarification on the proposal and he would also like to know if there is precedence in Holly Hill for private leasing for public property and has it happened before? If it has taken place before, he would like to know that.

Bill Arthur, 1570 Riverside Drive, Holly Hill, asked has that already been declared a park?

Mayor Penny stated the use is a park.

Mr. Arthur stated it surprised him because he knew they wanted to name it a park and that's fine and he questioned the reasoning but it is fine. The thing that the city has done so well that the city prevented all the things that Mr. Plate had said would have happened. It would make the value of the property go up if someone wanted to buy it, tear it down, do whatever it would make the property go up. The lady that has that property has lived in it or her family, forever, longer than Mr. Krolenger has. The one thing that Mr. Krolenger said that I do believe should be done, I believe that all the properties on Riverside Drive should have the same rights as they do on 1570 Riverside Drive and when I say that, when they talk about all the people that are going, when someone goes to a park, if it's in front of your house, I would not have the right to address those people if they were in my front yard because it is a park. He would have to call the police and they would come and do what they have to. If you own the property, if you have or have any kind of connection to it, if anybody is messing with the dock or anything to do with it, I have the right, as an owner, to go and question those people what they're doing without having to call the police. He's glad Mr. Plate owns three houses, I've owned twenty something houses in Holly Hill and I've owned them, I've never been asked if I was a predator. Anytime he's bought a house, every time he sold one, they were never questioned whether or not if they were a predator. He respectfully think what the City is doing right now would be the best for all the people in Holly Hill. It will up the tax rate and Ms. Albright, the owner, had been paying taxes. That's the big exception. She's been paying taxes on that property for over fifteen years. Fifteen years paying for something

that she was never allowed to do until all this came out, they didn't know that. He's always taken up for the people on Riverside Drive. He thinks it's one of the prettiest streets in the whole country and he can see very clearly...let him start again, he's a little rusty. For 115 years we've managed to keep buildings off of Riverside Drive other than the exception that is right there and it's the best thing the city has ever done is by doing that. The city has done it forever and ever. The one case, the one exception they made was to Steve Smith who used to keep his yard immaculate, now it's a pig pen. Mr. Arthur stated he does agree that whenever you have these rules and you had some pretty stringent rules that the dock had to be kept in good shape, he's glad that they did that. He thinks that it should be done. He thinks the city handled it properly. He thinks it's a good idea all the way around for anybody and he doesn't think Mr. Plate knows what he's talking about.

Mayor Penny closed public participation.

Mayor Penny wanted to ask Mr. Forte a few things. Mr. Forte, a few questions that came up...are there any current code violations on the property?

Mr. Forte asked on the 1570 upland property or on the riverfront property?

Mayor Penny stated the upland property.

Mr. Forte stated he doesn't know. He has not had Code Enforcement go out there to do an inspection. He knows there was an issue with the staircase and Code Enforcement had addressed that some time ago. He doesn't know the current status of that.

Mayor Penny asked has there ever been a property leased through a private party to the city before?

Mr. Forte stated that's a two-part question. The city doesn't lease public property like a right-of-way. In this case, this is city-owned property by deed simple title the same way the city has The Market and the city leases The Market. The city owns The Market and it's leased the same way the city owns this land. The Commission has the option to lease this land because it's independently owned by the City of Holly Hill. It's not a right-of-way that the city would issue a lease on a piece of frontage in front of somebody's home that is a right-of-way. There's a difference there. Yes, we do lease other city-owned property.

Mayor Penny stated and this lease would not disturb anything other than five feet above the main high tide so the park status of the remaining property would still remain a park?

Mr. Forte stated what the lease provides for is that the upland property owner will be able to have access to the land to construct the dock. At the end of the construction, whatever the width of that dock is and a typical dock going out to a boat lift area is probably anywhere from six, eight, ten feet wide and then you get to a dock landing area and a boat lift. What would be leased would be the width of that dock, the walkway going out, and one foot of the main high water mark. In addition to that, this lease allows for an easement to go from that dock location, from the walkway location, across the land, under the road so that they can run a water and utility supply line.

Commissioner Albert stated when it comes to this particular issue, this is an issue that has been an ongoing situation for the city for at least the last two in a half to three years. Prior to this City Manager there were some thought processes about actually selling these city-owned properties, which started this whole avalanche. Through the course of this whole process, she thinks what has happened is, is there has been some misinformation shared and we need to go back and

re-educate, very briefly, about the facts of this whole situation. The city has gotten itself into its own mess with the onset of selling this, all these properties but she thinks over the time, staff including the attorney and the Commission have done the very best that they can to deal with this. She thinks that this lease agreement, the one foot, west of the main high water mark, which she noticed in the document when she's looking at it on 8.3A, it says five feet west of the main high water mark, so is it one or five?

Mr. Forte stated it is one foot. What Commissioner Albert is looking at is, the City Attorney put this in here so that it gives the upland property owner some flexibility as to where that dock is going to be set and once that's done, that initial lease goes away and they will end up with a final lease of property, which is in the next paragraph and that is where it will be determined to be one foot of the main high water mark.

Commissioner Albert stated she doesn't see that language in here. Will it be added at a later time or is this the final?

Mr. Forte stated he will have to make sure that's added. It's supposed to be one foot of the main high water mark which is where the dock will be attached.

Commissioner Albert stated okay, if you can have that added in because that's important to put that in there. Commissioner Albert stated she wants to go back and acknowledge the comments that were made about the state of the property at 1570 Riverside Drive. She thinks that although those things are important, she doesn't know that they are relevant to the lease in itself. She understands because she lives in a neighborhood that just had an issue come here and she gets what Mr. Plate is saying. She completely understands but as far as what they are voting on, which is solely this lease, that's what the Commission has to look at and she understands that. However, in this lease there is language about the maintenance, the upkeep and the repair of the dock itself, it's in paragraph four as well, so she thinks the city has built that safety net in there that Mr. Plate is concerned about. If there are concerns about the property at 1570 Riverside Drive, that's a separate issue. That has to be addressed in a different way. If there are issues then the city has to look at that in a different way but not as it pertains to this lease. Another thing she wants to make sure she talks about because she knows it's been very important to you and she's brought it up here before herself is the fact of the park and the protections that it affords our children. My understanding and please correct me if I'm wrong because it will make a difference to me, my understanding is that the park stays intact and so all of the protections that the park affords are not going to be in any way disturbed. The predator, 2500 feet, that still remains intact. We're just allowing this dock to be built one foot of the main high water mark. Finally, she is very curious about the very good point that was brought up about what happens to the lease if the property is sold? Does the lease continue with the new owner of the home or is the lease specific to the lessee that signs it?

Mr. Forte stated he highlighted a section with regard to the five feet. The five feet goes across the entire width until the dock is finalized. Once it's finalized, there will be a survey of where the dock actually sits and it will be five feet west of the main high water mark and in talking to the City Attorney, the reason for that is because as you get tides that come in the main high water mark is the average of the high and low tide so at a high tide they wouldn't be able to get access to the dock. They would be standing in water to get there so the reason that it's five feet west is so that they have something to step onto during the high tide. Its five feet of the main high water mark is where the dock is going

to be, that's the area that they will be leasing. The City isn't granting riparian rights, we're leasing five feet west of the main high water mark. That's what the difference is and that's why he highlighted it on the screen so that the Commission can see that's how it's interpreted.

Commissioner Albert asked if Mr. Forte can comment on the transfer or what would happen if the property got sold?

Mr. Forte stated this lease will be record with the Clerk of the Court and it will go with the property not with the owner of the property. If the property sells, a buyer will be buying this lease as well. It runs with the property for 99 years.

Mayor Penny stated he thinks that's an important issue because he thinks that's the only reason that he's in favor of this lease is that when the current owner purchased the property, on the property appraisers website it said riparian rights and riparian rights would go with the purchase. For a homeowner to pay property taxes for 15 years and then question the property appraiser about it and then the property appraiser adjusts it and removes that from them, he thinks it should be transferable. If there were no riparian rights back then, it would have never transferred. It would have never been there. He truly believes that the purchase of the property was done based on the fact that the government, Volusia County Property Appraiser, said it was riparian rights. That's the only reason they are here tonight. If it didn't say riparian rights 15 years ago, they wouldn't be here tonight. That's what make this unique.

Commissioner Albert stated she's not sure she agrees with that. She thinks what happens is the land is...the city isn't responsible for that and she thinks the city has had a variety of issues that point out the land doesn't always get it right when it comes to Holly Hill and what happens here. She knows if you were to purchase a property that already had a dock that dock would then become yours so that is reasonable and understandable but this is not that case. This is a lease and the city is entering into the terms of this lease with the current property owner. She knows once the dock is constructed it's not going to go away if the house is sold so she's not sure if then the dock could revert to being part of the park or...she doesn't understand how they didn't come across this to think about it or talk about it in the workshop and all the time that they've spent on this.

Mr. Forte stated Section 11 of the agreement, the covenants running with the land, it states, *"this lease shall be recorded in public records of Volusia County, Florida and shall be binding on the current and all future owners of the residence. This lease shall be considered a covenant running with the land and it shall be binding on future heirs and assigns. The lessee shall pay for all recording costs."* Mr. Forte stated when they are talking about a 99 year lease, there has to be an assumption that the current owners are going to sell the property. Otherwise, it would be a different term and condition. With a 99 year lease it runs with the land, it runs with the upland property.

Commissioner Byrnes stated it would be silly if the lease didn't go on because if the new owner got it, they would have to destroy whatever dock was there. He doesn't think that's a very big deal but what he does see is some people concerned about the loss of the park status and the city is not leasing the entirety of the park and we're not selling it like some people would have wanted in the past. The only liability that he can see is if the dock owner leaves their gate open and somebody gets hurt on the dock, it is not the city that gets hurt, it's is because that dock is the private property of the property owner. That's why people will see all of these signs "Private Property" or "No Entry" because those

owners are protecting their liability. If somebody doesn't insure it properly then the person that gets hurt may get their house. When he looks at the entirety, he also thinks about what the Mayor said. There's a lot of people down there who thought they had riparian rights and there's a lot of people who paid tens of thousands of dollars in taxes thinking that they had riparian rights. He sees this as a template to fix the problems the city has with those people because one of the comments that was said is that they wanted to basically do the same thing. If you own riverside property and you want to put a dock there, I don't have a problem with leasing five feet of land so that you can put a dock in front of your property if your deed said you had riparian rights or the property appraiser charged you for riparian rights for however many years it was going on from the time those deeds were recorded.

Mayor Penny stated as he understands it, this is the only parcel.

Commissioner Byrnes stated this is the only person that's come to the city.

Mayor Penny stated it's the only one that had riparian rights according to the property appraisers website.

Commissioner Capers stated it does have riparian rights. They didn't own the property. That's where you're confused. That property does have riparian rights.

Mr. Forte stated they don't have riparian rights.

Commissioner Capers asked how are we going to get riparian rights then by renting it to them?

Mr. Forte stated we are not giving them riparian rights. We own the land. We are leasing the land which is five feet.

Commissioner Capers stated so that land does not have riparian rights?

Mr. Forte stated it does not. You can't have riparian rights on land that's owned by someone else. The riparian rights come in with regard to that section of the property, primarily south of 14th Street where the road right-of-way exceeds into the water, that they granted those upland property owners one foot of the main high water mark to have access to the water. That's where you have a riparian right over a right-of-way. This is owned by the city and somebody can't have riparian rights on property that's owned by someone else. For example Commissioner Capers, you own the property across the street from your house, you cannot grant someone else riparian rights to your property.

Commissioner Byrnes stated no but he can put a dock out there if he wanted to.

Mr. Forte stated he owns the property.

Commissioner Byrnes stated because the riparian rights only means that, that property is an extension...

Mr. Forte stated is an extension of the land.

Commissioner Byrnes stated of his land but he is only putting up a dock.

Commissioner Capers stated if somebody owns the land the automatically have riparian rights?

Mr. Forte stated if they own the land they don't need riparian rights because they own the land.

Commissioner Capers stated, okay. He doesn't think that's accurate but it doesn't matter.

Mr. Forte stated you own the land and all riparian rights as applicable. So in this case, the city owns the land and any riparian rights.

Commissioner Capers stated so the city could put a dock out there now if we wanted to?

Mr. Forte stated, correct. The city could put a dock up.

Commissioner Capers asked can the city put a dock up in any of those parcels?

Mr. Forte stated if the city owns them.

Commissioner Capers stated, anywhere. South of 14th Street...there's about eight parks. The city could put docks at any of those?

Mr. Forte stated if the city owns the land, we can put a dock up.

Commissioner Capers stated well we do, those are the city's parks, correct?

Mr. Forte stated the difference is this is a piece of property that we own fee simple title. The others are right-of-way. If they're right-of-way the conditions are different.

Commissioner Capers stated okay so this is not like what Commissioner Byrnes was talking about this will open up to allow anyone else who lives across the street from one of our parks to put up a dock.

Mr. Forte stated not necessarily. In this case, he believes, the reason the Commission directed him to go in this direction was because the upland property owner had been paying for riparian rights and believed they had riparian rights. He is not aware of any other upland property owner that had been paying for riparian rights or believed they had riparian rights. That's the distinction.

Commissioner Byrnes stated the city's liability, whether there's a dock there or not, doesn't change as he understands it.

Mr. Forte stated under Section 5D, the lessee has to obtain liability insurance in the amount of \$500,000 and beyond that the City is held harmless.

Commissioner Byrnes stated that's what he thought. He is trying to address all the issues because it is an inflammatory thing.

Mayor Penny stated Mr. Forte, I thought we had addressed that clause depending on the insurance carrier, \$500,000 may not be available. For example, if the upland house is insured through *Citizens* which many of our homes in our community are insured by the maximum insurance that someone can obtain is \$100,000 through that carrier.

Mr. Forte stated he had the language in there and he thinks the city attorney changed it back to \$500,000 because the way it was written said, "*\$500,000 or whatever the insurance carrier may provide.*" Suppose an insurance provider doesn't supply it then can they go without it? He wasn't sure why...he thought they had it at \$100,000 but he's not sure why they changed it.

Mayor Penny stated he thought it was down to \$100,000 because most carriers, the most they will do, is \$300,000. Citizens only go to \$100,000 so that's something that may need to be addressed.

Commissioner Albert stated we are running at a deficit tonight because the City's Attorney who drafted this is not here. She doesn't know if it's appropriate to maybe table this until he is here again and we could, maybe in the interim, work on some of these things that we are having an issue with tonight and bring it back when the attorney comes back.

Mr. Forte stated let's see what the list of questions are. So far the only thing to address is the insurance.

Mayor Penny stated, right.

Mr. Forte stated and if the people leasing property don't have an objection to that.

Commissioner Albert stated she's just putting it out there because she thinks this is a very important decision and she thinks that all of the facts need to be clearly and explicitly stated and if there's questionable points within it. She doesn't see the harm in waiting two

weeks but she's not directly involved in this other than...it's been so long, she thinks everyone would appreciate getting it right. That's just her opinion.

Mayor Penny stated the alternative is that they can go ahead and take action on it subject to interpretation of Section 5B.

Mr. Forte stated if the insurance is the only outstanding question, whether or not they can obtain \$500,000 or \$100,000...

Mayor Penny stated they need to ask their insurance carrier also.

Commissioner Currie stated she has some questions and comments. Some of the questions she has are and she knows that they discussed some of these but she wants to make the rest of the Commission aware of it. One of her concerns was, on the lease, where it discusses...Section 3, the terms of the lease for payment, she had concerns where they discussed if there's a late payment there was a 10% penalty and all that stuff but it never really discussed at what point it was in default. They just talked about if its 10 days late there's a 10% penalty. In her discussion with the City Manager her concern was they had nothing in here to indicate what point is it in default. The City Manager said it would be after the 10 days but she would rather have it spelt out if she were to approve this.

Mr. Forte stated the lease payment is due and if it's not received on the date it's due, there's a 10% late payment that the city can collect within 10 days. If not received within the 10 days, at that point, the city begins its violation of the contract process and the city goes ahead and revoke this. If they then, during that process, which could take some time, they come forward and they pay, they have to pay 10% for that period of time.

Commissioner Byrnes asked where does it say that?

Mr. Forte stated its in Section 3.

Commissioner Currie stated it doesn't necessarily say all of that.

Commissioner Byrnes stated he doesn't see it in the terms of lease section and that's why he was asking.

Mr. Forte stated it says there should be a 10% late penalty if the payment is not received by the city within 10 days of the due date and all interests shall accumulate at the highest rate allowed by law applied to the total unpaid balance plus the late fee for payments made more than 10 days after the due date. If the monies are not received within the 10 day time period then the city will go ahead and start the violation of contract process and then if that takes two months and they decide to pay then they will be paying the percent on top of that.

Commissioner Currie stated but her concern is there is nothing that spells that out in here. It only talks about the 10 days and the late penalty of 10%. That was her concern but the City Manager did tell her the process would start after that. She concerned about how many other properties would be eligible for the same consideration. Obviously, they know that they have at least one person in the audience that's interested. She can tell them back when the previous City Manager brought this up a couple of years ago it was to sell the properties and she wasn't in favor of it then and at some point it was brought forward a couple of different times and she hasn't been in favor of it at any time it was brought forward. One of the reasons is, is because she doesn't want that very thing to happen. She doesn't want to open it up to just everybody being able to have access. She

thinks she made it clear back when they first voted on this, without Commissioner Byrnes and Capers, that she wants to keep Riverside Drive as pristine as they can, not saying that a dock is going to disrupt that completely but she doesn't want to take that possibility of what might happen not being able to have her crystal ball.

Mr. Forte stated as he was saying, if the city does not receive its payment within 10 days, under Section 7, the termination of the lease, the city will provide written notice to the property owner and the city gives them 30 days to correct it. If they don't correct it within 30 days the city may terminate the lease.

Commissioner Currie stated that was breach of the lease for a different issue.

Commissioner Albert stated so if termination proceeds and the lease is then in effect and the city doesn't have that relationship anymore then who owns the dock?

Mr. Forte stated the city.

Commissioner Currie asked if that's in the agreement?

Mr. Forte stated yes, the city takes ownership of the dock.

Commissioner Currie stated because she doesn't remember reading about that either but she could have just missed it.

Mayor Penny stated and to her concern about other properties, he thinks Mr. Forte stated that to his knowledge this is the only one with this unique situation.

Commissioner Currie stated but it doesn't mean that people won't come here and ask for the ability to do something.

Mayor Penny stated that's true.

Commissioner Currie stated she is concerned about this insurance issue because in the agreement it's \$500,000 and now they may think it's \$100,000 or \$300,000, they're not sure so that's a concern to her.

Mayor Penny stated but from a risk management perspective, we are no more liable or less liable based on the amount of insurance they have.

Commissioner Currie stated okay because from her old cop days that's her main concern, liability.

Mayor Penny stated they're going to sue the city if they trip on the sidewalk.

Commissioner Currie stated they can ask the Police Chief, liability is all they think about.

Mayor Penny stated you're right.

Commissioner Currie stated she agrees and can sympathize with the part about paying for riparian rights but she doesn't necessarily agree with that the city has to clean up the County's mess. The County makes messes...they made a mess in Commissioner Albert's subdivision and the city can't clean that up, unfortunately. To a question that was asked by Jeff Martin, if the city actually leased properties in the city, she believes there's a huge difference between leasing a structure like The Market and leasing land property. She doesn't look at those two as the same. Those are completely different to her. The city has actually began to look into selling The Market because the city doesn't want to be landlords. The city doesn't feel that being landlords is the city's job. The city is looking into selling that. Another point that Mr. Plate brought up that she has a little bit of concern about is if the property has issues and the lease that she's looking at they are required to maintain the dock then that tells her that there may, may not be issues with maintaining the dock, she has to take that into consideration. She doesn't know that she agrees with Mr. Bill Arthur in regards to it being the best for "all of Holly Hill". It may be the best thing for that small little section of Riverside and looking at Mr. Plate's letter

that he gave the Commission, she's not even sure can conclude that it's the best for that little bit of section of Riverside because there's seven homes that she has that have signed that it's not. Lastly, it concerns her that Mr. Bill Arthur would believe that there's some kind of right to questioning people that are entering into that park to get access to maybe the back part of the park towards the dock because he made a statement that it would then give him right to question people that are there if it was leased to him. That's concerning to her and she's sure it would be concerning to the Police Chief if there weren't any issues brought up with that. That's all she really has to say about it. Again, she wasn't in favor of it in 2014 when it was brought up to the Commission to sell these properties and she can't say as though she's been convinced of being in favor of it now.

Mr. Forte stated just to follow up on the possession of the dock. It says, *"upon termination, whether with or without cause, all improvements to the Final Leased Property, including a dock, shall become the sole and exclusive property of the City without any compensation being owed to the lessee."* So if somebody asks what happens to the dock it becomes the city's. I don't want to speak for Mr. Bill Arthur but I think his comment was that if somebody is on the dock he has the right to question them being on the dock. He doesn't have the right to question anybody being in the park because it's a public park.

Commissioner Albert stated Mr. Bill Arthur said as well if he "owned" property and people were on his private property, he could question them. Just for clarification.

Commissioner Capers stated when he took office, he was sworn in, did an oath and the oath was that he wouldn't give favoritism to his friends, family, current and past government officials and he sticks by that 100%. He knows Mr. Bill Arthur and he was a good mayor, he's a good man. He has met Marci Albright before and she seems like nice people too. He's never had words with either one of them. This isn't anything personal at all, he is just stuck to not doing favoritism. He has a list of stuff here that he will go through. A few of the things there were said were the city-owned Market lease and The Market lease wasn't leased to a place that became private and the public couldn't go there, it's completely different. He also heard this City Manager and the Mayor has said several times saying that the government makes terrible landlords and that they don't want to enter into these deals and every time the city has gotten into these deals it's been terrible. When you look at this piece of property....let me back up a little bit. I understand that they paid taxes or that they thought they had riparian rights, I understand they paid taxes for a number of years. To me, it was the County that made that error, not Holly Hill. So to him, the only way to correct that is for them to hire an attorney and go over to the County and say they want their money back or something. For the city to try and correct a wrong that was done to them...the City of Holly Hill did nothing wrong. The city does not owe Mr. Bill Arthur or Ms. Albright anything. The city does not owe anybody anything on this. So for the city to try and make right an error of the County or the fact that they may have failed due diligence to find out if they had it does not mean that the city is the one to correct it. A second point to that, on that property, the neighbor Mr. Krolenger, was he offered or could he build a dock right there too? There's one and then there's his and there's Mr. Plate's. Can all three of them do it? What does this open up? The other thing too, the city is going to allow them to do it because they were burnt on their taxes but all the citizens of Holly Hill should have an opportunity to pay \$350 and buy that. Why is the city specifically allowing one person just because they happen to

live across the street, just because they got burnt by the County does not make this... "let's make this right." This isn't making it right. Now to him, if they built a dock and the dock was a public dock then he would say yes, that's all for the citizens, that's great. Citizens can use it, it's in front of their house, they have a dock. We have a dock, it's in front of their place, everyone can use it that would make sense to him. He could see doing that but to have a gate across it saying no, this is just my dock at a city park, he thinks is wrong. The \$350 a year certainly, is certainly not going to put Holly Hill over the top. It's not a huge windfall. It's nothing that's going to make the City of Holly Hill rich so that's not going to benefit the citizens. He sees people fishing down there all the time and so right now if they cast their pole out and they sit at the picnic table, right now they can go...here's the dock at the house, the seawall, they can fish anywhere in this direction that they want. Once the dock is up, now they're fishing between two docks. They're fishing between that wall and that dock. Now if they catch a fish, he's going to shoot under the dock. It just doesn't make much sense to put a dock that close to that other place either. He doesn't think that it's up to the city to make it right, he also doesn't think that the city should give any kind of special favoritism to anyone in particular. This has got to be for the city. This has to benefit the entire city and all the citizens of the city and if it doesn't, he thinks it's wrong. He has a dock and he loves his dock, he understands wanting a dock, he feels sorry that they bought the house and didn't know they didn't have it. He feels bad that they paid that money but again, it's not up to the city to correct that.

Mayor Penny stated after his comments, if you came up and spoke during audience participation on this item, he will allow them to come up in the same order that they came up previously and have two minutes to readdress this Commission. He thinks that's the fairest thing the Commission can do for everyone concerned. Mayor Penny stated what he enjoys about this city is that the city tries to fix problems and sometime they hash things out and hash things out, one way or another, this thing is going to be put to bed tonight. It's either going to be a yes or no. When this came before the Commission several years ago, they were faced with one of the worse recessions this Country has ever seen and the city taxes were down and the city needed a new fire truck. The City Manager at that time said if the city sells all of the surplus property on Riverside Drive there's enough money to buy a fire truck. Great. He raised his hand. Let's sell it. Then they found out through the title search and advice from the City Attorney, the city really can't sell any of these properties. The only property that the city could really sell is this one parcel that they are talking about tonight. Then it came before the Commission and they had a workshop and they talked about it and again, he was in favor of selling the property to the upland property owners. Until he went and met with the citizens, he met with Mr. Plate and heard his concerns. Commissioner Capers is right, this city makes terrible landlords when it leases retail space but he has to take exception on this because if the city leases this space the city has control of the park. All the concerns he has heard about...the predators in the park. If the city sold this property the new owner could do whatever they want and the city loses the park status. Anybody that knows him, knows how long he has been sitting here and knows how he always wants to come up with a compromise. He wants it to be a win-win. Unfortunately, a win-win sometimes is a lose-lose, not everybody gets what they want. He doesn't think they live in a black and white world. What he appreciates about this city and this Commission is they get dirty. They

get in the gray area sometimes and they try to fix it. He's been part of this discussion for several years and he doesn't think there is any favoritism here. He tries to put himself in the applicants position. Yes, there's enough fault to go all around. Was the property purchased hastily? Was there a title search? Was there this? Was there that? He doesn't know. All he knows is there was a document that he has seen that says this property has riparian rights. As a lay person, if he bought that property, he would assume that means you can build a dock. He understands that's not really what riparian rights means and Mr. Forte gave the Commission some information about it. He would have assumed that he had riparian rights and if he paid property taxes on it. Is it the city's obligation to fix the County's problem? No. He thinks if they can come up with a compromise that addresses most of the concerns from most of the people...the park status was the biggest concern. They don't want to lose that park bench because there are people who walk their dogs, people who get tired and need a place to rest. There's still going to be a bench there and people will still be able to rest. At the end of the day, this property owner wants to put up a dock. They have a piece of paper that he would have assumed gave them that right but they didn't legally have that status. It wasn't on their deed. It was a mistake. He doesn't know who made the mistake but he is fully supportive of leasing the space to allow them to make a dock. He trusts that the city can work out the small little glitch. The only glitch that he heard was the amount of the insurance which he brought up.

Mayor Penny opened public participation on this item again for two minutes only.

Mr. Plate stated even when he got a variance because his survey was over two year's old, he had to get another one. Maybe Mr. Bill Arthur should have gotten a survey, maybe a title search. That's not my fault either but when I bought my property, I was also told that, that will always be a park across from me. That there wouldn't be any gate that says no trespassing, it didn't say that. Not when his realtor sold him his place but he did have it surveyed and he did do his homework. If someone else didn't, that's not really his fault. It's not the fault of his family. They just built a beautiful addition on the front of their home so they can look out. He really doesn't want to look at anybody's dock. If he had known that maybe a dock was going to be there that he would have to look through, truthfully, maybe he would have bought a different piece of property. If he can have a dock because part of his property leads across the wall, across the street from him...Donnie Moore put there, and it doesn't go on an angle if they pull the appraiser and look at the documents, it's supposed to be straight. So he would have that right to have a dock over there too. He really doesn't want a dock because he doesn't want to take away from the City of Holly Hill and all of the people that walk there, including the Veterans that walk every Monday with their dogs to make them service dogs to give them to people who have been in the service that need a friend as in a dog and they stop there and water themselves and their dogs and now if they stop in front of somebody's dock with a gate there, maybe someone's going to come there and approach them just the way that person just approached me walking right down this aisle. There's a law enforcement man right there that will tell them that everybody is a target whenever they say anything and now I'm a target because I live two doors down from Bill Arthur. Bill Arthur doesn't deserve a dock. It's a park.

Mr. Krolenger asked how did the city acquire that property?

Mr. Forte stated he really doesn't remember. He doesn't remember if it was donated or purchased. It's owned by fee simple title that matters.

Mr. Krolenger asked how long ago?

Mr. Forte stated back in the 80's. At Commissioner Capers request, the city is in the process of declaring all of the properties available along Riverside Drive as parks, this is treated like a park but it has not yet been declared or named a park but it will be once the city gets through the rest of the processes.

Commissioner Byrnes stated so it's been a park for a long time.

Mr. Forte stated it's not a "named" park but the city treats it like a park.

Mayor Penny stated the use.

Commissioner Capers stated he thought he had been working diligently to prevent this from happening by naming it and its funny how government tends to drag its feet on certain things and can speed up things at times. He had no idea this was coming tonight. He had no idea until he saw it on the agenda a few weeks ago.

Mr. Forte stated no, we talked about getting it on...

Commissioner Capers stated we talked about looking into it. We didn't talk about drawing anything up.

Mr. Forte stated the Mayor asked that it be on before August.

Mayor Penny stated he asked that it be set by this Commission...

Commissioner Capers stated all the other times that he talked about doing a park and doing names, nobody said, "Oh, by the way, we're getting this done and this is being drafted and this will be at this meeting and this will be happening." He didn't hear about it and you guys kept it quiet.

Mr. Forte stated he has to disagree with Commissioner Capers. I am not going to let you say that I kept it quiet because it's been on the agenda, we've talked about it.

Commissioner Capers stated when he talked about naming the parks, did you say, and you sat over here when I was talking about naming the parks...

Mr. Forte stated yes, I sat there and I said, remember, that the Commission gave me direction to bring back a lease and I'll be bringing it back before August. I said it sitting right there in that chair so I'm not going to let that conversation be held against me because I did declare it at that meeting...

Commissioner Capers stated he could be wrong but he had many meetings in the City Manager's office that he was just as hell bent as he is right now and the City Manager didn't say that it was coming, it's coming, it's coming.

Mr. Forte stated Commissioner Capers, we discussed it at the meeting and you told me how you were going to vote and I said I understand, it's not personal and I knew how you were going to vote. We talked about this last week.

Commissioner Capers stated, okay.

Mr. Forte stated we absolutely talked about it last Tuesday, 100%. There's no surprise here. He doesn't want anybody thinking that he threw something on this agenda as a surprise.

Commissioner Capers stated no, he's just saying that things can sped up when they want it sped up.

Mr. Forte stated this has been going on for years.

Commissioner Albert stated Mayor, if she could, recognizing that there is probably another issue happening here right now and to be courteous to Mr. Krolenger she would like for him to be able to finish his time.

Mayor Penny reset his time to two minutes.

Mr. Krolenger stated his parents have owned their house for quite a while now and when they first bought it there was nothing there and they were told they could have a dock when they bought it but when they looked into it they were told no. It would just be nice to be able to have a dock. It doesn't mean they are going to put one in.

Mayor Penny asked Mr. Krolenger if he had any documentation that says riparian rights on it or on any documents that they have?

Mr. Krolenger stated he hasn't really looked too much into it. They went and asked about docks before and they were told no and they just didn't do anything further about it. Then they got a letter about purchasing that property. They would be happy to buy it and happy with a lease as well. It would be nice, where it's at its riverfront property and it would be nice to put a dock there if they want. He lives further up from his parents and he has a dock and a boat. The people that use Riverside Drive...the sidewalks are great that the city put in. He thinks it would be nice to have a dock with the property where it's at.

Commissioner Capers stated if this goes through and the city leases that, is that Mr. Krolenger's next move for his family or a possibility? They could lease another five feet? So now they would have two docks there.

Mr. Krolenger stated they always would have liked to have a dock there.

Commissioner Capers stated and he understands because he has a dock there himself. He loves it.

Mr. Martin stated conventional wisdom on building a lifting dock system, is that they have double the beam of the boat configured and the width of the dock itself that way you can have a lift on either side. What he would be concerned with now is the linear footage that they already have available not including this piece of property, he is absolutely against anybody having access, even leased access to that property. As a matter of maintaining the park, maybe the city should have a dock out on that park for the citizens to use. He's sorry, if they had the riparian rights or under the understanding they had riparian rights then they have to go back to the County and settle that problem with the County. As far as taking property that the city owns and allowing to lease it, that's a dangerous precedent.

Mr. Arthur stated he wants to clarify a few things in the way it started. They paid top dollar for a house that was totally run down because of what they had there. They paid taxes on it or Marci paid taxes on it. The Commission keeps saying it's not the city's business but the city gains money by taxes. The taxes do go to the city. Maybe the County made a mistake but the city got part of the taxes. The Commission's job is to represent the people of this city. This was none of our business when all the docks south were being taken away by the County making the same mistake. They tried to take it back and I fought for them and it wasn't our business. I fought for the people and it made the property worth a lot more money. When Marci bought that piece of property, she paid the top dollar you could for a house that needed amazing amount of repair. She did it for a long time. Even the benches that everybody is sitting on, we put them in. They are our benches. It was our bench there. It was already a partial dock out there. Why in the world she wouldn't think that but when I went to bat for her it wasn't because of that. I didn't do it when I was the mayor because it was self-interest. I did it for everybody else. I did it for Capano. I did it for everybody who's property was not available. For the Commission to grant that, why would she fix that place up and spend money on it when it won't be worth any money. The only way that property is worth money, that she's paid for forever,

is because she believed that. Later on when we went to put a dock over there or when Marci went...I'm sorry I keep saying "we" because I've been with Marci for a long time but I wasn't ever with her in that house, that is a separate issue and so she did it for an investment. She's a school teacher. She takes care of things the best way she can and to sit here and talked to like that. I believe you say what you do (referring to Commissioner Currie) because...I don't know. I think you're jealous of me being a mayor or something. It doesn't make any sense. You think you're father's the best (referring to Commissioner Currie) and he was a great guy. I liked your father. I took up...

Commissioner Byrnes stated you can sit down now, sir.

Commissioner Currie stated point of order Mayor.

Commissioner Albert stated she would like to talk to Marci. Ms. Albright, would you mind if I asked you a question at the podium? I understand but I need to ask you a question.

Marci Albright, 1570 Riverside Drive, Holly Hill stated this has been going on for so long. When she bought that house it had holes in the roof, it needed major repair, she pulled permits, she valued that house, improved the property tax base for the city and of course it valued on her end as well but you know, it's just a dock.

Commissioner Albert stated, right. The reason why she asked her to come up was because she knows the way this started and the way it kind of declined and has its peaks and valleys with this whole situation and so she wants to try to right a wrong that she feels has been done to her not at the County level but by what happened here at the City of Holly Hill under a different set of parameters. That's how she personally feels about it because two of us Commissioners sat here at that time and I feel that Marci was done a disservice. Leading Marci to believe that she could have done something and then it got changed at the last minute. However, with this lease that she looks at she has a concern with number 11 which is the covenant. That's the covenant that says if she sells the home the lease then transfers to the new owner of the home.

Ms. Albright stated if she spent \$40,000 and put in a beautiful dock, on water and do everything she supposed to do to maintain the insurance, maintain the beautifulness of the dock and she spends \$40,000 on that and she sells that property, why wouldn't the person...what if you were to buy my house? Let's say you feel in love with the house and the dock, wouldn't you want the dock as well? She's not going to live 99 years.

Commissioner Albert stated she gets that.

Ms. Albright stated so what's going to happen when she passes? The house is going to be sold or new owners will be there.

Commissioner Albert stated so for her, referencing what she said to Ms. Albright before, about what happened earlier when the letters were sent out about purchasing the property and then it all fell apart, that's where she felt a lease would be a good idea and they talked about the validity and the reasonableness entering into a lease so that a dock could be built. However, just like with the termination clause that's in here, for some reason this lease is terminated the ownership of the dock then reverts back to the city. To her, she thinks it's reasonable as well as if the property is sold then the dock would then revert back to the city, that's her. She does want to give Ms. Albright the opportunity while she wants to maintain the terms of this lease to go ahead and do that. Put in the dock that she wanted to build for all those many years and enjoy that but she really does have a concern with number 11. She doesn't know, if for her, if it's a deal breaker in her support of this.

If it were to be removed would it be a deal breaker for Ms. Albright and she no longer wants to build her dock?

Ms. Albright asked why....

Commissioner Albert stated she's just asking her if it was removed would Ms. Albright then say she didn't want to build a dock anymore?

Ms. Albright started well it would just mean that she would own her house until she died but it wouldn't be fair to the next owner to have a beautiful dock in front of their property and not have ownership of it.

Commissioner Albert stated if it reverted back to the city then the dock would then be a public dock, correct? And that owner would then have access to the dock.

Ms. Albright stated the city needs to agree to that.

Commissioner Albert stated she's asking that...would that be logical? Because if it terminated and the city then took the dock back then would the dock be public at that time?

Mr. Forte stated yes, they would have a public dock and a single boat lift attached to it.

Commissioner Albert stated, okay. She is just trying to have a conversation with Ms. Albright because this bothers her and she knows she's reasonable and thoughtful and logical, intelligent woman and so that's why she asked her to come up and she appreciates that she did.

Ms. Albright stated she appreciates Commissioner Albert's concern. She would like what's best for the City of Holly Hill. The people deserve everything that they could possibly have out of our city. They only have a short mile or two of riverfront property in Holly Hill and the Commission should make the absolute best use of that river that they can because it's one of the few assets of the city has to make it beautiful and keep it beautiful is probably top priority. She doesn't know how a dock would ruin that.

Commissioner Albert stated she's not saying that all. She would like to enter into an agreement with her but as far as anybody else, she doesn't know. She is just saying that because of what has happened before.

Ms. Albright stated they would have to discuss what would happen to that dock if she sold the property.

Commissioner Albert stated that's why she wishes the City Attorney was here.

Ms. Albright stated but when she spends \$40,000 into a dock it should be invested into the adjoining land.

Mayor Penny stated he, personally, wouldn't sign the lease under those terms. He would tell Marci not to sign the lease under those terms. If Marci passed away and her children inherit the home ten years from now, it's a new owner. \$40,000 is light, it's probably going to cost \$50,000.

Commissioner Albert stated so if you lease a vehicle, what happens when that lease is terminated or you don't want it anymore...

Mayor Penny stated if you lease a vehicle for three years and you die and your wife inherits it and inherits the lease, she keeps it until the end of the term of the lease. Just like if you leased a commercial space for five years or ten years the lease is transferable to the next owner.

Commissioner Albert stated that's why she needs the City Attorney here.

Ms. Albright stated as long as they maintain the conditions of the lease.

Mayor Penny stated, right.

Commissioner Albert stated she doesn't know. She really feels the need to have the City Attorney here for this. Would waiting until the next meeting be a hardship for Ms. Albright? She knows they've waited all this time.

Ms. Albright stated it's not a problem.

Commissioner Albert stated she appreciates that.

Ms. Albright stated this has been going on for a very long time. When she read that letter by the last City Manager she went straight to the bank and figured out how she could borrow the money to purchase that land.

Commissioner Albert stated she appreciates her waiting two more weeks.

Ms. Albright stated if that would solve the issue.

Commissioner Albert stated she doesn't know how the rest of the Commission feels but she would like to talk to Attorney Simpson.

Commissioner Currie stated she has several questions within this lease that would probably be a good idea to have the attorney here and she would vote for it but she has questions about the lease. She might change her mind. She doesn't know.

Mayor Penny stated he thinks the important thing here is they need to come to some sort of decision tonight. They need to ask the question and he's all in favor for working out the details, they need to answer the question...is this Commission in favor of leasing the property? If the answer is yes, then they need to get these questions answered. If this Commission is not in favor of leasing this property under any circumstances then they need to end this discussion tonight. That's the question. They need to ask themselves...he would respectfully ask the maker of the motion to possibly make another motion are they in favor of leasing this property and bringing it back in two weeks with an amended lease. If the Commission is not in favor of leasing this property under any conditions, they are wasting everybody's time.

Commissioner Albert stated, correct.

Commissioner Byrnes stated he thinks the condition that Commissioner Albert is imposing at this point...he doesn't think it's the right thing to do and so if that is a requirement then they might as well just say they're not in favor of it because the dock should go with the house.

Commissioner Albert stated what she said was she needs some direction. She said she doesn't know if it's a deal breaker for her or not but she would really like to have the opportunity to talk to the attorney about it and get some more information before she makes her final decision. She is in favor of leasing this but she wants to do it the right way and she wants to do it so there are no questions about things that may come up. She's in favor of this and she appreciates their courtesy of understanding that the Commission needs some more direction or at least she does but she thinks they are getting so close to a very good solution to what started out as a really bad problem. She thinks voting on it tonight would be premature and it would be kind of reckless.

Commissioner Byrnes asked should she withdraw her motion and I'll withdraw my second?

Mayor Penny stated you can withdraw your second.

Commissioner Capers stated he would like to talk to Marci. She said she's all for the citizens of Holly Hill.

Ms. Albright stated of course, for every human being.

Commissioner Capers asked do you think that every citizen in Holly Hill deserves the

right to have a dock on that piece of property?

Ms. Albright asked on which piece of property?

Commissioner Capers stated on the piece of property in front of her house. Do you think that any citizen in this whole city can say I would like to have a dock too?

Mayor Penny stated you can only build a dock if you own the upland property across the street according to the city's code.

Commissioner Capers asked is that a fact?

Mr. Forte stated he didn't hear the question.

Mayor Penny stated they can only build a dock if they own the upland property across the street.

Commissioner Capers stated his question to her was, would any citizen be allowed to pay the \$350 and build their own dock out in front of that property?

Mr. Forte stated, no.

Commissioner Capers stated the only reason she is here then is because she happens to live across the street and because the County wronged her.

Ms. Albright stated no, no, no. That is true but that is not...that shouldn't be an issue. She can deal with the County if they made a mistake and that would be her responsibility. When she purchased this riverfront property, she purchased this riverfront property. She did everything in her power, she worked three jobs, she did everything so she could own a piece of her dream.

Commissioner Capers stated he understands that.

Ms. Albright stated she's a Holly Hill citizen, a school teacher that was her dream. Riverfront property. A little riparian right, that didn't necessarily mean anything but she finally got her dream. Now, ten years later, she wants to build a dock because she has a little tiny boat and she just wants to relax and maybe go fishing. That's all.

Commissioner Capers stated his point to her and he would like for her to answer this question, how is it going to be beneficial to the City of Holly Hill, to all the citizens of Holly Hill, for her to have a dock on that property? What benefit to the City, to the citizens is that?

Ms. Albright asked what benefit is it now?

Commissioner Byrnes asked Commissioner Capers, you have a dock, what benefit is it to them that you have a dock?

Commissioner Capers stated we're not talking about leasing property to me. I have a dock.

Ms. Albright stated but it's a park. There's a park there. Every citizen in Holly Hill can go in front of her house and visit the park.

Commissioner Capers asked how by building a dock there is that going to benefit the citizens even more than what they already have? How is this enhancing the citizens of Holly Hill?

Ms. Albright stated it's not.

Commissioner Capers stated, it's not. That's his point. That's why he is at his stance. It's nothing personal. He's not a mean, nasty guy. He likes Holly Hill.

Ms. Albright asked then why would you stop me from having a dock when it doesn't contain...

Commissioner Capers stated I didn't stop you. You bought a piece of property that you weren't allowed to build a dock on. That's what you did.

Ms. Albright stated but she is here before the Commission to ask them why they would not want her to have a dock in front of her property? That is her property right there.

Commissioner Capers stated it's not up to him as to who has the rights of what.

Mayor Penny stated they've alluded to it a couple of times but three years ago the previous City Manager sent a written offer to sell this property to Ms. Albright and there was a vote taken by the Commission and there was consensus, a majority consensus, to execute that transaction.

Commissioner Capers stated well it didn't happen.

Mayor Penny stated it didn't happen. That's the City's fault.

Commissioner Capers stated that's the City's fault for trying but it didn't happen. Correct?

Mayor Penny stated the City Manager at that time never executed it.

Commissioner Capers stated, okay. Again, even then, they're trying to correct a problem that happened with her...

Mayor Penny stated no, the previous City Manager wanted to make money to pay for the fire truck.

Commissioner Capers stated but they tried and it didn't happen. So does the City owe Ms. Albright something for that?

Ms. Albright stated she received a letter that this property was going to be for sale to her and then she went to every bank she could...

Commissioner Capers stated then the city owes it to every other citizen that had a home across the street.

Mayor Penny stated no because the city's done title searches on them and those can't be transferred. He thinks what they need to do, rather than forcing a vote and making an error tonight, is that he doesn't know if a motion is appropriate or if they need to poll the Commission and see if there is any interest in leasing this property. If there's not three people interested in leasing this property to Ms. Albright the conversation is over tonight. Does somebody want to make that motion to come back at a date certain in two weeks with clarification by the City Attorney and discussion with the City Manager and us individually and collectively of this body but they need to give Mr. Forte clear direction and Ms. Albright clear direction tonight.

Commissioner Byrnes withdrew his second to the original motion. Therefore, Commissioner Albert's original motion **died for a lack of a second.**

*Commissioner Albert made a new motion to **bring this agenda item back to the next meeting,***

Tuesday, August 9, 2016 and in the interim the Commission is able to have further discussions with either the City Manager or the City Attorney to address concerns that are coming forward with this lease since they have all been able to talk about it in public, seconded by Commissioner Byrnes.

Commissioner Byrnes stated he seconded it because he wants to hear from the City Attorney because there seems to be an awful lot of personnel dirt being thrown around here and he wants to make sure what the city is doing is legal. He doesn't care about who hates who and who's mad at who.

Mayor Penny stated nobody hates anybody.

Commissioner Currie stated nobody hates anybody from this side.

Commissioner Byrnes stated who has docks that's trying to keep other people from

getting docks. He wants to see what the attorney says.

Commissioner Capers stated and see, he thinks they are losing the focus on what's up here. This isn't about fine tuning this. This is do we or don't we.

Mayor Penny stated that's what is on the table right now. Here's my advice. The motion is to bring this back in two weeks. If your intent is not to support this lease, do not vote to bring it back in two weeks. If your motion is to support a lease of some fashion with some detailed clarification...

Commissioner Capers stated he disagrees...

Mayor Penny stated then vote in favor of it.

Commissioner Capers stated you can't do that.

Mayor Penny stated yes I can.

Commissioner Capers stated you can't say that we're going to vote right now, if we are or we aren't and then fine tune it.

Mayor Penny stated yes we are. That's the motion on the floor.

Commissioner Byrnes stated well, he can request that. In his second he specifically stated that he will hear what the attorney says and he is not going to...he cannot say in the future that he absolutely will or he absolutely won't.

Commissioner Capers stated he can see them fine tuning it. (?)

Mayor Penny stated that's what they're doing. That's what they are going to do.

Commissioner Capers stated a yes or no right now is not right. They can entertain...

Mayor Penny stated they are not approving a lease tonight. His suggestion to the Commission is that if they have no interest...what he is asking for is to bring this back in two weeks. If the Commissioners have no intention of ever supporting a lease on this property under *any* circumstances because they can pay the city a million dollars a year, if the Commissioners have no interest in supporting a lease then do not vote to bring this back in two weeks because it will be dead tonight.

Commissioner Capers stated he just wants to make clear that they are not voting tonight.

Mayor Penny stated they are not voting on this lease.

Commissioner Capers asked you just want a yes or no and the attorney and City Manager are going to fine tune it.

Commissioner Albert stated, correct.

Mayor Penny stated they are voting to bring it back in two weeks.

Commissioner Capers stated to bring it back to look at it.

Mayor Penny stated, yes.

Commissioner Capers stated to fine tune it and then to vote on it if they decide to lease or not lease the property to Ms. Albright.

Mayor Penny stated, yes. If they don't want to support it then don't even vote to bring it back in two weeks because they have a huge opportunity to kill this.

Commissioner Capers stated, okay.

Mr. Forte asked if he could clarify because he heard two different things. What he is hearing is this is going to be tabled to be brought back at the next meeting so that the City Attorney can address some of the questions the Commission feels are still outstanding and then if they are answered correctly at the next meeting there will be either an up or down vote at the next meeting.

Mayor Penny stated, correct.

Commissioner Byrnes stated hopefully before it comes here though they will be able to

address the things like insurance and stuff so they know what that is and they're not going to have to sit here and go through that in the public meeting wasting everybody's time.

Mayor Penny stated, correct. Now here's the unfortunate part of this procedure. There's a motion and a second on the floor so they have to open it up to audience participation because it's a new motion.

Mayor Penny opened public participation on the new motion. No one spoke.

All in favor of bringing this back in two weeks with clarification, say, Yes: Byrnes, Albert, Currie and the Mayor. Opposed: Capers. PASSED, 4-1.

RESULT:	TABLED [4 TO 1]	Next: 8/9/2016 7:00 PM
MOVER:	Elizabeth Albert, District 4 - Commissioner	
SECONDER:	Arthur J. Byrnes, District 1 - Commissioner	
AYES:	Byrnes, Currie, Albert, Penny	
NAYS:	Capers	



4. Resolution

US-1 Median Landscaping (16CRA1) Design and Construction Phase Engineering - Resolution 2016-R-27

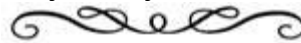
(Requested by Mark Juliano, Public Works)

Mayor Penny opened public participation. No one spoke.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John F. Capers, District 3 - Commissioner
SECONDER:	Elizabeth Albert, District 4 - Commissioner
AYES:	Byrnes, Currie, Capers, Albert, Penny

RESOLUTION

Enacted and approved this 26th day of July, 2016, in Holly Hill



5. Resolution

Planning and Appeals Board Appointment - Resolution 2016-R-31

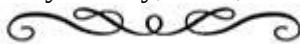
(Requested by Valerie Manning, City Clerk)

Mayor Penny opened public participation. No one spoke.

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

RESOLUTION

Enacted and approved this 26th day of July, 2016, in Holly Hill



9. PUBLIC HEARINGS

1. Resolution

A Resolution of the City of Holly Hill, Florida, Adopting a Proposed Millage Rate for the Fiscal Year Beginning October 1, 2016; Providing for a Public Hearing on Millage Rate; Providing for Conflicting Resolutions; and Providing an Effective Date.

(Requested by Kurt Swartzlander, Finance)

Mr. Forte stated he had a chance to talk with the Commission as to whether or not they were going to go to the roll back rate or the current rate. New information came out this week and spoke with each of the Commissioners with the exception of Commissioner Capers with regards to setting that millage rate. Last week they talked about setting it at the current rate and after going through the budget, staff realized that they can balance this budget at the roll back rate which is a tax savings to the citizens. So before he reads either one of these, there is a Resolution in the agenda item for the current rate but alternatively he has a Resolution if the Commission chooses to go to the roll back rate.

Mayor Penny stated he thinks this is something that affects all of the citizens and property owners in the city and if they can go to the roll back rate and save everyone taxes, he doesn't think anybody would be objected to that. ***There were no objections from the Commission to go to the roll back rate.***

Mr. Forte read the revised Resolution into the record by its entirety:

RESOLUTION 2016-R-29

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, ADOPTING A PROPOSED MILLAGE RATE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2016; PROVIDING FOR A PUBLIC HEARING ON MILLAGE RATE; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Holly Hill, Florida is required by Florida Statute 200.011 to certify to the County Property Appraiser the general municipal millage rate proposed by said Commission for the tax year beginning

October 1, 2016; and

WHEREAS, the City Commission of the City of Holly Hill, Florida, pursuant to the TRIM Bill, shall hold a public hearing adopting proposed millage rate.

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

SECTION 1. That the millage rate proposed by the City Commission of the City of Holly Hill, Florida, for the tax year beginning October 1, 2016 is 6.8949 (6.8949 Per \$1,000.00). The FY2016 operating millage rate is 6.8949 Mills, which is the rolled-back rate of 6.8949 mills.

SECTION 2. That the City Commission does hereby set a public hearing on the millage rate for 7:00 p.m. on Monday, September 12, 2016, in the Commission Chambers, 1065 Ridgewood Avenue, Holly Hill, Florida.

SECTION 3. That all resolutions made in conflict with this Resolution are hereby repealed.

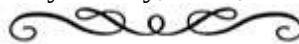
SECTION 4. That this Resolution shall become effective immediately upon its adoption.

Mayor Penny opened public participation. No one spoke.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Arthur J. Byrnes, District 1 - Commissioner
SECONDER:	Penny Currie, District 2 - Commissioner
AYES:	Byrnes, Currie, Capers, Albert, Penny

RESOLUTION

Enacted and approved this 26th day of July, 2016, in Holly Hill



2. Resolution

A Resolution of the City of Holly Hill, Florida, Setting the Proposed Stormwater Utility Fee at \$7.00 Per Equivalent Residential Unit; Establishing the Equivalent Residential Unit for Non-Residential and Multi-Family Properties; Providing for Severability; Providing for Conflicting Resolutions; and Providing an Effective Date.

(Requested by Kurt Swartzlander, Finance)

Mr. Forte read the Resolution into the record by its entirety:

RESOLUTION 2016-R-30

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, SETTING THE PROPOSED STORMWATER UTILITY FEE AT \$7.00 PER EQUIVALENT RESIDENTIAL UNIT; ESTABLISHING THE EQUIVALENT RESIDENTIAL UNIT FOR NON-RESIDENTIAL AND MULTI-FAMILY PROPERTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission has determined, due to the amount of stormwater maintenance required to preserve retention areas and canals in good condition, that it is in the best interest of the City of Holly Hill to set the stormwater utility fee at \$7.00 per equivalent residential unit (ERU) per month or \$84.00 per equivalent residential unit (ERU) per year; and

WHEREAS, for non-residential and multi-family properties, the City Commission has determined, based on the recommendation of the City Engineer, that the single-family equivalent unit should be 2,050 square feet.

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

SECTION 1. The proposed stormwater utility fee is hereby set at \$7.00 per equivalent residential unit (ERU) per month or \$84.00 per equivalent residential unit (ERU) per year.

SECTION 2. For non-residential and multi-family properties the single-family equivalent unit shall be 2,050 square feet.

SECTION 3. A Public Hearing will be held on September 12, 2016 to set the Final Rate.

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this Resolution, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

SECTION 5. That all resolutions made in conflict with this Resolution

are hereby repealed.

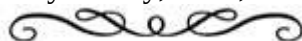
SECTION 6. That this Resolution shall become effective immediately upon its adoption.

Mayor Penny opened public participation. No one spoke.

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

RESOLUTION

Enacted and approved this 26th day of July, 2016, in Holly Hill



10. COMMUNICATIONS

a. City Manager & Staff Comments

1. -DOC-2016-13

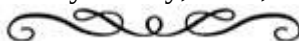
Staff Report CM LLevel Budget Amendment

(Requested by Kurt Swartzlander, Finance)

Mr. Forte stated there is a budget amendment under his comments which is for informational purposes only. No vote is needed. Mr. Forte apologized to Commissioner Capers for getting upset with him earlier. He understands that Commissioner Capers was emotional not mad. Commissioner Capers apologized also.

RESULT:	PRESENTATION
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Enacted and approved this 26th day of July, 2016, in Holly Hill



b. City Attorney Comments

None.

c. Mayor's Comments

Mayor Penny stated he appreciates the passion of this Commission but people that don't know you well will confuse your passion with anger. If you show an angry person in the mirror and a passionate person in the mirror its the same look. He appreciates the passion of the Commission, he appreciates the patience of the audience with the Commission as they work through a very delicate situation. He thought they would have closure tonight but they will have closure on this before this Commission unseated he's certain.

Mayor Penny stated he wants to applaud the city's Fire Department and the first responders; Chief Bland and his crew for the fire that happened Friday night in Daytona. Holly Hill was first on site. The jetski place burnt to the ground but because of the city's Fire Department they laid down protection on the buildings next to them and if you drive pass the scene you would have no idea there was no structural damage to those other structures that are less than 20 feet away. The intensity of that fire. He's no fireman but when you see palm trees that are charcoal, it was a hot fire. The residents of Holly Hill...he is personally proud of our Fire Department. It wasn't in our city but first responders and first on-scene, that's what it's all about. Great job. They did an awesome job. Please pass that on to the guys that were there until 3:00 AM. Mayor Penny stated they are coming to a head on homelessness. Not to ending homelessness but coming to a consensus county-wide.

d. District Commissioners Comments

Commissioner Currie thanked staff for the hard work on the budget, the Fire Department and those that came and spoke on the agenda items.

Commissioner Capers thanked everyone for taking the time out to speak.

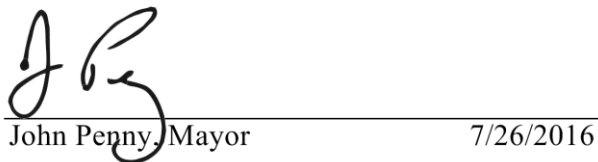
Commissioner Byrnes spoke about the homeless process and complications as to where they live. Thanked those for coming out to speak tonight.

Commissioner Albert thanked everyone for coming tonight. Congratulated the Currie's on their new grand baby. Recognized those who are involved with the efforts of the homelessness issue. Light at the end of the tunnel. Spoke about tonight's meeting. They may have different opinions but they are still a team. Good work here tonight and thank you.

11. ADJOURNMENT

The meeting adjourned at approximately 9:30 PM.


Valerie Manning, City Clerk CMC 7/26/2016


John Penny, Mayor 7/26/2016